HB 1985

Testimony

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

KURT KAWAFUCHI
DIRECTOR OF TAXATION

STANLEY SHIRAKI
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510
FAX NO: (808) 587-1560

SENATE COMMITTEE ON WAYS & MEANS
TESTIMONY REGARDING HB 1985 PROPOSED SD 1
RELATING TO TAXATION

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: MARCH 23, 2010
TIME: 9:30AM
ROOM: 211

This measure, in its proposed form, eliminates the deduction for certain political campaign contributions; increases the cigarette tax; and increases certain insurance fees and taxes.

The Department of Taxation (Department) offers the following comments:

I. REPEAL OF POLITICAL CAMPAIGN CONTRIBUTION DEDUCTION

This measure proposes to delete the current income tax deduction for certain political campaign contributions. The Department **supports deleting this deduction**.

Repealing this deduction will result in a revenue gain of approximately $1.2 million per year starting in FY 2011.

II. INCREASING THE CIGARETTE TAX

This measure proposes to increase the cigarette tax by one cent starting on July 1, 2010. The Department **opposes this tax increase.**

The Department does not support the tax increase contained in this measure. With the slowing economy impacting struggling families, tax increases should be avoided as much as possible. The Department is also strongly concerned with the timing of this legislation because the state and nation are in a recession where taxpayers are worried about their finances. This tax is highly regressive and will impact the poor the most.

Increasing the cigarette tax as proposed in this measure will result in the following revenue gains of $10.8 million for FY 2011 and FY 2012.

III. INCREASES IN INSURANCE PRODUCER FEES AND INSURANCE RATES

This measure also increases numerous insurance producer fees, as well as the insurance premiums tax rates.

The Department **strongly opposes these increases in fees and taxes**. The Department does not support tax increases, especially increases that will simply increase the costs to consumers at a time when taxpayers cannot afford such increases.

Increasing the insurance premiums tax as proposed in this measure will result in an indeterminate revenue impact, as drafted, due to blank amounts. However, assuming all insurance premium tax rates were raised by 25%, such an amendment would result in approximately $23.4 million in general fund revenues per year.

The Department defers to DCCA on the revenue generated from increasing fees.

LATE

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

RONALD BOYER
ACTING DIRECTOR

RODNEY A. MAILE
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON WAYS AND MEANS

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Tuesday, March 23, 2010
9:30 a.m.

WRITTEN TESTIMONY ONLY

TESTIMONY ON HOUSE BILL NO. 1985, PROPOSED S.D. 1 – RELATING TO TAXATION.

TO THE HONORABLE DONNA MERCADO KIM, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is J.P. Schmidt, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). The Department limits its testimony to Parts III and IV of the Proposed S.D. 1 and opposes the Proposed S.D. 1.

The purpose of Parts III and IV of the Proposed S.D. 1 is to increase insurance fees and premium tax rates by: (1) doubling the insurance licensing fees in Hawaii Revised Statutes ("HRS") § 431:7-101, with 50% of the fee deposited in the compliance resolution fund ("CRF") and 50% of the fee deemed an "insurance license and service tax" to be deposited in the general fund ("Part III"); and (2) unspecified premium tax rates in HRS §§ 431:7-202, 431:8-205(c), and 431:8-315(a) ("Part IV"). Part III is effective on approval and Part IV is effective on July 1, 2010, with a sunset date of June 30, 2015.

Since 50% of the increased insurance licensing fees are deposited to the CRF, the proposed increase is revenue-neutral with respect to the Department.

HRS § 431:10-218 mandates that an insurance policy's stated premium "be inclusive of all fees, charges, premiums, or other consideration charged for the insurance or its procurement." All premium taxes that insurers currently pay are built into the premiums that consumers pay. Increases in the premium tax rates will likely cause insurers to raise the premiums that consumers pay and thereby put more pressure on fragile household and business budgets. This proposal may have a direct effect on consumers with regard to everyday personal and commercial purchases by increasing the costs of insurance which covers homeowners, motor vehicle, workers compensation, liability, and title.

Higher premium taxes may discourage new insurers from coming to do business in Hawaii in difficult risk areas such as hurricane and commercial liability. This reduces competition and makes it harder and more expensive for Hawaii consumers to find coverage.

The Department notes that Hawaii's insurance premium tax rates are already the highest in the country. The Department recognizes the precarious financial condition that the State is currently facing and realizes that all sources of revenue enhancement must be explored. As currently drafted, the Proposed S.D. 1 will likely result in more harm than good for Hawaii's consumers and overall economy.

We thank this Committee for the opportunity to present testimony on this matter and respectfully request that this bill be held.

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March 22, 2010

Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan Tsutsui, Vice Chair

Hearing:
9:30 A.M., Tuesday, March 23, 2010
Hawaii State Capitol, Room 211

RE: HB 1985, Proposed SD1 – Relating to Taxation

Testimony in Strong Support of Part II with Recommend Amendment

Chair Kim, Vice Chair Tsutsui, and members of Committee on Way and Means. On behalf of the American Cancer Society Hawaii Pacific we offer this testimony in strong support of the proposed SD1, of HB 1985, which would raise Hawaii's current cigarette tax by 1¢ per cigarette, per year for the next two years, beginning July 1, 2010.

We are limiting our testimony to Part II of the proposed SD1, addressing cigarette taxes.

Raising cigarette taxes is one of the cornerstones in the American Cancer Society efforts to prevent cancers caused by smoking and tobacco use. Advocating for effective prevention measures is also consistent with the Society's ambitious 2015 goals of slashing the cancer mortality rate by 50%, reducing the incidence of cancer by 25%, and improving the quality of life for cancer patients and survivors by reducing the pain and suffering caused by cancer.

From a prevention perspective, numerous economic studies in peer-reviewed journals have documented that cigarette tax or price increases reduce both adult and underage smoking. **The general consensus is that every 10 percent increase in the real price of cigarettes reduces overall cigarette consumption by approximately three to five percent, the number of young-adult smokers by 3.5 percent, and the number of kids who smoke by six or seven percent.**

When viewed through a purely economic lens, **every single state that has raised its cigarette tax rate has subsequently received more tax revenue than they would have received without a rate increase**, despite the fact that cigarette tax increases reduces state smoking levels. We would point out to the committee that every penny increase to Hawaii's cigarette tax generates slightly over $10 million in new revenues.

Finally, because of ongoing tobacco control prevention program measures and the raising of cigarette taxes over the last ten years, we have seen a sharp decline in both adult and youth smoking rates which now stand at 15.4% for adults and just slightly over 11.3% for youth.

American Cancer Society Hawai'i Pacific, Inc., 2370 Nu'uanu Avenue, Honolulu, Hawaii 96817-1714
•Phone: (808) 595-7500 •Fax: (808) 595-7502 •24-Hour Cancer Info: (800) 227-2345 •http://www.cancer.org

In closing, we would note that the Society believes that to get the most preventive impact, a cigarette tax increase should be substantial. **We would recommend that this bill be amended to reflect a 1.5¢ per cigarette tax increase, per year for the next two years.**

Mahalo for us the opportunity to provide testimony in support of this measure.

Very truly yours,

Jackie Young

Jackie Young, Ph.D.
Chief Staff Officer for Mission

AMERICAN COUNCIL OF LIFE INSURERS
TESTIMONY IN OPPOSTION TO HB 1985, PROPOSED SD1,
RELATING TO TAXATION

March 23, 2010

Via e mail: wamtestimony@capitol.hawaii.gov
Honorable Senator Donna Mercado Kim, Chair
Committee on Ways and Means
State Senate
Hawaii State Capital, Conference Room 211
415 S. Beretania Street
Honolulu, Hawaii 96813

Dear Chair Kim and Members of the Committee:

Thank you for the opportunity to testify in opposition to HB 1985, Proposed SD 1, relating to taxation.

Our firm represents the American Council of Life Insurers ("ACLI"), a national trade association whose three hundred forty (340) member company's account for 94% of the life insurance premiums and 94% of the annuity considerations in the United States among legal reserve life insurance companies. ACLI member company assets account for 93% of legal reserve company total assets. Two hundred fifty-three (253) ACLI member companies currently do business in the State of Hawaii.

ACLI opposes HB 1985, Proposed SD 1.

- Part III of the proposed bill (at pages 16 – 21) would double certain fees paid into the State's general fund and the compliance resolution fund by life insurers and others in the insurance industry. Life insurers already pay a fair fee for the privilege of doing business in this state and to cover the cost of government services provided to life insurers.

- Part IV of the proposed bill would also increase the state premium tax on new life insurance policies issued on or after July 1, 2010 from 2.75% to an ***unspecified amount*** for a temporary 5 year period beginning on July 1, 2010 and would be repealed on June 30, 2015. Policies in existence prior to July 1, 2010 would continue to be taxed at the current 2.75% rate.

- Life insurers already pay their fair share of taxes.

    - At 2.75%, Hawaii already has one of the highest life insurance premium tax rates in the nation (the national average is 1.9%).

    - Unlike a non-insurance company which is subject to a tax on its net income, a life insurer is taxed on its gross premiums – no deductions for claims or expenses and tax must be paid whether the life insurer is profitable or not.

- $26.2 million that life insurers already pay under the 2.75% gross premium tax = a corporate net income tax rate of 31.9% – or nearly 5 times the highest statutory corporate profit tax rate imposed by Hawaii and more than 4 times the rate imposed on banks and other financial institutions.

    - The non insurers corporate tax rate = 4.4% to 6.4% of a company's net income.

    - Banks and financial institutions rate = 7.92%.

- An increase in the premium tax even on a temporary basis would be costly to life insurers.

    - Unlike Property and Casualty Policies (which are renewed annually or more frequently) many life insurance products (life, disability and long term care insurance policies) insure the insured for extended periods of time which, in the case of life insurance, may be as long as the insured's lifetime. As a result, life insurers do not have flexibility as do P & C insurers to adjust their premium rates to reflect cost changes due to condition & circumstances.

    - Once issued the provisions of many life insurance products cannot be changed, including the cost of its premiums. For example, if a 25 year old purchases a $1M "whole life" insurance policy on his life paying a premium of $100 a month the premium remains fixed at $100 even if the insurer's cost for that insurance increases.

    - With respect to new life insurance products, special pricing of a policy to take into account a temporary increase in the Hawaii market will result in an increased expense for insurers doing business in this State. Insurers will be required to decide whether to absorb the tax increase or increase their premiums in pricing Hawaii policies. Alternatively, an insurer may decide to leave the Hawaii market, thereby decreasing competition for life insurance in this State.

        - Because of the fixed nature of the policies, unless the new policies are revised to include provisions that would adjust the cost of their premiums to track the temporary 5 year increase in the premium tax, the premiums would be fixed for the life of the policy.

        - The insured consumer may have to pay a higher premium for the new policies. The new premium may include not only the tax increase paid by the insurer under the proposed bill but it may also include the cost of revising its policies to address the temporary increase in the premium tax. In any event, again the unknown here is whether there will be a viable market for the life insurer's product – who will buy a policy when the cost of its premiums may be higher than those purchased after the tax increase is repealed?

- Every year Hawaii already gains increasing premium tax revenue without having to increase the premium tax rate.

    - Hawaii continues to collect premium taxes on all policies still active, regardless of how long ago they were sold. Unlike the sale of other products, a life insurance policy can continue to generate tax revenue for decades.

    - The sale of each new life insurance policy creates a new tax revenue stream to the State of Hawaii on top of the revenue stream generated by all the other policies already in force.

    - Because more life insurance policies are sold each year and these policies are generating tax revenue on top of that already being generated by existing policies, Hawaii annually gains increased revenue from the premium tax without having to raise the rate of taxation. While some policies leave the market due to either lapse or the death of the insured, the net effect is nevertheless an overall gain in the number of policies and, thus, a net gain in tax revenue to the state.

- Increasing the tax rate even on a temporary basis will hurt Hawaii's insurance community and its citizens.

    - Hawaii's largest domestic life insurer, Pacific Guardian Life Insurance Company, pays additional "retaliatory taxes" in other states because of Hawaii's already high premium tax rate on life insurance. Increasing the premium tax rate for life insurers will increase the amount of retaliatory taxes paid by Hawaii domestic life insurers to other states.

    - Hawaii's citizens could see a price increase for life insurance.

    - Because life insurers cannot adjust the premiums on existing policies, any adjustments for a tax increase would fall disproportionately on new life insurance purchasers.

    - Driving up prices for young families trying to protect their futures (especially now in this challenging economy) is not in the best interests of Hawaii consumers.

- Life insurers already contribute substantially to Hawaii's economy:

- The life insurance industry employs approximately 2,000 people in Hawaii. Those jobs which require advanced education and specialized skills are ranked on the higher end of the pay spectrum.
- Life insurance companies invest approximately $20 billion of their assets in Hawaii's economy. About $10 billion of this investment is in stocks and bonds that help finance business development, job creation, and services in the state. Life insurers also provide $1 billion in mortgage loans on farm, residential, and commercial properties.
- Life insurers paid $2 billion to Hawaii residents in the form of death benefits, matured endowments, policy dividends, surrender values, and other payments in 2008.

▪ As drafted the bill is flawed. Under current law life insurers pay the premium tax on a quarterly basis (1/31, 4/30, 7/31 and 10/31), with a final annual return being filed on March 1 of the following year. The bill (at page 23, at lines 20-22, and page 24, at lines 1-3) states that with respect to new policies issued on and after July 1, 2010, the life insurer shall pay the increased premium tax ". . . on the gross premiums received . . . during the year ending on the preceding December 31 . . . ." As currently worded, the bill requires the new tax rate to be applied to policies issued "on or after July 1, 2010" but also on gross premiums received during the year ending the preceding December 31. Taken literally, the new tax rate would apply both forward and backward from separate starting points in time, while policies issued during the window between January 1, 2010 and June 30, 2010 would remain subject to the old tax rate of 2.75%. If this Committee decides to pass this bill notwithstanding ACLI's strong objections as detailed above, ACLI suggests the following be substituted for the last paragraph appearing at the bottom of page 23 (at lines 20 – 22) and at the top of page 24 (at lines1-5):

> Each authorized insurer, with respect to life insurance contracts entered into on or after July 1, 2010, shall pay to the director of finance through the commissioner a tax of ___ per cent on the gross premiums received from all risks resident within this State, ~~during the year ending on the preceding December 31,~~ less return premiums, dividends paid or credited to policy holders [etc.] . . . .

For the foregoing reasons, ACLI requests this Committee defer passage of this bill.

CHAR HAMILTON
CAMPBELL & YOSHIDA,
Attorneys At Law, A Law Corporation

By: ______________________
OREN T. CHIKAMOTO

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Testimony In Strong Support of HB 1985, Proposed SD 1

The American Heart Association (AHA) of Hawaii supports HB 1985, Proposed SD 1, but recommends that legislators consider increasing the amount of the proposed tax increase. A one time sizeable tax increase would have a greater impact on reducing smoking rates in Hawaii, especially on the lower income and youth markets, which are more price sensitive, and which are the most highly targeted by tobacco company marketing and advertising.

Because smoking levels are highest among people with low incomes, the cigarette companies try to argue that cigarette tax increases are regressive taxes that fall disproportionately hard on lower-income families and communities. But this argument turns reality upside down. These are the same companies that have been preying on low-income and poor communities for decades. In fact, from 1998 to 2002 the cigarette companies increased the prices they charge for their cigarettes by more than $1.00 per pack (and by more than two cents for every cent needed to cover all of their costs from the state tobacco lawsuit settlements). The cigarette companies have no problem with levying new charges on low-income smokers when it increases their own profits. They only oppose the new charges when someone else (like a state government) gets the new revenues, instead. In fact, last year when the federal government implemented a new increase on cigarette taxes the cigarette companies wasted no time immediately after the law passed hiking the prices on their products to profiteer on the increase during the interim period between passage of the law and its implementation.

The fact that smoking rates are highest among lower-income groups means that lower-income families and communities currently suffer the most from smoking and will, consequently, benefit the most from any effective new measures to reduce smoking, including increased state cigarette taxes. Their health problems caused by tobacco use also disproportionally affect Medicaid costs to the state.

Smokers who do not reduce their smoking because of a cigarette tax increase will also still benefit economically, along with every other state taxpayer. Right now, smoking produces a "hidden tax" that totals more than $40 billion per year to pay for smoking-caused state and federal healthcare costs. Smoking declines caused by state cigarette tax increases directly reduce these smoking-caused tax burdens for all taxpayers.

While tobacco tax increases that raise cigarette prices prevent and reduce smoking among all income groups, they work most powerfully to prompt lower-income smokers to quit or cutback and to stop lower-income kids from every starting. As a result, low-income families and communities will not be the victims of any cigarette tax increase but its biggest beneficiaries.

The cigarette companies' regressivity argument fails to account for each of the following facts:

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Oahu:
677 Ala Moana Blvd., Ste. 600
Honolulu, HI 96813-5485
Phone: 808-538-7021
Fax: 808-538-3443

Maui County:
J. Walter Cameron Center
95 Mahalani Street, No. 13
Wailuku, HI 96793-2598
Phone: 808-224-7185
Fax: 808-224-7220

Hawaii:
400 Hualani Street, Ste. 15
Hilo, HI 96720-4333
Phone: 808-961-2825
Fax: 808-961-2827

Kauai:
(Serviced by Oahu office)
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- Increases to state cigarette tax rates will not place any new financial burdens of any kind on the 85 percent of Hawaii adults who neither smoke cigarettes nor buy them.

- While new cigarette tax increases will raise cigarette prices, many current smokers will avoid the higher prices by quitting, cutting back, or switching to cheaper cigarettes – and lower-income smokers are much more likely than higher-income smokers to quit or cut back in response to price increases. In fact, all of the smokers who quit and many of those who cut back because of cigarette tax increases would actually save money by spending less on cigarettes.

- Those who stopped smoking in response to cigarette tax increases would greatly improve their own health, which could also significantly reduce their healthcare costs. Because of their higher rate of illness and disability, smokers have substantially higher annual and lifetime healthcare costs than nonsmokers or former smokers (despite living shorter lives). Healthcare expenditures caused by smoking total more than $96 billion per year nationwide, with billions being paid directly by smokers, either through direct healthcare payments or increased health insurance premiums. Tobacco use costs all Hawaii taxpayers and businesses an estimated half-billion dollars each year in smoking-attributable direct medical expenditures and smoking-attributable loss of productivity.

- Any significant state cigarette tax increase also would bring in millions of dollars per year in new government revenues, thereby reducing pressures for other, broader-based tax increases.

- The smoking declines produced by significant cigarette tax increases save lives, reduce human suffering, promote the public health, and prevent more kids from becoming addicted to smoking or ultimately dying from it – and these results are disproportionately experienced among low-income persons, families, and communities. Even those low-income smokers who do not change their behavior because of tobacco tax increases still benefit from having fewer family members, friends, and neighbors falling victim to tobacco use.

- **The tobacco companies and their front groups will argue that too steep an increase in cigarette prices could negatively impact tax revenue to the state. What they fail to acknowledge is that those who might quit smoking as a result of a tax increase would then have additional money to spend on taxable products that don't result in over a $500 million in costs to the state. The money doesn't go up in smoke; instead it will likely be spent on more productive things that can benefit our families and our state. Over 5 years, there will be a health savings of $2.4 million in fewer smoking-affected pregnancies and births, and $3.3 million from adult and youth smoking declines.**

- **Low-income smokers and their communities disproportionately benefit when the new revenues from cigarette tax increases are directed to programs to help people quit smoking and prevent kids from starting** – both because smoking is more prevalent among low-income persons and because they may have much less access or exposure to any such programs than people with higher incomes.

- Not surprisingly, in poll after poll low-income Americans – along with all other Americans – strongly support higher cigarette taxes in order to prevent and reduce youth smoking. Polling in Hawaii reveals similar results. **A recent Coalition for a Tobacco-Free Hawaii poll of 500 statewide residents, performed by QMark, found that 71 percent of residents support a 60-cent per pack increase in the cigarette tax to help reduce tobacco use and reduce the state budget deficit.**

Moreover, 91 percent agree that it is important for the state to dedicate some of the revenue from new tobacco taxes to fund tobacco prevention and quit smoking programs.

The American Heart Association of Hawaii strongly urges you to support HB 1985, Proposed SD 1 with amendments to increase the tax amount, and to use the increased tax revenue to increase funding to tobacco prevention and control programs in our state.

Respectfully submitted,

Donald B. Weisman

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

Oahu
680 Iwilei Road, Suite 575
Honolulu, HI 96817
Tel: (808) 537-5966
Fax: (808) 537-5971
lung@ala-hawaii.org

Kauai
2992 Umi Street
Lihue, HI 96766
Tel: (808) 245-4142
Fax: (808) 245-8488
alahkauai@ala-hawaii.org

Maui
95 Mahalani Street,
Suite # 28-1A
Wailuku, HI 96793
Tel: (808) 244-5110
Fax: (808) 242-9041
alahmaui@ala-hawaii.org

Hawaii
39 Ululani Street
Hilo, HI 96720
Tel: (808) 935-1206
Fax: (808) 935-7474
alahbi@ala-hawaii.org

Website:
www.ala-hawaii.org

E-mail:
lung@ala-hawaii.org

Lung HelpLine
1-800- LUNG-USA
(586-4872)

AMERICAN LUNG ASSOCIATION® IN HAWAII

TO: Senate Committee on Ways and Means

FOR: Decision Making Scheduled for 9:30 am
Thursday, April 2, 2009

RE: COMMENTS IN STRONG SUPPORT HB 1985, SD 1 (Proposed) RELATING TO TAXATION

Chair Kim, Vice Chair Tsutsui and Members of the Committee:

The American Lung Association in Hawaii strongly supports Part II of HB 1985, Proposed SD1, which increases the cigarette tax an additional $.20 a pack effective July 1, 2010 and another $.20 per pack on July 1, 2011.

Some say that increasing the tax on cigarettes will result in a decreased income stream from this source, however most are not concentrating on how much this action will reduce annual smoking-related health care and lost productivity costs which total over a half billon dollars a year in Hawaii.

As we know, most smokers begin in their youth which is also a time when they have access to fewer disposable dollars. Raising the cost of cigarettes makes it much less attractive to buy them. An even larger increase such as $.50 per pack would result in many fewer starting to smoke and encourage more of those who do smoke to quit.

The American Lung Association has seen a troubling trend emerging throughout the nation. Tobacco taxes are a proven and effective way to raise revenues for states, as well as to reduce the number of adults and youth who smoke. However, instead of using some to the revenue to help smokers quit, states are often simultaneously cutting funding to tobacco prevention and cessation programs. This is particularly hard on low-income smokers who are more likely to want to quite after large tobacco tax increase are imposed, but who lack the means to pay for cessation services. In light of this, we are proposing that a portion of the increased cigarette tax go to support tobacco control programs to help the growing number of people who will need these services.

ALA in Hawaii believes adoption of HB 1985, SD1 is an important step in leading to a smoke-free, healthy Hawaii.

Respectively submitted,

Jean Evans, MPH
Executive Director
American Lung Association in Hawaii

COALITION FOR A
TOBACCO-FREE HAWAI'I

To: The Honorable Donna Mercado Kim, Chair, Committee on Ways and Means
The Honorable Shan S. Tsutsui, Vice Chair, Committee on Ways and Means
Members, Senate Committee on Ways and Means
From: Trisha Y. Nakamura, Policy and Advocacy Director
Date: March 22, 2010
DM: Senate Committee on Ways and Means; March 23, 2010; at 9:30 a.m.
Re: **Strong Support for Part II of HB 1985, Proposed SD 1 with Amendments**

Thank you for the opportunity to comment in strong support of Part II of HB 1985, Proposed SD 1 with amendments. Part II proposes an additional 20-cent per pack increase on the tax of cigarettes on July 1, 2010 and increases the tax an additional 20 cents on July 1, 2011.

We strongly support an increase in the tax on cigarettes. This is a win-win that will help close the budget shortfall and help encourage smokers to quit and discourage youth from starting. We request that the proposed increase be larger than \$0.50 per pack to enhance the public health benefits of increasing the tax on cigarettes. Estimates show that a \$0.60 increase, for example, would bring in \$12.2 million a year, keep 4500 kids from becoming addicted adult smokers, encourage 2000 adult smokers to quit and save the state over 97 million dollars in long term health costs.

We request that a portion of the tax revenues be dedicated to fund programs that help people quit smoking to meet the increased demand for these programs when the cigarette tax is increased. And we request the tax on other tobacco products be raised at rates comparable to the tax on cigarettes to deter youth from starting.

The Public Supports increasing the Cigarette tax, dedicating revenue to quit smoking programs

A poll conducted by QMark of 500 Hawaii residents in December 2009 indicates:

- **71% of residents support a sixty-cent per pack increase in the cigarette tax to help reduce tobacco use and reduce the state budget deficit.**
- 91% agree that it is important for the state to dedicate some of the revenue from new tobacco taxes to fund tobacco prevention and quit smoking programs
- 78% agree that other tobacco products should be taxed at the same rate as cigarettes

A Win-Win: Increased Revenue, Cost Savings from Fewer Smoking-Related Health Issues, and Lives Saved

Despite highly effective tobacco prevention and quit smoking programs, tobacco is responsible for approximately 1,100 deaths per year in Hawaii and costs over half a billion dollars annually in smoking-related healthcare costs and lost productivity.

Studies show that increasing cigarette taxes is effective at preventing kids from becoming regular, addicted smokers. Price was found to have the greatest impact on preventing youth from becoming daily and relatively heavy daily smokers, with youth being two to three times more sensitive to price changes than adults.

It is no surprise that the larger the increase in taxes on cigarettes, the more gains we're likely to see. Estimates from the Campaign for Tobacco-Free Kids indicate the following:

Projected Benefit from Cigarette Tax Increase	**60-cent/pack increase**	**80-cent/pack increase**	**$1.00/pack increase**
New annual revenue	*$12.2 million*	*$16.1 million*	*$19.6 million*
Kids in Hawaii kept from becoming addicted adult smokers	4,500	6,100	7,600
Current adult smokers in the state who would quit	2,000	2,700	3,300
Hawaii residents saved from premature smoking-caused death	1,900	2,600	3,300
5-year health savings from fewer smoking-caused heart-attacks & strokes	$0.8 million	$1.1 million	$1.3 million
5-year health savings from fewer smoking-affected pregnancies & births	$0.7 million	$0.9 million	$1.1 million
Long-term health savings in the state from adult and youth smoking declines	97.8 million	132.4 million	164.4 million

A Portion of the Revenues Must Be Earmarked for Tobacco Prevention and Treatment

Hawaii residents overwhelmingly agree (91 percent) that it's important for the state to earmark some of the revenue to fund tobacco prevention and quit smoking programs. Historically, when the price of cigarettes increase, more seek help to quit. It's necessary we have programs such as the Quitline and programs at the American Lung Association and at community health centers offer resources and group counseling for those who need help addressing their nicotine addiction.

We strongly support a cigarette tax increase and urge you to dedicate a portion of the revenues from cigarette taxes to funding tobacco prevention and control programs to help the surge of residents who need help to quit. We also urge you to maintain existing funding for tobacco prevention and quit smoking programs to meet the demand.

Taxes on Other Tobacco Products Must Parallel the Tax on Cigarettes

The Coalition supports raising the tax on other tobacco products at rates comparable to the tax on cigarettes. Hawaii must take care to ensure one tobacco product is not more price-friendly than another. Hawaii has seen an increase in youth use of smokeless tobacco despite our decreasing smoking rates—from 2.8% of high school youth in 2003 to 3.7% in 2007. 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.

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 nonprofit organization of over 3,000 partner organizations and members that works to create a healthy Hawaii through comprehensive tobacco prevention and control efforts.

Thank you for the opportunity to testify.

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TIMOTHY M. DAYTON, CPCU, GENERAL MANAGER
711 Kapiolani Blvd., Suite 300 ■ Honolulu, HI 96813-5238 ■ Email: tdayton@geico.com
Direct: (808) 593-1875 ■ FAX (808) 593-1876 ■ Cell: (808) 341-9252

Senate Committee on Ways and Means
Conference Room 211, State Capitol
Tuesday, March 23, 2010, 9:30 a.m.
HB 1985 – Relating to Taxation

Chair Mercado Kim, Vice Chair Tsutsui & Members of the Committee:

My name is Timothy Dayton, General Manager of GEICO in Hawaii. GEICO is Hawaii's largest motor vehicle insurer. **GEICO <u>opposes</u> HB 1985.**

Hawaii's premium tax is already the highest in the Nation. A premium tax increase of 1% would cause an additional $1.5 million/year (approx.) to be passed on to GEICO's Hawaii Policyholders.

We estimate that the financial impact of the licensing fee increase would result in an increase in fees paid indirectly by GEICO's customers of more than $85,000/year.

Hawaii drivers are required to purchase motor vehicle insurance and we urge the Committee to vote against increasing the cost of this mandatory insurance.

I very much appreciate the opportunity to submit this testimony

Timothy M. Dayton, CPCU

Independent Insurance Agent.

HIIA

Hawaii Independent Insurance Agents Association

March 22, 2010

To Senator Donna Mercado Kim, Chair
Senator Shan Tsutsui, Vice- Chair
Committee on Ways and Means

From: Sonia M. Leong, Executive Director
Hawaii Independent Insurance Agents Association

Re: HB 1985 SD1 Relating to Taxation – Hearing Tuesday, March 23, 2010 9:30 am
Conference Room 211

The Hawaii Independent Insurance Agents Association would like to provide **comments** on HB1985 SD1 Relating to Taxation. HIIA is a non profit trade association of Property & Casualty insurance Producers with over 600 producers and staff. Our independent insurance producers represent more than one insurance company which allows our clients a wide choice of coverage and distinguishes us from company-employed agents.

Our Property & Casualty insurance industry provides a fair amount of the revenues to the state. We are a heavily regulated industry and pride ourselves with a commitment to provide the best for our clients. We are attuned to the ups and downs of the economy. As producers in the insurance industry we want to do our share to be part of the solution. We realize that the increase in the fees will help fix our short-term financial issues and ask that the fee increase be repealed on June 30, 2015 as it does for Part IV of this bill.

Our other concern is the definition of "an insurance license and service tax" since this will be a newly created vehicle to collect the 50% increase in fees to be deposited in the General Fund. Part III, Section 3(2). Can a definition be inserted on the "insurance license and service tax"?

Thank you for allowing us to comment on HB1985 SD1

Phone: (808) 531-3125 • Fax: (808) 531-9995 • Email: hiia@hawaii.rr.com
84 North King Street, Honolulu, Hawaii 96817

HAWAII INSURERS COUNCIL
A trade association of property and casualty insurance companies

Pauahi Tower, Suite 2010
1003 Bishop Street
Honolulu, Hawaii 96813
Telephone (808) 525-5877
Facsimile (808) 525-5879

Alison Powers
Executive Director

TESTIMONY OF ALISON POWERS

SENATE COMMITTEE ON WAYS AND MEANS
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

Tuesday, March 23, 2010
9:30 a.m.

H.B. 1985, Proposed S.D. 1

Chair Kim, Vice-Chair Tsutsui and members of the Committee, my name is Alison Powers, Executive Director of Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Our eleven member companies underwrite approximately 45% of all property and casualty insurance premiums in the state. Our member companies include AIG, Allstate, DTRIC, Farmers Insurance Hawaii, Fireman's Fund, First Insurance, Island Insurance, Liberty Mutual, Progressive, SeaBright, and Zephyr.

Part III of the proposed S.D. 1 doubles the statutory fees collected by the Insurance Commissioner and deposits the increase into the General Fund. If this new tax is enacted, we would like a two-year sunset on it.

Hawaii Insurers Council additionally **opposes Part IV** of the proposed S.D. 1 because this part proposes a premium tax increase – particularly in light of the numerous other government imposed financial burdens already borne by the property and casualty insurance industry in addition to the premium tax.

Property and casualty insurance is a risk management tool that is integral to society. In most cases it is not optional but is compulsory and mandated to be purchased and kept in force by law, contract, or other business arrangement. The four major lines of property and casualty insurance are motor vehicle insurance, workers' compensation insurance, homeowners and business property loss insurance, and general liability insurance.

This bill would increase premium taxes for property and casualty insurers by an unknown amount. If enacted, any increase in premium tax would be included in future rate filings by insurers and the financial impact of the increase will be felt by virtually every homeowner, tenant, motorist, property owner, consumer, and business in Hawaii. Because of the compulsory nature of insurance coverage, most policyholders would only be able to avoid the consequences of such an increase by opting not to buy insurance or by reducing their coverage.

Hawaii already has, by far, the highest premium tax rate for property and casualty insurance in the nation at 4.265%, which is more than double the median rate of 2%.(Attached is a chart that outlines property and casualty insurance premium tax rates across the country.) Any increase would be far too high and would only add to the heavy burden already carried by residents and businesses in our state.

Hawaii's premium tax is assessed against the gross revenues of the insurance industry. The dollars generated from this tax goes to the General Fund of the State. However, unlike most other industries that are taxed and contribute to the General Fund, the property and casualty insurance industry is required to pay other government extractions (separate and apart from the premium tax) mandated by statutes reflecting social policy adopted by the Legislature. These payments that are imposed by law **in addition to our payment of the premium tax** include the following:

1. We are required by statute to pay for the cost of regulating our own industry through an annual assessment for the Compliance Resolution Fund ("CRF") which is administered by the Department of Commerce and Consumer Affairs and **requires insurers, excluding health insurers to contribute to the CRF up to $5 million.**

2. Our industry is required by statute to underwrite the cost of the Workers' Compensation Special Compensation Fund ("SCF") that was established by statute to pay for second injury claims of workers and to pay claims on behalf of defunct and defaulting employers. Every year a percentage assessment is calculated and charged to workers' compensation insurers based upon their market share. There is no cap on the potential liability to the SCF that insurers must bear. **It is noteworthy that workers' compensation insurers have been informed that the percentage assessment for 2010 is 7.2% of their workers' compensation premiums!**

3. As part of our scheme of no-fault motor vehicle insurance coverage, the Hawaii Joint Underwriting Plan ("HJUP") was established by statute and imposed by law upon the motor vehicle insurance industry to insure high-risk drivers and drivers who are indigent and cannot afford to pay for insurance. The motor vehicle insurance industry is required to underwrite the cost of providing **free** motor vehicle insurance coverage to qualified indigent drivers. In addition, the industry is also required to cover the insured losses attributable to high-risk drivers through the HJUP. **There is no dollar cap on the amount insurers must bear to underwrite the HJUP.**

4. Another mandated financial burden imposed on property and casualty insurers is through the Hawaii Property Insurance Association ("HPIA") which was established by statute to enable the HPIA to provide coverage to residential property owners with high-risk homes especially those in certain high-risk lava

flow zones. HPIA provides homeowners insurance to such residents through an insurance pool underwritten by property insurance carriers in the event that the loss reserves of that insurance pool are inadequate to cover the insured losses of the HPIA. **In such a contingency the property insurance carriers must bear the financial burden of the excess losses of the HPIA fund in an amount up to 2% of their respective annual direct written premiums.**

5. The Hawaii Insurance and Guaranty Association ("HIGA") is again another statutorily created fund that subjects all property and casualty insurers to annual assessments to ensure that policyholders and claimants of insolvent insurance carriers receive up to $300,000 in insurance benefits. If HIGA's fund is short and unable to cover losses attributable to an insolvent insurance carrier, **then the other solvent property and casualty insurers must pay an annual assessment of up to 2% of their respective direct written premiums to the HIGA fund to cover those losses.**

6. Much attention has been given to tapping for the benefit of the General Fund the approximately $150 million reserve in the now dormant Hawaii Hurricane Relief Fund ("HHRF"). But those millions of dollars would not be in HHRF's reserve fund were it not for the payments into that fund that the property and casualty insurance industry made over a six year period to build it up through statutorily required assessments. During that time, all property and casualty insurance premiums (excluding motor vehicle insurance) were surcharged 3.75% in order to build up this fund. **The HHRF statute still remains intact and the need to again surcharge property and casualty insurance premiums may yet arise should we experience another recurrence of a catastrophe like Hurricane Iniki.**

7. Despite the millions of dollars in premium taxes our industry contributes to the General Fund, we are still required to pay fees for our use of government

services. Most glaring is the charges our industry is assessed for obtaining motor vehicle traffic records. Such records are an essential part of underwriting hundreds of thousands of motor vehicle insurance policies yet we must pay a fee of $7 for each traffic abstract we obtain, of which $5 goes directly into the General Fund, rather than just covering the actual cost of retrieving the record. **Moreover, there is now pending legislation to increase the fee to $10 of which 80% will go to the General Fund.**

We wish to be good corporate citizens and support our State, especially in such dire economic times. However an increase in the premium tax on our industry is not the right solution to close that fiscal deficit. The property and casualty insurance industry already bears more than its fair share when one considers how we are already making a substantial financial contribution to the General Fund through an extraordinarily high premium tax; subsidizing, through fees and assessments, the cost of providing government services; and by shouldering the financial cost of underwriting statutorily prescribed social goals.

We therefore respectfully request that Part IV of this bill be deleted.

Thank you for the opportunity to testify.

National Premium Tax Rates - 2009 , Property and Casualty

Rank	State	Rate
1	Hawaii	4.27%
2	Alabama	3.60%
3	Nevada	3.50%
4	Louisiana	3.00%
5	Mississippi	3.00%
6	New Mexico	3.00%
7	W Virginia	3.00%
8	Montana	2.75%
9	Alaska	2.70%
10	Arkansas	2.50%
11	S Dakota	2.50%
12	Tennessee	2.50%
13	California	2.35%
14	Georgia	2.25%
15	Oklahoma	2.25%
16	Utah	2.25%
17	Virginia	2.25%
18	New Jersey	2.10%
19	Arizona	2.00%
20	Colorado	2.00%
21	Kansas	2.00%
22	Kentucky	2.00%
23	Maine	2.00%
24	Maryland	2.00%
25	Massachusetts	2.00%
26	Minnesota	2.00%
27	Missouri	2.00%
28	New York	2.00%
29	Pennsylvania	2.00%
30	Rhode Island	2.00%
31	Vermont	2.00%
32	Washington	2.00%
33	N Carolina	1.90%
34	Connecticut	1.75%
35	Delaware	1.75%
36	Florida	1.75%
37	N Dakota	1.75%
38	DC	1.70%
39	Idaho	1.70%
40	Texas	1.60%
41	New Hampshire	1.50%
42	Ohio	1.40%
43	Indiana	1.30%
44	Michigan	1.25%
45	S Carolina	1.25%
46	Iowa	1.00%
47	Nebraska	1.00%
48	Wyoming	0.75%
49	Illinois	0.50%
50	Oregon	-
51	Wisconsin	-

NAT. MEDIAN **2.00%**

Source: PCI: 2009 PCI State Tax Guide for 2008 Property Casualty Returns

Hawai'i Primary Care Association
345 Queen Street | Suite 601 | Honolulu, HI 96813-4718 | Tel: 808.536.8442 | Fax: 808.524.0347
www.hawaiipca.net

Senate Committee on Ways and Means
The Hon. Donna Mercado Kim, Chair
The Hon. Shan Tsutsui, Vice Chair

Testimony in Support of House Bill 1985 Proposed SD1

<u>Relating to Taxation</u>
Submitted by Beth Giesting, Chief Executive Officer
March 23, 2010, 9:30 a.m., Room 211

The Hawaii Primary Care Association strongly supports Part II of the proposed Senate Draft 1 of House Bill 1985, which increases the cigarette tax in each of fiscal years 2010 and 2011 by one cent. Federally qualified health centers receive a portion of state cigarette tax revenues to provide health care to the uninsured and vulnerable populations. Community health centers serve the "underserved," a population that is increasing not just among traditional groups – the uninsured, Medicaid enrollees, the impoverished, the homeless, Native Hawaiians, and immigrants or migrants – but also in rural areas across the state where the shortage of providers puts all community residents into the underserved category.

- Uninsured visits to CHCs grew by 7% over the course of the past year. The visit volume exceeds the number subsidized by DOH. This year at least one CHC has already exhausted its allotment for FY 2010.
- When DHS dropped adult dental coverage as a Med-QUEST benefit, the result was an additional 100,000+ people who were unable to afford essential dental care, services which might be provided by CHCs if resources were available to expand capacity and cover operating costs.
- When DOH slashed its in-house capacity to provide mental health services, it left thousands of people with nowhere to turn for help except community health centers which are struggling with the severity of the conditions of these patients and limits of their own and other community resources.
- Community health center patients increased by 42% over the past five years, with an even greater growth (62%) at neighbor islands CHCs.
- The patient-centered CHC model of care addresses the health and access problems of the most vulnerable, provides high quality care, and saves a lot of money ($128 million in 2008). Additional funds would help CHCs build capacity to do more and save more.

We urge you to pass this measure and support continued funding of these critically needed programs. Thank you for this opportunity to testify in support of House Bill 1985 Proposed SD1.

NAIFA

HAWAII

National Association of Insurance and Financial Advisors -- Hawaii
Phone: 394-3451

Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan Tsutsui, Vice Chair

Date of Hearing: Tuesday, March 23, 2010

Time: 9:30 am

RE: HB 1985, Proposed SD 1 – Relating to Taxation

Chair Kim, Vice Chair Tsutsui, and members of the Committee, the National Association of Insurance and Financial Advisors (NAIFA) Hawaii is made up of 400 insurance agents throughout Hawaii, who primarily sell life insurance, annuities, long term care and disability income policies.

We OPPOSE HB 1985, Proposed SD 1

- Part 3 will **double all fees under Section 431:7-101, without a sunset date.**
- Part 4 relates to Section 431:7-202, HRS, that will increase the rates of the **premium tax on insurance contracts with a blank amount that will sunset on June 30, 2015;**

Part 3 of the measure will double all fees set in Insurance Division with 50% continuing to be deposited into the Compliance Resolution Fund and the **50% increase into the general fund** as a "insurance license and service tax". **If this measure moves forward, we suggest a 2 year sunset from the effective date since there is no sunset provision for Part 3.**

Since June 30, 2009, there were 6,416 Hawaii resident producer licenses issued (many agents have 2 licenses – 1 for life and health and 1 for property & casualty). The non-resident producer licenses were at 30,761. The non resident's fee increase as proposed in SD1, goes from $75 to $150, that could potentially raise over $2.3 million per year, assuming the number of non resident licenses do not drop off.

Currently the tax on life insurers is 2.75% of gross premiums (minus dividends & return premiums on life insurance policies) and 4.265% for property and casualty insurers (highest in the country).

Increasing the premium tax rates will only increase the cost of the insurance by "passing on" the tax to insurance consumers. Additionally, the components in a life insurance policy differ greatly from P&C risks. There is **cash value and an investment component that belongs entirely to the policyholder and any gains of the inside buildup does <u>not revert</u> to the insurance companies**, therefore, is **<u>not</u>** considered income to the insurers. This is primarily why the life insurance premium tax rate is lower than other premium tax rates.

Life insurance and annuities provide the safety net for our families, retirement income and business needs for our citizens. Life events happen to all of us and life insurance can provide for a family's living expenses, finance education and continue a business, in the event of a tragedy.

We are also concerned if we are the only group targeted for a "tax" increase in DCCA tied to a fee structure along with a proposed increase in premium taxes, which is "in lieu" of the general excise tax.

We ask that the Committee hold this measure. We appreciate the opportunity to share our views.

Cynthia Hayakawa Takenaka
Executive Director

Prudential Financial

Todd R. Thakar
Vice President, Government Affairs
External Affairs

The Prudential Insurance Company of America
1121 L Street, Suite 610, Sacramento CA 95814
Tel 916 442-3423 Fax 916 447-3447
todd.thakar@prudential.com

PRUDENTIAL FINANCIAL
TESTIMONY IN OPPOSITION TO HB 1985, PROPOSED SD 1,
RELATING TO TAXATION

March 23, 2010

Via email: wamtestimony@capitol.hawaii.gov
Honorable Donna Mercado Kim, Chair
Committee on Ways and Means
State Senate
Hawaii State Capitol, Conference Room 211
415 S. Beretania Street
Honolulu, Hawaii 96813

Dear Chair Kim and Members of the Committee:

I very much appreciate the opportunity to testify in opposition to HB 1985, Proposed SD 1, relating to taxation.

Prudential Financial has more than 24,800 customer households in Hawaii with more than $2 billion dollars of individual life insurance in force in the state. In 2008, Prudential paid more than $739,180 in gross premium taxes.

Prudential respectfully opposes HB 1985, Proposed SD 1 because the tax burden on the Insurance Industry already places us at a competitive disadvantage. Unlike the ***net income taxes paid by most businesses***, ***insurers pay gross premium taxes*** and thus, in both good and bad years, when we make a profit and when we do not, or even if we file for bankruptcy, we still pay our premium taxes. Accordingly, while the recession caused many businesses to see steep declines in their 2008 Hawaii tax obligations, Prudential paid nearly three quarters of a million dollars in premium taxes.

Today, Hawaii's 2.75% gross premium tax on life insurers is the 4th highest rate in the country and well above the national average of 1.9%. The breadth of our tax obligation can best be appreciated when making an "apples to apples" comparison. Thus, in order to generate the $26.2 million in tax revenue that the life insurance industry paid in gross receipt taxes, Hawaii's corporate net income tax would have to be increased to a staggering rate of 31.9%. Obviously, even in dire fiscal times, the Legislature would never implement a 31.9% net income tax rate on Hawaii businesses and yet that is effectively the rate life insurers pay today. The comparison illustrates that Prudential and other life insurers already pay more than their fair share of taxes, especially when you consider that the our competitors, banks and financial institutions, have a tax rate of 7.92%.

We can appreciate the fiscal crisis facing Hawaii; however, increasing the tax burden on products that protect the people of Hawaii and enable them to provide for themselves in their time of need seems counterintuitive. If individuals can no longer afford insurance, the ultimate cost to Hawaii's economy will be substantially greater than the revenue generated through further tax increases on insurance products.

For all of these reasons, we respectfully urge the Ways and Means Committee to follow the lead of the Commerce and Consumer Protection Committee by opposing the gross premium tax increases contemplated by HB 1985, Proposed SD 1.

Thank you for your consideration.

Very truly yours,

Todd Thakar

Todd Thakar
Vice President, Government Relations
Prudential Financial

RLD
Retail Liquor Dealers Association of Hawaii
1188 Bishop St, Suite 608, Honolulu, Hawaii 96813
Phone (808) 533-1292 Fax (808) 599-2606 Email LISHawaii@aol.com

Tuesday March 23, 2010 @ 9:30 a.m. in CR 211

COMMITTEE ON WAYS AND MEANS
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

By: Richard Botti, Executive Director

Re: HB 1985 Proposed SD 1 RELATING TO TAXATION

In opposition to PART II, SECTION 2

Chairs & Committee Members:

This is a very complex document, of which we have limited knowledge, thus our comments are limited to what we do know about, which is PART II, SECTION 2 of the bill relative to the tobacco tax.

While this measure may seem unobtrusive with a .01 cent tax increase, the language of current statute increases the tax per cigarette or little cigar. In essence, it is creating a .20 cent tax increase PER PACK. Currently the tax on a pack of cigarettes and little cigars is 2.60 per pack - this is just the tax. On July 1, 2010, the law increases the tax to 2.80 per pack. However with this increase, the tax will jump from 2.60 per pack to 3.00 per pack.

Because there are already tax increases that have been passed, we oppose creating additional taxes while increases have already been mandated. Tobacco sales are already being affected by high taxes, with sales being reduced.

SENATE COMMITTEE ON
WAYS AND MEANS

March 23, 2010

House Bill 1985, PROPOSED SD 1 Relating to Taxation

Chair Kim and members of the Senate Committee on Ways and Means, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders.

State Farm opposes House Bill 1985, PROPOSED SD 1 which increases the premium tax from 4.265% to an unspecified amount for all insurance sold except for life insurance, ocean marine insurance and title insurance. Hawaii has the highest premium tax in the nation and this far exceeds all other states. Hawaii is a very small market and each insurer plays a vital role in the availability of insurance. Raising the premium tax will cause those who can least afford insurance coverage to drop their coverage. Hawaii has argued over the decades about uninsured motorists and has done much to make the cost of mandated auto insurance coverage affordable. This increase is counterproductive to that effort. Second, Hawaii's insurance market is comprised of numerous companies large and small which make up alternatives for those seeking insurance. Raising the premium tax may cause some of these small insurers to leave the market and thus create an availability problem for Hawaii residents. We believe that the concept of a premium tax increase while inviting would be counterproductive to Hawaii's desire to have affordable insurance available.

Likewise the increase in the life insurance premium tax will also be counterproductive given the number of other states which have a retaliatory provision. This provision would charge Hawaii producers who sell life insurance to a person in another state the same rate as in Hawaii regardless of the other state's lower life insurance premium tax. This would also be the highest tax in the nation. The result could be that life insurance will not be sold by Hawaii producers out of state.

We have attached a state by state comparison documenting Hawaii's high tax rate (Attachment "A") and a comparison of New Hampshire to Hawaii (Attachment "B"), which shows the lower tax rate in a state of similar population and land area.

Finally, we oppose the increase of fees for the insurance industry and the deposit of the increase to the general fund. The increase and structure of Part III of the bill is an unconstitutional tax. The Hawaii Supreme Court in State v. Medeiros, 89 Hawai'i 361, 973 P.2d 736 (1999), articulated the following test as to whether a fee was an unconstitutional tax.

> "..."whether the charge (1) applies to the direct beneficiary of a particular service, (2) is allocated directly to defraying the costs of providing the service, and (3) is reasonably proportionate to the benefit received.""

In the instant bill, it does not appear that the fee "applies to the direct beneficiary of a particular service, nor is it allocated directly to defraying the costs of providing the service, and is not reasonably proportionate to the benefit received" as articulated by the Supreme Court, because all of the fee increases are being diverted immediately to the general fund. Clearly the increase is a revenue generating measure more appropriately described as a tax.

The Supreme Court in HIC v. Lingle, dealt with the issue of whether monies from a fund made up entirely of "fees" can be transferred to the general fund. The Court stated that, "**We blanch at the State's basic contention that a user or regulatory fee, if initially assessed as such, can be transferred to a general fund when the same assessment would have been invalid had it been assessed initially with the express understanding that the funds would be transferred to the general fund.**" In this bill the assessment is made with "the express understanding that the funds would be transferred to the general fund" and is "invalid" according to the Supreme Court.

The Court also found that only the Department of Taxation can collect a tax and therefore no other agency can collect such a tax. If the "fee" is converted to a "tax" as in this case, the Department of Commerce and Consumer Affairs cannot collect the tax and as the Lingle decision states would be a constitutional violation of separation of powers. This language is violative of the Constitution on three levels as an unconstitutional delegation of taxing authority to the department, an unconstitutional tax under Medeiros, and a transfer on its face violative of the Supreme Court decision in Lingle which forbade the transfer of funds from the executive to legislative branch.

Thank you for the opportunity to present this testimony.

Comparison of State Insurance Premiums Tax Rates and "In Lieu" Provisions

STATE	RATE	"IN LIEU" LANGUAGE & STATUTES	CASE LAW
Alabama	2.3 % life insurance 1.6 % health insurance 3.6% on all other insurance	Premium tax "exclusive and shall be in lieu of all other and additional taxes and licenses of the state or county imposed on, based upon or measured by premiums" Ala. Code § 27-4A-5	
Alaska	2.7% of premium income for domestic and foreign insurers 6% of gross premiums less claims paid for hospital and medical insurance co. 1% title companies	Premium tax "in lieu of all other taxes . . . upon premiums, franchise, privilege, or other taxes measured by income of the insurer" Alaska Stat. § 21.09.210(e)	*Northern Adjusters, Inc. v. Dept. of Revenue*, 627 P.2d 205 (Alaska 1981) (gross receipts tax exemption for "insurance businesses" not include adjusters because adjusters not subject to premium tax)
Arizona	2% of net premiums except fire insurance .66% fire insurance	Premium tax in lieu of all other "demands" of state except real and personal property tax, privilege and use taxes Ariz. Rev. Stat. Ann. § 20-226	
Arkansas	2.5% net premiums	Ark. Code Ann. § 26-57-603	
California	2.35% on gross premiums	Premium tax in lieu of all other taxes and licenses upon insurers and their property except real estate taxes, motor vehicle registration license fees and any other tax or license imposed by the state on vehicles Cal. Const. art. XIII, § 28 (f)	*Mutual Life Ins. Co. of NY v. City of Los Angeles*, 787 P.2d 996 (Cal. 1990) (since premium tax is on gross premiums (not net), in lieu provision intended to preclude state and political subdivisions from exacting any other revenue from the insurance companies except real estate and motor vehicle taxes; income from incidental to the operation of commercial real estate business not subject to state or local taxes)
Colorado	2%	Colo. Rev. Stat. § 10-3-209	
Connecticut	1 3/4 %	Premium tax in lieu of other taxes on intangible assets or income of insurance companies and all other taxes on franchises of insurance companies, but companies are subject to real and tangible personal property taxes Conn. Gen. Stat. § 12-209; 12-210	
Delaware	1 ¾ % on net premiums	Del. Code Ann. 18 § 702	
Florida	1.75% of gross premiums	No political subdivision or agency in the state may impose taxes measured by premiums, income or volume of transaction upon insurers and their agents.[1] Fla. Stat. § 624.520	

Comparison of State Insurance Premiums Tax Rates and "In Lieu" Provisions

STATE	RATE	"IN LIEU" LANGUAGE & STATUTES	CASE LAW
Georgia	2 ¼% of gross premiums	License fee in lieu of all other license fees. No political subdivision may impose any tax except ad valorem property tax upon insurance companies and their agents measured by premiums, income or volume of transactions. Ga. Code Ann. § 33-8-3; 33-8-8	
Idaho	1.7% in 2009 1.5% in 2010 and later	Premium tax in lieu of all other taxes upon premiums, income, franchise, personal property, but real property subject to tax Idaho code § 41-405	
Hawaii	4.265%	Insurance taxes in lieu of all other taxes and fess except as expressly otherwise provided, taxes on real property, taxes on purchase, use, or ownership of tangible personal property and taxes on gross income, gross proceed or gross rental. Must pay withholding Haw. Rev. Stat. § 431:19-116; 431:7-204	
Illinois	.5% of net taxable premium income ; .4 % on HMOs, limited health service organization	Insurance taxes in lieu of all other taxes imposed by local government except property tax[1] ILCS § 5/415	
Indiana	1.3% of gross premiums less allowable deductions	Insurance companies can elect to be taxed either under premium tax or adjusted gross income tax and supplemental income tax; if chose premium tax, tax in lieu of all license fees or tax levied or assessed by the state or political subdivision except real and tangible personal property taxes Ind. Code Ann. §27-1-18-2(h)	
Iowa	1%	No "in lieu" language, but insurers are exempt from corp. income tax (§ 422.34) [2] Iowa Code § 432.1; § 135.120	
Kansas	2%	Premium tax in lieu of taxes or fees levied on basis of income, premiums, gross receipts and intangible property except real and tangible personal property taxes and municipal occupation taxes not levied on income or gross receipts Kan. Stat. Ann. § 40-252b	
Kentucky	2%	Tax imposed by state on life insurance companies in lieu of all other taxes except city and county may impose tax on taxable capital and may impose real and tangible personal property taxes Ky. Rev. Stat. Ann. § 136.320	
Louisiana	$140 if gross annual premiums are $7000 or less; More than $7000, $225 for each additional $10,000	HMO license tax on gross amount of its receipts from contacts and coverage agreements in lieu of state income tax and corporate franchise tax La. Rev. Stat. Ann. § 22:270	

[1] Other states may only preempt local taxes; not all collected on this chart.
[2] I did not collect all state statutes that provided exemptions from certain taxes for insurers.

Comparison of State Insurance Premiums Tax Rates and "In Lieu" Provisions

STATE	RATE	"IN LIEU" LANGUAGE & STATUTES	CASE LAW
Maine	2% of gross premiums on most policies	Premium tax in lieu of any other tax measured by income of the insurer Me. Rev. Stat. Ann. § 605	
Maryland	2% of gross premiums	Md. Code Ann. Ins. § 6-103	
Massachusetts	2.28%	Mass. Gen. L. Chap. 63, §20	
Michigan	1.25% gross premiums	Premium tax in lieu of all other taxes except tax on real and personal property, general sales tax, use tax and otherwise provided in the Insurance Code. Mich. Comp. Laws Ann. §208.1235 (Eff. 1/1/08)	
Minnesota	2% of gross premiums less returns	Minn. Stat. § 297I.05	
Mississippi	3% gross premiums	Tax in lieu of all licenses and privilege taxes. Miss. Code Ann. § 27-15-81; § 27-15-103(1)	
Missouri	2% of premiums	Premium tax in lieu of income and franchise taxes ("in lieu of the taxes imposed under the provisions of chapters 143 and 147") Mo. Rev. Stat. § 148.370 (eff. 8-28-09)	
Montana	2.75% of net premiums	Premium tax in lieu of "all other demands for any and all state . . . taxes, licenses fees and excises of whatever kind or character, excepting only those prescribed by this code, taxes on real and tangible personal property" and fire insurance premium taxes Mont. Code Ann. § 33-2-705 (Eff. 4-18-09)	
Nebraska	1% of gross premiums; capitation payments 5%; group sickness and accident 0.5%	Neb. Rev. Stat. § 77-908	
Nevada	3.5%	Premium tax in lieu of taxes imposed "upon premiums or upon income of insurers and of franchise, privilege or other taxes measured by income of the insurer." Nev. Rev. Stat. § 680B.037	

Comparison of State Insurance Premiums Tax Rates and "In Lieu" Provisions

STATE	RATE	"IN LIEU" LANGUAGE & STATUTES	CASE LAW
New Hampshire	2% of net premiums; minimum tax of $200	Premium tax on health service corporation, HMO. Health service corporation – "exempt from all taxes, other than taxes on real property situation within this state, fees on motor vehicles registered in this state, fees prescribed by this chapter, and the premium tax under RSA-A:32. . . . Nor shall any tax be levied on any revenues of such a health service corporation that are derived from any business of the corporation where the corporation has assumed no insurance risk and is providing administrative services only." HMOs also do not pay premium tax ASO contracts. N.H. Rev. Stat. Ann. 400-A:32; 420-A:27; 420-B:17	
New Jersey	2% of premiums collected; group accident and health insurance 1.35% for 2009	N.J. Rev. Stat. § 54:18A-2	
New Mexico	3.003% gross premiums less return premiums; health insurance premium surtax of 1%	Taxes, licenses and fees in Insurance Code "in lieu of all other licenses and fees of every kind now or hereafter imposed by this state" NMSA 1978, § 59A-6-2; § 59A-6-6	
New York	Non-life insurance 1.75% on gross direct premiums and 2% on all other premiums	Premium tax in "addition to any other taxes imposed for such privilege" (privilege of exercising corporate franchise or for carrying on business within the state) N.Y. Tax Law § 1502	
North Carolina	1.9% gross premiums	N.C. Gen. Stat. § 105-228.5(d)(2)	
North Dakota	2% life insurance; 1.75% all other	Insurers pay annual tax on gross premiums, membership fees, subscriber fees and services fees collected by third-party administrators providing administrative services to a self insured group. Insurers subject to premium tax are exempt from corporate income tax and taxes on personal property. N.D. Cent. Code § 26.1-03-17, 57-02-08; 57-38-09	
Ohio	1.4% of gross premiums	Premium tax in lieu of all other taxes on the other property and assets of the insurance company except real estate and personal property owned by an insurance company and leased to a person other than an insurance company for use in business, and "all other taxes, charges and excises" Ohio Rev. Code Ann. § 5725.25	*Celina Mutual Ins. Co. v. Bowers*, 213 N.E.2d 175 (Ohio 1965) ("in lieu of" provision refers to taxes on property and excises and does not apply to Ohio sale and use taxes which are on "transactions – the exercise of a privilege."

Comparison of State Insurance Premiums Tax Rates and "In Lieu" Provisions

STATE	RATE	"IN LIEU" LANGUAGE & STATUTES	CASE LAW
Oklahoma	2.25% of direct premiums	Annual license fee and tax on premiums in lieu of "all other state taxes or fees, except those taxes and fees provided for in the Insurance Code, and the taxes and fees of any subdivision or municipality of the state, except ad valorem taxes" and fire insurance premium taxes. 36 Okla Stat. § 624	*Professional Investors Life Ins. Co. v. Oklahoma Tax Commission,* 825 P.2d 1292 (Okla. 1991) (in lieu of provision not apply to sales taxes on goods purchased by insurance company; "annual premium tax is only in lieu of all other licenses or privilege fees or agency taxes."
Pennsylvania	2%	Pa.Stat. Ann. 72 § 7902	
Rhode Island	2% of gross premiums	R.I. Gen. Laws § 44-17-1	
South Carolina	Life insurance: 0.75% of premiums Fire insurance: 1% Most other insurers: 1.255 of total premiums collected	S.C. Code Ann. § 38-7-20	
South Dakota	Most domestic companies: 2.5% of premiums Life insurance: 1.25%	Every company that pays premium tax "is exempt from all other taxes, state and local, except taxes upon real property as may be owned by the company and the retail sales tax and the use tax on tangible personal property and any product transferred electronically." S.D. Codified Laws § 10-44-8; § 10-44-2	*In the Matter of State Sales and Use Tax Liability of Townley,* 417 N.W.2d 398 (S.D. 1987) (car rental business that sells insurance not in the business of insurance and therefore subject to sales and use tax).
Tennessee	2.5% of gross premiums Life insurance: 1.75% Minimum tax $150	Tenn. Code Ann. § 56-4-205	
Texas	Property & casualty: 1.6% of taxable premium receipts Life, health and accident: 1.75%	"Except as otherwise provided by this code or the Labor Code, an insurer or health maintenance organization subject to a tax imposed by Chapter 4, 221, 222, 224 or 257 may not be required to pay any additional tax imposed by this state or a county or municipality in proportion to the insurer's or health maintenance organizations' gross premium receipts." This does not "prohibit the imposition and collection of state, county, and municipal taxes on the property of insurers or health maintenance organizations or state, county and municipal taxes imposed by other laws of this state, unless a specific exemption for insurers or health maintenance organizations is provided in those laws." Tex.Ins. Code Ann. § 221.002(a) Tex. Ins. Code Ann. § 222.003(a) Tex. Ins. Code Ann. § 203.001	
Utah	2.25% of premiums	Utah Code Ann. § 5909-101	
Vermont	2% on gross premiums	Vt. Stat. Ann. 32 § 8551	
Virginia	2 ¼ % premium income	Va. Code § 58.1-2501	

Comparison of State Insurance Premiums Tax Rates and "In Lieu" Provisions

STATE	RATE	"IN LIEU" LANGUAGE & STATUTES	CASE LAW
Washington	2% of premiums collected	Premium tax other than on title insurers and health service contractors and HMOs is in lieu of all other taxes except taxes on real and tangible personal property and excise taxes on sale, purchase, use or possession of real property, tangible personal property, services, extended warranties, digital goods and codes. With respect to health plans, no in lieu of provision, but § 48.14.0201 states: (7) Beginning January 1, 2000, the state does hereby preempt the field of imposing excise or privilege taxes upon taxpayers and no county, city, town, or other municipal subdivision shall have the right to impose any such taxes upon such taxpayers. This subsection shall be limited to premiums and payments for health benefit plans offered by health care service contractors under chapter 48.44 RCW, health maintenance organizations under chapter 48.46 RCW, and self-funded multiple employer welfare arrangements as defined in RCW 48.125.010. The preemption authorized by this subsection shall not impair the ability of a county, city, town, or other municipal subdivision to impose excise or privilege taxes upon the health care services directly delivered by the employees of a health maintenance organization under chapter 48.46 RCW. Wash. Rev. Code § 48.14.080; 48.14.020	
West Virginia	2% plus an additional premium tax of 1%	W.Va. Code § 33-3-14	
Wisconsin	2% gross premiums (not on all insurers)	Wis. Stat. § 76.63-76.65	
Wyoming	.75% on taxable premium income.	Premium tax instead of all taxes imposed by state upon premiums or upon income and of franchise, privilege or other taxes "measured by the insurer's income." Wyo. Stat. § 26-4-103	

End of Attachment "A"

STATE TO STATE COMPARISONS 2009

	NH	HI
TAXES		
Top Corporate Income Tax %	8.5	6.4
Apportionment Formula		
Property Factor	25%	33%
Payroll Factor	25%	33%
Sales Factor	50%	33%
Throwback Rule	Yes	Yes
NOL Deductions		
Carryback (Years)	0	2
Carryforward (Years)	10	20
LLCs Recognized	Partial	Yes
S-corps Recognized	No	Yes
Sales Tax & Use Tax %	None	4
Internet Sales Tax	None	4
Sales Exemptions		
Manufacturing Machinery	No Tax	Taxable
Office Equipment	No Tax	Taxable
Custom Software	No Tax	Taxable
Modified Canned Software	No Tax	Taxable
Tangible Personal Property	No Tax	Taxable
Sales & Use - Weighted Average of County & City Rates	To Tax	0.35
Top Personal Income Tax %	0%	8.3
Professional Services Tax	N	Y
Top Capital Gains Tax	0%	7.25
Estate, inheritance/gift taxes beyond fed. Pick-up tax.	N	N
Motor Fuel Tax, 09	0.196	0.336
Property Tax		
On Land & Buildings, as share of personal income	5.34	2.08
Telecommunications Tax %		
State Tax Rate	7.0	8.0
Local Tax Rate	N/A	0.0
Workers Compensation as % of Covered Wages	0.82	1.13
Unemployment Insurance Tax % (New Employers), 09	2.7	1.70
Unemployment Insurance Time Period to Qualify for Experience Rating	1.0	1.0
Unemployment Insurance Tax Wage Bases, 09	$8,000	$13,000
Unemployment Insurance Tax/ Per Employee, 09	$216	$221
Internet Access Tax	Y	Y
Gasoline Excise Tax (cents per gallon)	19.6¢	32.6¢
Diesel Excise Tax (cents per gallon)	19.6¢	32.6¢
Tobacco Excises Tax (cents per pack of 20)	178¢	260¢
State Taxes as Percentage of Personal Income	7.3%	11.7%
INSURANCE TAXES		
Premium Tax Rates --generally * Phased in over 4 years starting in 2006	1.25%**	4.27%
Accident/Health	2.00%	4.27%
Life	1.25%	2.75%
Annuity	N/A	N/A
Property/Causality	1.25%	4.27%
Fire	1.25%	4.27%
Risk/ Retention	1.25%	Rate varies for .05% to .25%
BlueCross/BlueShield	2.00%	N/A
Prepaid Lines	N/A	N/A
Title Insurance	1.25%	4.27%
Independent Procurement	4% Industrial Procurement 3% Inland Marine: 2%	4.68%
HMO's	2.00%	N/A
Surplus Lines	1.75%	4.68%
Marine Insurance	5% of underwriting profit	.8775% gross profit
# of Domestic Insurers	42	185
# of Licensed Foreign Insurers	972	996
# of Chartered Purchasing Groups	5	6
HIGH-TECH ECONOMY		
Overall State Rank High-Tech Worker per 1,000, 03	67.39	29.19
# of High-Tech Establishments, 03	2,572	1,350
High-Tech Wages, 03	$69,144	$58,226
Unemployment Rate by Cyberstate, 04	3.8%	3.3%
Total High-Tech Manufacturing, by Employment, 03	19,372	13
Total High-Tech Services, by Employment, 03	15,709	13,236
High Tech Export, 04	$1,071,438	$37,345
High Tech Exports, % Change 03-04	18.3%	33.1%
Venture Capital Investment in High-Tech, 04	$146.0	$25.6
Total R+D per Captia in High-Tech, 02	$1,126	$367
R&D Inputs - U.S. Ranking	5	23
Risk Capital and Infrastructure-U.S. Ranking	18	27
Human Capital Investment-U.S. Ranking	12	27
Technology Concentration-U.S. Ranking	10	30
Internet Average Speed (Kbps)	615	378
Download Speed Rank	8	47

Attachment "B"

STATE TO STATE COMPARISONS 2009

	NH	HI
Broadband penetration	65.1%	57.0%
Number of New Patents (2008)	526	101
Technology & Science Index, 04 (1=Best 50=Worst)	12	39
NEW ECONOMY INDEX 07		
Over all US Ranking	13	35
Ranking by Category		
Immigration of Knowledge Workers	3	6
High Wage Traded Services	13	46
Foreign Direct Investment	5	14
Fastest Growing Firms	20	48
Inventor Patents	9	34
Online Population	4	26
High-Tech Jobs	8	41
Venture Capital	7	45
FINANCIAL & GOVERNMENT COMPARISONS		
Tax burden - State/Local, % of Income 2008	7.6%	10.6%
State Government Tax Revenue, 2007	$2,080,573,000	$4,918,655,000
Per Capita State Government Tax Revenue, 2007	$1,655	$3,988
State Government Debt Outstanding, 2006	$7,433,238,000	$5,791,783,000
Per Capita State Government Debt Outstanding, 2006	$5,679	$4,542
Gross Domestic Product by State, 2008	$50,553	$49,782
State Government Bond Rating (S&P, 2006)	AA	AA
Cost of Living Index, Selected Metro, Third Quarter 2009	117.6%	166.5%
Number of Bureaucrats, 2008	5.45	5.57
Legal Liability- Best States to Incorporate (1=Best; 50=worst), 2008	16	45
% of State + Local Spending, as Measured by the GDP, 92-00		
inflation over same period was 16.4%	22.40	18.20
Tax Climate Index (U.S. Tax foundation), 2010 Overall Ranking	7	24
ENERGY & ENVIRONMENT		
Electricity, June 2009 (Cents Per Kil Hr.)	13.8	16.0
Electricity Generated Through Renewable Sources in 2006	2,275,311,000	737,729,000
Natural Gas, May 2009 (Dollars Per Thousand Cubit Feet)	N/A	N/A
Coal, Av. Price Delivered, $ Per Short Ton	N/A	N/A
Energy Consumption, 2007 (Trillions BTU)	5334.6	6173.5
Total Pollution Released in 2006	4,173,403	3,019,263
Total Air Emissions in 2006	3,952,963	2,250,939
LABOR		
Right to Work State	N	N
Average Annual Pay, 2007	$43,863	$39,466
Average Hourly Earnings For Production Workers, 2008	$17.46	$19.50
Percent Change in Average Annual Pay: 2006 to 2007	3.3	4.4
Civilian Labor Force in 2008	739,500	661,700
Workers' Compensation Benefit Payments, 2006	$213,719,000	$242,685,000
% of Nonfarm Employees in Manufacturing, 2008	11.5	N/A
% of Nonfarm Employees in Government, 2008	15.0	20.5
2008, Occupational Injuries-Fatal	3	12
CFED STATE ECONOMY REPORT CARD, 2007		
Equity	A	A
Earnings & Job Quality	A	B
Employment	B	B
Quality of Life	A	D
Resource Efficiency	A	A
Competitiveness	C	D
Entrepreneurial	C	D
Human Resources	A	C
Financial Resources	A	D
Infrastructure	D	D
Innovation Assets	A	C
Amenity Resources	C	D
EDUCATION		
Critical Reading SAT Score, 2008	521	481
Math SAT Score, 2008	523	502
Writing SAT Score, 2008	511	470
% of Students Taking SAT Exam, 2007-2008	74.0	58.0
Reading NAEP Score, 2007, Grade 4	229	213
Reading NAEP Score, 2007, Grade 8	270	251
Math NAEP Score, 2007, Grade 4	249	234
Math NAEP Score, 2007, Grade 8	288	269
Projected High School Graduates 07-08	14,320	11,435
Projected High School Student who receive no diploma, 07-08	4,244	5,536
Public Elementary/Secondary Expenditures per pupil, 2008	$12,097.00	$11,822.00
% of Population Graduated from High School in 2007	90.5	89.4
% of Population With a Bachelor's Degree or More, 2007	32.5	29.2
Pupil-Teacher Ratio in Public Elementary and Secondary Schools in 2009	12.6	15.4

STATE TO STATE COMPARISONS 2009

	NH	HI
Average Salary of Public School Classroom Teachers in 2009	$48,934	$55,733
Books in Public Libraries Per Capita, 2005	4.6	2.5
College Degree - Granting Institutions, 2005	26	23
Number of Charters Schools, 07	83	27
DEMOGRAPHICS		
Domestic In - Migration in to the state: 2007 to 2008	(2,473)	(3,752)
Median Age 2007	39.8	37.9
% Change in Population 25 to 44 Years Old, 2007	26.8	27.9
% Change in Population 2007 to 2008	0.3	0.8
Poverty Rate, 2007	5.6	8.4
% Public Aid Recipients 2006	2.0	3.1
% Births to Unmarried Women in 2006	29.4	36.0
CRIME		
Murders in 2007	15	22
Violent Crimes/100,000 Population, 2007	137.3	272.8
Property Crimes, 2007	1,892	4,225
Motor Vehicle Thefts in 2007	1,299	6,715
Aggravated Assault Rate per 100,000 in 2007	78	160
HEALTH		
Healthiest States (1=best; 50=worst), 2008	3	2
Health Mandates	2.0	1.2
Infant Mortality /1000 Live Births, 2006	6.1	5.6
% of Persons Not Covered by Health Insurance, 2007 of U.S.	10.5	8.3
Physicians, 2007	4,232	4,665
Deaths by Accident, 2005	477	436
Estimated New Cases of Cancer - 2008	534	490
Bioterrorism Preparedness Score, 08	10	8
Potential # of illness during a severe Pandemic	389,000	365,000
Potential # of deaths during a severe Pandemic	10,000	10,000
% of Adults with Asthma - 2007	14.9	14.7
%of Adults with Diabetes - 2008	7.3	8
% of Adults with Obesity - 2008	24.1	21.8
% of Children Overweight - 2007	29.4	28.5
% of Adults with Hypertension - 2007	24.9	26.1
Cumulative Number AIDS Cases (13 & Older) - 2006	1,074	2,927
Human West Nile Cases - 2008	0.0	0
COST OF LIVING, (LARGEST METRO AREA IN EACH STATE, 3rd Quarter)		
Average Apartment Rent	$1,078	$2,423
Average Home Price	$337,000	$710,321
Average Total Energy Cost	$216.38	$298.92
Average Phone Bill	$36.25	$25.95
Gasoline/Gallon	$2.45	$3.23
Doctor Visit	$149.00	$129.50
Average Auto Insurance Premium, 2004	$856.45	$1,150.64
Food		
Ground Beef	$3.33	$3.05
Tuna, 6 oz cans	$1.12	$1.27
Whole Milk , Half Gallon Cartons	$1.87	$3.81
Dozen Eggs	$1.39	$2.16
Bread	$1.55	$3.59
QUALITY OF LIFE: CHILD WELL - BEING		
Overall State Ranking, 09	1	18
Births of Low Birthweight as a percent of all Births in 2006	6.9	8.1
Child Death Rates (deaths per 100,000)	16	21
Teen Deaths Rate by Accident, Homicide, and Suicide (deaths per 100,000), 06	27	41
Teen Birth Rate (births per 1,000 females ages 15-19)	18.5	39.9
% of Teens Who Are High School Dropouts, 2007	4.0	4.0
% of Teens Not Attending School and Not Working , 2007	5.0	9.0
% of Children Living With Parents Who Do Not Have Full-Time, Year-Round Employment, 2007	27.0	32.0
% of Children in Poverty (date reflect poverty in pervious year), 2007	9.0	10.0
% of Families with Children Headed by Single Parent, 2007	25.0	28.0
SOCIAL CAPITAL		
Lifestyles: Times Volunteered Last Year	8.0	N/A
Belief: "Most People are Honest" (6-level agree/disagree)	4.08	N/A
Attended Meetings on Town or School Affairs (percent)	33%	N/A
Belief: "Most People Can be Trusted"	62%	N/A
Civic and Social Organizations per 1000 pop, 1977-1992 (from FICA)	0.25	0.27
Mean President Turnout 1988 & 1992	59%	43%
Av. Charitable Giving per IRS Tax Filers, 02	$759	$798
Social Capital State Ranking, 2000	8	N/A

STATE TO STATE COMPARISONS 2009

	NH	HI
GEOGRAPHY		
Total Area of States in Square Miles in 2008	9,350	10,931
Highest Point of Elevation in Feet	6,288	13,796
% of Days That are Sunny	44	59
Hazardous Weather Fatalities in 2007	0	0
# of Deaths & Injuries by Lighting Strikes, from 1959 - 1994	76	4
# of Earthquakes by State from 1974-2003	6	1,533
# of Tornadoes, in 2008	12	0
HOUSING		
New Housing Units Authorized in 2008	3,250	4,115
% Homeownership Rate, 2007	73.8	60.1
% Change in House Prices: 2007 to 2008	(3.9)	-3.1
% Change in Existing Home Sales: 2007 to 2008	N/A	-25.7
POPULATION		
Population in 2008	1,315,809	1,288,198
Population 18 to 24 Year Old in 2007	119,035	123,412
Population 25 to 44 Years Old in 2007	352,678	357,448
Average Family Size in 2007	3.02	3.34
% of Eligible Voters Reported Registered, 2006	69.7%	55.2%
# of State Legislators, 2009	424	76
TRIVIA FACTS		
State Nickname	Granite State	Aloha State
State Capital	Concord	Honolulu
State Song	Old New Hampshire	Hawaii Ponoi
State Flower	Purple Lilac	Yellow Hibiscus
State Tree	White Birch	Candlenut
State Bird	Purple Finch	Nene
State Mottos	Live Free or Die	The life of the land is perpetuated in righteousness
Last Update	**9/22/2009**	**9/22/2009**
All information is from sources deemed reliable and is provided subject to errors, omissions and modifications.		
Tax information is from the Federal Commerce Clearing House Inc., 2008, Most other statistics are collected from CQ Press's State Rankings 2009, The Annie E. Casey Foundation Baltimore, MD, 2008 Kids Count Data Book, Small Business Survival Index, and US Department of Commerce: Statistical Abstract of the US. * Reduced to 8.75% in 2010, ** Effective January 1, 2010		

End of Attachment "B"

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, TOBACCO, INSURANCE, Repeal deduction for political contributions; increase cigarette tax rate; increase insurance license fees and temporarily increase premium tax rate

BILL NUMBER: HB 1985, Proposed SD-1

INTRODUCED BY: Senate Committee on Ways & Means

BRIEF SUMMARY: Amends HRS section 235-7 by repealing the deduction for political contributions under the income tax law.

Amends HRS section 245-3 to increase the rate on cigarettes from 11 cents to 15 cents per cigarette beginning July 1, 2010 and to 16 cents per cigarette beginning on July 1, 2011.

Amends HRS section 431:7-101 by providing an across-the-board increase in all insurance licensing and certificate fees by doubling the amount of the current fee and as of July 1, 2010 the proceeds of the fees shall be deposited in equal amounts to the compliance resolution fund and the state general fund.

Amends HRS sections 431:7-202; 431:8-205; and 431:8-315 by changing the insurance premiums tax to an unspecified amount except that for life insurance purposes, the tax rate shall be changed for all contracts written on or after July 1, 2010.

EFFECTIVE DATE: Upon approval; provided the repeal of the political deduction shall apply to tax years beginning after 12/31/09; and the insurance premiums rate changes shall be effective July 1, 2010 and shall be repealed on June 30, 2015 and those sections shall be reenacted as they were on June 30, 2010.

STAFF COMMENTS: This measure would repeal the deduction for political contributions for state income tax purposes, raise the cigarette tax rate, increase the licensing fees paid by insurance professionals and increase the insurance premiums tax.

The deduction for political contributions is an anomaly in that there is no such provision for federal tax purposes. In fact, all of the provisions in HRS section 235-7 provide treatment of the definition of income that deviates from the federal Code such as the treatment of pension income and portions of compensation paid to armed services personnel. As a result, repealing the deduction for political contributions bring Hawaii's income tax law into line with the federal Code. More than likely this deduction was adopted years ago as an incentive to taxpayers to participate in the political process by supporting a candidate or a political party. As such, it serves no purpose other than encourage a certain behavior by allowing it to reduce taxable income.

This measure increases the tax on cigarettes from 11 cents per cigarette to 15 cents this July 1st and to 16 cents beginning next July 2011. This proposal is another attempt to squeeze more tax revenue out of this particular product while trying to hide behind the argument that such an increase will discourage smokers from continuing this unhealthy habit. By the time the second step of the rate increase goes into effect next year, this tax rate will have tripled in a matter of eleven years.

Until 1993 all tobacco products were taxed at a rate of 40% of the wholesale value of the product plus the 0.5% general excise tax rate and, of course, the 4% general excise tax at retail. When the tax on cigarettes was converted to a per unit basis in 1993, it put all cigarettes, regardless of value, on parity. So inexpensive product was taxed at the same rate as more expensive product even though the difference in cost may have been attributed only to the cost of marketing and advertising the more costly product. As lawmakers increased the tax per pack over the years and the cost of making the product also increased the retail price so smokers had three choices, either pay more for their preferred brand, quit smoking, or trade down to a less costly product. While quitting smoking will definitely spell a loss in tax revenues for the state, trading down to a less costly brand of cigarettes will not as the tax is based on a per unit basis. This is an important point to note with respect to all other tobacco products.

The continual increase of the tax rate on cigarettes has indeed had its effect on consumption which fell more than three quarters of a million packs a month being sold as compared to just three years ago. Except for the fact that the rate was increased so dramatically that a decline in cigarette tax revenue was avoided, it is very clear that further increases in the tax rate will cause an even greater decline in consumption. Although a decline in consumption may be welcomed by health advocates, there will, no doubt, come a point when the rate increases will not be sufficient to offset the decline in consumption and cigarette tax revenues will be adversely affected.

Given the fact that it appears that this measure, as whole, is intended to address the general fund shortfall, this particular part of the proposal may have just the opposite result as more and more smokers quit or reduce their consumption.

It should be noted that when Act 58, SLH 2009, was approved by the legislature last year, it changed the way other tobacco products are taxed and increased the rate of the ad valorem tax on other tobacco products other than cigars to 70% of the wholesale value and imposed an ad valorem tax equal to 50% of the wholesale value on cigars that had a "ring gauge" of more than 30 (approximately a half inch circumference). In the latter case, those cigars of less than that ring gauge known as "little cigars" were thrown into the same rate schedule as cigarettes. This provision appeared in the last draft of the bill with little or no public discussion and more than likely took care of a certain constituency.

It would seem highly inequitable that product that is known as a cigar be treated differently from other types of similar products merely because its size is different. There is no reason to believe that little cigars don't compete with cigars with a larger circumference and should, therefore, be taxed like all other cigars. Given the substantial rate on all other cigars, one might suspect that placing "little cigars" in the same rate schedule as cigarettes confers a preference on this particular product, imposing a lesser tax burden and, therefore, foregone revenues to the state general fund. Thus, if lawmakers want to generate additional revenue for the state general fund, they may want to consider taxing all cigars, whether little or big, the same way.

That said, as noted earlier, while quitting smoking any tobacco product will have an adverse impact on state tax collections, trading down to a more inexpensive tobacco product other than cigarettes will also have an adverse impact as the tax on those other tobacco products is based on the value of the product.

This was the very reason the state made the switch to taxing cigarettes on a per cigarette basis. This is the problem with the ad valorem approach to taxing other tobacco products.

Lawmakers should consider restructuring the way other tobacco products are taxed to insure stability in the collection from the sales of these products. Instead of continuing to set the tax as a percent of the wholesale value, consideration should be given to moving to a per unit approach like the taxing of cigarettes. A review of what other states impose indicates that while some products, such as cigars, continue to be taxed on an ad-valorem basis, smokeless tobacco products are taxed on the basis of weight. This would insure that all such tobacco products are taxed in the same manner regardless of their wholesale price. Such is the case with the cigarette tax that is levied on a per unit basis. There are some 14 states that already employ the weight approach for smokeless tobacco. In the most recent conversion to weight based taxes on smokeless tobacco products, New Jersey experienced a 19% increase in revenues from this product.

In making the conversion to so many cents per ounce, lawmakers may want to utilize the current tax collected on the most expensive product and divide that amount by the number of ounces. While this will result in an initial bump in collections as the tax on less costly product will see an increase, it will bring parity to these types of products and stabilize collections as users migrate to less costly brands or products as the cost rises.

As lawmakers consider the increase in the cigarette tax, they should remember that payments under the Master Settlement Agreement (MSA), that has another 15 years to run, are dependent on the amount of product purchased and consumed nationwide. With the rise in the federal excise tax last year and the tax rate increases proposed in this measure, there is, no doubt, that it will affect the consumption of cigarettes and, therefore, the amount of money allocated to the state under the MSA.

Finally, this measure would double the insurance producer licensing and certificate fees and temporarily increases the insurance premiums tax rates for the next five years. By designating that half of the proceeds of the increased fees be placed into the general funds indicates that this move is to address the general fund budget shortfall. More importantly, it underscores the error of putting the proceeds in the compliance resolution special fund when they were formerly realizations of the state general fund. Earmarking the receipts of the fees for a special fund restricts the flexibility and oversight of the legislature in utilizing these funds. When the proceeds of these fees were realizations of the general fund, lawmakers had the opportunity for a regular review of the fees to ascertain if they were at a sufficient level to accomplish the task for which they were levied, which in this case is the monitoring and regulation of the insurance profession. Consideration should be given to reviewing all earmarked fees and returning many of those to the general fund to insure accountability.

This proposal also increases insurance premiums tax rates for a five-year period as a means of generating additional revenue for the state general fund. While most types of insurance policies can accommodate the upward and downward adjustment of the premiums tax in the rates that were approved by the insurance commissioner, life insurance policies probably cannot accommodate a temporary increase in the tax rate as the premium amount, which takes into account the amount of the tax, is set for the life of the policy which in most cases will exceed five years. With other types of insurance, the term of the policy can either be as long as the five-year period or as short as an annual premium. Thus, in the case of a life insurance policy, lawmakers should inquire as to whether or not the premium amount can be adjusted downward if the insurance premiums tax is lowered at the end of the five years.

Digested 3/22/10

tk

FAMILY
ENTERPRISES
LTD

SENATE COMMITTEE ON WAYS & MEANS

Sen. Donna Mercado Kim, Chair
Sen. Shan Tsutsui, Vice Chair

Tuesday, March 23, 2010 | 9:30AM

TESTIMONY IN OPPOSITION TO **HB 1985 PROPOSED SD 1**

Chair Kim, Vice Chair Tsutsui and members of the committee:

TK Family Enterprises, LTD. appreciates the opportunity to provide testimony in opposition to House Bill 1985 proposed SD 1.

TK Family Enterprises, LTD. is a local retail company which owns and/or operates 17 "mom and pop" like convenience stores – throughout Hawai'i – under various brand names or we have kept the store name in smaller communities to provide continuity for local patrons. We currently have three stores on Kaua'i, four in Kona, six on Maui and four on O'ahu.

While our stores sell a variety of convenience goods, a large portion of sales are counted towards liquor and tobacco product sales. We have noticed in the last year and a half an almost 23 percent decline in tobacco sales – especially cigarettes and little cigars. While some may attribute this to one's method for a better life style, many patrons make comments about the increased taxes over the years.

We are opposing Part II of the proposed Senate Draft 1 of HB 1985. Part II amends the current taxing method for little cigars and cigarettes. While the tax increase may seem like a minor increase at .01 cent – in a normal pack of cigarettes and little cigars it amounts to a .20 cent tax increase.

On July 1, 2010, these products will already be receiving a .20 tax increase as provided for by § 245-3 HRS and will result in a $2.80 tax per pack. Should this measure be codified the tax increase will result in an added .20 cent increase and will result in a $3.00 tax per pack.

Sadly, these measures will force us to buy less of these products from our wholesale venues as we have already experienced a stifled market for these products.

We ask for your strongest consideration in either removing Part II, Section 2 of this proposed measure or hold this bill.

My sincerest regards,

Frank Kamemoto
President, TK Family Enterprises, LTD.

GOODSILL ANDERSON QUINN & STIFEL
A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:
GARY M. SLOVIN
ANNE T. HORIUCHI
MIHOKO E. ITO
CHRISTINA ZAHARA NOH

ALII PLACE, SUITE 1800 • 1099 ALAKEA STREET
HONOLULU, HAWAII 96813

MAIL ADDRESS: P.O. BOX 3196
HONOLULU, HAWAII 96801

TELEPHONE (808) 547-5600 • FAX (808) 547-5880
info@goodsill.com • www.goodsill.com

INTERNET:
gslovin@goodsill.com
ahoriuchi @goodsill.com
meito@goodsill.com
cnoh@goodsill.com

MEMORANDUM

TO: Senator Donna Mercado Kim
Chair, Committee on Ways and Means
Via e-mail: WAMTestimony@Capitol.hawaii.gov

FROM: Gary Slovin

DATE: March 22, 2010

RE: **H.B. 1985, Proposed SD1 – Relating to Taxation**
Hearing: Tuesday, March 23, 2010 at 9:30 a.m., Room 211

Dear Chair Kim and Members of the Committee:

I am Gary Slovin, testifying on behalf of USAA. USAA, a diversified financial services company, is the leading provider of competitively priced financial planning, insurance, investments, and banking products to members of the U.S. military and their families. USAA has over 82,000 members in Hawaii.

USAA is opposed to Parts III and IV of the proposed SD1 to H.B. 1985.

With respect to Part III of the proposed SD1, various fees will be doubled, with half of the increased fee being deposited into the Compliance Resolution Fund and the other half of the increased fee being deposited into the General Fund as an insurance license and service tax. USAA estimates that this will result in an increase in its cost of doing business in Hawaii by approximately $480,000 - $500,000 per year. Such a significant increase will undoubtedly result in increased rates to USAA's members – military personnel and their families.

The reason the cost is this high is the number of people devoted to servicing the large number of military people in Hawaii. Service is available at all times and is organized in such a way that the members experience very little if any waiting time. One approach to this problem would be to exempt producers who are company employees. The way the language is structured in the proposed SD1, USAA would be penalized by providing excellent service to its members in Hawaii.

With respect to Part IV of the proposed SD1, this is essentially the text of H.B. 2851, HD1, which increased certain insurance premium tax rates. This portion of H.B. 1985 will negatively impact USAA because it increases premium taxes for property and casualty insurance, as well as for life insurance.

Property and casualty insurance premium taxes in Hawaii are already high, and the increase in the tax rate originally sought in H.B. 2851 (from 4.265% to 5.331%) would place Hawaii as having the highest rate for property & casualty premium taxes in the nation. With respect to life insurance premium taxes, Hawaii presently has one of the highest tax rates in the nation.[1]

For these reasons, USAA opposes parts III and IV of H.B. 1985 in the current proposed SD1 form. Thank you for the opportunity to submit testimony on this matter.

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1 It is our understanding that only five other states tax life insurance premiums at the same rate or higher than that of Hawaii.

LATE

To: The Honorable Donna Mercado Kim, Chair, Committee on Ways and Means
The Honorable Shan S. Tsutsui, Vice Chair, Committee on Ways and Means
Members, Senate Committee on Ways and Means
From: Valerie Chang, Executive Director
Date: March 22, 2010
RE: STRONG SUPPORT for Part II of HB 1985, Proposed SD I with Amendments

Thank you for the opportunity to comment in strong support of Part II of HB 1985, Proposed SD I with amendments. Part II proposes an additional 20-cent per pack increase on the tax of cigarettes on July 1, 2010 and increase the tax an additional 20 cents on July 1, 2011.

As explained more fully by the Coalition for Tobacco Free Hawaii in its testimony, it has been shown that significant tax increases help encourage smokers to quit and discourage youth from starting smoking. This has the win-win benefit of helping close the budget shortfall as well. We also request that a portion of the tax revenues be dedicated to fund programs that help people quit smoking, to help meet the increased demand for cessation programs which will occur when the tax is increased. We further request that other tobacco products have a comparable tax raise to deter youth from starting (and smokers from merely switching to other products). These positions are supported by the public in research shared by the Coalition for Tobacco Free Hawaii.

My name is Valerie Chang. I am Executive Director of the Hawaii COPD Coalition. Our organization provides services and support to Hawaii's people affected by Chronic Obstructive Pulmonary Disease, more commonly known as emphysema, chronic bronchitis and similar conditions. COPD is the fourth leading cause of death in the US and expected to be the third leading cause of death in the US and world by 2020. The American Lung Association has estimated that over 50,000 people in Hawaii have COPD. Our 2007 and 2008 survey data reveal that slightly under 4% of our adult population have been told they have COPD, emphysema and/or chronic bronchitis. Smoking is the major cause of these health conditions. COPD is currently the 4th leading cause of death in the US and projected to rise to 3rd in the US and world by 2020. For more information to go http://learnaboutcopd.org or http://hawaiicopd.org.

Tobacco causes so many health, social and financial problems in addition to COPD. Please vote in favor of Part II of HB 1985, Proposed SD I with Amendments. Please do not hesitate to contact me if I can provide any additional information. Thank you for this opportunity to testify.

Aloha,
Valerie Chang, JD
Executive Director, Hawaii COPD Coalition
Website: *http://hawaiicopd.org*, e-mail: *copd.hawaii@yahoo.com*
Phone (808)699-9839
733 Bishop Street, Suite 1550, Honolulu, HI 96813

From:	mailinglist@capitol.hawaii.gov
To:	WAM Testimony
Cc:	mz9995@hotmail.com
Subject:	Testimony for HB1985 on 3/23/2010 9:30:00 AM
Date:	Monday, March 22, 2010 1:22:49 PM

Testimony for WAM 3/23/2010 9:30:00 AM HB1985

Conference room: 211
Testifier position: oppose
Testifier will be present: Yes
Submitted by: Michael Zehner
Organization: Hawaii Smokers Alliance
Address: 750 Amana st. Honolulu, HI 96814
Phone: 9520275
E-mail: mz9995@hotmail.com
Submitted on: 3/22/2010

Comments:
I am strongly opposed to this bill if the language for the cigarette tax increase is included. We have already suffered massive increases last year from both State and Federal.

We can expect more DECREASES in revenue not an increase, just like the decrease that has already occurred last fall.

http://behavioralhealthcentral.com/index.php/20091228163275/Latest-News/hawaii-smokers-cutting-back-in-response-to-higher-tobacco-taxes-the-honolulu-advertiser.html

Furthermore, the smoker community is already angry about the extortion of our community.

Please do not include this regressive, mean spirited, and doomed to fail tax increase in HB-1985.

Mahalo, Michael Zehner

March 22, 2010

To: Senator Donna Mercado Kim, Chair, Committee on Ways and Means
Senators Shan S. Tsutsui, Vice Chair, Committee on Ways and Means
Members, Senate Committee on Ways and Means

Re: Support of HB 1985 SD1: Relating to Taxation
Hearing: WAM, March 23, 2010 in Room 211 at 9:30 a.m.

Thank you for the opportunity to provide testimony in SUPPORT of HB 1985, Proposed SD 1 as it relates to an increase of tax on cigarettes and other tobacco products.

My name is LorrieAnn Santos, I am Co-project Director and Program Manager of `Imi Hale Native Hawaiian Cancer Network, a program of Papa Ola Lokahi.

HB 1985, Proposed SD 1 proposes to increase the tax on cigarettes by one cent/stick (20 cents a pack). The Campaign for Tobacco-Free Kids advises that any tax increase of less than 25-cents a pack does NOT have public health benefits, as the tobacco industry will counter this with price adjustments, coupons, etc.

By adequately increasing the price of cigarettes, smoking will decrease among both adults and youth. Youth, in particular are two to three times more sensitive to tobacco price changes than adults, which is a deterrent to addicting our youth to a lifetime of tobacco use, preventable illness and a shortened life span.

In addition to reducing tobacco use, a tax increase will bring in needed state revenue. Short-term tax increases (1% GET with exemptions to food and drug, as well as at least 25-cents/pack for cigarettes and other tobacco products) should be the viable option legislators are considering in this global economic downturn, not further cuts to funding, that will result in cuts to programs and services and ultimately jobs.

Thank you for the opportunity to offer testimony in support of HB 1985, Proposed SD 1 as it relates to an increase of tax on cigarettes and other tobacco products.

Sincerely,

LorrieAnn Santos

808-258-5811

45-415 Lolii Street

Kaneohe, HI 96744

kim5 - Deborah

From: Lisa Oshiro [lisayoshiro@gmail.com]
Sent: Monday, March 22, 2010 3:57 PM
To: WAM Testimony
Subject: Testimony for hb1985

Follow Up Flag: Follow up
Flag Status: Completed

For the Senate Ways and Means Committee,
Testimony in **strong opposition** if the Proposed SD1 is included as written.

This State already ripped me off last on last years cigarette tax, now you want to do it again. I already buy about half my cigarettes from "friends" and not retailers. I just don't ask any questions. If the legislature doesn't respect me and can't be fair to constituents then why should I honor the junk that comes for the state house.

If you need money that badly why don't you insert the language from hb2887 and/or get the money from the tobacco settlement. I paid into this thing against my wishes all these years.

If the legislature's majority wants to cut me instead of CUTTING THE WASTE in HRS-245 then we need some real change in November.

Sincerely, Lisa Oshiro
411 Hobron Street
Waikiki