

18-Feb-88

VIA EXPRESS MAIL

MEMORANDUM

TO: William A. Cannell
FROM: Michael F. Brozek *Brozek*
Daniel C. Nelson
RE: Minnesota Plan/Status Report

Bill, the following report will serve as the continuing summary of project activity in the state of Minnesota pertaining to the "Minnesota Legislative Action Plan."

I. LEGISLATIVE PROGRAM

As previously reported, we will continue to concentrate on a targeted approach to local legislative activity. Specifically, direct district level organizational meetings in the following legislative districts have commenced:

- . Senate Majority Leader Roger Moe (DFL-Erskine)
- . House Health Committee Chair Paul Ogren (DFL-Aitkin)
- . House Speaker Robert Vanasek (DFL-New Prague)
- . Senate Tax Committee Chair Douglas J. Johnson (DFL-Cook)
- . House Majority Leader Ann Wynia (DFL-St. Paul)
- . House Minority Leader Bill Schreiber (IR-Brooklyn Park)
- . Senate Health Committee Chair Linda Berglin (DFL-Minneapolis)

As stated in the formal legislative plan, the tobacco industry has had difficulty developing a local political identity with key legislators in Minnesota. It is now the primary function to place a legislator and his or her constituency into a position of direct communication via political, social or business contact. In order to accomplish this, execution is progressing in several basic activities and communications programs serving as our targeted, localized legislative interaction program. Specifically:

- . Grassroots education seminars/mobilizations.
- . Personal meetings with legislators in their home districts.
- . Media support activity in legislative districts with an emphasis on business, social, labor and civic groups.
- . Labor related interactions, where applicable, in legislators' home districts.
- . Legislative education programs for tobacco industry employees during approved business hour presentations.
- . Constituent visits to legislators at State Capitol offices during legislative session.

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- . Development of new partnerships with statewide business concerns, most notably, the Minnesota Grocers Association.
 - . Serious and accountable interaction with non-industry persons "aggrieved" by punitive or restrictive actions on their working conditions.
- A. Legislative Interaction Program - Senate Majority Leader
Roger Moe (DFL-Erskine)

On 12/1/87 an educational seminar for member company representatives, tobacco wholesalers and retailers was held in Moorhead, Minnesota. The thrust of the seminar was in two parts: 1) the attendees were briefed about the legislative process in Minnesota, and 2) information was presented on the economic impact on sales and jobs in the Minnesota/North Dakota border area. In the short time that Minnesota's new excise tax (additional 15 cents, total tax of 38 cents) has been in effect, there has been a noticeable impact on sales. Specifically, Minnesota retailers near the border are losing business to North Dakota.

The Minnesota Grocers Association survey, directed by Tobacco Institute staff, is now being used in the direct contact between Senator Moe and Tobacco Institute legislative counsel. Wholesalers in Senator Moe's district have been keeping in close contact with the Senator, and have been voicing their opinions, regarding any and all publicized anti-tobacco legislation. A meeting between local activists and Senator Moe is scheduled to take place at his St. Paul capitol office sometime in March.

- B. Legislative Interaction Program - House Health Committee
Chair - Representative Paul Ogren (DFL-Aitkin)

On 1/12/88, two mobilization seminars took place, designed to enlighten Representative Paul Ogren about tobacco family constituents in his district. First, TI staff was again allowed to speak directly to employees at Lloyd Currie & Sons in Duluth, Minnesota. Although Duluth lies outside Representative Ogren's district, Mr. Currie's wholesaler operation, through their route people, extensively covers Ogren's district. We expect these route people to compliment the other mobilization efforts by constituent communications with customers and by direct contact with Representative Ogren.

Representative Ogren is key to the industry's success in the state of Minnesota due to the fact that it is his committee that will hear legislation dealing with fire safe cigarettes, tax increases for health programs and clean indoor air legislation.

An on-site meeting between Representative Ogren and his constituent employees of the Lloyd Currie and Sons wholesaler group is planned for March and is contingent on Health Subcommittee action concerning fire safe cigarettes and a new Clean Indoor Air Act.

The personal on-site capitol meetings are on our legislative agenda and are strictly based on legislative calendar schedules.

C. Legislative Interaction Program - House Speaker Robert Vanasek (DFL-New Prague)

TI counsel at North State Advisers have direct access to Speaker Vanasek and have imparted much of the same information that we are focusing on in other districts. We also plan to put member company personnel, that have been pre-briefed, in personal contact with the Speaker as the legislative agenda solidifies.

For the first time, organized labor is being called upon to begin direct contact with Speaker Vanasek concerning issues of indoor air quality and tax regressivity. Those first contacts have begun 2/16/88.

The personal on-site capitol meetings are on our legislative agenda and are strictly based on legislative calendar schedules.

D. Legislative Interaction Program - Senate Tax Committee Chair Douglas Johnson (DFL-Cook)

On 1/14/88, a so-called "mini-session" met, without precedent, in Virginia, MN, in the heart of the Iron Range, to emphasize the problems facing that geographical area from the standpoint of unemployment, mining and economic development. In conjunction with the Minnesota legislative "mini-session", Tobacco Institute staff, specifically, Mssrs. Nelson, Brozek and Merryman, Philip Morris representative Pat Wilson and TI legislative counsels David Horazdovsky and Andrew Kozak, conducted industry related meetings in the legislative district of Senator Doug Johnson.

Walker Merryman coordinated media activities during the mini-session, while Mssrs. Brozek and Nelson coordinated industry related direct legislative contact with Senator Johnson and other members of the Minnesota legislature. Additionally, area wholesalers attended tobacco/local business orientations with members of the legislature during this legislative "mini-session".

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Additionally, at the request of TI legislative counsel Tom Kelm, Ron Jurich will be retained for the remainder of the legislative session to assist in the Tobacco Institute's legislative program. Mr. Jurich, a long time friend and constituent of Senator Doug Johnson, will be of considerable help to Tobacco Institute efforts on tax issues.

The personal on-site capitol meetings are on our legislative agenda and are strictly based on legislative calendar schedules. However, a March meeting is being considered, pending recommendation of legislative counsel.

E. Legislative Interaction Program - House Majority Leader Ann Wynia (DFL-St. Paul)

TI legislative counsel and TI staff members have been meeting with Representative Ann Wynia in order to emphasize the industry's presence in her district, as well as to initiate the first legislative meetings between Minneapolis/St. Paul wholesalers and member company sales force.

Notwithstanding Representative Wynia's general opposition to tobacco industry issues, TI legislative counsel and staff agree that direct contact with Representative Wynia could lead to some procedural areas of agreement, thereby aiding in the entire legislative program. The next meeting with Representative Wynia is scheduled for 2/23/88.

F. Legislative Interaction Program - House Minority Leader Bill Schreiber (IR-Brooklyn Park)

Mr. Robert Fritz, owner of Fritz, Inc. of Golden Valley, MN, a major Minnesota wholesaler, has already, under the direction of Tobacco Institute staff, initiated employee level communications with Representative Schreiber. It is important to note that during the 1985 legislative session, when the Republicans were the majority party in the lower house, Representative Schreiber was the author of the five cent cigarette tax increase funding St. Paul sewage and sanitary systems.

The personal on-site capitol meetings are on our legislative agenda and are strictly based on legislative calendar schedules. However, there is a concerted effort to improve industry relations with Representative Schreiber due to the potential of a Republican take-over in the 1989 legislative session. A Republican take-over would elevate Representative Schreiber to the position of Speaker.

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G. Legislative Interaction Program - Senate Health Committee
Chair Linda Berglin (DFL-Minneapolis)

TI legislative counsel Andrew Kozak has been meeting regularly with Senator Berglin in order to coordinate industry communications with the Senator. Senator Berglin is a noted anti-tobacco legislator, however has a tremendously positive relationship with Mr. Kozak, therefore any input to neutralize Senator Berglin's opposition to our industry, can only be helpful. Senator Berglin's district will be one of the targeted areas for our labor consultant activities.

H. Legislative Interaction Program - Wholesaler Employee
Mobilizations

On 12/2/87, Tobacco Institute staff was allowed, for the first time, to speak directly to employees of a wholesaler operation. Fritz and Company in Newport, Minnesota, allowed TI staff to brief their 50 employees on the economic impacts of Minnesota's repressive tobacco initiatives. Newport is a suburb of St. Paul and is also experiencing a loss of tobacco business to neighboring Wisconsin.

On Tuesday, February 9, 1988, at 11:00 a.m., Walker Merryman and Dan Nelson attended the quarterly meeting of Mr. Jim Erickson's group, the Northwest Tobacco and Candy Distributors. Jennifer Cardinell, of Issues Management, a regional survey firm, presented the results of what we have seen and what we have measured in terms of cross-border traffic and the tax differential. At 2:00 p.m. that same day, Messrs. Merryman and Nelson met with the Minnesota Grocers Association for a formal presentation of all the poll results.

On 2/11/88, Messrs. Merryman and Nelson made a presentation before Minter-Weisman and Company and their 60 employees. Minter-Weisman is the largest wholesaler in the state of Minnesota. All attendees agreed that the meeting was beneficial from an educational and a motivational standpoint. Follow-up communication is continuing in order to maintain the efficacy of the Minnesota Plan on a biennial basis.

Also on 2/11/88, Walker and Dan met with R. E. Fritz and Company in Golden Valley, MN, a suburb of Minneapolis. A grassroots seminar, similar to the presentations delivered to the Lloyd Currie & Sons Company in Duluth and the Fritz and Company employees in Newport, MN was delivered.

Finally, on 2/11/88, Mssrs. Merryman and Nelson met with member company supervisors from Philip Morris, R. J. Reynolds and Lorillard, to present a legislative briefing. The object of this activity was to train tobacco activists for responsible contact with their own legislators on a session-to-session basis. Sales managers have agreed to work directly with their sales force for subsequent legislative organizing sessions.

It is important to note that although each of these contact efforts is being targeted to a specific legislative district, metropolitan district lines are situated in a manner to provide double coverage in some instances.

II. LEGISLATIVE SUPPORT PROGRAM

The Minnesota Plan, to date, has initiated grassroots activity by way of targeted mobilizations and education. In the targeted districts, the grassroots effort has concentrated on enlightening employees within the tobacco family in regard to the effect of anti-tobacco legislation on jobs. Additionally, the program seeks to establish a positive attitude in the tobacco family; the message, simply put, is that legislators are sensitive to their constituency. By letting legislators know how the voters back home feel, they can affect the course of legislation in Minnesota.

The central strategy has been to mobilize activists to contact the aforementioned seven legislators in a preemptive way. Localized seminars have given the activists information on specific carry over bills from the 1987 legislative session and on "anti-tobacco concepts" that have not yet been released in bill form.

Now that the Minnesota legislature is in session, it is time to mobilize activists against specific pieces of legislation. The following measures are still "active" as they have been carried over from the 1987 session.

STATUS/ACTIVITY UPDATE:

HF 1394 Representative Darby Nelson (DFL-Champlin)
SF 1430 Senator Gregory Dahl (DFL-Coon Rapids)

- . These bills would mandate that only "fire safe" cigarettes could be sold in Minnesota, effective January 1, 1990.

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- . The Senate file had one hearing on 1/26/88 before the General Legislation Committee and is scheduled for a second hearing on 2/19/88. John Rupp of Covington and Burling testified on 1/26/88. This Senate hearing was before the legislature was in session, therefore, no vote or executive action was taken.
- . The House file was heard before the House Health and Social Services Subcommittee on Thursday, 2/18/88 in conjunction with the hearing on HF 607 (elimination of designated smoking areas.) John Rupp will be on site to testify 2/19/88 against SF 1430.
- . Member companies have been alerted and have been instructed to contact committee members.
- . Membership of the Northwest Tobacco and Candy Distributors Association and the Minnesota Candy and Tobacco Distributors Association have been alerted and instructed to contact committee members.

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STATUS/ACTIVITY UPDATE

HF 607 Representative Phyllis Kahn (DFL-Minneapolis)
SF 1178 Senator Donna C. Peterson (DFL-Minneapolis)

- . These bills say, in part, "A proprietor, manager, supervisor, or other person in charge of a public place with a designated smoking area shall take those steps required by section 144.416 in response to any complaint of smoke-induced discomfort by a client or employee. If the steps taken under section 144.416 do not prevent further complaints, the proprietor, manager, supervisor or other person in charge of the area shall eliminate the designated smoking area and post the appropriate signs advising the public that smoking is prohibited."
- . HF 607 was heard before the House Human Services Subcommittee on Thursday, February 18, 1988. The measure was defeated by a vote of 5-3.
- . Brennan Moran, hospitality industry representatives and Teamster Union representatives were on hand to oppose at 2/18/88 hearing.

- . [Legal staff from Covington and Burling are analyzing the legal questions surrounding "police powers" in the hands of managerial personnel in case the measure resurfaces in the form of an amendment on the House floor.]
- . In the event of a hearing before the full Health and Human Services Committee, phone banks to TAN, association executive, professional and union lists will be put in place.
- . Member companies have been alerted and have been instructed to contact committee members.
- . Membership of the Northwest Tobacco and Candy Distributors Association and the Minnesota Candy and Tobacco Distributors Association have been alerted and instructed to contact committee members.

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STATUS/ACTIVITY UPDATE:

HF 370 Representative Gerald Knickerbocker (IR-Hopkins)

- . This bill would prohibit smoking in all government buildings, including buildings owned by the state, or any of its political subdivisions.
- . The bill was not heard last session, and is still awaiting a hearing in the House Committee on Health and Human Services.
- . In anticipation of a hearing or floor action, our contacts in organized labor will inform various unions of the effects of this bill and prepare their memberships for mobilization.

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STATUS/ACTIVITY UPDATE

HF 227 Representative Darby Nelson (DFL-Champlin)
SF 671 Senator Jerome Hughes (DFL-Maplewood)

- . These bills provide that all schools receiving Tobacco Use Prevention monies from the state must ban the use of tobacco products on their premises. The authors' intention is to include all indoor facilities (i.e., teachers' lounge) and outdoor facilities, (outdoor sports areas) in the ban. Additionally, an amendment was added to this bill on the House floor which would ban smoking in the State Capitol building and the State Office Building.

- . SF 671 is in the Senate Health Committee, and HF 227 is at the Speakers' desk awaiting final action in the House.
- . Our labor contacts will attempt to open a relationship with various teachers' unions and other unions that cover custodial and administrative personnel.

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STATUS/ACTIVITY UPDATE

HF 1282 Representative Wes Skoglund (DFL-Bloomington)
SF 963 Senator John Marty (DFL-Roseville)

- . These bills would remove the current Minnesota State sales tax exemption from any publication that accepted tobacco advertising.
- . Neither measure has been heard by the Senate or the House Taxation Committees.
- . [Legal staff at Covington and Burling have been alerted and bill copies have been forwarded so that an analysis of the constitutionality can be completed.]

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STATUS/ACTIVITY UPDATE

HF 32 Representative Wes Skoglund (DFL-Bloomington)
SF 1266 Senator John Marty (DFL-Roseville)

- . These bills simply ban cigarette vending machines in Minnesota. Penalties include a \$5000 fine plus costs of investigation and attorney fees.
- . Both measures are in their respective committees on Health.
- . The Minnesota Automatic Merchandising Council is aware of the measure and will be expected to take the lead in any lobbying effort.

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STATUS/ACTIVITY UPDATE

DRAFT - COMPREHENSIVE WASTE REDUCTION AND RECYCLING ACT OF 1988
(Packaging tax)

- . This measure, proposed by the Minnesota Pollution Control Agency, is designed to finance the disposal of waste in the state of Minnesota. The logic behind the bill is that units of government incur costs through landfills, incinerators and municipal collection programs. By taxing non-food items sold in a package that eventually must be disposed of, the Pollution Control Agency is seeking to collect a tax on what they see as a "cause and effect" relationship.
- . Although the bill has not been officially filed, TI legislative counsel is actively working with the Minnesota Grocers Association, beer wholesalers and Minnesota Industry and Commerce Association. It is expected that there will be additional allies to join forces in fighting this bill.
- . The potential effect on cigarettes will be determined by the body granted rule making authority. The cost of this tax on cigarettes is, at this time, open to interpretation, depending on what is considered a "package." The cost could range from 3 cents a pack to an unbelievable 43 cents per pack.

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STATUS/ACTIVITY UPDATE

DRAFT Representative Paul Ogren (DFL-Aitkin)

- . This measure would increase the cigarette tax by five cents to fund health insurance for the needy. Although not officially introduced, its introduction is expected.
- . Representative Ogren is one of the seven targeted legislators from our preemptive grassroots program. A summary of our efforts in his district can be found in the "Legislative Support" portion of this document.

There are several tax bills left over from the 1987 session which would increase the cigarette and OTP taxes at various rates, and would allocate the revenue to the following programs: mental health programs, state arts board, bonding projects, health insurance for needy families and the environmental trust fund.

Additionally, it is anticipated that the following legislation will be introduced during the remainder of the 1988 session:

- . advertising bans
- . restrictions on "couponing"
- . require 50% of restaurant and/or bar seating to be designated non-smoking
- . some type of workplace smoking restrictions

With this extremely heavy and dangerous legislative agenda facing the industry in Minnesota, an intensive local effort will continue until adjournment.

Non-legislative smoking issues include:

- . City of St. Paul advertising ban
- . Other local government smoking bans
- . Specific workplace smoking bans

III. RESOURCE AND ACTIVITY INVENTORY

Labor

- . In coordination with Susan Stuntz of the Public Affairs Division, a labor consultant has been designated and will be in place by March 1.

Member Company Activity

- . Through our targeted localized legislative meeting program, as well as direct contact with member company area managers, the member company sales force has been extremely cooperative and helpful in the development of the Minnesota Plan. As mentioned previously, and, as needed due to legislative scheduling or the introduction of new legislation, the sales force will be fully informed of assistance needed through their area sales managers.

Special Polls/Surveys/Studies

- . Through our new and very effective coalition group, the Minnesota Grocers Association, the targeted cross-border survey/poll was presented, to coincide with the reconvening of the state legislature during the week of February 8, 1988. Additionally, in cooperation with our Public Affairs Division, another cross-border survey of small businesses has been initiated with the cooperation of the Wisconsin Tourism

Federation and the University of Wisconsin Department of Surveys and Geography. The information gathered from this survey will be shared with targeted Minnesota legislators in the four commerce areas along the Minnesota/Wisconsin border.

- . In cooperation with member company sales personnel, retailers, wholesalers and other businesses relying on the sale of tobacco products, prospective target areas are already being considered for legislative phone bank/constituent surveys. This advance effort is being initiated in order to be prepared for pending issues in the Minnesota legislature such as the fire safe cigarette legislation, vending machine restrictions, smoking restrictions and any additional tax legislation, be they in the form of cigarette or OTP tax.

Expert Witnesses

- . Through the resources of our Public Affairs Division, Mr. Walker Merryman has been the designated spokesperson for our legislative district media activities.
- . [David Remes and John Rupp of Covington and Burling have been extremely helpful in their testimony dealing with the issues of sampling and fire safe cigarettes. TI legislative counsel have been told by legislative leadership that these gentlemen have been the most proficient witnesses they have experienced.]
- . As the need may arise, we are already assessing the necessity for additional economic witnesses as a consequence of a tax increase measure.

Tobacco Action Network

- . For the past year this region has revamped and reconstituted its activist resource list through phone banks and direct mail activities from previous legislative floor periods. This new listing is categorized by issues and motivation in order to maximize credibility on the state legislative district level.

Allies and Coalitions

- . Cooperation between The Tobacco Institute and Minnesota's two wholesaler associations has never been better. The metropolitan wholesalers group has recently added to their lobbying team Ted Mondale, the son of the former Vice President.

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- . Through efforts supported by our Public Affairs Division, new inroads are being made in areas of state business trade association, agricultural groups, ethnic and minority associations and selected labor unions.

Honoraria

- . A continuation of our honoraria program will be in effect during the legislative session only after strict consultation with legislative counsel.

V. CONCLUSION

The "Minnesota Project" is in place and functioning ahead of schedule and with results that exceed expectations. Cooperation between Tobacco Institute administrative divisions has been exemplary. Cooperation between member company personnel and the Tobacco Institute staff has been excellent. This first attempt to influence and stabilize our industry's legislative position in the state of Minnesota can only be judged upon adjournment of this legislative floor period. However, as this is not a program limited to one legislative session, special care is being taken to consider all activities in the long term thereby allowing better planning, budgeting and communications in this, the most anti-tobacco state in the nation.

MFB:DCN/jmr