

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



LORETTA J. FUDDY, A.C.S.W., M.P.H.
ACTING DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
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In reply, please refer to:
File:

House Committee on Finance

HB1267, RELATING TO HEALTHCARE

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Acting Director of Health**

February 15, 2011; 2:00PM

- 1 **Department's Position:** The Department of Health (DOH) strongly opposes the measure.
- 2 **Fiscal Implications:** The measure proposes to appropriate \$10,000,000 in fiscal year (FY) 2011-2012
- 3 from the Tobacco Settlement Special Fund (TSSF) to the Department of Human Services (DHS) for
- 4 costs associated with medicaid programs, and \$5,000,000 in FY 2012-2013 from the TSSF to the
- 5 Hawaii Health Systems Corporation for costs associated with comprehensive health care services. The
- 6 diversion of the funds may result in the loss of positions in several agencies, and redirect current
- 7 program costs to general funds.
- 8 **Purpose and Justification:** The proposed appropriations are not in keeping with the intent of the
- 9 original Master Settlement Agreement (MSA) that was entered into in 1998 with five major tobacco
- 10 companies. The recitals section in the agreement says the payments *...will achieve for Settling States*
- 11 *and their citizens significant funding for the advancement of public health, the implementation of*
- 12 *important tobacco-related public health measures. . .* In keeping with the spirit of the original lawsuit
- 13 and the MSA the 1999 Hawaii State Legislature passed Act 304, and stated that, *The fund shall serve as*
- 14 *a mechanism to maximize financial resources for tobacco prevention and control, health promotion and*
- 15 *disease prevention programs, children's health programs, and to serve as a long-term source of stable*
- 16 *funding for prevention-oriented public health efforts (SB1034 CD1).*

1 The Hawaii Legislature established the TSSF to receive revenues as a participating state in the
2 1998 master settlement agreement (MSA). The Department provides the following abridged table of
3 the changes in distribution since Act 304 established the TSSF in 1999.

4 Table 1. Tobacco Settlement Special Fund Distribution

Distributions	Act 304 1999 SLH	Act 270 2001 Special Session	Act 119 2009 SLH
Rainy Day	40%	25.5%	15%
DOH/DHS S-CHIP	25% + 10%	25% + 10%	15% + 10%
Tob Trust Fund	25%	12.5%	6.5%
UHJABSOM	N/A	28%	28%
General Fund	N/A	N/A	25.5%

9 As noted on the Table 1. the reapportionment of the funds have dramatically reduced funding for
10 public health purpose from 50% of the funds to now 21.5%. General funds already receive 25.5% of the
11 special funds due to Act 119 passed in 2009. The TSSF is the only source of state funding available for
12 obesity prevention, and chronic disease prevention, management and control programs in the DOH. No
13 general funds go to these programs and over the years general funded positions and operational costs
14 have been moved on to the special fund. The passage of SB1267 may impact positions in several
15 agencies that rely on the TSSF. Currently 38 positions in the DOH are on the TSSF. The DOH also
16 through contracts supports 11 positions in the Department of Education to support nutrition education,
17 health education and physical education in schools. The University of Hawaii Department of Public
18 Health Sciences maintains 11 positions to provide evaluation for chronic disease prevention programs,
19 data warehousing, and to support public health workforce development.

20 While the Tobacco Prevention and Control Trust Fund was created in fidelity with the intent of
21 the MSA and the original lawsuit, it receives the smallest portion of the settlement, and this measure
22 would again reduce revenue for prevention and cessation programs. The diversion of the funding would
23 also negatively impact the University of Hawaii John A. Burns School of Medicine that currently relies
24 on the TSSF to pay for the debt service obligations and the annual operating expenses of the new
25 medical school. Lastly, the DHS relies on 10% of the total yearly revenue to fund the Medicaid

1 Childrens' Health Insurance Program immigrant and Compact of Free Association costs that are not
2 federally reimbursable. Loss of these funds may require the reduction of workforce and programs, or
3 requesting general fund appropriations.

4 The passage of this measure would hinder the efforts in public health to reduce the burden of
5 chronic disease, a long-term solution toward improving the quality of productive years of life, and
6 would instead divert funding to a short term fix that in the end will continue to drive cost overruns. The
7 DOH respectfully submits that this is contrary to the current efforts to reform healthcare and systems
8 changes now underway across partners that are moving towards wellness driven outcomes.

9 Thank you for this opportunity to testify.

10

NEIL ABERCROMBIE
GOVERNOR



PATRICIA McMANAMAN
INTERIM DIRECTOR

PANKAJ BHANOT
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
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February 15, 2011

TO: The Honorable Marcus R. Oshiro, Chair
House Committee on Finance

FROM: Patricia McManaman, Interim Director

SUBJECT: **H.B. 1267 - RELATING TO HEALTH CARE**

Hearing: Tuesday, February 15, 2011; 2:00 p.m.
Conference Room 308, State Capitol

PURPOSE: The purpose of H.B. 79 is to make appropriations to the Department of Human Services and the Hawaii Health Systems Corporation for the costs associated with Medicaid programs and comprehensive health care services, respectively.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of Section 2 of this bill which would appropriate \$10,000,000 from the Tobacco Settlement Fund to the DHS for the Medicaid program costs but defers on the fiscal implications until the Executive Biennium Budget is finalized.

The Department of Health (DOH) currently provides \$4,500,000 from the Tobacco Settlement Fund to the DHS for the Children's Health Insurance Program (S-CHIP).

We defer to the DOH on the other fiscal implications of this bill.

Thank you for the opportunity to testify.



HAWAII HEALTH SYSTEMS
C O R P O R A T I O N

"Touching Lives Everyday"

House Committee on Finance
Representative Marcus R. Oshiro, Chair
Representative Marilyn B. Lee , Vice Chair

Tuesday, February 15, 2011
2:00 p.m.
Conference Room 308
Hawaii State Capitol

Testimony Supporting House Bill 1267, Relating to Health Care
Makes appropriations to the DHS and the Hawaii Health Systems Corporation for the costs associated with Medicaid programs and comprehensive health care services, respectively.

Alice M. Hall
Interim President and Chief Executive Officer
Hawaii Health Systems Corporation

On behalf of the Hawaii Health Systems Corporation (HHSC) Corporation Board of Directors, thank you for the opportunity to present testimony in strong support of HB 1267, that makes appropriations to the state Department of Human Services and HHSC.

As you are fully aware, services of the HHSC facilities have a tremendous impact on our island communities, in acute, long-term care, and rural care. HHSC hospitals with high Medicaid levels and high charity care by nature have poor payer mixes so we have less ability to shift costs for this care than other hospitals. HHSC hospitals with high Medicaid and charity care volumes often must pay physicians to treat these patients who are frequently sicker and more in need of treatment.

Medicaid and QUEST payments to HHSC hospitals on average cover only 59 percent of what it costs the hospitals to deliver the care. As a result, HHSC's hospitals lost approximately \$47.1 million in fiscal year 2010 for providing care to Medicaid and QUEST patients.

Our safety-net hospitals are themselves needy because we have limited opportunity. Like other hospitals HHSC faces daunting financial pressures from rising costs, including downward pressure on revenues, rising drug costs, aging infrastructure, out-

dated work rules, significant charity care, compliance costs in response to new federal regulations, and the need to keep pace with technology.

By providing a new funding option through the Hawaii Tobacco Settlement special fund, the state of Hawaii will help to maintain access to care for those citizens most in need of medical care and by doing so, help to address health disparities in this State.

HHSC fully understands the large projected shortfalls faced by the state of Hawaii, and this kind of funding decision is extremely difficult to make. We want to work with you and the Legislature to find a solution that is fair to all agencies in need.

Thank you for the opportunity to testify before this committee. We would respectfully urge the Committee's support of this measure.



HOUSE COMMITTEE ON FINANCE
Rep. Marcus Oshiro, Chair

Conference Room 308
Feb. 15, 2011 at 2:00 p.m.

Supporting HB 1267.

The Healthcare Association of Hawaii advocates for its member organizations that span the entire spectrum of health care, including all acute care hospitals, as well as long term care facilities, home care agencies, and hospices. Thank you for this opportunity to testify in support of HB 1267, which allocates funds from the tobacco settlement special fund to Medicaid programs and for comprehensive health care services.

In 1997 Hawaii sued the major domestic tobacco companies, seeking damages for costs related to tobacco-related injuries suffered by its Medicaid recipients. Hawaii's lawsuit was based on false advertising, fraudulent and negligent misrepresentation, civil conspiracy, negligence, products liability, and restitution for health care costs for recipients of public assistance.

In 1998 Hawaii and 45 other states that had filed similar actions against the tobacco companies entered into a global settlement. As part of the settlement, the tobacco companies agreed to pay various sums to the states over 25 years according to a formula. Hawaii established the Hawaii tobacco settlement special fund into which its share of the tobacco settlement proceeds is deposited. The use of the funds has been challenged in court, and it has been determined that states may spend tobacco settlement funds at their discretion. Currently, Hawaii directs tobacco settlement funds for various purposes.

The recession and its aftermath have created harsh economic conditions that have devastated the State budget, which is facing an \$800 million deficit. Hawaii's safety net is already fraying, and extreme measures must be taken to preserve what remains. Medicaid and the hospitals of the Hawaii Health Systems Corporation (HHSC) constitute significant components of the safety net. HB 1267 allocates money from the tobacco settlement special fund to support Medicaid and HHSC.

For the foregoing reasons, the Healthcare Association supports HB 1267.



American Heart Association | American Stroke Association

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Testimony Strongly OPPOSING HB 1267

The American Heart Association strongly **OPPOSES** HB 1267. The intent of this bill is to divert funds currently targeted for tobacco prevention, control and cessation programs to cover Medicaid costs to the state. The end result, however, would be a likely increase in Medicaid costs to the state due to increases in tobacco-related illnesses and lost productivity. It would, in effect, be mortgaging the future health of the state and leaving taxpayers to cover future tobacco-related costs (which now total over a half-billion dollars per year) instead of remaining committed to reducing those costs. It would also likely result in Hawaii taxpayers further subsidizing the profits of the tobacco industry.

The limited funds that the state currently invests in health, and in preventing unhealthy lifestyles, pay off in enormous returns in savings to the state. According to a study done by Penn State last year, the annual direct costs to Hawaii's economy attributable to smoking alone are estimated to be in excess of \$1.1 billion, including workplace productivity losses of \$215 million, premature death losses of \$449 million, and direct medical expenditures of \$444 million. That is despite the enormous progress the state's tobacco prevention, control and cessation programs have made since the inception of the special fund in reducing teen smoking by half to less than 10%, and reducing adult smoking from approximately 25% to approximately 15%.

Unfortunately, even if proposed funding cuts to these prevention programs were to be eventually restored when the economy improves, it would take years to restore the infrastructure of programs that have been created to address these vital health issues.

Tobacco use remains the leading preventable cause of death in our state and in the country, and a leading risk factor for heart disease and stroke.

The U.S. Centers For Disease Control (CDC) recommends that Hawaii needs to invest a *minimum* of \$15.2 million each year to fund a fully effective, comprehensive tobacco control program. The most that Hawaii has invested since the Tobacco Prevention and Control Trust Fund was established was approximately \$8 million.

At the same time, according to the Federal Trade Commission, the tobacco companies spend approximately \$42 million each year toward marketing and advertising their deadly products in Hawaii to addict another generation of nicotine users.

Allocations to the Tobacco Prevention and Control Trust Fund were halved from 25 percent of annual Tobacco Settlement Funds received by Hawaii to only 12 ½ percent in 2001 following the 9/11 attacks to pay for construction of the new University of Hawaii medical school. At that time, the intent was to build the medical school and then return any moneys in excess of that needed for the construction to the Tobacco Settlement Fund, with the returned funds being allocated 80% to the "rainy day fund" and "20% to the Tobacco Prevention Fund. Since then, allocations to the Trust Fund were cut in half again so that currently only 6 ½ percent of the Settlement Funds actually fund tobacco prevention, cessation and control programs.

Serving Hawaii since 1948

For information on the AHA's educational or research programs, contact your nearest AHA office, or visit our web site at www.americanheart.org or e-mail us at hawaii@heart.org

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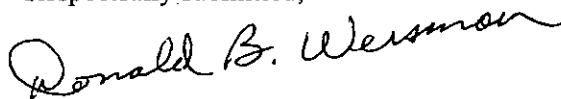
*"Building healthier lives,
free of cardiovascular
diseases and stroke."*

The structure of the Master Settlement Agreement payments from the tobacco industry to the state are based on national smoking rates. As smokers die, and tobacco-control efforts continue to successfully wean current tobacco users off their addiction and prevent new smokers from starting, payments from the industry to the state will drop, thus making those payments an unstable source of operating income for the state.

Tobacco settlement funds should be used to help those who are affected directly by tobacco addiction and tobacco industry marketing.

The AHA strongly urges opposition to HB 1267 and encourages legislators to identify a more appropriate source of funding for the state's Medicaid program, one that will not contribute to increases in Medicaid costs.

Respectfully submitted,



Donald B. Weisman
Hawaii Advocacy/Mission: Lifeline Director



COALITION FOR A
TOBACCO-FREE HAWAII

To: The Honorable Marcus R. Oshiro, Chair, Committee on Finance
The Honorable Marilyn B. Lee, Vice Chair, Committee on Finance
Members, House Committee on Finance
From: Deborah Zysman, MPH, Executive Director
Date: February 14, 2011
Hrg: House Finance Committee; February 15, 2011 in Rm 308 at 2:00 p.m.
Re: **Opposition to HB 1267, Relating to Health Care**

Thank you for the opportunity to provide testimony in opposition to HB 1267, which will provide appropriations for the Hawaii Health Systems Corporation and DHS out of the Tobacco Settlement Special Fund. The Coalition is not opposed to either the Hawaii Health Systems Corporation or Medicaid. Rather, we express grave concerns about the further erosion of funding for tobacco prevention and control.

I. Tobacco Settlement Funds Were Intended to Prevent Future Harm and Tobacco-Related Medical Costs Borne by the State

Hawai'i receives Tobacco Settlement moneys as the result of a settlement entered into between 46 states and the major tobacco companies to recover damages for tobacco-related health care costs paid by taxpayers because of the harms caused by tobacco. By joining the settlement, Hawai'i made a commitment to the people of Hawai'i to reduce youth use of tobacco and to advance public health.¹ The Coalition reminds the Committee of the reason Hawaii receives tobacco settlement funds: Hawaii residents lost their lives due to diseases from smoking and because of the tobacco industry's desire to profit. We must work to make sure the next generation never experiences this suffering. And we must work to prevent and reduce the costs paid in medical costs for every smoker.

When Hawai'i started receiving tobacco settlement funds in 1999, 25% of the funds were dedicated to tobacco prevention and control efforts, 35% for the Department of Health, and 40% for the Rainy Day Fund. Since then, the portion for tobacco prevention has been cut down to 6.5%. We are concerned that this portion will continue to drop and concerned that we will see the end of resources for efforts that save lives and keep kids from tobacco.

¹ Hawai'i upon signing the settlement, agreed to "reduc[e] underage tobacco use by discouraging such use and by preventing Youth access to Tobacco Products" and avoid further cost of litigation to "achieve for [Hawai'i and its] citizens significant funding for the advancement of public health." (See Master Settlement Agreement, Recitals. Available at <http://ag.ca.gov/tobacco/pdf/1msa.pdf> (last visited Jan 28, 2010).

II. Hawaii Cannot Afford to Divert Tobacco Settlement Moneys Away from Critical Tobacco Prevention Efforts

Our programs are working efficiently and effectively to prevent disease and tobacco-related death. And our programs are saving the State money. Between 2002 and 2008, Hawaii saw a reduction in smoking (42,300 fewer adult smokers). This reduction saved 14,100 lives from tobacco-related deaths. And it saved an estimated \$402 million in direct medical costs, of which \$53.9 million is attributed to Medicaid costs.² Compare the \$402 million saved to the \$58.6 million spent on tobacco prevention and control efforts from 2002-2008.³ **Consistent funding for Tobacco Prevention & Tobacco-Dependence Programs saves lives and money.**

The Centers for Disease Prevention and Control estimates that in Hawaii, 62% of those on Medicaid smoke.⁴ Tobacco still remains Hawai'i still has over 150,000 adult smokers throughout the State. And more than 1,000 Hawai'i youth become daily smokers each year. Smoking costs us an estimated \$336 million dollars per year in smoking-related health care costs, \$117 million of which is attributed to Medicaid.⁵ The work of tobacco-dependence treatment and prevention programs is not over.

Because of our concern for the people of the State that the Coalition urges the Committee to ensure funding for tobacco prevention and tobacco cessation work in perpetuity. We can ill afford further cuts. We ask that you hold this measure in Committee. **Thank you for the opportunity to testify on this matter.**

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. Our organization is a small nonprofit of over 3,000 organizations and members that work to create a healthy Hawaii through comprehensive tobacco prevention and control efforts. The Coalition started in 1996, under the auspices of the American Cancer Society. The Coalition, along with its founding members, played a key role in establishing the Tobacco Prevention and Control Trust Fund.

² Email from Department of Health to author, citing ROI Calculation from DOH Epidemiologist Tonya Lowery St. John.

³ Data from Campaign for Tobacco-Free Kids, "History of Funding for State Tobacco Prevention [and Control] Programs FY 2000-FY 2004" and "History of Funding for State Tobacco Prevention [and Control] Programs FY 2005- FY 2009."

⁴ Centers for Disease Control and Prevention, "State-Level Medicaid Expenditures Attributable to Smoking," PREVENTING CHRONIC DISEASE: PUBLIC HEALTH RESEARCH, PRACTICE, AND POLICY, July 2009.

⁵ Campaign for Tobacco-Free Kids, "Toll of Tobacco in Hawaii" available at http://www.tobaccofreekids.org/facts_issues/toll_us/hawaii (last visited Feb 14, 2011).