



GENERAL SESSION

February 17, 2010

Program Topics: TOBACCO TAX – ETHICS – YOUTH ISSUES

Presented by: Judiciary/Law Enforcement & Criminal Justice/
Political Subdivisions, Revenue & Taxation/
Transportation/Government Operations

Co-Chair: Junko Shimizu

Director: Tibby Milne

Speakers: TOBACCO TAX

Sen. Allen Christensen (R) Dist. 19, Morgan, Summit,
Weber Counties
Sponsor, SB40 Cigarette and Tobacco Tax Amendments
Rep. Paul Ray (R) Dist 13, Davis County (Clinton, Sunset,
West Point, Syracuse)
Sponsor HB196 Tobacco Tax Revisions
(YOUTH ISSUES)
Sponsor, HB71 Nicotine Product Restrictions
Sponsor, HB206 Ban on Sale of Smoking Paraphernalia
to Minors

ETHICS

Sen. John L. Valentine (R) Dist. 14, Utah County
Sponsor, SB136 Open and Public Meetings Revisions
Related to Review of Ethics Complaints
Sponsor, HB138 Grama Revisions Related to Review of
Ethics Complaints
Sponsor, SJR3 Joint Resolution on Ethics Complaint
Procedures
(Speaking on of behalf of) **HB124 Campaign Funds
Expenditure Restrictions**
Sponsor, Rep. Tim M. Cosgrove (D)

YOUTH ISSUES

Sen. Jon. J. Greiner (R) Dist. 18, Davis, Weber Counties
(Ogden/S. Weber)
Sponsor, SB10 Criminal Offense Penalties Amendments

Rachelle Milbank – Community Relations, UNSPAM

Craig Peterson – Child Protection Registry

(Speaking on behalf of) **SB248 Child Registry Amendments**

Sponsor, Sen. Mark Madsen (R)

Tibby Milne – WSLC Judiciary Committee Director

(Speaking on behalf of) **HB237 Restrictions on Use of Wireless
Telephones in Vehicles by Minors**

Sponsor, Rep. Phil Riesen (D)

TOBACCO TAX

Sen. Christensen gave details of one of his bills, **SB40 Cigarette and Tobacco Tax Amendments**, by saying it should more accurately be described as a “health impact fee.” In the imposition of any tax, legislators must wrestle with three questions: Should we tax? How much is appropriate? How will the money be used? The Senator was firm in his belief that we should tax tobacco. It costs approximately \$550 tax dollars per Utah family to provide tobacco-related health services (costing \$350 million) in the state.

Does **SB40** constitute ‘social engineering’? The Senator thinks not, and likened it to other incentives used to regulate activities that impact the public. After researching the amount levied by other states, he feels a \$2 per pack tobacco tax is a fair one. He also dismissed the objections of some retailers who protest they will lose money. He believes a wider public interest trumps retail sales losses.

Skeptics say the interstate black market will benefit. The Senator disagrees. For example, Arizona, which borders Mexico, has a \$2/pack tax. The black market will always exist in some form, but has not proven to be a significant factor. How will the revenue be used? Utah’s budget shortfall offers numerous options, but Health & Human Services (HHS) is the most obvious choice.

Responding to questions, Sen. Christensen said his bill would probably reduce the growing number of “smoke shops” in the

state. An estimated 1,500 people will give up smoking as a result of the tobacco tax.

Utah’s share of the 1999 Tobacco Settlement is deposited each year into an account to address HHS needs. Sympathizing with those addicted to tobacco, the Senator nonetheless feels the state’s first priority ought not be to accommodate the addiction. He also acknowledged Gov. Herbert would likely veto a tobacco tax bill.

Rep. Ray, having come directly from addressing school children at the Capitol on tobacco issues, said tobacco companies are on record as specifically targeting children. His bill, **HB196 Tobacco Tax Revisions**, would impose a \$.70 per pack tax on cigarettes

(YOUTH ISSUES)

Rep. Ray then turned his attention to the youth issues dealt with in his other bills. **HB206 Ban on Sale of Smoking Paraphernalia to Minors** focuses solely on the distributor, making it illegal to sell, rather than possess, smoking paraphernalia.

HB71 Nicotine Product Restrictions was written to address the issue of “nicotine candy” products that target youth and children. These products are now being test-marketed in several other states. They are scheduled to be shipped to Utah this summer; hence, the need for a proactive bill. As yet, retailers are not opposing the bill.

Examples of these good-tasting products include a Tic Tac-sized pellet (Camel Orbs and Ariva, for instance), a twisted stick the

size of a toothpick (Camel Sticks), and a film strip for the tongue (Camel Strips), which are made from finely ground flavored tobacco. The various products melt in the mouth within 3-30 minutes.

The nicotine delivery of the products is high. Whereas a cigarette smoker typically ingests about one milligram of nicotine, the Dissolvables are said to deliver about 0.6 to 3.1 mg of nicotine each. In the hands of small children, these products can be toxic.

Rep. Ray, emphatic in his conviction that opposition to tobacco is a health rather than a moral issue, noted his own mother smoked while she was pregnant with him. He grew up exposed to second-hand smoke, which resulted in his own lifelong health problems, including four heart surgeries.

Responding to questions, he said of the revenues raised from his tobacco tax bill, \$250,000 would go to a schools program, and the rest to Health & Human Services.

ETHICS

Sen. Valentine began focusing on legislative ethics reform last year when he introduced legislation to establish an independent ethics commission. It didn't pass, but was debated by a bipartisan team throughout the summer of 2009. This session's **HJR3 Joint Resolution on Ethics Complaint Procedures** sprang from that effort.

Traditionally, when ethics complaints are filed, legislators debate them in the open; then try the case in a closed session. This, said the Senator, is backwards. His new bills, **SB136 Open and Public Meetings Revisions Related to Review of Ethics Complaints** and **SB138 Grama Revisions Related to Review of Ethics Complaints**, open the trials to the public.

Speaking briefly on behalf of **HB124 (2nd Sub.) Campaign Funds Expenditure Restrictions**, which the Senator now supports, he said it amends provisions related to the personal use of campaign monies. It delineates how certain money may be used during a campaign, while serving as a legislator, and post-service.

Responding to questions, Sen. Valentine said former legislators may not be lobbyists until one year after their service. There appear to be conflicting issues between his bills and the Ethics Initiative. The fiscal note on his bills is \$700, assuming there are no complaints filed in a given year. Individual complaints would determine subsequent costs. House and Senate funds would be used.

YOUTH ISSUES

Sen. Greiner presented information on his bill **SB10 Criminal Offense Penalties Amendments**, calling it a re-do of a bill he ran last year. It addresses the manner in which "serious youth offenders" may be held pending sentencing. The term "aggravated" contained in the bill would place this type of offender in the adult system (county jails) rather than juvenile detention. This would protect younger, less serious offenders in the juvenile holding facilities.

Responding to questions, Sen. Greiner said there is nothing specifically in the wording of the bill to keep juveniles separate from older adults in the system. However, the county jails themselves are more conducive to separation. County sheriffs would have discretionary authority. Offenders are placed on the Gang Register if they admit to being a gang member, commit a gang-related crime, or sport gang-related tattoos.

Rachelle Milbank spoke on the Child Protection Registry, which was created in 2005. It currently protects 345,000 email addresses and mobile phone numbers. It is

a free, state-run program serving Utah families, children, and schools. Once an address is registered, senders of messages that advertise certain adult-oriented products or services are required to remove the address from their lists within 30 days.

Companies and marketers are prohibited from sending messages for products or services that are illegal under Utah law for children to purchase (alcohol, tobacco, gambling, pornography). There is a cost associated with “scrubbing” emails from an industry’s list, which is one reason these industries fight so aggressively to obtain protected status.

In a long and robust lawsuit against Utah, The gambling industry argued for exemption from the Registry. Exemption would allow any individual to simply “certify” to not being a minor, via the click of a button on any Internet gambling site. That person could then receive gambling-related ads and/or engage in gambling on the Internet.

Craig Peterson also endorsed the Child Protection Registry, which figures in the bill **SB248 Child Registry Amendments** (text not yet available). He has been working on Registry-related issues for the last five years, in addition to being embroiled in the ongoing lawsuit with the gambling industry. The state legislature allocated \$.5 million to finance the lawsuit. To the astonishment and dismay of the “adult industries” nationwide, Utah won.

Responding to questions, both Mr. Peterson and Ms. Milbank referred to “the four-legged stool” of the gambling, alcohol, tobacco, and

pornography industries as being relentless in their use of technological innovation to target unwary youth as new consumers.

Any household with children (either in daycare or in residence) qualifies for membership in the Child Protection Registry. Members may also choose to unblock any of the four adult products or services they wish to receive by a face-to-face sign up.

The 2005 bill, **HB174 Child Protection Registry Amendments**, established the Registry and made changes to its disclosure provisions. It passed, as the last bill at the last hour of the session. The Registry is not a “firewall,” but offers good protection for computer households with children.

For those interested in offering the opportunity for membership to friends and family, there is a “Refer a Friend” program available at the Registry website. For more information, visit the Child Protection Registry at *DoNotContact.Utah.gov*.

Tibby Milne, in the absence of Rep. Riesen (D), gave a brief summery of **HB237 Restrictions of Use of Wireless Telephones in Vehicles by Minors**. The bill was introduced in response to the rise in cell phone-related accidents on the highway. It prohibits a person younger than 18 years of age from using a cell phone while driving. It also imposes penalties and requires the Driver License Division to assess points against a person's driving record for being convicted of a cell phone violation.

Reported by Pam Grange

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