



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

APR 17 1998

Refer to  
Legislative Secretary

The Honorable Antonio R. Unpingco  
Speaker  
Twenty-Fourth Guam Legislature  
Guam Legislature Temporary Building  
155 Hesler Street  
Agana, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>[Signature]</u>
Time	<u>4:45pm</u>
Date	<u>4.17.98</u>

Dear Speaker Unpingco:

Enclosed please find a copy of Substitute Bill No. 508 (COR), "AN ACT ADDING A NEW ARTICLE 10 TO CHAPTER 22 OF TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A "HEALTH AND HUMAN SERVICES FUND," AND TO DEPOSIT ALL PROPOSED SETTLEMENT MONIES ENTITLED TO GUAM FROM THE STATE ATTORNEYS GENERAL VERSUS THE TOBACCO INDUSTRY LITIGATION INTO THE HEALTH AND HUMAN SERVICE FUND", which I have signed into law today as **Public Law No. 24-174**.

This legislation sets up a "Health and Human Services Fund" to receive any potential proceeds that the government of Guam may receive pursuant to the on-going settlement negotiations between tobacco companies, various states of the United States, and the U. S. Congress.

The money received into the "Health and Human Services Fund" will be used exclusively for health programs: to finance various health care programs and projects, to finance educational programs for tobacco prevention, and to finance the purchase of technological equipment for persons with disabilities.

The "tobacco settlement" that is much publicized in the news is not a "done deal", and it is unknown when and how much money may be realized from this settlement.

Office of the Speaker  
ANTONIO R. UNPINGCO  
Date: 4-17-98  
Time: 1445  
Rec'd by: [Signature]  
Print Name: Charlene D.

I commend the sponsors of this legislation for taking the initiative in setting up the proper mechanism for receiving funds, when the time comes.

Very truly yours,



Carl T. C. Gutierrez  
Governor of Guam

Attachment            00765

cc:    The Honorable Joanne M. S. Brown  
       Legislative Secretary


TWENTY-FOURTH GUAM LEGISLATURE  
1998 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR


This is to certify that Substitute Bill No. 508 (COR), "AN ACT ADDING A NEW ARTICLE 10 TO CHAPTER 22 OF TITLE 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A "HEALTH AND HUMAN SERVICES FUND," AND TO DEPOSIT ALL PROPOSED SETTLEMENT MONIES ENTITLED TO GUAM FROM THE STATE ATTORNEYS GENERAL VERSUS THE TOBACCO INDUSTRY LITIGATION INTO THE HEALTH AND HUMAN SERVICE FUND," was on the 27<sup>TH</sup> day of March, 1998, duly and regularly passed.

  
\_\_\_\_\_  
ANTONIO R. UNPINGCO  
Speaker

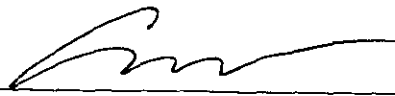
Attested:

  
\_\_\_\_\_  
MARK FORBES  
Senator and Acting Legislative  
Secretary

-----  
This Act was received by the Governor this 6<sup>th</sup> day of April, 1998, at  
3:30 o'clock P.M.

  
\_\_\_\_\_  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
\_\_\_\_\_  
CARL T. C. GUTIERREZ  
Governor of Guam

Date: 4-17-98

Public Law No. 24-174

TWENTY FOURTH GUAM LEGISLATURE  
1998 (SECOND) Regular Session

**Bill No. 508 (COR)**

As amended by the Author and as substituted on the Floor and amended.

Introduced by:

A. C. Blaz  
A. R. Unpingco  
E. J. Cruz  
J. C. Salas  
M. C. Charfauros  
J. M.S. Brown  
T. C. Ada  
F. B. Aguon, Jr.  
Felix P. Camacho  
Francisco P. Camacho  
W. B.S.M. Flores  
Mark Forbes  
L. F. Kasperbauer  
A. C. Lamorena, V  
C. A. Leon Guerrero  
L. Leon Guerrero  
V. C. Pangelinan  
A. L.G. Santos  
F. E. Santos  
J. Won Pat-Borja

AN ACT ADDING A NEW ARTICLE 10 TO  
CHAPTER 22 OF TITLE 5 OF THE GUAM CODE  
ANNOTATED, RELATIVE TO ESTABLISHING A  
"HEALTH AND HUMAN SERVICES FUND," AND  
TO DEPOSIT ALL PROPOSED SETTLEMENT  
MONIES ENTITLED TO GUAM FROM THE  
STATE ATTORNEYS GENERAL VERSUS THE

**TOBACCO INDUSTRY LITIGATION INTO THE  
HEALTH AND HUMAN SERVICE FUND.**

1           **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2           **Section 1.     Legislative Findings and Intent.**     The           Guam  
3     Legislature finds that during the last several years, various State Attorneys  
4     General have engaged in actual litigation against the tobacco industries to  
5     recover state costs associated with the treatment and care of persons afflicted  
6     with illnesses related to smoking tobacco.   More importantly, the Guam  
7     Legislature also notes that more than twenty-eight (28) states have filed  
8     lawsuits against the tobacco industry.

9           Throughout the case the states maintained that the tobacco companies  
10    have been advertising to entice children to smoke, and that more than ten  
11    million (10,000,000) Americans died as a result of smoking cigarettes.   During  
12    the landmark case it was revealed that almost one (1) in every five (5) deaths  
13    is due to a smoking-related illness, causing cardiovascular disease, lung and  
14    throat cancers; pulmonary diseases; stillbirths; and neonatal deaths.   The  
15    Guam Legislature also finds that one (1) of the leading causes of preventable  
16    death on Guam today, including the United States, is cigarette smoking.

17           On June 7, 1997, the Guam Legislature reaffirmed its commitment to a  
18    healthier community for the people of Guam, by adopting Resolution  
19    Number 125.   The resolution requests the Governor of Guam to direct the  
20    Attorney General of Guam to file suit in the U.S. District Court of Guam  
21    against the American Tobacco Company c/o Brown & Williamson, R.J.  
22    Reynolds Tobacco Company; Brown & Williamson Tobacco Corporation,

1 individually and as successor by merger to the American Tobacco Company,  
2 Philip Morris Incorporated, Philip Morris Companies, Inc., Lorillard Tobacco  
3 Company; United States Tobacco Company; UST.; and the Tobacco Institute,  
4 Inc., the Council for Tobacco Research-U.S.A.-Inc.

5 More recently the court is now proceeding to award Three Hundred  
6 Thirty-four Million dollars (\$334,000,000) for the creation of a medical  
7 research foundation in the case before Judge Robert Kaye, Miami, Florida,  
8 with a settlement case litigated by the flight attendants (ie, Norma Brion, a  
9 non-smoker attendant with a carcinoma of the lung) for "Second-hand  
10 smoker," according to the Pacific Daily News on February 9, 1998.

11 The Guam Legislature is adamant that any amount received shall be  
12 appropriated toward health and human services related programs. The State  
13 Attorneys General tobacco litigation settlement of more than Three Hundred  
14 Sixty Billion Dollars (\$360,000,000,000) is before the U.S. Congress and Guam  
15 is a recipient of certain portions of the settlement and that any agreement  
16 amount should be appropriated toward Health and Human Services-related  
17 programs.

18 **Section 2.** A new Article 10 is hereby added to Chapter 22 of Title 5 of  
19 the Guam Code Annotated to read as follows:

20 **"ARTICLE 10.**

21 **HEALTH AND HUMAN SERVICES FUND.**

22 **Section 221001. Creation.** There is hereby created, separate  
23 and apart from the other funds of the government of Guam, a fund  
24 known as the '*Health And Human Services Fund*' ('HAHS Fund').

1           **Section 221002. Separate Fund and Bank Account.**     The  
2     HAHS Fund shall not be commingled with the General Fund and shall  
3     be kept in a separate bank account. The Governor, pursuant to any of  
4     his transfer authority, shall transfer no monies from the HAHS Fund.

5           **Section 221003. Purpose and Expenditures.**     The     HAHS  
6     Fund shall be expended by Legislative appropriation as follows: (1)  
7     seventy-five percent (75%) to finance various health care programs and  
8     projects, and other educational programs for tobacco prevention; and (2)  
9     Twenty-five percent (25%) to finance advance technological equipment  
10    to persons with disabilities, and other health programs specifically  
11    authorized by the Guam Legislature.

12          **Section 221004. Administration.**     The     Director     of  
13    Administration shall account for, and administer, the HAHS Fund. The  
14    Director shall keep all books, records, files and account of the HAHS  
15    Fund. The Director shall prepare semi-annual reports relative to the  
16    HAHS Fund reflecting the transactions and financial condition of the  
17    HAHS Fund which semi-annual reports shall be transmitted to the  
18    Governor and the Speaker of the Guam Legislature.

19          **Section 221005. Designation of Single Agency; Promulgation**  
20    **of Rules and Regulations. (a) Designation.**     The Department of  
21    Public Health and Social Services ('DPHSS') is hereby designated as the  
22    'single agency' for Guam resulting from the Federal settlement. The  
23    DPHSS shall be charged with the following responsibilities:

1           (1) maintaining a licensing procedure, such that any  
2 business which sells tobacco products directly to consumers  
3 would have to apply for a special license;

4           (2) conduct random, unannounced inspections at least  
5 monthly to ensure compliance with no sales to minors;

6           (3) meet targets of a minimum of seventy-five percent  
7 (75%), the percentage expressed as a percentage of all random  
8 inspections in which the retailer refused sale of tobacco to minors;  
9 and

10          (4) submit an annual report to the Food and Drug  
11 Administration, to the Speaker of the Guam Legislature and to the  
12 Governor of Guam concerning:

13               (i) detailed description of enforcement activities  
14 undertaken;

15               (ii) detailed description of Guam's progress in  
16 reducing availability of tobacco products;

17               (iii) detailed description of methods used in  
18 compliance checks and in identifying outlets which were  
19 tested;

20               (iv) detailed description of strategies Guam intends  
21 to use in succeeding years to make further progress; and

22               (v) identify a single agency responsible for fulfilling  
23 the Act's requirements.



1           **(b) Promulgation of Rules and Regulations.**       The Director  
2 of DPHSS is hereby directed to promulgate rules and regulations  
3 regarding the implementation of the provisions of this Act, including  
4 revising and creating forms and other documents, as are necessary in  
5 accordance with the procedures prescribed by the Administrative  
6 Adjudication Law.

7           **Section 221006. Staffing, Funding, Initial Set Up.**

8           (a) The Director of DPHSS is hereby authorized to employ the  
9 services of two (2) new investigative/administrative staff positions to  
10 make the required inspections, reports and for the purpose of  
11 implementing the Department's responsibilities as prescribed in  
12 §221005 of this Article and the requirements of the Federal tobacco  
13 settlement.

14           (b) The Director is hereby authorized to expend the necessary  
15 sums not to exceed One Hundred Thousand Dollars (\$100,000.00) from  
16 the Fund for the purpose of funding the initial set up, such as office  
17 supplies, equipment, public education, etc., and a copy of the report  
18 shall be filed with the Speaker of the Guam Legislature and the  
19 Governor of Guam within thirty (30) days.

20           **Section 221007. Appropriation and Exemption.**   The HAHS  
21 Fund shall not be used for any purpose other than those enumerated or  
22 reasonably inferred herein or for purposes other than those relating to  
23 health care. Specifically, the HAHS Fund shall not be used as a pledge  
24 of security or as collateral for government loans without prior

1 authorization by the Guam Legislature. The total expenditures  
2 appropriated from the HAHS Fund shall not exceed eighty percent  
3 (80%) of the available balance. The remaining twenty percent (20%)  
4 balance in the HAHS Fund shall be administered by the Guam  
5 Economic Development Authority for investment purposes into a  
6 portfolio that mirrors the Retirement Fund's investment portfolio. The  
7 proceeds from the investments shall remain within the HAHS Fund and  
8 shall be maintained separate and apart from other GEDA funds.

9 **Section 221008. Deposit.** All proceeds entitled to Guam  
10 from the tobacco lawsuit settlement shall be deposited into HAHS Fund  
11 established by this Act. All monies deposited into the HAHS Fund shall  
12 be expended exclusively for the purposes enumerated in §221003 and  
13 the general intent of this Act.

14 **Section 221009. Interest.** Notwithstanding the provisions of  
15 §§21103, 21107 and 21110, all of Title 5 of the Guam Code Annotated, or  
16 any other provisions of Guam law to the contrary, all interest earned by  
17 the HAHS Fund shall remain within the HAHS Fund."

18 **Section 3. Tobacco Litigation Settlement.** Any and all funds  
19 which Guam shall receive from the State Attorneys General Tobacco  
20 Litigation Settlement shall be deposited into the Health and Human Service  
21 Fund.

4

# TWENTY-FOURTH GUAM LEGISLATURE

1998 (SECOND) Regular Session

Date: 3/24

## VOTING SHEET

Bill No. 508

Resolution No. \_\_\_\_\_

Question: \_\_\_\_\_

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, Frank B., Jr.	✓			
<del>BARRETT-ANDERSON, Elizabeth</del>				
BLAZ, Anthony C.	✓			
BROWN, Joanne M. S.	✓			
CAMACHO, Felix P.	✓			
CAMACHO, Francisco P.	✓			
CHARFAUROS, Mark C.	✓			
CRUZ, Edwardo J.	✓			
FLORES, William B.S.M.	✓			
FORBES, Mark	✓			
KASPERBAUER, Lawrence F.	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta A.	✓			
LEON GUERRERO, Lou	✓			
PANGELINAN, Vicente C.	✓			
SALAS, John C.	✓			
SANTOS, Angel L.G.	✓			
SANTOS, Francis E.	✓			
UNPINGCO, Antonio R.	✓			
WON PAT-BORJA, Judith	✓			

TOTAL

20

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
Clerk of the Legislature



TWENTY-FOURTH GUAM LEGISLATURE

**Office of the Vice-Speaker**  
ANTHONY C. BLAZ

LEGISLATIVE  
COMMITTEE  
MEMBERSHIP

Chairman  
Finance & Taxation

Vice-Chairman  
Rules,  
Government Reform  
& Federal Affairs

Education

Natural Resources

Health &  
Human Services

Tourism, Economic  
Development & Cultural  
Affairs

Judiciary,  
Public Safety &  
Consumer Protection

Transportation,  
Telecommunications, &  
Micronesian Affairs

MEMBERSHIP

Guam Finance  
Commission

Commission on Self  
Determination

March 16, 1998

**The Honorable Speaker Antonio R. Unpingco**  
**24th Guam Legislature**  
**155 Hesler Street**  
**Agana, Guam 96910**

Dear Mr. Speaker:

The Committee on Finance and Taxation, to which was referred **Bill No. 508**, "AN ACT RELATIVE TO ESTABLISHING A HEALTH AND HUMAN SERVICE FUND AND TO DEPOSIT ALL MONIES ENTITLED GUAM FROM THE STATE ATTORNEYS GENERAL LITIGATION AGAINST THE TOBACCO INDUSTRY PROPOSED SETTLEMENT INTO THE HEALTH AND HUMAN AND SERVICE FUND BY ADDING A NEW ARTICLE TO CHAPTER 22 OF TITLE 5 OF THE GUAM CODE ANNOTATED", herein reports back with the recommendation **TO DO PASS**.

Votes of the committee members are as follows:

11 To Pass

— Not to Pass

— To Place in Inactive File

— Abstain

— Off-Island

— Not Available

A copy of the Committee's report and other pertinent documents are enclosed for your reference and information.

Sincerely,

ANTHONY C. BLAZ


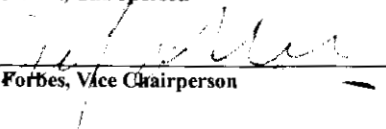
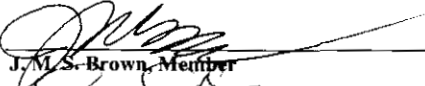
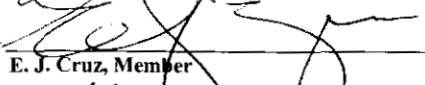

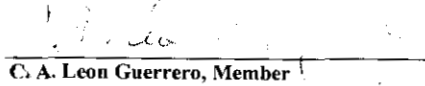
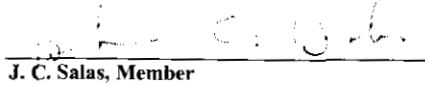
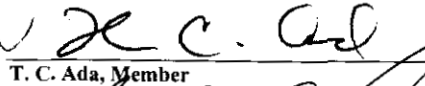

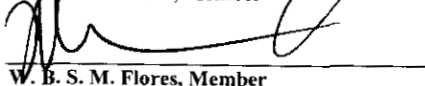
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**Committee on Finance and Taxation**

**Vote Sheet**

**Bill No. 508**

AN ACT RELATIVE TO ESTABLISHING A HEALTH AND HUMAN SERVICE FUND AND TO DEPOSIT ALL MONIES ENTITLED GUAM FROM THE STATE ATTORNEYS GENERAL LITIGATION AGAINST THE TOBACCO INDUSTRY PROPOSED SETTLEMENT INTO THE HEALTH AND HUMAN AND SERVICE FUND BY ADDING A NEW ARTICLE TO CHAPTER 22 OF TITLE 5 OF THE GUAM CODE ANNOTATED
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Committee Member	To Pass	Not to Pass	Abstain	Inactive File
 A. C. Blaz, Chairperson	✓			
 M. Forbes, Vice Chairperson	✓			
A. R. Unpingco, Ex-Officio				
E. Barrett-Anderson, Member				
 J. M. S. Brown, Member	✓			
 E. J. Cruz, Member	✓			
 L. F. Kasperbauer, Member	✓			
A. A. C. Lamorena, V, Member				
 C. A. Leon Guerrero, Member				
 J. C. Salas, Member				
 T. C. Ada, Member	✓			
 M. C. Charfauros, Member	✗			
 W. B. S. M. Flores, Member	✓			
F. E. Santos, Member				

Committee on Finance and Taxation  
Report on  
Bill No. 508

(As amended by the Author)

AN ACT RELATIVE TO ESTABLISHING A HEALTH AND HUMAN SERVICE FUND AND TO DEPOSIT ALL MONIES ENTITLED GUAM FROM THE STATE ATTORNEYS GENERAL LITIGATION AGAINST THE TOBACCO INDUSTRY PROPOSED SETTLEMENT INTO THE HEALTH AND HUMAN SERVICE FUND BY ADDING A NEW ARTICLE 10 TO CHAPTER 22 OF TITLE 5 OF THE GUAM CODE ANNOTATED.

Introduced by  
Senators E. J. Cruz and J. C. Salas

PUBLIC HEARING:

The Committee on Finance and Taxation conducted a public hearing on Friday, March 13, 1998, at 9:00 a. m., to hear testimonies on Bill No. 508, "AN ACT RELATIVE TO ESTABLISHING A HEALTH AND HUMAN SERVICE FUND AND TO DEPOSIT ALL MONIES ENTITLED GUAM FROM THE STATE ATTORNEYS GENERAL LITIGATION AGAINST THE TOBACCO INDUSTRY PROPOSED SETTLEMENT INTO THE HEALTH AND HUMAN SERVICE FUND BY ADDING A NEW ARTICLE 10 TO CHAPTER 22 OF TITLE 5 OF THE GUAM CODE ANNOTATED." The public hearing was held in the Vice Speaker's Conference Room.

MEMBERS PRESENT:

The meeting was called to order by Vice Speaker Anthony C. Blaz, Chairperson of the Committee on Finance and Taxation. Committee and other members present were: Senators Edwardo J. Cruz and Francisco P. Camacho.

TESTIMONY:

Appearing before the Committee and presenting testimony in support of the passage and enactment of Bill No. 508 were Tyrone J. Taitano, Administrator, Guam Memorial Hospital, Dr. Mamie Balajadia, Clinical Administrator, Department of Mental Health and Substance Abuse, and Gene Santos from the Department of Public Health and Social Services. Additional testimony was also received from Gus F. Diaz, the acting Attorney General.

It was also discussed that as a result of the Litigation Settlement, Guam would probably be receiving anywhere between \$300,000 to \$500,000 annually for a period of 25 years or an amount equal to \$7.5 Million to \$12.5 Million.

At this time, Senator Cruz, informed those present that the Attorney General's Office has investigated the question of the Tobacco Litigation and has informed his Committee that the Guam Attorney General's Office has been participating in the Class Action suit brought by the State and Territorial Attorneys General. Discussion are ongoing with experts in the mainland on the question of allocation and the data they would require from Guam.

There being no further witnesses, the Chairperson adjourned the Committee hearing on Bill No. 508.

#### FINDINGS:

The Committee finds that:

1. Various State Attorney Generals have engaged in actual litigation against the tobacco industries to recover state costs associated with treatment and care of persons afflicted with illnesses related to smoking tobacco.
2. That at least 28 States in the Union have filed lawsuits against the tobacco industry.
3. As a result of the litigation, it was determined that cigarettes are the single most dangerous consumer product ever sold and that tobacco companies have been advertising to entice children to smoke, and as a result more than 10 million Americans have died as a result of smoking cigarettes.
4. More than 400,000 Americans have died as a result of smoking cigarettes and almost one in every five (5) death is due to a smoking-related illness. Also, smoking has been found to cause cardiovascular disease, lung and throat cancers, pulmonary diseases, stillbirths and neonatal deaths as well as being the leading cause of preventable death in the United States, including Guam, today is cigarette smoking.
5. The tobacco industry reportedly are willing to settle out of court in the amount of \$375 Billion. The various state and territorial jurisdictions have engaged in settlement discussions with the tobacco industry to encourage resolution of government claims; and to date the Attorney General of Guam participating in the class action suit and that discussion are currently ongoing with stateside experts on the question of allocation and the data hat would be required from Guam.
6. The Twenty-Fourth Guam Legislature has adopted Resolution No. 125 requesting that Governor, through the Health Planning Agency, Guam Memorial Hospital, and Department of Mental Health and Substance Abuse

and the Department of Public Health and Social Services provide the necessary data to established the cost incurred by the Guam in the treatment or care of tobacco related illnesses or death.

The Committee further finds that the federal settlement, as proposed, would require Guam to engage in significant enforcement activities include:

- (a) the maintenance of a licensing procedure such that any business which sells tobacco products directly to consumers would have to apply for a special license;
- (b) conduct random, unannounced inspections at least monthly to ensure compliance with no sales to minors;
- (c) meet targets of 75%, the percentage expressed as a percentage of all random inspections in which the retailer refused sale of tobacco to minors; and
- (d) submit an annual report to the FDA concerning:
  - (i) detailed description of enforcement activities undertaken;
  - (ii) detailed description of Guam's progress in reducing availability of tobacco products;
  - (iii) detailed description of methods used in compliance checks and in identifying outlets which were tested;
  - (iv) detailed description of strategies Guam intends to use in succeeding years to make further progress; and
  - (v) identify a single agency responsible for fulfilling the Act's requirements.

RECOMMENDATION:

The Committee, having reviewed the testimonies presented at the hearing, does hereby recommend to the Guam Legislature that Bill No. 508, "AN ACT RELATIVE TO ESTABLISHING A HEALTH AND HUMAN SERVICE FUND AND TO DEPOSIT ALL MONIES ENTITLED GUAM FROM THE STATE ATTORNEYS GENERAL LITIGATION AGAINST THE TOBACCO INDUSTRY PROPOSED SETTLEMENT INTO THE HEALTH AND HUMAN SERVICE FUND BY ADDING A NEW ARTICLE 10 TO CHAPTER 22 OF TITLE 5 OF THE GUAM CODE ANNOTATED," as amended, be passed by the Guam Legislature.



## **Profile of Bill No. 508 (COR)**

Brief Title:	"Health and Human Service Fund."
Date Introduced:	Submitted to the Legislature for introduction on Tuesday, February 17, 1998, which will be officially ratified during the Second Regular Session of the 24 <sup>th</sup> Guam Legislature.
Main Sponsors:	Senators E. J. Cruz and J. C. Salas.
Referral:	Referred by the Committee on Rules, Government Reform and Federal Affairs to the Committee on Finance and Taxation.
Public Hearing:	Friday, March 13, 1998.
Official Title:	AN ACT RELATIVE TO ESTABLISHING A HEALTH AND HUMAN SERVICE FUND AND TO DEPOSIT ALL MONIES ENTITLED GUAM FROM THE STATE ATTORNEYS GENERAL LITIGATION AGAINST THE TOBACCO INDUSTRY PROPOSED SETTLEMENT INTO THE HEALTH AND HUMAN SERVICE FUND BY ADDING A NEW ARTICLE 10 TO CHAPTER 22 OF TITLE 5 OF THE GUAM CODE ANNOTATED.
Recommendation:	To do pass as amended.

### **Overview and Intent:**

If passed, Bill No. 508 (COR), proposes to create a Health and Human Service Fund. The fund shall be separate and apart from all other funds of the government of Guam, into which shall be deposited all proceeds accruing to Guam from the litigation against the tobacco industries. The monies to be allocated to Guam is a result from Guam's recovery costs associated with the treatment and care of persons afflicted with illnesses related to smoking cigarettes and tobacco products.

The establishment of the Health and Human Service Fund would able the government to finance various health care programs and projects, educational programs especially for children against smoking, hospital capital expansion (for a cardiovascular service, intensive care unit, emergency service, operating room service, patient room, health professional specialist recruitment, etc.), public health programs (for Maternal Child Health Program, etc.), Mental Health and Substance Abuse programs, health research, health education assistance, and for the purpose of providing advanced technological

equipment to persons with disabilities and other health programs specifically authorized by the Guam Legislature.

### Section Analysis:

Section 1. Legislative Findings and Intent. This section enumerates the various cases of litigation filed by state Attorneys General against the tobacco industry to recover state costs associated with treatment and care of persons afflicted with tobacco-related illnesses. Section 1 also enumerates the various tobacco smoking related illnesses such as cardiovascular disease, lung and throat cancers, pulmonary diseases, stillbirths and neonatal deaths and the finding that one of the leading causes of preventable deaths in Guam today is cigarette smoking. Stated here also is the fact that on June 7, 1997, the Guam Legislature reaffirmed its commitment to a healthier community for the people of Guam by adopting Resolution No. 125 requesting the Governor of Guam to direct the Attorney General of Guam to file suit in the U.S. District Court of Guam against the tobacco industry. From these actions, there is enough reasons to be hopeful that Guam would be entitled to receive its fair share of the proceeds from these cases of litigation.

Section 2. Health and Human Service Fund. This section proposes to create a "Health and Human Service Fund" by adding a new Article 10 to Chapter 22 of Title 5 of the Guam Code Annotated. This section also provides that the Health and Human Service Fund be separate from all other funds of the government and certain restriction placed thereon. The purposes for which the Health and Human Service Fund may be spent, as well as the administration of this fund, are also provided in this section.

Section 3. Tobacco Litigation Settlement. This section provides that all funds which Guam shall receive from the State Attorneys General Tobacco Litigation Settlement shall be deposited into the Health and Human Service Fund.



**CARL T.C. GUTIERREZ**  
*Maga'ihai*  
Governor

**MADELEINE Z. BORDALLO**  
*Tifente Gubelnadora*  
Lt. Governor

**GUS F. DIAZ**  
*Hinirai Abugao, Akto*  
Attorney General, Acting

**Ufisinan Hinirai Abugao**  
**Guahan**  
**Office of the Attorney General**  
**Guam**

---

March 16, 1998

The Honorable Edwardo J. Cruz  
Chairman, Committee on Health and  
Human Services  
Senator, Twenty-Fourth Guam Legislature  
Site 1-A Sinajana Shopping Mall Phase II  
#777 Route 4  
Sinajana, Guam 96926

Re: Bill 508 to Establish a Health and Human Service Fund

Dear Senator Cruz:

Thank you for inviting our comments on Bill 508, which proposes to set up a fund separate from the general fund, called the Health and Human Service Fund. According to Bill 508, any money Guam receives from the tobacco settlement would be placed into this fund. The nationwide tobacco settlement will provide \$250,000 to \$500,000 to Guam annually for the next twenty-five years. However, in order to remain eligible to receive the money Guam must satisfy many federally imposed requirements, i.e., concerning tobacco use and tobacco sales to minors. Therefore, our primary concern must be to ensure that the money in the Fund will be used for enforcement and compliance with the federally-imposed requirements. If these requirements are not met, Guam jeopardizes its ability to receive any funding via the federal settlement.

The federal settlement, as proposed, would require Guam to engage in significant enforcement activities, including:

1. maintain a licensing procedure such that any business which sells tobacco products directly to consumers would have to apply for a special license;
2. conduct random, unannounced inspections at least monthly to ensure compliance with "no sales to minors";



Commonwealth Now!

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March 16, 1998  
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3. meet targets of 75%, the percentage expressed as a percentage of all random inspections in which the retailer refused sale of tobacco products to minors;
4. submit an annual report to the FDA concerning:
  - a. detailed description of enforcement activities undertaken;
  - b. detailed description of Guam's progress in reducing availability of tobacco products to minors;
  - c. detailed description of methods used in compliance checks and in identifying outlets which were tested;
  - d. detailed description of strategies Guam intends to use in succeeding years to make further progress; and
  - e. identify a "single agency" responsible for fulfilling the Act's requirements.

Bill 508 dictates that the Health and Human Service fund be used to finance various health care programs and projects, educational programs especially for children against smoking, hospital capital expansion (for a cardiovascular service, intensive care unit, Emergency service, operating room service, patient room, health professional specialist recruitment, etc.), public health programs (for Maternal-Child Health Program, etc.), Mental Health and Substance Abuse programs, health research, health education assistance, and for the purpose of providing advanced technological equipment and other health programs specifically authorized by the Legislature. The bill goes on to note that the Fund shall not be used for any purpose other than those enumerated or reasonably inferred herein, or for purposes other than those relating to health care.

Nothing in the bill specifically enumerates that funds may be used for enforcement of no-sales-to-minors laws or in conducting licensing of tobacco retailers. Although the bill does mention that the funds may be used for purposes reasonably inferred, we should not assume that enforcement and licensing activities will be "reasonably inferred" from the other language of the bill. Therefore, this bill should specifically enumerate that funding may be used to carry out Guam's duties under the federal legislation, including enforcement and licensing activities, as well as reporting to the FDA.

We suggest that your Bill should recognize that Public Health would be the "single agency" to fulfill the federal tobacco settlement requirements. Public Health would require funding for two new

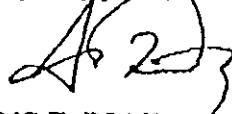
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investigative/administrative staff positions to make the required inspections and reports. Initially, as the tobacco retailers first begin applying for tobacco licenses, the Department of Public Health would also require extra full-time staff to educate the businesses about the licensing requirement and then receive and process license applications. Thereafter, Public Health would issue Tobacco Retail Licenses just as it does Food and Beverage licenses. Public Health inspectors would perform random, unannounced inspections to ensure compliance with the license requirement and the "no sales to minors" laws.

There may be some impact on the Department of Law. Presumably, a Solicitor may have to be dedicated for a time to assist in drafting rules and regulation, and a Civil Litigator would be needed to file civil lawsuits against retailers. Additional legislation that might be needed could involve our help as well.

We have been representing the government of Guam for some time in this litigation and will continue to assist you and the Legislature to secure these funds for our people.

Very truly yours,



**GUS F. DIAZ**  
Attorney General, Acting

cc: Director, DPHSS

DEPARTMENT OF LAW



09-625  
RECEIVED  
24TH GUAM LEGISLATURE  
COM. HEALTH & HUMAN SVCS.  
DATE: 9/8/97 By: [signature]  
(11:30am)

Carl T.C. Gutierrez  
Maga'lahi  
Governor

Ufisinan Hinirat Abugao  
Tiritorian Guåhan

Charles H. Troutman  
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Attorney General (Acting)

Madelaine Z. Bordallo  
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Lt. Governor

Office of the Attorney General  
Territory of Guam

Gus F. Diaz  
Atkådi, Sigundo Hinirat Abugao  
Chief Deputy Attorney General

September 5, 1997

Honorable Edwardo J. Cruz, M.D.  
Chairperson  
Committee on Health & Human Services  
24<sup>th</sup> Guam Legislature  
Route 4, T.S. Tanaka Bldg, Suite 100  
Agana, Guam 96910

Dear Senator Cruz,

I have investigated the question of the Tobacco Litigation and I am pleased to tell you that the Attorney General of Guam has been participating in the class action suit brought by the State and Territorial Attorneys General from the beginning. Because this is a class action suit, we do not have to file separately, or even file separate law suite in order to participate.

Discussions are ongoing with the stateside experts on the question of allocation and the data they require from Guam. As you have heard in the national media, the settlement is contingent upon action by the President and Congress. Thus, we must await that outcome before knowing the precise benefits which will accrue to Guam.

However, rest assured that Guam is a participant in the major suit at this time, and I do not believe that a separate suit is warranted especially considering the lack of resources of this Office to undertake such separate litigation.

Sincerely yours,

*Charles H. Troutman*

CHARLES H. TROUTMAN  
Attorney General (Acting)

cc: Governor Carl T.C. Gutierrez

GOVERNMENT OF GUAM



Carl T.C. Gutierrez  
GOVERNOR

Madeleine Z. Bordallo  
LIEUTENANT GOVERNOR

DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES  
(DIPATTAMTON SALUT PUPBLEKO YAN SETBISION SUSIAT)

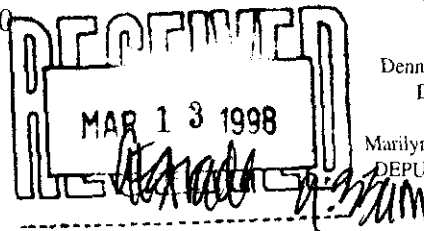
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Dennis G. Rodriguez  
DIRECTOR

Marilyn D.A. Manibusan  
DEPUTY DIRECTOR



**DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES**

**TESTIMONY ON BILL NO. 508,  
AN ACT TO ESTABLISH A HEALTH AND HUMAN SERVICES FUND AND  
TO DEPOSIT MONIES ENTITLED TO GUAM IN LITIGATION AGAINST  
THE TOBACCO INDUSTRY IN THIS FUND.**

SENATOR ANTHONY C. BLAZ AND MEMBERS OF YOUR COMMITTEE ON FINANCE AND TAXATION, I APPRECIATE THE OPPORTUNITY TO EXPRESS SUPPORT FOR THE PASSAGE OF BILL NO.508 INTRODUCED BY SENATOR EDUARDO J. CRUZ, CHAIRPERSON OF THE LEGISLATIVE COMMITTEE ON HEALTH AND HUMAN SERVICES .

IT'S INTRODUCTION HAS BEEN LONG AWAITED BECAUSE GUAM CONTINUES TO HAVE INCREASES IN MEDICAL HEALTH CARE COSTS AND SUBSEQUENT DEATHS OF OUR PEOPLE , DUE TO ILLNESSES AND DISEASES ASSOCIATED WITH TOBACCO USE.

THE ACCEPTANCE AND PASSAGE OF A LITIGATION SETTLEMENT, IN CONGRESS, AGAINST TOBACCO COMPANIES FOR HEALTH COSTS ASSOCIATED WITH TOBACCO USE WILL POTENTIALLY PROVIDE FUNDS WHICH CAN BE DIRECTED TO PARTICULAR HEALTH AND HUMAN SERVICE PROGRAMS. THIS WOULD HELP TO ENSURE THAT CURRENT TOBACCO AND ALCOHOL USE TAXES CAN BE USED TO EDUCATE YOUTH AND ADULTS ON THE ASSOCIATED RISKS OF USING TOBACCO AND ALCOHOL.


PARTICULARLY APPROPRIATE IS SECTION 221003 OF BILL 508, WHICH PERMITS THE FUNDS TO BE DIRECTED TOWARD AWARENESS AND OUTREACH ACTIVITIES, PREVENTION AND EDUCATION PROGRAMS, HEALTH CARE AND TREATMENT PROGRAMS, ETC. FOR ALL INDIVIDUALS, INCLUDING PERSONS WITH DISABILITIES. THIS IS CRITICAL TO THE SUCCESS OF SUCH A FUND. THE FLEXIBILITY AND CAPACITY OF THE FUND WILL DETERMINE WHAT RANGE OF PROGRAMS WHICH CAN BE SUPPORTED.



THUS, I SUPPORT THE PASSAGE AND IMPLEMENTATION OF THIS BILL, BECAUSE IT WILL HAVE TWO EFFECTS:

- (1) ESTABLISH THE HEALTH AND HUMAN SERVICES FUND TO BE THE LOCATION FOR TOBACCO LITIGATION MONIES RECEIVED FROM ANY NATIONAL SETTLEMENT AGAINST TOBACCO COMPANIES, FOR MEDICAL AND HEALTH CARE COSTS INCURRED BY THE GOVERNMENT OF GUAM, AS OTHER STATE GOVERNMENTS, RELATED TO TOBACCO USE IN GUAM; AND
- (2) PROVIDE BOTH AN APPROPRIATE LOCATION FOR THE PLACEMENT AND A MEANS FOR DISTRIBUTING FUNDS DERIVED FROM REGULATIONS LIKE GUAM P.L. 17-04 (THE CURRENT, LOW AND SOLE TAXES ON THE SALE TOBACCO AND ALCOHOL).

SHOULD YOU REQUIRE ADDITIONAL INFORMATION, PLEASE CONTACT ME.  
THANK YOU!



DENNIS G. RODRIGUEZ  
DIRECTOR



# Senator wants Guam to file suit against the tobacco industry

By LALAIN ESTELLA  
*Pacific Sunday News*

In light of Friday's multi-billion dollar tobacco settlement, Sen. Edwardo Cruz wants Guam to get on the bandwagon and file a lawsuit against the tobacco industry.

The \$360 billion settlement that American tobacco companies and anti-smoking groups reached was enough to convince Cruz that Guam stands a good chance of recovering costs the island sustains for smoking-related treatment or care.

"We don't know yet if it's too late, it would depend on the deal that was struck," said Cruz, who is chairman of the legislative committee on health and human services. "If we are

too late to join the other states, we should file a suit separately."

Cruz wrote a resolution signed by 19 other senators earlier this month asking Gov. Carl Gutierrez to direct the attorney general of Guam to file a suit in U.S. District Court.

"The territory is always forgotten in issues like this," Cruz said. "It's up to us to force this issue."

Gutierrez could not be reached for comment.

Cruz said that if Guam got even one tenth of the \$360 billion settlement, it would be



"The territory is always forgotten in issues like this ... It's up to us to force this issue."

— SEN. EDUARDO CRUZ  
*chairman, legislative health committee*

enough to distribute to several island agencies desperately in need of money.

"A cardiovascular center at Guam Memorial Hospital would benefit the local population," Cruz said. "Public Health, the Department of Education, can certainly use the

money. We can build up our nursing program at (University of Guam) and we can put out public service advertisements that would discourage young people from smoking."

■ Details of the agreement. Page 9

## Vocational program at GCC admits last group

■ **Transfer:** Training programs were moved to other schools to free up space for adult classes

By TODD G. DICKSON  
*Pacific Sunday News*

The Vocational High School at Guam Community College is accepting its last bunch of new students.

Only 75 new students will be accepted this fall as the Vocational High School is phased-out at the Mangilao campus, according to Education Department and college officials.

As many as 1,200 high school students once took several vocational classes during the day at the college, said David Watt, vice president for academic affairs.

### 'Downsizing'

"There's been a significant downsizing," he said.

The college and the department have been slowly transferring the job-training programs to island high schools in order to open campus space for more adult classes, Watt said, and because the new Southern High School will open this fall.

Watt said putting the programs at the high schools worked well with the school system's Alternative Learning Paths program, which tailors classes to a student's future job

# He's Baaaack...

ONWARD AGANA BEACH HOTEL PRESENTS A

# "Taste of India"