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# A BILL FOR AN ACT

RELATING TO STATE FUNDS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Section 245-26, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) Stamps shall be sold at their denominated values,  
4 plus a stamp fee of 1.7 per cent of the denominated value of  
5 each stamp sold[~~, composed of the aggregate of:~~

6 ~~(1) .2 per cent of the denominated value of the stamp] to~~  
7 pay for the cost to the State of providing the stamps,  
8 with that amount to be deposited to the credit of the  
9 department of taxation's cigarette tax stamp  
10 administrative special fund; [~~and~~

11 ~~(2) 1.5 per cent of the denominated value of the stamp to~~  
12 ~~pay for the cost of enforcing the stamp tax, with that~~  
13 ~~amount to be deposited to the credit of the department~~  
14 ~~of the attorney general's tobacco enforcement special~~  
15 ~~fund;]~~



1 provided that the department by rule may modify the stamp fee to  
2 reflect actual costs incurred by the State in providing the  
3 stamps."

4 SECTION 2. Section 245-41, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 **"§245-41 Enforcement; injunction; disposition of fines.**

7 (a) Enforcement of this part shall be under the jurisdiction of  
8 the attorney general. The attorney general may seek assistance  
9 in the enforcement of this part from other law enforcement  
10 agencies.

11 (b) Notwithstanding the existence of other remedies at  
12 law, the attorney general may apply for a temporary or permanent  
13 injunction restraining any person from violating or continuing  
14 to violate this part. The injunction shall be issued without  
15 bond.

16 ~~[(c) Where the attorney general initiates and conducts an~~  
17 ~~investigation resulting in the imposition and collection of a~~  
18 ~~criminal fine pursuant to this part, one hundred per cent of the~~  
19 ~~fine shall be distributed to the attorney general to be~~  
20 ~~deposited to the credit of the department of the attorney~~  
21 ~~general's tobacco enforcement special fund; provided that if the~~



1 ~~attorney general engages the prosecuting attorney for the~~  
 2 ~~investigation or prosecution, or both, resulting in the~~  
 3 ~~imposition and collection of a criminal fine under this part,~~  
 4 ~~the fine shall be shared equally between the attorney general~~  
 5 ~~and the prosecuting attorney.]"~~

6 SECTION 3. Section 328L-3, Hawaii Revised Statutes, is  
 7 amended by amending subsection (a) to read as follows:

8 "(a) There is established in the state treasury the  
 9 emergency and budget reserve fund, which shall be a special fund  
 10 administered by the director of finance and into which shall be  
 11 deposited:

12 (1) ~~[Moneys received from the tobacco settlement moneys~~  
 13 ~~under section 328L-2;~~

14 ~~(2)]~~ Appropriations made by the legislature to the fund;  
 15 and

16 ~~(3)]~~ (2) Five per cent of the state general fund balance  
 17 at the close of the fiscal year, whenever state  
 18 general fund revenues for each of two successive  
 19 fiscal years exceeds revenues for each of the  
 20 preceding fiscal years by five per cent. For the  
 21 purpose of this section, the general fund balance at



1 the close of the fiscal year shall be calculated after  
2 any:

3 (A) Tax refund or tax credit is provided by the  
4 legislature;

5 (B) Deposit into the emergency and budget reserve  
6 fund or another reserve fund is appropriated by  
7 the legislature; or

8 (C) Prepayment of general obligation bond debt  
9 service or pension or other post-employment  
10 benefit liability is appropriated by the  
11 legislature;

12 during the same regular session as the transfer  
13 depositing such moneys to the emergency and budget  
14 reserve fund; provided that transfers shall not be  
15 made to the emergency and budget reserve fund whenever  
16 the balance of the emergency and budget reserve fund  
17 is equal to or more than ten per cent of general fund  
18 revenues for the preceding fiscal year. The transfer  
19 shall be executed by the director of finance.

20 All moneys deposited into the emergency and budget reserve fund  
21 under paragraphs (1) [~~and (2)~~] and all moneys deposited under



1 paragraph [~~(3)~~] (2) shall be kept in separate and distinct  
2 accounts."

3 SECTION 4. Section 328L-6, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[~~§~~§328L-6[~~§~~] **Tobacco prevention and control advisory**

6 **board.** (a) There is established a tobacco prevention and  
7 control advisory board under the department for administrative  
8 purposes.

9 (b) The tobacco prevention and control advisory board  
10 shall consist of members who are involved in tobacco prevention  
11 and control. Membership of the board shall be as follows:

12 (1) One member of the governor's staff, appointed by the  
13 governor;

14 (2) One member to be appointed by the governor from a list  
15 of two names submitted by the president of the senate;

16 (3) One member to be appointed by the governor from a list  
17 of two names submitted by the speaker of the house of  
18 representatives;

19 (4) The director or the director's designee;

20 (5) The superintendent of education or the  
21 superintendent's designee;



1 (6) Three members having demonstrated interest in and  
2 having backgrounds beneficial to controlling and  
3 preventing the use of tobacco, appointed by the  
4 director of health; and

5 (7) Three members representing populations at risk for  
6 tobacco use, appointed by the governor.

7 (c) Members shall:

8 (1) Be appointed or designated, as applicable, without  
9 regard to section 26-34;

10 (2) Serve without compensation; and

11 (3) Serve for a term of three years.

12 (d) The tobacco prevention and control advisory board, in  
13 collaboration with the department, shall develop a strategic  
14 plan for tobacco prevention and control, including:

15 (1) Developing and implementing effective and cost  
16 efficient programs, including health promotion and  
17 disease prevention;

18 (2) Developing adequate standards and benchmarks by which  
19 measures of program success under paragraph (1) of  
20 this subsection may be appropriately evaluated; and



1           (3) Assessing the effectiveness of programs engaged in  
2           health promotion and disease prevention.

3           The strategic plan shall be in writing and shall be a  
4 public document.

5           ~~[(e) The tobacco prevention and control advisory board  
6 shall advise the on the administration of the Hawaii tobacco  
7 prevention and control trust fund.]"~~

8           SECTION 5. Section 28-15, Hawaii Revised Statutes, is  
9 repealed.

10          ~~["§28-15 Tobacco enforcement special fund. (a) There is  
11 established in the state treasury the tobacco enforcement  
12 special fund, into which shall be deposited the tobacco  
13 settlement moneys as provided by section 328L-2(a), the  
14 allocated portion of the stamp fee designated to pay for the  
15 cost of enforcing the cigarette tax stamp as provided by section  
16 245-26, and fines as provided for by section 245-41.~~

17          ~~(b) The tobacco enforcement special fund shall be  
18 administered by the department of the attorney general and shall  
19 be used for administering, operating, monitoring, and ensuring  
20 compliance with and enforcement of:~~



- 1       ~~(1) The Master Settlement Agreement as defined in chapter~~  
2           ~~675 and any other statutes or programs relating to~~  
3           ~~that agreement;~~
- 4       ~~(2) Chapter 675;~~
- 5       ~~(3) Tobacco prevention programs;~~
- 6       ~~(4) The cigarette tax stamp as defined in chapter 245 and~~  
7           ~~any other statutes or programs relating to that~~  
8           ~~chapter;~~
- 9       ~~(5) Chapter 245;~~
- 10       ~~(6) Chapter 486P and any other statutes or programs~~  
11           ~~relating to that chapter; and~~
- 12       ~~(7) Any other requirement deemed necessary to carry out~~  
13           ~~the purposes of the fund.~~
- 14       ~~(c) All unencumbered and unexpended moneys in excess of~~  
15       ~~\$500,000 remaining on balance in the tobacco enforcement special~~  
16       ~~fund at the close of June 30 of each year shall lapse to the~~  
17       ~~credit of the state general fund.~~
- 18       ~~(d) The department of the attorney general shall submit a~~  
19       ~~report to the legislature, no later than twenty days prior to~~  
20       ~~the convening of each regular session, providing an accounting~~  
21       ~~of the receipts and expenditures of the fund." ]~~





1 SECTION 6. Section 328L-2, Hawaii Revised Statutes, is  
2 repealed.

3 [~~§328L-2 Hawaii tobacco settlement special fund.~~ (a)

4 ~~There is established in the state treasury the Hawaii tobacco~~  
5 ~~settlement special fund into which shall be deposited:~~

6 (1) ~~All tobacco settlement moneys; and~~

7 (2) ~~All interest and earnings accruing from the investment~~  
8 ~~of moneys in the fund;~~

9 ~~provided that of all tobacco settlement moneys received by the~~  
10 ~~State each fiscal year, the sum representing the first \$350,000~~  
11 ~~of those moneys shall first be deposited in the state treasury~~  
12 ~~in each fiscal year to the credit of the tobacco enforcement~~  
13 ~~special fund. The Hawaii tobacco settlement special fund shall~~  
14 ~~be administered by the department.~~

15 (b) ~~The fund shall be used for the purpose of receiving,~~  
16 ~~allocating, and appropriating the tobacco settlement moneys as~~  
17 ~~follows:~~

18 (1) ~~Fifteen per cent shall be appropriated into the~~  
19 ~~emergency and budget reserve fund under section 328L-~~  
20 ~~3;~~



1       ~~(2) Twelve and one-half per cent shall be appropriated~~  
2           ~~into the Hawaii tobacco prevention and control trust~~  
3           ~~fund under section 328L-5;~~

4       ~~(3) Twenty-six per cent shall be appropriated into the~~  
5           ~~university revenue undertakings fund created in~~  
6           ~~section 304A-2167.5, to be applied to the payment of~~  
7           ~~the principal of and interest on, and to generate~~  
8           ~~required coverage, if any, for, revenue bonds issued~~  
9           ~~by the board of regents of the University of Hawaii to~~  
10          ~~finance the cost of construction of a university~~  
11          ~~health and wellness center, including a new medical~~  
12          ~~school facility, to be situated on the island of Oahu;~~  
13          ~~and~~

14       ~~(4) Any remaining amounts shall be deposited to the credit~~  
15          ~~of the state general fund;~~

16       ~~in the succeeding fiscal year." ]~~

17           SECTION 7. Section 328L-5, Hawaii Revised Statutes, is  
18       repealed.

19           ~~[ "§328L-5 Hawaii tobacco prevention and control trust~~  
20       ~~fund. (a) There is established the Hawaii tobacco prevention~~  
21       ~~and control trust fund as a separate fund of a nonprofit entity~~



1 ~~having a board of directors and qualifying under section~~  
2 ~~501(c)(3) of the Internal Revenue Code of 1986, as amended, into~~  
3 ~~which shall be deposited moneys received as provided under~~  
4 ~~section 328L-2(b)(2). The director of health with the~~  
5 ~~concurrence of the governor, shall select, in accordance with~~  
6 ~~law, the entity based upon the proven record of accomplishment~~  
7 ~~of the entity in administering a similar trust fund.~~

8 ~~(b) Notwithstanding that the Hawaii tobacco prevention and~~  
9 ~~control trust fund is established within a private entity, the~~  
10 ~~department of budget and finance shall have oversight authority~~  
11 ~~over the fund and may make periodic financial audits of the~~  
12 ~~fund; provided that the director of finance may contract with a~~  
13 ~~certified public accountancy firm for this purpose. The~~  
14 ~~director of health with the concurrence of the governor in their~~  
15 ~~sole discretion may rescind the selection of the entity. If the~~  
16 ~~selection of the entity [is] rescinded, moneys in the trust fund~~  
17 ~~shall revert back to the State and shall be deemed to be trust~~  
18 ~~moneys.~~

19 ~~(c) The entity selected under subsection (a), for each~~  
20 ~~fiscal year, may expend up to fifty per cent of the total market~~  
21 ~~value of the Hawaii tobacco prevention and control trust fund on~~



1 ~~the preceding June 30, for tobacco prevention and control,~~  
2 ~~including but not limited to, reducing cigarette smoking and~~  
3 ~~tobacco use among youth and adults through education and~~  
4 ~~enforcement activities, and controlling and preventing chronic~~  
5 ~~diseases where tobacco is a risk factor.~~

6 ~~(d) The Hawaii tobacco prevention and control trust fund~~  
7 ~~may receive appropriations, contributions, grants, endowments,~~  
8 ~~or gifts in cash or otherwise from any source, including the~~  
9 ~~State, corporations or other businesses, foundations,~~  
10 ~~government, individuals, and other interested parties; provided~~  
11 ~~that any appropriations made by the State shall not supplant or~~  
12 ~~diminish the funding of existing tobacco prevention and control~~  
13 ~~programs or any health related programs funded in whole or in~~  
14 ~~part by the State.~~

15 ~~(e) The assets of the Hawaii tobacco prevention and~~  
16 ~~control trust fund shall consist of:~~

- 17 ~~(1) Moneys appropriated under section 328L-2(b)(2);~~
- 18 ~~(2) Moneys appropriated to the Hawaii tobacco prevention~~  
19 ~~and control trust fund by the state, county, or~~  
20 ~~federal government;~~
- 21 ~~(3) Private contributions of cash or property; and~~



1       ~~(4) Income and capital gains earned by the trust fund.~~

2       ~~(f) The aggregate principal sum deposited in the Hawaii~~  
3 ~~tobacco prevention and control trust fund shall be invested by~~  
4 ~~the entity selected under subsection (a) in a manner intended to~~  
5 ~~maximize the rate of return on investment of the trust fund~~  
6 ~~consistent with the objective of preserving the trust fund's~~  
7 ~~principal.~~

8       ~~(g) If the entity selected under subsection (a) is~~  
9 ~~dissolved, the director of health, with the concurrence of the~~  
10 ~~governor, shall select a successor entity. If the Hawaii~~  
11 ~~tobacco prevention and control trust fund is terminated, the~~  
12 ~~moneys remaining in the trust fund shall revert back to the~~  
13 ~~State and shall be deemed to be trust moneys.~~

14       ~~(h) The administration of the Hawaii tobacco prevention~~  
15 ~~and control trust fund shall be advised by the tobacco~~  
16 ~~prevention and control advisory board created under section~~  
17 ~~328L-6." ]~~

18       SECTION 8. There is appropriated out of the general  
19 revenues of the State of Hawaii the sum of \$                    or so  
20 much thereof as may be necessary for fiscal year 2021-2022 and  
21 the same sum or so much thereof as may be necessary for fiscal



1 year 2022-2023 to be deposited into the university  
2 revenue-undertakings fund established pursuant to section 304A-  
3 2167.5, Hawaii Revised Statutes.

4 The sums appropriated shall be expended by the university  
5 of Hawaii for the purposes of this Act.

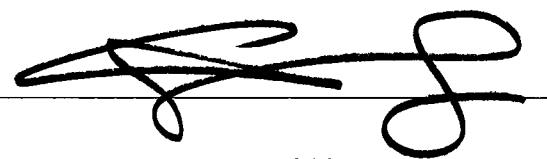
6 SECTION 9. Any unencumbered balances remaining in the  
7 tobacco enforcement special fund, Hawaii tobacco settlement  
8 special fund, and Hawaii tobacco prevention and control trust  
9 fund as of July 1, 2021, shall lapse to the credit of the  
10 general fund.

11 SECTION 10. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 11. This Act shall take effect on July 1, 2021.

14

INTRODUCED BY:

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a horizontal line.

JAN 27 2021



# H.B. NO. 1296

**Report Title:**

Tobacco Enforcement Special Fund; Hawaii Tobacco Settlement Special Fund; Hawaii Tobacco Prevention and Control Trust Fund; Repeal; General Fund; Appropriation

**Description:**

Repeals the tobacco enforcement special fund, Hawaii tobacco settlement special fund, and Hawaii tobacco prevention and control trust fund and transfers unencumbered balances to the general fund. Appropriates general funds to the university revenue-undertakings fund.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

