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Lucy Young-Oda

lyoungoda@staradvertiser.com 529-4831

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Hawaii's tobacco trust fund is a success. Keep it that way

By Benjamin Cayetano

When hard times are upon us. governors and legislators will often redirect special funds to balance the budget. "Special funds" usually consist of tax revenues set aside for specific purposes. The tendency to tap into these sources is understandable as too often, the special funds sit unspent, generating no revenue as state departments are prohibited from making investments.

In this legislative session, House Finance Chairperson Sylvia Luke proposed that the Tobacco Prevention and Control Trust Fund be repealed and the unencumbered balance remaining in the trust, estimated at \$50 million, be allowed to lapse to the credit of the state general fund.

Luke is quoted as saying, "I

think the biggest problem is nobody has been able to justify why this fund has an accrued balance of \$50 million." The answer is that the Tobacco Prevention and Control Trust Fund is a trust, not a state special fund. This is a big difference. A trust is allowed to invest its assets, an option not available with state

special funds. Furthermore, the corpus of the Tobacco Trust Fund is made up solely from the profits of tobacco companies.

In the late 1990s, Hawaii was one of 46 states to join the Tobacco Master Settlement Agreement to resolve hundreds of lawsuits against the tobacco companies. Those companies were exposed as

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Benjamin Cavetano served as governor of Hawaii from 1994 to 2002,

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having sold cigarettes to customers while fully aware of the cancer-causing properties of nicotine that killed thousands.

As governor, I was proud to sign the new law passed by the state Legislature 21 years ago. In its final version, the new law decreed that specific percentages of the trust funds go to the

then-newly created Rainy Day Fund, toward the building of the new campus for the John A. Burns School of Medicine (JABSOM) in Kakaako, and the Tobacco Prevention and Control Trust Fund. It is significant to note that JABSOM is currently ranked 20th in the nation.

In the two decades since the trust fund was created, the num-

ber of adult smokers in Hawaii dropped from 19.7% to 12.3% one of the lowest rates in the nation. Youth smoking rates dropped even more significantly, from 29.2% in 1997 to 5.3% in 2019. According to the Hawaii Department of Health (DOH), this decrease has helped save more than \$1 billion in health-care costs related to smoking. The trust fund has played a key role in that.

Now, House Bill 1296 proposes to eliminate the trust fund, and instead use public dollars from the general fund to administer the tobacco programs. This makes no sense. Why dismantle a trust fund that does not rely on taxpayer money, that grows its own revenue by partnering and investing with a nonprofit like the Hawaii Community Foundation (HCF)? Why unnecessarily commit the state to

use taxpayer funds to administer the tobacco prevention program when none is needed?

Indeed, the Legislature should learn from the trust's success and consider ways to allow DOH to do what it cannot today: invest to enable special funds to grow income. The trust fund's accrued balance of \$50 million is the result of its prudent investments with HCF and should not be penalized for its suc-

Finally, it should be noted that the state attorney general has opined that HB 1296 violates Article I. Section 10 of the U.S. Constitution prohibition against state law impairing the obligation of contracts - an argument strengthened by the fact that HB 1296 proposes to repeal a trust to lapse nontaxpayer money into the state's general fund.