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# A BILL FOR AN ACT

RELATING TO OPIOID LITIGATION PROCEEDS.

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

1           SECTION 1. The legislature finds that, according to KFF  
2 Health News, the State has received over \$19,000,000 as of April  
3 2023 in litigation proceeds from legal claims made against  
4 manufacturers and distributors of prescription opioids;  
5 pharmacies that have dispensed opioids; and other related  
6 parties for their alleged roles in contributing to the high  
7 rates of drug overdoses and other drug-related harms. The  
8 Hawaii department of the attorney general estimates that the  
9 anticipated recovery of litigation proceeds will exceed over  
10 \$156,000,000.

11           The legislature further finds that experience with the  
12 1990s tobacco settlement funds suggests that without firm  
13 commitment and transparent planning, opioid litigation proceeds  
14 may not be directed toward preventing and addressing substance  
15 use disorders, overdoses, and other drug-related harms. This  
16 would be an unacceptable outcome, as substance use disorders,



1 overdoses, and drug-related harms have had a significant impact  
2 throughout the State.

3 The purpose of this Act is to require transparency and  
4 ensure accountability through the creation of the Hawaii opioid  
5 litigation proceeds council to oversee the expenditure of all  
6 opioid litigation proceeds received by the State as part of the  
7 historic nationwide lawsuits holding entities responsible for  
8 the opioid crisis devastating communities.

9 SECTION 2. The Hawaii Revised Statutes is amended by  
10 adding a new chapter to be appropriately designated and to read  
11 as follows:

12 "CHAPTER

13 HAWAII OPIOID LITIGATION PROCEEDS

14 § -1 **Definitions.** As used in this chapter, unless the  
15 context otherwise requires:

16 "Conflict of interest" means a financial association  
17 involving a council member or the council member's immediate  
18 family that has the potential to influence a council member's  
19 actions, recommendations, or decisions related to the  
20 disbursement of opioid litigation proceeds or other council  
21 activity.



1 "Council" means the Hawaii opioid litigation proceeds  
2 council.

3 "Department" means the department of health.

4 "Director" means the director of health.

5 "Special fund" or "fund" means the Hawaii opioid litigation  
6 proceeds special fund.

7 "Substance use disorder" means a pattern of use of alcohol  
8 or other substances that meets the applicable diagnostic  
9 criteria delineated in the most recent publication of the  
10 Diagnostic and Statistical Manual of Mental Disorders of the  
11 American Psychiatric Association, or in any subsequent editions.

12 **§ -2 Hawaii opioid litigation proceeds special fund.**

13 (a) There is established in the state treasury the Hawaii  
14 opioid litigation proceeds special fund to be administered by  
15 the council and into which shall be deposited the following  
16 moneys:

17 (1) All opioid litigation proceeds received by the State,  
18 regardless of whether the proceeds are received as a  
19 lump sum or series of payments to be made over a  
20 period of time;

21 (2) Appropriations made by the legislature;



1 (3) Gifts, donations, grants, bequests, and other moneys  
2 received by the State on the fund's behalf; and

3 (4) All interest earned or accrued from the investment of  
4 the moneys in the fund.

5 (b) The moneys in the special fund shall be expended for  
6 the following purposes:

7 (1) Disbursement of funds allocated to the counties as  
8 their share of opioid litigation proceeds;

9 (2) The administration and staffing of the council and  
10 special fund; provided that no more than eight per  
11 cent of the fund's annual balance, as determined on  
12 December 31 of each year, shall be expended for this  
13 purpose;

14 (3) The management, investment, and disbursement of moneys  
15 from the special fund; provided that no more than two  
16 per cent of the fund's annual balance, as determined  
17 on December 31 of each year, shall be expended for  
18 this purpose; and

19 (4) Subject to majority approval from the council, the  
20 following substance use disorder abatement purposes:



- 1 (A) Statewide or community substance use disorder  
2 needs assessments to identify structural gaps and  
3 needs to inform expenditures from the fund;
- 4 (B) Infrastructure required for evidence-based  
5 substance use disorder prevention, treatment,  
6 recovery, or harm reduction programs, services,  
7 and supports;
- 8 (C) Programs, services, supports, and resources for  
9 evidence-based substance use disorder prevention,  
10 treatment, recovery, or harm reduction;
- 11 (D) Evidence-informed substance use disorder  
12 prevention, treatment, recovery, or harm  
13 reduction pilot programs or demonstration studies  
14 that are not evidence-based but are approved by  
15 the council as an appropriate use of moneys for a  
16 limited period of time as specified by the  
17 council; provided that for all evidence-informed  
18 pilot programs and demonstration studies, the  
19 council shall assess:
- 20 (i) Whether the emerging evidence supports  
21 distribution of moneys for these uses; or



1 (ii) Whether there is a reasonable basis for  
2 finding such uses with the expectation of  
3 creating an evidence base for such uses;

4 (E) Evaluations of effectiveness and outcomes  
5 reporting for substance use disorder abatement  
6 infrastructure, programs, services, supports, and  
7 resources for which moneys from the fund were  
8 disbursed, such as the impact on access to harm  
9 reduction services or treatment for substance use  
10 disorders, or a reduction in drug-related  
11 mortality; or

12 (F) One or more data interfaces managed by the  
13 department to aggregate, track, and report, free  
14 of charge and available online to the public,  
15 data on substance use disorder, overdoses, and  
16 drug-related harms; spending recommendations,  
17 plans, and reports; and outcomes of programs,  
18 services, supports, and resources for which  
19 moneys from the fund were disbursed.

20 (c) Moneys in the special fund that are allocated to the  
21 counties as their share of proceeds shall be disbursed to the



1 respective counties within thirty days of receipt of the  
2 litigation proceeds by the State. The counties' authority to  
3 direct and determine how their respective shares are spent shall  
4 be consistent with the litigation agreements and shall not be  
5 subject to severability.

6 (d) Unless otherwise required by a controlling court order  
7 to refund to the federal government a portion of the proceeds,  
8 moneys in the fund shall be used for prospective purposes and  
9 shall not be used to reimburse expenditures incurred prior to  
10 the effective date of this Act.

11 (e) All opioid litigation proceeds shall be spent, whether  
12 by the state or counties, consistent with the settlement  
13 agreements entered into by the State and any court orders.

14 **§ -3 Special fund disbursements; requirements;**  
15 **restrictions.**

16 (a) Disbursements from the special fund shall be made  
17 promptly by the director upon the approval of the council and no  
18 later than thirty days after the approval of the council. The  
19 director shall not make or refuse to make any disbursement  
20 allowable under this subsection without the approval of the  
21 council. The director shall adhere to the council's decisions



1 regarding disbursement of moneys from the fund so long as the  
2 disbursement is a permissible expenditure under subsection (b).  
3 The director's role in the distribution of moneys as approved by  
4 the council shall be ministerial and not discretionary.

5 (b) Except for moneys disbursed pursuant to  
6 section -2(b)(1), moneys expended from the fund for the  
7 purposes of section -2(b) shall be supplemental to, and shall  
8 not supplant or take the place of, any other funds, including  
9 insurance benefits or federal, state, or county funding, that  
10 would otherwise have been expended for these purposes.

11 (c) The director shall not disburse moneys from the fund  
12 unless the governor, president of the senate, and speaker of the  
13 house of representatives transmit to the council a letter  
14 verifying that moneys appropriated and allocated in that fiscal  
15 year's budget for substance use disorder abatement  
16 infrastructure, programs, services, supports, and resources for  
17 prevention, treatment, recovery, and harm reduction are no less  
18 than the sums of the moneys for these purposes appropriated and  
19 allocated in the state budget for the previous fiscal year.

20 (d) Subject to subsection (c), all moneys from the special  
21 fund appropriated for substance use disorder abatement



1 infrastructure, programs, services, supports, and resources for  
2 prevention, treatment, recovery, and harm reduction shall be  
3 made available for disbursement during the fiscal year for which  
4 they are appropriated by the council; provided that if the  
5 moneys are not fully expended, they shall be made available in  
6 each subsequent fiscal year until fully expended.

7       **§ -4 Special fund; investments.** The director shall have  
8 the responsibility for the investment and reinvestment of moneys  
9 in the fund. On or before December 31 of each year, the  
10 director shall issue a public report, which shall be made  
11 available online, specifying:

- 12       (1) An inventory of fund investments as of December 31;  
13       (2) The net income the fund earned for the previous fiscal  
14             year;  
15       (3) The dollar amount and the percentage of the fund  
16             balance incurred for expenses of administering and  
17             staffing the fund and the council during the previous  
18             fiscal year; and  
19       (4) The dollar amount and the percentage of the fund  
20             balance incurred for expenses associated with



1 managing, investing, and disbursing moneys in the fund  
2 during the previous fiscal year.

3 § -5 **Hawaii opioid litigation proceeds council.** (a)

4 There is established a Hawaii opioid litigation proceeds council  
5 to be placed in the department of health for administrative  
6 purposes only.

7 (b) The purpose of the Hawaii opioid litigation proceeds  
8 council shall be to ensure that the proceeds received by the  
9 State pursuant to section -2 are allocated and spent on  
10 substance use disorder abatement infrastructure, programs,  
11 services, supports, and resources for prevention, treatment,  
12 recovery, and harm reduction; and to ensure robust public  
13 involvement, accountability, and transparency in allocating and  
14 accounting for moneys in the fund.

15 (c) The council shall be comprised of fifteen voting  
16 members as follows:

- 17 (1) The director of health, or the director's designee;  
18 (2) The director of corrections and rehabilitation, or the  
19 director's designee;  
20 (3) The superintendent of education, or the  
21 superintendent's designee;



- 1 (4) A member of the senate, designated by the president of  
2 the senate;
- 3 (5) A member of the house of representatives, designated  
4 by the speaker of the house of representatives;
- 5 (6) The dean of the John A. Burns school of medicine at  
6 the university of Hawaii at Manoa, or the dean's  
7 designee;
- 8 (7) The mayors of the counties of Hawaii, Kauai, and Maui,  
9 and the city and county of Honolulu, or the mayors'  
10 designees; and
- 11 (8) Five community members upon application to, and  
12 approval by the governor; provided that these  
13 community members shall include:
- 14 (A) A person who has experience in providing  
15 substance use disorder prevention, treatment,  
16 recovery, and harm reduction services;
- 17 (B) A person who has expertise, experience, or  
18 education in public health policy or research;
- 19 (C) A person who has experience in mental health  
20 services;



1 (D) A person who has experience in public budgeting;  
2 and

3 (E) A person who has lived experience with substance  
4 use disorder recovery.

5 (d) To the extent practicable, council members shall also  
6 invite family members of persons who have, or decedents who had,  
7 a substance use disorder, and representatives of communities  
8 that have been disproportionately impacted by substance use and  
9 disparities in access to care or health outcomes.

10 (e) The council shall elect a chair from among its members  
11 on January 15 of each year.

12 (f) Council members shall serve two-year terms.

13 (g) The council shall be responsible for:

14 (1) Recommending and approving policies and procedures for  
15 administration of the council and for the application,  
16 awarding, and disbursement of moneys from the fund, to  
17 be used for purposes set forth in section -2(b)(4);

18 (2) Recommending and approving goals and objectives and  
19 their rationales, sustainability plans, and  
20 performance indicators relating to:



- 1 (A) Substance use disorder prevention, treatment,  
2 recovery, and harm reduction efforts;
- 3 (B) Reducing disparities in access to prevention,  
4 treatment, recovery, and harm reduction programs,  
5 services, supports, and resources; and
- 6 (C) Improving health outcomes in traditionally  
7 underserved populations, including but not  
8 limited to those who live in rural communities,  
9 persons of color, and formerly incarcerated  
10 individuals;
- 11 (3) Approval of awards of moneys from the fund exclusively  
12 for permissible expenditures set forth in  
13 section -2(b)(4); and
- 14 (4) Approving suspensions of allocations of moneys from  
15 the fund to recipients found by the council or the  
16 department to be substantially out of compliance with  
17 council policies or procedures; the policies,  
18 procedures, rules, or regulations of the department;  
19 or to have used the awards for a purpose other than an  
20 approved purpose. The council may resume approval of  
21 allocations once the council or department has



1           determined the recipient has adequately remedied the  
2           cause of the suspension.

3           (h) When approving an allocation of moneys from the fund,  
4 the council shall consider, at a minimum, the following  
5 criteria:

6           (1) The number of people per capita with a substance use  
7           disorder in a community;

8           (2) Disparities in access to care in a community that may  
9           preclude persons with a substance use disorder from  
10          obtaining a diagnosis or receiving evidence-based  
11          treatment;

12          (3) The number of overdose deaths per capita in a  
13          community;

14          (4) The infrastructure, programs, services, supports, or  
15          other resources currently available to individuals  
16          with substance use disorders in a community; and

17          (5) Disparities in access to care and health outcomes in a  
18          community.

19          (i) The council shall hold at least four meetings per  
20 year. Members may attend meetings in person, remotely by



1 audiovisual means, or upon approval by the chair, by audio-only  
2 means.

3 (j) A majority of council members shall constitute a  
4 quorum for the transaction of business, and the affirmative vote  
5 of a majority of the members present shall be necessary for any  
6 action by the council. Each council member shall have one vote.

7 (k) Members shall disclose to the council, refrain from  
8 participating in discussions, and recuse themselves from voting  
9 on any matter before the council where the member has a conflict  
10 of interest.

11 § -6 **Recipients; reports.** Any recipient who receives an  
12 award of funds from the special fund shall prepare a report to  
13 the council one year after the award of any funds, and for each  
14 year thereafter that the recipient receives funds from the  
15 special fund, detailing the effectiveness of infrastructure,  
16 programs, services, supports, and resources funding. The report  
17 shall include, at a minimum:

18 (1) How the recipient used the moneys for the intended  
19 purpose;



1 (2) The number of individuals serviced by race, age,  
2 gender, and other demographic factors reported in a  
3 de-identified manner;

4 (3) A specific analysis of whether the infrastructure,  
5 program, service, support, or resources reduced  
6 mortality or improved prevention, treatment, harm,  
7 reduction, or recovery outcomes, or both; and

8 (4) If a plan to ensure the sustainability of the  
9 infrastructure, program, service, support, or  
10 resources funded exists, a summary of the plan.

11 **§ -7 Department of health; program director; duties;**  
12 **responsibilities.** The department shall:

13 (1) Employ a full-time program director of the council to  
14 plan and support the meetings and functions of the  
15 council and direct the day-to-day activities required  
16 to ensure that all opioid litigation proceeds received  
17 by the State and deposited in the special fund are  
18 allocated and spent on substance use disorder  
19 abatement infrastructure, programs, services,  
20 supports, and resources for prevention, treatment,  
21 recovery, and harm reduction; and to ensure robust



- 1 public involvement, accountability, and transparency  
2 in allocating and accounting for moneys in the fund;
- 3 (2) Provide public health research and policy expertise,  
4 support staff, facilities, technical assistance, and  
5 other resources to assist the program director of the  
6 council with the program director's duties;
- 7 (3) Utilize, where feasible, appropriations from the  
8 general fund and existing infrastructure, programs,  
9 services, supports, or other resources to address  
10 substance use disorders, overdoses, and drug-related  
11 harms in the State;
- 12 (4) Prepare for review and approval by the council goals  
13 and objectives and their rationales, sustainability  
14 plans, and performance indicators relating to  
15 substance use disorder prevention, treatment,  
16 recovery, and harm reduction efforts and reducing  
17 disparities in access to prevention, treatment,  
18 recovery, and harm reduction programs, services,  
19 supports, and resources;



- 1           (5) Evaluate applications and recommend to the council  
2           awards and disbursements of moneys from the fund that  
3           meet the requirements of section -2(b)(4);
- 4           (6) Maintain oversight over the expenditure of moneys from  
5           the fund to ensure fund moneys are expended in  
6           accordance with the requirements of section -2(b);
- 7           (7) Recommend to the council any suspensions of  
8           allocations of moneys from the fund to recipients  
9           found by the department to be out of compliance with  
10          council procedures; the department's policies,  
11          procedures, rules, or regulations; or to have the  
12          awards for a purpose other than an approved purpose;
- 13          (8) Implement and publish on the council's or department's  
14          website the policies and procedures for administration  
15          of the council and for the application, awarding, and  
16          disbursement of moneys from the fund, to be used for  
17          purposes pursuant to section -2(b)(4); and
- 18          (9) Create and maintain a website that shall include, at a  
19          minimum,
- 20                (A) An annual report of the council's activities and  
21                effectiveness pursuant to section -9;



1           (B) Council meeting attendance rolls and minutes,  
2           including but not limited to records of all votes  
3           on expenditures of moneys from the fund,  
4           recipient agreements, and any reports made by a  
5           recipient pursuant to section -6; and

6           (C) All policies and procedures approved by the  
7           council and any council-related policies,  
8           procedures, or rules adopted by the department.

9           § -8 **Court orders; exceptions.** (a) The council shall  
10          disburse moneys from the fund in a manner consistent with the  
11          limitations on uses of litigation proceeds set forth in any  
12          controlling court order.

13          (b) In the event a controlling court order permits  
14          expenditures other than or in excess of expenditures authorized  
15          under section -2(b), the council shall adhere to the  
16          limitations on use of moneys set forth in section -2(b).

17          (c) In the event section -2(b) permits expenditures  
18          other than or in excess of those authorized in a controlling  
19          court order, the council shall adhere to the limitations on use  
20          of moneys set forth in the court order.



1 (d) In the event a controlling court order allocates  
2 litigation proceeds among counties, section -2(b)(1) shall  
3 not apply, and the council shall disburse moneys from the fund  
4 according to the allocations set forth in the court order.

5 **§ -9 Reporting.** (a) Beginning on December 31 one year  
6 after the initial deposit of proceeds into the fund, and every  
7 year thereafter, the department shall provide a written report  
8 to the governor, legislature, and attorney general detailing the  
9 council's activities during the previous calendar year.

10 (b) The report shall be published on the council's or  
11 department's website and shall include, at a minimum:

12 (1) The opening and closing balance of the fund for the  
13 calendar year;

14 (2) An accounting of all credits to and expenditures from  
15 the fund;

16 (3) The name and a description of each recipient of moneys  
17 from the fund, and the amount awarded to each  
18 recipient;

19 (4) A description of each award's intended use, including  
20 the specific program, service, support, or resource



- 1 funded; population served; and measures that the  
2 recipient will use to assess the impact of the award;
- 3 (5) The primary criteria used to determine each recipient  
4 and its respective award amount;
- 5 (6) A summary of the information included in the annual  
6 report prepared by the recipient required under  
7 section -6;
- 8 (7) All applications for an award of moneys from the fund  
9 received during the calendar year;
- 10 (8) A description of any finding or concern as to whether  
11 all moneys disbursed from the fund pursuant to  
12 section -2(b)(4) supplemented, and did not supplant  
13 or replace, any existing or future federal, state, or  
14 county funding; and
- 15 (9) The performance indicators and progress toward  
16 achieving the goals and objectives developed under  
17 this Act, including metrics on improving outcomes and  
18 reducing mortality and other harms related to  
19 substance use disorders."

20 SECTION 3. There is appropriated out of the Hawaii opioid  
21 litigation proceeds special fund the sum of \$ or so



1 much thereof as may be necessary for fiscal year 2024-2025 for  
2 the purposes of drug policy and coordination the establishment  
3 of the following positions within the alcohol and drug abuse  
4 division of health:

5 (1) One full-time equivalent (1.0 FTE) program director  
6 position exempt from chapter 76, Hawaii Revised  
7 Statutes;

8 (2) One full-time equivalent (1.0 FTE) outreach  
9 coordinator position exempt from chapter 76, Hawaii  
10 Revised Statutes; and

11 (3) One full-time equivalent (1.0 FTE) administrative  
12 assistant position exempt from chapter 76, Hawaii  
13 Revised Statutes.

14 The sum appropriated shall be expended by the department of  
15 health for the purposes of this Act.

16 SECTION 4. This Act shall take effect on July 1, 3000.



**Report Title:**

Opioid Litigation Proceeds; Hawaii Opioid Litigation Proceeds Special Fund; Hawaii Opioid Litigation Proceeds Council; Establishment; Appropriation

**Description:**

Establishes the Hawaii opioid litigation proceeds special fund. Establishes the Hawaii opioid litigation proceeds council to administer the special fund. Establishes standards for expenditure of opioid litigation proceeds received by the State. Establishes and appropriates funds from the Hawaii opioid litigation proceeds special fund for three full-time equivalent positions. Effective 7/1/3000. (HD1)

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

