# TESTIMONY OF
# THE DEPARTMENT OF THE ATTORNEY GENERAL
# TWENTY-EIGHTH LEGISLATURE, 2015

**ON THE FOLLOWING MEASURE:**
S.B. NO. 101, S.D. 1, PROPOSED H.D. 1, RELATING TO THE BUDGET.

**BEFORE THE:**
HOUSE COMMITTEE ON FINANCE

**DATE:** Thursday, April 2, 2015 **TIME:** 3:30 p.m.

**LOCATION:** State Capitol, Room 308

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or
Earl R. Hoke, Jr., Deputy Attorney General

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Chair Luke and Members of the Committee:

The Department of the Attorney General (Department) respectfully requests that no changes be made to the Department's modest allocation of $350,000 from the moneys received from the Tobacco Master Settlement Agreement (MSA). The State of Hawaii is obligated to Diligently Enforce[1] the terms of the MSA and provisions of the Tobacco Liability Act, which is codified as chapter 675, Hawaii Revised Statutes (HRS). All of the moneys received by the State from the MSA are the result of the Department's continuous efforts to Diligently Enforce the terms of the MSA. To be clear, the failure to Diligently Enforce the terms of the MSA and provisions of the Tobacco Liability Act may result in the State losing all or a significant portion of its MSA payments for the entire period that the State failed to Diligently Enforce the MSA.

The MSA and the Tobacco Liability Act represent affirmative steps toward holding tobacco manufacturers accountable for the harm caused by the sale of cigarettes to residents of Hawaii. The $350,000 allocated from the MSA puts the financial burden of this program squarely on the shoulders of the tobacco manufacturers and not the tax payers of the State.

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[1] "Diligent Enforcement" is a term of art used in the MSA and the parties to the MSA. The MSA does not, however, expressly define the term. <u>See</u> section D, <u>infra</u> for a discussion on the interpretation of this phrase.

**TOBACCO MSA**

**A. Background**

On November 23, 1998, leading United States tobacco manufacturers entered into the MSA with forty-six states, including Hawaii. In consideration for a release of past, present, and certain future claims against them, the MSA obligates these manufacturers to pay substantial sums to the settling states (tied in part to the volume of tobacco product sales). The Attorney General of each settling state is responsible for enforcing the provisions of the MSA.

To that end, on July 1, 2000, the Department's Tobacco Enforcement Unit (the Unit) was created to enforce the MSA, the state Tobacco Liability Act, and the state Cigarette Tax and Tobacco Tax Law. The Unit is composed of a unit supervisor, a MSA civil prosecutor, a cigarette tax prosecutor, seven criminal investigators, a legal assistant, and a legal clerk. Funding for the Unit currently comes from two statutorily authorized sources. One being $350,000 from the proceeds from the MSA. The other, in accord with the provisions of section 245-26 (a) (2), HRS, is comprised of 1.5 percent of the denominated value of the tax stamps as a regulatory fee, which is paid for by those tobacco wholesalers and dealers who have been authorized by the State of Hawaii Department of Taxation to purchase and apply cigarette tax stamps.

**B. MSA Payments**

There are three types of MSA payments:

(1) Initial Payments were received annually from January 10, 1999, through January 10, 2003.

| Fiscal Year | Amount of Initial Payment |
|---|---|
| 1999-2000 | 27,804,177.13 |
| 2000-2001 | 11,659,558.77 |
| 2001-2002 | 12,701,627.03 |
| 2002-2003 | 12,864,378.74 |
| Total | $ 65,029,741.67 |

(2) Annual Payments began on April 15, 2000, and are scheduled to be received on April 15 of each year in perpetuity.

| Fiscal Year | Amount of Annual Payment |
|---|---|
| 1999-2000 | 20,811,042.90 |
| 2000-2001 | 24,471,822.21 |
| 2001-2002 | 32,674,220.28 |
| 2002-2003 | 31,845,690.90 |
| 2003-2004 | 37,793,157.48 |
| 2004-2005 | 38,357,998.54 |
| 2005-2006 | 35,212,822.31 |
| 2006-2007 | 36,857,166.01 |
| 2007-2008 | 37,299,996.79 |
| 2008-2009 | 41,132,845.88 |
| 2009-2010 | 34,230,792.73 |
| 2010-2011 | 32,453,603.85 |
| 2011-2012 | 33,096,749.95 |
| 2012-2013 | 33,073,205.78 |
| 2013-2014 | 37,420,086.29 |
| Total | $506,731,201.90 |

(3) Strategic Contribution Payments began on April 15, 2008, and are scheduled to be received on April 15 of each year through 2017.

| Fiscal Year | Amount of Strategic Contribution Payment |
|---|---|
| 2007-2008 | 18,762,802.27 |
| 2008-2009 | 19,225,534.21 |
| 2009-2010 | 16,691,299.06 |
| 2010-2011 | 15,211,574.73 |
| 2011-2012 | 15,492,587.49 |
| 2012-2013 | 15,505,806.17 |
| 2013-2014 | 15,238,278.95 |
| Total | $116,127,382.88 |

In fiscal year (FY) 2013-2014, the State received $52,658,365.24 in MSA moneys. The total amount of MSA payments received by Hawaii as of the end of FY 2013-2014 are as follows:

| | |
|---|---|
| Initial Payments | 65,029,741.67 |
| Annual Payments | 506,731,201.90 |
| Strategic Contribution Payments | 116,127,382.88 |
| Total | $ 687,888,326.45 |

**C. Tobacco Liability Act (Chapter 675, HRS)**

The MSA requires the State to diligently enforce the requirements of the "model statute," which was enacted as the Tobacco Liability Act. The MSA and the Tobacco Liability Act represent affirmative steps toward holding tobacco manufacturers accountable for the harm caused by the sale of cigarettes to residents of Hawaii. Section 675-1(d), HRS, provides:

> It is the policy of the State that financial burdens imposed on the State by cigarette smoking be borne by tobacco product manufacturers rather than by the State to the extent that such manufacturers either determine to enter into a settlement with the State or are found culpable by the courts.

Section 675-1(f), HRS, provides:

> It would be contrary to the policy of the State if tobacco product manufacturers who determine not to enter into such a settlement could use a resulting cost advantage to derive large, short-term profits . . . . It is thus in the interest of the State to require that such manufacturers establish a reserve fund to guarantee a source of compensation and to prevent such manufacturers from deriving large, short-term profits and then becoming judgment-proof before liability may arise.

The Tobacco Liability Act requires any tobacco product manufacturer selling cigarettes to consumers in Hawaii – whether directly or through a distributor, retailer, or similar intermediary or intermediaries – to either participate in and perform its financial obligations under the MSA, or place funds in an escrow account to establish a reserve fund to guarantee a source of compensation to the State if the tobacco product manufacturer is found culpable by the courts. A non-participating manufacturer (NPM) is a tobacco product manufacturer who has not entered into the MSA.

NPMs who fail to comply with the escrow requirements enjoy a price advantage over those who comply. This price advantage lures consumers away from and decreases the market share of participating manufacturers. In a recent MSA disbursement, the amounts due to the states were reduced because of a national increase in NPM market share.

**D. Enforcement**

Failure to Diligently Enforce the Tobacco Liability Act may result in a state losing all or a significant portion of its MSA payments. The meaning of "Diligent Enforcement" in the context of the MSA enforcement is not clearly defined and was the subject of a lengthy arbitration related to enforcement in calendar year 2003 (the 2003 Arbitration). Arbitration commenced in 2010 and concluded in 2013. The 2003 Arbitration panel concluded that Diligent Enforcement was an ongoing and intentional consideration of the requirements of a Settling State's Qualifying Statute, and a significant attempt by a Settling State to meet those requirements, taking into account a Settling State's competing laws and policies that may conflict with its MSA contractual obligations. The factors considered by the 2003 Arbitration panel included: collection rate, lawsuits filed, gathering reliable data, resources allocated to enforcement, preventing non-compliant NPMs from future sales, legislation enacted, actions short of legislation, and efforts to be aware of National Association of Attorneys General (NAAG) and other states' enforcement efforts.

Based on a totality of the circumstances, we believe that Hawaii's Diligent Enforcement efforts and regulatory scheme meets the criteria set forth by the 2003 Arbitration panel. Enforcement includes identifying NPMs and the number of NPM cigarettes sold in Hawaii; notifying NPMs of their obligation to establish and fund an escrow in accordance with chapter 675 and as necessary filing complaints in court against NPMs who fail to comply with chapter 675. In a nutshell, with the funding that it has received the Department has developed a system that:

(1) Identifies NPMs and their products;

(2) Gathers and tracks information on NPM products;

(3) Notifies NPMs of their obligations under the Tobacco Liability Act and under chapter 486P, HRS, and related statutes (the Department sends letters to tobacco product manufacturers worldwide to advise them of these obligations);

(4) Provides assistance to effectuate compliance;

(5) Has provided the relevant information, that has allowed the Attorney General to file lawsuits as necessary to compel compliance with the escrow statutes; and

(6) Provides the information-gathering and certification protocols necessary to establish and publish the directory of tobacco product manufacturers whose cigarettes and Roll-Your-Own (RYO) tobacco products are authorized for sale in Hawaii.

In 2003, the Unit created a directory of compliant cigarettes and RYO tobacco products. The directory has been posted on the Department's website since October 31, 2003, and was revised and updated in FY 2013-2014. At the end of FY 2013-2014, 23 compliant tobacco product manufacturers (18 participating manufacturers and 5 NPMs) were listed in the directory, along with a list of 123 authorized brands of cigarettes and RYO tobacco products.

Further, the directory in conjunction with the Tobacco Products Reporting statutes (chapter 486P, HRS) facilitates the time-consuming process of identifying individual manufacturers and their respective brands. When a tobacco product manufacturer is identified as having or intending to have sales in Hawaii, the Unit notifies the tobacco product manufacturer that it must comply with chapter 486P, including the requirement to register with the Department pursuant to section 486P-5, HRS.

The Unit provides a reporting form to wholesalers and distributors, and gathers information from the responses and invoices submitted by the wholesalers and distributors. Based on this information, the Unit verifies that only compliant NPMs and their brands are sold (directly or through distributors, retailers, or similar intermediaries) in Hawaii. In addition, the Unit verifies that only compliant NPMs and their authorized brands are stamped and sold in Hawaii by investigating cigarette brands on store shelves.

The Unit sends formal demands to NPMs that have sales in Hawaii, requiring that they place appropriate sums in a qualified escrow fund in compliance with the Tobacco Liability Act. In FY 2013-2014, while six NPMs were listed in the directory, only three NPMs had sales in

Hawaii. The total number of cigarettes or RYO totaled 52,604 of units sold. The three NPMs deposited the required aggregate total of $1,577.01 into their respective qualified escrow funds – a compliance rate of 100 percent.

**E. Diligent Enforcement Arbitration**

On April 26, 2006, the State of Hawaii filed an action in the Circuit Court of the First Circuit seeking a declaration that the State of Hawaii indeed diligently enforced the provisions of Hawaii's model statute, which has been codified as chapter 675, HRS. On August 3, 2006, the court ordered the State of Hawaii to take part in what has been termed a nationwide arbitration to resolve the issues related to Hawaii's diligent enforcement of the model statute in calendar year 2003. Beginning in January 2011 through July 2011 extensive document discovery was undertaken by the participating manufacturers with regard to Hawaii's Diligent Enforcement efforts. On October 19, 2011, the participating manufacturers conducted an extensive deposition of a representative of the Unit. Subsequently, on November 3, 2011, the participating manufacturers published a list of states that the participating manufacturers wished to contest in the nationwide arbitration. The participating manufacturers did not include Hawaii in the contested arbitration. Actual hearings in the nationwide arbitration began in May 2012, to determine whether the states diligently enforced the provisions of their respective model statutes for calendar year 2003.

In summary, with regard to the 2003 Diligent Enforcement Arbitration of the 52 MSA Settling States, 17 were "non-contested" by the Participating Manufacturers, leaving 35 states to arbitrate their dispute. Twenty (20) of the contested states then settled their dispute with the participating manufacturers, joined by two of the non-contested states (NJ and WY), leaving 15 contested states in the arbitration. On September 11, 2013, the Panel issued its final awards for the 15 remaining states, finding 9 states to have been diligent and 6 states non-diligent[2].

[2] Non Diligent States included Indiana, Kentucky, Maryland, Missouri, New Mexico, and Pennsylvania.

The financial impact to the non-diligent States follows:

| State | Payment w/o Adjustment | Adjustment | Net Payment less Adjustment |
|---|---|---|---|
| Indiana | $131,260,418.00 | ($86,005,950.00) | $45,254,468.00 |
| Kentucky | $113,329,758.00 | ($74,257,218.00) | $39,072,540.00 |
| Maryland | $145,459,384.00 | ($95,309,559.00) | $50,149,825.00 |
| Missouri | $146,369,551.00 | ($95,905,928.00) | $50,463,622.00 |
| New Mexico | $38,377,407.00 | ($25,146,083.00) | $13,231,324.00 |
| Pennsylvania | $369,807,761.00 | ($242,309,664.00) | $127,498,097.00 |

Further, the arbitration panel made specific findings with regard to certain states that were found not-diligent with regard to Resources Allocated to Enforcement:

Maryland:

"Whether due to lack of funds or lack of interest, Maryland's enforcement efforts were seriously hampered by lack of sufficient committed and trained personnel."

Indiana:

"MSA proceeds were not used to fund tobacco enforcement despite evidence of the need for additional resources."

New Mexico:

"The State had no dedicated budget for escrow enforcement, even though Glenn Smith had testified before the Tobacco Settlement Review Oversight Committee that lack of resources could endanger MSA payments."

The Unit is preparing for the 2004 Diligent Enforcement Arbitration. The evidence that we intend to present with regard to Hawaii's Diligent Enforcement for 2004 will show that there were 10 NPMs who sold cigarettes or roll your own tobacco in the State of Hawaii. Of the 10, full escrow payments were received by 9 of the NPMs a 99.6 percent compliance rate. The other NPM was sued and a default judgment was entered against that NPM.

The settling states believe that the tobacco industry will demand that a nationwide arbitration take place each year to determine whether Hawaii and the other states have met their

Diligent Enforcement obligations under the MSA. To that end, the Unit intends to continue its goal to vigorously enforce the MSA, chapter 675, chapter 486P, and the related statutes. The following objectives provide the roadmap the Unit will use to achieve this goal and ensure that Hawaii receives its allotted portion of the MSA funds.

**Objective 1**: Investigate and enforce when appropriate suspected violations of the MSA and TLA.

Action plan:
(1) Seek out NPMs who have a presence in Hawaii.
(2) Monitor NPMs compliance with TLA.
(3) Vigorously police the local tobacco industry for compliance with the MSA, chapter 675, and related statutes.
(4) Enforce NPM obligations under TLA including payment of funds into escrow accounts.
(5) Ensure continued compliance by the tobacco industry with advertising restrictions.
(6) Investigate and monitor gray market activities (including military and Internet sales).
(7) Conduct investigations into Internet sales.
(8) Including PACT Act compliance and other Federal Regulations relating to shipments via US Mail and Customs enforcement activities.

**Objective 2**: Monitor issues affecting the MSA.

Action plan:
(1) Monitor the tobacco industry's sales numbers and other factors that may adversely affect payment amounts under the MSA.
(2) Evaluate and respond to attacks on the MSA.
(3) Track and assess all amendments to the MSA.
(4) Monitor bankruptcy activity related to NPM and SPM cigarette manufacturers.

**Objective 3**: Refine reporting requirements and gather information from tobacco product manufacturers in order to enforce the terms of the MSA, TLA, and related statutes.

Action plan:
(1) Seek out NPMs who have a presence in the State and send notices to NPMs to establish escrow accounts.

(2) Police the local tobacco industry for compliance with the MSA, chapter 675, and related statutes.

(3) Monitor the tobacco industry's sales numbers and other factors that may adversely affect payment amounts under the MSA.

(4) Educate tobacco product manufacturers of reporting requirements (i.e., filing of Jenkins Act Reports with the Attorney General).

(5) Monitor compliance with Jenkins Act and PACT Act reporting requirements.

(6) Keep abreast of reporting requirements in other states.

(7) Further develop and update a directory as required by chapter 486P.

**Objective 4**: Identify nonparticipating tobacco manufacturers selling in the State, notifying nonparticipating manufacturers of the requirements of the TLA, and further refine protocol for noncompliance with TLA.

Action plan: (1) Seek out NPMs who have a presence in the state and send notices to NPMs to establish escrow accounts.

(2) Police the local tobacco industry for compliance with the MSA, chapter 675, and related statutes.

(3) Monitor the tobacco industry's sales numbers and other factors that may adversely affect payment amounts under the MSA.

**Objective 5**: Review statements from the Independent Auditor with regard to initial and annual payments. Where appropriate challenge the findings of the Independent Auditor with regard to the calculation of initial and annual payments.

Action plan: (1) Monitor the payment amounts under the MSA.

(2) Review information received from NAAG and the Independent Auditor.

(3) As appropriate, provide information to the Departments of Budget and Finance and of Health.

**Objective 6**: Assist, advise, and cooperate with federal, state, local agencies, and NAAG to protect and promote the interests of the State with regard to the MSA.

Action plan: (1) Receive information and updates.

(2) Evaluate and respond to the attacks on the MSA.

(3) Track and assess all amendments to the MSA.

(4) Track tobacco related issues occurring in other states.

(5) Develop a close working relationship with the Department of Health and other state, federal, and local agencies.

**Objective 7**: Study the operation of laws in other jurisdictions affecting the implementation and enforcement of the MSA and recommend to the governor and the legislature new laws and amendments of laws in order to protect the State's interests with regard to its portion of the Tobacco Settlement Funds.

Action plan: (1) Track legislation in other states.

(2) Track tobacco related issues in other states.

(3) Track reporting requirements in other states.

**Objective 8**: Respond to MSA related lawsuits.

Action plan: (1) Vigorously protect the State's interests.

(2) Receive information and updates from NAAG and other states.

**Objective 9**: Act as liaison to the Legislature and local interest groups.

Action plan: (1) Provide reports to the legislature in a timely manner.

(2) Coordinate local actions with national program

(3) Provide information as to how other states are allocating their proceeds.

(4) Ensure that correct information about the MSA is disseminated to the public.

(5) Answer questions regarding the MSA.

(6) Act as liaison with the news media

**F. Non-Expended Funds lapse to the General Fund**

Under current law any excess funds already lapse to the credit of the State General Fund in accordance with section 28-15 (c), HRS,

> All unencumbered and unexpended moneys in excess of $500,000 remaining on balance in the tobacco enforcement special fund at the close of June 30 of each year shall lapse to the credit of the state general fund.

In FY 2013-2014, the following moneys flowed into the Tobacco Enforcement Special Fund:

**Master Settlement Agreement funds $350,000**

| | |
|---|---|
| Cigarette tax stamp fees/interest/fines | $1,694,023 |
| Total | $2,044,023 |

The Legislature appropriated $1,247,526 for MSA and cigarette tax stamp enforcement for FY 2013-2014. $350,000 of the appropriation was funded from moneys received from the MSA and $897,526 from cigarette tax stamp fees. Expenses for FY 2013-2014 totaled $1,104,182. The remainder less $500,000 reverted to the State General Fund (approximately $440,000).

In conclusion, the Department respectfully requests that the modest amount of $350,000 in MSA funding be maintained to support the Department's efforts toward the State's continued Diligent Enforcement obligations under the MSA.

# UNIVERSITY OF HAWAI‘I SYSTEM
Legislative Testimony

Written Testimony Presented Before the
House Committee on Finance
Thursday, April 2, 2015 at 3:30 p.m.
By
Robert Bley-Vroman, Chancellor
And
Jerris Hedges, MD, MS, MMM
Dean, John A. Burns School of Medicine
Interim Director, University of Hawai‘i Cancer Center
University of Hawai‘i at Mānoa

SB 101 SD1 PROPOSED HD1 – RELATING TO THE BUDGET

Chair Luke, Vice Chair Nishimoto, and members of the committee:

The University of Hawai‘i provides this testimony only as to the allocation of Tobacco Settlement Funds to the University for the debt service on the construction of the Health and Wellness Center.

The University appreciates the legislature's support of the John A. Burns School of Medicine. The investment that the State makes in the medical school helps not only deliver the tobacco cessation message and thus potentially prevent new injuries, but also helps provide the physicians who directly care for those injured by tobacco use.

Mahalo for the opportunity to testify.

THE QUEEN'S HEALTH SYSTEMS

To: Chair Sylvia Luke
Vice Chair Scott Y. Nishimoto
House Committee on Finance

From: Paula Yoshioka
Senior Vice President
The Queen's Health Systems

Re: SB 101 SD 1, Proposed HD 1, Relating to the Budget
Hearing—April 2, 2015 at 3:30 PM

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The Queen's Health Systems would like to offer comments and concerns regarding the proposed HD 1 to SB 101 SD 1, which would change allocations from the Tobacco Master Settlement Agreement. We are concerned that this legislation could negatively impact critical public health and research programs that are supported through these funds.

We are concerned that this legislation could potentially weaken programs intended to prevent and stop tobacco use by Hawaii residents and to prevent the development of chronic disease. Limiting the ability of our state agencies and their affiliated partners to effectively prevent tobacco use and develop strategies to promote chronic disease prevention will cost Hawaii in both real dollars and in quality of life for many residents and families.

While we understand the pressure our lawmakers face in addressing the state's financial and budgetary outlook, this legislation could compromise important programs that benefit the population of our state. We would ask that you defer this measure.

Thank you for your time and consideration of this matter.

| | |
|---|---|
| From: | mailinglist@capitol.hawaii.gov |
| Sent: | Tuesday, March 31, 2015 3:22 PM |
| To: | FINTestimony |
| Cc: | rosesabroad@hotmail.com |
| Subject: | Submitted testimony for SB101 on Apr 2, 2015 15:30PM |

**SB101**
Submitted on: 3/31/2015
Testimony for FIN on Apr 2, 2015 15:30PM in Conference Room 308

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---|---|---|---|
| Chris Rose | Individual | Oppose | No |

Comments: I wholeheartedly oppose this bill. This will remove money from much needed programs.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 31, 2015 3:13 PM
To: FINTestimony
Cc: malaepoint@earthlink.net
Subject: Submitted testimony for SB101 on Apr 2, 2015 15:30PM

**SB101**
Submitted on: 3/31/2015
Testimony for FIN on Apr 2, 2015 15:30PM in Conference Room 308

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---|---|---|---|
| DeborahGoebert | Individual | Oppose | No |

Comments: I oppose SB101 because it reduces important funds for emergency medical services.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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|---|---|
| From: | mailinglist@capitol.hawaii.gov |
| Sent: | Tuesday, March 31, 2015 6:05 PM |
| To: | FINTestimony |
| Cc: | david@kingdonconsulting.com |
| Subject: | Submitted testimony for SB101 on Apr 2, 2015 15:30PM |

**SB101**

Submitted on: 3/31/2015

Testimony for FIN on Apr 2, 2015 15:30PM in Conference Room 308

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---|---|---|---|
| David Kingdon, MPH, Paramedic | Individual | Oppose | No |

Comments: I oppose this measure. If passed and enacted, this bill would render insufficient the funding stream for critical emergency medical services (EMS) resources. There are no "extra" EMS assets in the state of Hawaii. Our system, and the patients we serve, are literally dependent on continued - and preferably expanded - funding. Thank you for your consideration.

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## FIN-Jo

**From:** mailinglist@capitol.hawaii.gov
**Sent:** Wednesday, April 01, 2015 7:46 AM
**To:** FINTestimony
**Cc:** case.golden@gmail.com
**Subject:** Submitted testimony for SB101 on Apr 2, 2015 15:30PM

**SB101**
Submitted on: 4/1/2015
Testimony for FIN on Apr 2, 2015 15:30PM in Conference Room 308

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---|---|---|---|
| Katherine Golden | Individual | Oppose | No |

Comments: Please continue the current emergency medical services funding. Hawaii is unique in its geography and landscape. EMS needs more than its current funds, not a reduction. I do NOT support SB101.

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| | |
|---|---|
| From: | mailinglist@capitol.hawaii.gov |
| Sent: | Thursday, April 02, 2015 11:11 AM |
| To: | FINTestimony |
| Cc: | gina@koka.org |
| Subject: | Submitted testimony for SB101 on Apr 2, 2015 15:30PM |

LATE

**SB101**
Submitted on: 4/2/2015
Testimony for FIN on Apr 2, 2015 15:30PM in Conference Room 308

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---|---|---|---|
| Georgina I | Individual | Comments Only | No |

Comments: Thank you for the opportunity to offer comments requesting an amendment to SB 101, SD1, Proposed HD1: Relating to the Budget. My name is Georgina I, and I am a (Home Visitor / Parent's as Teachers Supervisor / Island Site Supervisor / Home Instruction for Parents of Preschool Youngsters Parent Educator) with Keiki O Ka Aina Family Learning Centers. KOKA is a tax exempt, non-profit agency that has been providing educational and family strengthening services in Hawai`i for over 19 years. KOKA has programs serving children, parents, developmentally disabled, teen mothers, and children of incarcerated parents. Our mission is to educate children, strengthen families, enrich communities and perpetuate culture statewide. We fulfill our mission by communicating the vital importance of education, advocating for literacy, supporting parents as their keiki's first and best teacher, and empowering our most at- risk families to undertake leadership roles in their communities. • Home visiting has made a difference for families by providing essential early childhood education and developmental screenings for families. * Support families to be their keiki's first and best teacher • We have been able to make referrals to resources that families have needed because home visiting helps with improving children's health, child development and school readiness. • We have been able to support families' economic self-sufficiency by providing linkages and referrals to other social service programs that they would not be able to find themselves. • Maternal health and positive parenting practices are modeled and supporting that help to reduce child maltreatment, family violence, and neglect.

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LATE

55 Merchant Street
Honolulu, Hawai'i 96813-4333

HAWAI'I PACIFIC HEALTH
Kapi'olani · Pali Momi · Straub · Wilcox

www.hawaiipacifichealth.org

**Thursday, April 2, 2015– 3:30 p.m.**
**Conference Room 308**

**The House Committee on Finance**

To: Representative Sylvia Luke, Chair
Representative Scott Nishimoto, Vice Chair

From: Michael Robinson
Hawai'i Pacific Health

**Re: SB 101, SD1, Proposed HD1 Relating to the Budget**
**Comments**

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My name is Michael Robinson, Executive Director of Government Relations & Community Partnerships for Hawai'i Pacific Health. Hawai'i Pacific Health is a not-for-profit health care system, and the state's largest health care provider and non-government employer. It is committed to providing the highest quality medical care and service to the people of Hawai'i and the Pacific Region through its four hospitals, more than 50 outpatient clinics and service sites, and over 1,600 affiliated physicians. Hawai'i Pacific Health's hospitals are Kapi'olani Medical Center for Women & Children, Pali Momi Medical Center, Straub Clinic & Hospital and Wilcox Memorial Hospital.

Hawaii Pacific Health respectfully provides the following comments on the Proposed HD1 of SB 101, SD1 which would repeal the Hawaii Tobacco Settlement Special Fund and allocate funds to various programs.

The purpose of the Tobacco Master Settlement Agreement was to hold tobacco manufacturers accountable for the harm caused by the sale of cigarettes to Hawaii's citizens. It was intended that tobacco manufacturers bear the financial burden of health-related issues caused by tobacco products. Tobacco use is the leading preventable cause of death in Hawaii and the nation, and is a leading risk factor for heart disease and stroke. It is important to the health and wellbeing of our citizens that we continue to invest in programs that prevent and treat chronic disease and smoking cessation. Repealing the Tobacco Settlement Special Fund and moving the funds to the general funds would restrict funding to important services and programs. Should the state's priorities or fiscal outlook change in the future, monies received through the Tobacco Master Settlement Agreement may be diverted away from the smoking prevention and chronic disease treatment programs these funds now support.

Thank you for the opportunity to provide comments.

LATE

**TESTIMONY ON SB 101, SD1, HD1 (Proposed Draft): RELATING TO THE BUDGET**

TO: Representative Sylvia Luke, Chair; Representative Scott Y. Nishimoto, Vice-Chair; and Members, House Committee on Finance

FROM: Trisha Kajimura, Social Policy Director

**Hearing: Thursday, April 2, 2015; 3:30 PM; Conference Room 308**

***Thank you for the opportunity to offer comments requesting an amendment to SB 101, SD1, Proposed HD1: Relating to the Budget.***

Catholic Charities Hawai`i (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawai`i for over 60 years. CCH has programs serving individuals, elders, children, developmentally disabled, homeless and immigrants. Our mission is to provide services and advocacy for the most vulnerable in Hawai`i.

**Proposed Amendment:**

Section 4 of the proposed HD1 repeals Section 328L-4, Hawaii Revised Statutes, including (2) "Expend the remainder of the moneys received by the department of health promotion and disease prevention programs, including but not limited to, *maternal child health and child development programs*…" Section 5 goes on to appropriate general revenues of the State of Hawaii for related purposes but does not include the *maternal child health and child development programs* that were specified in 328L-4.

Catholic Charities Hawai'i is part of a network of non-profit human services organizations that provide home visiting services contracted by the Department of Health and funded through tobacco settlement funds. It is our understanding that currently, tobacco funds are the only means the department has to fund the home visiting program through the next fiscal year. We request that you amend the bill to include the maternal child health and child development programs stricken in Section 4 so that home visiting services can continue to be provided to at-risk families.

**Program Background:**

Home visiting services reduce intergenerational trauma by supporting parents to become more nurturing parents, prevention child abuse and neglect, and reducing other Adverse Childhood Experiences, including smoking and drug use.

When hearings were initially held in regard to tobacco settlement funds back in 2003, there was support for prevention services aimed not only at educating people about the risks of smoking, but also prevention services aimed at reducing the risks and traumas which result in addictive smoking.

The Adverse Childhood Experiences study of over 17,000 had just been published at that time, a study of over 17,000 Kaiser patients by the Center for Disease Control and Kaiser San Diego. The study showed strong correlations between early childhood adverse experiences and later chronic health problems, including smoking. The early adverse experiences studied include having been physically, emotionally or sexually abused or neglected, having lost a parent, having parents involved in domestic violence, substance abuse, mental health problems, or incarceration. These risk issues (known as ACEs or ACE factors) correlated strongly with smoking, chronic obstructive lung disease, and intravenous illicit drug use as well as other serious and chronic health conditions. Correlation with these health issues increased with the number of adverse experiences or ACE factors that an individual experienced. Approximately 10% of the population had six or more ACEs and showed high correlation with these issues. For smoking, people with 4-6 ACE factors were over 4 times more likely to smoke. **Please help us to continue providing home visiting services that will prevent Adverse Childhood Experiences and help children avoid these negative health outcomes related to childhood trauma.**

**Other Funding Considerations:**

*The Hawaii Home Visiting Program will bring in over $9 million in federal funds*.

$3,000,000 in state funding is needed as maintenance of effort in order to receive federal funds that have been awarded for the program. DOH has a $1,000,000 formula grant for this program and was recently awarded $8,430,783 from HRSA through a competitive expansion grant. This expansion grant also requires $3,000,000 in state maintenance of effort. **If this program is not funded by the state for $3,000,000 for the next two years, Hawaii will lose over $9,000,000 in federal funds.**

Thank you for the opportunity to testify, please contact me at (808)527-4810 or trisha.kajimura@catholiccharitieshawaii.org if you have any questions.

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April 2, 2015

**Testimony on SB101, HD1 Relating to the Budget**
House Committee on Finance
Thursday, April 2, 2015, 3:30 p.m.
Conference Room 308, State Capitol
Testimony submitted by: Howard S. Garval, MSW, President & CEO, Child & Family Service

Aloha, Chair Luke and Vice-Chair Nishimoto and Committee members. I am Howard S. Garval, President & CEO of Child & Family Service, Hawaii's oldest and most comprehensive human service nonprofit organization with services on every island and touching the lives of 40,000 Hawaii residents from keiki to Kūpuna each year. I am testifying in opposition to provisions in SB101, HD1 Relating to the Budget, specifically the proposed elimination of the 25% appropriation for Maternal Child Health services.

When hearings were initially held in regard to tobacco settlement funds back in 2003, there was testimony on the need for prevention services aimed not only at educating people about the risks of smoking, but also prevention services aimed at reducing the risks and traumas which result in addictive smoking.

A range of services are currently supported through this fund, including both education on risks of tobacco use and also services to reduce the risk of intergenerational trauma for newborns and young children at risk. The Department of Health (DOH) through its Maternal Child Health Branch (MCHB) funds home visiting services to reduce intergenerational trauma by supporting parents to become more nurturing parents, preventing child abuse and neglect, and reducing other ACEs (Adverse Childhood Experiences), including smoking and drug use. Within the last two months , MCHB was awarded almost $9.5 million in home visiting MIECHV (Maternal Infant Early Childhood Home Visiting) grant funds under the Affordable Care Act over a 2.5 year period. However, **DOH must maintain the state funding at a minimum of $3 million a year to fulfill the required Maintenance of Effort (MOE) in order to receive the Federal funds.** Since Tobacco Settlement Funds have been the only source of state funding for home visiting services for several years now, **it is critical to retain Tobacco Settlement Funds for this purpose or the state will have to forfeit all of the Federal funds it has just been awarded.** While home visiting services were once funded with general funds, with the demands placed on general funds, it seems unlikely that the state will be able to allocate $3 million in general funds in the near future to fulfill its MOE for the Federal funds. That is why it is so critical to continue to appropriate the $3 million through the use of the Tobacco Settlement Funds.

Mahalo for providing the opportunity to submit testimony.

With warm Aloha,

Howard S. Garval, MSW, President & CEO

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American Heart Association | American Stroke Association

life is why™

**Comments on SB 101, SD1, Proposed HD1 "Relating to the Budget"**

The American Heart Association has concerns with section 2, part 2 of the bill. That section proposes to set the level of allocations from the Hawaii Tobacco Settlement Special Fund to the Hawaii Tobacco Prevention and Control Trust Fund **at 6 ½ percent**, the current level of funding. That would in fact **result in cuts of over $2 million annually to community tobacco prevention and control programs from current funding levels**.

When the State Legislature cut funding to the Hawaii Tobacco Prevention and Control Trust Fund during the economic downturn, the Department of Health, which oversees that Fund, was required to spend down the corpus of the Special Fund to maintain community tobacco prevention, control and cessation programs. Much of the recent success we have witnessed in recent years in reducing Hawaii's smoking rates are because those programs were maintained despite the cut in funding to the corpus. However, should the funding to the Trust Fund corpus not be restored, cuts in programs would be required in order to keep the Trust Fund sustainable at current program levels.

**The current legislation is set to sunset on June 30, 2015 at which time the allocations to the Tobacco Prevention and Control Trust Fund are scheduled to return to the 12 ½ percent allocation level that existed before the economic downturn.** Even that represents half of what the allocation to the Trust Fund was when the Tobacco Settlement Fund was originally established, and prior to cuts to provide funding for construction of the UH Medical School.

The funding that Hawaii has invested in tobacco prevention to-date has resulted in Hawaii having the third lowest adult smoking rate in the nation, at 13 percent. Smoking among Hawaii youths declined between 2000 and 2013 by 63 percent. Clearly, investing in tobacco prevention and control reaps huge benefits to the state and its taxpayers.

The U.S. Centers For Disease Control (CDC) recommends that Hawaii needs to invest a minimum of $13.7 million each year to fund a fully effective, comprehensive tobacco control program. The most that Hawaii has invested since the Tobacco Prevention and Control Trust Fund was established was approximately $8 million. **Funding the Trust Fund at the 12 ½ percent level would not approach the CDC's recommended level, but it would at least maintain close to current program funding levels going forward**.

That is important because, the **Federal Trade Commission's most recent report released on March 30, 2015, stated that tobacco companies advertising and marketing has again increased by 10% over the estimated $27 million it spent in the previous report period to push their deadly products in Hawaii on a new generation of nicotine users**.

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Tobacco use remains the leading preventable cause of death in our state and in the country, and a leading risk factor for heart disease and stroke. **Tobacco use kills more than 400,000 people each year and costs the U.S. $96 billion in health care** .

The American Heart Association feels that Tobacco settlement funds should primarily be used to help those who are affected directly by tobacco addiction and tobacco industry marketing, as well as to help keep future generations from falling into the tobacco industry's trap of lifelong addiction.

While the **American Heart Association by national policy does not accept state funding**, it relies on community partnerships with community groups which use Tobacco Settlement funding to reduce tobacco consumption in our state. Tobacco remains the leading preventable cause of heart disease and stroke.

**The AHA strongly urges that SB 101, SD1, Proposed HD1 be amended to restore funding to the Hawaii Tobacco Prevention and Control Special Fund to its previous 12 ½ percent level.**

Respectfully submitted,

Donald B. Weisman

Donald B. Weisman
Hawaii Government Relations Director

PHOCUSED

LATE

PROTECTING HAWAII'S OHANA, CHILDREN, UNDER SERVED, ELDERLY AND DISABLED



TO: Representative Sylvia Luke, Chair
Representative Scott Y. Nishimoto, Vice Chair
Members, House Committee on Finance

FROM: Scott Morishige, MSW
Executive Director, PHOCUSED

HEARING: **Thursday, April 2, 2015 at 3:30 p.m.**

**Offering Comments in regards to <u>SB101 SD1 Proposed HD1, Relating to the Budget</u>**

Thank you for the opportunity to **respectfully offer comments** in regards to SB101 SD1 Proposed HD1, which would repeal the Hawaii Tobacco Settlement Special Fund and appropriate general fund revenues to various programs supported by Hawaii Tobacco Settlement Funds. PHOCUSED is a nonprofit membership and advocacy organization that works together with community stakeholders to impact program and policy change for the most vulnerable in our community, including at-risk families with young children in the home.

**While we appreciate the intent of the Proposed HD1, we note that language in the draft may have the effect of inadvertently defunding critical maternal child health and development programs, such as the Hawaii Home Visiting Program.** PHOCUSED understands the need to strengthen oversight and increase transparency in regards to programs that are primarily funded by non-general funds. However, we are concerned about the risk of potential unintended consequences if appropriations for critical maternal child health and development programs are not provided.

Section 4 of the proposed HD1 repeals HRS 328L-4, including the Department of Health's ability to *"expend the remainder of the moneys . . . including but not limited to* ***maternal child health and child development programs*** *. . . "* Section 5 goes on to appropriate general revenues of the State of Hawaii for related purposes, but does not specify appropriations for the maternal child health and child development programs identified in 328L-4. The maternal child health and child development programs that currently receive funding from the Tobacco Settlement Special Fund include the Hawaii Home Visiting Program, which provides early identification (screening/assessment) and home visiting services for families with children from birth to three years of age.

Currently, the Hawaii Home Visiting Program (HHVP) receives an appropriation of $3 million from the Tobacco Settlement Special Fund – This money is used towards a State maintenance of effort in order to leverage an additional $9,430,783 in federal funds from a combination of a formula grant award and a competitive expansion grant. ***<u>If the current language in the Proposed HD1 goes forward and general fund appropriations are not provided for the HHVP, the State of Hawaii may be in danger of losing over $9 million in federal funds.</u>***

In addition to loss of federal funding, there is also the risk of long-term harm to young

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www.phocused-hawaii.org admin@phocused-hawaii.org

children in our community if HHVP services were to go away. Home visiting services have demonstrated their ability to reduce intergenerational trauma, prevent child abuse and neglect, and reduce other adverse childhood experiences, including smoking and drug use. Since the establishment of the HHVP by the Legislature in 2013, the program has provided early identification (screening/assessment) and home visiting services for at-risk families with children from birth to three years of age in priority high-risk neighborhoods.

A number of PHOCUSED member organizations – including Child & Family Service, Catholic Charities Hawaii, and Parents and Children Together – currently participate in the HHVP. Through their work in the community, these organizations see firsthand that raising a family with limited resources, personal histories of trauma, and/or other life challenges can be very difficult for parents and can put them at risk for mistreatment of their children. By intervening early and offering support to at risk parents, HHVP providers can effectively stop the cycle of abuse that would otherwise be perpetuated without intervention.

**Once again, we appreciate the opportunity to offer comments in regards to the Proposed HD1.** If you have any questions, please do not hesitate to contact PHOCUSED at 521-7462 or by e-mail at admin@phocused-hawaii.org.

LATE

UNIVERSITY of HAWAI'I MĀNOA

Myron B. Thompson School of Social Work

# HAWAII FAMILY SUPPORT INSTITUTE

*Making Hawaii's Families Strong*



April 1, 2015

Representative Sylvia Luke, Chair, House Finance Committee
Representative Scott Nishimoto, Vice Chair, House Finance Committee

Re: SB 101, proposed HD1, Relating to the budget

Dear Representatives Luke, Nishimoto and members of the Committee:

I am Gail Breakey, Director of the Hawaii Family Support Institute testifying in comment on this legislation as it relates to Section 4, p. 6 which repeals allocation of funding to the Department of Health for health promotion and disease prevention, **which would specifically affect the Departments 2015-16 funding plan to utilize Tobacco Settlement Funds for home visiting services to prevent child abuse and neglect among infants of high risk families.**

The $3M in Tobacco Settlement Funds currently allocated by the Department for home visiting services for 2015-16 is required as maintenance of effort for over $9M in Federal MIECHV-ACA funds awarded to the state for these services over the next two years. .

It is understood that the legislature wishes to reduce dependence on special funds. The original DOH budget for home visiting included $1.5 M in general funds and $1.5 in Tobacco funds, anticipating this, however this was deleted from the budget in January.

The original inclusion of home visiting services for infants at high risk for child abuse was related to the outcomes of the landmark CDC study on the Adverse Childhood Experiences, which showed the high correlations between early abuse and later self-medicating behavior with use of tobacco and illicit drugs. Thus averting abusive experiences especially during the developmental period of rapid brain formation in the first 1000 days of life, when the foundations of the nervous and emotional systems are established is relevant to reductions in tobacco use..

If Tobacco Settlement Funds are not to be used for this purpose in2015-16, it will be important to re-consider allocating general funds for this initiative. Thank you for the opportunity to testify on this legislation.

Sincerely,
Gail Breakey, RN, MPH, Executive Director,
Hawaii Family Support Institute

University of Hawai'i at Manoa ♦ School of Social Work
1800 East West Road, Henke Hall Rm. 215 ♦ Honolulu, HI 96822
phone: 808.956-3384 ♦ facsimile: 808.956.9885

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, April 02, 2015 5:25 AM
To: FINTestimony
Cc: rkusumoto@pacthawaii.org
Subject: *Submitted testimony for SB101 on Apr 2, 2015 15:30PM*

LATE

**SB101**
Submitted on: 4/2/2015
Testimony for FIN on Apr 2, 2015 15:30PM in Conference Room 308

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---|---|---|---|
| Ryan Kusumoto | Parents And Children Together | Oppose | No |

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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April 2, 2015



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*Preschool and School Age*
*Sexual Assault Support Services*
*Teen Court*

Representative Sylvia Luke, Chair, House Finance Committee
Representative Scott Nishimoto, Vice Chair, House Finance Committee

Re: SB 101, proposed HD1, Relating to the budget

Dear Representatives Luke, Nishimoto and members of the Committee:

I am Andrew Kahili, Community Relations Events Officer and Program Director testifying in comment on this legislation as it relates to Section 4, p. 6 which repeals allocation of funding to the Department of Health for health promotion and disease prevention, **which would specifically affect the Departments 2015-16 funding plan to utilize Tobacco Settlement Funds for home visiting services to prevent child abuse and neglect among infants of high risk families.**

The $3M in Tobacco Settlement Funds currently allocated by the Department for home visiting services for 2015-16 is required as maintenance of effort for over $9M in Federal MIECHV-ACA funds awarded to the state for these services over the next two years. .

It is understood that the legislature wishes to reduce dependence on special funds. The original DOH budget for home visiting included $1.5 M in general funds and $1.5 in Tobacco funds, anticipating this, however this was deleted from the budget in January.

The original inclusion of home visiting services for infants at high risk for child abuse was related to the outcomes of the landmark CDC study on the Adverse Childhood Experiences, which showed the high correlations between early abuse and later self-medicating behavior with use of tobacco and illicit drugs. Thus averting abusive experiences especially during the developmental period of rapid brain formation in the first 1000 days of life, when the foundations of the nervous and emotional systems are established is relevant to reductions in tobacco use..

If Tobacco Settlement Funds are not to be used for this purpose in2015-16, it will be important to re-consider allocating general funds for this initiative. Thank you for the opportunity to testify on this legislation.

Sincerely,

Andrew A. Kahili
CREO and Program Director
YWCA of Hawai'i Island

for every woman

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Keiki O Ka ʻĀina
FAMILY LEARNING CENTERS

April 2, 2015

To: Representative Sylvia Luke, Chair; Representative Scott Y. Nishimoto, Vice-Chair; and Members, House Committee on Finance

Re: SB 101

My name is Melodie Naluaʻi Vega , Director Early Childhood Programs at Keiki O Ka ʻĀina Family Learning Centers, testifying in support of home visiting services for high risk, disadvantaged families with infants and toddlers.

The purpose of this initiative is to prevent child abuse and neglect and promote well-being, health and positive development of infants and toddlers who are at great risk for abuse and neglect, lack of school readiness and need for special education, as well as a wide variety of social and health problems stemming from trauma and poor developmental foundations.

Within the services we provided to at risk families in Kona and Wailuku in fiscal year 2014:

- 100% of keiki, 8 months through 36 months, were developmentally screened using the Ages and Stages Developmental Screening Questionnaire.

- 100% of parent participants were screened for depressive symptoms or parenting stress using the Parenting Stress Index.

- 100% of adult participants were screened for domestic violence within 6 months of enrollment.

- 35% of families received additional services, including, social service, health and welfare, and assistance for keiki with special needs.

The average yearly income for enrolled participants in services in the above areas was approximately $20,000.

Keiki O Ka ʻĀina Family Learning Centers supports the DOH budget of $3 million to maintain existing services. This not only funds effective, evidence-based services but is required annually for the state to draw down over $9.4 million in federal grant funds. **Without the annual commitment of $3 million for this program -we will lose our opportunity to receive this federal award.** Our families who need this program the most will lose this opportunity.

Thank you for the opportunity to testify on this legislation.

Melodie Vega, ECE Programs Director
Keiki O Ka ʻĀina Family Learning Centers
melodie@koka.org 843-2502

LATE

Keiki O Ka Aina Family Learning Centers

**TESTIMONY ON SB 101, SD1, HD1 (Proposed Draft): RELATING TO THE BUDGET**

TO: Representative Sylvia Luke, Chair; Representative Scott Y. Nishimoto, Vice-Chair; and Members, House Committee on Finance

FROM: Trisha Kajimura, Social Policy Director

**Hearing: Thursday, April 2, 2015; 3:30 PM; Conference Room 308**

**Thank you for the opportunity to offer comments requesting an amendment to SB 101, SD1, Proposed HD1: Relating to the Budget.**

Keiki O Ka Aina Family Learning Centers is a tax exempt, non-profit agency that has been providing educational and family strengthening services in Hawai`i for over 19 years. KOKA has programs serving children, parents, developmentally disabled, teen mothers, and children of incarcerated parents. Our mission is to educate children, strengthen families, enrich communities and perpetuate culture statewide. We fulfill our mission by communicating the vital importance of education, advocating for literacy, supporting parents as their keiki's first and best teacher, and empowering our most at-risk families to undertake leadership roles in their communities.

**Proposed Amendment:**

Section 4 of the proposed HD1 repeals Section 328L-4, Hawaii Revised Statutes, including (2) "Expend the remainder of the moneys received by the department of health promotion and disease prevention programs, including but not limited to, *maternal child health and child development programs*…" Section 5 goes on to appropriate general revenues of the State of Hawaii for related purposes but does not include the *maternal child health and child development programs* that were specified in 328L-4.

Keiki O Ka Aina Family Learning Centers is part of a network of non-profit educational and human services organizations that provide home visiting services contracted by the Department of Health and funded through tobacco settlement funds. It is our understanding that currently, tobacco funds are the only means the department has to fund the home visiting program through the next fiscal year. We request that you amend the bill to include the **maternal child health and child development programs** stricken in Section 4 so that home visiting services can continue to be provided to at-risk families.

**Program Background:**

**Home visiting services reduce intergenerational trauma by supporting parents to become more nurturing parents, prevention child abuse and neglect, and reducing other Adverse**

Keiki O Ka Aina Family Learning Centers

**Childhood Experiences, including smoking and drug use.**

When hearings were initially held in regard to tobacco settlement funds back in 2003, there was support for prevention services aimed not only at educating people about the risks of smoking, but also prevention services aimed at reducing the risks and traumas which result in addictive smoking.

The Adverse Childhood Experiences study of over 17,000 had just been published at that time, a study of over 17,000 Kaiser patients by the Center for Disease Control and Kaiser San Diego. The study showed strong correlations between early childhood adverse experiences and later chronic health problems, including smoking. The early adverse experiences studied include having been physically, emotionally or sexually abused or neglected, having lost a parent, having parents involved in domestic violence, substance abuse, mental health problems, or incarceration. These risk issues (known as ACEs or ACE factors) correlated strongly with smoking, chronic obstructive lung disease, and intravenous illicit drug use as well as other serious and chronic health conditions. Correlation with these health issues increased with the number of adverse experiences or ACE factors that an individual experienced. Approximately 10% of the population had six or more ACEs and showed high correlation with these issues. For smoking, people with 4-6 ACE factors were over 4 times more likely to smoke. **Please help us to continue providing home visiting services that will prevent Adverse Childhood Experiences and help children avoid these negative health outcomes related to childhood trauma.**

**Other Funding Considerations:**

***The Hawaii Home Visiting Program will bring in over $9 million in federal funds.***

$3,000,000 in state funding is needed as maintenance of effort in order to receive federal funds that have been awarded for the program. DOH has a $1,000,000 formula grant for this program and was recently awarded $8,430,783 from HRSA through a competitive expansion grant. This expansion grant also requires $3,000,000 in state maintenance of effort. **If this program is not funded by the state for $3,000,000 for the next two years, Hawaii will lose over $9,000,000 in federal funds.**

Thank you for the opportunity to testify, please contact me at (808) 843-2502 or momi@koka.org if you have any questions.

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Date: April 2, 2015

To: The Honorable Sylvia Luke, Chair, Committee on Finance
The Honorable Scott Nishimoto, Vice Chair, Committee on Finance
Members, House Committee on Finance

Hrg: House Committee on Finance; Thursday, April 2, 2015 at 330pm, Rm 308

Re: **Comments and Recommendations for SB 101, SD 1, Relating to the Budget**

Thank you for the opportunity to offer comments and recommendations for SB 101, SD 1, Proposed HD 1 which repeals the Hawai`i Tobacco Settlement Special Fund (TSSF).

I serve as the Hawai`i Director for the American Lung Association of the Mountain Pacific. Our mission is to save lives by improving lung health and preventing lung disease. Central to our mission is working to reduce the harmful health effects of tobacco addiction and use. Our programs help the people of Hawai`i break the addiction to tobacco as well as providing education and resources to prevent youth and young adults from every starting to use tobacco.

In 2000, the TSSF was established to manage Hawai`i's portion of the Federal Master Settlement Agreement (MSA), a result of 46 states suing the four largest tobacco companies in the US. At that time, 25% of the TSSF was allocated to the tobacco prevention and control trust fund. Now in 2015, that allocation is 6.5%.

We understand that Section 328L-5 of this bill would appropriate the current 6.5% of the TSSF to Hawaii's tobacco prevention and control efforts. However, Act 119, Session Laws Hawai`i 2009 noted a sunset date where the appropriation would return to 12.5% in FY16. We are therefore recommending that the 12.5% appropriation be restored. We need to preserve the integrity of these dollars and continue working to lessen tobacco's hold on our community and to support the successful prevention and control efforts occurring throughout the state; the tobacco industry spends $27 million a year on advertising and marketing their products just here in Hawai`i. [1]

We can and must do more for our adults who wish to quit, and to keep the 5,600 kids in Hawai`i from trying their first cigarette.[2] Tobacco use remains the leading preventable cause of death in our state and in the country, responsible for 1,400[3] deaths each year in Hawai`i alone, and generating $526 million in health care costs to our state.[4]

The American Lung Association in Hawai`i respectfully requests that you restore funding to the Hawai`i Tobacco Prevention and Control Trust Fund to 12.5% – for our people. Thank you for considering.

Mahalo,

Kim Nguyen

Kim Nguyen, MSW
Executive Director – Hawai`i
American Lung Association of the Mountain Pacific

[1] http://www.tobaccofreekids.org/facts_issues/toll_us/hawaii
[2] Hawaii State Department of Health, Tobacco Prevention and Education Program. (2011). *Data Highlights from the 2011 Hawaii Youth Tobacco Survey (YTS) and Comparisons with Prior Years.* Available at http://health.hawaii.gov/about/files/2013/06/2011_HYTS.pdf
[3] Campaign for Tobacco-Free Kids, *The Toll of Tobacco in Hawaii.* http://www.tobaccofreekids.org/facts_issues/toll_us/hawaii
[4] Campaign for Tobacco-Free Kids, *The Toll of Tobacco in Hawaii.* http://www.tobaccofreekids.org/facts_issues/toll_us/hawaii

LATE

COALITION FOR A TOBACCO-FREE HAWAI'I

To: The Honorable Sylvia Luke, Chair, Committee on Finance
The Honorable Scott Y. Nishimoto, Vice Chair, Committee on Finance
Members, House Committee on Finance
From: Jessica Yamauchi, Executive Director
Date: April 1, 2015
Hrg: House Committee on Finance; Thursday, April 2, 2015 at 3:30 p.m. in Rm 308

Re: **Comments and Recommendations for SB 101, SD1, Proposed HD1 Relating to the Budget**

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Thank you for the opportunity to offer comments and recommendations for SB 101, SD1, Proposed HD 1 which repeals the Hawaii Tobacco Settlement Special Fund.

The Coalition for a Tobacco Free Hawaii (Coalition) is a program of the Hawaii Public Health Institute working to reduce tobacco use through education, policy and advocacy. Our program consists of over 100 member organizations and 2,000 advocates that work to create a healthy Hawaii through comprehensive tobacco prevention and control efforts.

Funds from the Master Settlement Agreement which is a result of 46 states suing the four largest tobacco companies in the United States to recover billions of dollars in costs associated with treating smoking-related illness. The Tobacco Settlement Special Fund (TSSF) was established in 2000. When initially established, 25% was allocated to the tobacco prevention and control trust fund. Since 2000, allocations to the fund has been amended numerous times and distribution reapportioned. Currently, the tobacco prevention and control trust fund is allocated 6.5% and the Department of Health is allocated 15%.

This bill would appropriate 6.5% to the Hawaii Tobacco Prevention and Control Trust Fund under section 328L-5. Although this would appear to be level funding, Act 119, Session Laws Hawaii 2009, put in place a sunset date, where the appropriation would return to 12.5% in FY 2016. During the period of time when funding was reduced, funding of programs continued by drawing on funds from the principal, but this cannot be sustained indefinitely. If funding does not return to 12.5% as originally anticipated, approximately 2.5 million will need to be cut in community programs focused on tobacco prevention and cessation.

With funding that Hawaii has invested to date in tobacco prevention, Hawaii's adult smoking rate has dropped to 13 percent, the third lowest adult smoking rate in the nation.[1] Although significant progress has been made in tobacco prevention and control, tobacco use remains the leading preventable cause of death in our state and in the country. 1,400 people die from tobacco

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[1] http://health.hawaii.gov/brfss/files/2014/10/HBRFSS_2013results_OCT06.pdf

COALITION FOR A TOBACCO-FREE HAWAI'I

use or exposure in Hawaii each year.[2] Tobacco use causes $132 billion in health care costs in the US each year[3], including $526 million the State of Hawaii.[4] 5,600 kids in Hawaii try smoking for the first time each year, as a result 1,400 of them become regular smokers each year.[5] In addition, youth usage of electronic smoking devices has tripled (18%) among high school students and quadrupled (8%) among middle school students (Hawaii Youth Tobacco Survey, 2013).

The U.S. Centers for Disease Control (CDC) recommends that Hawaii spend $13.7 million each year to fund an effective, comprehensive tobacco prevention and control program.[6] Hawaii funds tobacco prevention and control at 55% of the recommended amount. Currently, nothing from the cigarette tax or other tobacco product tax is allocated to tobacco prevention and control. Funds from the TSSF are essential to tobacco prevention and control community programs and help those who are affected directly by tobacco addiction and tobacco marketing. $27 million annually is spent in Hawaii on advertising and marketing of tobacco products.[7] Prevention is essential, we must protect future generations from falling victim to the tobacco industry.

We humbly ask you to consider restoring funding to the Hawaii Tobacco Prevention and Control Trust Fund to 12.5%.

Thank you for the opportunity to offer comments and recommendations on this matter.

Jessica Yamauchi

Jessica Yamauchi, M.A.
Executive Director

[2] Campaign for Tobacco-Free Kids, *The Toll of Tobacco in Hawaii*. http://www.tobaccofreekids.org/facts_issues/toll_us/hawaii
[3] Campaign for Tobacco-Free Kids , *Toll of Tobacco in the USA* *http*://www.tobaccofreekids.org/research/factsheets/pdf/0072.pdf
[4] Campaign for Tobacco-Free Kids, *The Toll of Tobacco in Hawaii*. http://www.tobaccofreekids.org/facts_issues/toll_us/hawaii
[5] Hawaii State Department of Health, Tobacco Prevention and Education Program. (2011). *Data Highlights from the 2011 Hawaii Youth Tobacco Survey (YTS) and Comparisons with Prior Years.* Available at http://health.hawaii.gov/about/files/2013/06/2011_HYTS.pdf
[6] "Broken Promises to Our Children" report, Campaign for Tobacco Free Kids, http://www.tobaccofreekids.org/microsites/statereport2015/hawaii.html
[7] http://www.tobaccofreekids.org/facts_issues/toll_us/hawaii

finance8-Melanie

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, April 02, 2015 11:01 AM
To: FINTestimony
Cc: francine@koka.org
Subject: Submitted testimony for SB101 on Apr 2, 2015 15:30PM

**SB101**
Submitted on: 4/2/2015
Testimony for FIN on Apr 2, 2015 15:30PM in Conference Room 308

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---|---|---|---|
| Francine H. Su'a-Filo | Keiki O Ka 'Aina | Comments Only | No |

Comments: Aloha, In order to build strong, beloved communities, we need to build strong 'ohana. This bill is strongly needed to assist us in supporting 'ohana to know their worth by getting the support they need which home visiting provides as we build relationships one 'ohana at a time. Please support this bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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LATE

| | |
|---|---|
| From: | mailinglist@capitol.hawaii.gov |
| Sent: | Thursday, April 02, 2015 11:08 AM |
| To: | FINTestimony |
| Cc: | johnette@koka.org |
| Subject: | Submitted testimony for SB101 on Apr 2, 2015 15:30PM |

**SB101**
Submitted on: 4/2/2015
Testimony for FIN on Apr 2, 2015 15:30PM in Conference Room 308

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---|---|---|---|
| Johnette Funtanilla | Individual | Comments Only | No |

Comments: My name is Johnette Funtanilla and I am a Home Instruction for Parents of Preschool Youngsters program manager with Keiki O Ka Aina Family Learning Centers. KOKA is a tax exempt, non-profit agency that has been providing educational and family strengthening services in Hawai`i for over 19 years. KOKA has programs serving children, parents, developmentally disabled, teen mothers, and children of incarcerated parents. Our mission is to educate children, strengthen families, enrich communities and perpetuate culture statewide. We fulfill our mission by communicating the vital importance of education, advocating for literacy, supporting parents as their keiki's first and best teacher, and empowering our most at-risk families to undertake leadership roles in thei r communities. We have been able to support our parents by providing them with the tools and confidence they need to be their child's first and most important teacher.

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DAVID Y. IGE
GOVERNOR OF HAWAII

VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
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LATE

**Testimony COMMENTING on SB101, SD 1 HD1 PROPOSED**
**RELATING TO THE BUDGET**

REPRESENTATIVE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE
Hearing Date: April 2, 2015 Room Number: 308

**Fiscal Implications:** Changes the appropriation of money in the Hawaii Tobacco Settlement Special Fund (TSSF) that is administered by the Department of Health (DOH), and changes the means of finance for the DOH portion located in HTH590 of the State Budget.

**Department Testimony:** The Department provides comments on the proposed House Draft 1, Senate Bill 101, Senate Draft 1 (SB101, SD1 HD1) that amends Section 328L-2, Hawaii Revised Statutes (HRS). The Department appreciates the transfer in means of finance (MOF) for chronic disease prevention and health promotion programs in HTH590 to general funds and recognizes that this is consonant with this Administration's commitment to transparency and accountability, and that the core functions of the State should be supported through general revenues.

Section 2 (page 2) deletes the distribution portion of the TSSF to the DOH that is then according to §328L-4, HRS (now deleted Section 4) that provides up to 10% of the TSSF to the Department of Human Services (DHS) State Children's Health Insurance Program (S-CHIP) and the remainder to be used by the Department for health promotion and chronic disease prevention programs. The $6,363,263 each for fiscal year (FY) 2015-2016 and $6,446,158 FY 2016-2017 is based on FY 2013-2014 levels minus fringe benefits for payroll. The change in MOF as currently described would negatively impact 39.50 full time equivalent (FTE) positions and operational costs in the Chronic Disease Prevention and Health Promotion Division (HTH590).

The Department defers to DHS on the fiscal biennium appropriation amounts and change in MOF to general funds for the S-CHIP in Section 5 (page 7). The DOH also defers to the Department of the Attorney General (AG) on the financial impact of not receiving the annual

$350,000 from the TSSF (Section 2, lines 11-16, page 2) as proposed which are to be used to enforce the Master Settlement Agreement with the participating tobacco companies.

The Department appreciates the continuation of funding from the TSSF for the Hawaii Tobacco Prevention and Control Trust Fund (Trust Fund). The Trust Fund has a clear nexus with the reason why Hawaii joined in the class action suit against the tobacco industry, and then with the National Association of Attorneys Generals who decided to settle.

The Master Settlement Agreement (MSA) was completed out of concern for youth and for those whose health was compromised, to prevent involuntary exposure and use of tobacco products, and to provide states with funding for public health and tobacco prevention and control programs. The current Trust Fund portion was slated to revert to 12.5% from 6.5% on June 30, 2015. The Proposed HD1 provides 6.5% for the Trust Fund, and the Department respectfully requests that this be allowed to increase to 12.5% since tobacco use is still the leading cause of preventable death and diseases in the state. The people of Hawaii continue to need the prevention and cessation services provided through the Trust Fund.

**Offered Amendments:** We respectfully offer the following amendment so that the funding reflects the function of the HTH590 Division: "for chronic disease prevention and health promotion (HTH590) for tobacco prevention, nutrition, physical activity, and chronic disease related programs~~and cessation operation expenses~~." The Department appreciates the proposed change in MOF for HTH590 which is the program identification for the Chronic Disease Prevention and Health Promotion Division. Section 6 (page 8, lines 5 – 7) describes the purpose of the appropriation being, "for chronic disease prevention and health promotion (HTH590) for tobacco prevention and cessation operating expenses." The proposed change in MOF will impact 39.50 FTE and operational costs for programs across all of the primary prevention, chronic disease management, surveillance, evaluation, epidemiology, policy, communications, and planning functions in the Division.

The Department respectfully requests consideration of additional funding for the Family Health Services Division, Home Visitation Program (HTH560). Act 134, SLH 2013 (Budget Worksheet, Sequence 90-001, page 406 of 765) allowed the Department to transfer $3,000,000 of TSSF for HTH560 in FY 2013-2014 and FY 2014-2015 which it did with unencumbered cash that remained in HTH590. The Department respectfully requests consideration of $3,000,000 for FY 2015-2016 and $3,000,000 for FY 2016-2017 in general revenues for maintenance of effort dollars required to retain and spend the $9.43 million federal Maternal, Infant, and Early Childhood Home Visiting grant award from the U.S. Department of Health and Human Services.

The Department respectfully requests that the Trust Fund portion in Section 2 (page 3, line 6) be amended to: "(2) ~~Six~~ Twelve and one-half percent shall be appropriated into the Hawaii tobacco and prevention and control trust fund under section 328L-5".

Thank you for the opportunity to testify.

HAWAI‘I EARLY INTERVENTION
COORDINATING COUNCIL
1350 South King St. Suite 200 ꩜ Honolulu Hawai‘i 96814

LATE

Date: April 3, 2015

To: COMMITTEE ON FINANCE
Rep. Sylvia Luke, Chair
Rep. Scott Y. Nishimoto, Vice Chair

Fr: Michael C. Fahey, Chair, Hawaii Early Intervention Coordinating Council

Re: **SUPPORT – SB101 SD1 Proposed HD1** – RELATING TO HEALTH
**COMMENTS** Hearing #2: April 2, 2015 at 3:30 PM, Conference Room 308

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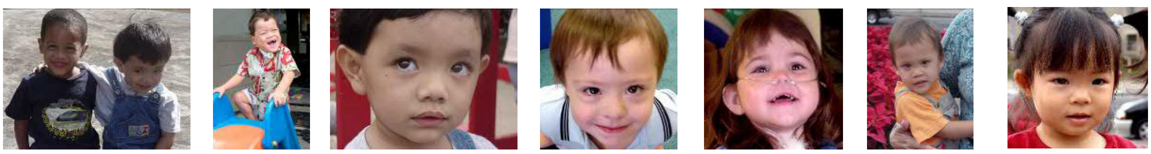
On behalf of the Hawaii Early Intervention Coordinating Council (HEICC), I submit this testimony in **support** of SB 101 Proposed HD1, which amends the Hawaii Tobacco Settlement Special Fund to repeal authority to allocate funds to Maternal Child Health and Child Development programs managed by the Department of Health (DOH). **While we are pleased with the intent of the Proposed HD1 to steward these valuable public funds, we are concerned how this amendment may inadvertently affect the Hawaii Home Visiting Program, which was in jeopardy of losing funding earlier in the session until DOH ostensibly secured funds through Tobacco Settlement Special funds to sustain the program through fiscal year 2016. Should this change be made, we respectfully request members of the committee to secure $3 million in general funding appropriation for the Hawaii Home Visiting Program.**

The Hawaii Home Visiting Program, a hospital-based early intervention that refers high-risk families to evidence-based home visiting designed to enhance health and safety outcomes and prevent child abuse and neglect, and ensure continuation of home visiting services in several high-risk communities throughout the state. **The current level of $3 million helps the state establish its maintenance of effort to draw down more than $9.4 million in federal funds provided through Affordable Care Act Maternal Infant Early Childhood Home Visiting program each year and may leverage federal expansion funds if the state continues its maintenance of effort for this prevention program.**

The Hawaii Home Visiting Program is critical prevention and education resource that provides families with advice and guidance from health, social service and child development partners to improve the health and development, prevent child injuries, abuse, neglect or maltreatment, and improve school readiness and achievement for children from birth to three.

For these reasons, the HEICC supports this measure. Thank you for your time and consideration.



# Maui Family Support Services, Inc.

...because keiki matter!!!

LATE

**TESTIMONY ON SB 101, SD1, HD1 (Proposed Draft): RELATING TO THE BUDGET**

TO: Representative Sylvia Luke, Chair; Representative Scott Y. Nishimoto, Vice-Chair; and Members, House Committee on Finance

E. Baguio-Larena

FROM: Edeluisa Baguio-Larena, Chief Executive Officer

**Hearing: Thursday, April 2, 2015; 3:30 PM; Conference Room 308**

***Thank you for the opportunity to offer comments requesting an amendment to SB 101, SD1, Proposed HD1: Relating to the Budget.***

**Maui Family Support Services** is a private, non-profit agency incorporated in 1980 to provide early childhood development services to families in Maui County. The agency has provided 34 years of continuous service to residents of Maui County. Our Mission is: "to promote healthy family functioning by providing supportive services which build on family strengths" in conjunction with the Prime Directive "to utilize our collective resources toward the prevention of child abuse and neglect." The agency serves the islands of Maui, Lana`i and Moloka`i.

**Proposed Amendment:**

Section 4 of the proposed HD1 repeals Section 328L-4, Hawaii Revised Statutes, including (2) "Expend the remainder of the moneys received by the department of health promotion and disease prevention programs, including but not limited to, *maternal child health and child development programs*..." Section 5 goes on to appropriate general revenues of the State of Hawaii for related purposes but does not include the *maternal child health and child development programs* that were specified in 328L-4.

Maui Family Support Services, Inc. is part of a network of non-profit human services organizations that provide home visiting services contracted by the Department of Health and funded through tobacco settlement funds. It is our understanding that currently, tobacco funds are the only means the department has to fund the home visiting program through the next fiscal year. We request that you amend the bill to include the maternal child health and child development programs stricken in Section 4 so that home visiting services can continue to be provided to at-risk families.



*"This project has been jointly funded by the Department of Health, Maternal and Child Health Branch with funds from the Maternal, Infant and Early Childhood Home Visiting grant sponsored by the Health Resources Services Administration."*

**Please help us to continue providing home visiting services that will prevent Adverse Childhood Experiences and help children avoid these negative health outcomes related to childhood trauma.**

**The Hawaii Home Visiting Program will bring in over $9 million in federal funds.** Three million in state funding is needed as maintenance of effort in order to receive federal funds that have been awarded for the program. DOH has a $1,000,000 formula grant for this program and was recently awarded $8, 430,783 from HRSA through a competitive expansion grant. This expansion grant also requires $3,000,000 in state maintenance of effort. **If this program is not funded by the state for $3,000,000 for the next two years, Hawaii will lose over $9,000,000 in federal funds.**

Thank you for the opportunity to testify, please contact me at (808) 242-0900 or edeluisa@mfss.org if you have any questions.



"This project has been jointly funded by the Department of Health, Maternal and Child Health Branch with funds from the Maternal, Infant and Early Childhood Home Visiting grant sponsored by the Health Resources Services Administration."