

**MINUTES OF THE
HEALTH AND HUMAN SERVICES INTERIM COMMITTEE
TOBACCO SUBCOMMITTEE**

Tuesday, July 17, 2001 – 1:00 p.m. – Room 405 State Capitol

Members Present:

Rep. Carl R. Saunders, House Chair
Sen. D. Edgar Allen, Vice-chair
Rep. Trisha S. Beck
Rep. Rebecca D. Lockhart
Rep. Paul Ray

Staff Present:

Mr. Mark D. Andrews,
Research Analyst
Ms. Catherine J. Dupont,
Associate General Counsel

Note: A list of others present and a copy of materials distributed in the meeting are on file in the Office of Legislative Research and General Counsel.

1. Call to Order and Approval of June 6, 2001 Minutes

Rep. Saunders called the meeting to order at 1:08 p.m.

MOTION: Rep. Ray moved to approve the minutes of the June 6, 2001 meeting. The motion passed unanimously with Rep. Lockhart absent for the vote.

2. Women and Smoking

The committee viewed an ABC Special Report, "Women and Cigarettes: A Fatal Attraction." The TV program reported that women with the same smoking habits as men have twice the risk of developing lung cancer as men and get sick sooner than men, that youth may become addicted to cigarettes more quickly than adults, that women have a more difficult time quitting smoking than men, that smoking in movies is increasing in the 1990s after decreasing in the 1970s and 1980s, that the lungs of a fetus stop functioning while a woman smokes, that a woman's body may not break down carcinogens from smoking as well as a man's, that the risk of heart disease, the number one killer of women, triples with the use of cigarettes, and that the combined use of birth control pills and smoking increases the risk of stroke and other problems.

3. Proposals for Legislation

Staff distributed a handout, "Selected Tobacco Policy Options."

Committee members discussed limiting smoking in automobiles carrying children.

Mr. Joel Ferre, Office of the Attorney General, said that although states cannot completely ban Internet sales of cigarettes, they can place restrictions on how cigarettes are sold, including how taxes are paid and requiring verification of age. Mr. Ferre said that by the next meeting of the committee he would provide the results of research by his office on regulating Internet sales of cigarettes and make recommendations to the committee.

Mr. Ferre distributed "Utah's Current Tobacco Enforcement Scheme," a summary of civil and criminal enforcement provisions and penalties found in the Utah Code. Mr. Ferre said that the State Tax Commission has suggested that it be allowed to seize cigarettes not in compliance with Utah law, just as it is allowed to seize grey market cigarettes.

Mr. Ferre recommended that nonparticipating manufacturers (in the Master Settlement agreement) be required to report on a quarterly basis rather than an annual basis and that civil penalties, primarily for distributors who don't report, should be considered.

Mr. Ferre recommended broadening the contraband seizure provision to include any cigarettes not in compliance with state law.

Mr. Ferre recommended establishing standards for distributors reporting cigarettes produced by nonparticipating manufacturers.

Mr. Ferre said that criminal code enforcement primarily by local law enforcement is a problem.

Mr. Ferre recommended amending the Utah Code to include all cigarettes not in compliance with state and federal law as contraband. He also recommended authorizing the State Tax Commission to impose greater civil penalties.

Dr. Scott Williams, Deputy Director, Utah Department of Health, said that the department will request a \$2 million supplemental appropriation for fiscal year 2001-02 for tobacco programs funded with Master Settlement Agreement monies. A \$2 million increase in funding will also be requested for fiscal year 2002-03. Rep. Saunders encouraged Dr. Williams to figure out what the department would do if it received a \$9 million increase.

Dr. Williams recommended that the legislature do the following:

- (1) appropriate to the Department the additional \$2 million of MSA funds for tobacco prevention programs as allowed in Utah's MSA funds authorizing legislation to help move the state toward a comprehensive tobacco control program at levels recommended by the U.S. Centers for Disease Control and Prevention;
- (2) modify or remove the cap on the amount of Master Settlement Agreement money that can be spent annually on compliance checks for retail sales to underage persons;
- (3) move tobacco education in public schools to the science curriculum and include it in end of level testing;

- (4) review pending federal legislation that would allow the federal Food and Drug Administration to have jurisdiction over tobacco products but also preempt portions of states' regulatory powers, and determine whether to support that legislation; and
- (5) consider expanding restrictions on outdoor smoking.

Ms. Joy Erickson, American Heart Association, recommended that the legislature:

- (1) modify the public schools student survey law;
- (2) expand outdoor smoking restrictions; and
- (3) support legislation proposed by Rep. Patricia Jones to limit smoking in automobiles.

Mr. Darrin Slouga, Coalition for Tobacco Free Utah, recommended that the committee focus on implementing a comprehensive tobacco program and limit itself to only a few key areas of tobacco policy.

Ms. Joy Erickson, American Heart Association, recommended that the legislature amend the requirements for surveys of public school students, expand indoor clean air restrictions to selected outdoor settings, and prohibit minors' exposure to second hand smoke in automobiles.

Mr. Tim Cosgrove, Primary Children's Medical Center, noted the center's interest in seeing that parents quit smoking because of the impact of parents' smoking on their children.

Sen. Allen said that he would like to see someone other than the Department of Health compare what is being done with tobacco monies by Utah and California. He would also like to see a resolution drafted setting forth the state's tobacco goals and time limits for achieving those goals. These goals would deal with smoking rates and perhaps enforcement. Mr. Slouga said that the Coalition for Tobacco Free Utah has already established smoking goals for Utah. Sen. Allen asked that Mr. Slouga provide those goals to the committee.

Rep. Saunders asked that staff prepare detailed minutes of the meeting as soon as possible and that committee members identify one or two pieces of legislation they would like to have prepared for the next meeting. He requested committee members to let him know what legislation they plan to have drafted.

4. Public Comment

Covered under agenda item 3.

5. Adjourn

MOTION: Sen. Allen moved to adjourn the meeting. The meeting adjourned at 3:16 p.m.