

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
FIRST REGULAR SESSION)

'04 JUN 30 P12:10

SENATE OF THE PHILIPPINES
Senate No. 4

RECEIVED BY: 

Introduced by Senator Juan M. Flavier

EXPLANATORY NOTE

The Philippines continues to be plagued by a high prevalence of infectious diseases. Compounding this problem is the alarming increase in the incidence of degenerative and lifestyle diseases like hypertension, cancer, accidents, and diabetes. As a result, funds for health care are more often spent in treating the sick than in keeping the population healthy.

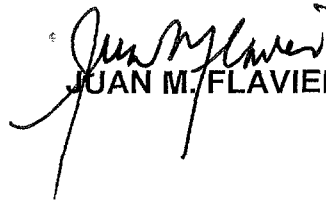
Preventing these diseases therefore must be a priority of government. And to better assist government in this effort, people must be empowered and enabled to take action to improve their health.

This is the concept of health promotion. It aims to promote health and well being among individuals, communities and populations, enabling them to address the broad determinants of health in order to reduce vulnerability and risks to ill health and disability throughout the life cycle, especially among the poor and marginalized groups.

Towards this end, there is a need to create a central agency with adequate and sustainable financing, as well as some degree of financial independence, in order to fully undertake health promotion activities such as health education, social mobilization and advocacy.

The bill therefore proposes the creation of a Health Promotion Institute to be funded from tobacco and alcohol taxes to ensure its sustainability and viability. The aim of such a strategy is two-fold – it secures funding for health promotion and at the same time counter the negative effects on health that have resulted from decades of cigarette and alcohol advertisements. This is not a new concept and has been tried and tested in Australia, Korea, Thailand and New Zealand. Countries such as Malaysia, Mongolia and China are also on the verge of enacting similar legislation.

I believe it is time to put health in the hands of the people by helping them make informed choices and become masters of their own destinies. Through the Health Promotion Institute, our goal of making Filipinos manage their own health by 2010 will become a reality. It is for these reasons that I urge the speedy enactment of this measure.


JUAN M. FLAVIER, MD, M.P.H.

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**AN ACT ESTABLISHING A NATIONAL HEALTH PROMOTION INSTITUTE TO
MAINSTREAM HEALTH PROMOTION IN THE PHILIPPINE HEALTH CARE
SYSTEM, PROVIDING FOR A HEALTH PROMOTION FUND AND FOR
OTHER PURPOSES**

*Be it enacted by the Senate and the House of Representatives in Congress
assembled:*

PART I

Preliminary Provisions

Section 1. Short Title - This Act shall be known and cited as the
"**Health Promotion Act of 2004**".

Sec. 2. Declaration of Policy - It is hereby declared a policy of the
State to protect and promote the right to health of the people and instill health
consciousness among them. While every Filipino has an inherent right to health,
this right has not been fully realized due to various factors that affect how people
take control of their health. Toward this end, the State shall endeavor to provide
adequate health information and promotion that will help people improve their
health. It shall also be declared the policy of the State to provide sustainable
funding for health promotion activities by allocating a certain percentage of
tobacco and alcohol revenues for such activities.

Sec. 3. Purpose - It is the main thrust of this Act to:

- a.) Establish a Health Promotion Institute and provide adequate funding for its operations;
- b.) Establish a Health Promotion Fund to be sourced from tobacco and alcohol taxes;
- c.) Promote tobacco free sports, arts and cultural activities through sponsorship of such activities by the Institute, in consonance with the passage of RA 9211;
- d.) Counter the ill effects of tobacco and alcohol advertisements by funding activities that will help reverse the negative effect of such advertisements.

Sec. 4. Definition of Terms – As used in this Act:

- a. Health Promotion – means any act, which is aimed at the fostering of a person's physical, mental and social conditions by means of supporting personal behaviours, social conditions and environments conducive to physical strength, a firm mental condition, a long life and a good quality of life;
- b. Tobacco Taxes – means taxes derived from the manufacture and sale of tobacco products;
- c. Alcohol Taxes – means taxes derived from the manufacture and sale of alcohol beverages and liquors;
- d. Institute – refers to the National Health Promotion Institute established under this act;
- e. Board – refers to the National Health Promotion Board which shall be the governing board of the Institute.

PART II

Establishment of the Health Promotion Institute of the Philippines

Sec. 5. Creation of the National Health Promotion Institute - There is hereby established a body corporate to be known as the National Health Promotion Institute. The Institute shall have its principal place of business in Metro Manila and may establish branches and offices in such other places as may be deemed necessary for the performance of its mandate. It shall be organized within 180 days from the date of effectivity of this Act.

Sec. 6. Corporate Powers of the Health Promotions Institute – the Institute shall have the following corporate powers:

- a) To adopt, alter, and use an official seal which all courts, judges and persons all shall be judicially noticed;
- b) To acquire, hold and lease or own, real and personal property and sell, encumber or otherwise dispose of the same;
- c) To enter into, make and execute contracts and agreements of any kind or nature;
- d) To sue and be sued;
- e) To adopt its bylaws and promulgate such rules and regulations as may be necessary or proper to implement this Act, and to amend or repeal the same from time to time;
- f) To receive and acquire from any person and/or government and private entities, whether foreign or domestic, grants, donations and contributions consisting of such properties, real or personal, including funds and valuable effects or things, as may be useful, necessary or proper to carry out its purposes and objectives and administer the same in accordance with the terms of such grants, donations and contributions, consistent with its purposes and objectives; and
- g) To perform any and all acts necessary or incidental to achieve the objectives and purposes of this Act.

Sec. 7. Functions of the Institute – The Institute shall perform the following responsibilities –

- a. To promote health and prevent illness in the Philippines;
- b. To fund activities related to the promotion of good health, safety or the prevention of diseases and accidents;
- c. To increase awareness of programmes for promoting good health in the community through sporting and cultural activities;
- d. To encourage healthy lifestyles in the community and support activities involving participation in healthy pursuits;
- e. To fund research and development activity in support of these objects; and
- f. To coordinate all health promotion activities in the Philippines

Sec. 8. *Establishment of the Health Promotion Board* – The corporate powers of the Institute shall be exercised, and all its business, activities and properties shall be controlled by a Board of Trustees, hereinafter referred to as the Board. It shall be composed of the following:

- a) Secretary of Finance and the Secretary of Health as Co-chairpersons;
- b) Permanent Representatives of the following government offices:
 - Department of Education;
 - Commission on Higher Education;
 - Department of Science and Technology;
 - Public Information Agency; and
 - Philippine Sports Commission
- c) Representatives from the private sector to be appointed by the President upon the recommendation of the chairpersons such as
 - One (1) member from the academe/research institution;
 - One (1) representative from a health promotion NGO;
 - One (1) member from a duly recognized national media organization;

All private sector representatives shall have a non-renewable term of three years.

Sec. 9. *Functions and Duties of the Board* - The Health Promotion Board shall perform the following functions:

- a. To define and approve the programs, plans, policies, procedures and guidelines for the Institute in accordance with its purposes and objectives, and to control the management, operation and administration of the Institute;
- b. To approve the Institute's organizational structure, staffing pattern, operating and capital expenditure, and financial budgets prepared in accordance with the corporate plan of the Institute;
- c. To approve salary ranges, benefits, privileges, bonuses and other terms and conditions of service for all officers and employees of the Institute, upon recommendation of the Director General;
- d. To appoint, transfer, promote, suspend, remove or otherwise discipline any subordinate officer or employee of the Institute, upon recommendation of the Director General;

- e. To create such committee or committees and appoint members thereof, as may be necessary or proper for the management of the Institute or for the attainment of its purposes and objectives;
- f. To determine the priorities of the Institute consistent with the framework of its purposes and objectives and in coordination with other government agencies;
- g. To exercise such other powers and functions and perform such other acts as may be necessary or proper for the attainment of the purposes and objectives of the Institute.

Sec. 10. **Conflict of Interest** – A member of the Board who is in any way, whether directly or indirectly interested in a contract or proposed contract with the Board must, as soon as practicable after the relevant facts have come to his or her knowledge, declare the fact and the nature and extent of the interest, in writing to the Chairman, before the meeting of the Board and inhibit himself during the deliberations when such matter is taken up. The decision taken on the matter shall be made public and the minutes of the meeting shall reflect the disclosure made and the inhibition of the member concerned.

Sec. 11. **Removal from Office**- The following are grounds for removal of any member of the Board :

- a. The member suffers from physical or mental incapacity that renders him or her incapable of properly discharging the duties and responsibilities of membership in the Board and such incapacity has lasted for more than six (6) months; or
- b. The member has committed acts or operations that are shown *prima facie* to be fraudulent or illegal or manifestly opposed to the aims and interests of the Authority;
- c. The member no longer possesses the qualifications specified in Section 8 of this Act; or
- d. The member is subsequently disqualified under the provisions of existing laws.

Sec. 12 . **Remuneration and Allowances.** –The members of the board of trustees shall serve without compensation and allowances for the entire duration of their terms. However, each member of the Board of Trustees shall be entitled to *per diem* for every board meeting actually attended. The Board of Trustees shall fix the amount of per diem its members may be entitled to.

Sec. 13. **Meetings** - The Board shall hold meetings at least twice a month for the conduct of its business or as often as maybe necessary upon the call of three (3) of its members. Any regular meeting shall be called by the Chairperson or in his absence, by any of the representatives of the Government to the Board.

The presence of a chairperson and three (3) members shall constitute a quorum.

The Institute shall maintain and preserve a complete record of the proceedings/minutes of the Board which can be made available to the public when national interest so requires as may be determined by the Board.

Sec. 14. **Director General and Other Officers** - The Institute shall be headed by a Director General who shall be a citizen of the Philippines, of good moral character, of unquestionable integrity, with at least 5 years experience in undertaking or leading health promotions activities.

The Director General shall be appointed by the Board from a list of at least three (3) nominees prepared by a Selection Committee created by the Board and chaired by any of its members.

The Director General shall be appointed for a term of six (6) years, which must be covered by a Performance Contract between the Institute and the Director General. Said contract may be pre-terminated by the Board for failure or unsatisfactory performance of his or her responsibilities. The Director General may also be removed from office due to serious misconduct, gross and habitual neglect of duties, fraud or willful breach of trust, commission of a crime or offense and other causes analogous to the foregoing, as provided under the Administrative Code of 1987, the Revised Penal Code and other special laws, rules and regulations.

The Director General shall be assisted by such Deputy Director General(s) and program managers/coordinators as the Board may determine to carry out the purposes and objectives of this Act.

Sec. 15. **Powers, Functions and Duties of the Director General** - The Director General shall have the following powers, functions and duties:

- a. To exercise overall supervision and direction over the implementation of all programs of the Institute, and to supervise and direct the management, operation and administration of the Institute;
- b. To execute contracts, including deeds that may incur obligations, acquire and dispose assets and deliver documents on behalf of the Institute, within the limits of authority delegated to him by the Board;
- c. To implement and enforce policies, decisions, orders, rules and regulations adopted by the Board;
- d. To submit to the Board an annual report of the Institute;
- e. To submit to the Board an annual budget and such supplemental budget as may be necessary for its consideration and approval; and

- f. To exercise such other powers and functions and perform such other duties as may be authorized or assigned by the Board.

PART III

The Health Promotion Fund

Sec. 16. ***Health Promotion Fund*** – To implement the provisions of this Act, there is hereby created a Health Promotion Fund, which shall be used exclusively for the operations, programs and projects of the Institute. As such, beginning fiscal year 2004 and every year thereafter, five (5) percent of the excise tax collections on alcohol and tobacco shall be allotted for the Fund.

Sec. 17. ***Automatic Appropriation and Release of the Fund***- The amount referred to in the preceding section shall be appropriated in the annual General Appropriations Act and released automatically in favor of the Health Promotion Institute.

Sec. 18. ***Audit*** – All funds under the management and control of the Institute shall be subjected to an internal and external audit to be done as follows:

a. *Internal Audit* - There shall be an internal audit with respect to the finance, accounting and procurement of the Institute, with a corresponding audit report for submission to the Board, at least once a year.

For the purpose of the internal audit, there shall be an official of the Foundation acting as an internal auditor with direct accountability to the Board, in accordance with the regulations prescribed by the Board.

The Institute shall prepare a financial statement, which must include at least a balance sheet and an operation account to be submitted to the auditor within one hundred and twenty days as from the end of each accounting year.

b. *External Audit* - _At an interval of every year, the Commission on Audit or an outsider appointed by the Board with the approval of the Commission on Audit shall be the auditor and appraise the dispositions of money and property of the Institute. In this instance, opinions shall be analytically presented as to the extent to which such dispositions have corresponded to the objectives, proceeded in an economical fashion and met the targets. An audit report shall subsequently be prepared and submitted to the Board.

For these purposes, the auditor shall have the power to inspect all account books of the Institute, interview and query the Director General, internal auditor,

officials and employees of the Institute and instruct such persons to furnish any additional account books, documents, and evidence of the Institute as is necessary.

Sec. 19. **Annual Report**- The Board shall submit to the Office of the President, the President of Senate and Secretary General of House of Representatives, within the first quarter of every year, an annual report which shall include, but is not limited to, reports on the operations and condition of the Authority and the implementation of this Act.

PART III

Transitory and Miscellaneous Provisions

Sec. 20. **Transfer of Functions and Powers** – Upon the establishment of the Institute, the functions, personnel and assets of the National Center for Health Promotion (NCHP) of the Department of Health shall be transferred to the Institute without need of conveyance, transfer or assignment.

For the year during which this Act was approved, the unexpended portion of the budget of the office merged shall be utilized for establishing the Institute and initiating its operations, including the formulation of rules and regulations necessary for the implementation of this Act.

Incumbent officials and employees of the affected office shall continue to exercise their respective functions, duties and responsibilities with the corresponding benefits and privileges. To the extent possible and in accordance with existing laws, all employees of the affected offices shall be absorbed by the Institute.

Sec. 21. **Implementing Rules and Regulations** – The Board shall promulgate the IRR for this Act within ninety (90) days from its constitution. Failure to promulgate the IRR shall not affect the implementation of the self-executory provisions of this Act.

Sec. 22. **Separability Clause**- If any provision or section of this Act is held invalid, the other provisions and sections not affected thereby shall remain in full force and effect.

Sec. 23. **Repealing Clause-** All laws, executive orders, administrative rules and regulations or parts thereof which are inconsistent with the provisions of this Act are hereby amended, modified, or repealed accordingly.

Sec. 24. **Effectivity Clause-** This Act shall take effect fifteen (15) days following its publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved.