

# **Lobbying vs. Education: Advocacy by NYS Department of Health Grantees**

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**Lawyers Alliance for New York**

**New York Academy of Medicine**

February 13, 2012



# What do we mean by advocacy? Is it lobbying?

- If you're attempting to influence legislation, you may be lobbying
- Internal Revenue Code does not prohibit lobbying but sets limits on amount 501(c)(3) organizations can do
- Federal, state and city registration and disclosure laws do not limit lobbying, only require reporting

# Internal Revenue Code: “Lobbying”

- Attempting to influence federal, state or local legislation
- Includes judicial nominations
- Does not include administrative rule making or other administrative advocacy (Note: IRS definition is different from State and City definitions)

# Direct vs. Grassroots Lobbying

- Direct: refers to specific legislation *and* takes a position on that legislation
- Grassroots: encourages others to take action by (1) referring to specific legislation, (2) taking a stand on that legislation, and (3) including a “call to action”
- Distinction is important for IRS purposes

Other regulatory bodies govern what you need to disclose if you lobby:

- NYS: Lobbyists must register online with the Joint Commission on Public Ethics when they anticipate exceeding \$5000 in lobbying activity for both state and city activity
- NYC: Lobbyists must register with City Clerk when they anticipate exceeding \$2000 in city lobbying

# New York State Lobbying Act

- Applies to nonprofit organizations and staff – even if no outside lobbyists involved
- **REMEMBER:** Does not set limits, only requires registration and disclosure – no penalty for “over reporting”

# NYS – What Counts as Lobbying?

- Defined to include any attempt to influence passage or defeat of legislation or the introduction or intended introduction of legislation (including at State or municipal level)
- Applies to the approval or veto of any legislation by the Governor
- Remember, the budget is a piece of legislation
- Attempting to influence City and State agency rules and regulations are also included in the definition of lobbying
- Applies to gubernatorial executive orders or mayoral executive orders

# NYC –What Counts as Lobbying

- Defined to include any attempt to influence (1) local legislation, (2) City agency rules, (3) zoning or land use determinations and (4) board or commission determinations
- Excludes State level activity

# Funding Restrictions

Federal and state law may restrict the use of contract dollars for lobbying activity, and those limitations will be included in funding contracts.

# Not all advocacy is lobbying

- Nonpartisan analysis or research
- Educating legislators, providing information on issues other than legislation
- Educating the public about the legislative process.
- Public education
- Training
- Educational conferences
- Organizing a rally to raise awareness of an issue
- Nonpartisan voter education/mobilization

# Lawyers Alliance For New York Resource Call Line

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# DASH-NY Webinar:

## Educating Decision Makers: Strategies to Sustain Prevention Projects in Public Health

*Held Monday, February 13, 2012*

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**Q: Is encouraging maintaining/increasing budget levels for state programs considered lobbying even though you are supposed to not directly ask the question but you establish "unmet needs" awareness as a basis of your meeting with elected officials?**

*A: Yes, what you're talking about is lobbying. Unmet needs are ok, but a discussion about changing the budget level is lobbying.*

**Q: Ex: lobbying or not? Local law in consideration re: tobacco-free parks. The City council committee is holding a public hearing. Can we provide information in support of tobacco-free outdoor recreational areas so long as we do not reference the ordinance or take a position on it?**

*A: This could be tricky because you're supporting exactly what the legislation is intending to do. The purpose of a public hearing is to provide information. You can provide information without supporting legislation on what happens when tobacco is present as opposed to when it is not. If you are appearing as an expert providing information about why tobacco free recreational spaces are good would not be included in the lobbying realm. What you do at a hearing is not provide information in support of a tobacco free atmosphere, but give information on what happens when tobacco is present as opposed to when it isn't, state the facts on what happens to kids' lungs and benefits of clean air, and in so doing you provide support without directly saying you are in support.*

**Q: Can a person lobby on his or her own time?**

*A: Yes, An individual is free to lobby in his/her personal capacity.*

**Q: Please clarify that under NYS law, a public official acting on official business is not, by definition, a lobbyist.**

*A: A public official is not a lobbyist.*

**Q: We've heard that HHS has recently broadened its language on what grant funding cannot cover as related to advocacy. Can you confirm that and describe any changes?**

*A: The language that was included in the House Appropriations report is now in the hands of the general counsel of HHS so there should be some guidance due out in the next couple of weeks. Our worry is that the language is so vague that there are a number of federal grant recipients who are getting nervous about the policy change side of things. Much of the new investment in public funds out of the Prevention Fund is for policy change efforts. We're hoping that the interpretation that comes out of HHS continues to allow some latitude. What hasn't changed is that federal funds are never used for lobbying. So, much of the language, although troubling, is simply restating what was already in statute; but that said, [regarding] CDC and HHS - we need to wait and see what comes out of the general counsel and presumably HHS.*

**Q: Can a letter to a House/Senate member which references specific legislation, but DOES NOT include an opinion of the legislation or a call to action, be considered lobbying?**

*A: The rule of thumb is [to ask] are you opposing or supporting a piece of legislation even implicitly? Just because you reference legislation but the purpose of your letter is simply to provide information, it may not be lobbying. It could be a gray area, but it really depends on the purpose.*

**Q: Can a written policy (for example Complete Streets policy) be considered "legislation" at the town level in NYS?**

*A: Yes, if it has the force and effect of a law. It is acceptable to explain components of a model policy with supporting evidence to your local elected officials as long as you do not in any way suggest that they adopt a specific policy.*

# The Federal Policy Environment for Disease Prevention

Designing a Strong and Healthy New York  
February 13, 2012

Richard Hamburg  
Deputy Director



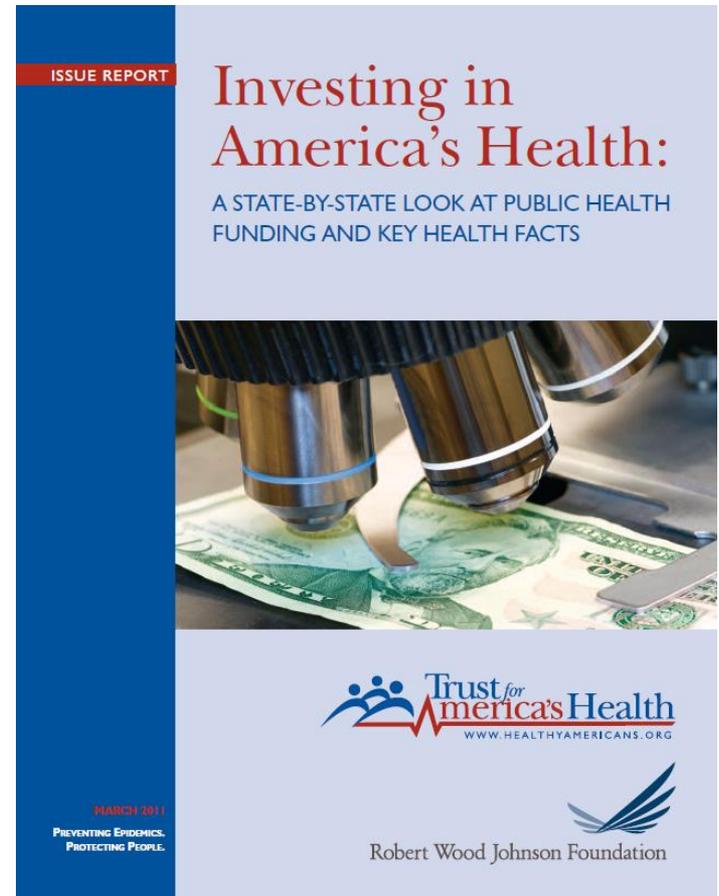
# Who We Are

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- Trust for America's Health (TFAH) is a non-profit, non-partisan organization dedicated to saving lives by protecting the health of every community and working to make disease prevention a national priority.

# Investing in America's Future

- ❑ The nation's public health system is responsible for improving the health of Americans, but, the public health system has been chronically underfunded for decades.
- ❑ Federal, state, and local public health departments have not been able to adequately carry out many core functions, including programs to prevent disease and prepare for health emergencies, and funding has remained at a relatively flat and insufficient level for years.
- ❑ According to a TFAH analysis, 33 states and Washington, D.C. cut funding for public health from fiscal year (FY) 2008-2009 to 2009-2010, and 15 of these states cut funding for a second year in a row.



# *Blueprint for a Healthier America*

- Even though the United States spends more than \$2 trillion annually on health care, tens of millions of Americans suffer from preventable diseases and major vulnerabilities exist in the nation's preparedness to respond to health emergencies.
- More than 150 experts and organizations helped identify gaps and fixes for federal public health agencies and programs through a year-long consensus-building process.



# Blueprint for a Healthier America

## Policy Recommendations

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- Setting new, realistic short and long-term health goals for the country;
- Investing in disease prevention as a cornerstone of health care reform;
- Ensuring a stable and reliable funding stream for core public health functions and preventive services, such as immunizations and screening and public health emergency preparedness;
- Creating an independent, science-driven National Public Health Board;
- Implementing a National Health and Prevention Strategy focused on lowering disease rates, including a strategy to combat obesity;
- Addressing the public health workforce crisis with stepped-up recruitment efforts; and

# Prevention for a Healthier America: Financial Return on Investment?

*With a Strategic Investment in Proven Community-Based Prevention Programs to Increase Physical Activity and Good Nutrition and Prevent Smoking and Other Tobacco Use*

<b>INVESTMENT:</b>	<b>\$10 per person per year</b>
<b>HEALTH CARE COST NET SAVINGS:</b>	<b>\$16 Billion annually within 5 years</b>
<b>RETURN ON INVESTMENT (ROI):</b>	<b>\$5.60 for every \$1</b>

# Public health spoke with unified voice

- Pillars for public health in health reform:
  - Universal coverage, including first \$ coverage of clinical preventive services
  - National Prevention Strategy
  - Reliable funding stream through creation of a Trust Fund (mandatory appropriation) to support:
    - Core public health functions
    - Community prevention
    - Public health workforce
    - Public health and prevention research



# National Prevention Strategy

- ❑ Announced in June 2011
- ❑ Product of participation of 17 federal agencies
- ❑ Weaving prevention into all aspects of life
- ❑ Recognizing a role for all public and private stakeholders
- ❑ Released June 2011

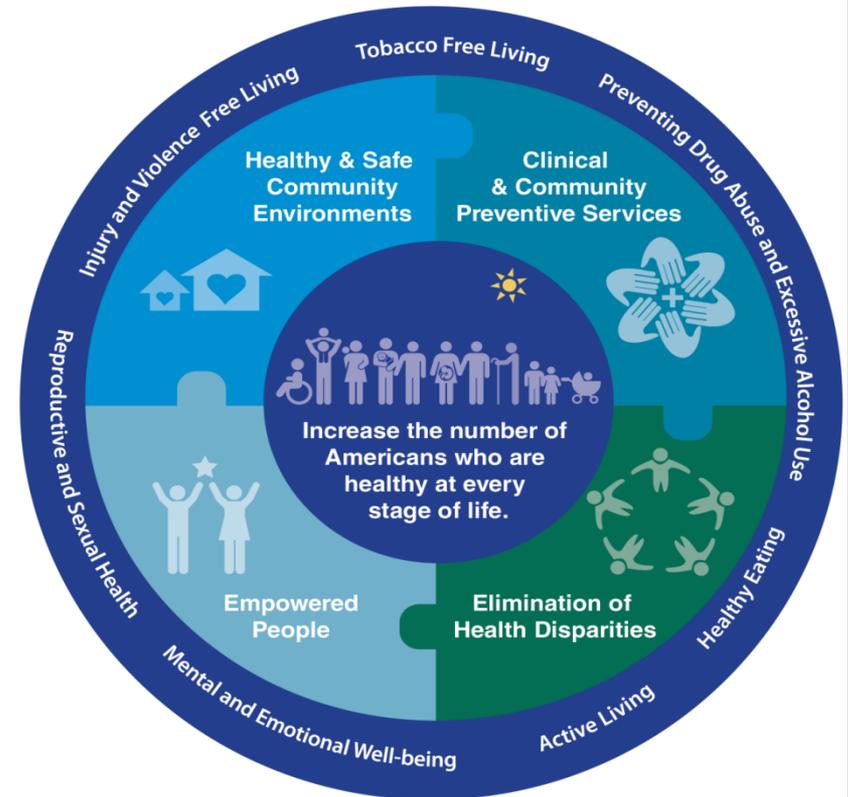


# National Prevention Council

Bureau of Indian Affairs	Department of Labor
Corporation for National and Community Service	Department of Transportation
Department of Agriculture	Department of Veterans Affairs
Department of Defense	Environmental Protection Agency
Department of Education	Federal Trade Commission
Department of Health and Human Services	Office of Management and Budget
Department of Homeland Security	Office of National Drug Control Policy
Department of Housing and Urban Development	White House Domestic Policy Council
Department of Justice	

# National Prevention Strategy

- Four pillars
  - Healthy and Safe Community Environments
  - Clinical and Community Preventive Services
  - Empowered People
  - Elimination of Health Disparities

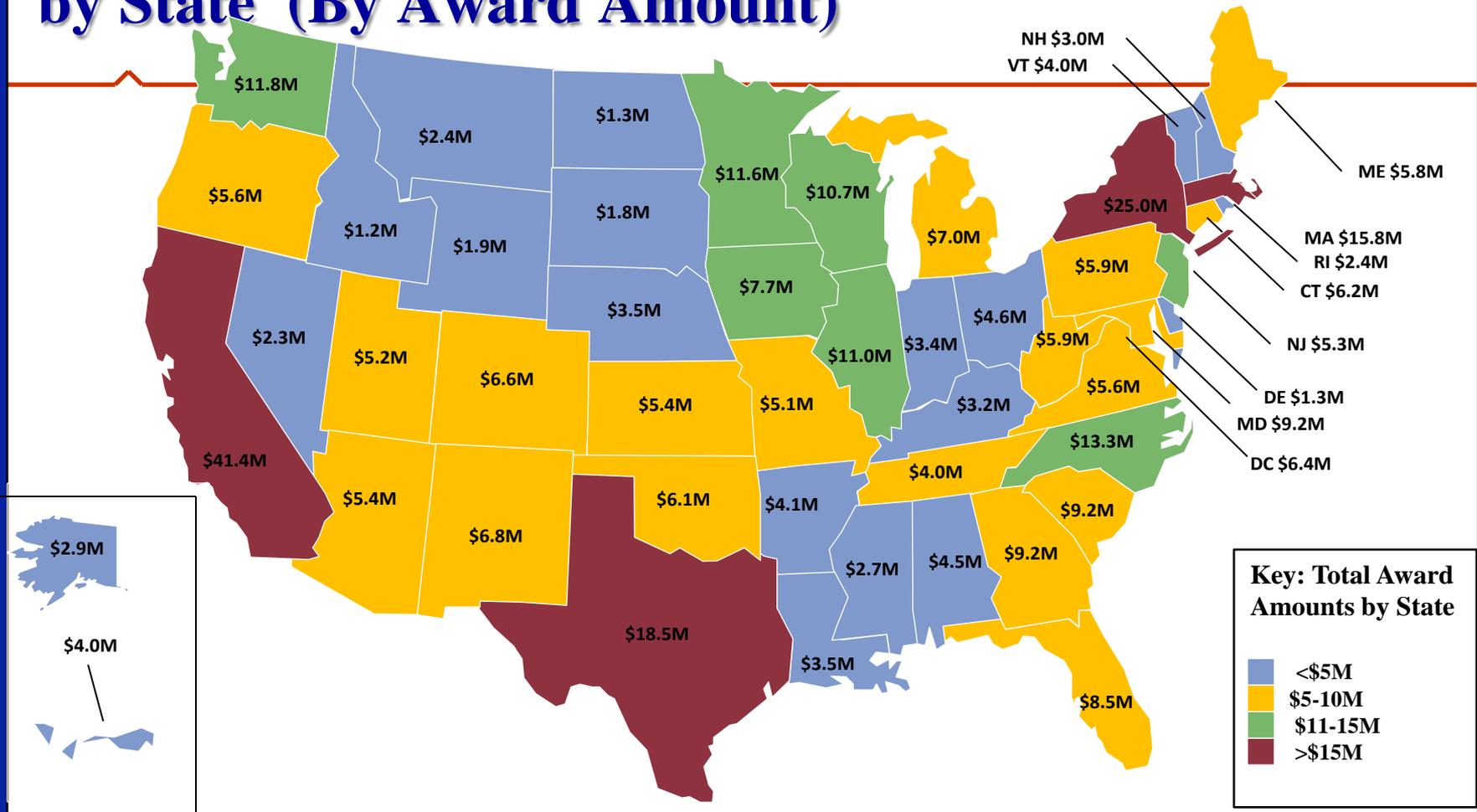


# Real money through mandatory appropriations



- Prevention and Public Health Fund: **\$18.75 billion** over next 10 years (permanent authorization at **\$2 billion** a year)
  - \$500 million allocated for FY10, \$750 million for FY11 and \$1 billion for FY12.
  - The President's budget, expected next Monday, will contain \$1.25 billion.

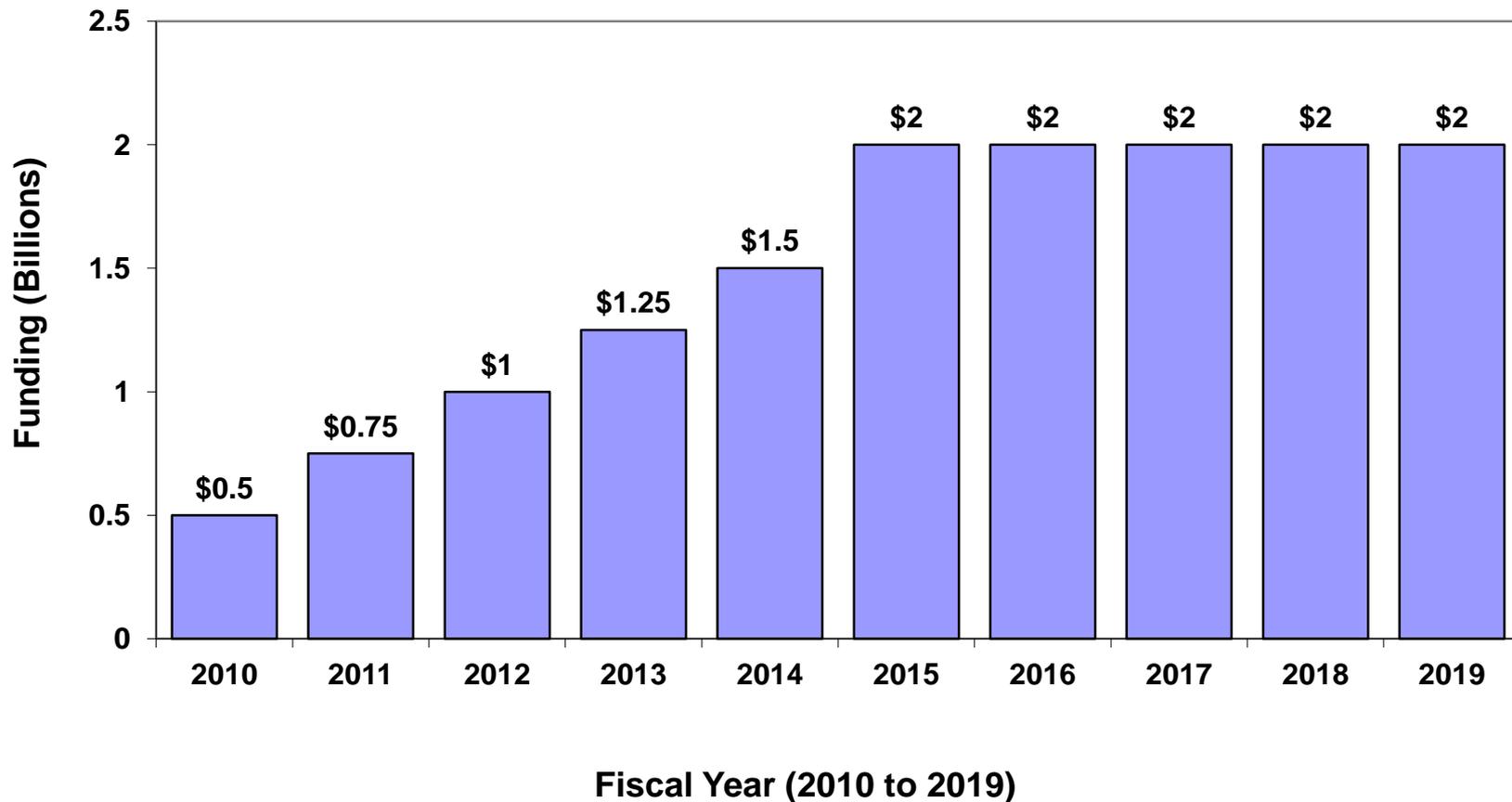
# FY11 PPHF Cooperative Agreement / Grant Awards by State (By Award Amount)



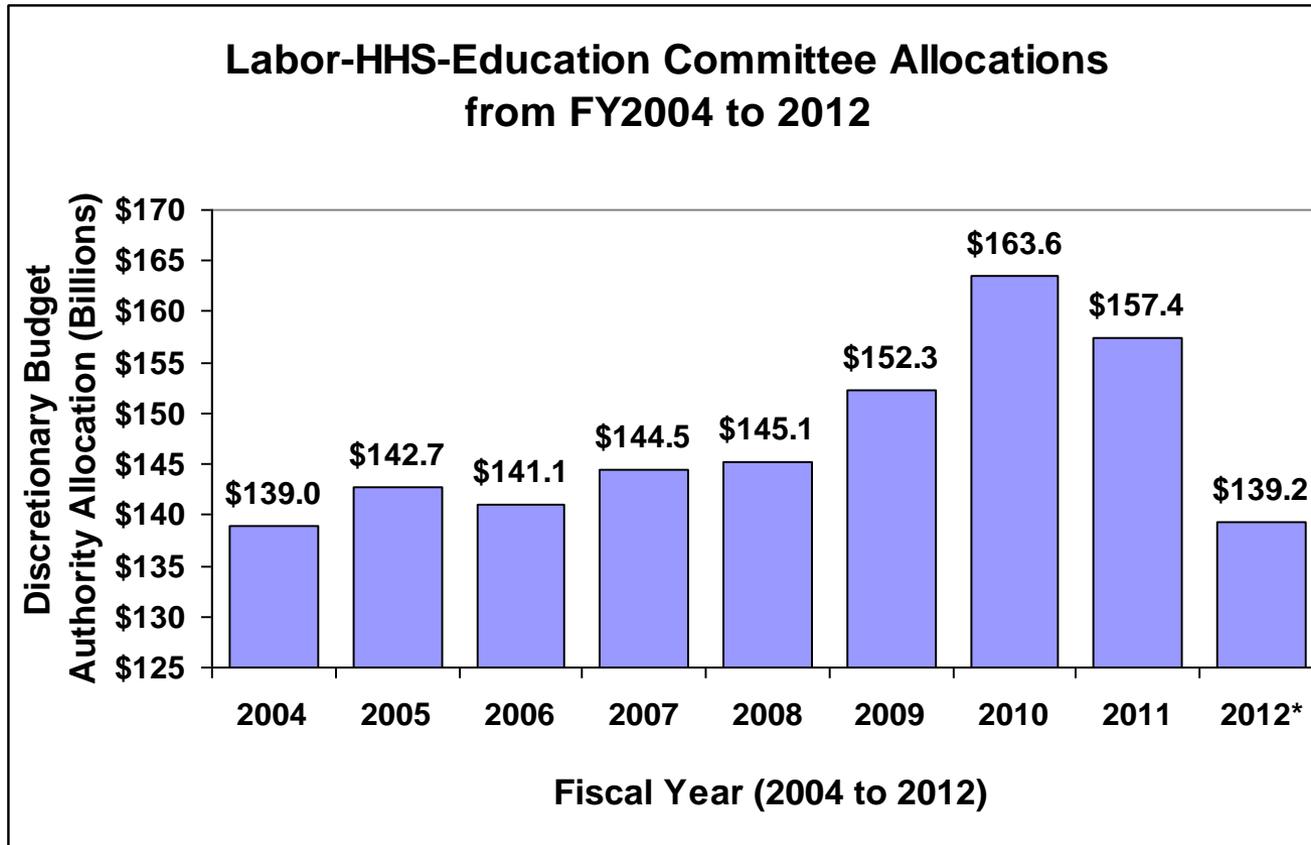
Totals include awards to states, cities/counties, tribes, and partners (\$358.8M). Awards to territories (\$4.3M) are excluded.

<sup>1</sup>Programs included (16 total): National Public Health Improvement Initiative (NPHII), Epidemiology and Laboratory Capacity Program (ELC), Emerging Infections Program (EIP), Healthcare Associated Infections (HAI), Immunization, Prevention Research Centers (PRCs), Public Health Prevention Research, Chronic Disease State Grants, Tobacco Quitlines, Community Guide, Public Health Workforce, Community Transformation Grants (CTG), Racial and Ethnic Approaches to Community Health (REACH), Environmental Public Health Tracking (EPHT), Division of Nutrition, Physical Activity, and Obesity (DNPAO), and Preparedness and Emergency Response Research Centers (PERRCs) / Preparedness and Emergency Response Learning Centers (PERLCs).

## Public Health and Prevention Fund Allocations FY2010 to FY2019

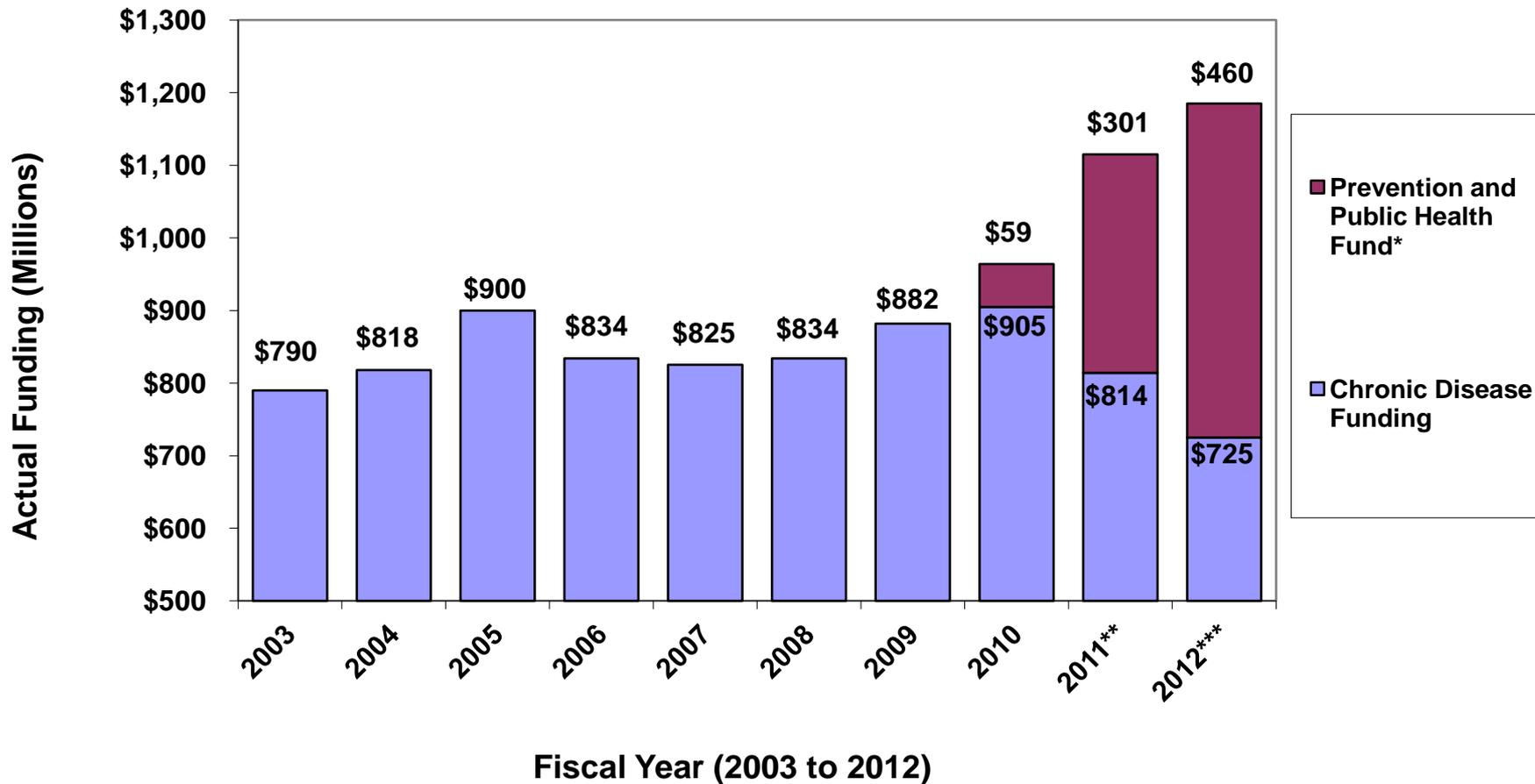


# FY12 Budget Debate



\* FY2012 is based on House Appropriations Committee target.

## CDC Chronic Disease Funding from FY2003 to FY2012



\*FY 2010-2012 CDC values are supplemented by the Prevention and Public Health Fund

\*\* FY2011 value is "enacted" value, while the other FY values are "actual"

\*\*\* FY2012 value (excluding the Prevention and Public Health Fund) represents the President's Budget request

# CDC PPHF FY 2011 Investments

<b>Investment Area</b>	<b>Amount</b>
Community Transformation Grants	\$145m
Immunization	\$100m
Tobacco Prevention	\$50m
Chronic Disease State Grants	\$42.2m
Public Health Infrastructure	\$40.2m
ELC/EIP	\$40m
Environmental Public Health Tracking	\$35m
Healthcare Surveillance	\$30m
Public Health Workforce	\$25m
REACH	\$25m
Healthcare Associated Infections	\$11.75m
DNPAO	\$10m

# CDC PPHF FY 2011 Investments (Continued)

<b>Investment Area</b>	<b>Amount</b>
Prevention Research Centers	\$10m
PERRCs	\$10m
Public Health Prevention Research	\$10m
Worksite Wellness	\$10m
Community Guide	\$7m
National Youth Fitness Survey	\$6m
Education and Outreach	\$2m
National Prevention Strategy	\$1m
Promoting Obesity Programs in Early Childhood Programs	\$0.75m
<b>Total</b>	<b>\$610.9m</b>

# FY 2011/12 - \$750 million/\$1 billion

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- \$145/\$280 million for Community Transformation Grants
- \$42.2/\$0 million for Chronic Disease State Grants
- \$40/\$40 million for Epidemiology and Lab Capacity
- \$10/\$10 million for Prevention Research Centers
- \$14/\$14 million for community and clinical task forces
- \$100/\$190 million for childhood immunizations
- \$40.2/\$40.2 million for public health infrastructure
- \$25/\$40 million for REACH
- \$50/\$100 million for tobacco prevention

# True community-based prevention

- **Community Transformation Grants (CTGs)**
  - Requires detailed plan for policy, environmental, programmatic and infrastructure changes to promote healthy living and reduce disparities
    - Create healthier school environments, including healthy food options, physical activity opportunities, promotion of healthy lifestyles
    - Develop and promote programs targeting increased access to nutrition, physical activity, smoking cessation and safety
    - Highlight healthy options at restaurants and food venues
    - NOT limited to chronic diseases or one disease at a time

# Five Year CTG Goals

## □ **CTG National Goals**

- Five year, measurable performance goals:
  - Reduce death and disability due to tobacco use by 5%;
  - Reduce the rate of obesity through nutrition and physical activity interventions by 5%;
  - Reduce death/disability due to heart disease and stroke by 5%.

# CTGs are happening!

- **Funding allocated for Fiscal Year 2011/2012:**
  - Total of \$145 million, including \$103 million awarded to 61 states and communities, serving 120 million Americans
    - 26 capacity-building grants (\$147,000 - \$500,000)
    - 35 for implementation of evidence and practice-based programs (\$500,000 - \$10 million)
  - \$4.2 million to national networks, APHA, Asian Pacific Partners for Empowerment, Community Anti-Drug Coalition, National Farm to School Network, ALA, REACH Coalition, and YMCA.
  - Total of \$280 million, including \$135 million through a new competition for areas less than \$500,000, focused on non-governmental orgs, school districts, housing authorities, etc.

# CTG Implementation Grants

- Alaska: Southeast Alaska Regional Health Consortium
- California: County of San Diego Health and Human Services Agency, Los Angeles County Department of Public Health, San Francisco Department of Public Health and Public Health Institute
- Colorado: Denver Health and Hospital Authority
- Florida: Broward Regional Health Planning Council
- Illinois: Department of Public Health
- Iowa: Department of Public Health
- Kentucky: Louisville Metro Department of Public Health and Wellness
- Maine: Department of Health and Human Services
- Maryland: Department of Health and Mental Hygiene
- Massachusetts: Department of Public Health (to serve state minus large counties) & Massachusetts Department of Public Health (to serve Middlesex County)
- Michigan: Sault Ste Marie Tribe of Chippewa Indians
- Minnesota: Hennepin County Human Services and Public Health Department & Minnesota Department of Health
- Missouri: Mid-America Regional Council Community Services Corporation
- Montana: Department of Public Health and Human Services
- Nebraska: Douglas County Health Department
- New Mexico: Department of Health
- New York: The Fund for Public Health in New York & University of Rochester Medical Center
- North Carolina: Division of Public Health
- Oklahoma: City-County Health Department
- Pennsylvania: Philadelphia Department of Public Health
- South Carolina: Department of Health and Environmental Control
- South Dakota: Department of Health
- Texas: City of Austin Health & Human Services Department & Texas Department of State Health Services
- Vermont: Department of Health
- Washington: Tacoma-Pierce County Health Department & Washington State Department of Health
- West Virginia: Bureau for Public Health
- Wisconsin: University Health Services, University of Wisconsin-Madison

# Capacity-building CTG grants

- Alaska: Yukon-Kuskokwim Health Corporation
  - California: County of Kern, Public Health Services Department , Fresno County Department of Public Health , Stanislaus County Health Services Agency, Toiyabe Indian Health Project, Ventura County Public Health and Sierra Health Foundation
  - Connecticut Department of Public Health
  - Georgia: Cobb Public Health
  - Kentucky: Unlawful Narcotics Investigation Treatment Education, Inc.
  - Louisiana Department of Health and Hospitals
  - Michigan: Spectrum Health Hospitals
  - Mississippi: My Brother's Keeper Inc.
  - New Jersey Prevention Network
  - New Mexico: Bernalillo County Office of Environmental Health
  - North Dakota Department of Health
  - Ohio: Austen BioInnovation Institute and Public Health-Dayton and Montgomery County
  - Pennsylvania: Lancaster General Health
  - Texas: Houston Department of Health & Human Services
  - Utah Department of Health
  - Virginia: Fairfax County Department of Neighborhood and Community Services
  - Washington: Confederated Tribes of The Chehalis Reservation & Sophie Trettevick Indian Health Center
  - Wisconsin: Great Lakes Inter-Tribal Council, Inc.
  - Ulkerreuil A Klengar (Republic of Palau)
- More information is available at:**  
<http://www.cdc.gov/communitytransformation/>

# Challenges to the Prevention Fund

- Why defend it?
  - Mandatory nature – only source of assured new funding in tight fiscal times
  - Source of \$ for transformative change
- What's the objection?
  - It's part of the ACA
  - Mandatory = contributes to deficit
  - Claim that Congress has no control over how spent
    - Untrue: Secretary only acts if Congress doesn't

# Appropriations riders

- HHS to post information on publicly accessible website on use of PPHF funds – including funding opportunity announcements (FOAs), listings of all grants, reports detailing use of funds, semi-annual reports from all grantees, and summaries of subgrants and subcontracts
- “Section 503” – expanded restrictions on use of federal funds for lobbying
  - HHS General Counsel is reviewing and may need to generate additional guidance to grantees
  - Already a whole host of similar provisions in U.S. Code and in previous appropriations bills
  - Legislative oversight already underway on programs like Communities Putting Prevention to Work (CPPW)

# Refresh Memories on Budget Deal

- 10 year discretionary spending caps, \$900+ billion in savings
- Increases debt limit by \$2.1 trillion
- Bipartisan committee to identify additional \$1.5 trillion in deficit reduction
- Committee did not complete its job by 11/23/11, so cuts would be triggered for FY2013, with a 50/50 split for domestic/defense (Social Security, Medicaid and Low-income programs exempted)
- If sequestration occurs for FY2013, likely looking at 7.8% – 9.0% in cuts to discretionary health programs and PPHF

# Latest on Advocacy Front

- Successful protection of PPHF in December 2011's two month tax extenders/"doc fix" package
- FY 2012 Omnibus – essentially flat funding for HHS/CDC
- Rumors of \$3.5 billion in cuts still on table for full one-year extension of tax extenders/"doc fix" package
- Deadline for finalizing work on year long package is February 29<sup>th</sup>
- FY2013 Budget released today, with \$1.25 billion for PPHF
- Cuts in CDC base undermine value of Fund
- Is Congress/Administration making a conscious trade off?
- Can we maintain transformative nature of the Fund?

# What can we do?

- Public believes in prevention
  - Consistent polling data shows public believes prevention saves money and worth the investment even if it doesn't save money
- Build support across country - over 720 national, state and local organizational supporters
- Show members of Congress where the money is going – need for transparency by CDC and need for relationship building by grantees with elected officials
  - Create relationships with elected officials
  - Give visibility to success stories in local media

# Transportation Update

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- Five-year Surface Transportation Authorization bill provides prevention opportunity
- Help make healthy transportation choices the easy choices
- Policies and programs that promote healthier lifestyles
  - Complete Streets
  - Safe Routes to School Program
  - Healthy Transportation Objectives

# House Update

- Current extension expires late March 2012
- House Proposal, HR. 7
  - Eliminates dedicated transit funding
    - But includes one-time \$40 billion transfer from the General Fund; Though currently lacks a pay-for
  - Eliminates Safe Routes to School and “transportation enhancements” funding
- House is expected to vote within the next week
  - Vote count is unclear. Virtually no Democratic support and some Republicans oppose transit and other cuts; some Republicans think it is *still* too costly.

# Senate Update

- Senate Proposal, MAP-21 (S. 1813 and others)
  - Committees of jurisdiction have completed markups
    - EPW Committee Mark was seen as bipartisan Boxer-Inhofe bill
      - Eliminates dedicating funding for rails/trails but preserves Safe Routes to Schools
    - Complete Streets amendment was adopted in Commerce Committee
  - Merged bill expected on floor early next week
- Test vote on Thursday, Feb. 9<sup>th</sup>
  - Cloture invoked, 85-11

# For more information

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Please visit [www.healthyamericans.org](http://www.healthyamericans.org) to view the full range of Trust for America's health policy reports. Or [www.healthyamericans.org/health-reform](http://www.healthyamericans.org/health-reform) for health reform implementation information.

Can also contact [rhamburg@tfah.org](mailto:rhamburg@tfah.org) to sign up for our Daily Digest on Wellness and Prevention in Health Reform

Thank you!



The New York  
Academy of Medicine

*At the heart of urban health since 1847*

**Educating Decision Makers:  
Strategies to Sustain Public Health  
Prevention Projects**

# Relationship-building with Decision Makers

- *Simone-Marie L. Meeks, MS*



## Student of the legislature

- Center for Women in Government
- NYS Black and Puerto Rican Legislative Caucus, Inc.
- Confidential Aide



## Chief of Staff

- Democratic Conference
- Member planning
- Media Liaison
- Stakeholder Relations



## Consultant

- Pfizer Pharmaceuticals, FQHC, Victim Services, NYS Alcoholism Council

# Relationship-building with Decision Makers

- *Perspectives on Coalitions and Prevention*  
(*according to whom*)
  - Elected Representative
    - Minority party vs. Majority Party
  - Advocate
    - popular opinion
    - evidence
  - Community resident/Student
    - beneficiary
    - personal knowledge

# Relationship-building with Decision Makers

## ❑ *Demonstrate Concern*

*-decision makers position / your agency's position/ health outcomes*

## ❑ *Consistency Matters*

## ❑ *Listen to decision makers concerns*

## ❑ *Show gratitude to **ALL** staffers*

# Relationship-building with Decision Makers

## ❑ *Invite to educational sessions*

*-DASH-NY Symposium: What Must NY Do Now to Prevent Obesity?*

*-DASH-NY Jan. 20, 2011*

*-Share articles highlighting converse opinions **from decision makers***

## ❑ *Ask decision makers to speak with colleagues*

## ❑ *Acknowledge decision maker's awards/challenges*

## ❑ *Never* *write-off anyone*

# Relationship-building with Decision Makers

- Contact Information -

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