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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 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;



- 1 (5) The superintendent of education or the  
2 superintendent's designee;
- 3 (6) Three members having demonstrated interest in and  
4 having backgrounds beneficial to controlling and  
5 preventing the use of tobacco, appointed by the  
6 director of health; and
- 7 (7) Three members representing populations at risk for  
8 tobacco use, appointed by the governor.
- 9 (c) Members shall:
- 10 (1) Be appointed or designated, as applicable, without  
11 regard to section 26-34;
- 12 (2) Serve without compensation; and
- 13 (3) Serve for a term of three years.
- 14 (d) The tobacco prevention and control advisory board, in  
15 collaboration with the department, shall develop a strategic  
16 plan for tobacco prevention and control, including:
- 17 (1) Developing and implementing effective and cost  
18 efficient programs, including health promotion and  
19 disease prevention;



- 1           (2)    Developing adequate standards and benchmarks by which
- 2                    measures of program success under paragraph (1) of
- 3                    this subsection may be appropriately evaluated; and
- 4           (3)    Assessing the effectiveness of programs engaged in
- 5                    health promotion and disease prevention.

6           The strategic plan shall be in writing and shall be a  
7 public document.

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

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

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

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

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



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

12          (4) Any remaining amounts shall be deposited to the credit  
 13          of the state general fund;  
 14          in the succeeding fiscal year."

15          SECTION 3. Section 328L-5, Hawaii Revised Statutes, is  
 16          repealed.

17          [~~"§328L-5 Hawaii tobacco prevention and control trust~~  
 18          ~~fund.~~ (a) ~~There is established the Hawaii tobacco prevention~~  
 19          ~~and control trust fund as a separate fund of a nonprofit entity~~  
 20          ~~having a board of directors and qualifying under~~  
 21          ~~section 501(c)(3) of the Internal Revenue Code of 1986, as~~



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

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

18 ~~(c) The entity selected under subsection (a), for each~~  
19 ~~fiscal year, may expend up to fifty per cent of the total market~~  
20 ~~value of the Hawaii tobacco prevention and control trust fund on~~  
21 ~~the preceding June 30, for tobacco prevention and control,~~



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

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

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

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



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

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

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

17       SECTION 4. There is appropriated out of the general  
18 revenues of the State of Hawaii the sum of \$5,700,000 or so much  
19 thereof as may be necessary for fiscal year 2021-2022 and the  
20 same sum or so much thereof as may be necessary for fiscal year  
21 2022-2023 to be for tobacco prevention and control purposes.



1           The sums appropriated shall be expended by the department  
2 of health for the purposes of this Act.

3           SECTION 5. Any unencumbered balances remaining in the  
4 Hawaii tobacco prevention and control trust fund as of July 1,  
5 2021, shall lapse to the credit of the general fund.

6           SECTION 6. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8           SECTION 7. This Act shall take effect on July 1, 2021.



**Report Title:**

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

**Description:**

Repeals the Hawaii tobacco prevention and control trust fund and transfers unencumbered balances to the general fund. Specifies that Hawaii tobacco settlement special fund moneys shall only be deposited into the University revenue-undertakings fund until 7/1/2033. Appropriates general funds to the department of health for tobacco prevention and control. (HD1)

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