

**Minutes of the Board of Commissioners
Multnomah Building, Board Room 100
501 SE Hawthorne Blvd., Portland, Oregon
Tuesday, May 5, 2015**

BOARD BRIEFING

Chair Deborah Kafoury called the meeting to order at 10:07 a.m. with Commissioners Loretta Smith, Judy Shiprack and Diane McKeel. Vice-Chair Jules Bailey was excused.

Also attending were Jenny Madkour, County Attorney, and Marina Baker, Assistant Board Clerk.

B.1 Board Briefing on E-Cigarettes: Youth Access, Price Sensitivity, and Taxation. Sponsors: Chair Kafoury and Commissioner Bailey, District One. Presenters: Dr. Jennifer Vines, Deputy Health Officer; Christine Lewis, Policy Director, District 1; Mark Campbell, Chief Financial Officer; Rhys Scholes, Government Relations Policy Manager, and Invited Guests.

Chair Kafoury: GOOD MORNING AND WELCOME TO THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS. WE'RE HAVING A BOARD BRIEFING ON E-CIGARETTES, YOUTH ACCESS, PRICE SENSITIVITY AND TAXATION. THANK YOU ALL FOR COMING.

Ms. Lewis: I'M CHRISTINE LEWIS, POLICY DIRECTOR FOR COMMISSIONER JULES BAILEY IN DISTRICT 1. MY ROLE IS TO FRAME THIS BRIEFING, PARTICULARLY IN THE CONTEXT OF THE NUMEROUS PUBLIC HEARINGS AND BRIEFINGS WE'VE HELD IN THIS VERY ROOM, AND ALSO JUST IN ADDITION FRAME THIS WORK IN CONTEXT OF THE WORK OUR PUBLIC HEALTH STAFF HAVE DONE IN FRONT OF CITY COUNCILS IN TROUTDALE, FAIRVIEW, AND PORTLAND. WE'VE HAD BRIEFINGS ON YOUTH ACCESS TO TOBACCO, WE'VE DISCUSSED HEALTH IMPACTS ON COMMUNITIES OF COLOR, WE'VE TALKED ABOUT THE AMICABILITY OF INDOOR CLEAN AIR AND HEALTHY WORKPLACE REGULATIONS TO E-CIGARETTES AND WE'VE TALKED ABOUT TOBACCO AND E-CIGARETTE RETAIL LICENSURE. WE AIM TO BE A GOOD PARTNER WITH THE CITIES IN EVALUATING PUBLIC HEALTH NEEDS AND AVAILABLE POLICY OPTIONS.

IN ADDITION WE'VE BEEN MONITORING THE OREGON STATE LEGISLATURE, PARTICULARLY IN THE HEARINGS AND DELIBERATION COVERING MUCH OF THIS TERRITORY IN SALEM, AND WE'VE SEEN ENCOURAGING MOVEMENT OF A BILL VERY SIMILAR TO THE POLICY WE PASSED HERE TO PROHIBIT YOUTH PURCHASING AND INCLUDE E-CIGARETTES AND VAPING IN THE STATE INDOOR CLEAN AIR ACT THERE. ARE OTHER BILLS UNDER CONSIDERATION, AND WE HOPE THE LEGISLATURE WILL ACT IN THIS AREA IN PARTICULAR AS WE COME TO THE LAST WEEKS OF SESSION. I WOULD LIKE TO MAKE SURE TO

READ A STATEMENT INTO THE RECORD FOR COMMISSIONER BAILEY. DESPITE HIM NOT BEING HERE TODAY, HE'S VERY SUPPORTIVE OF THIS DISCUSSION WE'RE HAVING, AND HE BROUGHT UP TAXATION OF E-CIGARETTES IN SEVERAL OF OUR PREVIOUS BRIEFINGS. COMMISSIONER BAILEY SAYS, "I WAS PROUD TO VOTE IN MARCH TO BAN THE SALE OF ELECTRONIC CIGARETTES AND VAPING PARAPHANELIA TO MINORS IN MULTNOMAH COUNTY. IT IS TIME TO RECOGNIZE VAPING AS THE PUBLIC HEALTH CONCERN IT IS. PARTICULARLY FOR OUR YOUTH. AS AN ECONOMIST I FIND MYSELF TOO OFTEN REMARKING THERE IS NO MARKET FOR PUBLIC HEALTH. IF WE ARE SERIOUS ABOUT PREVENTION, WHICH I AM, WE WILL USE EVERY TOOL AT OUR DISPOSAL TO KEEP NICOTINE PRODUCTS OUT OF THE HANDS OF YOUNG PEOPLE. A TAX ON NICOTINE WILL HELP BOLSTER OUR EFFORTS TO CURB SALES TO MINORS WHILE ALSO HELPING CULTURALLY DENORMALIZING THE USE OF E-CIGARETTES. REVENUE RAISED CAN SUPPORT PUBLIC HEALTH EQUITY INITIATIVES, INCLUDING MENTAL HEALTH WITHIN THE COMMUNITIES THAT HAVE FOR YEARS BEEN TARGETED AND VICTIM TO TOBACCO ADVERTISING AND NICOTINE ADDICTION."

Ms. Lewis: I JUST WANT TO MAKE SURE I INTRODUCE THE OTHER PRESENTERS. DR. JENNIFER VINES, DEPUTY HEALTH OFFICER; MARK CAMPBELL, CFO; RHYS SCHOLES, GOVERNMENT RELATIONS POLICY MANAGER, AND MEL RAIDER, WITH OREGON HEALTH EQUITY ALLIANCE AND UPSTREAM PUBLIC HEALTH.

Chair Kafoury: GOOD MORNING.

Dr. Vines: GOOD MORNING. FOR THE RECORD, DR. JENNIFER VINES, DEPUTY HEALTH OFFICER FOR MULTNOMAH COUNTY HEALTH DEPARTMENT, ALSO A FAMILY DOCTOR AND BOARD CERTIFIED IN PUBLIC HEALTH. THANK YOU FOR THE INVITATION TO BE HERE TODAY TO SPEAK TO YOU ON THIS TOPIC. IF YOU'LL BEAR WITH ME, IN CASE ANYONE IN THE AUDIENCE OR WATCHING IS NEW TO THIS CONVERSATION, I WANT TO BRIEFLY REVIEW THE TERRITORY THAT WE'VE ALREADY COVERED AROUND THE PUBLIC HEALTH CONCERNS THAT PERTAIN TO ELECTRONIC CIGARETTES AND NICOTINE. SO AS WE TALKED ABOUT LAST FALL, NICOTINE AFFECTS THE DEVELOPING BRAIN, THERE'S EVIDENCE IT CAN CAUSE STRUCTURAL AREAS IN THE AREAS TIED TO SUSCEPTIBILITY TO ADDICTION.

WE ALSO KNOW FROM THE PUBLIC HEALTH LIFE COURSE PERSPECTIVE ADOLESCENCE IS A KEY TIME FOR INTERVENING AROUND HEALTH BEHAVIORS AND PREVENTING OR EVEN JUST DELAYING ANY KIND OF SUBSTANCE USE AMONG OUR KIDS HAS LIFE-LONG HEALTH IMPLICATIONS. AND AS YOU'LL SEE, ADJUSTING THE PRICE OF ADDICTIVE SUBSTANCES LIKE NICOTINE AND POTENTIALLY ELECTRONIC CIGARETTES IS A POWERFUL TOOL WHEN IT COMES TO PREVENTION. ANOTHER REMINDER THAT "YOUTH IN REVOLT" E-CIGARETTE USE IS EXPLODING A. HEADLINE FROM THE CDC, E-

CIGARETTE TRIPLES AMONG MIDDLE AND HIGH SCHOOL STUDENTS IN JUST ONE YEAR. SO CURRENT ELECTRONIC CIGARETTE USE HAS SURPASSED EVERY OTHER TOBACCO PRODUCT OVERALL, INCLUDING CONVENTIONAL CIGARETTES. AND JUST FOR THE SAKE OF A GOOD VISUAL, YOU SAW ME WAVE THIS AROUND LAST FALL, THIS IS MY TRUSTEE VAPE PEN PROP AND THE COMMUNITY WELLNESS AND PREVENTION TEAM GIFTED ME THIS ONE FOR MY PROP PACK SO YOU CAN SEE THE USE, EVERYTHING ABOUT THIS IS GETTING BIGGER, ALONG WITH OUR PUBLIC HEALTH CONCERNS.

Dr. Vines: FROM A PHYSICIAN'S STANDPOINT, ALL I CAN SAY IS OUR YOUNG PEOPLE ARE INHALING A COCKTAIL OF CHEMICALS, SOME OF WHICH ARE KNOWN AND BEING DESCRIBED IN THE LITERATURE, SOME OF WHICH ARE UNKNOWN AND AMONG THOSE IS HIGHLY ADDICTIVE NICOTINE. AGAIN, BEAR WITH ME AS I REVIEW THE ISSUE OF ACCESS AMONG MINORS TO TOBACCO AND NICOTINE IN MULTNOMAH COUNTY AND JUST A REMINDER THAT WE HAVE ONE OF THE HIGHEST ILLEGAL SALES RATES OF CIGARETTES TO MINORS IN THE COUNTRY. THIS IS A CONCERN FROM A PUBLIC HEALTH STANDPOINT, IT ALSO PUTS AT RISK MILLIONS OF DOLLARS IN FEDERAL GRANTS AROUND SUBSTANCE ABUSE TREATMENT AND PREVENTION. SO THANK YOU FOR BANNING SALES OF ELECTRONIC CIGARETTES TO MINORS, THAT IS A VITAL FIRST STEP IN ADDRESSING ACCESS AT THE POINT OF SALE.

TODAY WE'RE GOING TO TALK ABOUT INFLUENCING DEMAND. SO WE'RE GOING TO TAKE A PAGE FROM THE PLAY BOOK THAT PUBLIC HEALTH HAS USED FOR CONVENTIONAL TOBACCO, AND THAT IS INCREASING THE PRICE OF THE PRODUCT. THIS STRATEGY GETS A STRONG RECOMMENDATION FROM THE GUIDE TO COMMUNITY PREVENTIVE SERVICES. THIS IS THE PUBLIC HEALTH COUNTERPART TO THE UNITED STATES PREVENTIVE SERVICES TASK FORCE. SO THESE ARE THE BODIES THAT EXAMINE THE EVIDENCE IN DETAIL AND MAKE RECOMMENDATIONS ACROSS THE BOARD. SO IN TERMS OF A PUBLIC HEALTH INTERVENTION, IT DOES NOT GET MUCH BETTER THAN THIS. WE HAVE STRONG EVIDENCE THAT YOUNG PEOPLE ESPECIALLY ARE LESS LIKELY TO INITIATE, THEY'RE MORE LIKELY TO QUIT AND MORE LIKELY TO LOWER THEIR OVERALL CONSUMPTION AND USE OF TOBACCO. THE PARTICULARLY EXCITING PIECES THERE'S ALSO SOME EVIDENCE THAT THESE INTERVENTIONS ARE PARTICULARLY EFFECTIVE IN ADDRESSING DISPARITIES AMONG INCOME GROUPS AND BY RACE AND ETHNICITY AS WELL. THE SCIENCE IS SO GOOD FOR THIS PUBLIC HEALTH INTERVENTION, YOU CAN QUANTIFY THE EFFECT AND IT'S QUANTIFIED FOR YOU.

SO YOU SEE THE NUMBERS HERE, FOR EVERY 10% INCREASE IN THE REAL PRICE OF CIGARETTES, THE OVERALL CIGARETTE CONSUMPTION GOES DOWN BY APPROXIMATELY THREE TO 5% AND IT LOWERS THE NUMBER OF YOUNG ADULT SMOKERS BY 3.5%, THE NUMBER OF KIDS WHO SMOKE BY SIX OR 7%. SO I WILL LEAVE YOU WITH THIS PIECE, WHICH IS THE ENDORSEMENT BY THE WORLD HEALTH ORGANIZATION AS A REMINDER THAT THIS

APPROACH IS RECOGNIZED BY ALL MAJOR PUBLIC HEALTH ORGANIZATIONS, INCLUDING THE INSTITUTE OF MEDICINE, CENTER FOR DISEASE CONTROL, AND THE WORLD HEALTH ORGANIZATION, THIS IS A SCIENCE-BASED APPROACH TO ADDRESSING TOBACCO USE IN GENERAL, AND YOUTH INITIATION IN PARTICULAR WITH A PARTICULARLY EXCITING COROLLARY OF BEING A STRATEGY WITH SCIENCE THAT IT ADDRESSES HEALTH DISPARITIES. WITH THAT I'M GOING TO TURN IT OVER TO MR. RHYS SCHOLES FROM THE OFFICE OF GOVERNMENT RELATIONS.

Mr. Scholes: GOOD MORNING. RHYS SCHOLES FROM YOUR OFFICE OF GOVERNMENT RELATIONS. I'M GOING TO TALK ABOUT SORT OF ABOUT THE MECHANICS OF TAXATION. TWO INITIAL THINGS I WANT TO SAY, FIRST IS I'M GOING TO CONCLUDE WITH SOME POLICY CHOICES, AND REALLY THIS IS ABOUT TRYING TO ILLUSTRATE WHAT SOME OF THOSE POLICY CHOICES ARE, AND THOSE POLICY CHOICES SHOULD BE DRIVEN BY THE HEALTH FACTS. THIS IS SOMETHING THAT THERE'S NOT CONSENSUS ON WHAT'S THE BEST WAY TO ACHIEVE THE BEST HEALTH OUTCOMES FROM THIS KIND OF TAXATION, AND THERE'S SOME ISSUES TO BE STRUGGLED WITH. BUT THE OTHER THING I WANT TO SAY IS THAT THE LEADING STOCK ANALYST ON THIS ISSUE, WHO HAS ANALYZED CASH REGISTER TAPES FROM CONVENIENCE STORES, PREDICTS THAT SALE OF ELECTRONIC CIGARETTES WILL SURPASS SALE OF COMBUSTIBLE CIGARETTES IN THE UNITED STATES IN THE NEXT DECADE. THIS IS AN INCREDIBLY FAST-GROWING FIELD. AND THIS SHOWS YOU A LITTLE BIT ABOUT IT.

THERE ARE NOW, I WAS ABLE TO FIND FOUR DIFFERENT E-CIGARETTE TAXES THAT ARE NOW BEING COLLECTED IN THE UNITED STATES. THE FIRST WAS IN MINNESOTA, THE SECOND WAS IN NORTH CAROLINA, AND THEY'RE QUITE DIFFERENT AND WE'LL LOOK AT BOTH OF THEM. THE FIRST LOCAL GOVERNMENT E-CIGARETTE TAX WAS ENACTED IN PETERSBURG, ALASKA, AND THE NEWEST WAS IN JUNEAU, ALASKA, EARLIER THIS YEAR. BUT THERE HAVE BEEN DOZENS OF PROPOSALS AND I LIST SOME OF THE MANY STATES THIS HAS BEEN PROPOSED IN THE LAST COUPLE OF YEARS. I'VE LINKED THOSE TOGETHER. PHILADELPHIA HAS GOT A BILL ON THIS IN COMMITTEE, IN THEIR CITY LEGISLATURE, AND MONTGOMERY COUNTY, MARYLAND, WILL BE CONSIDERING THEIR PROPOSED E-CIGARETTE TAX AT A PUBLIC HEARING AT 7:30 TONIGHT. YOU CAN WATCH IT ON THEIR WEBSITE, LIVE. 7:30 EASTERN TIME. ALL OF THESE E-CIGARETTE TAXES ARE NOT THE SAME. BUT WE'RE GOING TO START BY TALKING ABOUT THE MINNESOTA TAX AND THE ONES THAT ARE LIKE IT.

SO MINNESOTA HAD THE FIRST E-CIGARETTE TAX, AND THEY DID IT IN A VERY SMOOTH WAY. THEY JUST CHANGED THE STATE STATUTE THAT TAXES TOBACCO TO INCLUDE THE PHRASE "DERIVED FROM TOBACCO." AND BECAUSE ALL OF THE E-CIGARETTE JUICE THAT'S IN USE IN THE UNITED STATES IS DERIVED FROM TOBACCO, THEY WERE ABLE TO JUST MAKE THE E-

CIGARETTE JUICE TAXED IN THE SAME WAY THAT PIPE TOBACCO IS, AS WHAT'S CALLED AN OTHER TOBACCO PRODUCT. THAT'S A TAXATION TERM THAT MEANS EXACTLY WHAT IT SAYS. BUT THAT'S HOW THINGS -- OTHER MEANS NOT CIGARETTES. CIGARETTES OFTEN TAXED WITH STAMPS, OTHER TOBACCO TAXES TAXED IN THIS WAY, AND THE WAY IT'S TAXED IS BY A RATE ON THE WHOLESALE PRICE. SO DISTRIBUTORS PAY THIS TAX, THEY PAY IT BASED ON THEIR INVOICES. IN MINNESOTA, THE TAX IS 95% OF THE WHOLESALE TAX OF OTHER TOBACCO PRODUCTS ARE THE TAX. JUNEAU AND PETERSBURG ENACTED A TAX WITH THE SAME STRUCTURE, BUT AT A 45% RATE. AND IN MINNESOTA, ONLY THINGS THAT CONTAIN NICOTINE ARE TAXED.

Mr. Scholes: THE IDEA OF TAXING BASED ON THE WHOLESALE PRICE IS THE MOST POPULAR IDEA. AND HERE ARE THE PROPOSED TAXES IN THE LAST COUPLE YEARS, WITH THE RATES. WASHINGTON LOOKED AT A 95% RATE THE SAME AS MINNESOTA. NEW JERSEY AT 75%, YOU SEE MONTGOMERY COUNTY IS AT 30%. ALL OF THESE TAXES ARE NOT CREATED EQUAL. WE TALKED ABOUT HOW THE MINNESOTA TAX IS JUST ON THE JUICE, THE NEW YORK TAX WOULD INCLUDE ALL DEVICES THAT ARE USED, SO THE THINGS THAT THEY SELL IN THE VAPE SHOPS, THE DEVICES WOULD BE TAXED, AND THE MONTGOMERY TAX IS EVEN BROADER. IT WOULD TAX ANYTHING THAT'S ASSOCIATED WITH SOME ACTIVITY THAT'S LIKE SMOKING. SO IT WOULD INCLUDE THE ZERO NICOTINE JUICES.

THAT'S THE RANGE -- THESE ARE THE ONES TAXED BASED ON PERCENTAGE OF WHOLESALE PRICE. THERE'S A DIFFERENT METHOD IN PLAY, THE SECOND TAX WAS IN NORTH CAROLINA, ENACTED IN 2014, WITH THE SUPPORT OF THE R.J. REYNOLDS TOBACCO COMPANY, WHICH IS QUITE INFLUENTIAL IN THE NORTH CAROLINA LEGISLATURE, AND THE TAX IS FIVE CENTS PER MILLILITER OF E-JUICE, OR CONSUMABLE PRODUCT. INTERESTING TO SEE HOW MUCH THEY THINK IS CONSUMABLE, BECAUSE THERE'S ABSORBENT WICKING IN THERE. ARKANSAS, ALABAMA, AND VIRGINIA HAVE SIMILAR TAXES, A COUPLE OTHER STATES HAVE SLIGHT VARIATIONS ON THIS. NOTE THE VIRGINIA TAX IS 40 CENTS PER MILLILITER AND THE BEST WAY TO UNDERSTAND THIS IS BY -- NO, I'M GOING TO TELL YOU ABOUT TWO MORE TAXES.

TWO OTHER WAYS OF TAXING, MAINE HAS A PROPOSAL TO SET THE OTHER TOBACCO TAX AT THE SAME RATE THAT THE TOBACCO TAX ON CIGARETTES IS. THE SAME PERCENTAGE OF THE PRICE. NEW MEXICO HAS A TOTALLY DIFFERENT IDEA, AND THEIR TAX IS ON THE MILLIGRAMS OF NICOTINE. YOU CAN SEE HOW DIFFERENT HEALTH ARGUMENTS WOULD PLAY FOR DIFFERENT KINDS OF TAXATION. NOW WE'RE GOING TO LOOK AT ACTUAL EXAMPLES.

Mr. Scholes: SO THE BLUE CIGARETTE IS THE MOST WIDELY SOLD E-CIGARETTE PRODUCT IN THE UNITED STATES OF AMERICA. AND I CAN TELL

FROM YOU MY SURVEY THAT EVERY CONVENIENCE STORE SURROUNDING IN OUR NEIGHBORHOOD HERE SELLS THE BLUE CIGARETTES. WE'RE GOING TO USE THE BLUE DISPOSABLE, THEY ALSO HAVE REFILLABLE, WIDELY SOLD FOR \$9.99, THE WHOLESALE PRICE IS \$6.36. IT HAS ABOUT 1.3, LITERS OF E-LIQUID BUT THE EXACT AMOUNT IS PROPRIETARY AND HAS 28 MILLIGRAMS OF NICOTINE. THE FIRST FOUR TAXES ARE ALL BASED ON THE WHOLESALE PRICE. MINNESOTA AT 95%, NEW JERSEY AT 75%, JUNEAU AT 45%, AND MONTGOMERY COUNTY AT 30%. THE ONES IN BOLD ON THE SLIDE ARE THE ONES THAT HAVE BEEN ENACTED. AND SO YOU CAN JUST SEE THROUGH THOSE JUST THE IMPACT OF THE DIFFERENT RATES. NORTH CAROLINA, YOU SEE IT'S SIX CENTS, MAYBE SEVEN CENTS, THAT'S BASED ON A NICKEL PER MILLILITER, VIRGINIA GETS A LITTLE HIGHER NUMBER BECAUSE THEY'RE AT 40 CENTS PER MILLILITER AND NEW MEXICO, BASED ON A TOTALLY DIFFERENT CALCULATION ON THE 28 MILLIGRAMS OF NICOTINE.

NOW, ONE THING I WANT YOU TO NOTICE IN THIS IS HOW THE VIRGINIA AMOUNT IS ABOUT A QUARTER OF THE MONTGOMERY COUNTY AMOUNT ON THIS DISPOSABLE, LET'S GO TO THE REFILLABLE. MARK 10 IS THE ALTRIA ENTRY INTO THE E-CIGARETTE MARKET. AND I CHOSE A REFILLABLE MARK 10, SO THIS IS REALLY LIKE TWO DISPOSABLE E-CIGARETTES, BUT IT ONLY COSTS \$6.99. IT HAS TWO MILLILITERS OF E-LIQUID AND COMES IN TWO STRENGTHS. ONE IS A 1.5% STRENGTH AND THE OTHER IS 2.5%. SO THAT'S GOING TO BE DIFFERENTLY TAXED IN NEW MEXICO. NOTICE ON THIS ONE THE VIRGINIA TAX IS A LITTLE BIT MORE THAN HALF OF THE MONTGOMERY COUNTY TAX. VIRGINIA AT 40 CENTS A MILLILITER, MONTGOMERY COUNTY AT 30% ON THE WHOLESALE PRICE.

NOW, I ASKED YOU TO LOOK AT THAT BECAUSE NOW I WANT YOU TO LOOK AT THIS VERY COMMON WAY THAT E-JUICE IS BEING BOUGHT IN A 10-MILLILITER BOTTLE. AND YOU NOTICE THAT HAS A LOT OF NICOTINE IN IT, IT HAS 10 MILLILITERS, THE VIRGINIA TAX IS NOW ABOUT FIVE TIMES THE MONTGOMERY COUNTY TAX, BECAUSE WE'RE DEALING WITH MORE MILLILITERS, LESS PACKAGING, LESS DEVICE, AND THIS IS WHAT'S GOING ON IN VAPE SHOPS. 30 MILLILITER BOTTLES ARE COMMON AND OVER THE INTERNET YOU CAN BUY BY THE GALLON. AND THE PRICE DROPS. SO THIS, I'M TRYING TO ILLUSTRATE THE DYNAMIC BETWEEN TAXING BASED ON GROSS WHOLESALE PRICE, WHICH IS GOING TO FALL RELATIVELY HIGHLY ON THINGS LIKE DISPOSABLES THAT ARE PACKAGED WITH THE MECHANISM, AND TAXING BASED ON VOLUME OR ON NICOTINE, LOOK WHAT THAT TAX WOULD BE UNDER THE PROPOSED NEW MEXICO PRICE. BECAUSE THERE ARE SO MANY MILLIGRAMS OF NICOTINE, THIS COMES IN TWO STRENGTHS, BUT THESE LITTLE BOTTLES ARE COMMONLY AVAILABLE IN FIVE DIFFERENT STRENGTHS.

Commissioner Smith: BEFORE WE GO -- I HAVE A QUICK QUESTION. SO THE SAMPLE TAX IS THAT ON TOP OF THE RETAIL COST, OR IS THAT ALREADY INCLUDED? \$5.99 PLUS \$2.47 FOR MINNESOTA, IS THAT GOING TO BE THE --

Mr. Scholes: THANK YOU FOR THAT QUESTION. LET ME CLARIFY. WHAT I'VE LISTED AS THE RETAIL COST IS THE COST I FOUND ON THE SHELF IN A CONVENIENCE STORE IN PORTLAND, OREGON. WHICH IS THE TAX THAT PEOPLE ARE CURRENTLY PAYING. THE SAMPLE TAXES ARE WHAT WOULD BE ADDED TO THAT IF THERE WAS A LOCAL TAX PATTERNED ON THOSE TAXES THERE. SO IT'S ABSOLUTELY NOT PART OF THE PRICE.

Chair Kafoury: AND I'M JUST CURIOUS WHAT AGENCY IS STANDING BEHIND THE MEASUREMENT OF NICOTINE IN THESE SOLUTIONS, IS IT THE FDA, IS IT IS IT A TOBACCO COMPANY? ON WHAT AUTHORITY DO WE HAVE THE CHEMICAL COMPOSITION OF THAT FLUID THAT'S IN THE CONTAINER THAT YOU BUY?

Mr. Scholes: SO THE STATUTES THAT I'VE SEEN REQUIRE THE DISTRIBUTOR TO CERTIFY HOW MANY MILLILITERS OF LIQUID OR HOW MANY MILLIGRAMS OF NICOTINE ARE IN IT. I'M ASSUMING, BECAUSE WE DON'T HAVE ONE BASED ON THAT ISSUE YET, I'M ASSUMING WHEN THE REGULATIONS WERE DRAWN UP, THERE WOULD BE A REQUIREMENT FOR THAT. I WILL TELL YOU THERE IS NOW AN AMERICAN E-LIQUID MANUFACTURERS ASSOCIATION, AND THEY HAVE STANDARDS THAT REQUIRE LAB TESTS FOR THIS BUT THE LAB TESTING IN THIS INDUSTRY IS SPORADIC AND QUESTIONABLE.

Commissioner Shiprack: IT SEEMS TO ME THAT THIS IS THE DRUG IN QUESTION, AND AS A DRUG, IT SEEMS IT SHOULD BE MODIFIED BY SOME CONSUMER AGENCY THAT IS UNIFORM ACROSS THE UNITED STATES, AND I JUST QUESTION WHETHER, YOU KNOW, AS CONSUMERS, WE'RE GETTING THIS KIND OF INFORMATION ABOUT THAT KIND OF SUBSTANCE IN THESE PRODUCTS.

Mr. Scholes: LET ME TAKE THAT AS AN OPPORTUNITY TO SHOW YOU MY LAST SLIDE, BECAUSE IT RELATES TO THIS. AND THE QUESTION IS, SHOULD THE TAX BE LEVIED ON WHOLESALE PRICE MILLILITERS OF LIQUID, MILLIGRAMS OF NICOTINE OR SOMETHING ELSE? THE ISSUE THAT YOU RAISE IS ONE OF THE PRO ARGUMENTS FOR BASING IT ON WHOLESALE PRICE. AND FOR HAVING THE FDA REGULATED, WHICH I THINK SOMEBODY ELSE, ONE OF MY COLLEAGUES CAN ADDRESS, BECAUSE THE FDA IS LOOKING AT THAT FROM A TAXATION STANDPOINT, YOU'RE CORRECT, WHO KNOWS WHAT'S GOING ON THERE. I'LL NOTE THE OTHER QUESTIONS ARE TAXING DEVICES OR NOT, TAXING THE ZERO NICOTINE, ARE YOU TAXING THE SMOKING EXPERIENCE OR THE ACTUAL DRUG? I THINK THERE'S SOME QUESTION ABOUT THAT. WHAT RATE IS APPROPRIATE, SHOULD THE REEVE BE DEDICATED. THOSE ARE THE POLICY QUESTIONS. WHAT I TRIED TO DO IS PRESENT YOU WITH SOME EXAMPLES OF HOW THOSE DIFFERENT STRATEGIES HAVE PLAYED OUT IN OTHER STATES. MARK CAMPBELL IS GOING TO TALK ABOUT HOW MULTNOMAH COUNTY COLLECTS EXCISE TAX.

Chair Kafoury: GREAT, DOES ANYONE HAVE ANY QUESTIONS ABOUT THIS?

Commissioner Smith: I HAVE SOME QUESTIONS. I WAS TRYING TO FIND OUR STATE LIST OF WHAT OUR PRIORITIES ARE FOR THE STATE, WAS THIS ON OUR PRIORITY LIST FOR THE STATE?

Chair Kafoury: FOR STATE LEGISLATION?

Commissioner Smith: OR JUST -- YEAH.

Mr. Scholes: CHAIR KAFOURY, COMMISSIONER SMITH, I SHOULD KNOW THAT, AND I KNOW OUR STATE AGENDA MENTIONED E-CIGARETTES --

Commissioner Smith: IT DID MENTION E-CIGARETTES, BUT I DON'T RECALL -- I'M TRYING TO WRAP MY ARMS AROUND WHAT I SHOULD BE ASKING YOU. AND THE REASON WHY IS, I'M NOT SURE IF WE'RE HERE TO TALK ABOUT, SAY N. TWO WEEKS WE'RE GOING TO VOTE ON A SALES TAX, OR YOU WANT TO GIVE US INFORMATION BECAUSE I'M CONCERNED THIS IS SOMETHING THAT THE STATE LEGISLATURE SHOULD BE DOING. SO I'M TRYING TO FIGURE OUT OUR ROLE IN THIS, AND IS THIS FOR FUN INFORMATION, OR IS IT BECAUSE WE'RE GOING TO DO SOMETHING AND WE'RE GOING TO ACTUALLY PUT OUT A TAX?

Mr. Scholes: MY UNDERSTANDING IS WE'RE TRYING TO INITIATE THE DISCUSSION HERE.

Chair Kafoury: I THINK I CAN ANSWER THAT QUESTION. THE REASON WE'RE HAVING THIS BRIEFING THIS MORNING IS BECAUSE THIS IS AN ISSUE THAT HAS COME UP IN THE LEGISLATURE AND IS AN ISSUE THAT'S COME UP WITH OUR COMMUNITY AS LONG WITH THE ISSUE OF LICENSURE. WHEN WE STARTED THE CONVERSATION SEVERAL MONTHS AGO ABOUT THIS EMERGING PUBLIC HEALTH ISSUE OF E-CIGARETTES, WE TALKED ABOUT VARIOUS STEPS WE COULD TAKE TO REGULATE THE PRODUCT AND KEEP THEM OUT OF THE HANDS OF MINORS, ALONG WITH HELPING PEOPLE WHO ARE CURRENTLY ADDICTED TO TOBACCO AND OTHER NICOTINE PRODUCTS TO GET OFF OF THOSE. SO THIS IS ONE STEP IN A SERIES. WE MAY NOT DO ANYTHING, WE MAY DECIDE AS A BOARD THAT THIS IS SOMETHING THAT'S REALLY IMPORTANT TO US.

Commissioner Smith: ARE WE SUPPOSED TO CHECK IN A COUPLE WEEKS AND SAY WE WANT TO DO A SALES TAX? HOW IS THIS GOING TO WORK? BECAUSE THAT WILL INFORM ME ON WHICH QUESTIONS I NEED TO ASK. IF THIS IS SOMETHING THAT'S GOING TO ACTUALLY HAPPEN, OR IS THIS JUST A BRIEFING BECAUSE THEY'RE TALKING IT AT THE LEGISLATURE AND ARE THEY TALKING ABOUT A SALES TAX IN THE LEGISLATURE? I DON'T WANT TO GO THROUGH A WHOLE LOT OF WORK IN THE LEGISLATURE WILL BE BEHIND US AND JUST NEGATE EVERYTHING THAT WE'VE DONE.

Chair Kafoury: IF I TAKE MY CRYSTAL BALL OUT OF MY DRAWER HERE, IT'S FOGGY AS TO WHETHER WE'RE GOING TO MOVE FORWARD WITH TAKING ACTION ON THIS, OR WHETHER WE'RE GOING TO END THIS TODAY. I THINK IT DEPENDS ON THE FEEDBACK WE HAVE FROM THE COMMISSIONERS, FROM THE PUBLIC, AND AS WE DO MORE PUBLIC OUTREACH ON THIS ISSUE TO SEE WHAT THE APPETITE FOR OUR COMMUNITY IS.

Commissioner Smith: I'D LIKE TO SEE THIS ON A THURSDAY WHERE WE CAN HAVE COMMUNITY COME IN AND TALK, BECAUSE RIGHT NOW WE'RE JUST GETTING A BRIEFING ON SOMETHING AND REALLY, THIS IS A SERIOUS ISSUE, THIS IS SOMETHING THAT'S VERY IMPORTANT CONVERSATION THAT I THINK WE NEED TO HAVE ALL OF OUR STAKEHOLDERS A PART OF. THE TAXATION OF E-CIGARETTES KIND OF PREVENTING KIDS FROM PURCHASING THIS, DO WE HAVE ANY DATA FROM THE CURRENT FOUR PLACES THAT HAVE TAXES, HAVE THEY DECLINED IN YOUTH SALES AS A RESULT OF THEIR NEW TAXES? DO WE HAVE ANY DATA ON THAT?

Mr. Scholes: COMMISSIONER SMITH, I HAVEN'T SEEN IT, I HAVEN'T SEEN ANY DATA ON THAT. MINNESOTA WOULD BE THE ONLY PLACE WHERE THEY MIGHT POSSIBLY BE DATA BECAUSE THE OTHERS ARE JUST STARTING.

Commissioner Smith: HOW LONG HAS MINNESOTA BEEN IN PLAY?

Mr. Scholes: MORE THAN A YEAR, BUT LESS THAN TWO YEARS.

Commissioner Smith: SO WE REALLY CAN'T SAY TODAY THAT A SALES TAX IS GOING TO PREVENT YOUTH FROM PURCHASING IN MULTNOMAH COUNTY, BECAUSE THEY GOING ACROSS THE BRIDGE AND GO TO VANCOUVER TO CLARK COUNTY AND WASHINGTON COUNTY AND GO SOUTH TO CLACKAMAS AND GET THESE E-CIGARETTES, BUT WE DON'T HAVE ANY DATA THAT SAYS IF WE DO A SALES TAX, THAT IT WILL DECLINE THE USE OF YOUTH WITH E-CIGARETTES.

Mr. Scholes: WELL, DR. VINES JUST PRESENTED TESTIMONY ABOUT HOW THAT --

Commissioner Smith: TOBACCO.

Mr. Scholes: RIGHT.

Commissioner Smith: WHICH IS NOT E-CIGARETTES. AND MANY OF THESE E-CIGARETTES DON'T HAVE TOBACCO IN THEM. SO IT WOULD BE TOUGH TO REGULATE OR TO TAX IN THE WAYS THAT MANY OF THESE FOLKS ARE TRYING TO DO THIS. SO I'M TRYING TO GET A HANDLE ON WHAT WE'RE REALLY TRYING TO DO HERE. IT DOESN'T FIT IN TERMS OF WHAT OUR

AGENDA IS RIGHT NOW. IF WE'RE TALKING ABOUT REALLY SERIOUS ABOUT DOING A SALES TAX, I'M ALL FOR IT, BUT I DON'T HAVE ENOUGH DATA TO MAKE ANY INFORMATION. IT WASN'T QUITE CLEAR -- HOW LONG HAS THIS BEEN IN PLAY? YOU'VE BEEN WORKING ON THIS FOR A WHILE?

Mr. Scholes: I'VE ONLY BEEN WORKING ON THIS FOR A COUPLE WEEKS.

Commissioner Smith: OKAY. THAT'S GOOD TO KNOW, BECAUSE I ONLY LEARNED ABOUT THIS LAST WEEK.

Mr. Scholes: COMMISSIONER SMITH, IF I MAY, I'D LIKE TO CLARIFY THE ISSUE OF TOBACCO AND E-CIGARETTES, BECAUSE THERE HAS BEEN SOME CONFLICTING INFORMATION, SO I'VE PARTICULARLY DONE SOME RESEARCH ON THAT. I AM CONFIDENT IN TELLING YOU THAT EVERY E-CIGARETTE SOLD IN THE UNITED STATES THAT HAS NICOTINE, THAT NICOTINE IS DERIVED FROM TOBACCO. THERE ARE PEOPLE WHO BELIEVE IT'S SYNTHETIC NICOTINE BECAUSE IT COMES IN A PLASTIC BOTTLE AND IT'S BEEN INSPECTED BY THE USP. BUT THAT NICOTINE IS MADE THROUGH A TOBACCO EXTRACTION PROCESS. THE TECHNOLOGY FOR MAKING SYNTHETIC NICOTINE PRODUCES A FLUID THAT IS ANYWHERE FROM 100 TO A THOUSAND TIMES MORE EXPENSIVE AND IS OF A LOWER QUALITY. SO EVERYBODY'S VAPING NICOTINE THAT CAME FROM TOBACCO. MINNESOTA OFFERED TO NOT TAX ANYTHING THEY COULD PROVE IT DIDN'T COME FROM TOBACCO, AND THEY HAVEN'T HAD ANY TAKERS YET.

Dr. Vines: IT'S AN EXCELLENT QUESTION YOU RAISE ABOUT THE DATA COMING OUT OF MINNESOTA. I WOULD BE HAPPY TO LOOK INTO THAT AND GET BACK TO YOU.

Commissioner Smith: THAT WOULD BE HELPFUL.

Dr. Vines: BECAUSE THE WHOLE PREMISE IS E-CIGARETTES ARE NEW, IT'S HAPPENING FAST, SO WE'RE TAKING DECADES WORTH OF SCIENCE WE USE IN REGULATING TOBACCO AND GETTING OUR TOBACCO SMOKING RATES DOWN AND OUR YOUTH INITIATION RATES DOWN. WE'RE BASICALLY USING THAT PLAY BOOK AND APPLYING IT TO ELECTRONIC CIGARETTES AND THESE NICOTINE INHALE DEVICES. SO COMMISSIONER SHIPRACK, TO YOUR QUESTION, THE FDA IS TRYING TO TAKE THIS ON FROM THE QUALITY AND REGULATION STANDPOINT, BUT THAT'S A YEAR'S LONG PROCESS WHICH IS WHY YOU HAVE COMMUNITIES AND COMMISSIONER AND POLICYMAKERS LIKE YOU WHO ARE ENGAGING IN THIS EARLY ON TO GET AHEAD OF THE GAME RATHER THAN DO WHAT WE DO WITH TOBACCO, WHICH IS SORT OF WAIT AND WAIT AND BELIEVE THE INDUSTRY, OKAY, IT'S SAFE, WAIT, WAIT, AND THEN TRY TO CATCH UP.

Commissioner Smith: THE REASON WHY I ASK YOU THIS, WHEN WE WERE DOING THE RESOLUTION TO BAN E-CIGARETTES, ONE OF THE THINGS I FOUND WAS MORE EGREGIOUS THAT WE HAVE MORE CONTROL OVER THAT THAN TO STOP THE WHOLE ADVERTISING ISSUE. THEY'RE SPENDING MILLIONS OF DOLLARS IN ADVERTISING, WE HAVE A BETTER SHOT AT KNOCKING THAT DOWN THAN TO DEAL WITH ALL THE DIFFERENT LIQUIDS THAT ARE ON THE MARKET FOR E-CIGARETTES. THAT'S THE BALL GAME RIGHT NOW. IF WE TAKE THE ADVERTISING AWAY, TAKE THE COOL FACTOR OUT, THAT'S HOW WE GET AT THE KIDS.

THIS WHOLE ISSUE AROUND TAX, SO IF IT'S A TAX SO WE CAN HAVE ANOTHER REVENUE STREAM, THAT'S ONE ISSUE, BUT IF IT'S A TAX THAT IS GOING TO ATTACK THE AMOUNT, THE PRICE OF THE E-CIGARETTE TO PREVENT YOUTH FROM BUYING IT, I THINK WE NEED TO BE ON TWO TRACKS, WE NEED TO BE ON THE SALES TRACK AND WE NEED TO BE ON THE MARKETING, BECAUSE WHILE WE'RE STILL TRYING TO COME UP WITH THE REGS WITH THE FDA, AND THEY'RE THE APPROPRIATE ENTITY WHO IS WORKING ON E-CIGARETTES, THEY'RE IN DISCUSSIONS, I'VE TALKED TO THEM AND DRAFTED THEM A LETTER TO TRY TO LOOK AT THESE SAME ISSUES, BUT I WISH WE HAD A TASK FORCE CONVERSATION FIRST SO WE CAN KIND OF NAIL DOWN SOME OF THESE THINGS. THERE'S AN ASSUMPTION BECAUSE WE'RE HAVING A PUBLIC VENUE OF THIS, THIS IS SOMETHING THAT'S GOING TO HAPPEN, LIKE, TOMORROW. AND IT'S NOT.

Chair Kafoury: ANY OTHER QUESTIONS?

Mr. Campbell: GOOD MORNING. I AM MARK CAMPBELL. I DON'T HAVE ANY PROPS AND I DON'T HAVE A SLIDE SHOW, BUT I HAD A LITTLE HANDOUT I'M GOING TO REFER TO AS I GO THROUGH MY PRESENTATION. ONE OF THE THINGS I WAS THINKING ABOUT AS RHYS WAS TALKING, THERE ARE MANY WAYS TO APPLY A TAX ON E-CIGARETTES. FROM MY STANDPOINT, I WOULD ARGUE VERY STRONGLY THAT WHATEVER METHOD IS CHOSEN TO APPLY, THAT IT BE ONE THAT CONSIDERS THE ADMINISTRATIVE BURDEN OF ACTUALLY COLLECTING IT. I WAS STRUCK BY THE FACT THAT IT SEEMS LIKE IN NEW MEXICO THERE'S A SORT OF BIFURCATED SYSTEM, AND I CAN ONLY IMAGINE HOW MUCH FUN THEY HAVE TRYING TO COLLECT THAT.

SO THE COUNTY CURRENTLY COLLECTS THREE TIMES EXCISES TAXES. TRANSIENT LODGING TAX, COUNTY GAS TAX, AND WE COLLECT A MOTOR VEHICLE RENTAL TAX. FOR TODAY'S DISCUSSION I'M GOING TO FOCUS ON HOW WE COLLECT THE MOTOR VEHICLE RENTAL TAX, AND THAT'S WHAT THE FORMS THAT ARE IN THE PACKET ARE HIGHLIGHTING. SO OUR MOTOR VEHICLE RENTAL TAX IS IMPOSED BY COUNTY ORDINANCE ON ANY PERSON WHO RENTS A MOTOR VEHICLE FROM A COMMERCIAL ESTABLISHMENT PROVIDED THE RENTAL IS FORWARD A PERIOD OF 30 DAYS OR LESS. THOUGH THE TAX IS ASSESSED AGAINST INDIVIDUALS IT'S THE

RESPONSIBILITY OF THE ESTABLISHMENT TO COLLECT AND REMIT IT TO THE COUNTY. SO HOW ARE THOSE COMMERCIAL ESTABLISHMENTS KNOWN TO US? WITH THE CASE OF THE MOTOR VEHICLE TAX WE'VE BEEN COLLECTING IT FOR 35 OR CLOSE TO 40 YEARS I GUESS. AND SO MOST OF THE VENDORS ARE KNOWN TO US, BUT WE TYPICALLY GO THROUGH AND CROSS REFERENCE BUSINESS TAX ACCOUNTS TO SEE WHO MIGHT NOT BE PAYING THIS TAX THAT SHOULD.

Mr. Campbell: SO WHEN WE IDENTIFY ONE, THEY PAY US A LICENSE FEE, AND THE APPLICATION IS THE FIRST PAGE IN THE HANDOUT. AND SO YOU CAN SEE IT HAS WHAT YOUR BUSINESS NAME IS, WHERE YOU'RE DOING BUSINESS. AND IT'S IMPORTANT TO POINT OUT THAT THE LICENSING FEE IS PAID BY THE COMMERCIAL ESTABLISHMENT, AND IT'S A \$50 FEE FOR EACH LOCATION. SO TO USE U-HAUL AS AN EXAMPLE, U-HAUL IS ONE TAX ACCOUNT, BUT THEY HAVE 16 RETAIL LOCATIONS THROUGHOUT THE COUNTY. SO THAT LICENSE FEE IS A ONE-TIME EXPENSE FOR THE BUSINESS. AND WHEN THE BUSINESS SUBMITS AN APPLICATION FOR LICENSE, THEY THEN GET A CERTIFICATE OF AUTHORITY TO COLLECT MOTOR VEHICLE RENTAL TAX, WHICH IS THE SECOND PAGE IN THE HANDOUT, AND YOU CAN SEE IT'S A NICE LITTLE DOCUMENT THAT SAYS DISPLAY IN A CONSPICUOUS PLACE. IF YOU WERE TO GO RENT A VEHICLE IN MULTNOMAH COUNTY, YOU SHOULD SEE THIS POSTED BEHIND THE COUNTER AT THE CHECKOUT REGISTRY, AND IT WOULD HAVE MY SIGNATURE ON IT.

SO AS FAR AS MOTOR VEHICLE RENTAL TAX GOES, WE HAVE ABOUT 25 ACTIVE TAX ACCOUNTS. FOR COMPARISON PURPOSES, THERE'S ABOUT 250 TRANSIENT LODGING TAX ACCOUNTS, ALTHOUGH IT SHOULD BE NOTED IN THE CITY OF PORTLAND COLLECTS PROBABLY 95% OF THE TAX, SO IT JUST GETS PASSED THROUGH TO US. AND IT APPEARS FROM A ROUGH GLANCE THERE'S ABOUT 400 LICENSED CIGARETTE AND OTHER TOBACCO PRODUCT DISTRIBUTORS AND WHOLESALERS THROUGHOUT THE ENTIRE STATE. I WOULD STRONGLY RECOMMEND THAT IF WE DO APPLY A TAX TO E-CIGARETTES, THAT WE DO IT AT THE WHOLESALE OR DISTRIBUTOR LEVEL AND NOT AT THE RETAIL LEVEL. THE ADMINISTRATIVE BURDEN OF COMPLYING WITH SUCH A TAX WOULD BE UNDUE FOR BOTH THE TAXPAYER AND THE TREASURY STAFF. AND I WANT TO TALK ABOUT WHY THAT IS. THERE'S CURRENTLY FOUR EMPLOYEES IN THE TREASURY UNIT. I HAVE ONE OF THOSE WHO IS PHYSICALLY LOCATED AT THE CITY OF PORTLAND AND SHE FOCUSES EXCLUSIVELY ON BUSINESS INCOME TAX ACCOUNTS.

AS I MENTIONED, THE CITY OF PORTLAND COLLECTS THE BULK OF THE TRANSIENT LODGING TAX, SO WE'RE ONLY COLLECTING IT FROM A HANDFUL OF ESTABLISHMENTS THAT ARE OUTSIDE OF THE CITY OR FOR THOSE CITIES THAT DON'T COLLECT IT THEMSELVES, AND I THINK THAT'S PROBABLY 10 OR 15 ACCOUNTS. AND THE DEPARTMENT OF COMMUNITY SERVICES COLLECTS THE GAS TAX, AND I DON'T THINK THERE'S MUCH MORE THAN 30 OR 35

COMMERCIAL GAS DISTRIBUTORS. SO THE PRIMARY RESPONSIBILITY FOR MY STAFF RESIDES WITH THE MOTOR VEHICLE TAX, AND THE LAST PAGE IN THIS HANDOUT IS THE ACTUAL TAX FORM THAT IS SUBMITTED TO US ON A QUARTERLY BASIS.

Mr. Campbell: WE DO COLLECT THE TAX QUARTERLY SO AS TO REDUCE THE ADMINISTRATIVE COSTS FOR THE BUSINESSES AS WELL AS US, AND THE FACT WE HAVE A LIMITED NUMBER OF THESE ACCOUNTS HELPS TO KEEP THAT COST DOWN. AND SO THAT PERSON, HE SPENDS ABOUT A THIRD OF HIS TEAM ON THE EXCISE TAX COLLECTION AND ACCOUNTING, AND IF WE WERE TO IMPOSE A TAX ON E-CIGARETTES, AGAIN, I STRONGLY RECOMMEND THAT WE DO IT, THE WHOLESALER OR DISTRIBUTOR LEVEL, BUT IF WE WERE TO IMPOSE A TAX ON E-CIGARETTES WE COULD COLLECT IT IN HOUSE, AND IT'S POSSIBLE THAT I WOULD NEED ADDITIONAL STAFFING TO DO, THAT BUT WE WOULD NEED TO FIGURE OUT WHAT THE WORKLOAD LOOKS LIKE, AND IT'S SOMETHING WE WOULD BE LOOKING AT ALONG WITH TRYING TO GET AN ESTIMATE OF HOW MUCH WE MIGHT COLLECT THROUGH THAT MECHANISM. AND I GUESS THAT'S ABOUT ALL I HAD. I'LL TAKE ANY QUESTIONS OR COMMENTS.

Chair Kafoury: THANK YOU. QUESTIONS OR COMMENTS?

Commissioner Smith: I HAVE A QUESTION. MARK, I DON'T KNOW IF THIS WOULD BE FOR YOU OR FOR RHYS, DO WE KNOW WHAT THE SALES IS FOR MULTNOMAH COUNTY FOR E-CIGARETTES?

Mr. Scholes: NO ONE KNOWS. THE ANALYSTS LOOK AT SALES FROM CONVENIENCE STORES, BUT THERE'S NO REPORTING.

Commissioner Smith: I'M TRYING TO FIGURE OUT MARK, WHAT KIND OF REVENUE WOULD THIS BRING IN THROUGH THE COUNTY IF IT'S WORTH THE STRUCTURE BUILD-UP.

Mr. Campbell: WE HAVEN'T TRIED TO FIGURE THAT OUT YET. I THINK IT WOULD REQUIRE A PRETTY GOOD AMOUNT OF ANALYSIS TO GET AN ESTIMATE.

Chair Kafoury: THANK YOU. MEL, IS IT YOUR TURN?

Mr. Rader: CHAIR KAFOURY, MEMBERS OF THE COMMISSION, I'M MEL RADER, THE DIRECTOR OF UPSTREAM PUBLIC HEALTH WHICH IS AN ACTIVE MEMBER OF THE OREGON HEALTH EQUITY ALLIANCE. I ALSO SERVE ON THE BOARD OF DIRECTORS FOR HEALTH SHARE OF OREGON, THE LARGEST CCO WHO ENDS UP PAYING FOR A LOT OF THE COSTS ASSOCIATED WITH TOBACCO USE AND E-CIGARETTE USE IN TERMS OF HEALTH CARE COSTS. YOU KNOW, AS COMMISSIONER SMITH MADE THE POINT, I THINK IT REALLY DOES MAKE SENSE THAT IDEALLY IT SHOULD BE A STATE SYSTEM. IN TERMS OF ACROSS

THE BOARD. WE MAY OR MAY NOT HAVE THAT OPTION. AND I WOULD ALSO MENTION IN TERMS OF THE REVENUE SIDE, I WOULD ENCOURAGE YOU TO LOOK AT THE FISCAL ANALYSIS OF THE STATE BILL, WHICH I BELIEVE WAS -- THERE ARE A FEW DIFFERENT ANALYSES DEPENDING ON THE TAX LEVEL, BUT ANYWHERE FROM 20 MILLION TO 70 MILLION IN REVENUE FROM A STATE E-CIGARETTE TAX IS WHAT THEY'RE LOOKING AT.

Mr. Rader: A COUPLE THINGS TO KEEP IN MIND I'M NOT SURE HAVE COME ACROSS IN THE DISCUSSION SO FAR. THAT IS THAT E-CIGARETTES ARE PRETTY PROLIFIC IN RETAILERS. AMONG RETAILERS THAT SELL TOBACCO PRODUCTS, 89% OF THEM ALSO SELL E-CIGARETTES. SO MOST OF THE E-CIGARETTES ARE NOT SOLD IN VAPE SHOPS, THEY'RE SOLD IN 7-ELEVENS, PLAID PANTRIES, GROCERY STORES. AND THAT'S WHERE MOST OF THE SALES HAPPEN. THERE'S ALSO AN ENORMOUS AMOUNT OF BRANDS AND FLAVORS. SO ONE ASSESSMENT FOUND 466 DIFFERENT BRANDS WITH SEPARATE WEBSITES. AND 7,767 FLAVORS. WHICH IS REMARKABLE, INCLUDING, 500 DIFFERENT CHEMICALS FOUND IN THE DIFFERENT PRODUCTS. SO WE'RE TALKING ABOUT A WIDE RANGE OF DIFFERENT PRODUCTS. NATIONWIDE, PROJECTED MARKET REVENUE IS ABOUT \$2 BILLION IN THE E-CIG MARKET. THEY'RE CHEAP, AND ONCE YOU BUY THE DEVICES, IT'S MUCH LESS EXPENSIVE THAN REGULAR CIGARETTES TO BE USING E-CIGARETTES. IT'S USUALLY LESS THAN 50% IF YOU BUY IN THE BIG BULK GALLON, YOU CAN GET DOWN TO LIKE A QUARTER OF THE PRICE IN TERMS OF REGULAR USE.

WE KNOW AS, JENNIFER MENTIONED, WE TAKE A LOT OF OUR STRATEGIES FROM WHAT WE KNOW ABOUT TOBACCO THAT WE'VE BEEN WORKING ON FOR A LONG TIME. AND WE KNOW WHAT WORKS IN TOBACCO USE. IN OREGON, WE STARTED AROUND '96 WE WERE CLOSE TO 30% OF EIGHTH AND 11th GRADERS, 30% OF 11th GRADERS WERE USING CIGARETTES, AND NOW WE'RE DOWN TO LESS THAN 10%. AND IT'S REALLY TWO MAJOR STRATEGIES. TAXATION AND INVESTMENT IN PREVENTION AND EDUCATION THAT REALLY MADE THE DIFFERENCE. YOU CAN SEE EXACTLY ON THIS GRAPH, IN '98 WAS WHEN THE MAJOR TAX WENT THROUGH AND THAT CREATED THE TOBACCO PREVENTION EDUCATION PROGRAM IN THE STATE, AND YOU SAW A BIG DECLINE FROM THAT, AND THE SECOND HAPPENED FROM 2000 -- 2002-2004. YOU CAN SEE THE INCREASE IN THE TOBACCO TAX. YOU KNOW, BUT ON E-CIGS WE'RE BEHIND THE GAME. NOW MORE HIGH SCHOOLERS ARE USING E-CIGARETTES THAN USING REGULAR CIGARETTES. AS JENNIFER MENTIONED, IT TRIPLED IN ONE YEAR. WE WENT FROM 4.5% OF HIGH SCHOOLERS UP TO MORE THAN 13% OF HIGH SCHOOLERS USING E-CIGARETTES IN ONE YEAR.

Mr. Rader: SO WE'RE ALREADY BEHIND THE GAME. AND BECAUSE MUCH THAT, I WOULD ENCOURAGE US TO LOOK FOR -- LET'S THINK ABOUT POLICY STRATEGIES. EVEN WHEN WE DON'T HAVE A COMPLETE UNDERSTANDING OF THE RESEARCH. FROM A THEORETICAL POINT OF VIEW, TAXATION WORKS TO

REDUCE CONSUMPTION. EVEN IF WE DON'T HAVE THE DATA TO SUPPORT THEM. I THINK THE DATA WILL REALLY SHOW THAT, BUT IT COULD TAKE FIVE YEARS BEFORE WE REALLY HAVE GOOD UNDERSTANDING OF THAT. I WANT TO MENTION SOME OF THE BIG CONSIDERATIONS AROUND TAXATION AND HEALTH DISPARITIES. IT IS VERY EFFECTIVE AT PREVENTING YOUTH FROM STARTING, IT'S MOST EFFECTIVE AMONG LOW-INCOME E-CIG USERS, SO WE'RE TALKING ABOUT FROM A PUBLIC HEALTH POINT OF VIEW, IT'S VERY TARGETED, IT'S MOST AFFECTING THOSE THAT WE NEED TO AFFECT THE MOST, WHICH IS LOW-INCOME YOUTH.

SO IT CAN HAVE A DRAMATIC EFFECT ON THE NEXT GENERATION OF E-CIG USERS, BUT AT THE SAME TIME IT'S VERY REGRESSIVE. THOSE IN THE LOWEST INCOME ARE PAYING MORE OF THE COST. AND I WOULD ALSO MENTION FROM AN ECONOMIC THEORY POINT OF VIEW, SAYS THAT PART OF THE COSTS ARE BARED BY THE WHOLESALERS AND RETAILERS AND PART OF THE COSTS ARE GIVEN OFF TO THE CONSUMER. THE CONSUMER PAYS MOST OF THE COSTS IN GENERAL, BUT THE RETAILER DOES PAY PART OF THE COST AS WELL. AND I THINK IF THE COMMISSION DOES GO INTO MORE DISCUSSION, I THINK ONE OF THE PIECES THAT A LOT OF MY PARTNER ORGANIZATIONS AROUND THE OREGON HEALTH EQUITY ALLIANCE ARE REALLY CONCERNED ABOUT IS HOW DOES THAT MONEY GET SPENT? IS IT DON'T INDICATE TO THE A SPECIFIC SOURCE, DOES THAT MONEY GO TOWARD SERVICES THAT BENEFIT THE LOWEST INCOME CATEGORY AND COMMUNITIES OF COLOR IN A WAY THAT REALLY DOES HAVE A MEANINGFUL IMPACT. AND THAT'S THE END OF MY PRESENTATION. I'D BE HAPPY TO TAKE ANY QUESTIONS. THANK YOU.

Commissioner Shiprack: I NEED TO BE CAUGHT UP A LITTLE BIT ON THE EXISTING POLICY WITH REGARD TO NICOTINE PRODUCTS. SO BEAR WITH ME FOR A SECOND. WHEN YOU BUY A PACK OF CIGARETTES IN OREGON, IS THERE A FEDERAL TAX ON THAT PACK OF CIGARETTES, OR JUST A STATE TAX?

Mr. Scholes: JUST A STATE TAX.

Commissioner Shiprack: OKAY. AND --

Chair Kafoury: WE'RE PRE-EMPTED --

Commissioner Shiprack: I REMEMBER THIS CONVERSATION.

Chair Kafoury: LOCAL TAXES ON TOBACCO PRODUCTS.

Commissioner Shiprack: SO, YES, I THINK THAT'S AN INTERESTING POINT, THAT ALTHOUGH WE ARE PRE-EMPTED FROM TAXING TOBACCO PRODUCTS, THAT PRE-EMPTION DOES NOT APPLY TO TAXING E-CIGARETTES. SO THAT ALLOWS

US TO HAVE BRIEFINGS LIKE THIS THAT EXPLORE THE POLICY RANGE THAT IS OUR JOB AS A BOARD OF COUNTY COMMISSIONERS TO LOOK AT THE POLICY ISSUES, AND IT SEEMS TO ME THERE ARE TWO PRIMARY POLICY ISSUES THAT YOU BROUGHT TO OUR ATTENTION. ONE OF THEM IS THE FACT -- I'M GOING TO STATE IT AS FACT, I DON'T THINK THERE'S ANY QUESTION ABOUT IT, THOUGH I SUPPOSE THERE COULD BE SOME PEOPLE WHO WOULD DEBATE IT, THAT SMOKING IS NOT GOOD FOR CHILDREN. AND SO GIVEN THAT FACT AND GIVEN OUR VALUE OF PUBLIC HEALTH, AND PROTECTING THE PUBLIC HEALTH OF THE MOST VULNERABLE POPULATIONS IN MULTNOMAH COUNTY, ANYTHING THAT WOULD ASSIST US IN KEEPING CHILDREN AWAY FROM SMOKING MATERIALS IS PROBABLY GOOD PUBLIC POLICY.

I HATE TO SAY IT AT SUCH A BASIC LEVEL, BUT IT SEEMS TO ME JUST FROM A POLICY PERSPECTIVE, WE'VE GOT TO REALLY STRONG HANDLE ALREADY DEVELOPED THAT SUGGESTS THAT THE STEP OF TAXING, AS LONG AS THERE IS A CONNECTION WHICH DR. VINES YOU'VE ALREADY PRESENTED TO US A CONNECTION BETWEEN TAX AND USE, WHICH IS THAT THE GREATER THE TAX, THE LESS THE USE, THAT THIS WOULD FURTHER MULTNOMAH COUNTY'S ALREADY PRONOUNCED PUBLIC POLICY TO SEPARATE CHILDREN AND SMOKING. SO BECAUSE OF THAT POSITION, AND THERE ARE A LOT OF OTHER POLICIES AND IT GETS COMPLICATED, I REMEMBER I'M OLD ENOUGH TO REMEMBER RALPH NADER AND SEAT BELTS AND THAT WHOLE THING, AND PEOPLE WERE VERY STRONGLY OPPOSED TO MANDATING SEAT BELTS, BECAUSE THEY'RE EXPENSIVE. AND BECAUSE THAT SORT OF BEHAVIOR SHOULD BE DISCRETIONARY AND NOT MANDATORY. THE SAME WITH BICYCLE HELMETS.

THAT IS SOMETHING THAT NOW STATEWIDE WE MANDATE CHILDREN UP TO A CERTAIN AGE TO WEAR BICYCLE HELMETS, AND WE DO IT BECAUSE THERE'S A PROVEN CONNECTION BETWEEN FALLING ON YOUR HEAD WITH A HELMET ON, FALLING ON YOUR HEAD WITHOUT A HELMET ON. AND I THINK THAT CONNECTION CAN BE MADE VERY STRONGLY AS WELL TO THE USE OF PRODUCTS THAT CONTAIN NICOTINE. AND I'M NOT SURE THAT SMOKING IS THE ONLY -- THIS IS A QUESTION -- LET ME TURN THIS INTO A QUESTION, IF I MIGHT. ARE THERE PRODUCTS THAT DON'T REQUIRE INGESTING THROUGH THE LUNGS THAT ALSO CONTAIN NICOTINE THAT WE MIGHT WANT TO ADD TO OUR DISCUSSION, EITHER TODAY OR AT SOME FUTURE DATE?

Dr. Vines: THE ONES I KNOW OF ARE LIKE MINTS, THEY LOOK LIKE BREATH MINTS THAT ARE NICOTINE CONTAINING. I SUSPECT THE INDUSTRY IS 10 STEPS AHEAD OF US WITH NICOTINE PRODUCTS THAT ARE INTERESTING AND FUN FOR KIDS. BUT YOU'RE RIGHT, IT'S NOT JUST LIMITED TO THESE KINDS OF INHALED DEVICES.

Commissioner Shiprack: THANK YOU.

Commissioner McKeel: SO I DO HAVE A QUESTION AROUND IF THE STATE PASSES SOMETHING, ARE WE PREEMPTED? IF THE STATE PASSES --

Mr. Scholes: IT WOULD DEPEND WHAT THEY PASS.

Commissioner McKeel: SO FROM MY POINT OF VIEW, I REALLY APPRECIATE THIS DISCUSSION TODAY. I MEAN, I DO FEEL LIKE WE NEED A LITTLE BIT MORE INFORMATION AND WHAT DATA IS OUT THERE, AND ALSO WHAT IMPACT THIS HAS TO US. THAT BEING SAID, AS YOU KNOW, WE COMMISSIONERS ARE RECEIVING THE CHAIR'S BUDGET THIS WEEK, AND FOR MY OFFICE, WE'RE ALL IN ON BUDGET RIGHT NOW. AND SO -- MY SCHEDULE IS FULL. SO I AM NOT QUITE SURE WHERE I WOULD FIT IN MORE MEETINGS AROUND THIS ISSUE UNTIL THE BUDGET IS ADOPTED. BUT THANK YOU. THANKS FOR THE INFORMATION.

Chair Kafoury: ANY OTHER QUESTIONS OR COMMENTS? THANK YOU ALL. THIS WAS VERY INFORMATIVE THIS MORNING. I REALLY APPRECIATE SOME OF THE POINTS YOU MADE. MEL TALKING ABOUT HOW WE'RE ACTUALLY NOT, AND I THINK DR. VINES, WE'RE NOT AHEAD OF THE CURVE ON THIS ONE AND I THINK AS OUR PRIOR CONVERSATION AROUND SALES TO MINORS IN PUTTING THIS INTO THE INDOOR AIR ACT, IF WE KNEW TODAY WHAT WE KNEW 50 YEARS AGO WOULDN'T WE HAVE TAKEN THE CHANCE AND SEIZED THE BULL BY THE HORNS AROUND CIGARETTE CONSUMPTION? THAT BEING SAID, WE HAVE DONE SUCH A REALLY STELLAR JOB IN OUR COMMUNITY OF THOSE RATES, THOSE NUMBERS PLUMMETING, ESPECIALLY FOR AMONG YOUTH AND USE AMONG ADULTS HAS ALSO DROPPED IN OUR COMMUNITY, AND THAT IS THANKS TO A LOT OF HARD WORK AND A COMMUNITY NORM AROUND THE SOCIALIZATION AROUND SMOKING.

I ALSO FOUND IT INTERESTING THAT THIS DISCUSSION AROUND TAXATION BEING THE SINGLE MOST EFFECTIVE WAY TO GET PEOPLE TO QUIT SMOKING AND ALSO TO GET MINORS FROM STARTING TO SMOKE IN THE FIRST PLACE. SO I THINK THERE'S A DIRECT CAUSAL RELATIONSHIP THERE. AND I KNOW THERE'S A LOT MORE DISCUSSION TO BE HAD. I APPRECIATE PEOPLE FEELING LIKE THEIR PLATES ARE FULL, BUT I THINK, AGAIN, IF WE KNEW 50 YEARS AGO WHAT WE KNOW NOW, WE WOULD HAVE TAKEN A STAND AND WE WOULD HAVE DONE SOMETHING. SO HOPEFULLY WE'LL BE CONTINUING THIS CONVERSATION. THERE'S A LOT OF QUESTIONS TO BE ANSWERED AROUND HOW WE WOULD GO ABOUT DOING IT, BUT I ALSO THINK ANY PRESSURE WE CAN PUT ON THE LEGISLATURE TO DO SOMETHING AT THE STATE LIKE WE DID WITH OUR VOTE EARLIER THIS YEAR, I THINK IS TIME WELL SPENT ON OUR BEHALF.

Chair Kafoury: AND ONE LAST COMMENT, SINCE COMMISSIONER SHIPRACK MENTIONED THE CHILD BIKE HELMET LAWS, THAT WAS OUR OWN CLAUDIA BLACK FROM MULTNOMAH COUNTY WHO GOT THAT BILL PASSED AND

THERE'S A DISPLAY CASE IN THE CAPITOL WITH PHOTOS OF HER AND HER SON AND THE HELMET.

Commissioner Smith: I JUST WANT TO INTERRUPT YOU, WE SHOULD NOT FORGET THE VOTE WE TOOK A COUPLE MONTHS AGO TO BAN YOUNG PEOPLE FROM SMOKING E-CIGARETTES, THAT ALONE IS GOING TO TAKE A HUGE AMOUNT OF SMOKING OUT OF OUR COUNTY, SO WE SHOULD TAKE A LAP AROUND THE TRACK ON THAT ONE AS WELL. BECAUSE WE'VE DONE SOMETHING. WE'VE DONE SOME SIGNIFICANT POLICY WORK AROUND THIS, AND IT SHOULDN'T BE FORGOTTEN.

Chair Kafoury: I AGREE WITH YOU, COMMISSIONER. I REALLY DO BELIEVE US TAKING THAT STAND EARLY HELPED THE LEGISLATURE GET TO THE POINT WHERE THEY ARE TODAY. POSED TO TAKE A STATEWIDE BAN ON ACCESS TO E-CIGARETTES AND PUT AN END TO THE --

Commissioner McKeel: AND I DO WANT MORE DISCUSSION ON THIS, AND I UNDERSTAND THE ISSUE. IT'S NOT THAT I DON'T, I WAS JUST TRYING TO BE REALISTIC HERE. SO THANK YOU.

Chair Kafoury: THANK YOU VERY MUCH. WE WILL CONTINUE THIS CONVERSATION AS WE HAVE A LOT OF WORK TO DO, BUT I THINK THIS IS AN IMPORTANT AREA FOR US. SO I APPRECIATE YOU ALL COMING TODAY. THANK YOU. HAVING NO FURTHER BUSINESS, WE'RE ADJOURNED.

ADJOURNMENT

The meeting was adjourned at 10:59 a.m.

Transcript prepared by LNS Captioning and utilized in creating minutes by the Board Clerks. For access to the video and/or board packet materials, please view at: http://multnomah.granicus.com/ViewPublisher.php?view_id=3

Submitted by:
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Board of County Commissioners
Multnomah County