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In reply, please refer to:
File:

LATE

House Committee on Finance

H.B. 36, RELATING TO HEALTH

Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health

March 3, 2009
2:00 p.m.

1 **Department's Position:** The department appreciates the intent of the bill, but has concerns
2 regarding the proposal. Because of the State's financial situation, it is currently not prudent to raise the
3 ceiling and place more funds outside of the regular budgeting process.

4 **Fiscal Implications:** This bill retains more of the fee-generated money in the Environmental Health
5 Education Fund (EHEF or fund) by raising the threshold above which money is transferred from the
6 EHEF to the general fund from \$300,000 to \$2,445,000. In the fiscal year 2006, \$432,028 was
7 transferred into the general fund, and \$92,083 in fiscal year 2007.

8 **Purpose and Justification:** This bill seeks to increase resources for the department's Sanitation
9 Branch's program operations, in part by increasing the amount of money the fund may retain, and by
10 amending the purposes for which the fund may be used. The premise of the bill is that the majority of
11 fees for the fund are collected by the department's sanitation program, and the references to a "clear
12 nexus" show the bill's intent that a corresponding allocation of funds should be spent on sanitation.

13 Should the bill be allowed to move forward, we would like to propose amendments to the bill
14 (attached). In summary, we are recommending the following:

15 (1) Amend the name of the fund to "Environmental Health Special Fund". The overall purpose of

1 the fund is to enhance and improve programs within the Environmental Health Services
2 Division, which includes the Sanitation Branch and three other branches. This fund also
3 supports the State Laboratory Division who generates fees from clinical laboratory personnel
4 licenses.

- 5 (2) Expand the authorized use of the fund to include operating costs of program activities and
6 functions, such as permitting, monitoring, investigations, and enforcement. Currently, the fund
7 limits its use to education, training and outreach activities only. The proposed amendment would
8 greatly improve the programs' capabilities in providing professional government services to the
9 regulated industries. The regulated industries, particularly within the area of food services, have
10 expressed concerns of lack of adequate visibility by our inspectors. Greater visibility within this
11 area of environmental health is essential to ensure adequate protection to the general public from
12 food-borne illnesses and other environmental diseases and injuries. Program priorities will be
13 evaluated in order that funding for appropriate program functions will remain within current
14 budget allocations.

- 15 (3) Delete the proposed ceiling increase of \$2,445,000, and retain the original \$300,000.

16 The department has submitted its annual report on the fund to the legislature, and it is also
17 available to all at <http://gen.doh.hawaii.gov/sites/LegRpt/2009/default.aspx>, report #3.

18 We would like to also propose a new Section 4 of the bill. This new section is to amend Section
19 321-4.5, HRS, "Inspection of food establishments", to remove the requirement for "registered"
20 sanitarian to perform inspections. Previously, section 321-13, HRS, "Regulation of certain other
21 occupations", required the specified occupations, including sanitarians, be licensed. The legislature, in
22 its 1999 amendments to section 321-13, HRS, removed the licensure requirement for sanitarians by
23 repealing the specific reference to sanitarians. This nullified the department's authority to license or

1 register sanitarians. The department is still allowed to employ a class of employees known as
2 sanitarians so it is appropriate to leave "sanitarians" in HRS Section 321-4.5.

3 Thank you for the opportunity to testify.

H.B. No. 36
Relating to Health

The purpose of this bill is to

- (1) Change the name of the environmental health education fund to the sanitation and environmental health special fund; and
- (2) Allow the use of fund monies for sanitation program activities, including permitting, inspections, other monitoring, and enforcement.

SECTION 2. Section 321-11.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Other than the fees collected under subsection (b), all other fees collected under this section and section 321-15 shall be deposited into the environmental health [education] special fund established under section 321-27.”

SECTION 3. Section 321-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every person holding a license to practice any occupation specified in section 321-13(a)(1) shall reregister with the department of health every other year in accordance with the rules of the department, before February 1 except where superseded by federal law, and shall pay a reregistration fee. The failure, neglect, or refusal of any person holding such a license to reregister or pay the reregistration fee, after thirty days of delinquency, shall constitute a forfeiture of the person’s license; provided that the license shall be restored upon written application therefore together with a payment of all delinquent fees and additional late reregistration fee that may be established by the director of health. All fees collected pursuant to this section shall be deposited into the environmental health [education] special fund established under section 321-27.”

SECTION 4. Section 321-27, Hawaii Revised Statutes, is amended to read as follows:

“§321-27 Environmental health [education] special fund. (a) There is established within the department of health an environmental health [education] special fund into which shall be deposited all moneys collected from fees for permits, licenses, inspections, various certificates, variances, investigations, and reviews, pursuant to sections 321-11.5(c) and 321-15.

(b) Moneys in the fund shall be expended by the department for the purpose of enhancing the capacity of environmental health programs to:

(1) Conduct program activities including permitting, investigations, other monitoring, and enforcement;

[(1)](2) Improve public outreach efforts and consultations to businesses and industries regulated;

[(2)](3) Educate the public, staff, regulated businesses and industries [regulated thereunder];

[(3)](4) Plan for future growth and expansion to meeting emerging needs; and

[(4)](5) Provide training opportunities to ensure the maintenance of professional competence among [sanitation and] environmental health staff and administrators; provided that for environmental health programs, not more than \$90,000 of the fund may be utilized during any fiscal year [for] to fund administration, including the hiring of not more that two full-time equivalent personnel, and the purchase of office and electronic equipment.

(c) Any amount in the fund in excess of \$300,000 [~~\$2,445,000~~] on June 30 of each year shall be deposited into the general fund.

(d) The department of health shall submit a report to the legislature concerning the status of the environmental health [education] special fund, including, but not limited to, the amount of moneys taken in by and expended from the fund, and the sources of receipts and uses of expenditures, not less than twenty days prior to the convening of each regular session.”

SECTION 5. Section 321-4.5, Hawaii Revised Statutes, is amended to read as follows:

“**§321-4.5 Inspection of food establishments.** Inspections of food establishments may be performed by a [registered] sanitarian or a food and drug inspector.”

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

SECTION 7. This Act shall take effect on July 1, 2009.