

PERSONAL AND CONFIDENTIAL

TO: Roger Mazingo and Hurst Marshall
FROM: A-K Associates, Inc.
Paul Kinney
SUBJECT: Status and Campaign Plan for Tobacco Tax Initiative
DATE: September 24, 1987

This report is organized into two distinct yet inseparable areas. These areas consist of: (1) Summary of Activities to Date; (2) Strategy Through Initiative Qualification Deadline.

I. SUMMARY OF ACTIVITIES TO DATE

The initial effort in regard to this issue was the defeat of ACA 14 and the "trailer" bill, AB 2408, before the Assembly Revenue and Taxation Committee. In order to accomplish our anti-initiative strategy to discourage support for the pro-initiative coalition, we felt it was imperative to attain a decisive victory in the first committee to show strength and resolve on the part of the opponents to the proposed tax increase. In fact, when these two bills were heard before the Revenue and Taxation Committee, they were dealt a "crushing" defeat. Neither received a motion, much less, a single affirmative vote.

Our major goal of weakening potential support and showing strong opposition was certainly accomplished. The California Medical Association was shocked that their intense lobbying effort could not receive one "aye" vote in the Committee, considering their campaign support for the members of the Revenue and Taxation Committee (Organized Medicine-\$80,300 vs. TI-\$17,750 during 1986). The minutes of the proponent's June 17, 1987 organizational meeting even makes reference to this defeat. "Despite all this work and volunteer letters, the bill died on May, 19, 1987. There was not even a motion on the bill..."

Briefly, what was specifically accomplished during the legislative phase of the anti-initiative campaign April 15 thru May 18, 1987):

-The California Chamber of Commerce, California Taxpayers Association, California Retailers Association and California Manufacturers Association all were recruited and went on record as being opposed to ACA 14. This allowed us the opportunity to meet with and brief the "key" people within each of these groups in order to educate them about ACA 14 and the possible statewide initiative. These groups are now on record and can be expected to be a valuable resource if needed to actually fight an initiative.

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-Hispanic Lobbying Associates was retained to generate hispanic opposition to ACA 14. The Mexican American Political Association, American G.I. Forum, Latino Peace Officers Association, California Hispanic Chamber of Commerce, California Hispanic Womens Forum and the Latin American Pacific Trade Association all officially went on record in opposition to ACA 14. These groups are still with us awaiting our signal to be turned loose against the tax Initiative.

-A very successful letter writing campaign to "key" legislators by companies and TI was orchestrated and effectively carried out.

-Personal lobbying of organized medicine began even during the lobbying efforts on ACA 14 in the Legislature. These included personal meetings with the following California Medical Association leaders:

- Bob Elsner, Executive Director.
- Jay Michael, Director of Government Relations.
- Dr. Gladdin Elliott, Immediate Past President.
- Allen Pross, CALPAC Director.
- Dr. Kai Kristensen and Dr. Phillips Gausewitz, San Diego area.
- Frank Clark, Executive Director of the Los Angeles Medical Society.
- Dr. Manny Abrams and Dr. David Olch, Los Angeles area.
- Dr. Frank Glanz and Dr. Marshall Ganns, Orange County area.
- Dr. Ed Hendricks and Dr. Pierce Rooney, central valley area.
- Dr. Michael Lopiano, Santa Barbara area.
- Dr. Paul Dugan, northern California rural area.
- Dr. Tom Elmendorf and Dr. James Moorfield, Sacramento area.
- Dr. Fred Achermann and Dr. Roberta Fenlon, San Francisco area.

-Met with "key" black political leaders to solicit and begin solidifying black support among state legislators for the anti-initiative campaign. We met personally with the following black state legislators or legislative staff:

- Willie Brown, Speaker of the Assembly.
- Maxine Waters, Majority Whip.
- Curtis Tucker, Chairman of the Assembly Health Committee.
- Dodson Wilson, Staff to Speaker Willie Brown.

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-Met with David Kim re Korean community and advise re other possible Asian consultants.

-Met with Assemblyman Dick Floyd, Tommy Hunter (Calif. State Pipe Trades) and Jack Henning regarding the proposed tax initiative.

-Met continuously with Jack Kelly to coordinate testimony and lobbying activity.

Upon the defeat of ACA 14 and AB 2408, the true "interim initiative" campaign began. The tobacco industry prudently recognized that effort and resources spent in keeping the proposed tobacco tax Initiative off the ballot had many benefits. If successful, it would save the industry the many millions that would have to go into the initiative campaign fight. Even if unsuccessful, the relatively small amount of resources expended on the organizational efforts to keep the initiative off the ballot would place the industry miles ahead for the general campaign. This unique and innovative approach of actively fighting to keep an initiative off the ballot would only reinforce to the potential anti-tobacco forces that it will always be a long and grueling battle when you take on tobacco.

Recognizing that the most effective approach to any such battle is to contain and, if possible, take away potential resources from the proponents, our initial goal was to contain the California Medical Association, who had already pledged \$1 million to qualify the initiative. With this kind of resources, there is no way the initiative could be kept off the ballot. A game plan was formulated to discourage and keep the CMA out of the initiative. This included possible counter anti-medicine initiatives and legislation, as well, as the use of A-K's considerable contacts within organized medicine. Having already expended considerable effort in this area during the Legislative phase of the program we turned our attention almost full time to dissuading CMA from joining the fray.

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We were immensely successful in this regard. CMA, after considerable pressure, decided to "tokenize" the tax initiative campaign with, at best, a \$25,000 contribution and the possible use of their mailing list for a solicitation letter. To date CMA has not actually given the proponents any campaign money. The decision was made that no punitive action would be taken in regard to anti-medicine initiatives or legislation as long as the CMA maintained this non-participatory attitude toward the tobacco tax initiative. Following are the major activities that have taken place to date:

-Met with key organized medicine leaders to continue to dissuade them from actively participating in the proposed tobacco tax initiative.

-Generated some well placed and vocal complaining from organized rank and file membership throughout the state to the CMA's Council (organized medicine's governing body in California).

-Arranged for the Council to take the policy position that all requests for political issue contributions of either staff or resources must first go to their Finance Committee for approval before the Council can take action. This effectively took the tobacco tax initiative issue out of the hands of the current CMA leadership and placed it in the hands of the "old guard". This placed a huge roadblock in front of people like Dr. Armstrong, the current CMA President, who is an avowed anti-tobacco crusader and was one of the major witnesses in support of ACA 14 in the Assembly Revenue and Taxation Committee hearings.

-Made multiple trips to San Francisco to meet with "key" CMA executive staff to firm up their opposition to CMA's participation in the initiative.

-Arranged for the Golden State Medical Society (statewide black physicians organization) to object to the CMA's participation in the initiative.

-Met with several legislators who are anti-medicine for various personal and political reasons to have anti-medicine legislation drafted and leaked to the right CMA leaders.

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To date organized medicine has stayed out of the initiative fight. In all honesty, luckily, the CMA's primary objective was tort reform and they planned to use the bulk of their resources in sponsoring a tort reform Initiative at the same time as the tobacco tax Initiative would be on the ballot if it should qualify. Obviously, we used this to our great advantage in convincing CMA to stay out of the tax initiative. During the last day of the 1987 California legislative session, the trial attorneys and the proponents of tort reform came to a political compromise which was subsequently enacted by the legislature. As part of this compromise there was an agreement to a five year moratorium on tort reform initiatives agreed to by all parties, including the CMA. This could potentially open up the CMA to re-thinking their position in regard to the proposed tobacco tax initiative. We are duplicating all of our previous efforts to assure that this does not happen.

When the CMA bowed out of the initiative, the proponents were placed in a very tenuous position. They had counted on the CMA's publicly pledged \$1 million to qualify the initiative. After regrouping the proponents of the initiative began seeking other sources of funding. Lloyd Connelly, being a strong and respected member of the liberal political community, personally sought help from the Hayden/Fonda machine and organized labor. Recognizing the need to keep informed of liberal activities from an intelligence point of view and to be in a position to dissuade the typical liberal sources of funding to stay out of this initiative, we built a campaign team that is not only extremely talented, experienced and effective, but has great liberal credentials. Following are our major activities in this area:

-Privately approached Hayden/Fonda through Fairbank, Bregman and Maullin, our polling firm, at the same time as Connelly was approaching them to quietly attempt to dissuade Hayden/Fonda from simply funding the entire qualification effort. Hayden owes Connelly, who was a major co-sponsor of the Toxics Initiative and a heavy contributor. To date we have been successful in convincing Hayden that there is little advantage to him personally or politically to get involved in the Connelly tobacco tax Initiative. Hayden/Fonda has pledged a modest \$25,000 to the tax Initiative.

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-Paul Kinney, who is assisting us in the overall campaign management and will be doing the media portion of the campaign, has a professional and personal relationship with Connelly's Chief of Staff. Through this relationship, Paul has been able to pick up invaluable inside information as to the proponents strategies.

-We met with Jack Henning (AFL-CIO) to dissuade him from accepting Connelly's offer to Amend the unions Cal-OSHA initiative into the tobacco tax initiative. This would have given Connelly and the other anti-tobacco activists access to organized labor's war chest. Fortunately, Henning turned Connelly down flat.

-Paul Kinney is assisting Henning and organized labor with their efforts to get organized to qualify their own Cal-OSHA Initiative.

Having successfully kept the CMA and the Hayden/Fonda organizations involvement at a minimum "token" level and having convinced Jack Henning (organized labor) to stay out of the proposed tobacco tax initiative completely, we have tremendously damaged the proponents of the initiative and we have greatly enhanced our odds of successfully stopping the initiative from qualifying. Any one of the three groups mentioned above could have financed a successful initiative qualification drive by themselves.

Faced with the reality that their hoped for financing for the qualification drive had dried up, the proponents of the initiative met in San Francisco on June 17, 1987. Several very important decisions came out of the meeting. Having been promised less than \$250,000 in pledges only, combined with serious organizational difficulties, they decided to abandon their original goal of qualifying the initiative for the June 1988 ballot and postponed the effort to the November 1988 ballot. Not having the resources to hire a professional qualifying firm, they decided on a voluntary qualification drive using their own people to circulate petitions. They hired Mr. Jack Nichols, recently resigned former director of Hayden's Campaign California. Mr. Nichols will pose a real problem as he is well connected with the liberal Hollywood crowd and could be very effective for them. Nichols is being paid only \$48,000, but has a hefty performance bonus should the Initiative qualify.

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With the decision by the proponents to postpone their election date goal to November 1988, and their inability to raise any significant campaign dollars, media and public relations activities have been at a minimum on their part. We have been reticent to engage in an active media or public relations campaign for fear of giving them free opportunities to gain access to the press. We commissioned a comprehensive poll which has just been completed and gives us the tools needed to build an extremely effective and well directed campaign to do everything possible to stop this initiative from qualifying for the ballot. The Fairbank, Bregman and Maullin poll also tends to give credence to our decision to keep a low profile in terms of media, P.R. and special interest consultant activity. Comparing the three polls results on this Initiative in 1987 (CMA-Charlton Research-Jan. 1987 / TI-Tarrance-March 1987 / Fairbank, Bregman and Maullin-Aug. 1987), it appears that the "strongly favorable" and "somewhat favorable" group drops from 66% to 60% while the "undecided" raised from 6% to 12%.

Although we consciously chose to keep the campaign at a low key personal level (lobbying CMA, labor, Hayden/Fonda, etc.) there was a great deal of activity on our part besides the areas already discussed:

-Retained Hispanic Lobbying Associates (Gene Reyes) to consult with us on hispanic activities in the campaign to keep the initiative off the ballot.

-Retained Fairbank, Bregman and Maullin to conduct an extensive poll on the issue.

-Retained O'Donnell and Gordon to explore all avenues to of the appropriateness of the Heart, Lung and Cancer societies and thereby cause expenditure of time, effort and resources on their part. Every ounce of effort they have to expend defending themselves is effort they do not have to help in qualifying the Initiative.

-Agreed to retain Myrlie Evers to assist with building strong black opposition to the initiative.

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-Met with David Kim many times to discuss possible Asian involvement in our efforts.

-Met with Mario Obledo re possible involvement in our efforts and his willingness to participate as a "key" consultant in our efforts to mobilize hispanics.

-Met with Cruz Reynoso re possible involvement in our efforts to mobilize hispanics to vocally oppose the proposed Initiative.

-Numerous meetings with friendly liberal legislators close to Connelly to gain their assistance in trying to convince Connelly that this Initiative is not a good vehicle for him in his aspirations for statewide office in 1990. Although we have been unable to back Connelly off the Initiative to date, our sources inform us that Connelly has become somewhat engrossed in another "long-term care" initiative and our efforts may have softened him somewhat. Our best political judgement at the time indicated that we had pushed Connelly as far as we reasonably could without causing a backlash from the liberal political community.

-Kept all other legislators out of the Coalition and helped to isolate the group on the left.

-Researched every legal obstacle we can place in the way of the proponents from exploiting opportunities in the state law regarding initiatives to checking the vulnerabilities in their non-profit charitable contribution status.

-Built a tentative list of committee members for our anti-initiative committee.

-Met with friends in the Attorney General's office to set up the battle over the Initiative's language and title.

-Met with Bill Hauck and Rick Brandsma of Information For Public Research (formerly California Research) to solicit them to assist in the background document to be given to the Legislative Analyst's Office. Brandsma was former Chief Deputy to the Legislative Analyst and both Brandsma and Hauck have served in numerous prestigious posts in state government. Anything that would come out of this group would be given every consideration by the Legislative Analyst's office.

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-Met with Dave Doerr (former Chief Consultant to the Revenue and Taxation Committee) to solicit him to help and co-sign the document to be prepared by Hauck and Brandsma

-Multiple meetings with "key" black leaders, including:

- Willie Brown, Speaker
- Curtis Tucker, Chairman, Assembly Health Committee
- Maxine Waters, Majority Whip
- Dodson Wilson, Staff to the Speaker
- Tom Bradley, Mayor of Los Angeles
- Mariam Golikely, Senior black leader
- Myrlie Evers, Bd. of Directors, NAACP

-Multiple meetings with labor leaders, including:

- Jack Henning, AFL-CIO.
- Tom Hunter, plumbing and pipe unions.
- John Harrington, union financial advisors.
- Brian Hatch, firefighters.
- Dick Floyd, Assemblyman.
- Jerry Matthews, independent firefighters.

-Regular written and verbal communications with TI staff.

-Assisted in the preparation of the poll format and questions.

-Consulted with Reynolds re their suggested additions to the poll.

-Meetings with the California Working Group to review and strategies on efforts to keep the Initiative off the ballot.

-Contacted the two major professional qualification firms to discuss retaining them to assist us with a withdrawal petition drive and to keep them from being available to the proponents of the initiative.

-Held almost daily person-to-person and telephone meetings between Kinney, Allen, Konovaloff, Fairbank, Gordon.

-Almost daily contact with the CMA to keep them out of the initiative, especially now that the tort reform issue has disappeared for 1988.

-Met with Chip Neilsen re campaign committee requirements.

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-Prepared legal arguments for Attorney General's Title and Summary in written form. O'Donnell and Gordon had primary responsibility for this in consultation with A-K, TI, and Kinney.

-Continued working meetings with Bill Hauck (former Chief of Staff to Speaker Willie Brown) and Rick Brandsma (ten year veteran of the Legislative Analyst's office) providing them with background information on the initiative and the regressive nature of excise taxes. Due to the necessity for prompt attention to this matter it was decided not to use Dave Doerr at this time. This document is being prepared now for delivery to the Legislative Analyst's office in mid-to-late October.

II. STRATEGY THROUGH THE INITIATIVE QUALIFICATION DEADLINE

October
(See Attached Calendar)

With the postponement of their target election date to November 1988, the "interim initiative phase has been expanded by approximately five months (June to November). Our earlier time projections, based on the June 1988 election date, would have placed the end of the interim initiative phase in the Fall or at the latest January of 1988. With the new potential election date of November 1988, we are looking at a last possible day for qualification of this issue of June 22, 1988.

Following are our strategies and estimated budget for the anti-qualification campaign. We know you are cognizant of the expenditures to date and the accomplishments generated by those prudent expenditures, but it should be pointed out that it is our feeling that this ambitious anti-qualification campaign plan can be carried out within the resources already approved by the Executive Committee.

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We have categorized the elements of the anti-qualification campaign into four broad areas for easier presentation, however, we should be cognizant that all of these broad categories and their specific elements overlap into a total, integrated program. These areas are: (1) Special Interest and Ethnic Group Outreach Program; (2) P.R./Media Campaign; (3) Resource Limitation Campaign; and, (4) Consulting/Administration.

SPECIAL INTEREST AND ETHNIC GROUP OUTREACH PROGRAM

This program involves the use of hispanics, blacks, orientals, seniors, labor, etc. in going into their respective communities, among their peers, to present the anti-tobacco tax initiative campaign educational program. This program is essential to solidifying support in these areas and keeping these areas from becoming initiative signers for the proponents.

-Recruitment of additional minority, senior and labor field reps and provide each with a schedule of activities, as well as, all necessary background material and educational tools.

COST: \$5,000 (Expenses)

-Organize our field operation directed by the minority senior and labor consultants with plans to speak before community groups, distribute literature, meet with editorial boards and raise small contributions against the proposed tobacco tax Initiative.

COST: \$4,000 (Expenses)

-Write and print a generic brochure chronicling the inequities and threat of the proposed tobacco tax Initiative for the use of our field operation beginning distribution in November.

COST: (based on 30,000 pieces)

-design and typesetting....\$1,600
-photography.....\$1,500
-printing.....\$5,200

-Begin development and production of a 12 to 15 minute video chronicling the inequities and threat of the proposed tobacco tax Initiative for use by the field consultants, minorities and community supporters for use before groups.

COST: \$35,000

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P.R./MEDIA CAMPAIGN

Although this particular category, for the most part could just as easily be placed under the "Resources Limitation Campaign" category it is unique in that it deals with techniques such as direct mail, advertising and money solicitation. All of the techniques discussed here are critical to cutting into the potential supporters, either economically or by signature, of the proponents of the proposed Initiative.

- Acquisition of various special interest group lists including:
 - Liberals (ACLU, Sierra Club, Mother Jones, Prop. 65, People for the American Way).
 - Seniors (AARP, Modern Maturity).
 - Labor (AFL-CIO).
 - Hispanics (MAPA, LULAC, GI Forum).
 - Asians (JACL).

The compilation of these lists will form an invaluable resource that can effectively be used in a direct mail and anti-qualification campaign.

COST: \$105,000

-Begin development and production of a direct mail program aimed at our target groups previously identified and by November 1, 1987 be in the mail to each. This will be very productive in creating confusion among those elements the proponents think they will easily get to sign the petitions. We will be creating confusion, concern and doubt in those areas that we know they will work first and the hardest.

COST: (based on 775,000 pieces)

- design of logos.....\$ 7,500
- production.....\$127,000
- postage.....\$ 76,930

-Begin coordinated effort with the companies to educate, organize and solicit contributions from the companies "smokers" mailing lists.

COST: companies plus return envelope production and shipping of \$9,500.

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-Begin locating ads in special interest periodicals in our target groups, such as, senior publications, labor bulletins, liberal journals and minority papers. The ads should begin appearing in early November.

COST:

-design.....\$ 4,000
-placement.....\$35,000

-Sign up and officially release the names of our committee to ensure compliance with all applicable statutes.

RESOURCE LIMITATION CAMPAIGN

Although a very positive and successful program in this area has already taken place we must re-double our efforts to withhold any potential resources they could possibly garner and cut into their current resources by causing them to expend their resources on something other than qualifying the tobacco tax Initiative. Just because we have successfully convinced organized medicine, Hayden/Fonda and labor to stay out of this issue, does not mean we can rest on our laurels. As the proponents become more desperate they will exert ever increasing pressure on these and other groups to financially assist them. We must effectively counter their efforts at every turn.

-Continue daily campaign to keep CMA, Hayden/Fonda and Labor out of the Initiative.

-Contract with the two largest signature gathering firms to keep them away from the proponents of the Initiative. Investigate the possibility of using these firms to develop a "withdrawal petition" drive disqualifying those already signed up by the Initiative proponents. This is a very exciting concept. Although it has been done in a limited sense at the local level, it has never been done at the statewide level. We would basically send our pros behind the proponent's amateurs and convince people to sign withdrawal petitions, removing their names from the proponents petition. This could be devastating to the proponents.

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It should be noted that there is definitely a potential downside to this program. Regardless, we need to tie up these two signature gathering firms so that the proponents will be precluded from using them last minute in an attempt to get the Initiative qualified.

COST: \$50,000 to \$75,000 (Funds needed to preempt American Petition Consultants and Kimball Management, Inc.).

-Meet with Jack Henning of the AFL-CIO and explore the possibility of reaching a mutual understanding between the Cal-OSHA Initiative and the tobacco tax Initiative.

COST: \$10,000

-Shift legal component to charitable contribution analysis mode through challenges to their expenditure process. It is our intention to throw up every roadblock we can and cause the proponents to expend as much time and resources as possible on things other than the Initiative.

COST: \$25,000

CONSULTING/ADMINISTRATION

Includes fees for overall management and coordination by A-K Associates, campaign consulting by Paul Kinney and various consulting fees paid to special interest and ethnic consultants. This allocation also includes use of Chip Neilsen's law firm to coordinate and administer all reporting requirements to assure that we comply with all appropriate election laws.

COST: \$60,000

November

SPECIAL INTEREST AND ETHNIC GROUP OUTREACH PROGRAM

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-Begin monthly organizational meetings of our anti-tax troops to coordinate strategy and execution of our disqualification plan. Included in group will be leadership team. minority/special interest field consultants and petition company representatives.

COST: \$4,000 (Expenses)

-Continue grassroots program with accelerated speakers group appearances.

COST: \$4,000 (Expenses)

P. R. /MEDIA CAMPAIGN

-Create and distribute to all major California media a press kit that includes our brochure, opposition list, list of our committee members, fiscal analysis and implications, arguments against and previous press.

COST: \$2,500

-Establish strict guidelines and mechanisms for handling press inquiries.

-Complete direct mail program.

-Begin ad placement program.

RESOURCE LIMITATION CAMPAIGN

-Continue efforts with CMA, Hayden/Fonda, Labor and similar groups.

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-Begin to identify their petition circulation patterns and possibly begin withdrawal/signature disqualification program.

-Continue to explore and implement legal avenues regarding non-profit organizations activities in the campaign.

COST: \$15,000

CONSULTING/ADMINISTRATION

COST: \$60,000

December Thru Qualification Deadline

(Approximate Date June 1, 1988)

SPECIAL INTEREST AND ETHNIC GROUP OUTREACH PROGRAM

-Hold regular, frequent field meetings to continuously evaluate and guide consultants and petition company representatives.

COST: \$25,000 (Expenses)

-Continue community outreach program.

COST: \$25,000(Expenses)

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P.R./MEDIA CAMPAIGN

-By late February, replace ad program.

COST: \$35,000

-By early February, commission a second poll to test movement of support/opposition to tobacco tax Initiative. This is critical to test movement and to assess arguments to determine which issues are most effective for each side in order to either strengthen our attack or undermine their campaign.

COST: \$22,000

-Build a personal response file from our community program, mail a solicitation to all those expressing interest in supporting the anti-tax campaign. Create a voter file of names for use in future ads.

COST: (Based on 28,325 names, or approximately 1.5% of original mail universe).

-production.....\$3,700
-postage.....\$6,232

-Reduce our universe with each mailing to those having expressed support for the anti-tax effort following receipt of direct mail, mail additional solicitation for financial assistance.

COST: (Based on 11,625)

-production.....\$3,100
-postage.....\$2,558

-Continue disqualification campaign right up to the final day of signature gathering.

-Continue to solicit and educate "smokers" through companies lists and communication capabilities.

COST: Companies plus \$7,500 data development and envelope production and shipping.

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RESOURCES LIMITATION CAMPAIGN

-Continue to lobby groups like CMA, Hayden/Fonda and Labor to limit the proponents resources.

-Legal involvement program to occupy time and resources of non-profit proponents.

COST: \$10,000

CONSULTING/ADMINISTRATION

COST: \$210,000

-Initiative "KILL" fee. Bonus to Paul Kinney if tobacco tax Initiative fails to qualify for the ballot. This is standard in the business.

COST: \$75,000