JOHNSON•SMITH
PENCE
DENSBORN
WRIGHT & HEATH
ATTORNEYS AT LAW

To Melco Minorities / EW

Joseph J. Andrew
(317) 686-7382
E-Mail: JAndrew@jsplaw.com

March 6, 1998

VIA FACSIMILE (202) 456-6027

Mr. Jerry Mande
Office of Science & Technology Policy
Old Executive Office Building
Washington, D.C. 20502

Dear Jerry:

Attached is the language concerning the Minority Foundation that we discussed.

As I mentioned to you, Congressman Fazio's staff and committee counsel are interested in the White House's informal, confidential views on this non-profit foundation.

Julie Tippens can be reached at 226-3210.

Thank you for your continued openness in discussing these important issues.

Sincerely,

Joe Andrew/abp

Joseph J. Andrew

JJA/abp
Attachments

Tod

Suite 1800
One Indiana Square
Indianapolis, Indiana 46204

Telephone: (317) 634-9777
Facsimile (317) 636-9061

Congressman
BENNIE G. THOMPSON
2nd District - Mississippi

1408 Longworth H.O.B.
Washington, D.C. 20515
(202) 225-5876
Fax (202) 225-5898

FACSIMILE TRANSMISSION

DATE: 3/4/98 TIME:

Please Deliver the Following Transmission to:

NAME : Joe Andrews

COMPANY/FIRM:

CITY: STATE:

FAX NUMBER: (317) 646-7385 PHONE NUMBER:

FROM:

___ *Congressman Bennie G. Thompson*

___ *Tammy Boyd* ✓ *Todd Gee* ___ *Edward Jackson*

___ *Minnie Langham* ___ *Marsha McCraven* ___ *La Tario Powell*

___ *Walter Vinson* ___

Pages, Including This Cover Page Total: 6

COMMENTS:

Thanks!

CONFIDENTIALITY NOTICE:

Nonprofit

AMENDMENT TO S. 1688

OFFERED BY MR. THOMPSON

Insert the following at the appropriate place:

SEC. ___. TOBACCO CONTROL IN MINORITY POPULATIONS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established in the District of Columbia a private, nonprofit corporation to be known as the National Center on Tobacco Prevention. The Center shall—

(A) not be an agency or establishment of the United States;

(B) except as otherwise provided in this section, be subject to, and have all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code section 29-501 et seq.); and

(C) be exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

(2) RELATION TO UNITED STATES.—Nothing in this subsection shall be construed as making the Center an agency or establishment of the United States, or as making the members of the Board of

the Center, or its employees, officers or employees of the United States.

(3) RELATION TO NONGOVERNMENTAL ORGANIZATIONS.—The Center shall have a limited staff, and, to the maximum extent practicable, utilize the available experience and talents of nongovernmental organizations with specialized experience in health, education, media, and tobacco.

(4) GOVERNING BOARD.—The Secretary shall appoint a governing board of the Center of up to 20 representatives of minority public health experts and organizations with each ethnicities' representation based on its proportion of the total smoking population.

(b) FUNDING.—

(1) IN GENERAL.—The Secretary of the Treasury shall on October 1 of each fiscal year beginning after the date of enactment of this Act, transfer an amount equal to [redacted] percent of the amounts made available under section 101(d)(5)(C) for the fiscal year to the Center to carry out this section.

(2) REQUIREMENTS FOR ELIGIBILITY FOR ANNUAL TRANSFERS FROM THE TRUST FUND.—

(A) OVERSIGHT.—The Center and its grantees shall be subject to the oversight and supervision of Congress.

(B) USE OF FUNDS.—The Center may provide funding only for programs for grants and contracts which address issues related to tobacco use in the minority populations.

(c) ELIGIBLE ENTITIES.—To be able to receive a grant or contract from the Center an entity shall submit a request to the Center, on such forms and in such manner as the Center may require, that—

(1) describes the plan the entity will establish to govern the conduct of the program funded under a grant or contract and to provide for the maintenance of records and furnishing of reports to the Center as may reasonably be required under subsection (f);

(2) describes the manner in which the entity intends to use the grant or contract amount to conduct anti-tobacco programs targeted at minority populations;

(3) describes the specific anti-smoking program that will be funded;

(4) describes the activities to be conducted under such program, including the populations to be served and the goals and purposes of such program;

(5) describes the amount of funds that will be used;

(6) describes the measurable objectives that will be used to evaluate the program;

(7) describes the procedures the entity will use to engage the specified population;

(8) describes the procedures the entity will use to engage potential program participants; and

(9) meets other criteria established by the Center as are reasonably necessary to meet the objectives of this section.

(d) EVALUATION.—Each entity which receives funds from the Center shall submit to the Center an evaluation of the entities plan submitted under subsection (c)(1), including an assessment of its effectiveness in reducing the use of tobacco products by individuals (by age, gender, race, and ethnicity) and a description of an analysis of the effectiveness of the plan's elements.

(e) AUDITS.—

(1) PUBLIC ACCOUNTS.—The accounts of the Center shall be audited annually in accordance with generally accepted auditing standards.

(2)) COMPTROLLER GENERAL.—The financial transactions of the Center for each fiscal year may be audited by the Comptroller General. A report of each audit shall be made by the Comptroller General to Congress. A copy of each report shall be furnished to the President and to the Center at the time the report is submitted to Congress.

(f) RECORDKEEPING.—the Center shall ensure that each recipient of assistance from the Center under this subsection keeps such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. the Center shall ensure that it, or any of its duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of each recipient of assistance from the Center that are pertinent to assistance provided through the Center under this subsection.

FEB-23-98 16:58 From:ICE MILLER FLR 34 13172362219 T-762 P.01 Job-112

DONADIO & RYAN

TRANSMITTAL COVER SHEET

DATE: February 23, 1998

34 PAGES INCLUDING THIS PAGE

HARD COPY TO FOLLOW: ___ Yes X No VIA: ___ Mail ___ Courier

TO: Thomas L. Freedman COMPANY: Special Assistant to President, Senior Director for Policy & Planning, Domestic Policy Council FAX #: 202-456-7431 PHONE #: 202-456-5587	TO: Donald H. Gips COMPANY: Chief Domestic Policy Advisor, Office of the Vice President FAX #: 202-456-6231 PHONE #: 202-456-6222
TO: Lacy M. Johnson COMPANY: c/o ANA Hotel FAX #: 202-457-5010 PHONE #:	TO: COMPANY: FAX #: PHONE #:
TO: COMPANY: FAX #: PHONE #:	TO: COMPANY: FAX #: PHONE #:
TO: COMPANY: FAX #: PHONE #:	TO: COMPANY: FAX #: PHONE #:

Dorado Minorities - EW

FROM: Karen Ann P. Lloyd

TELEPHONE NUMBER: (317) 236-2309

SUBJECT: ~~CONFIDENTIAL~~

COMMENTS: SEE ENCLOSED

CLIENT/MATTER NO.: 15259.0001

JOB CODE (Fax Center Use Only): 15106

For questions or problems in transmission, please contact our Fax Operators at either: (317) 236-2352 Or (317) 236-2474

One American Square • Box 82001 • Indianapolis, Indiana 46282-0002 • (317) 236-2100 • FAX (317) 236-2219

MEMORANDUM

TO: Thomas L. Freedman
Assistant to the President
Senior Director, Policy & Planning
Domestic Policy Council

Donald H. Gips
Chief, Domestic Policy
Office of the Vice President

CC: Lacy M. Johnson (with enclosure)

FROM: Karen Ann P. Lloyd

DATE: February 23, 1998

RE: Proposed Articles/Bylaws and Legislation

As promised, I enclose herein copies of the draft legislation and articles of incorporation and bylaws for the new corporation discussed at your meeting.

As discussed, these materials are provided for your eyes only and should not be disclosed, discussed or distributed to any other person.

If you have any questions regarding the enclosed, please feel free to call me at (317) 236-2309.

Enclosures

105th Congress
2nd Session H. R. ___________

To amend the Public Health Service Act to reduce the use of tobacco products by minorities, to enhance the national investment in biomedical and basic science research, and to expand the needs of affected populations and for other purposes

In the _____________

__________, 1998

M. ______ (for _____) submitted the following concurrent resolution, which was referred to the Committee on _____________.

A BILL

To amend the Public Health Service Act to reduce the use of tobacco products by minorities, to enhance the national investment in biomedical and basic science research, and to expand the needs of affected populations and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I. SHORT TITLE: TABLE OF CONTENTS

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(a) Short Title:__________________

(b) Table of Contents________________

SECTION 2. FINDINGS AND PURPOSES

(a) Findings.— Congress makes the following findings:

(1) Tobacco products are the foremost preventable health problem facing America today.

(2) The tobacco industry has historically targeted tobacco product

marketing and promotional efforts towards minors in order to entrap them into a lifetime of smoking.

(3) The tobacco industry also has disproportionately targeted tobacco product marketing and promotional efforts towards minority populations and those in our society who are most disadvantaged.

(4) Tobacco companies have been a source of support for the minority media and retailers whose support will not be replaced easily.

(5) The use of tobacco products in minority communities significantly exceeds the rates in general population resulting in substantially higher tobacco-related cancer rates in this population.

(6) The Department of Health and Human Services has argued that innovative strategies will have to be developed to operate effective education and cessation programs in minority communities.

(7) Minority serving medical schools and educational institutions have devoted significant resources to health issues and are most familiar with the community resources needed to provide an effective tobacco control program in these communities, yet these schools and institutions are underfunded.

(8) Little research into the effects of menthol in cigarettes and other tobacco-related public health issues that are specific to the minority and disadvantaged communities has been conducted.

SECTION 3. PURPOSES.— It is the purpose of this Act to:

(a) Substantially decrease tobacco use in youth, minority and other disadvantaged populations;

(b) Assist individuals who are currently addicted to tobacco products in overcoming their addiction by developing culturally appropriate programs;

(c) Promote efforts that adequately educate all populations concerning the health dangers inherent in the use of tobacco products;

(d) Fund medical research that includes all populations, specially minority and disadvantaged population;

(e) Ensure that minority sponsored events receive appropriate transitional sponsorship support;

(f) Provide for adequate funding of minority serving medical schools; and

(g) ____________________

TITLE II. PUBLIC HEALTH AND EDUCATION PROGRAMS AND TOBACCO CONTROL

SECTION 1. DEFINITIONS

(a) Disadvantage or minority populations means Americans of African descent, Asian descent, Hispanic descent and Native Americans.

(b) Minority serving medical and research institutions means

____

(c) Secretary means the Secretary of the U.S. Department of Health and Human Services.

(d) Special Population Fund means the fund administered by the nonprofit organization created under Section _______.

SECTION 2. ESTABLISHMENT OF A TRUST FUND

(a) Creation and Deposits.—

(1) General.-- There is established in the Treasury of the United States a trust fund to be known as the "National Tobacco Settlement Trust Fund."

(2) Deposits— The Trust Fund shall be composed of the following deposits__________

(3) Accounts in Trust Fund— The National Tobacco Trust Fund shall consist of

(A) a State Account and

(B) a Federal Account.

(b) Expenditure from the Trust Fund.--

(1) In General.-- Amounts in the National Tobacco Settlement Trust Fund shall be made available in each fiscal year, without further appropriations, as described in the Table in paragraph (2).

(2) Expenditure Table.-- For purposes of paragraph (1), amounts shall be available in each fiscal year following the date of enactment of this Act as follows:

		Federal Account	
Year	State	Public Health	Research

[Insert numbers]

(3) Definition and Uses of Fund.-- With respect to the table in paragraph (2):

(A) State means the accounts established under section 2(4)(B) Amounts provided to the State Account under this section shall be available in each fiscal year, without further appropriations, to make payments for the purposes set forth in Article III.

(B) Research shall mean activities carried out by the Secretary to conduct and support biomedical and behavioral research into the causes of tobacco use and the development of therapies for such use as provided in Article IV.

(C) Public Health shall mean those public health activities carried out under Article V.

(c) Maintenance of Effort.-- The Trustees may not make an expenditure for a fiscal year

(1) under section b(2) to a State unless the State certifies that the aggregate expenditures of funds of the State, exclusive of Federal funds, for the purposes of the expenditure under such subsection will be maintained at a level that does not fall below the average level of such aggregate expenditure for the preceding 2 fiscal years of the State; and

(2) under any subparagraph of section b(2) unless such expenditure is in addition to and not in substitution for, any appropriations otherwise applicable with respect to the purpose described in such subparagraph.

(d) Trustees.-

(1) In General. The National Tobacco Trust Fund shall be administered by the Fund Trustees ("Trustees").

(2) Composition. The Fund Trustees shall be composed of the Attorney General, the Secretary of the Treasury, the Secretary of Health and Human Services; and 6 members to be appointed —

(A) 1/3 by the Speaker of the House of Representatives, in consultation with the minority leader of the House;

(B) 1/3 by the majority leader in the Senate, in consultation with the minority leader in the Senate;

(C) 1/3 selected by the President from a nominee list prepared by representatives of the minority public health community.

(3) Powers. The Advisory Power shall have the right to hold hearings, secure information from any Federal department or agency as the Trustees considers necessary to carry out its duties.

TITLE III. PAYMENT TO STATES

SECTION 1. REIMBURSEMENT FOR STATE EXPENDITURES.-- The Trustees shall use amounts available to the state under section ______ in each fiscal year to provide funds to each

State to reimburse such State for such amounts expended by the State for the treatment of persons with tobacco-related illnesses or conditions.

SECTION 2. AMOUNT. The amount for which a State is eligible for under Section 1 for a fiscal year shall be based on the ratio of the expenditures of the State under Title XIX of the Social Security Act (42 USA 1396 et seq.) for fiscal year 1996 to the expenditure for all States under such title for such fiscal year.

SECTION 3. USE OF FUNDS.

(a) Amount.--With respect to each State, the Secretary of (HHS) shall determine the proportion of the reimbursement under Section 2 for each fiscal year that is equal to the amount paid to the State as the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act, 42 USC 1396(d)b)) expenditures by the State for the preceding year.

(b) Required Use.-- With respect to the amount determined in subparagraph (a) for the State for a fiscal year, the Secretary of (HHS) shall not treat such amount as an overpayment if the State certifies to the Secretary that such amount will be used by the State to conduct tobacco related programs in accordance with subparagraph (c).

(c) Eligibility.-- To be eligible to receive a payment under (a), the State must submit a plan to the (Secretary or Trustees) that:

(1) describes the manner in which the State intends to use the amounts provided under this section to conduct anti-tobacco programs consistent with this Act;

(2) describes the specific anti-smoking program that will be funded by the state;

(3) describes the activities to be conducted under such programs, including the populations to be served, and the goals and purposes of each program;

(4) describes the amount of funds thc will be used or each program described in paragraph (2);

(5) describes the measurable objectives that will be used to evaluate

the program;

(6) describes the procedures that will be used by the State to engage all populations;

(7) describes the procedures that will be used to engage potential program participants;

(8) dedicates the percentage of funds described in (d) to programs developed for minority populations; and

(9) meets other criteria established by the (Secretary or Trustees) as are reasonably necessary to meet the objectives of this Act.

(d) Percentage Determination.-- The percent shall be determined based on the percent of minority tobacco users in the State as calculated by the _____ based on data from the Behavioral Risk Factor Surveillance System (BRFS) and additional data from prepared by the Center for Disease Control and Prevention, the Department of Health and Human Services, the Public Health Service and the Bureau of Indian Affairs.

SECTION 4. PROGRAM OPERATIONS

(a) Conduct.-- The State must conduct the program in accordance with the approved plan.

(b) Assurance.-- The State plan must include an assurance that the State will collect data, maintain the records and furnish reports to the (Secretary/Trustees) as reasonable required.

(c) State Evaluations. -- Each State shall submit to the (Secretary/Trustees) by ______ and annually thereafter, an evaluation of the State's plan including an assessment of its effectiveness in reduction the persons (by age, gender, race and ethnicity) using tobacco products and a description of the analysis of the effectiveness of the plan's elements and other elements as required by the (Secretary/Trustees).

TITLE IV. PUBLIC HEALTH AND RESEARCH PROGRAMS

SECTION 1. CREATION OF TRUST FUND. -- There is created a National Institute of Health Trust Fund (the "Trust Fund") consisting of such amount as appropriated or transferred by the Trustees under Title II, Section 2(b)(2) to Research.

SECTION 2. OBLIGATIONS OF THE TRUST FUND— Subject to the provision of Section ___, the (Secretary/Trustees) shall distribute the amounts made available in the Trust Fund during any fiscal year—

(a) 2 percent to the Office of the Directory of the National Institute of Health;

(b) 2 percent to the National Center for Research Resources;

(c) 10 percent for carrying out section 414 of the Public Health Service Act with respect to national cancer research and demonstrations;

(d) 2 percent to the Special Population Fund;

(e) 2 percent to minority serving medical and research institutions;

(f) 10 percent to the National Research Board; and

(g) remainder to entities eligible to receive a grant or contract under section 3.

SECTION 3. ELIGIBLE ENTITIES. To be eligible to receive a grant or contract, an entity shall be:

(a) the National Institute of Health (including a subdivision or grantee of the Institute);

(b) National Society Foundation including a subdivision or grantee of the Foundation);

(c) nationally recognized research hospital;

(d) universities with recognized programs of basic and biomedical research;

(e) other eligible entities conducting basic quality or biomedical research as determined by the National Research Board.

SECTION 4. NATIONAL RESEARCH BOARD.--

(a) There is hereby established a National Research Board (the "Board")

(b) The board shall be composed of 9 voting members appointed by the President with expertise in biomedical research, basic research, medicine and public health of which at least 1 member shall have an expertise in research applied to minority populations.

(c) The Board shall award grants to and enter into contracts with eligible entities under Section 3(c) for the expansion of basic and biomedical research. The Board shall ensure that at least a percentage of such grants and contracts address the unique concerns of the minority populations which percentage shall equal the percent of minority tobacco users to tobacco users as calculated by the _____ based on data from the Behavioral Risk Factor Surveillance System (BRFS) and additional data from prepared by the Center for Disease Control and Prevention, the Department of Health and Human Services, the Public Health Service and the Bureau of Indian Affairs.

SECTION 5. NATIONAL TOBACCO RESEARCH AGENDA

(a) In General.-- Not later than 1 year after the date of enactment of this Act, and annually therefore, the Director of the National Institute of Health, in collaboration with the Director of the Centers for Disease Control, Commissioner of Food and Drugs, the Director of the Office of National Drug Control Policy, representatives from the Special Population Fund and Trustees shall prepare and submit to the Secretary and to the appropriate Congressional committees a National Tobacco Research Agenda.

(b) Contents.-- The agenda shall reflect the research needs in the area of tobacco-related illnesses and diseases and conditions related to other abused substances, with special emphasis on youth and minority population's tobacco use.

SECTION 6. SPECIAL POPULATION FUND

(a) In General.-- There is hereby established a newly created corporation, which shall be exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, or any other successive legislation and treated as an organization under ___________ whose sole purpose shall be to administer the Special Population Fund. The corporation shall be created upon enactment of this Act with a board of directors equal to 25 persons and shall have its initial board of directors designated by the President from a list of nominees prepared by

(1) 4 by the Congressional Asian-Pacific Caucus;

(2) 4 by the Congressional Black Caucus;

(3) 4 by the Congressional Hispanic Caucus;

(4) 4 by the Native American Caucus;

(5) 2 by Speaker of the House of Representatives, in consultation with the minority leader of the House;

(6) 2 by the Majority leader in the Senate, in consultation with the minority leader in the Senate;

(7) 1 by the Secretary of Health and Human Services; and

(8) 4 by the minority public health experts and organizations.

The board of directors thereafter shall be self-perpetuating.

(b) Funds.-- The Trustees shall distribute funds in the Special Population Fund to the newly created organization.

(c) Use.-- The newly corporation shall use such funds to award grants and enter into contracts with eligible entities for the purpose addressing issues related to tobacco use in the minority populations.

(d) Eligible Entities.-- To be able to receive grants or funds from the Special Population Fund, the entity shall submit an request to the organization, on such forms an in such manner as the organization requires, that:

(1) describes the manner in which the entity intends to use the amounts provided under this section to conduct anti-tobacco programs targeted at minority populations consistent with this Act;

(2) describes the specific anti-smoking program that will be funded;

(3) describes the activities to be conducted under such programs, including the populations to be served, and the goals and purposes of each

program;

(4) describes the amount of funds the will be used or each program described in paragraph (2);

(5) describes the measurable objectives that will be used to evaluate the program;

(6) describes the procedures that will be used by the entity will engage the specified population;

(7) describes the procedures that will be used to engage potential program participants; and

(8) meets other criteria established by the new organization as are reasonably necessary to meet the objectives of this Act.

(e) Program Operation—

(1) Conduct.-- The entity must conduct the program in accordance with the approved plan.

(2) Assurance.-- The entity plan must include an assurance that it will collect data, maintain the records and furnish reports to the new organization as reasonable required.

(3) Evaluations. -- Each entity receiving funds hereunder shall submit to the new organization an evaluation of the entity's plan including an assessment of its effectiveness in reduction the persons (by age, gender, race and ethnicity) using tobacco products and a description of the analysis of the effectiveness of the plan's elements and other elements as required by the new organization.

TITLE V. NATIONAL HEALTH INITIATIVES

SECTION 1. USES. Using the amounts available under section Article II, Section 2(b) to Public Health, the Secretary shall carry out the following activities.

(a) National Anti-Tobacco Program.--

(1) Reduction and Addiction Prevention Research —

(A) The Secretary shall establish and implement a national anti-tobacco product consumption and tobacco product cessation program to discourage individuals from beginning to use tobacco products and to assist individuals who consume such products with special emphasis placed on the health promotion and disease prevention activities that discourage children under the age of 18 from initiating or continuing use of such products.

(B) The Secretary shall provide for the conduct of research concerning the development of methods, drugs and devices to discourage individuals from using tobacco products and to assist individuals who use such products in quitting such use.

(C) The Secretary shall establish model curriculum and programs designed to educate the public about health risk associated with tobacco use. Such materials shall be developed in consideration of age, gender, race and ethnicity.

(D) The Secretary shall establish model cessation programs and provide for the provision of grants and other assistance to eligible entities and individuals for the establishment or administration of tobacco product use, prevention and cessation programs. Such programs shall be developed in consideration of age, gender, race and ethnicity

(E) In carrying out this program, the Secretary shall coordinate activities with state and local authorities.

(F) The Secretary shall be permitted to make grants or contracts with public or private entities to carry out educational and other activities described in this Article.

(G) The Secretary shall ensure that at a percentage of such grants and contracts address the unique concerns of the minority populations which shall be no less than the percentage of minority tobacco users to all tobacco users as calculated by the _____ based on data from the Behavioral Risk Factor Surveillance System (BRFS) and additional data from prepared by the Center for Disease Control and Prevention, the Department of Health and Human Services, the Public Health Service and the Bureau of Indian Affairs.

(2) Counter-Advertising

(A) The Secretary shall carry out programs to reduce tobacco usage through media-based and non-media based education, prevention, and cessation campaigns to discourage the use of tobacco products by individuals and to encourage those who use such products to quit.

(B) The Secretary shall ensure that such programs are developed as are necessary to take into account the needs of minority populations.

(C) In carrying out this program, the Secretary shall coordinate activities with state and local authorities.

(D) The Secretary shall be permitted to make grants or contracts with public or private entities to carry out research and other activities described in this Section.

(E) The Secretary shall ensure that at a percentage of such grants and contracts address the unique concerns of the minority populations which shall be no less than the percentage of minority tobacco users to all tobacco users as calculated by the _____ based on data from the Behavioral Risk Factor Surveillance System (BRFS) and additional data from prepared by the Center for Disease Control and Prevention, the Department of Health and Human Services, the Public Health Service and the Bureau of Indian Affairs.

(b) State Block Grants— The Secretary shall use not less than 40 percent of the amounts available in each fiscal year under this section to provide block grants to States to carry out activities described in this subparagraph (b) of which the percent determined in (c) shall be used for efforts targeted at minority populations.

(1) A state desiring to receive a block grant under this subsection shall prepare an application at such time and ain such manner and accompanied by such information as the Secretary may require.

(2) Use of Funds— A State shall use such amounts received under this Section to carry out the following activities:

(A) Tobacco Use Cessation— Activities to assist individuals in quitting the use of tobacco products.

(B) Tobacco Usage Reduction and Education Program— Activities to reduce tobacco usage through medical-based and non-media based education programs and cessation campaigns, to carry out information campaigns to discourage and de-glamorize the use of tobacco products; and for community-based tobacco control efforts that are designed to encourage community involvement in reducing tobacco use.

(C) Event Transitional Sponsorship Program— Activities for the transitional sponsorship of certain activities. Eligible activities include:

(i) athletic, musical, artistic, or other social or cultural event or activity that was sponsored in whole or in part by a tobacco manufacturer or distributor;

(ii) media programs, newspapers or magazines that were supported substantially by tobacco manufacturer or distributor through advertisement; and

(iii) scholarship programs that were supported substantially by tobacco manufacturer or distributor through donations.

(c) Percentage Determination. The percent shall be determined based on the percent of minority tobacco users in the State as calculated by the _____ based on data from the Behavioral Risk Factor Surveillance System (BRFS) and additional data from prepared by the Center for Disease Control and Prevention, the Department of Health and Human Services and the Public Health Service.

ARTICLES OF INCORPORATION

OF

____

The undersigned incorporator[s], desiring to form a corporation (the "Corporation") pursuant to the provisions of the Indiana Nonprofit Corporation Act of 1991 (the "Act"), execute[s] the following Articles of Incorporation:

ARTICLE I

Name

The name of the Corporation is ________________.

ARTICLE II

Classification of Corporation

The Corporation is a public benefit corporation.

ARTICLE III

Purposes and Powers

Section 3.1. Purposes. The purpose for which the Corporation is formed is to operate exclusively for charitable, educational, and scientific purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent Federal tax law and to administer the [Special Population Fund created by P.L. __________]. In furtherance of these purposes, the Corporation may, directly or indirectly through the award of grants and contracts with eligible organization :

(a) engage in activities designed to reduce smoking amongst the minority and women communities;

(b) develop educational and marketing materials directed to the minority and women communities to counter the efforts of smoke promotions targeted at such communities;

(c) conduct research designed to examine the effects of smoking in the minority and women communities and ways of reducing the rates of smoking in such communities;

(d) raise, invest, and expend funds exclusively for the benefit of, to perform the functions of and to carry out the purposes of a specified class of qualified nonprofit corporations exempt from federal taxation pursuant to Section 501(a) and who are classified as organizations described in Section 509(a)(1) or (2) of the Internal Revenue Code of 1986, or any subsequent Federal tax law,

(i) that operate, supervise, or control the Corporation,

(ii) that the Corporation is supervised or controlled in connection with, or

(iii) that are closely related in purpose or function to the organizations referred to in Section 3.1(d)(i) or (ii);

(e) support or benefit "permissible beneficiaries" within the meaning of 26 C.F.R. § 1.509(a)-4(e)(1) or comparable regulations or tax law; and

(f) In furtherance of the aforesaid purposes, to transact any and all lawful business for which corporations may be incorporated under the Act, provided such business is not inconsistent with the Corporation being organized and operated exclusively for charitable purposes.

Section 3.2. Nonprofit Purposes.

(a) The Corporation is organized and operated exclusively for charitable purposes and its activities shall be conducted in such a manner that no part of its net earnings shall inure to the benefit of any member, director, or officer or other private person, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Section 3.1.

(b) No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidate for public office.

(c) Notwithstanding any other provision of these Articles of Incorporation, the Corporation shall not carry on any other activities not permitted to be carried on:

(i) By a corporation exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws, or

(ii) By a corporation, contributions to which are deductible under Section 170(c)(2), Section 2055(a)(2), or Section 2522(a)(2) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws.

Section 3.3. Powers. Subject to any limitation or restriction imposed by the Act, any other law, or any other provisions of these Articles of Incorporation, the Corporation shall have the power:

(a) To do everything necessary, advisable, or convenient for the accomplishment of any of the purposes hereinbefore set forth, or which shall at any time appear conducive to or expedient for the protection or benefit of the Corporation and to do all of the things incidental thereto or connected therewith which are not forbidden by law;

(b) To engage in transactions, financial or otherwise, with a class of nonprofit corporations exempt from federal taxation pursuant to Section 501(a) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws. Such transactions shall include, but not be limited to, the transfer of assets, bargain sales, the borrowing or leasing of employees, the sharing of goods or services, the guarantee of the payment of principal, interest, or other payment in whatever form on obligations evidenced by any form of indebtedness, and the guarantee of performance of any obligation of any member of said class of nonprofit corporations. Each member of said class shall be affiliated with the Corporation by:

(i) supporting the Corporation, being supported by the Corporation, or supporting or being supported by the same corporation or corporations as the Corporation pursuant to Section 509(a) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws, or

(ii) being described in Sections 501(c)(2) or 501(c)(25) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws, by paying over its income, less expenses, to the Corporation or to an organization described in Section 3.3(b)(i).

In any event, the foregoing power or powers shall not be exercised or exercisable in a manner inconsistent with the Corporation's status under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws; and

(c) To have, exercise and enjoy in furtherance of the purposes herein before set forth all the general rights, privileges, and powers granted to corporations by the Act, as now existing or hereafter amended, and by the common law.

Section 3.4. Limitations on Powers. If the Corporation is or becomes a private foundation (as defined in Section 509(a) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws), the Corporation shall be subject to the following requirements:

(a) The Corporation shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws.

(b) The Corporation shall not engage in any act of self-dealing that would subject any person to the taxes imposed on acts of self-dealing by Section 4941 of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws.

(c) The Corporation shall not retain any excess business holdings which would subject it to the tax on excess business holdings imposed by Section 4943 of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws.

(d) The Corporation shall not make any investments in such a manner as to subject it to the tax under Section 4944 of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws.

(e) The Corporation shall not make any expenditures which would subject it to the taxes on taxable expenditures imposed by Section 4945 of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws.

ARTICLE IV

Distribution of Assets on Dissolution

In the event of the complete liquidation, dissolution of the Corporation, or the winding up of its affairs, the Board of Directors shall, after paying or making provision for the payment of all the liabilities of the Corporation, distribute all the assets of the Corporation exclusively for the purposes of the Corporation in such manner, or to such organization or organizations organized and operated exclusively for charitable, educational, religious or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws, as the Board of Directors shall determine. Any such assets not so disposed of shall be disposed of by the Judge of the Circuit Court of **[OPTION: _______]** exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

ARTICLE V

Term of Existence

The Corporation shall have perpetual existence.

ARTICLE VI

Registered Office and Registered Agent

Section 6.1. Registered Office and Registered Agent. The street address of the Corporation's registered office is ____________________ and the name of the Corporation's registered agent at that office is _________________.

Section 6.2. Principal Office. The post office address of the principal office of the Corporation is ____.

ARTICLE VII

No Members

The Corporation shall have no members.

ARTICLE VIII

Board of Directors

Section 8.1. Number and Term of Office. Upon incorporation, the initial Board of Directors shall consist of twenty-five (25) directors. Thereafter, the number of directors shall be as specified in or fixed in accordance with the Bylaws of the Corporation; provided, however, that the minimum number of directors shall be three (3). The term of office of a director shall be as specified in the Bylaws; provided, however, that the term of an elected director shall not exceed five (5) years. Directors may be elected for successive terms. Terms of office of directors may be staggered as specified in the Bylaws.

Section 8.2. Qualifications. Each director shall have such qualifications as may be specified from time to time in the Bylaws of the Corporation or required by law.

Section 8.3. Initial Board of Directors. The names and addresses of the initial Board of Directors of the Corporation are:

Names	Addresses

[List]

ARTICLE IX

Name[s] and Address[es] of Incorporator[s]

The name[s] and address[es] of the incorporator[s] of the Corporation are:

Name[s]	Address[es]

[List]

ARTICLE X

Indemnification

Section 10.1. Rights to Indemnification and Advancement of Expenses. The Corporation shall indemnify as a matter of right every person made a party to a proceeding because such person is or was

(a) a member of the Board of Directors of the Corporation,

(b) an officer of the Corporation, or

(c) while a director or officer of the Corporation, serving at the Corporation's request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, whether for profit or not, (each an "Indemnitee") against all liability incurred by such person in connection with the proceeding; provided that it is determined in the specific case that indemnification of such person is permissible in the circumstances because such person has met the standard of conduct for indemnification specified in the Act. The Corporation shall pay for or reimburse the reasonable expenses incurred by an Indemnitee in connection with any such proceeding in advance of final disposition thereof in accordance with the procedures and subject to the conditions specified in the Act. The Corporation shall indemnify as a matter of right an Indemnitee who is wholly successful, on the merits or otherwise, in the defense of any such proceeding against reasonable expenses incurred by the person in connection with the proceeding without the requirement of a determination as set forth in the first sentence of this paragraph.

Upon demand by a person for indemnification or advancement of expenses, as the case may be, the Corporation shall expeditiously determine whether the person is entitled thereto in accordance with this Article and the procedures specified in the Act.

The indemnification provided under this Article shall be applicable to any proceeding arising from acts or omissions occurring before or after the adoption of this Article.

Section 10.2. Other Rights Not Affected. It is the intent of this Article to provide indemnification to directors and officers to the fullest extent now or hereafter permitted by law consistent with the terms and conditions of this Article. Nothing contained in this Article shall limit or preclude the exercise of, or be deemed exclusive of, any right under the law, by contract or otherwise, relating to indemnification of or advancement of expenses to any person who is or was a director, officer, employee, or agent of the Corporation, or the ability of the Corporation to otherwise indemnify or advance expenses to any such individual.

Notwithstanding any other provision of this Article, there shall be no indemnification with respect to matters as to which indemnification would result in inurement of net earnings of the Corporation "to the benefit of any private shareholder or individual" or an "excess benefit transaction" within the meaning of Sections 501(c)(3) and 4958 of the Internal Revenue Code of 1986, as amended, or similar provisions of any subsequent Federal tax laws. The provisions of, and the rights and obligations created by, this Article shall not give rise or be deemed to give rise to "compensation for personal services" as described in IC 34-4-11.5-1 et seq., as amended.

Section 10.3. Definitions. For purposes of this Article:

(a) A person is considered to be serving an employee benefit plan at the Corporation's request if the person's duties to the Corporation also impose duties on, or otherwise involve services by, the person to the plan or to participants in or beneficiaries of the plan.

(b) The estate or personal representative of a person entitled to indemnification or advancement of expenses shall be entitled hereunder to indemnification and advancement of expenses to the same extent as the person.

(c) The term "expenses" includes all direct and indirect costs (including, without limitation, counsel fees, retainers, court costs, transcripts, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, and all other disbursements or out-of-pocket expenses) actually incurred in connection with the investigation, defense, settlement, or appeal of a proceeding or establishing or enforcing a right to indemnification under this Article, applicable law or otherwise.

(d) The term "liability" means the obligation to pay a judgment, settlement, penalty, fine, excise tax (including an excise tax assessed with respect to an employee benefit plan), or reasonable expenses incurred with respect to a proceeding.

(e) The term "party" includes an individual who was, is or is threatened to be made a named defendant or respondent in a proceeding.

(f) The term "proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal.

IN WITNESS WHEREOF, the undersigned incorporator[s] execute[s] these Articles of Incorporation and verifies[y] subject to penalties of perjury that the facts contained herein are true.

Dated this _____ day of _____________, 1997.

____

____

____

____

This instrument was prepared by Karen Ann P. Lloyd, ICE MILLER DONADIO & RYAN, One American Square, Box 82001, Indianapolis, Indiana 46282.

222601.1

BYLAWS

OF

ARTICLE I

Board of Directors

Section 1.1. Duties and Qualifications. The business and affairs of the Corporation shall be managed by the Board of Directors.

Section 1.2. Composition of Board. The Board of Directors shall consist of a minimum of three (3) directors and a maximum of twenty-five (25) directors, with the exact number of directors specified from time to time by resolution of the Board of Directors. The initial directors shall be designated by the President from a list of nominees prepared by:

(a) 4 by the Congressional Asian-Pacific Caucus;

(b) 4 by the Congressional Black Caucus;

(c) 4 by the Congressional Hispanic Caucus;

(d) 4 by the Native American Caucus;

(e) 2 by Speaker of the House of Representatives, in consultation with the minority leader of the House;

(f) 2 by the Majority leader in the Senate, in consultation with the minority leader in the Senate;

(g) 1 by the Secretary of Health and Human Services; and

(h) 4 by the minority public health experts and organizations.

Section 1.3. Appointed Directors and Term.

(a) The directors shall be appointed at the annual meeting of the Board of Directors as follows: [insert process]

(b) Each appointed director shall serve for a term of a term of **[three (3) years]**. Despite the expiration of an appointed director's term, the director continues to serve until a successor is appointed and qualifies, or until there is a decrease in the number of directors.

Section 1.4. Vacancies. Any vacancy among the directors caused by death, resignation, removal, increase in the number of directors or otherwise shall be filled in the same manner as such director's position originally was filled as described in the Bylaws. The term of office of a director chosen to fill a vacancy shall expire at the later of the next annual meeting of the directors, or at such time as a successor shall be duly appointed and qualified.

Section 1.5. Removal. Any appointed director may be removed, with or without cause, by the appointing entity.

Section 1.6. Annual Meetings. Unless the Board of Directors determines otherwise, the Board of Directors shall meet on **[the second Thursday of November]** of each year for the purpose of election of officers of the Corporation and consideration of any other business which may be brought before the meeting. No notice shall be necessary for the holding of an annual meeting.

Section 1.7. Other Meetings. Regular meetings of the Board of Directors may be held pursuant to a resolution of the Board to such effect and shall be held whenever convenient for the Board of Directors. Unless otherwise provided by the Board of Directors, regular meetings shall be held at the Corporation's principal office. No notice shall be necessary for any regular meeting. Special meetings of the Board of Directors may be held upon the call of the presiding officer of the Board of Directors, the Chairman, or twenty percent (20%) of the directors then in office and upon at least forty-eight (48) hours' notice specifying the date, time, place and purpose or purposes of the meeting, given to each director either personally or by mail, telegram, facsimile transmission, or telephone. A director may waive any required notice of an annual, regular or special meeting. The waiver must be in writing, signed by the director entitled to the notice, and filed with the minutes or Corporate records. A director's attendance at or participation in a meeting waives any required notice to the director of the meeting unless the director at the beginning of the meeting or promptly upon the director's arrival, objects to holding the meeting or transacting business at the meeting and does not vote for or assent to action taken at the meeting.

Section 1.8. Quorum; Voting. The presence of **[one-third (1/3)]** of the directors in office when action is taken, but in no event fewer than two (2) directors, shall be necessary to constitute a quorum for the transaction of any business at a meeting of the Board of Directors. If a quorum is present when a vote is taken, the affirmative vote of a majority of the directors present when the act is taken shall be the act of the Board of Directors, unless the act of a greater number is required by law, the Articles of Incorporation, or these Bylaws.

Section 1.9. Action by Consent. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if the action is taken by all directors. The action must be evidenced by at least one (1) written consent describing the action to be taken, signed by each director, and included in the minutes or filed with the corporate records reflecting the action taken. Action taken under this section is effective when the last director signs the consent, unless the consent specifies a prior or subsequent effective date.

Section 1.10. Committees.

(a) Executive Committee. There shall be, and by the adoption of these Bylaws the Board of Directors hereby creates, an Executive Committee of the Corporation, which shall consist of [five (5)] directors, appointed by a majority of all the directors in office when the action is taken. During intervals between meetings of the Board of Directors, the Executive Committee shall have and exercise all of the authority of the Board of Directors in the management of the Corporation, except where prohibited by law. In addition, the Executive Committee, to the extent specified by the Board of Directors, may exercise the authority of the Board of Directors, except where prohibited by law. The Executive Committee shall cause minutes of its proceedings to be kept and filed with the minutes of the proceedings of the Board of Directors.

(b) Research Committee.

[DESCRIPTION OF COMMITTEE FUNCTION]

(c) Educational Committee.

[DESCRIPTION OF COMMITTEE FUNCTION]

(d) Other Committees. The Board of Directors may from time to time create and appoint standing, special or other committees to undertake studies, make recommendations, and carry on functions for the purpose of efficiently accomplishing the purposes of the Corporation. Committees, to the extent specified by the Board of Directors, may exercise the powers, functions, or authority of the Board of Directors, except where prohibited by law; provided, however, that if a committee is to exercise board powers, functions, or authority, (a) all the persons serving on the committee must be directors, (b) there must be at least two (2) persons on the committee, and (c) the creation of the committee and the appointment of its members shall be by a majority of all directors in office when the action is taken.

ARTICLE II

Officers

Section 2.1. Officers and Qualifications Therefor. The officers of the Corporation shall consist of a Chairman, a Vice Chairman, a Secretary and a Treasurer. The officers shall be chosen by the Board of Directors. Any two (2) or more offices may be held by the same person.

Section 2.2. Terms of Office. Each officer of the Corporation shall be elected by the Board of Directors at its annual meeting and shall hold office for a term of one (1) year and until a successor shall be duly elected and qualified, or until resignation, removal, or death.

Section 2.3. Vacancies. Whenever any vacancies shall occur in any of the offices of the Corporation for any reason, the same may be filled by the Board of Directors, and any officer so elected shall hold office until the expiration of the term of the officer causing the vacancy and until the officer's successor shall be duly elected and qualified.

Section 2.4. Removal. Any officer of the Corporation may be removed, with or without cause, at any time by the Board of Directors.

Section 2.5. Compensation. Each officer of the Corporation shall receive such compensation for his or her services in such office as may be fixed by action of the Board of Directors.

ARTICLE III

Powers and Duties of Officers

Section 3.1. Chairman. The Chairman if present, shall preside at all meetings of the Board of Directors. At each annual meeting of Directors, the Chairman or the Chairman's designee shall report on the activities of the Corporation. Subject to the general control of the Board of Directors, the Chairman shall manage and supervise all of the affairs of the Corporation and shall perform all of the usual duties of the chief executive officer of a corporation.

Section 3.2. Vice Chairman. Subject to the general control of the Board of Directors, if the Chairman is not present, the Vice Chairman shall discharge all the usual functions of the Chairman and shall have such other powers and duties as these Bylaws, the Board of Directors, or an officer authorized by the Board may prescribe.

Section 3.3. Secretary. The Secretary shall attend all meetings of the Board of Directors, and prepare, keep, or cause to be kept, a true and complete record and minutes of the proceedings of such meetings, and shall perform a like duty, when required, for all committees appointed by the Board of Directors. If required, the Secretary shall attest the execution by the Corporation of deeds, leases, agreements and other official documents. The Secretary shall attend to the giving and serving of all notices of the Corporation required by these Bylaws, shall have custody of the books (except books of account) and records of the Corporation, shall be responsible for authenticating records of the Corporation, and in general shall perform all duties pertaining to the office of Secretary and such other duties as these Bylaws, the Board of Directors, or an officer authorized by the Board may prescribe.

Section 3.4. Treasurer. The Treasurer shall keep correct and complete records of account, showing accurately at all times the financial condition of the Corporation. The Treasurer shall have charge and custody of, and be responsible for, all funds, notes, securities and other valuables which may from time to time come into the possession of the Corporation and shall deposit, or cause to be deposited, all funds of the Corporation with such depositories as the Board of Directors shall designate. At each annual meeting of the Directors, the Treasurer, or the Treasurer's designee, shall report on the financial condition of the Corporation. The Treasurer, or the Treasurer's designee, shall furnish, at meetings of the Board of Directors or whenever requested, a statement of the financial condition of the Corporation, and in general shall perform all duties pertaining to the office of Treasurer.

Section 3.5. Assistant Officers. The Board of Directors may from time to time designate and elect assistant officers who shall have such powers and duties as the officers whom they are elected to assist shall specify and delegate to them, and such other powers and duties as these Bylaws or the Board of Directors may prescribe. An Assistant Secretary may, in the absence or disability of the Secretary, attest the execution of all documents by the Corporation.

ARTICLE IV

Miscellaneous

Section 4.1. Corporate Seal. The Corporation may, but need not, have a corporate seal. The form of any such corporate seal may be specified in a resolution of the Board of Directors. A corporate seal, however, shall not be required for any purpose, and its absence shall not invalidate any document or action.

Section 4.2. Execution of Contracts and Other Documents. Unless otherwise ordered by the Board of Directors, all written contracts and other documents entered into by the Corporation shall be executed on behalf of the Corporation by the Chairman or Vice Chair, and, if required, attested by the Secretary or an assistant secretary.

Section 4.3. Fiscal Year. The fiscal year of the Corporation shall begin on **[January 1]** of each year and end on the immediately following **[December 31]**.

Section 4.4. Executive Director. The Board of Directors shall employ an Executive Director for the Corporation who shall be responsible for the day-to-day operation and management of the Corporation. The Executive Director shall have the authority to employ and terminate the employment of staff members who are necessary to operate the Corporation and to determine their compensation within the budget approved by the Board of Directors. The Executive Director shall perform such other duties as the Board of Directors or Chairman may prescribe.

ARTICLE V

Amendments

Subject to law and the Articles of Incorporation, the power to make, alter, amend or repeal all or any part of these Bylaws is vested in the Board of Directors. The Corporation must provide notice to the directors of any meeting at which an amendment to the Bylaws is to be considered and voted upon.

Approved by the Board of Directors this day ___ of __________, 1998.

____
Secretary's Initial

223730.1