

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON TAXATION**

**Seventy-Fifth Session  
March 17, 2009**

The Committee on Taxation was called to order by Chair Kathy McClain at 1:39 p.m. on Tuesday, March 17, 2009, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/75th2009/committees/](http://www.leg.state.nv.us/75th2009/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Kathy McClain, Chair  
Assemblywoman Marilyn Kirkpatrick, Vice Chair  
Assemblyman Paul Aizley  
Assemblyman Bernie Anderson  
Assemblyman Morse Arberry Jr.  
Assemblyman Ed A. Goedhart  
Assemblyman Tom Grady  
Assemblyman Don Gustavson  
Assemblywoman Ellen Koivisto  
Assemblywoman Sheila Leslie  
Assemblyman Richard McArthur  
Assemblyman Harry Mortenson  
Assemblywoman Peggy Pierce

**COMMITTEE MEMBERS ABSENT:**

None

**STAFF MEMBERS PRESENT:**

Michael Nakamoto, Deputy Fiscal Analyst  
Mary Garcia, Committee Secretary  
Sally Stoner, Committee Assistant

Minutes ID: 585



**OTHERS PRESENT:**

Kevin Quint, President, Nevada Alliance for Addictive Disorders, Advocacy, Prevention and Treatment Services, Reno, Nevada  
Dee Wirth, Supervisor, Women's Residential Program, Women's and Children's Campus, WestCare Nevada, Las Vegas, Nevada  
James Cross, Private Citizen, Reno, Nevada  
Carl Kelly, Private Citizen, Fallon, Nevada  
Tim Kuzanek, Captain, Washoe County Sheriff's Office, Reno, Nevada  
Renee Romero, Director, Forensic Science Division, Washoe County Sheriff's Office, Reno, Nevada  
Dorothy North, Chief Executive Officer, Vitality Unlimited, Elko, Nevada  
Ernie Adler, Private Citizen, Carson City, Nevada  
Alfredo Alonso, Lewis and Roca LLP, Reno, Nevada, representing Nevada Beer Wholesalers Association, Southern Wine and Spirits, and R.J. Reynolds Tobacco Company  
John Morrey, President, Morrey Distributing Company, Sparks, Nevada  
Bill Gialketsis, Vice President, Bonanza Beverage Company, Las Vegas, Nevada  
Joseph W. Brown, Jones Vargas, Las Vegas, Nevada, representing DeLuca Liquor and Wine, Ltd., and Coors of Las Vegas  
John Griffin, Kummer Kaempfer Bonner Renshaw & Ferrario, Las Vegas, Nevada, representing Anheuser-Busch Companies, Inc.  
Stephenie N. Shah, Director, Government Affairs, Anheuser-Busch Companies, Inc., Sacramento, California  
Preston Adam Smith, Vice President, Western Region, Office of Government Relations, Distilled Spirits Council of the United States, Washington, D.C.  
Samantha Stone, Research Associate, Nevada Taxpayers Association, Carson City, Nevada  
Dino DiCianno, Executive Director, Department of Taxation  
Lawrence P. Matheis, Executive Director, Nevada State Medical Association, Reno, Nevada  
Susan Reavis, CNM, MS, Director, Women's Ambulatory Services, Pregnancy Center, Renown Health, Reno, Nevada  
Josh Benke, Lung Health Coordinator of Northern Nevada, American Lung Association of Nevada, Reno, Nevada  
Cassandra Lopez, Peer Tobacco Educator, and Vice President, Student Board, Students Taking On Prevention, Minden, Nevada  
Michael Magno, Senior, Douglas High School, and President, Student Board, Students Taking On Prevention, Minden, Nevada

Jennifer Stoll-Hadayia, MPA, Public Health Program Manager,  
Washoe County District Health Department, Reno, Nevada  
Michelle Gorelow, M.A.Ed., Director of Program Services, Nevada  
Chapter, March of Dimes, Las Vegas, Nevada  
Tom McCoy, JD, Nevada Government Relations Director, American  
Cancer Society Cancer Action Network, Reno, Nevada  
Karen Rudd, Mission Lifeline Director, Western States Affiliate, American  
Heart Association, Reno, Nevada  
Ernie Adler, Carson City, Nevada, representing Reno/Sparks Indian  
Colony, Reno, Nevada  
Charles Duarte, Administrator, Division of Health Care Financing and  
Policy, Department of Health and Human Services  
Jeremy Aguero, Principal Analyst, Applied Analysis, Las Vegas, Nevada  
Tray Abney, Director, Government Relations, Reno-Sparks Chamber of  
Commerce, Reno, Nevada

**Chair McClain:**

[Roll was called.] We have two bills on the agenda today. In deference to his seniority, we have decided to let Mr. Anderson present Assembly Bill 277 first.

**Assembly Bill 277:** Makes various changes concerning the excise tax on liquor.  
(BDR 32-204)

**Assemblyman Bernie Anderson, Washoe County Assembly District No. 31:**

[Submitted prepared testimony and PowerPoint presentation ([Exhibit C](#)). Read from prepared testimony as he went through the PowerPoint slides. Also submitted article, "The Effects of Price on Alcohol Consumption and Alcohol-Related Problems" by Frank J. Chaloupka, Ph.D., et alii ([Exhibit D](#)).] Mr. Arberry may have been here when I broached this question back in 1995. The need for additional dollars for drug treatment programs has been important to us.

Madam Chair, with your indulgence, I would like to invite several additional people to the table who have expertise in the need for programs for drug treatment and DNA markers. They will tell their stories about why they think this would be a good source of funding.

**Kevin Quint, President, Nevada Alliance for Addictive Disorders, Advocacy, Prevention and Treatment Services, Reno, Nevada:**

[Submitted handout containing prepared testimony and paper: "Substance Abuse and Treatment Issues, Prepared for the Assembly Committee on Taxation in Relation to Assembly Bill 277, March 17, 2009, Prepared by Frank Parenti

and Kevin Quint, Nevada AADAPTS" ([Exhibit E](#)). Read from prepared testimony.]

**Dee Wirth, Supervisor, Women's Residential Program, Women's and Children's Campus, WestCare Nevada, Las Vegas, Nevada:**

Kevin asked if I would come and speak on A.B. 277 regarding appropriating more funds for treatment. Treatment does work; I am a product of that environment. I am a 14-year veteran of methamphetamine abuse and alcoholism. I am also a survivor of domestic violence. All three of my children were born during my active addiction, so I have run the gamut. I have been homeless, I have been hungry, I have been unemployed, and I have been beaten down.

In 2004, I stood in front of a judge in Las Vegas who was going to send me to prison. I thought there had to be another way, at least for me. I asked if he could give me any other options, so he sent me to a not-for-profit organization called WestCare Women's and Children's Campus. That was on October 12, 2004.

When I entered that treatment facility I did not have my children. They were still living with my ex-husband, who was actively using drugs at that time. I entered that program not of my own volition but because I was afraid to go to prison, and I was afraid of completely losing my children.

My mind was foggy when I got to the treatment facility, but I did what they told me to do. I thank God that, three months later, my children joined me in that treatment facility. They were 5, 6, and 7 years of age when they came to live with me. They had no education; they could not write their names. I had just a little more education than they did.

I spent two years in that facility because of moneys that were legislated for that type of treatment. I did not want to go there at first, but something happened to me once I got there. Then my children came to live with me. The WestCare Women's and Children's Campus is the only treatment facility I know of in southern Nevada where children can live in recovery with their moms. I had never heard of that before. I do not know if my story would have been different if I had known of that before, but that is my story.

In the two years I stayed at that treatment facility, I graduated to the highest level. I went to college and earned my license as a nursing assistant. While in that program, I earned tools to raise my children. I was rehabilitated, in a sense, and so were they.

I eventually earned employment as a nursing assistant. I had never worked in the community like that, paying my taxes. That was new to me, and I was 35 years old. That treatment program helped me accomplish those things.

After I moved out on my own, I kept going back to that treatment facility to stay connected to the people who had helped me raise my children who, at that time, were about 7, 8, and 9 years old. The people at the facility asked me if I wanted to work there. I could not believe they said that. At that time, I did not have any formal education, so I opted to start work there as a counselor technician.

That was two and a half years ago. Now I am the supervisor for the WestCare Women's and Children's Campus Adult Women's Treatment Services, and I have been for a year. I have been clean, sober, and drug-free for four and a half years. I never went back to my abusive husband.

My children are now 9, 10, and 11 years old, and my son is in the Gifted and Talented Education (GATE) program at his school. I do lots of things in the community to make sure that I keep doing what I am supposed to do while trying to make folks aware that these funds are necessary and needed. Had the funds not been available, I would not be the woman you see in front of you now.

**James Cross, Private Citizen, Reno, Nevada:**

[Submitted a letter to Kevin Quint ([Exhibit F](#)).] I am a recovering addict from all sorts of mind altering substances; I did them all. I took my first drink in 1958 and my last drink on May 4, 2004. In May, I will have been clean for five years.

My story is the same as the others; we all have shared experiences. I arrived here through a nudge from a judge. I had been up drinking Black Velvet and doing methamphetamines one night. I walked into a 7-Eleven store in Sparks and cut in front of an officer from the Sparks Police Department. I reached into my pocket and three packets of crystal meth went flying through the air right into the police officer's hand. That was how I got into the program.

I was offered drug court because I had never been to prison or anything like that. I had been committing petty crimes in Washoe County. In fact, I have the dubious distinction of holding the all-time record for spending at the commissary. I spent \$14,000 at the commissary during 51 visits to the Washoe County Sheriff's Office.

One of the most profound things that happened was when a man came in while I was sitting in the lobby one night. I thought it was his first time in jail, so I went to console him. He said his life was ruined because he got off work that night and had some drinks with the guys. When he left the bar, he ran over a woman and her baby at the Meadowood Mall and killed her. He said he had just bought a new house. He had a brand new baby himself, and now his life had been changed forever. That did not stop me from drinking.

To give you a little background, I grew up in a neighborhood in San Francisco where most of the people looked like you people here. I grew up, went to college, and played football. I was the CEO of a small computer company. But my disease of drinking and drug abuse led me to steal a 12-speed girl's bicycle in Fallon, Nevada. That was when I bottomed out, because that was when I ended up in drug court.

They say the phoenix rises from the ashes, but drug court and the treatment program at the New Frontier Treatment Center in Fallon helped me through that evolution. I had hit bottom, not because I did not have professional skills or was not able to communicate, but because I just could not stop drinking or using drugs.

However, I got the tools. My moment of clarity came when the judge said I could serve one to four years. I could not imagine myself, at my age, mowing the Governor's lawn. When they offered me the opportunity to go to drug court, I finished that in 11 months, and I am grateful for that. I am grateful there was money available to give me that opportunity.

I had to sit and wait for a bed in the Washoe County Jail, and all that time I thought about the Bible, in the book of Ephesians, where it says you will become a new man. Twenty years ago I was a major account sales manager for the Xerox Corporation in the Silicon Valley. Because of the program of treatment I went through, and because of the drug court program, today I work for them again.

For ten years in Washoe County all I did was sell drugs and steal. Today, my children are 12 and 13 years old. They play baseball. They are honor students. My wife is actually the supervisor of the treatment center I once went to. She was once an addict herself. Thanks to the programs and the funding from the state government, I am here to testify. Thank you.

**Carl Kelly, Private Citizen, Fallon, Nevada:**

[Submitted and read from prepared testimony ([Exhibit G](#)).] I also started attending college classes. If not for these programs, I am not sure what I would do.

**Chair McClain:**

Thank you. Those were great success stories, and I appreciate your sharing them. Mr. Anderson, do you have more?

**Assemblyman Anderson:**

This is only the first half. For the other half, I would like to have Captain Kuzanek from the Washoe County Sheriff's Office and Ms. Romero from the crime lab come up to speak, if that would be acceptable.

**Tim Kuzanek, Captain, Washoe County Sheriff's Office, Reno, Nevada:**

Today I rise in support of A.B. 277. I am very happy that Assemblyman Anderson has brought this bill forward for a number of different reasons. On the rehabilitation side, we are hopeful it will help to slow the influx of people we see coming through our intake doors, both those who have problems with alcohol and those who have problems with other drugs. On the DNA side, it is a super investigative tool that has helped us in a number of different cases, including some highly publicized cases such as the Brianna Denison case, which is still being adjudicated.

The unfortunate thing about our situation is that we have this great tool, but we really do not have a sustainable and stable funding stream to take care of it. In the Denison case, Sheriff Haley even went public asking for donations during the investigation as a means of catching up on our backlog of DNA samples in an effort to make sure we did not already have that evidence sitting on the shelf and had simply not had the money to process it. That is unfortunate, as DNA evidence really is a good tool for us. We are hoping the Committee will look kindly on this bill, because our need to find stable and sustainable funding for this important tool is, ultimately, imperative not only for Washoe County, but for the entire state as a whole.

**Renee Romero, Director, Forensic Science Division, Washoe County Sheriff's Office, Reno, Nevada:**

[Submitted and read from prepared testimony ([Exhibit H](#)).] Assembly Bill 277 is drafted to rely on the mechanism of transferring funds from the counties to the genetic marker testing fund. I am concerned about relying on a mechanism that has not yet proven to be reliable. I recommend the funds be distributed to the two accredited laboratories in the state based on the population base each serves.

**Chair McClain:**

Do you have that in the form of an amendment? [Ms. Romero said she did not.] Is that distribution issue something you want us to consider? [Ms. Romero indicated that it was.] Is there anybody else who would like to speak in support of A.B. 277?

**Dorothy North, Chief Executive Officer, Vitality Unlimited, Elko, Nevada:**

[Submitted and read from prepared testimony ([Exhibit I](#)).] As I have said in the past, addiction problems are cheaper to pay for at the front end than at the back end.

Some of the folks who got up and talked before I did made me feel really old. About a month ago, I received a 30-year chip for my sobriety. I have not said that often in these halls, but I think today is the day I need to say it. I also went in and out of the criminal justice system, not necessarily in Nevada but certainly in California. I was in and out of Van Nuys jail so many times I thought they were going to name a cell after me. One of the first people to suggest I go to treatment was the bail bondsman.

Nobody wakes up in the morning and says, "Gee, this looks like a nice day to go for treatment." Even if they make the phone call, nobody says they want to go. They go because some crisis occurred and they picked up the phone, or they go because somebody said they needed to. But it does not matter how people get to treatment as long as they get there. Once they get there, good treatment is designed to get through their denial mechanisms.

Drug courts are great. I wish we had more of them. We really need money to be able to put them in all the rural counties so that we can do more good. I am all for this bill.

**Assemblyman Anderson:**

I want to thank Ms. North. Originally, she was one of the first people to demonstrate to the Legislature that we needed more funding in this area. In 1995, when we created the drug courts, it was because of her push. She, of all the people here, recognizes the ongoing need for that particular treatment program. I thank her for her service and for her continuing testimony.

**Chair McClain:**

I agree. She has been a great advocate.



**Ernie Adler, Private Citizen, Carson City, Nevada:**

This summer I met with members of the Brianna Denison Foundation in Reno and asked exactly what we could do to prevent a future Brianna Denison-type incident. As Assemblyman Anderson correctly pointed out, although the perpetrator was found through genetic testing, the evidence did not originate at the crime scene.

Going back a while, I was originally Chief of the Criminal Division of the Attorney General's Office, so I had a lot of background in law enforcement. I was also a member of this Legislature. What I have seen over the years is people introducing bills that toughen the penalties on crimes. That then goes out in someone's campaign brochure. With all due deference, that really does very little good.

If you do not fund the basic tools of law enforcement, you are not going to prevent crimes. At this point in history, one of the basic tools of law enforcement is DNA testing. Unless DNA testing is fully funded, it is not a tool we have at our disposal. Unless there is some way to fund the testing of the backlog of DNA evidence in this state, we are not really going to make people safer.

Lengthening prison sentences or otherwise toughening penalties is just frosting on the cake that does not accomplish much. You need to give law enforcement people the tools to do their job. Otherwise, if we do not do this, we are pretending to enforce laws. That is why I support this bill. I recently spoke with Washoe County District Attorney Richard Gammick, and he strongly supports this as well.

**Chair McClain:**

Thank you. Are there any questions? [There were none.] Was there anybody else who wished to testify in support of the bill? [There was no response.] We have some people who wish to speak in opposition.

**Alfredo Alonso, Lewis and Roca LLP, Reno, Nevada, representing Nevada Beer Wholesalers Association and Southern Wine and Spirits:**

We agree with everything that was just said regarding policy; you are absolutely correct. In fact, Mr. Morrey, whose business is located in northern Nevada, actually gave to the Brianna Denison fund. One of the significant issues we have with this bill is that these are community people who give back to the community and who are involved in the day-to-day issues that confront a community, whether in northern Nevada or southern Nevada.

While we agree with the policy, we disagree with the funding. The problem you have with the funding is the problem you have with any excise tax: it does not always bring what you expect. In fact, historically, many studies have indicated that you net about half of the revenue you projected in the first place.

More than half of the cost of every drink consists of excise taxes, either federal or local. It is an incredibly regressive tax. Fifty percent of all alcohol consumed is consumed by people making less than \$50,000 a year. From a regressive standpoint this tax hits those who have the least amount of disposable income.

One might say, "That is great! Now people will drink less." Unfortunately, that is not the case. They may drink different brands. High-end brands may suffer as a result, and middle-end brands may move down the line and then, ultimately, you will have some fluctuation in what is purchased. In the end, though, those who abuse alcohol will continue to abuse alcohol.

One might say if we could tax those who abuse alcohol, we could solve the problem. Instead, though, you are taxing everybody, the vast majority of whom do not drink more than socially. I think that is unfair. It reduces the income of the buyers we discussed. It lowers the profits of the sellers, which ultimately leads to reduced investment, wages, benefits, et cetera.

This is more about jobs than I think most legislators understand. The gentlemen on either side of me, Bill Gialketsis and John Morrey, will be able to tell you more about that. The association and distributors throughout Nevada have always come to the table when the state has had budgetary problems that we could attempt to help with. We plan to participate in the future.

However, an excise tax that singles out one industry, like any other tax that singles out a particular industry, is something we would oppose for many reasons. For one thing, this is not borne by just drinkers.

We would like to continue these discussions with Mr. Anderson, whose intentions are honorable. Now, though, I would like to turn this over to the gentlemen on either side of me who can tell you how this affects their businesses and their jobs.

**John Morrey, President, Morrey Distributing Company, Sparks, Nevada:**

The Morrey Distributing Company has been a family company for 55 years. This tax equates to a 331 percent increase, and that is a 10 percent price increase for consumers. It is significantly more than Mr. Anderson's estimate of \$0.30 a six pack. It is closer to \$1.00.

Last year, our company paid \$650,000 in excise taxes. This proposed tax rate would be higher than all bordering states, including California and Utah. It would make Nevada's the fifth-highest alcohol tax in the nation.

With higher costs on everything from filling the gas tank to paying for groceries, a higher tax is just one more burden that consumers with modest incomes cannot afford. Certainly this beer excise tax, as Mr. Alonso said, would severely hamper our working men and women. Forty-four percent of the price of beer already consists of taxes of one sort or another, as opposed to all other consumer products, where less than 32 percent of the price is tax. In Nevada, consumers already pay an estimated \$3.00 a case in federal and state sales and excise taxes.

Compared to a broad-based tax, beer and alcohol taxes damage the economy to a greater degree by reducing state revenues from many other sources, including tourism and the hospitality industries. Such a massive tax would hurt businesses and consumers across the state and cost nearly 400 jobs. I employ 72 people, and our sales are already down. I am proud to say that, in this recession, I have not laid off anybody, and I certainly do not want to do that.

Our beverage, beer, has always been the beverage of moderation. It is consumed responsibly.

**Assemblyman Anderson:**

First, I want to thank you for the great things you do for the community on a regular basis. I am a little concerned, however, about how a tax increase of \$0.69 a gallon would equate to more than \$0.50 a six pack.

**John Morrey:**

You have to calculate the additional costs in getting the beer to market, such as sales and delivery. We would have to raise that tax also.

**Assemblyman Anderson:**

So am I to understand that because we would increase the tax on alcohol, your delivery costs and labor costs would then go up commensurate with that?

**John Morrey:**

Yes; also, the retailer would have a tendency to take a few extra cents, too, especially in the bars and restaurants. Any time there is a price increase on beer, if it is \$0.15 or \$0.20 a case, the retailer will take a significantly larger increase to get to a certain price point. That could be between \$0.50 to \$1.00.

**Assemblyman Anderson:**

And that would go into his pocket? [Mr. Morrey indicated that was correct.]

**Alfredo Alonso:**

Also, an issue that is unique to this industry is that they pay the excise tax up front. When we are in a recession, people are slower to pay. While we would like to think everyone is going to pay in a timely manner, that becomes a significant cost, because while you might not want to give credit, you ultimately have to. The state is taken care of because the taxes have already been paid, but the wholesaler has to wait to get paid.

**Bill Gialketsis, Vice President, Bonanza Beverage Company, Las Vegas, Nevada:**

The Bonanza Beverage Company has been my family's business since 1958. We employ about 220 people. Last year at this time we employed about 230 people. For the first time in 50 years of business, we had to lay off about 10 people. Business is not what it could be.

We have about 75 teamsters who drive for us. They make roughly \$22 an hour driving trucks. We offer health care—medical and dental—for our people. We have a 401(k) program for our people, which we match.

I do not need to tell you what business is like down south. I can give you some numbers related to excise tax. Comparing January and February 2008 to January and February 2009, the number of gallons we sold was down 16.6 percent, which is 351,876 gallons. That represents a lot less tax being collected.

Last year we paid roughly \$2 million in excise tax. We know the state is in a budget crunch. We know the economy is tough, and we know you are likely to call on us, as businessmen, to help deal with that problem.

We are in a privileged business. We exist because you grant us a license to be in business, and we expect to do our part. However, a 300 percent increase on taxes directed specifically at us will wreak havoc with our business and with the people we employ. I just want you to think about that.

**Joseph W. Brown, Jones Vargas, Las Vegas, Nevada, representing DeLuca Liquor and Wine, Ltd., and Coors of Las Vegas:**

Much of my intended testimony has already been stated by the previous gentlemen. I would like to affirm that I agree with everything they said. The figures quoted by Mr. Morrey agree with our calculations.

This is a 300 percent plus increase. It will just be a pass-through—one more tax on tourists as well as local residents. I think that will be difficult for the tourism industry to handle.

We are willing to work with you. We think Mr. Anderson's cause is a noble one, and we want to assist in any way we can that is reasonable and fair.

**Chair McClain:**

Thank you. Are there any questions? [There were none.]

**John Griffin, Kummer Kaempfer Bonner Renshaw & Ferrario, Las Vegas, Nevada, representing Anheuser-Busch Companies, Inc.:**

With me, to provide the bulk of our testimony, is Stephenie Shah, from Anheuser-Busch. I will turn the microphone over to her.

**Stephenie N. Shah, Director, Government Affairs, Anheuser-Busch Companies, Inc., Sacramento, California:**

I want to first touch on the issue of passing a tax increase on to retailers and consumers. When taxes are increased on alcohol, volume and sales do decrease. In order for the wholesalers and retailers to continue to make a profit and continue to have the jobs that offer the benefits that were just discussed—that wonderfully high level of health care and all the other benefits—they have to raise the prices. That needs to be taken into consideration.

We also estimate this proposal would equate to approximately 400 jobs lost in the beer industry alone. When you factor in the ripple effect for the companies that support the beer industry, that comes to about 640 jobs. These are working men and women in the State of Nevada.

We strongly oppose any increase in the alcohol tax, which was just raised in 2003. Frankly, this is simply a bad time. We understand the state is in a bad financial situation, but we do oppose this and respectfully request you vote against it.

**Preston Adam Smith, Vice President, Western Region, Office of Government Relations, Distilled Spirits Council of the United States, Washington, D.C.:**

[Distributed handout ([Exhibit J](#)).] We are the national trade association for marketers and producers of distilled spirits. To give you more of an idea of what this tax increase would mean to the Nevada economy and the hospitality industry as a whole, our economic analysis has stated that if this tax were to pass, an additional 2,300 workers in the hospitality industry, such as waiters, waitresses, bartenders, and casino workers, would lose their jobs. That is in

tune with the 20,000 workers who have already lost their jobs in Nevada due to the recession.

We are absolutely in support of Mr. Anderson's goals of funding both the genetic marker and the drug and alcohol abuse programs. However, these are of benefit to the entire State of Nevada, and the cost should be borne by every resident of Nevada and not just one particular tax base. I also support all the testimony of the people from the beer industry and the distributors.

**Chair McClain:**

Thank you. Do we have any questions? [There was no response.]

**Samantha Stone, Research Associate, Nevada Taxpayers Association, Carson City, Nevada:**

The Association advocates that when an earmark is put into place—and this bill does have earmarks—that there be a strong user/benefit relationship. That is a link between the people who pay the money and the programs, however meritorious. Mr. Anderson's programs certainly are meritorious, but we believe the link between the people paying this tax and the programs receiving the benefits is not a concrete one.

In addition, this category is currently delivering less tax revenue than projected. There are thousands of barkeepers who, were this not Saint Patrick's Day, would be whispering right now, "From your lips to God's ears," that there is not an elasticity problem with this. It is certainly easy and persuasive to argue that \$0.04 for a glass of wine, \$0.05 for a beer, or \$0.30 for a six pack would make little difference. But, as previously mentioned, the category is down.

If your most ambitious or optimistic projection of \$78 million a year is realized, that would essentially mean \$78 million a year coming out of the general economy at a time when the general economy is not in good condition. Again, we certainly recognize the merits of the programs, but we do not support the bill.

**Chair McClain:**

I do not see anyone else signed in to speak in opposition. Is there anyone neutral toward the bill who would like to testify?

**Dino DiCianno, Executive Director, Department of Taxation:**

We are neutral with respect to the bill. We are here to answer any questions associated with the fiscal note on this particular bill.

**Chair McClain:**

Does anybody have any questions on the fiscal note? [There was no response.] I do not think anybody has really had a chance to look at it yet, as we just got it today. We normally have the fiscal notes in the bill books, but this one was a little late in arriving. If there are questions, the work session would probably be a good place to discuss them.

**Assemblyman Goedhart:**

In those states that have the highest liquor taxes, have you seen that being an impetus for the average person to brew his own beer or buy a little distillery for his basement?

**Dino DiCianno:**

No, I have not. I am sure we can research that information and get that to your staff if you would like.

**Assemblyman Anderson:**

Having been beaten up over this issue in 1995 and 1997, I want to point out that we heard testimony about where we have earmarked funds for treatment programs in the past. Drug treatment programs and drug courts and diversion courts do work. We have a history of success since 1995 when we first introduced those. We heard from individuals whose lives have been changed by those programs. Clearly, there is a real need for this, and I felt it was important for us to come up with a source of funds.

Paying taxes is never a fun thing. I have occasionally been known to have a beer, and I will probably have another some time today. But I think this is a good source. We have to approach all tax policy cautiously, and I appreciate the industry's willingness to work on the issue.

**Assemblyman McArthur:**

I have a question for the last three people who testified. I understand the relative inelasticity of demand for this product, but it looks like the tax has increased an awful lot. Some of these numbers go from 118 percent to more than 300 percent. Even though we have this inelasticity of demand, we will eventually get to the point of diminishing returns. My question is: Has anyone done the market analysis on how much we can keep increasing taxes before it just drops off?

**Chair McClain:**

Actually, I believe that is part of what Jeremy Aguero is going to be talking about later today.

**Assemblywoman Koivisto:**

On this chart that lists state tax rates for beer, wine, and distilled spirits [([Exhibit K](#)), distributed by Michael Nakamoto], it appears that Alaska probably has the highest tax rate on all three. I just wonder if there are any statistics on what effect their high tax rate has had on alcohol consumption. I would be interested in getting that information.

[Bryan Gresh, Government & Media Affairs, The Gresh Group, Las Vegas, Nevada, representing Wine Institute, submitted prepared testimony ([Exhibit L](#)), but was unable to stay long enough to testify. However, he requested that it be placed in the record.]

**Chair McClain:**

We will see if we can get that information for you. If we do not have any more discussion on this, I will close the hearing on A.B. 277 and open the hearing on Assembly Bill 255.

**Assembly Bill 255:** Increases the tax on tobacco products and provides for use of the additional tax proceeds to expand certain health care delivery programs. (BDR 32-812)

**Assemblywoman Sheila Leslie, Washoe County Assembly District No. 27:**

I am here today to present A.B. 255, which would increase the tobacco tax as we address our potential need for increased revenue for providing essential services to our citizens. The increase may be too high. It amounts to about \$1.00 on a pack of cigarettes. The bill expresses monetary amounts in mills, and a mill is an abstract unit of currency equivalent to 1/1,000 of a United States dollar, or one-tenth of a cent.

Earmarking these funds to specific programs may be bad tax policy. Also, I am sure you will hear testimony today that if you raise the tobacco tax and fewer people smoke as a result, we will have less money in our Millennium Scholarship Trust Fund. Those are some of the downsides.

When health groups approached me to submit this bill this year, I agreed. I agreed mostly because I am sick and tired of not being able to fund essential health programs, some of which you will see in the bill today. This is my sixth session, and every time we get to our list at the end of the session, there are some health care programs that never make it to the list.

There is an amendment ([Exhibit M](#)) I would like you to consider because I forgot to add this in my draft request. I had intended all along to have some money set aside for tobacco prevention and control programs. You remember the



Multistate Master Settlement Agreement (MSA) with the tobacco companies. We used hardly any of that for tobacco prevention and control programs.

**Chair McClain:**

I have a question on the amendment. Do those 6 mills come out of the 50 mills or from somewhere else?

**Assemblywoman Leslie:**

It should come out of the 50 mills so this is not more than \$1.00 a pack. I did not intend for this to be more than \$1.00 a pack, so we can adjust amounts accordingly.

While we are on the subject, I did not ask the Fiscal Analysis Division staff to do this, but there is a very handy handout showing federal and state cigarette tax rates for selected Western states ([Exhibit N](#)), including all the other bills that are being considered in our neighboring states by legislatures this year. It is quite interesting information. You can see that if we process this bill as it is at \$1.00 a pack, Nevada would still be next to last in the amount of tax we have on cigarettes.

At the bottom of that handout, note 8 shows that Washington State is currently considering a bill to increase their tax \$1.00 a pack. Their combined rate, if that bill passes, will be more than \$4.00 a pack. That makes us look cheap by comparison.

The different groups backing this bill have all the latest statistics for you and the rationale behind why they believe the increased funding should be dedicated to health programs. It is really their bill, so I will let them present it to you directly. I would like to end my comments by asking you to reflect, for a moment, on how much smoking and tobacco use has changed in our lifetimes.

I grew up in the late 1950s and early 1960s. I am sure most of you remember some of the things I am going to mention, although my 22-year-old daughter cannot believe them. She cannot believe people used to smoke on airplanes and in theaters. I remember going to the theater when I was a child and seeing the clouds of smoke.

She cannot believe the stories my family tells about growing up in the 1950s when nobody used seat belts. We kids bounced around in the back seat of the station wagon. Both our parents smoked. We lived in a cold, foggy area of California, so the windows were almost always rolled up. We breathed all that smoke all the time.

As we got older, we complained bitterly to our parents, who did not care and kept smoking. Our father died of lung cancer about 15 years ago, and our mother, who is still alive, suffers from emphysema and other lung diseases of which she will die. In our family, as in many families, people my age have had very personal experiences with cigarettes and tobacco products and the terrible toll they take on health.

This is not the perfect tax for many reasons, but it is a way to potentially raise revenue for some very important public health programs and improve our overall health status in Nevada. As those of you on the Assembly Committee on Health and Human Services are aware, Nevada has very poor health status with one of the highest rates of smoking and one of the highest rates of cancers. You have all heard those horror stories, so, at this time, I would like to turn this over to Larry Matheis. We have a number of people who would like to speak, but we have taken great care not to have repetitive testimony. I think it will be brief and to the point.

**Assemblyman Gustavson:**

Can cigarettes be ordered online? [Ms. Leslie confirmed they could.] What would stop people from ordering them from North Carolina or South Carolina or other states that have very little tax on cigarettes?

**Assemblywoman Leslie:**

Sure, they could do that. That is the case today, and it is certainly one of the issues people will speak about.

**Assemblyman Gustavson:**

I was just wondering, because I can just see a lot of people doing that. Fortunately, I quit smoking a number of years ago, but I can see myself doing that if I still smoked.

**Assemblyman Goedhart:**

I agree with your intent to try to discourage smoking. I just wonder if you have looked at some of the possible unintended consequences. At which point do we raise taxes to where we see a spike in smuggled cigarettes?

I am looking at an article on the Internet. Smuggled cigarettes represented about one-third of all domestic cigarette consumption at their peak in Canada when they had their big bump in excise tax. In England, I think it is almost one-third of the cigarettes sold there too. We have to worry about what effect that has on criminal activity. Then we have to look at the commensurate costs of trying to battle that whole new industry as well. That is something to keep in mind.

**Assemblywoman Leslie:**

That is a classic argument we hear every time, so I am very familiar with that argument.

**Assemblyman Goedhart:**

But you do not think it really merits worrying about?

**Assemblywoman Leslie:**

No, I am not worried about that. I am glad you brought up that issue. Back in December, before the federal government added \$0.04 a pack for children's health, I asked our Fiscal Analysis Division to run the numbers on how much this would generate for our state. This would probably go down because fewer people would smoke, and there might be more smugglers, and they might order more online. All those things might happen. At that point in time, though, they were estimating revenue from this at \$126 million a year.

**Lawrence P. Matheis, Executive Director, Nevada State Medical Association, Reno, Nevada:**

Today I am representing the Nevada Tobacco Prevention Coalition. The Nevada State Medical Association (NSMA) is a member, as are the American Cancer Society, the American Heart Association, the American Lung Association, the health authorities, the Cancer Institute, and a number of other organizations that share our concern about trying to reduce the adverse health consequences of tobacco use on Nevadans. The bill you have here was actually discussed prior to the economic downturn to look at issues related to tobacco. We want to make sure we are able to maintain a continued effort to address tobacco problems in this state and to deal with tobacco-related problems associated with prenatal care and presumptive eligibility. I will try to pull all of this together as quickly as possible in a manageable way.

First, I would like to give you the good news. I almost never get to deliver any good news on public health matters when I appear before you. This time I actually get to.

We distributed two documents. One is a very current one: this week's issue of the Centers for Disease Control and Prevention's (CDC) *Morbidity and Mortality Weekly Report* ([Exhibit O](#)). That is a horrible name, but it contains the latest statistics on what is happening in public health. Nevada has been in here for our hepatitis C outbreak and for a lot of other things that are not very good.

This issue, however, says we have had success in reducing the number of Nevadans who are smoking. In fact, we have had about a 20 percent reduction in the rate of youths who are smoking and a 10 percent reduction overall.

The other handout is one page entitled "Fund for a Healthy Nevada Tobacco Program Grantees" ([Exhibit P](#)). These two documents are related. This ([Exhibit P](#)) is the tobacco prevention programs that have been funded out of the 1998 MSA funds. You will notice a lot of them are aimed at youth issues such as education, prevention, early intervention, and youth talking to youth.

These moneys have resulted in documented declines. We were the number one or number two state every year in the 1980s and 1990s in tobacco prevalence. We changed places back and forth with Kentucky, but at least Kentucky raises tobacco. What was our excuse?

For the first time, we have gone down. We are not number one or number two; we are number 16. That is a huge success for Nevada, and it was done with a very small investment of MSA funds into tobacco-related programs.

But, the MSA funds are, like everything else, shrinking. From where we were a session ago in projected expenditures for these programs, you will see roughly a 50 percent reduction over a period of about three years. That is what generated our first concern.

We must maintain the effort at education, prevention, early diagnosis and screening, and all the things aimed at exactly the same people the tobacco industry aims at. We have to counter the educational campaign the tobacco industry funds with billions of dollars a year. Who is still smoking? Women are still smoking. Minorities are still smoking. We have temporarily held back the wave of youths smoking. They are all successful targets of the tobacco industry—wonderful marketing targets.

The advertising industry was largely invented to sell cigarettes in the early part of the 20th century. With mass communications came the creation of mass advertising. The first big winner in that development was the tailor-made cigarette industry. They funded a lot of early radio and a lot of other things. They also funded an awful lot of people who died. Many of the spokespersons for the tobacco industry in those days later died of the chronic diseases associated with tobacco use.

Even as we received the MSA funds—we started spending that money in 1999—the rates of smoking continued to go up until we had programs in place. Since then we have had a steady decline in tobacco use, most notably in the use by youths. There is a real link between spending money to counter aggressive marketing by the tobacco industry and helping the people they target make the choice not to smoke. The less successful those in the tobacco

industry are in recruiting young people to smoke, the less successful they will be in the long run.

Frankly, for every 10 percent increase in the price of tobacco, there is about a 7.5 percent decrease in youth purchases of tobacco products. There is a direct relation there. However—you have already heard about the inelasticity issue—for adult smokers, it is much harder. There is very much an inelasticity there. They tend to continue to buy even as the price spikes, and that is because the tobacco industry has been very successful at producing products that are hard to stop using.

That is why we have spent a lot of our effort on youth education and youth interventions, having youngsters talk to youngsters, because it is very hard to find any large number of adults who become smokers. It is something that starts with experimentation in youth, carries on, and becomes both a psychological and a chemical addiction.

Maintaining the effort in tobacco programs is vital. You will hear from some kids who were in a very successful program conducted by the American Lung Association. We want to be able to maintain those efforts no matter what happens.

Not that long ago, before the MSA funds, there were almost no tobacco control programs in this state. All the money we had was the annual amount from the federal CDC antismoking funds. That was just barely enough for people to meet to talk about how bad the problem was. We could only keep documenting how bad it was.

I have now given you all the good news. The second issue we want to address is our terrible problem with prenatal care. Nevada ranks last in women who get prenatal care in the first trimester. We rank first in women who present first in emergency departments to have deliveries.

Many of these could be women who would qualify for the Medicaid program. We have talked session after session about the prenatal care clinic at the University Medical Center of Southern Nevada (UMC), which has had to close because of cost issues. Nevada is last in the nation in prenatal care, yet we closed down our outpatient prenatal care clinic.

One of the reasons prenatal care is so important in assuring a child is born healthy is because it is part of an educational project with the mother. It really helps the mother fully understand the risks she is taking now for two. Presumptive eligibility assures an earlier entry of pregnant women into Medicaid,

which means they get into the formal programs that will assist them to understand these risks. It is part of the medical care intervention to make sure mothers understand as early as possible during a pregnancy the best way to have a healthy pregnancy and a healthy baby. An increasing body of scientific study shows clearly the relationship between maternal smoking and fetal problems.

Those are the two dynamics that drove us toward the elements in this bill. We believe this bill will not affect Nevada's competitiveness with California; Utah, which is planning a major increase very shortly; Arizona; and all the other states around us except Idaho. Idaho is a beautiful state, and maybe some people will travel there to get cigarettes. Other than that, though, we will be right in the ballpark with, and perhaps even lower than, the more populous states around us.

Can there be some erosion because there may not be as many tourists coming to the state, so there will not be as many tourists buying these products? Yes, and that is something you are going to have to deal with in a much bigger context than just tobacco use.

We are looking toward the future after this economic downturn. We want to have successful programs in place to make sure that we can proudly not compete with Kentucky for the worst ranking in the nation. We want to ensure that we are dealing preemptively, proactively, and properly with the health issues related to tobacco. The costs associated with those are dramatic. The costs associated with Medicaid are approximately \$123 million a year for tobacco-related issues.

The issues are fairly clear. We understand the difficulty of any tax increase proposal. We share your pain on having to sort through this, but this bill makes sense. The specific relationship between tobacco use and programs to counter the very effective nature of marketing by the tobacco industry and to minimize the consequences of tobacco use on young women is clear. That is our purpose.

**Susan Reavis, CNM, MS, Director, Women's Ambulatory Services, Pregnancy Center, Renown Health, Reno, Nevada:**

I am here today to testify in support of the implementation of presumptive eligibility for pregnant women so that blockers to early and quality prenatal care will not be encountered by women in the State of Nevada. Presumptive eligibility allows states to cover pregnant women temporarily until eligibility can be fully determined. States may permit health care providers, schools, and other agencies to determine presumptive eligibility.

As of 2007, Medicaid programs in 31 states provided presumptive eligibility to pregnant women. Presumptive eligibility increases the proportion of pregnant women on Medicaid who can receive early quality prenatal care. Women who receive early prenatal care are more likely to have screening and diagnostic tests that can help identify problems early during their prenatal course. They can receive services to manage developing and existing problems. They can receive counseling, education, and referral to agencies to reduce risky behaviors such as substance abuse and poor nutrition. Such care may thus help optimize health care for both mothers and babies.

Prenatal care not only must begin early but it should continue regularly. In 2004, 7.3 percent of Nevada's pregnant women received late or no prenatal care, more than twice the national average of 3.6 percent.

Preterm birth is a national crisis, and it affects more than 5,200 births a year in Nevada. That is 1 in 7 births. It is the leading cause of death during the first month of life, and incidences of preterm birth increased 22 percent between 1995 and 2005. In an average week in Nevada, 99 babies are born prematurely.

The emotional cost to families of premature birth is high. So are the financial costs. The direct care costs to employers for a premature baby from birth through the first year of life average \$49,000. That is almost 11 times the cost of a normal term birth, at \$4,500. That does not include the long-term costs for conditions such as mental retardation, cerebral palsy, blindness, deafness, or learning disabilities, just to mention a few of the many problems associated with preterm birth.

Women travelling here from other parts of the country that have access to care often encounter as much as a six- to eight-week delay before they can have access to care in the State of Nevada. This can provide many opportunities for catastrophic outcomes to befall.

I respect the fact that the Committee wants to move forward with this issue today. I had some interesting examples for you, but I think I will yield to my colleagues who would like the opportunity to speak.

**Josh Benke, Lung Health Coordinator of Northern Nevada, American Lung Association of Nevada, Reno, Nevada:**

I am here today to express strong support for A.B. 255 on behalf of the American Lung Association of Northern and Southern Nevada. For two years, I worked as a tobacco education coordinator on the American Lung Association's Youth Tobacco Prevention and Smoking Cessation programs.

I have personally seen the positive effects they have had on the youth of northern Nevada.

Teens Against Tobacco Use is the American Lung Association's peer tobacco education program, where teen volunteers learn about the dangers and risks involved in tobacco use. They develop an educational presentation, including statistics, skits, and visual aids that show the effects of smoking on the lungs. They then give that presentation to elementary and middle school children in grades 4 through 8. Last year, the American Lung Association's tobacco education presentations reached over 17,000 elementary and middle school children statewide. More than 600 Nevada teens volunteered and were trained to become peer educators.

The American Lung Association's teen smoking cessation is called Not On Tobacco (N-O-T). It is a ten-session course designed to address issues specifically related to teens and quitting smoking. In 2008, more than 250 Nevada teens enrolled in the program.

Teens Against Tobacco Use (TATU) and N-O-T are two of the reasons for the decrease in the number of teen smokers in Nevada over the past four years that I have been at the American Lung Association. When I began working there in 2005, 18.3 percent of Nevada teens smoked. That figure now stands at 13.6 percent. That is a pretty drastic drop.

The American Lung Association's mission statement is to save lives by improving lung health and preventing lung disease. Our goal is to make diseases like emphysema, lung cancer, and asthma—all directly linked to smoking and second-hand smoke—obsolete. Increasing the cigarette tax will drive down youth consumption of tobacco products and drastically reduce the occurrence of these diseases in future generations of Nevadans. Appropriating funds raised through the increased tax revenue will provide funding to ensure these important tobacco prevention and smoking cessation programs remain available to Nevada youth.

Thank you for the opportunity to speak here today. I would like to introduce Michael Magno and Sandy Lopez. They are two teen tobacco educators who completed the American Lung Association of Nevada's TATU training and have been giving tobacco prevention presentations for the last six years.

**Cassandra Lopez, Peer Tobacco Educator, and Vice President, Student Board, Students Taking On Prevention, Minden, Nevada:**

Students Taking On Prevention (STOP) is a prevention group sponsored by the Partnership of Community Resources. My background for joining the group is



that I had an aunt and uncle who both smoked. One day when I came home from school, I was told my uncle was in the hospital with lung cancer. Later, he died. My aunt continued smoking, and later she had to go on oxygen. Finally she was sent to the hospital, too, and was also diagnosed with lung cancer.

When I was younger, I wanted to know what had happened to them and why they had died. One day I saw a presentation from a group called TATU. I was interested and wanted to know about tobacco and all its long- and short-term effects. That is why I joined this group.

Having been a dedicated member for six years, I know the ins and outs of this group. If there is one thing I find important, not only to the group but to the youth of Nevada, it is the presentations we give. High school students are educated about tobacco and its long- and short-term effects. We give presentations to middle school students. Once they learn what we present, they then present it to the elementary school students. It is a chain of peer education, all aimed at decreasing the incidence of tobacco use among youths in Nevada.

As a youth, my reason for asking for an increase in the tobacco tax is that it will reduce tobacco use in teens, thus saving the lives of future adults and citizens of Nevada. We do our part by giving presentations to youths. I would like to ask you to do your part by enacting this tax.

**Michael Magno, Senior, Douglas High School, and President, Student Board, Students Taking On Prevention, Minden, Nevada:**

The reason I joined this phenomenal group is that my grandfather has a hole in his throat that he has to breathe through in order to survive and push on in order to talk. My grandmother has a nasal cannula which is hooked up to an oxygen tank. I did not want other kids to be subjected to this. That is why I became a peer educator with STOP.

I am currently taking a government class in high school, and we are learning about taxes right now. Two reasons the government raises taxes are to influence behavior and to raise funds for other government programs. If you pass this bill, not only will two million fewer kids start smoking, but also, I do not believe teens will be able to afford a tobacco tax increase of \$1.00 a pack.

In memory of the 1,200 Americans who die every single day due to tobacco-related illnesses, STOP will be in front of the Legislature next Wednesday on "Kick Butts" day. We will be presenting information, and we would like to invite you all to come and partake in this event.

I would like to finish by saying 2,800 new kids start smoking every single year.

**Chair McClain:**

Thank you very much. Do we have any questions for this group? [There were none.]

**Jennifer Stoll-Hadayia, MPA, Public Health Program Manager, Washoe County District Health Department, Reno, Nevada:**

We are in support of A.B. 255. I know time is limited, but I want to make four quick points. I did provide a copy of my written testimony ([Exhibit Q](#)).

First, I want to state that, though our smoking rates have gone down, as my colleagues have testified, tobacco use rates in Nevada are still higher than the national average. That translates to one in five Nevadans still smoking. In a report issued just this past January, Nevada ranked third in the country for the highest rate of smoking-attributable mortality. Although our smoking rates are going down, tobacco use and exposure remain significant health issues in our state.

Second, increasing cigarette excise taxes is one of the most effective methods for reducing smoking rates among both youth and adults. In Nevada, the excise tax was last increased in 2003. In the year following that increase, our smoking rate dropped by two percentage points. That might not sound like a lot, but, in one year's time, it is a significant drop.

Increasing the cigarette excise tax by an additional dollar will result in even more improvement in health in our state. Youth smoking will decrease by 17 percent. An additional 16,000 adults who are currently smoking will quit. Twenty-five thousand children in the state will never become smokers. There will also be savings in our health care costs.

Third, there is room to increase the cigarette excise tax in Nevada. At \$0.80 a pack, Nevada currently ranks 33rd in the nation for taxes. Among our five border states, Nevada's tax ranks third-lowest. Three of those border states are in the process of raising their taxes as we speak.

But even if no other state in the country raises its cigarette tax this year, and Nevada does raise its tax by \$1.00, there will still be 14 other states in the country with significantly higher excise taxes. We will not be anywhere near the top of that list.

Fourth, I want to address concerns that by raising the excise tax, we will be shifting an additional cost burden to smokers. The public health community is

extremely empathetic to that, and that is why the earmark proposed in the amendment ([Exhibit M](#)) is so critical. By earmarking some of the increased revenue from this tax to evidence-based tobacco prevention and control programs, we will ensure that smokers have access to the resources they need in order to end their tobacco dependence for life.

Finally, I want to respond to a question raised about delivery sales of cigarettes. I would simply direct your attention to *Nevada Revised Statutes* (NRS) 370.323 and NRS 370.325, which address delivery sales of cigarettes. In those statutes, you will see that delivery sales are still subject to the taxes in that chapter. The suppliers of those Internet sales and other delivery sales must make the purchasers aware of that tax applicability.

**Michelle Gorelow, M.A.Ed., Director of Program Services, Nevada Chapter, March of Dimes, Las Vegas, Nevada:**

I have distributed my prepared testimony ([Exhibit R](#)). However, I know time is limited, so I just want to talk about presumptive eligibility. One of the problems we are seeing across the state is that many low-income women, for whatever reason, are not even applying for Medicaid until toward the end of the first or even second trimester of their pregnancy. Many times, they are in denial that they are pregnant to begin with. Sometimes it is due to transportation issues. Usually, though, it is three or four months before they even begin the Medicaid process.

Unfortunately, though, the average is about 45 days—they do not have the proper paperwork, there might be a language barrier—and they are not getting the Medicaid they need. That is why we need the presumptive eligibility, so while their application is being processed, they can get the needed treatment. Unfortunately, many doctors in Nevada will not see a pregnant woman once she reaches 24 weeks or even 20 weeks. They will refuse to see her. If she shows up at 24 weeks, they send her away and she delivers in the emergency room after having had no prenatal care.

That means she has not had any counseling for tobacco or alcohol. She has not been screened for sexually transmitted diseases. Maybe she has gestational diabetes—something women just develop without any apparent cause—or preeclampsia, which can be detrimental to both the baby and the mother. It means no management for multiple births. These are simple things that women really need to see a doctor for.

**Tom McCoy, JD, Nevada Government Relations Director, American Cancer Society Cancer Action Network, Reno, Nevada:**

[Submitted prepared testimony ([Exhibit S](#)).] I just want to follow up on a couple of things Larry Matheis said about good news. Nevada is in the top ten in terms of deaths caused by smoking. There were many causes, but as far as the American Cancer Society is concerned, we look to the fact that last year about 1,400 Nevadans died of lung cancer. We do not put dollar values on people's lives, but there is a lot of money spent on treating those individuals and on those individuals who were lucky enough to survive their battle with lung cancer.

I got to thinking about the consideration I would be given if I were to come before this group and say I had a product I wanted to sell in Nevada. Maybe I could get some funding or bond support somehow. What if I told you the product was going to cost about \$4.00, but I had side issues, and it was probably going to impact people who bought it for double that cost. You would probably say, "Thank you, sir, for coming, but we do not really think we can help you."

That is what we are talking about. We have a product that costs the state and the federal government about twice the selling price. A \$4.00 pack of cigarettes costs us \$8.92 to take care of the health-related side issues. That is pretty significant.

We are talking about a \$1.00 increase here. I did a little quick math. Let us say the average smoker in Nevada uses about a pack and a half a day. Now, 365 days times \$1.50 comes out roughly to \$562.00. That is the per-household cost to every one of us in Nevada for health-related costs directly related to smoking. For that reason, the American Cancer Society urges passage of A.B. 255.

**Karen Rudd, Mission Lifeline Director, Western States Affiliate, American Heart Association, Reno, Nevada:**

[Submitted prepared testimony from Christopher Roller, Director of Advocacy, Western States Affiliate, American Heart Association ([Exhibit T](#)).] I am here on behalf of Christopher Roller, who is in Las Vegas and is unable to testify. I encourage all of you to look over his written testimony. However, the American Heart Association thought it was important we were represented here in person to express our extreme support for A.B. 255 and the proposed amendment to appropriate a portion of the funds to our state tobacco prevention programs.

Increasing the taxes on cigarettes is a proven method of reducing consumption, especially in youths. Cardiovascular disease is the number one killer in Nevada, and smoking is a major risk factor for all cardiovascular diseases. I would like to add that I am the mother of two boys aged 5 and 8. I would like to raise them in a healthy Nevada. I encourage you to support this tax.

**Ernie Adler, Carson City, Nevada, representing Reno/Sparks Indian Colony, Reno, Nevada:**

The Reno/Sparks Indian Colony is a retailer of cigarettes. I am not going to repeat testimony, because I know that is not what you want to hear. I think the Committee does need to look at raising the cigarette tax for a number of reasons.

One of the primary reasons is the federal government recently raised the excise tax by \$6.11 a carton or \$0.61 a pack, which goes into effect on April 1. That will result in an 8 percent drop in consumption. For the state to even become revenue neutral, there needs to be some hiking of the cigarette tax. Also, the cigarette manufacturers across the nation have raised their per-carton price by \$2.00 as of April 1. That will cause a further drop in consumption, but that drop in consumption needs to be accounted for with some sort of increase in state taxes so you do not end up with a bigger hole in your budget.

**Charles Duarte, Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services:**

[Submitted prepared testimony ([Exhibit U](#)).] We really appreciate Assemblywoman Leslie's continual interest in trying to make sure our Medicaid program and our public health programs are brought to the forefront of the Legislature. I am really neutral on the tax issues associated with this. I just want to comment on a couple of items that are represented in terms of the intended use of the funds, namely coverage of pregnant women on that higher federal poverty level and presumptive eligibility.

First, the program provisions of this bill raise the Medicaid income standards from 133 percent of poverty to 185 percent of poverty for the coverage of pregnant women, and it is intended to fund that transition. I want the Committee to be aware that as we work on a fiscal note for this, we are attempting to keep it as small as possible. We urge your indulgence in making sure we can get proper information from the federal government.

Two pieces of Congressional legislation recently passed that affect the final determination of the cost of coverage of this group in Medicaid. One is the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), which revises the states' ability to cover this same group, which is already

provided medical coverage in our state children's health insurance program, called Nevada Check Up. It is already covered there under a waiver. We are working with the federal government to get some clarification on what CHIPRA will do in terms of allowing us to move that group to Medicaid and at what cost.

There is a second piece of Congressional legislation, the American Reinvestment and Recovery Act (ARRA), that would reduce federal matching funds if we move this group—a new eligibility group—to Medicaid. The increased federal matching funds we have talked a lot about associated with ARRA would not be available to this group. We are in negotiations right now with the Centers for Medicare and Medicaid Services (CMS) on issues that ultimately will affect the final cost for covering this group under Medicaid. We may come back with an amendment later to suggest keeping pregnant women covered in the Children's Health Insurance Program (CHIP) as long as possible before shifting them to Medicaid.

We have been working very closely with the Division of Welfare and Supportive Services on trying to make sure the costs to implement presumptive eligibility, which will primarily be borne by that Division, are kept to a minimum. The fiscal note we are developing now assumes the training that must be provided to qualified, designated providers of presumptive eligibility determinations—usually hospitals, clinics, physicians' offices, and the Nevada Supplemental Nutrition Assistance Program (SNAP) for Women, Infants, and Children (WIC) clinics—is going to be as low-cost as possible.

If it is the intention of the Committee to have aggressive outreach to these organizations and to expand that group of eligible providers, the Division of Welfare and Supportive Services asks that they have another opportunity to add to the fiscal note some of the staffing that might be necessary for that. Right now, our fiscal analysis is based on a very low-cost approach with minimal outreach and training for these providers.

There are several things to keep in mind as we work through this. One is that if a woman does not submit an application after her presumptive determination, or she does not complete the determination process, or she is ultimately deemed ineligible, the costs of the medical care she has already received are entirely state-funded. We did receive clarification from CMS that those would only be state funds. Federal funds cannot be used for those costs if a woman is denied coverage or does not complete the eligibility determination process. We are not sure if the bill actually allows for us to have a state-funded program such as that would require.

Finally, if we assume we are going to cover this group of pregnant women in Medicaid—if we are certain that is the way we want to go and move them into Medicaid right away—we can do that with an effective date of July 1, 2009. However, there will be substantial work required to implement the presumptive eligibility provisions of this bill. Therefore, the Division of Welfare and Supportive Services suggests an implementation date for presumptive eligibility of July 1, 2010. A lot of programming will be necessary, and tracking and reporting documentation will need to be developed.

We are working on the fiscal note, trying to keep it as low as possible. Some of it will be based on what we want to do with presumptive eligibility and other aspects will depend on what final answers we get from the federal government regarding those two recent pieces of Congressional legislation.

**Chair McClain:**

Thank you. There are a lot of issues up in the air because of ARRA. I would just ask you to stay in contact with our staff and with the sponsor of the bill.

Can I see a show of hands of those who are in opposition? Are you opposed for the same reasons you were against the tax on liquor? [Voices from the audience confirmed that.] I want to get Jeremy Aguero in to give us some technical information on excise taxes in general. If you would not mind, could we just go to Jeremy?

Before we go to Jeremy, though, I have one quick question for Dino DiCianno. Would cigarette sales on the Internet come under the Streamlined Sales Tax?

**Dino DiCianno, Executive Director, Department of Taxation:**

No, they would not. Cigarettes do not come under the Streamlined Sales Tax. You are probably thinking of the Jenkins Act, which is a federal act. In that situation, if someone purchases cigarettes over the Internet, we would have to go after the consumer.

**Jeremy Aguero, Principal Analyst, Applied Analysis, Las Vegas, Nevada:**

[Distributed a packet of charts, "Analysis of Nevada Excise Taxes" ([Exhibit V](#)).] I will briefly walk you through these charts showing both cigarette and liquor taxes. Do not hesitate to ask questions. I would also be happy to provide information later, as I understand time is of the essence.

The first page of the analysis looks at cigarette packages that are sold, indicating when Nevada last raised its cigarette tax. We raised the cigarette tax by roughly 128 percent to \$0.80 in July, 2003. Before the increase—the period on the left side of the red line on the charts—we had an average of roughly

14.8 million packages sold each month. Underneath that figure, we list some of the demand indicators—how large our population was, how many visitors we had, what our employment base was, and what our personal income was.

What we see is that, after the increase, respecting the fact that there could be any number of reasons for it, the consumption of cigarettes declined to an average of 13.3 million packages a month. At the same time, our population, our average visitor volume, our employment base, and our personal income all expanded relatively significantly.

The second page looks at how taxes actually increased during that same period. You can see where, before the 2003 tax increase, collections hovered between \$52 million and \$62 million a year. After the tax was increased by 128 percent, collections increased by something closer to about 98 percent, with a peak gain of 112 percent in total collections in fiscal year (FY) 2006. Since that period, cigarette tax collections have declined by 1.7 percent in FY 2007 and 2.3 percent in FY 2008. They currently stand at roughly \$127 million.

Going back to a previous question about price elasticity and what those changes look like, I will refer to the factors used by the Legislative Counsel Bureau (LCB) staff in their projections, as those have been fairly accurate, particularly between 2003 and 2004 when the tax was last increased. What we saw then was that, for every 10 percent increase in the tax, there was a 4 percent reduction in consumption. That, however, is a nonlinear analysis that we would have to take into consideration, given exactly how large or small an increase was considered by the Legislature.

The next series of charts shifts from the consumption of cigarettes to the consumption of alcoholic beverages. Pages 3, 4, 5, and 6 look at the different classifications of alcohol and show a somewhat different trend. In July 2003, the tax on beer, for example, was increased from \$0.09 to \$0.16, or by roughly 78 percent. Unlike cigarettes, the consumption of alcoholic beverages increased from 5.3 million gallons in an average month to 6.3 million gallons in an average month after the tax increase. The same is true of liquor under 14 percent alcohol by volume, liquor between 14 percent and 22 percent alcohol by volume, and liquor with an alcohol content of 22 percent or above by volume. Although the rates were different before and after the tax increase, and although there are other factors to be considered, liquor sales have increased, though not quite at a level commensurate with our population growth or growth in the other demand factors. Certainly, the trend is somewhat different from that with cigarettes.



The final chart of the exhibit shows how Nevada's liquor tax collections have escalated, both before and after the 2003 tax increase. I have shown you the increases in the different categories of alcoholic beverages. The increases in the rate were somewhere between 73 percent and 88 percent during that period. Tax collections immediately thereafter increased by about 86 percent, roughly commensurate with the level of increase in the tax. Liquor taxes, albeit at a slower pace in FY 2007 and FY 2008, have continued to increase, reflecting an increased consumption base, both in terms of the state's population and visitor volume.

That is a brief overview of how both of these tax bases have performed before and after the last tax increase in 2003.

**Chair McClain:**

Thank you, Mr. Aguero. Here is what stands out to me. Smoking fell off but drinking did not when we raised the taxes, which, to me, says a lot for prevention programs. We do not have the same programs with alcohol that we do with tobacco. That makes the case for prevention programs.

**Assemblyman Anderson:**

I truly appreciate the hard work that went into this. I am trying to understand the anomaly of the very low dip in alcohol consumption in the second quarter of FY 2007. It shows so dramatically in your chart on page 5 and again on page 6. It is not as dramatic in the chart on page 4. Do you have a theory to account for that particular low turn, which is so dramatically less than any other month? I am trying to figure out why that might be.

**Jeremy Aguero:**

What we are looking at here are month-by-month expenditures or the volume of sales month by month. The fact that sales are greater in one month than in another is not something we really considered significant. We were more concerned with the trailing 12-month consumption. Any number of factors could affect sales in any one particular month.

**Chair McClain:**

So there was not any particular thing that happened toward the end of FY 2007?

**Jeremy Aguero:**

There may well have been something that created that differential. I am just saying that, as part of our analysis, we did not look into individual month variations.

**Chair McClain:**

This shows the Nevada consumption of liquor, but what is it based on? Is it the reporting of the taxes collected?

**Jeremy Aguero:**

That is right. The data reported by the Nevada Department of Taxation includes both the gallons consumed and the cigarette packages purchased. Those provide the underlying basis of the analysis.

**Chair McClain:**

So it may just have been an anomaly in the tax collection for that particular month.

**Assemblyman Gustavson:**

I seem to see a correlation at about the end of the year on each of these charts. In the last quarter of each year, from 2004 to 2007, the numbers for alcohol consumption seem to be down. I am not sure just what the significance of the time would be, and we do not have an inventory tax, so I do not know what the cause is.

**Jeremy Aguero:**

As a point of clarification, it is important to respect the fact that the liquor tax is imposed at the wholesale level, so there may be something in the way businesses operate at the end of the year. It is beyond the scope of what we did for this hearing today, though.

**Chair McClain:**

I am assuming it is more in the function of the reporting by quarter.

Would the opposition to A.B. 255 like to submit something in writing, or do you want to come up to the table and testify?

**Tray Abney, Director, Government Relations, Reno-Sparks Chamber of Commerce, Reno, Nevada:**

In the Chamber's *Agenda for Economic Vitality*, which is our policy manual, we state our belief that there should be a nexus between any tax and the purpose for the tax, and that one specific industry should not be targeted for that tax. Obviously, we are concerned about the competitive disadvantage that was

discussed earlier, thereby raising the potential for even less revenue than what we expect.

My comments on this bill frankly reflect our thoughts on your previous bill, A.B. 277, as well.

**Samantha Stone:**

I would make the same comments. Primarily on the basis of the earmark, the Nevada Taxpayers Association would oppose this tax. As an aside, the federal excise tax that was mentioned previously would make this a double dose—two hits on the same product for the same set of users. Carole Vilardo would point out that when I spoke earlier in the meeting, I did not mention that every time funds are earmarked, the next time the Legislature comes back, they have less flexibility to deal with whatever is on their plate at that time.

**Chair McClain:**

You are right, that is Ms. Vilardo's number one concern.

**Alfredo Alonso, Lewis and Roca LLP, Reno, Nevada, representing R.J. Reynolds Tobacco Company:**

[Distributed an informational handout ([Exhibit W](#)).] I would just echo my earlier remarks about excise taxes. I commend Assemblywoman Leslie for the earmark; it is obviously a worthy cause. However, we firmly believe the state will ultimately get less revenue.

A case in point is New Jersey, which has continued to raise cigarette taxes over and over again. They are now seeing a significant loss. It is a simple matter of economics. Ultimately, people will look elsewhere—to the Internet, for example. The gray market will become more of an issue. The idea of casual smuggling versus smuggling becomes more of an issue, depending on how high prices go.

It is ultimately a matter of raising revenue in a manner where you actually see a benefit to the state. Again, our position is the same as with the tax on alcoholic beverages. Obviously, the issues are very similar.

[Bryan Gresh, Government & Media Affairs, The Gresh Group, Las Vegas, Nevada, representing Southern Nevada Health District, submitted prepared testimony in support of A.B. 255 ([Exhibit X](#)) but was unable to stay long enough to testify. However, he requested that it be placed in the record. Also

submitting prepared testimony in support of A.B. 255 ([Exhibit Y](#)) but not able to speak was Nancy L. York, Ph.D., RN, CNE, Undergraduate Coordinator, School of Nursing, University of Nevada, Las Vegas, Nevada.]

**Chair McClain:**

Are there any questions? [There were none.] Ms. Leslie, do you have any comments on your bill? [Assemblywoman Leslie said she did not.] Thank you, everybody. Does anybody have any public comment? [There was no response.] We will close the hearing on A.B. 255. We are adjourned [at 3:55 p.m.].

RESPECTFULLY SUBMITTED:

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Mary Garcia  
Committee Secretary

APPROVED BY:

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Assemblywoman Kathy McClain, Chair

DATE: \_\_\_\_\_

## EXHIBITS

**Committee Name:** Committee on Taxation

**Date:** March 17, 2009

**Time of Meeting:** 1:39 p.m.

| Bill            | Exhibit | Witness              | Description  |
|-----------------|---------|----------------------|--|
|                 | A       |                      | Agenda   |
|                 | B       |                      | Attendance Roster  |
| <u>A.B. 277</u> | C       | Assemblyman Anderson | Prepared testimony and PowerPoint presentation   |
| <u>A.B. 277</u> | D       | Assemblyman Anderson | Article: "The Effects of Price on Alcohol Consumption and Alcohol-Related Problems" by Frank J. Chaloupka, Ph.D., et alii  |
| <u>A.B. 277</u> | E       | Kevin Quint          | Handout containing prepared testimony and paper: "Substance Abuse and Treatment Issues, Prepared for the Assembly Committee on Taxation in Relation to Assembly Bill 277, March 17, 2009, Prepared by Frank Parenti and Kevin Quint, Nevada AADAPTS" |
| <u>A.B. 277</u> | F       | James Cross          | Letter to Kevin Quint  |
| <u>A.B. 277</u> | G       | Carl Kelly           | Prepared testimony   |
| <u>A.B. 277</u> | H       | Renee Romero         | Prepared testimony   |
| <u>A.B. 277</u> | I       | Dorothy North        | Prepared testimony   |
| <u>A.B. 277</u> | J       | Preston Adam Smith   | Handout: "Assembly Bill 277 Destroys Jobs"   |
| <u>A.B. 277</u> | K       | Michael Nakamoto     | Handout: "Taxation of Intoxicating Liquors in Selected Western States" and charts of state tax rates   |

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|                 |   |                        |  |
|-----------------|---|------------------------|--|
| <u>A.B. 277</u> | L | Bryan Gresh            | Prepared testimony   |
| <u>A.B. 255</u> | M | Assemblywoman Leslie   | Amendment  |
| <u>A.B. 255</u> | N | Assemblywoman Leslie   | Table: "Federal and State Cigarette Tax Rates for Selected Western States (as of March 15, 2009)"                    |
| <u>A.B. 255</u> | O | Lawrence P. Matheis    | CDC <i>Morbidity and Mortality Weekly Report</i>   |
| <u>A.B. 255</u> | P | Lawrence P. Matheis    | "Fund for a Healthy Nevada Tobacco Program Grantees"   |
| <u>A.B. 255</u> | Q | Jennifer Stoll-Hadayia | Prepared testimony   |
| <u>A.B. 255</u> | R | Michelle Gorelow       | Prepared testimony   |
| <u>A.B. 255</u> | S | Tom McCoy              | Prepared testimony   |
| <u>A.B. 255</u> | T | Karen Rudd             | Prepared testimony of Christopher Roller, Director of Advocacy, Western States Affiliate, American Heart Association |
| <u>A.B. 255</u> | U | Charles Duarte         | Prepared testimony   |
|                 | V | Jeremy Aguero          | Packet of charts: "Analysis of Nevada Excise Taxes"  |
| <u>A.B. 255</u> | W | Alfredo Alonso         | Informational handout in opposition  |
| <u>A.B. 255</u> | X | Bryan Gresh            | Prepared testimony in support  |
| <u>A.B. 255</u> | Y | Nancy L. York          | Prepared testimony in support  |