



Robert Wood Johnson Foundation

# Lobbying & Advocacy

Foundation-funded policy change

# 501(c)(3) Charities: Two Types



Robert Wood Johnson Foundation

## Private Foundations

- RWJF
- Ford Foundation
- California Endowment

**Not Permitted to lobby or to designate funds for lobbying**

## Public Charities

- Universities
- Hospitals
- Publicly supported organizations (e.g., Brookings Institute)

## **CAN Lobby**

- Substantial part test
- 501(h) election

# Foundation Funded Advocacy?



Robert Wood Johnson Foundation

- **The Robert Wood Johnson Foundation cannot spend its resources on attempts to influence legislation**
- **Yet it funds highly successful advocacy programs around legislative issues**
- **How?**



# Narrow Definition of Lobbying

## Where grant funds cannot go

### Direct Lobbying

Communication

Legislator

Reflecting a view on

Specific legislation

### Grass Roots Lobbying

Communication

Public

Reflecting a view on

Specific legislation

Call to action

# Talking to Government



Robert Wood Johnson Foundation

- **Let's start with direct lobbying**
- **Talking to a legislator about legislation**



# Who is a Legislator?

## Members of legislative bodies and staffs

- Congress
- State Legislatures
- City Council, County Commissioners, etc.

## Other government officials participating in legislative process

- Preparing a budget request or legislative agenda
- Signing legislation or exercising a veto

**If the principal purpose is to influence legislation.**



# Who is Not a Legislator?

## 1. Administrative agencies and executive branch departments

- FDA, HHS, CMS, Health Department

## 2. Other special purpose bodies

- School Board, Zoning Commission

**When principal purpose is not to influence legislation.**



# What is Legislation?

## Anything a legislature votes on

- Congress
- State Legislatures
- City Council, County Commissioners etc.



# What is Legislation?

- 1. Bills, repeals, amendments, renewals**
- 2. Budgets, appropriations, earmarks**
- 3. Proposals for legislation not yet introduced such as:**
  - Comprehensive clean indoor air measure
  - Specific health care reform proposal
- 4. Model Acts**
- 5. Senate confirmation**



# What is Legislation?

## Special rule for ballot initiatives

- Where the public votes on ballot measure (initiative or referendum)
- Members of the public are considered legislators
- Communication with the public is communication to a legislator



# What is Not Legislation?

1. Proposed regulations or administrative action
2. Enforcing or implementing existing law
3. Executive orders
4. Litigation
5. Broad issues of social policy

“Children should have access to only healthy food in school”

**Grant funds can be used for communications about these**

# Permitted Communications About Legislation



Robert Wood Johnson Foundation

1. **Non-partisan analysis and research**
2. **Technical assistance**
3. **“Self-defense”**

**Grant funds can be used for these**



# Non-Partisan Analysis and Research

## Reports/Briefings/Symposiums Can Reflect a View on Legislation

- Content test: sufficiently full and fair analysis of all the relevant facts for an independent conclusion
- Distribution test: not targeted to only one side of issue (No call to action)
- **Grant funds can be used for these**



## Cigarette Taxes & Pricing: Knowledge Assets Policy Brief

Knowledge Assets Policy Brief

May 2007

By: Chaloupka F

**This brief summarizes the findings of 14 studies undertaken to examine the role of cigarette taxes in reducing the negative consequences of tobacco on health**

findings of 14 studies undertaken to examine the role of the negative consequences of tobacco on health; the possibly increasing cigarette smuggling and other tax economic impact of such taxes; and the effect of taxes on the past decade, cigarette taxes have more than tripled and the price of cigarettes has doubled.

Some groups and pregnant women are more sensitive to price changes than are other demographics. The latter statistic is particularly important given the relatively high rates of smoking in low-income populations and the negative consequences for babies and mothers of gestational smoking.

- Higher prices for tobacco products reduce tobacco use across the board, through higher cessation rates, fewer people starting, reductions in relapse rates and lower consumption by continuing smokers; a 10 percent increase in cigarette prices reduces overall cigarette consumption by approximately 3-5 percent and higher increases reduce consumption even more.
- The increase in tax revenue due to higher tobacco taxes is more than offset by the reduced number of tobacco products sold, or by increased tax evasion tactics.
- The effects of higher tobacco taxes are influenced by responses of tobacco companies; for example, increases in marketing expenditures such as price promotions following the Master Settlement Agreement succeeded in offsetting between 33 and 57 percent of the effect of price increases on consumption.
- Decline of sales of tobacco products due to higher taxes does not lead to significant job losses.

This brief concludes that "given the significant health consequences [of] tobacco use, reductions due to tax increases lead to significant improvements in public

# Research Report



Robert Wood Johnson Foundation

ISSUE REPORT

## Prevention for a Healthier America:

INVESTMENTS IN DISEASE PREVENTION  
YIELD SIGNIFICANT SAVINGS,  
STRONGER COMMUNITIES



JULY 2008

PREVENTING EPIDEMICS.  
PROTECTING PEOPLE.



# Research Report



Robert Wood Johnson Foundation

**BIG TOBACCO'S  
GUINEA PIGS:**  
How an Unregulated Industry Experiments  
on America's Kids and Consumers

A photograph of a small, light-brown and white guinea pig lying on its back with its paws tucked up. A lit cigarette with a white filter and a black tip lies on the surface next to the guinea pig's head. The entire scene is enclosed within a white circular frame with a red border, set against a red and black background.

**AMERICAN  
LUNG  
ASSOCIATION.**

**AMERICAN HEART  
ASSOCIATION** | **AMERICAN STROKE  
ASSOCIATION**  
*Learn and Live.*

**Cancer Action  
Network**

**AMERICAN  
LUNG  
ASSOCIATION.**

**February 20, 2008**



# Technical Assistance

## Testimony or other assistance in response to:

- A *written* invitation
- From a *governmental body* or *committee* (*not* from an individual legislator or staff member or informal body such as a caucus)
- Grant funds can be used for this

# Congressional Testimony



Robert Wood Johnson Foundation

## TESTIMONY BEFORE THE SUBCOMMITTEE ON HEALTH OF THE COMMISSION ON ENERGY AND COMMERCE

### U.S. HOUSE OF REPRESENTATIVES

*Presented by Risa Lavizzo-Mourey M.D. M.B.A.  
President and CEO*

COMMITTEE ON HEALTH  
AND COMMERCE  
S  
and CEO



Robert Wood Johnson Foundation



*Risa Lavizzo-Mourey,  
M.D., M.B.A.*

Thanking Member Deal, and Members of the Subcommittee, thank you to testify about the need for H.R. 1108, the Family Smoking Prevention and Tobacco Control Act. I am Dr. Risa Lavizzo-Mourey, president and CEO of the Robert Wood Johnson Foundation, the nation's largest philanthropy devoted exclusively to improving the health and health care of all Americans.

For more than a decade, the Robert Wood Johnson Foundation has worked successfully to help reduce the prevalence of tobacco use through a two-pronged approach. First, we have funded research to learn which policies and programs are most effective. Second, we have focused attention and fostered action on evidence-based policies aimed at preventing people from starting to smoke, helping current smokers quit and protecting non-smokers from the serious health harms of secondhand smoke.

Tobacco use is still the leading cause of preventable death in our country—causing more than 400,000 preventable deaths in the United States each year, sickening millions more, reducing the productivity of our workforce and undermining our nation's economic competitiveness due to \$100 billion a year in tobacco-related health care bills.

Today we are asking you, the Congress, and the federal government to provide the leadership needed to address this significant threat to the health of our nation. One of the most important things you can do now would be to give the FDA authority over tobacco products.

Our country has made significant—although by no means sufficient—progress, especially at the state and local level. A growing number of states and localities have increased taxes on tobacco products, enacted smoke-free air laws that cover all workplaces and public places, and funded tobacco prevention and cessation programs. Collectively, we have also made great strides in getting effective tobacco cessation treatments into clinical practice and through state and national quitlines, and many health and health care policy changes have boosted access to and use of evidence based treatments.

The best measure of progress is that fewer Americans, both youth and adults, are smoking. Youth smoking rates have declined by 37 percent since peaking in 1997, and adult smoking rates have steadily declined as well.

But we have not yet turned the corner on this pervasive health threat which continues to take an enormous toll in health, lives and money in our country. Nearly one in four high school students still smokes and nearly 21 percent of all Americans remain addicted to this deadly product. Most troubling of all is the fact that our progress in reducing smoking has stalled among both youth and adults in recent years.

**Let's turn to communications with the public**

**Need a reference to legislation and a Call to Action**



# What is a Call to Action?

- 1. Directly encourage the recipient to contact a legislator – “Call your Representative”**
- 2. Give contact information for a legislator**
- 3. Provide a tear off postcard, link or model communication to a legislator**
- 4. Identify a legislator as undecided or opposed to your position on the legislation**



Take Action

Donate

Federal Initiatives

State Initiatives

International Center

Kick Butts Day

Research and Facts

Press Office

Tobacco Ad Gallery

Special Reports

Get Connected



## Action Center

Help **stop** the terrible toll of tobacco!

### Write to Congress

Your message will be sent to...

Your U.S. Representative

Your U.S. Senators



Select the topic you wish to write on:

Select

Tell Congress that it is time to pass bipartisan legislation authorizing the FDA to regulate tobacco products.

Select

Tell Congress that an increase in the federal tobacco tax will help deter people from smoking and will save lives.

Action Center  
Toolbox

Tell A Friend  
View Legislators  
Activist Toolkit

# Website Grass Roots Lobbying



Robert Wood Johnson Foundation



- Take Action
- Donate
- Federal Initiatives
- State Initiatives
- International Center
- Kick Butts Day
- Research and Facts
- Press Office
- Tobacco Ad Gallery
- Special Reports

#### Get Connected



## Action Center

Help **stop** the terrible toll of tobacco!

# Tell Congress to Allow the FDA to Regulate Tobacco

### Contact

• Required fields

• Title:

• First Name:

• Last Name:

• Your Email:

Yes, I would like to receive communications from the Campaign for Tobacco-Free Kids and the Tobacco-Free Kids Action Fund.

Remember me. What's this?

Send Message

• Address 1:

• Address 2:

• City:

• State / Province:

• ZIP / Postal Code:

Phone Number:

### Toolbox

- Tell A Friend
- View Legislators
- Activist Toolkit

### Message

• Subject:

Dear [Decision Maker],

• Please personalize your message

I am writing to urge you to support the Family Smoking Prevention and Tobacco Control Act. This bipartisan bill would grant the U.S. Food and Drug Administration (FDA) the authority to regulate the manufacture and marketing of tobacco products.

In the last Congress, the House passed this legislation by an overwhelming bipartisan margin of 326-102, and 60 sponsors were secured in the Senate.



# Grass Roots Lobbying Ad

Our kids:  
still getting hooked  
on cigarettes.

Our budget  
deficit:  
the worst it's been  
in years.



An increase in the state's cigarette tax is a win-win solution for New York. Why? It will save lives and save money. Research has shown that the more cigarettes cost, the less people smoke — especially kids. What's more, raising our cigarette tax by \$1.50 will generate more than \$480 million in new revenue to help fund tobacco prevention and other health care priorities. And it will help reduce the \$8 billion New York spends annually treating tobacco-caused disease.

It's easy to see why 79% of New York voters support increasing our tax by \$1.50, with part of the revenue supporting tobacco prevention programs — and why states across America are making the smart choice to increase cigarette taxes.

**Call your legislator today:**

Senate: 518-455-2800

Assembly: 518-455-4100

Tell them to increase the cigarette tax to save lives and raise revenue.

Our solution:  
raise the cigarette tax.





# Permitted Advocacy Ad

**Isn't her life worth 75¢?**

If increasing our tobacco  
tax saved just one child,  
it would be worth it.

But the fact is, tobacco taxes  
are a proven, effective way  
to reduce youth smoking.

A mere 75-cent increase  
in our tax would save lots  
of Wisconsin kids and raise  
millions for programs they  
need—from tobacco prevention

**Tobacco taxes –  
our kids are worth every penny.**





# Caveat: Paid Mass Media Rule

**A paid mass media ad on the general subject of pending legislation is treated as grass roots lobbying, if:**

- Legislation is “*highly publicized*”
- Ad is within *two weeks* of a legislative or committee (not subcommittee) vote and
- The ad refers to the specific legislation or contains a call to action

# Ad During Two Week Period



Robert Wood Johnson Foundation

**“THE DEBATE IS OVER.  
THE SCIENCE IS CLEAR.  
SECONDHAND SMOKE  
IS A SERIOUS  
HEALTH HAZARD  
THAT CAUSES PREMATURE  
DEATH AND DISEASE  
IN CHILDREN AND  
NONSMOKING ADULTS.”**

— SURGEON GENERAL OF THE UNITED STATES,  
JUNE 27, 2006

**Need we say more?**

STOP SECONDHAND SMOKE. WE ALL DESERVE TO BREATHE CLEAN AIR.

The bottom section of the advertisement features a row of logos for partner organizations, including the Cleveland Clean Air Foundation, the American Lung Association, and others.



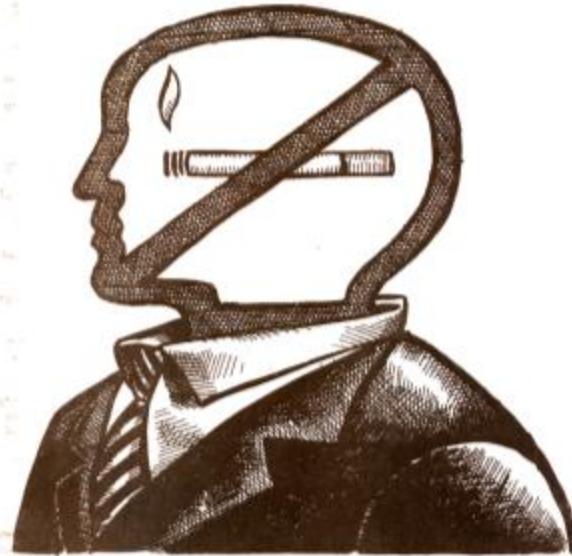
# Permitted Advocacy About Legislation

1. **Op-eds, letters to the editor**
  2. **Press conferences, editorial board meetings**
  3. **Newsletters or other publications**
  4. **Web sites**
  5. **Paid advertising**
- (If no call to action)**

**Grant funds can be used for these**

## The Philadelphia Inquirer

Friday, January 12, 2007



PAUL LACHNE

### Smoke-free Philly: It's a good start

— We'll breathe even easier if state follows

**Risa Lavizzo-Mourey**  
is president and CEO of  
the Robert Wood Johnson Foundation

**A**s of last Monday, we can all breathe a little more easily now that Philadelphia is no longer a smoke-filled room in the Northeast corridor.

This is a huge victory for the health of our families and our communities. But I'm still holding my breath because much

Philadelphia's lead and join the 16 states that have enacted strong, statewide laws that protect nonsmokers from secondhand smoke.

• We must spend enough on both tobacco-use prevention and programs to help smokers quit, so we take care of the health of our children and the parents and loved ones who mentor and nurture them.

As of now, Pennsylvania spends less than half of the minimum amount recommended by the Centers for Disease



## New Generation of Tobacco Products Threatens Efforts to Reduce Tobacco Use, Save Lives in U.S., Report Warns

Congress urged to grant FDA authority over tobacco products

February 20, 2008 Washington, D.C.

**An insidious new generation of tobacco products is threatening efforts to reduce tobacco use in the United States, warns a new report issued today by a coalition of public health organizations.**

threatening efforts to reduce tobacco use today by a coalition of

advantage of the lack of regulation to recruit new youth users, and prevent current users from quitting. The report also notes that new tobacco products, especially children, and

threaten public health, leading to the need for legislation granting the U.S. Food and Drug Administration authority to regulate tobacco products and

The report, "Big Tobacco's Guinea Pigs: How an Unregulated Industry Experiments on America's Kids and Consumers," was issued by the American Cancer Society, Cancer Action Network, American Heart Association, American Lung Association and Campaign for Tobacco-Free Kids, with funding by the Robert Wood Johnson Foundation. The full report and a slideshow of new tobacco products can be found at [www.tobaccofreekids.org/productsreport](http://www.tobaccofreekids.org/productsreport).

The report details key trends including:

- Flavored products: Cigarettes, smokeless tobacco and cigars have been introduced in an array of candy, fruit and alcohol flavors. R.J. Reynolds' Camel cigarettes, for example, have come in more than a dozen flavors, including lime, coconut and pineapple, toffee, and mint. Flavorings mask the harshness of the products and make them appealing to children.
- Novel smokeless products: New smokeless tobacco products have been marketed as ways to help smokers sustain their addiction in the growing number of places where they cannot smoke. In addition to traditional chewing and spit tobacco, smokeless tobacco now comes in teabag-like pouches and even in dissolvable,

# Advertising



Robert Wood Johnson Foundation



Sometimes a kid's worst day...  
is a parent's best.

**Let's make history. Let's get America's kids covered.**

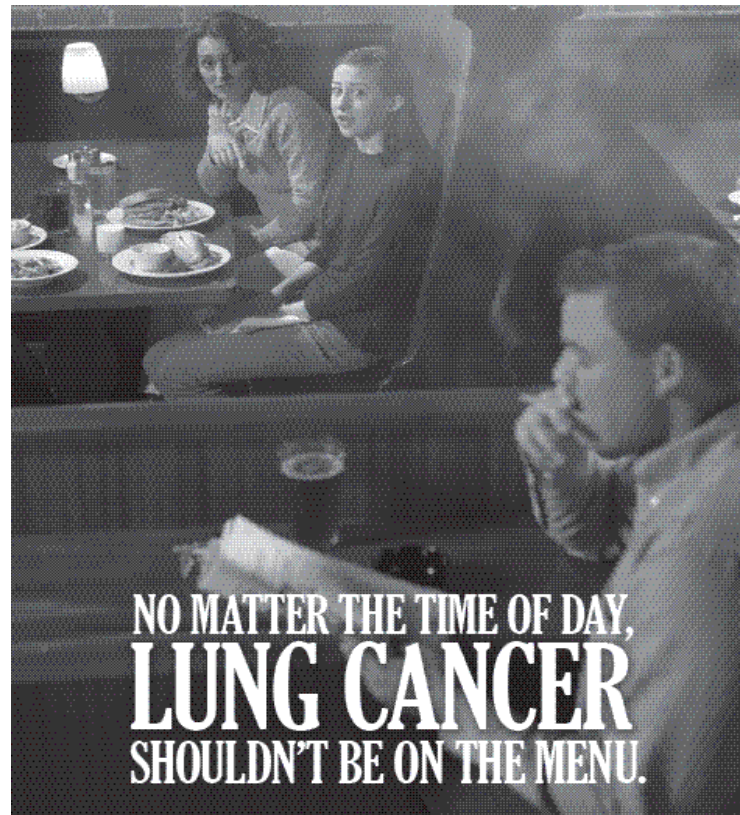
U.S. Chamber of Commerce • AFL-CIO • Healthcare Leadership Council • AARP • United Way of America  
American Medical Association • National Medical Association • American Nurses Association • Families USA  
Blue Cross and Blue Shield Association • America's Health Insurance Plans • American Hospital Association  
Federation of American Hospitals • Catholic Health Association of the United States • Service Employees  
International Union • National Alliance for Hispanic Health • The California Endowment • W.K. Kellogg Foundation  
Robert Wood Johnson Foundation

**CoverThe**  
**UninsuredWeek 2007**  
APRIL 22-29  
**LET'S GET AMERICA'S KIDS COVERED**

# Advertising



Robert Wood Johnson Foundation



Secondhand smoke is dangerous 24/7. That's why 75% of Virginians support a statewide law that makes all restaurants completely smoke-free. But a plan being considered by some Virginia leaders would allow smoking in restaurants after 10pm, which still puts workers' and patrons' health at risk.

Secondhand smoke contains more than 4,000 chemicals, including 69 known to cause cancer. And those toxins can linger long after the last cigarette is put out.

**All Virginians deserve the right to breathe clean air.  
Every hour. Every day.**

# Direct Mail



Robert Wood Johnson Foundation



## Small change

For more information please visit [www.oneofthreewebsites.org](http://www.oneofthreewebsites.org)

The Robert Wood Johnson Foundation  
Route 1 and College Road East  
PO Box 2316  
Princeton, NJ 08543-2316

Nonprofit Org.  
US Postage  
PAID  
The Robert Wood  
Johnson  
Foundation

TFK\_IN\_1

Paid for with private funds by the Robert Wood Johnson Foundation.  
No taxpayer funds were used for this mailing.



## Big Reward

One dollar can

Raising the cigarette tax by \$1 and funding tobacco prevention would save thousands of lives.

The more cigarettes cost, the less people smoke, especially kids. Raising the cigarette tax by just one dollar can prevent some \$9,800 Indiana kids from becoming smokers and save 28,700 Indiana kids from smoking-related deaths ([www.rwjf.org](http://www.rwjf.org))

The new revenue could help fund Indiana's award-winning tobacco prevention program, which has been severely cut, and other critical health needs.

Indiana has the second-highest smoking rate in the U.S. In addition to costing us friends and family members, it makes health care in Indiana so expensive that new jobs are going elsewhere.

**If raising the cigarette tax could save just one child's life, it would be worth it.**



# Other Legal Considerations

## Political Campaign Activity (Prohibited)

## State Lobbying Laws (Disclosure)

## Lobbying Disclosure Act

20 per cent rule

Different definition of lobbying



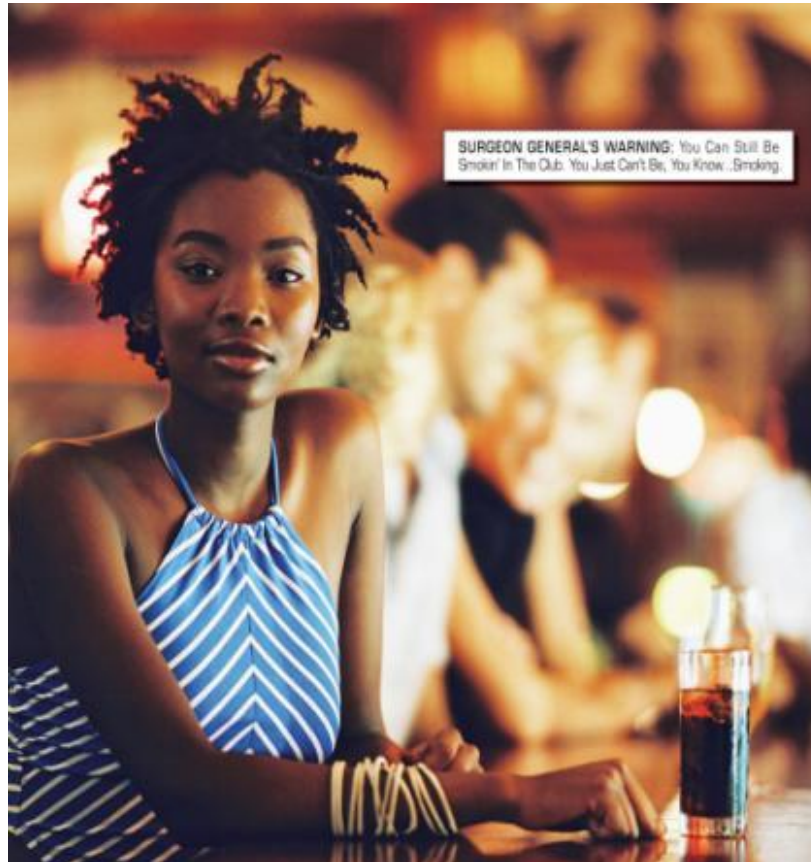
# Show and Tell

- **Lets look at some examples:**
- **Prohibited Lobbying or Permitted Advocacy?**

# Lobbying or Advocacy?



Robert Wood Johnson Foundation



**Congratulations Philly on going Smoke-Free**  
**[www.smokefreephilly.org](http://www.smokefreephilly.org)**

[www.smokefreephilly.org](http://www.smokefreephilly.org)

Robert Wood Johnson Foundation

# Lobbying or Advocacy?



Robert Wood Johnson Foundation

“My definition of winning? Live to play another day.  
That means smokefree gaming.”

— TOM MCEVOY, PROFESSIONAL POKER PLAYER AND AUTHOR, LAS VEGAS, NEVADA



**Going smokefree protects your patrons, staff,  
and future profits – a win-win-win situation.**

enterprise free from secondhand smoke? Get the facts and make  
up your own mind at [www.tobaccoscam.ucsf.edu](http://www.tobaccoscam.ucsf.edu).

*Are you  
smokefree  
yet?*

Photograph by Janet Salzano | Support for this campaign provided by the Robert Wood Johnson Foundation.

# Lobbying or Advocacy?



Robert Wood Johnson Foundation

A smoke-free celebration is moving across the nation.

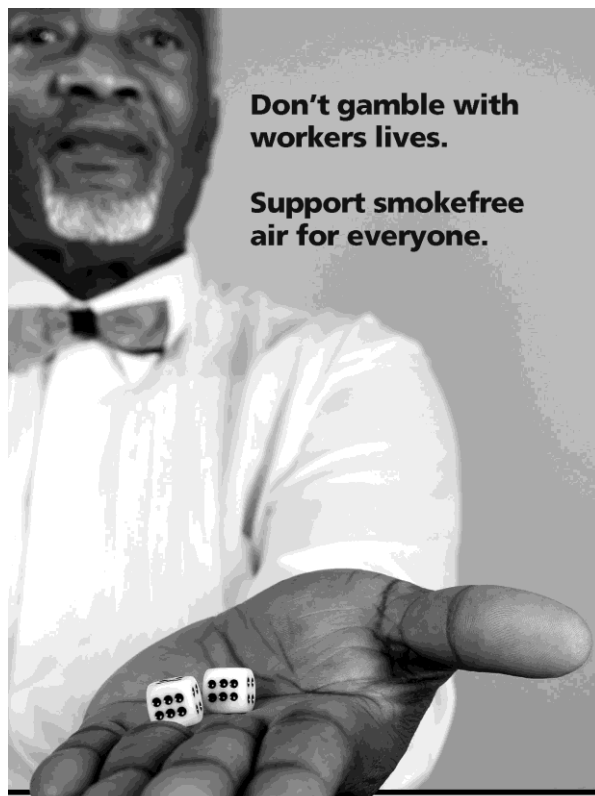


**Go smoke-free and join the movement that's giving everyone the right to breathe clean air.**

# Lobbying or Advocacy?



Robert Wood Johnson Foundation



**Tell your representative: support smokefree workplaces for all. Vote to concur with HB4163. Call: 888-NOW-I-CAN**



# Lobbying or Advocacy?

**(This letter was sent to Congress on Wed. Sept. 24, 2008 regarding the Treasury plan as outlined on that date. It does not reflect all signatories views on subsequent plans or modifications of the bill.)**

2) Its ambiguity. Neither the mission of the new agency nor its oversight are clear. If taxpayers are to buy illiquid and opaque assets from troubled sellers, the terms, occasions, and methods of such purchases must be crystal clear ahead of time and carefully monitored afterwards.

**As economists, we want to express to Congress our great concern for the plan proposed by Treasury Secretary Paulson to deal with the financial crisis.**

Ackerberg Daniel (UCLA)  
Adler Michael (Columbia University)  
Admati Anat R. (Stanford University)  
Ales Laurence (Carnegie Mellon University)  
Alexis Marcus (Northwestern University)  
Alvarez Fernando (University of Chicago)  
Andersen Torben (Northwestern University)  
Ballga Sandeep (Northwestern University)  
Banerjee Abhijit V. (Massachusetts Institute of Technology)  
Barankay Iwan (University of Pennsylvania)  
Barry Brian (University of Chicago)  
Bartkus James R. (Xavier University of Louisiana)  
Becker Charles M. (Duke University)  
Becker Robert A. (Indiana University)

# Lobbying or Advocacy?



Robert Wood Johnson Foundation

**Cover The Uninsured Week • March 10-16**

Her mom gets cancer.  
They find the tumor early.  
Her mom is OK.

**<OR>**

Her mom gets cancer.  
She's diagnosed too late.  
Her mom is gone.

**When you're uninsured, life turns out differently.**

There are 41 million Americans with no health insurance.  
March 10-16 is Cover The Uninsured Week.

**Cover The Uninsured Week**  
[www.CoverTheUninsuredWeek.org](http://www.CoverTheUninsuredWeek.org)

**Get involved – and help get America covered.**

# Lobbying or Advocacy?



Robert Wood Johnson Foundation



When kids have health coverage, they can stay focused on the really important stuff. Like bugs.

**Let's make history. Let's get every child covered.**

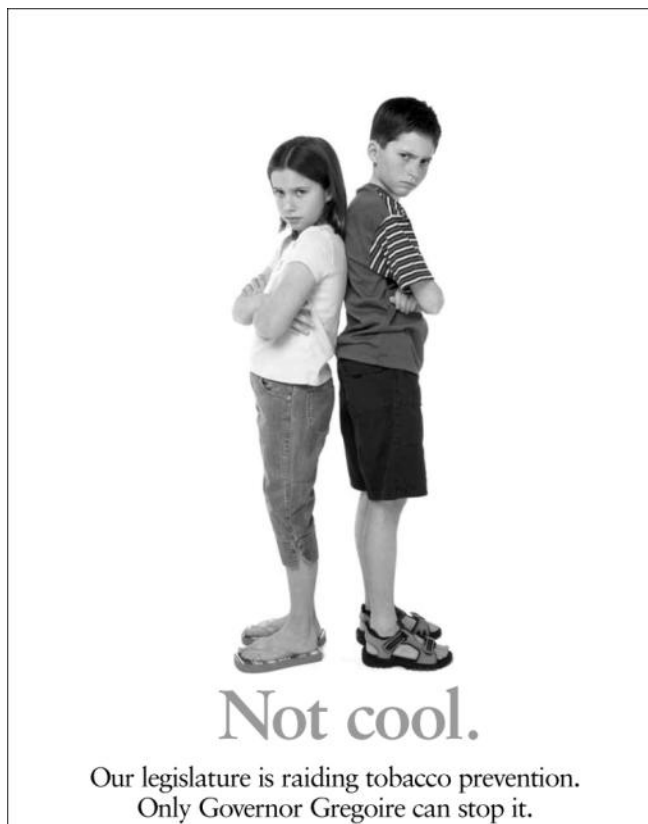
U.S. Chamber of Commerce - AHA/ACC - Healthcare Leadership Council - AARP - United Way of America - American Medical Association - National Medical Association - American Nurses Association - Families USA - Blue Cross and Blue Shield Association - America's Health Insurance Plans - American Hospital Association - Federation of American Hospitals - Catholic Health Association of the United States - Service Employees International Union - National Alliance for Hispanic Health - The California Endowment - RWJ Tobacco Foundation - Robert Wood Johnson Foundation

**CoverTheUninsured**  
LET'S GET AMERICA'S KIDS COVERED

# Lobbying or Advocacy?



Robert Wood Johnson Foundation



**Call Governor Gregoire at (360) 902-4111 and tell her:  
Protect our kids. Protect tobacco prevention.**

# Lobbying or Advocacy?



Robert Wood Johnson Foundation



Senator Sid Albritton



Senator Mike Chaney



Senator John Horhn



Senator Perry Lee



Senator Willie Simmons



Senator Shannon Walley

## Will These Senators stand with Mississippi families or Big Tobacco?

With one vote, these Senators can save Mississippi families hundreds of dollars a year in grocery bills and keep thousands of kids from smoking. All they have to do is override Governor Barbour's veto of a bill that cuts the grocery tax while increasing the cigarette tax. Mississippi has the highest grocery tax in America, so families need relief. But Big Tobacco wants these Senators to protect its profits instead. So, Senators, who will it be: Mississippi's families or Big Tobacco?

**Tell these Senators:  
Override the veto and cut the grocery tax.**

COMMUNITIES FOR A  
CLEAN BILL OF HEALTH





# The Lobbying Prohibition

**RWJF prohibits any portion of the award to be used for direct or grass roots lobbying as defined in federal tax law and regulations. Any proposed lobbying activities must be supported with non-RWJF funds. Applicants who are invited to submit full proposals should ensure they have made provisions for complying with this restriction and should address in their full proposals how they will comply with this non-lobbying provision.**

**Healthy Kids, Healthy Communities CFP**



# Reminder

**This presentation was prepared as a learning aid for grantees of national programs. It is not a comprehensive review of all of the laws and regulations concerning lobbying by foundations and other charitable organizations.**

***This presentation should not be considered legal advice. For legal advice regarding specific circumstances, consult a lawyer.***