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MATTERS AT HAND: Solving a legislative mystery

By: Mike Jacobs, Grand Forks Herald

One of the great mysteries of the 2009 North Dakota Legislature is the Republican attack on Measure 3, the tobacco cessation initiative.

Perhaps, I can provide an explanation.

(In the interest of full disclosure, I voted against Measure 3 in November, and spoke against it whenever I was asked. The Herald didn't oppose it, however, because endorsements in statewide contests, including ballot measures, are out of our hands, being determined instead by the Herald's owners at Forum Communications Co.) Measure 3 provided that money due to North Dakota from a lawsuit against tobacco companies should be used to discourage tobacco use. A commission to oversee spending the money — which amounts to millions of dollars — was established.

So what's the rub?

Well, first, there are the measure's sponsors. Prominent among them is Heidi Heitkamp. Heitkamp is a Democrat. She was the Democratic candidate for governor in 2000, when John Hoeven won the office.

Heitkamp had been attorney general. In that capacity, she joined the suit against tobacco companies that most states pursued. It was an important achievement, and her involvement is key to understanding what happened in the Legislature.

Republicans don't like her. In fact, they're afraid of her, even though her name hasn't been on the ballot in the past three election cycles.

It's a little hard to understand why this should be the case. One possibility is that the Heitkamp name remains prominent, partly because Joel Heitkamp, Heidi's brother, is a fixture on talk radio. Another reason is that Republicans don't have much bench strength. As it happens, this is an even bigger problem for North Dakota Democrats. Put simply, neither party has obvious candidates to put forward for office in the future.

Still, electoral politics won't fully explain the passion that Republicans brought to this issue.

The tobacco initiative scratched a couple of Republican itches. Without doubt, one is the exquisite pleasure of besting an enemy — Heitkamp in this case.

At the same time, the tobacco initiative presented an opportunity to oppose redundancy in government. Why create a new commission to administer the money? Republicans asked.

Instead, direct the funds to existing agencies, they reasoned. Thus, opposing the tobacco initiative fit into a Republican program that stresses small government.

Republicans are not consistent in this view. Another measure on the November ballot — also passed — essentially dismantled the established governance of the state's worker's compensation program. It's not fair to say that Republican leadership generally supported the established way of governing Workforce Safety and Insurance, but enough did that it became identified with the party.

Opposing Measure 3, therefore, offers Republicans the possibility to gain the high ground of consistency. While this is not usually very important in politics, it is not a bad position to be in, all things being equal.

So far, we've found two motives for the Republican move against Measure 3 in the Legislature. Ideology is the lesser one. More important, this frustrates a major Democrat in the state.

Another explanation for Republican behavior is that Measure 3 won about 54 percent of the vote. This is short of a mandate, Republicans reason, so offering an alternative use of the tobacco settlement money doesn't present too much risk.

They have suggested a constitutional amendment that could face voters in the next statewide election. The amendment would allow use of the tobacco settlement money for a range of health issues. This subverts Measure 3 itself, of course (and may spare the state a barrage of anti-smoking advertising).

Democrats have argued that challenging the election results, and creating a different way of spending the money, thwarts the will of voters.

It remains to be seen — at an election — whether North Dakotans will prefer the approach that provides funding for a variety of health concerns. This is my own position.

Legislative Republicans haven't settled on their approach, though time is short. Whatever they do, this is an issue that will be with us for a couple of years — and probably more.