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**HOUSE COMMITTEE ON HEALTH
TESTIMONY REGARDING HB 895
RELATING TO TAX ON TOBACCO PRODUCTS OTHER THAN CIGARETTES**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: FEBRUARY 13, 2009

TIME: 8:30AM

ROOM: 329

This measure, among other things, proposes to increase the tobacco tax on non-cigarette tobacco items. This measure also creates a new special fund

The Department of Taxation (Department) takes **no position on the tax provisions** in the measure; however **opposes the special fund because the tax increase does not assist in closing the general fund budget gap.**

Creation of new special funds will not help with this year's budget constraints. Regardless of the merits of the special fund proposed in this legislation, the Department cannot support a tax increase of this kind to be deposited into a special fund. Any sin tax increase this session must be deposited to the benefit of the general fund.

This bill will result in revenue gain in FY 2010 (8 months w/ 1-month lag) of \$1.2 million; a gain in FY 2011 and after of \$1.75 million, per year for the Community Health Center Special Fund.

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TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON HEALTH
ON
HOUSE BILL NO. 895

February 13, 2008

RELATING TO TAX ON TOBACCO PRODUCTS OTHER THAN CIGARETTES

House Bill No. 895 increases the tobacco tax on tobacco products other than cigarettes from 40% to 60% of the wholesale price and deposits 33.3% of the proceeds collected into the community health centers special fund.

The Department of Taxation estimates this measure would result in a revenue gain of \$1.2 million in Fiscal Year 2010 and then \$1.75 million annually thereafter.

We are opposed to this bill. We have concerns regarding the practice of revenue earmarking for specific purposes. This arrangement will, in effect, remove any proposed funding increases from the customary established budgetary process whereby all requests for funding must be justified and compete for limited public resources.



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Testimony for HB 895 "Relating To Tobacco"

The American Heart Association supports the intent of HB 895, but recommends several amendments.

A portion of new funds realized from any tobacco tax increase should be directed toward further tobacco prevention and education. Hawaii current investment remains well below the Centers for Disease Control's recommended spending in tobacco and prevention. The CDC recommends that Hawaii invest \$15.2 million per year on tobacco prevention, education and cessation programs to fully achieve success in reducing tobacco dependence. Hawaii currently receives \$11.3 million a year for tobacco prevention and cessation, which includes both state and federal funds. It is not clear how much the state actually invests annually in tobacco prevention and cessation, but it is likely below \$10 million per year.

In addition, the AHA recommends that the state attempt to set the tax on "other tobacco" products at a level comparable to what its cigarette tax will be when the current cigarette tax increase is fully implemented in 2011. In the future, any cigarette tax increases should be accompanied by a comparable increase in the tax on other tobacco products to insure that hikes in cost for one type of tobacco product don't drive potential young customers toward the cheaper type of tobacco. The goal of any tobacco tax increase should be primarily to achieve a reduction in use of tobacco products, especially by price-sensitive young people. The costs to the state for medical care alone related to tobacco use far outweigh the benefits in taxes collected on tobacco sales.

What do nicotine and tobacco smoke do to the body?

Nicotine causes a short-term increase in blood pressure, heart rate and the flow of blood from the heart. It also causes the arteries to narrow. Users of smokeless tobacco are exposed to levels of nicotine that are comparable to cigarette smokers. In addition, smoke from other tobacco products like cigars include carbon monoxide, which reduces the amount of oxygen the blood can carry. This, combined with the nicotine effects, creates an imbalance between the demand for oxygen by the cells and the amount of oxygen the blood can supply. Tobacco smoke also increases the risk of developing hardening of the arteries and heart attacks in several ways. First, carbon monoxide damages the inner walls of the arteries, encouraging fatty buildups in them. Over time, this causes the vessels to narrow and harden. Nicotine may also contribute to this process. Smoking also causes several changes in the blood that make clots—and heart attack—more likely. Cigar and pipe smoking increases the risk of abdominal aortic aneurysm by as much as six times compared to never-smokers. Smoking cigars or pipes doubles the risk of fatal stroke compared to never-smokers. Smoking cigars or pipes and cigarettes increases the risk for fatal stroke by six times compared to never-smokers. Pipe smoking has been found to increase coronary heart disease risk by almost as much as cigarette smoking. Some studies have shown that smokeless tobacco results in as much as a 40 percent increased risk of dying from cardiovascular disease.

Caution About Switching to a Weight-Based Tobacco Tax System

Legislators should be cautioned about falling into the tobacco companies' trap of switching to a weight-based formula for calculating the tax on "other tobacco" products rather than through a percentage of the wholesale or retail price. Over time, such shifts to a weight-based tax dramatically reduce the portion of state revenues gained from their smokeless tax, reducing the effective tax on the kinds of higher-priced premium products that the larger companies sell and increasing the effective tax on lower-priced brands, predominantly sold by smaller competitors.

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In contrast, a percentage-of-price tax levies a fixed percentage tax on all smokeless products, ensuring that those products that bring in higher amounts of revenue and profits also pay higher amounts per can or dose while still paying the exact same percentage tax as less profitable brands. Taxing by weight also provides a massive tax break to the new generation of smokeless tobacco products (e.g. Ariva, Stonewall, Snus products) that can weigh as little as one-tenth as much as standard smokeless products. Accordingly, states with weight-based smokeless or moist snuff taxes will see their revenues shrink as this new wave of super-low-weight products takes over more and more of the total smokeless market. To ensure that smokeless tobacco brands that engage in unfair competition or predatory pricing still pay reasonable amounts of tax, the state could simply add a minimum tax onto its existing percentage-of-price tax system.

But it is not just an issue of premium versus lower-price brands. The vast majority of kids who use smokeless tobacco use the higher-priced premium brands, such as Copenhagen. By ultimately lowering the price on the smokeless tobacco products most popular with kids, shifting to a weight-based tax would increase smokeless tobacco use among youths.

Setting Smokeless Tobacco Tax Rates Effectively

Simply raising all state tobacco taxes will produce enormous benefits by reducing overall tobacco use, with an especially powerful negative effect on tobacco use by kids. At the same time, it is important to make sure that the tax rates on all tobacco products are roughly comparable, to minimize shifts from one tobacco product to another cheaper one and to maximize the overall reduction in tobacco use.

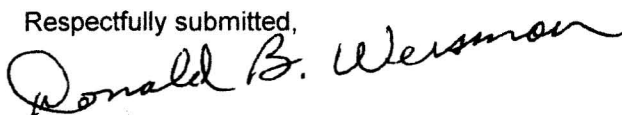
The attached model language provided by the Campaign for Tobacco-Free Kids does all that by adding an alternative tax rate for the major categories of tobacco product to make sure that they are, at a minimum taxed at a rate equal to the state's cigarette tax rate. The language tries to do that in a very clear and understandable, common-sense way by, for example, setting the minimum tax on a typical can of smokeless equal to the state's tax on a pack of cigarettes, taxing smokeless that comes in single-dose units at the state's single-cigarette tax rate, and setting a minimum tax on 5-packs of cigarillos and blunts equal to the state tax on a pack of cigarettes.

The model language also:

- 1) Establishes that the tax rates on all the different tobacco products would increase whenever the state's cigarette tax rate is increased (which should also help the tax rates keep up with inflation and product price increases).
- 2) Sets new minimum tax rates for low-priced smokeless tobacco products that will increase over time.
- 3) Makes sure that not just little-cigar cigarettes but also cigarillos and blunts pay tax rates at least as high as the state tax on cigarettes -- but in ways that should avoid prompting opposition from high-priced premium cigar manufacturers.
- 4) Would be enormously helpful for reducing overall use levels and promoting public health by raising the effective OTP tax rates, especially on lower-priced brands in each category, and making sure the rates will keep up with future state cigarette tax increases.

In conclusion, it is important to both maintain a balance between the taxes on cigarettes and the tax on "other tobacco" products in order to continue to drive down Hawaii's youth smoking rates. It is just as important to maintain the level of investment in tobacco prevention, education and cessation programs at or near the CDC's minimum recommended amounts. The AHA strongly recommends that a portion of any new tobacco tax revenue be earmarked to support those life-saving programs.

Respectfully submitted,



Donald B. Weisman
Hawaii Communications and Marketing/Government Affairs Director

MODEL LEGISLATION FOR CREATING TOBACCO PRODUCT TAX EQUITY
[An add-on provision for states with any percentage-of-price OTP tax.]

Sec. _____. **Alternative Tobacco Product Tax Rates.** To promote tax equity and fairness, reduce tobacco use and its many harms and costs, and to ensure that no tobacco products subject to the tax rates established elsewhere in this chapter can evade reasonable taxation through predatory or other anti-competitive or bargain-basement pricing, the following alternative tax rates are established.


- (a) The tax on all smokeless tobacco products consisting of loose tobacco that are not sold in discrete single-use, single-dose lozenges, pouches, pills, capsules or other units shall be the higher of the percentage-of price tax rate for tobacco products established in this chapter or, for the first 1.2 ounces or less, the same amount as the total tax on a pack of 20 cigarettes established by this chapter with a proportionate tax at the like rate on any fractional parts of more than 1.2 ounces, based on the net weight as listed in good faith by the manufacturer on the product package.
- (b) The tax on any tobacco product other than cigarettes or cigars that is offered in discrete single-use, single-dose lozenges, pouches, pills, capsules or other units, or in packages of such single-dose units, shall be taxed at the higher of the percentage-of price tax rate for tobacco products established in this chapter or at a rate per single dose unit equal to the per-cigarette amount of the total tax placed on cigarettes in this chapter.
- (c) The tax on any cigar shall be the higher of the percentage-of price tax rate for tobacco products established in this chapter or a rate equal to the amount of the total tax on a pack of 20 cigarettes established by this chapter per package of up to five cigars and a proportionate tax at the like rate for any package of cigars containing more than five cigars, except the tax on any single cigar shall not exceed an amount equal to the total tax established by this chapter for a pack of 20 cigarettes.
- (d) The tax on any roll-your-own tobacco shall be the higher of the percentage-of price tax rate for tobacco products established in this chapter or a rate equal to the amount of the total tax on a pack of 20 cigarettes established by this chapter for the first 0.65 ounces or less and a proportionate tax at the like rate on any other weights of roll-your-own tobacco, based on the net weight as listed in good faith by the manufacturer on the product package.
- (e) Any other product containing tobacco that is intended or expected to be consumed that is not a cigarette, as defined in this chapter, and is not subject to any of the previous paragraphs herein shall be taxed at the higher of the percentage-of price tax rate for tobacco products established in this chapter or at a rate equal to the amount of the total tax on a pack of 20 cigarettes established by this chapter per each single consumer personal-use package or container. For containers sold to consumers that contain multiple discrete smaller tobacco product packages or containers that may be used individually, this paragraph shall apply to each of those smaller individual discrete packages or containers.
- (f) The Department of Revenue may issue regulations as necessary to implement this section.

Notes: Regular moist snuff smokeless tobacco is typically sold in 1.2 ounce cans. Cigarillos and blunts (often sold in kid-attracting flavors) typically come in packages of five. 20 Roll-your-own (RYO) cigarettes weigh 0.65 ounces, or 20 X 0.0325 ounces. 0.0325 ounces of RYO tobacco per cigarette is the equivalency rate used in the MSA and in setting the new federal tax rate for RYO tobacco to make it equal the new federal tax rate on regular cigarettes.



LATE

To: Representative Ryan I. Yamane, Chair, Committee on Health
 Representative Scott Y. Nishimoto, Vice Chair, Committee on Health
 Members, House Committee on Health

From: Trisha Y. Nakamura, Policy and Advocacy Director 

Date: February 12, 2009

Hrg: House Committee on Health; February 13, 2009 at 8:30 a.m.

Re: **Strong Support to Increase the Tax on Other Tobacco Products, HB 895**

Thank you for this opportunity to testify in support of an increase on the tax on tobacco products other than cigarettes. The Coalition for a Tobacco Free Hawaii (Coalition) is the only independent organization in Hawaii whose sole mission is to reduce tobacco use through education, policy and advocacy. The Coalition has long supported increasing taxes on tobacco products as a means to reduce youth consumption of tobacco. We thank the Senate Committee on Health for hearing this measure.

The Coalition supports raising the tax on other tobacco products as well as expanding the definition of "tobacco products" to explicitly include smokeless tobacco. The Coalition recommends that a portion of any new tobacco tax revenue fund tobacco prevention and cessation programs.

Raising the tax on tobacco products is a win-win for our State. A tax increase will not only bring revenue into our State but it will reduce youth tobacco use. HB 895 also presents an opportunity for lawmakers to dedicate funds to tobacco prevention and control efforts.

Health is Promoted By Increasing the Tax on Tobacco Products Other Than Cigarettes
 By increasing the percent of the wholesale price of each tobacco product sold, use of smokeless tobacco by adults and young people will decrease. This will result in a decline in the serious health conditions that arise from use of smokeless tobacco including cancer of the esophagus pharynx, larynx, stomach, and pancreas, gum disease, and the risk of cardiovascular disease. Adolescents and young adults are two to three times more sensitive to tobacco price changes than adults—less youth will begin to start using smokeless tobacco and more will reduce their consumption. Hawaii has seen an increase in youth use of smokeless tobacco despite our decreasing smoking rates. This is a concern because children and adolescents who use smokeless tobacco, especially if they are male, are at an increased risk to become cigarette smokers.

Rates of Smokeless Tobacco Use in 2003 and 2007

	2003	2007
High School students	2.8%	3.7%
Middle School students	1.7%	2.8%

(Hawaii State Department of Health, Data Highlights from the 2007 Hawaii Youth Tobacco Survey (YTS) and Comparisons with Prior Years. September 2008)

Significant Revenues Can Be Generated from an Increase in the Tax on Other Tobacco Products
 The chart on the next page shows rough estimates of how much revenue our State may see if the tax on other tobacco products is increased. The figures are based on two averages: the five-year and the ten-year averages of taxes on other tobacco products as viewed at the Department of Taxation's website.

Revenue Projections for Tax on Other Tobacco Products

Revenue Projections	Based on 5-Year Average	Based on 10-Year Average
60% of purchase price (20% increase fr current rate)	\$3,826,354.45	\$3,322,278.00
70% of purchase price (30% increase fr current rate)	\$4,145,217.32	\$3,599,134.50
80% of purchase price (40% increase fr current rate)	\$4,464,080.19	\$3,875,991.00
90% of purchase price (50% increase fr current rate)	\$4,782,943.06	\$4,152,847.50
100% of purchase price (60% increase fr current rate)	\$5,101,805.93	\$4,429,704.00

Revenues Should Be Directed to Fund Tobacco Prevention and Control

At a time when there are threats to fund tobacco prevention and control, the Coalition would like to see all, if not a portion of the revenues from the increase in the tax on other tobacco products dedicated to tobacco prevention and control. This will ensure that the comprehensive tobacco prevention and control work in Hawaii continues. Those who want help in quitting tobacco should have the services to help them. 88% of smokers want to quit someday; 61% have tried to quit in the past year. The revenues collected from tobacco should support services for them. The significant gains are at risk if tobacco prevention and control efforts are not funded and maintained.

Thank you for the opportunity to testify. The Coalition strongly encourages you to pass this measure out of Committee.