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In reply, please refer to:
File:

Senate Committee on Education

Senate Committee on Health

**HB1330 HD1, RELATING TO
THE HAWAII TOBACCO SETTLEMENT SPECIAL FUND**

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

**March 21, 2011
1:15 PM, Room 225**

1 **Department's Position:** The Department of Health (DOH) provides comments on the use of the
2 tobacco settlement special fund (TSSF) for funding the medical school.

3 **Fiscal Implications:** The University of Hawaii John A. Burns School of Medicine (UHJABSOM)
4 proposes to retain the entirety of the 28% portion of the TSSF to be used for debt service and for annual
5 operating expenses incurred by the new medical facility till June 30, 2015. In fiscal year 2011 the
6 UHJABSOM is projected to receive an estimated \$13.2 million, of which \$2.3 million would be retained
7 for the annual operational expenses of the new medical school facility. The projections are the same for
8 the fiscal biennium revenue and distribution in 2012 and 2013. The UHJABSOM portion of the TSSF
9 has remained intact while the distributions for public health purposes have been declining and used to
10 address budget deficits during economic downturns.

11 **Purpose and Justification:** Adequate funding must be maintained for both the public health and the
12 medical school. The position of the DOH is not in opposition to the UHJABSOM's mission and need
13 for funding. The DOH requests that any consideration given to the TSSF distribution be done with the
14 goal of reaching the long term objectives for Hawaii's health. The DOH programs partner with the

1 UHJABSOM faculty to achieve common goals. The DOH is concerned about how public health
 2 prevention programs will also remain viable to reach the long term objectives for improving Hawaii’s
 3 health. Public health portions of the TSSF has been eroded during each economic downturn and never
 4 replenished.

5 The DOH provides the following abridged table of the changes in the TSSF distribution since
 6 Act 304 established the special fund in 1999. The Hawaii Legislature established the TSSF to receive
 7 revenues as a participating state in the 1998 master settlement agreement (MSA) between 46 states with
 8 four major tobacco companies. The recitals section in the agreement says the payments *...will achieve*
 9 *for Settling States and their citizens significant funding for the advancement of public health, the*
 10 *implementation of important tobacco-related public health measures. . .* In keeping with the spirit of the
 11 original lawsuit and the MSA the 1999 Hawaii State Legislature passed Act 304, and stated that, *The*
 12 *fund shall serve as a mechanism to maximize financial resources for tobacco prevention and control,*
 13 *health promotion and disease prevention programs, children's health programs, and to serve as a long-*
 14 *term source of stable funding for prevention-oriented public health efforts* (SB1034 CD1).

Distributions	Act 304 1999 SLH	Act 270 2001 Special Session	Act 119 SLH	FY12 Projected Distribution
Rainy Day	40%	25.5%	15%	7,054,159
DOH/DHS S-CHIP	25%	25%	15%	7,054,159
DHS S-CHIP	10%	10%	10%	4,702,773
Tob Trust Fund	25%	12.5%	6.5%	3,056,802
UHJABSOM	N/A	28%	28%	13,167,764
General Fund	N/A	N/A	25.5%	12,789,496
Total Assessments to General Fund				2,329,732
Total FY12 Ceiling				50,154,886

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 16 The University of Hawaii’s portion was established during the Third Special Session of the 2001
 17 Legislature to promote higher education and to assist the ailing construction industry. Since that time,
 18 Chapter 328L-2(b)(4) was amended in 2007, to allow the funds to also be used for, *the payment of*

1 *annual operating expenses incurred by the new medical school facility.* The DOH values the partnership
2 with the UHJABSOM and requests that a long term sustainable means of that does not diminish funding
3 for public health programs be considered for the medical school.

4 Thank you for this opportunity to testify.

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To: The Honorable Jill N. Tokuda, Chair, Committee on Education
The Honorable Josh Green, M.D., Chair, Committee on Health
The Honorable Michelle Kidani, Vice Chair, Committee on Education
The Honorable Clarence K. Nishihara, Vice Chair, Committee on Health
Members, Senate Joint Committee on Education and Health

From: Trisha Y. Nakamura, Policy and Advocacy Director

Hrg: Committee on EDU/HTH; March 21, 2011 in Rm 225 at 1:15 p.m.

Re: **Opposition to HB 1330, HD 1: Relating to the Hawaii Tobacco Settlement Special Fund**

Thank you for the opportunity to provide testimony in opposition to HB 1330, HD 1. The Coalition for a Tobacco Free Hawai'i opposes HB 1330, HD 1 because it impacts overall funding for tobacco prevention and control which has been dramatically cut since Hawaii started receiving the funds in 1999. The Coalition does not oppose the Medical School or its work. Rather, we raise serious concerns about the use and erosion of Tobacco Settlement funds.

I. Hawaii's Tobacco Settlement Funds Have Been Dramatically Reduced and Must Be Returned to Tobacco Prevention

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 cigarettes.

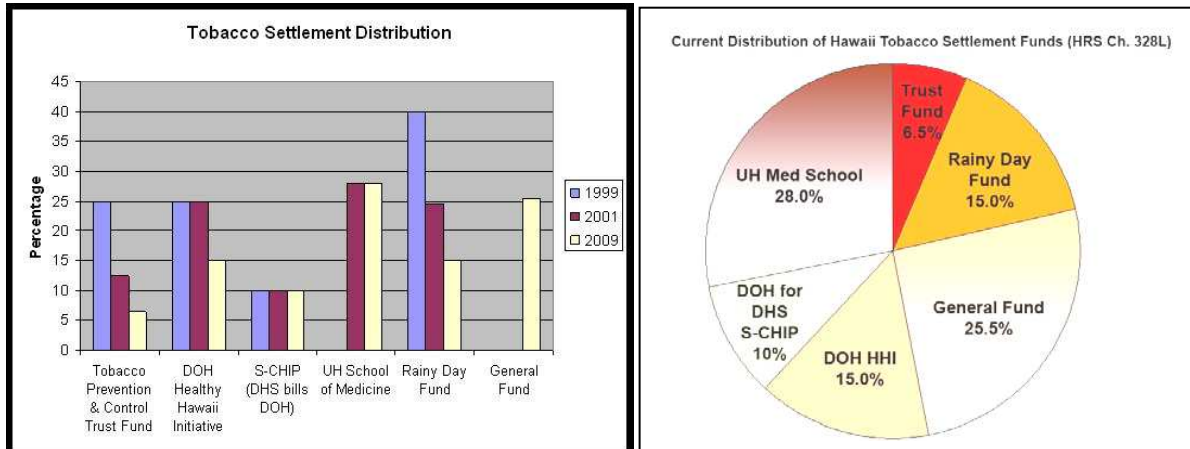
By joining the settlement, Hawai'i made a promise to the people of Hawai'i to reduce youth use of tobacco and to advance public health.¹ The Tobacco Settlement Special Fund was intended to maximize and ensure long-term stable funding for tobacco prevention and control, health promotion, and disease prevention. Yet only 6.5% of the Tobacco Settlement is dedicated to Tobacco Prevention and Cessation efforts.

In 2001 and 2009, the Tobacco Settlement has been redirected away from tobacco prevention and public health efforts. The portion dedicated to funding strong prevention and quit-smoking programs has been whittled down from 25 percent to 12.5 percent to 6.5 percent. The portion of

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).

Tobacco Settlement Funds for the Trust Fund is the smallest. The Medical School receives the largest allocation of Tobacco Settlement funds: 28%. And this amount has never been cut.

We are deeply concerned that the long-term viability of tobacco prevention efforts is at risk.



II. Consistent funding for Tobacco Prevention & Tobacco-Dependence Programs saves lives and money.

We have made significant progress in reducing tobacco use and saving lives because of the investment in tobacco prevention and control. 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

Tobacco use remains a serious health issue. Tobacco continues to kill more people than alcohol, murders, AIDS, car crashes, illegal drugs and suicides COMBINED. In fact, lung cancer associated with tobacco use kills more women than breast cancer in Hawai‘i. 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 over half a billion dollars per year in smoking-related health care costs and lost productivity.

² Email from Department of Health to Coalition, citing Return on Investment 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.”

III. Funding Operations of the University of Hawai‘i Medical School with Tobacco Settlement Moneys Is a Concern

In 2001, during special session, the Legislature redirected resources from the Tobacco Settlement for the building of the Medical School’s Kaka‘ako campus. 28 percent of the Tobacco Settlement was allocated to assist with paying only the debt service for the Medical School’s construction. This reduced the portion for tobacco prevention by half. In 2007, the Legislature gave the Medical School *temporary* use of the Tobacco Settlement funds for debt service and operations.

The Legislature granted the Medical School temporary use of its portion for daily operations. If the provision passed in 2007 sunsets, the excess would be returned to the Rainy Day Fund and the Hawai‘i Tobacco Prevention and Control Trust Fund: more than 33% to the Trust Fund and 67% to the Rainy Day Fund.⁴ The portion that would be returned to the Trust Fund could fund 13 community programs.⁵

We want to see the Medical School survive for the long-term. Our state must not continue providing the school with Tobacco Settlement funds without a clear plan in place for a financially secure future at the expense of tobacco prevention and cessation efforts. While section 3 of the bill requires the Medical School to report annually to the Legislature, it does not require a clear financial plan to ensure this request of the Legislature will not be made once again in 2015.

If the Committee does pass out this measure, we prefer the Senate’s version as it is intended to encourage the Medical School to find other sources of funding for operations by perhaps slowly decreasing the Medical School’s portion starting in FY 2012 and requesting detailed accounting.

Still, we ask that the Committee hold the measure and ensure funds are dedicated to tobacco prevention efforts.

Thank you for the opportunity to comment on this matter.

*The Coalition for a Tobacco Free Hawai‘i (Coalition) is the only independent organization in Hawai‘i whose sole mission is to **reduce tobacco use through education, policy and advocacy.***

⁴ Please note that in prior testimonies for HB 1330 and SB 239, the Coalition indicated 80% would be returned to the Rainy Day Fund and 20% to the Trust Fund. This was an error; our apologies.

⁵ Figure based on the Tobacco Settlement Special Fund ceiling set at \$50,000,000, leaving the Medical School with \$14,000,000 total. Assuming the debt service is approximately \$11,000,000; leaving 33.2% of \$3,000,000 dedicated to the Trust Fund. The 2009 community grants were approximately \$75,000/year.