



GOV. MSG. NO. 1291

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 6, 2021

The Honorable Ronald D. Kouchi,
President and Members of the Senate
Thirty First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

I am transmitting herewith HB1296 HD1 SD2 CD1, without my approval and with the statement of objections relating to the measure.

HB1296 HD1 SD2 CD1

RELATING TO STATE FUNDS.

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

EXECUTIVE CHAMBERS

HONOLULU

July 6, 2021

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1296

Honorable Members
Thirty-First Legislature
State of Hawai'i

Pursuant to Section 16 of Article III of the Constitution of the State of Hawai'i, I am returning herewith, without my approval, House Bill No. 1296, entitled "A Bill for an Act Relating to State Funds."

The purposes of this bill are to: (1) repeal the Hawaii tobacco prevention and control trust fund (Trust Fund) and transfer any balance of the Trust Fund to the general fund on June 30, 2025; repeal the allocation of 26 percent of the Hawaii tobacco settlement special fund (Special Fund) to the university revenue undertakings fund on July 1, 2033; set a cap of \$4,300,000, on the Special Fund; require that the management contract for the Trust Fund not extend beyond June 30, 2025; and require the Department of Health to provide an annual report to the Legislature before the regular sessions of 2022, 2023, 2024, 2025, and 2026 on Trust Fund expenditures; (2) make an emergency appropriation of \$4,780,880 for fiscal year 2020-2021 for the state comprehensive emergency medical services system; (3) appropriate \$577,466 for fiscal years 2021-2022 and 2022-2023 for two full-time equivalent (FTE) permanent and five FTE temporary positions in the Office of the Governor; (4) require state departments to reimburse the State for fringe benefit costs of special-funded employees; (5) prohibit any expenditure of cigarette tax moneys in the Hawaii cancer research special fund for research and operating expenses; (6) repeal the deposit of any cigarette tax money into the cancer research special fund on July 1, 2041; (7) and repeal the deposit of cigarette tax moneys into the emergency medical services special fund on July 1, 2021; (8) establish a threat assessment program within the Hawaii State Fusion Center of the Office of Homeland Security within the State Department of Defense; and (9) appropriate \$132,972 for fiscal years 2021-2022 and 2022-2023 for one FTE permanent

STATEMENT OF OBJECTIONS
HOUSE BILL NO. 1296
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administrative assistant position in the Department of Human Resources Development.

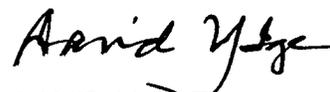
This bill is objectionable because by repealing the Trust Fund, the bill would eliminate the dedicated, long-term funding arrangement for tobacco prevention programs. The Trust Fund uses payments being made by tobacco companies pursuant to the Tobacco Master Settlement Agreement to develop and fund programs to prevent tobacco uptake and to cease tobacco use. Defunding a dedicated revenue source for tobacco prevention and cessation programs creates uncertainty about the continuity of those programs and their ability to achieve their intended outcomes. Any significant reduction in these programs or services will likely result in negative public health impacts and significantly higher health care costs in future years. Over the last twenty years, these programs have helped prevent youth from initiating smoking, have reduced the number of residents who smoke, and have reduced tobacco-use-related healthcare expenditures by over one billion dollars.

Additionally, the bill would eliminate the University of Hawaii (UH) Cancer Center's ability to conduct cancer research and cancer center operations with cigarette tax moneys, significantly increasing costs for the UH to maintain its existing operation and programs.

Notably, recent improvements in the State's current fiscal situation and forecasted tax revenues appear to eliminate the need for this bill.

For the foregoing reasons, I am returning House Bill No. 1296 without my approval.

Respectfully,



DAVID Y. IGE
Governor of Hawai'i

A BILL FOR AN ACT

RELATING TO STATE FUNDS.

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

1 PART I

2 SECTION 1. The legislature finds that the State is
3 suffering significant economic hardship due to the COVID-19
4 pandemic. While the legislature supports tobacco prevention and
5 cessation, given the extraordinary economic conditions that the
6 State is facing, all resources must be examined to protect the
7 overall health, safety, and welfare of the public.

8 The purpose of this part is to generate additional general
9 funds to ensure the delivery of critical services statewide by
10 suspending the distribution of tobacco settlement moneys to the
11 Hawaii tobacco prevention and control trust fund and maximizing
12 other state resources.

13 SECTION 2. Section 328L-2, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

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



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

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

7 ~~+(3) Twenty-six]~~ (2) Until July 1, 2033, twenty-six
8 per cent shall be appropriated into the university
9 revenue-undertakings fund created in
10 section 304A-2167.5, to be applied to the payment of
11 the principal of and interest on, and to generate
12 required coverage, if any, for, revenue bonds issued
13 by the board of regents of the University of Hawaii to
14 finance the cost of construction of a university
15 health and wellness center, including a new medical
16 school facility, to be situated on the island of Oahu;
17 and

18 ~~+(4)]~~ (3) Any remaining amounts in excess of \$4,300,000
19 shall be deposited to the credit of the state general
20 fund;

21 in the succeeding fiscal year."



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

3 "[~~f~~]§328L-6[~~f~~] **Tobacco prevention and control advisory**
4 **board.** (a) There is established a tobacco prevention and
5 control advisory board under the department for administrative
6 purposes.

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

- 10 (1) One member of the governor's staff, appointed by the
11 governor;
- 12 (2) One member to be appointed by the governor from a list
13 of two names submitted by the president of the senate;
- 14 (3) One member to be appointed by the governor from a list
15 of two names submitted by the speaker of the house of
16 representatives;
- 17 (4) The director or the director's designee;
- 18 (5) The superintendent of education or the
19 superintendent's designee;
- 20 (6) Three members having demonstrated interest in and
21 having backgrounds beneficial to controlling and



1 preventing the use of tobacco, appointed by the
2 director of health; and
3 (7) Three members representing populations at risk for
4 tobacco use, appointed by the governor.
5 (c) Members shall:
6 (1) Be appointed or designated, as applicable, without
7 regard to section 26-34;
8 (2) Serve without compensation; and
9 (3) Serve for a term of three years.
10 (d) The tobacco prevention and control advisory board, in
11 collaboration with the department, shall develop a strategic
12 plan for tobacco prevention and control, including:
13 (1) Developing and implementing effective and cost
14 efficient programs, including health promotion and
15 disease prevention;
16 (2) Developing adequate standards and benchmarks by which
17 measures of program success under paragraph (1) of
18 this subsection may be appropriately evaluated; and
19 (3) Assessing the effectiveness of programs engaged in
20 health promotion and disease prevention.



1 The strategic plan shall be in writing and shall be a
2 public document.

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

6 SECTION 4. Section 328L-5, Hawaii Revised Statutes, is
7 repealed.

8 ~~["**§328L-5 Hawaii tobacco prevention and control trust**
9 **fund.** (a) There is established the Hawaii tobacco prevention
10 and control trust fund as a separate fund of a nonprofit entity
11 having a board of directors and qualifying under
12 section 501(c)(3) of the Internal Revenue Code of 1986, as
13 amended, into which shall be deposited moneys received as
14 provided under section 328L-2(b)(2). The director of health
15 with the concurrence of the governor, shall select, in
16 accordance with law, the entity based upon the proven record of
17 accomplishment of the entity in administering a similar trust
18 fund.~~

19 ~~(b) Notwithstanding that the Hawaii tobacco prevention and
20 control trust fund is established within a private entity, the
21 department of budget and finance shall have oversight authority~~



1 ~~over the fund and may make periodic financial audits of the~~
2 ~~fund; provided that the director of finance may contract with a~~
3 ~~certified public accountancy firm for this purpose. The~~
4 ~~director of health with the concurrence of the governor in their~~
5 ~~sole discretion may rescind the selection of the entity. If the~~
6 ~~selection of the entity [is] rescinded, moneys in the trust fund~~
7 ~~shall revert back to the State and shall be deemed to be trust~~
8 ~~moneys.~~

9 ~~(c) The entity selected under subsection (a), for each~~
10 ~~fiscal year, may expend up to fifty per cent of the total market~~
11 ~~value of the Hawaii tobacco prevention and control trust fund on~~
12 ~~the preceding June 30, for tobacco prevention and control,~~
13 ~~including but not limited to, reducing cigarette smoking and~~
14 ~~tobacco use among youth and adults through education and~~
15 ~~enforcement activities, and controlling and preventing chronic~~
16 ~~diseases where tobacco is a risk factor.~~

17 ~~(d) The Hawaii tobacco prevention and control trust fund~~
18 ~~may receive appropriations, contributions, grants, endowments,~~
19 ~~or gifts in cash or otherwise from any source, including the~~
20 ~~State, corporations or other businesses, foundations,~~
21 ~~government, individuals, and other interested parties; provided~~



1 ~~that any appropriations made by the State shall not supplant or~~
2 ~~diminish the funding of existing tobacco prevention and control~~
3 ~~programs or any health related programs funded in whole or in~~
4 ~~part by the State.~~

5 ~~(c) The assets of the Hawaii tobacco prevention and~~
6 ~~control trust fund shall consist of:~~

7 ~~(1) Moneys appropriated under section 328L-2(b)(2);~~

8 ~~(2) Moneys appropriated to the Hawaii tobacco prevention~~
9 ~~and control trust fund by the state, county, or~~
10 ~~federal government;~~

11 ~~(3) Private contributions of cash or property; and~~

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

13 ~~(f) The aggregate principal sum deposited in the Hawaii~~
14 ~~tobacco prevention and control trust fund shall be invested by~~
15 ~~the entity selected under subsection (a) in a manner intended to~~
16 ~~maximize the rate of return on investment of the trust fund~~
17 ~~consistent with the objective of preserving the trust fund's~~
18 ~~principal.~~

19 ~~(g) If the entity selected under subsection (a) is~~
20 ~~dissolved, the director of health, with the concurrence of the~~
21 ~~governor, shall select a successor entity. If the Hawaii~~



1 ~~tobacco prevention and control trust fund is terminated, the~~
2 ~~moneys remaining in the trust fund shall revert back to the~~
3 ~~State and shall be deemed to be trust moneys.~~

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

8 SECTION 5. Any contract relating to the management of the
9 Hawaii tobacco prevention and control trust fund moneys shall
10 not extend beyond June 30, 2025.

11 SECTION 6. Any unencumbered balances remaining in the
12 Hawaii tobacco prevention and control trust fund as of June 30,
13 2025, shall lapse to the credit of the general fund on June 30,
14 2025.

15 SECTION 7. The department of health shall provide an
16 annual report on the moneys expended from the Hawaii tobacco
17 prevention and control trust fund to the legislature no later
18 than twenty days prior to the convening of the regular sessions
19 of 2022, 2023, 2024, 2025, and 2026. The report shall identify
20 each recipient of moneys from the fund, the amount of moneys
21 received by each recipient, and the purpose of the expenditure.



1 PART II

2 SECTION 8. This part is recommended by the governor for
3 immediate passage in accordance with article VII, section 9, of
4 the Constitution of the State of Hawaii.

5 SECTION 9. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$4,780,880 or so much
7 thereof as may be necessary for fiscal year 2020-2021 for
8 payroll and other current expenses to address the budget
9 shortfall for the state comprehensive emergency medical services
10 system.

11 The sum appropriated shall be expended by the department of
12 health for the purposes of this part.

13 PART III

14 SECTION 10. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$577,466 or so much
16 thereof as may be necessary for fiscal year 2021-2022 and the
17 same sum or so much thereof as may be necessary for fiscal year
18 2022-2023 for the establishment of two full-time equivalent
19 (2.00 FTE) permanent positions and five full-time equivalent
20 (5.00 FTE) temporary positions for the office of the governor.



1 The sums appropriated shall be expended by the office of
2 the governor for the purposes of this part.

3 PART IV

4 SECTION 11. Chapter 36, Hawaii Revised Statutes, is
5 amended by adding a new section to be appropriately designated
6 and to read as follows:

7 "§36- Non-general fund positions; reimbursement. Each
8 department, including the University of Hawaii and the
9 department of education, shall reimburse the State for
10 contributions made by the State pursuant to sections 87A-39
11 and 88-125, for fringe benefits of employees whose positions are
12 funded by a special fund rather than by the general fund."

13 SECTION 12. Section 245-15, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§245-15 Disposition of revenues. (a) All moneys
16 collected pursuant to this chapter shall be paid into the state
17 treasury as state realizations to be kept and accounted for as
18 provided by law; provided that, of the moneys collected under
19 the tax imposed pursuant to:

20 (1) Section 245-3(a)(5), after September 30, 2006, and
21 prior to October 1, 2007, 1.0 cent per cigarette shall



1 be deposited to the credit of the Hawaii cancer
2 research special fund, established pursuant to
3 section 304A-2168, for research and operating expenses
4 and for capital expenditures;

5 (2) Section 245-3(a)(6), after September 30, 2007, and
6 prior to October 1, 2008:

7 (A) 1.5 cents per cigarette shall be deposited to the
8 credit of the Hawaii cancer research special
9 fund, established pursuant to section 304A-2168,
10 for research and operating expenses and for
11 capital expenditures;

12 (B) 0.25 cents per cigarette shall be deposited to
13 the credit of the trauma system special fund
14 established pursuant to section 321-22.5; and

15 (C) 0.25 cents per cigarette shall be deposited to
16 the credit of the emergency medical services
17 special fund established pursuant to
18 section 321-234;

19 (3) Section 245-3(a)(7), after September 30, 2008, and
20 prior to July 1, 2009:



- 1 (A) 2.0 cents per cigarette shall be deposited to the
2 credit of the Hawaii cancer research special
3 fund, established pursuant to section 304A-2168,
4 for research and operating expenses and for
5 capital expenditures;
- 6 (B) 0.5 cents per cigarette shall be deposited to the
7 credit of the trauma system special fund
8 established pursuant to section 321-22.5;
- 9 (C) 0.25 cents per cigarette shall be deposited to
10 the credit of the community health centers
11 special fund established pursuant to
12 section 321-1.65; and
- 13 (D) 0.25 cents per cigarette shall be deposited to
14 the credit of the emergency medical services
15 special fund established pursuant to
16 section 321-234;
- 17 (4) Section 245-3(a)(8), after June 30, 2009, and prior to
18 July 1, 2013:
- 19 (A) 2.0 cents per cigarette shall be deposited to the
20 credit of the Hawaii cancer research special
21 fund, established pursuant to section 304A-2168,



1 for research and operating expenses and for
2 capital expenditures;

3 (B) 0.75 cents per cigarette shall be deposited to
4 the credit of the trauma system special fund
5 established pursuant to section 321-22.5;

6 (C) 0.75 cents per cigarette shall be deposited to
7 the credit of the community health centers
8 special fund established pursuant to
9 section 321-1.65; and

10 (D) 0.5 cents per cigarette shall be deposited to the
11 credit of the emergency medical services special
12 fund established pursuant to section 321-234;

13 (5) Section 245-3(a)(11), after June 30, 2013, and prior
14 to July 1, 2015:

15 (A) 2.0 cents per cigarette shall be deposited to the
16 credit of the Hawaii cancer research special
17 fund, established pursuant to section 304A-2168,
18 for research and operating expenses and for
19 capital expenditures;



1 (B) 1.5 cents per cigarette shall be deposited to the
2 credit of the trauma system special fund
3 established pursuant to section 321-22.5;

4 (C) 1.25 cents per cigarette shall be deposited to
5 the credit of the community health centers
6 special fund established pursuant to
7 section 321-1.65; and

8 (D) 1.25 cents per cigarette shall be deposited to
9 the credit of the emergency medical services
10 special fund established pursuant to
11 section 321-234; and

12 (6) Section 245-3(a)(11), after June 30, 2015, and
13 ~~[thereafter]~~:

14 (A) Prior to July 1, 2041, 2.0 cents per cigarette
15 shall be deposited to the credit of the Hawaii
16 cancer research special fund, established
17 pursuant to section 304A-2168, for ~~[research and~~
18 ~~operating expenses and for]~~ capital expenditures;

19 (B) Thereafter, 1.125 cents per cigarette, but not
20 more than \$7,400,000 in a fiscal year, shall be
21 deposited to the credit of the trauma system



1 special fund established pursuant to
2 section 321-22.5;

3 (C) Thereafter, 1.25 cents per cigarette, but not
4 more than \$8,800,000 in a fiscal year, shall be
5 deposited to the credit of the community health
6 centers special fund established pursuant to
7 section 321-1.65; and

8 (D) Prior to July 1, 2021, 1.25 cents per cigarette,
9 but not more than \$8,800,000 in a fiscal year,
10 shall be deposited to the credit of the emergency
11 medical services special fund established
12 pursuant to section 321-234.

13 (b) The department shall provide an annual accounting of
14 these dispositions to the legislature."

15 PART V

16 SECTION 13. The legislature finds that mass shootings and
17 mass casualty events are a public health crisis. The National
18 Governors Association has stated that efforts to prevent
19 targeted violence map on to other prevention and mitigation
20 efforts, specifically public health models. The legislature
21 notes that many violence prevention strategies, such as



1 assessment, risk identification, and mitigation, are already
2 included as an important part of new physician training. These
3 current practices fit well with the objectives and strategies of
4 threat assessment teams, while trained mental health
5 professionals, such as psychiatrists and psychologists, provide
6 crucial insights and skills that are invaluable to
7 interdisciplinary threat assessment.

8 The legislature further finds that the Hawaii state fusion
9 center, in partnership with other agencies, has already laid a
10 foundation for a threat assessment program. Enabling a
11 multidisciplinary threat assessment team consisting of
12 individuals with diverse training and experience can help
13 prevent violence and find solutions to manage threats.

14 The purpose of this part is to establish a threat
15 assessment team program within the Hawaii state fusion center of
16 the office of homeland security to train, establish, and operate
17 threat assessment teams.

18 SECTION 14. Chapter 128A, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:



HB No. 1296, HD 1, SD 2, CD 1

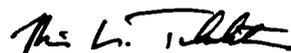
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 27, 2021
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAI‘I

Date: April 27, 2021
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-First Legislature of the State of Hawai‘i, Regular Session of 2021.


President of the Senate


Clerk of the Senate