

1991 LEGISLATIVE ANALYSIS MINNESOTA

At the beginning of September 1989, most political forecasters in Minnesota were predicting that incumbent Governor Rudy Perpich would lose the Democratic primary. He didn't. The same forecasters were predicting that Arnie Carlson would win the Republican nomination and then defeat the Democratic nominee. Carlson lost the primary. Now the forecast is that Perpich will beat the conservative pro-life Republican nominee.

At one time or another several key democrats in the legislature have been considered vulnerable to a Republican landslide. Now it appears that the Democrat Farm Labor Party will lose some of its 44-23 majority in the Senate, but will maintain control. A swing of a few seats to the Independent Republicans in the House is also predicted. Currently, the DFL controls 79 seats and the IR has 54.

Last year's session focused on the \$160 million budget shortfall. The legislature constructed a package of cuts combined with money from the state's Reserve Fund to balance the books. This year, the state is facing a \$500 million shortfall. Every excise tax is vulnerable.

Besides the large budget problem, there continue to be efforts by individual legislators to dedicate cigarette and other excise taxes to health, drug and environmental programs. Therefore, even if we avoid being included in any package that attempts to address the budget problem, we will still have these programatic items to worry about.

TI's labor consultant is attempting to place hiring discrimination language (modeled after the Oregon bill) high on the Teamsters' legislative agenda for the coming session. Proactive legislative efforts in the state are both dangerous and difficult, as last year's vending machine fight proved. However, if we are able to get Oregon-style language included in the Teamster platform, our chances of success will be greatly improved. The diverse issues in the Oregon bill also aid our ability to diminish tobacco's role in this effort.

The tobacco industry's retail allies are very much interested in passing legislation that would impose a penalty on a person under 18 who attempts to purchase cigarettes. This effort on the part of the retailers will go forward with or without tobacco industry participation. Our lobbyists will be working with the retailers in the background in order to ensure success of this initiative.

STATE TAX PLAN

MINNESOTA

LEGISLATIVE ACTION: Anticipated 1991 legislative action.

STATE/LOCALITY: Minnesota

ISSUE: Cigarette Excise Tax

SUMMARY: Anticipated legislation is likely to ask for a \$.03, \$.05 or more increase.

SPONSOR: Possibly Gov. Perpich or anyone of several Senators and Representatives.

INTRO DATE: First week of session.

COMMITTEE: House and Senate Taxation

HEARING DATE: Not yet determined.

INDUSTRY ACTION

During the 1990 legislative session, the legislature and the administration were faced with a budget shortfall of approximately \$160 million. Since the legislature was in an election year mood, they chose to address the problem by making selected budget cuts and by dipping into the State's \$500 million reserve fund. Current revenue projections indicate that the quick fix from last year has only delayed a likely \$500 million shortfall for the coming budget year.

Fresh from re-election, the legislature will not be so austere in their approach in 1991. The danger of a major excise tax increase on cigarettes, alcohol and gasoline is serious. Additionally, the past few years have produced legislation introduced by individual legislators that call for dedicated excise taxes for drug programs, health programs and environmental programs. In short, there is a multitude of threats on the excise tax issue.

In terms of the general budget, it is arguable that at a yield of approximately \$3 million per penny of cigarette tax, excise tax increases are not the answer to large budget shortfalls. In terms of excise dedication legislation, Gov. Perpich and others in the legislature, have been moving away from the segregation of revenues from the general fund. Dedicated taxes afford an opportunity to attack the program to which funds are to be dedicated.

Lobbyists for the Tobacco Institute and member companies will be working with the Governor, his staff and legislative leadership to steer them away from excise taxes as a solution for budget problems.

RESOURCES NEEDED YES/NO DATE NEEDED

ECONOMIC ANALYSIS/FACTSHEET? YES In hand

Philip Morris provided analysis last year, and will provide an updated study this year, by Peat, Marwick that analyzes bootlegging and cross border traffic and its impact on State Revenues.

ECONOMIC ANALYSIS/FACTSHEET? YES January 1, 1991

Region IV will work with our economist in cooperation with the MN Department of Revenue to isolate the cigarette sales trends in border areas with ND and SD. These low tax states are well away from the Twin Cities and provide a shopping and commercial center for rural Western MN. The cities of Fargo, ND and Sioux Falls, SD, attract a lot of customers from across the border. The tax differential is such that it is logical to assume that significant cigarette purchases by Minnesotans are made in these states. It will be most useful if this phenomenon can be quantified.

Additionally, the Department of Revenue will produce anticipated revenue yields for any proposed excise tax increase. Region IV requests that TI headquarters complete an industry revenue yield projection for tax increases of 3, 5, and 10 cents per pack.

LEGAL MEMORANDUM? NO

EXPERT WITNESSES? Possible When needed

The image of the industry in MN is such that tax experts or economists speaking on behalf of TI would be of little use or could possibly be counter-productive. If we are able to induce a taxpayers group, an agricultural group or union to have an economist testify on regressivity, the legislature would be more inclined to absorb the desired message.

COALITION ALLIES? YES On-going

The ongoing "Minnesota Plan" has enabled the industry to improve its capability traditional allies and expand our contacts with new allies. Allies in MN counted on in an excise tax fight are:

- Minnesota Grocers Association
- Minnesota Retail Merchants Association
- Minnesota Licensed Beverage Association
- Minnesota Association of Candy and Tobacco Dist.
- Northwest Tobacco and Candy Distributors

Contributions of between \$1,000 - \$20,000 are made annually to the above.

One of the most useful tools we have at our disposal in the state of MN is the MN Grocers Association "Status of the Industry" survey. For the past three years and again this year, this survey contains several questions about tobacco sales directed at a cross-section of the Grocers Association's membership. The survey sample is constructed so that data

from stores within 30 miles of a state with a lower tax, can be easily isolated. This cross border sales data remains invaluable as an argument to increases in excise tax. The repetitiveness of this line of questioning in the Grocer's survey has enhanced store owners' sensitivity to the cross border phenomenon. Questions about sales losses to military bases and Indian reservations are asked also. Anticipated cost of 1991 survey, approximately \$10,000.

TI GRASSROOTS MOBILIZATION? **YES** When needed

DCS marketing has done extensive phone bank operations to individual retail outlets on tax and "fire-safe" legislation. As a result of the constant anti-tobacco activity in the State of MN, the Region IV office has at its disposal several pre-qualified lists of merchants and retailers. Even though we cooperate with retail associations and their Executive Directors, we have the capability to go directly to the grassroots on economic issues. This independent grassroots capability allows us to cut down on start-up time and provides us flexibility in targeting individual legislative districts. Additionally, our lists include individual businesses that may not be members of a particular trade association. Anticipated cost between \$20,000 - \$30,000.

COMPANY RESOURCES? **YES** When needed

Mobilization of member company sales force for grassroots retailer contact and distribution of anti-tax material to key accounts.

In advance of more important committee votes and floor action, it will be necessary to activate PM and RJR customer grassroots programs. A mixture of letters and phone calls to committee chairman, leadership and crucial swing votes is the most desirable use of these grassroots resources.

PUBLIC AFFAIRS/MEDIA RESOURCES? **YES** On-going

TI labor consultant, Wes Lane, is most helpful through his association with the Teamsters Union. Mr. Lane has the capability of aiding us in tax fights in various ways since the unions are traditionally opposed to regressive forms of taxation.

The MN Taxpayers Association is an emerging force in the state of MN. There is also a small chapter of the Citizens for Tax Justice in the state. These groups need to be cultivated and stimulated on the excise tax issue. Region IV requests that TI consultant David Wilhelm do an assessment of taxpayer groups in MN in order to determine if resources and support should be provided. Additionally, the industry should ascertain if these groups would be potential sponsors for an anti-regressive tax publicity campaign.

ADDITIONAL NEEDS? Not at this time

**PRO-ACTIVE PROPOSAL
DISCRIMINATION**

MINNESOTA

LEGISLATIVE ACTION: Anticipated 1991 legislative action.

STATE/LOCALITY: Minnesota

ISSUE: Privacy/Hiring Discrimination

SUMMARY: TI and member company lobbyists agree to attempt to pass legislation that would prevent employers from refusing to hire smokers. This protection does not guarantee smoking in the workplace but does protect smoking away from work.

SPONSOR: Not yet determined.

INTRO DATE: First week of session.

COMMITTEE: House Labor Management Relations Committee.
Senate Employment Committee.

INDUSTRY ACTION

During a conference call with TI and industry lobbyists and Government Affairs executives on 9/20/90, there was agreement that the industry may attempt to pass legislation preventing hiring discrimination for off work use of tobacco products. The legislative climate in MN is severely anti-tobacco and any effort to pass pro-active industry legislation must be carefully planned and attempted at exactly the right time. During the discussion, the lobbyists and government affairs personnel came to the conclusion that language like that already passed in the state of Oregon, was the most plausible. Presently, an attorney in MN is researching MN discrimination law and is re-drafting the Oregon language so that it fits into current MN statutes.

One advantage that the MN legislative system provides is the ability of sponsors to withdraw their legislation from consideration. If the industry is successful in getting the bill introduced and advancing it through a committee, we are still able to withdraw it if it appears it will be subject to hostile floor amendments.

RESOURCES NEEDED	YES/NO	DATE NEEDED
ECONOMIC ANALYSIS/FACTSHEET?	YES	1/1/91

Materials that refute often repeated claims that smokers have higher absenteeism and are less productive are needed. This material will be used to prepare amendment sponsors and supporters for floor and committee debate.

LEGAL MEMORANDUM?

YES

1/1/91

Region IV requests that TI provide support documents from the legislative battle in Oregon surrounding this legislation. We are interested in documents from the industry, organized labor, the ACLU or any other group that is in the position of advocating this legislation. All arguments should be included; including those pertaining to genetic screening and brain wave testing as well as tobacco use.

Region IV also requests any copies of any legal decisions smokers have brought against employers for discrimination because of legal activities engaged in away from the workplace.

EXPERT WITNESSES?

NO

COALITION ALLIES?

YES

On-going

Lobbyists for the Tobacco Institute are presently conferring with TI labor consultant, Wes Lane, about having Oregon style discrimination language included in the Teamsters Union legislative platform for 1991.

TI GRASSROOTS MOBILIZATION?

NO

COMPANY RESOURCES?

YES

When needed

All attempts will be made to keep the efforts to pass this legislation low profile. If the attention on this bill begins to grow, then a mobilization of smokers lists in order to contact the State Legislature may be necessary. Most probably the Cancer Society, the Lung Association or even the Chamber of Commerce could dwarf our efforts to influence the legislature on this issue through grassroots contacts, but we must be prepared to make the effort.

PUBLIC AFFAIRS/MEDIA RESOURCES?

YES

On-going

As mentioned, TI labor consultant, Wes Lane, is involved in trying to include Oregon style discrimination language in the Teamster Union legislative requests. If the Teamsters officially include this request, Mr. Lane will be able to talk to a wide range of unions in order to gain their support at the committee level and on the floor.

If and when this effort on the part of the industry is covered by the media, some thought will have to be given as to the appropriate industry response. At this time, it is hard to predict what media reaction will be, but discussions should be held in order to determine how to respond to press inquiries.

ADDITIONAL NEEDS?

Not at this time

**PRO-ACTIVE PROPOSAL
MINOR**

MINNESOTA

LEGISLATIVE ACTION: Anticipated 1991 legislative action.

STATE/LOCALITY: Minnesota

ISSUE: Penalty for tobacco purchase by persons under 18

SUMMARY: Presently in MN, it is against state law for a person under 18 to use tobacco products. Additionally, it is a gross misdemeanor for a retailer to sell tobacco products to a person under 18. However, there is no penalty imposed on a person under 18 who purchases or attempts to purchase tobacco products.

SPONSOR: Not yet determined.

INTRO DATE: First week of session.

COMMITTEE: House Judiciary Committee.

INDUSTRY ACTION

During a conference call with TI and industry lobbyists and government affairs personnel on 9/20/90, there was agreement that the industry should assist the MN retail community in their efforts to get penalty for purchase legislation enacted.

During the past year, the Americans for Non-smokers Rights and several police departments from small towns have conducted sting operations. During these operations, under-age youths are sent to vending machines and retail locations to buy cigarettes. In one instance, a clerk at a convenience store who was working for near minimum wage and trying to support three children was charged with a gross misdemeanor for selling to a person 16 years old. A gross misdemeanor in MN could result in a fine of up to \$3,000 and a one year maximum jail sentence. The retail community is distressed that these sting operations are taking place, and the absence of a penalty on youth who purchase cigarettes makes them angrier still.

Last year, an amendment was prepared to be inserted on the floor to correct this disparity in the MN law. However, the appropriate legislative moment did not arise. Without a doubt, the retail community will be intent on trying again this year. The industry reps in Region IV are supportive of this move for two reasons. First, it is felt that youths under age 18 do understand that they should not purchase cigarettes and should be punished if they do. Second, our retail allies see this as a priority. Therefore, so do we.

RESOURCES NEEDED	YES/NO	DATE NEEDED
ECONOMIC ANALYSIS/FACTSHEET?	NO	
LEGAL MEMORANDUM?	YES	In-hand

TI headquarters has provided an audit of state laws regarding youth purchases of tobacco products. Some states provide for a penalty and others do not. We will provide our retail and legislative allies with information on the states that do provide penalties so that this information can be used in committee and floor debates.

EXPERT WITNESSES?	NO	
COALITION ALLIES?	YES	On-going

As mentioned, MN Grocers Association and the MN Retail Merchants Association are vitally interested in this legislation.

TI GRASSROOTS MOBILIZATION?	NO	
COMPANY RESOURCES?	Probable	When needed

As this legislation progresses through the legislature, it may be necessary for member company sales reps to educate their retail customers as to how important this legislation is. We will need grassroots pressure directed at individual committee members from the retail community. Sales reps will be invaluable in explaining the issue and getting individual retailers to phone their state legislator.

PUBLIC AFFAIRS/MEDIA RESOURCES?	YES	
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Upon introduction media reps from the Public Affairs Dept. should hold a conference call with tobacco industry and MN retailer lobbyists prior to introduction. The purpose of this call would be to prepare the official Tobacco Institute response to media inquiries. It is arguable that legislation like this fits within the context of the industry's youth program. In the next few weeks, we will be doing much to educate the retail community and the general public on how seriously the industry views youth purchases of tobacco.

ADDITIONAL NEEDS?	Not at this time	
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