

**MINUTES OF THE  
SENATE COMMITTEE ON FINANCE**

**Seventy-Seventh Session  
May 22, 2013**

The Senate Committee on Finance was called to order by Chair Debbie Smith at 5:47 p.m. on Wednesday, May 22, 2013, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Debbie Smith, Chair  
Senator Joyce Woodhouse, Vice Chair  
Senator Moises (Mo) Denis  
Senator David R. Parks  
Senator Pete Goicoechea  
Senator Ben Kieckhefer  
Senator Michael Roberson

**STAFF MEMBERS PRESENT:**

Mark Krmpotic, Senate Fiscal Analyst  
Alex Haartz, Principal Deputy Fiscal Analyst  
Leslie Sexton, Committee Secretary

**OTHERS PRESENT:**

Dennis Perea, Deputy Director, Department of Employment, Training and Rehabilitation  
Renee Olson, Administrator, Employment Security Division, Department of Employment, Training and Rehabilitation  
Mark Mathers, Chief Deputy Treasurer, Office of the State Treasurer  
Marty Johnson, Bond Counsel, Office of the State Treasurer  
Tray Abney, The Chamber  
Bryan Wachter, Retail Association of Nevada  
Carole Vilardo, Nevada Taxpayers Association  
Ray Bacon, Nevada Manufacturers Association

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Samuel McMullen, Las Vegas Metro Chamber of Commerce, Altria Client Services Inc. & Its Affiliates  
Alicia Lerud, Senior Deputy Attorney General, Office of the Attorney General  
Alfredo Alonso, RAI Services, Inc.  
Arlan Melendez, Reno/Sparks Indian Colony  
Ernie Adler, Reno/Sparks Indian Colony  
Keith Munro, Assistant Attorney General, Office of the Attorney General

**Chair Smith:**

I would like to introduce Bill Draft Request (BDR) S-1233.

**BILL DRAFT REQUEST S-1233:** Makes Appropriation to Teach for America  
(Later introduced as [Senate Bill 517](#).)

**Mark Krmpotic (Senate Fiscal Analyst):**

The bill will appropriate \$1 million to the Teach for America program in each fiscal year of the 2013-2015 biennium. This appropriation was removed from the other state programs account within Nevada's Department of Education (NDE) and funded through an appropriation. This is the BDR that would appropriate that money based on the Committee's prior action.

SENATOR KIECKHEFER MOVED TO INTRODUCE BDR S-1233.

SENATOR GOICOECHEA SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR ROBERSON WAS ABSENT FOR THE VOTE.)

\* \* \* \* \*

**Chair Smith:**

The hearing on Senate Bill (S.B.) 515 is open.

**SENATE BILL 515:** Provides for the issuance of bonds to repay loans from the Federal Government related to unemployment benefits and to establish adequate balances in this State's account in the Unemployment Trust Fund and for the temporary imposition of an assessment on employers to pay such bonds and related costs. (BDR 53-1214)

**Dennis Perea (Deputy Director, Department of Employment, Training and Rehabilitation):**

The Director of the Department of Employment, Training and Rehabilitation (DETR), Frank Woodbeck, apologizes for not being able to be present today. He understands the gravity of this bill. I have given the Committee his written statement, which I will read ([Exhibit C](#)).

**Renee Olson (Administrator, Employment Security Division, Department of Employment, Training and Rehabilitation):**

My presentation is contained in ([Exhibit D](#)). Nevada, along with many other states, experienced extremely high unemployment rates throughout the financial crises in 2008-2009. Many states were left with insolvent Unemployment Insurance (UI) Trust Fund balances. They turned to the federal government for loans through its Title XII of the Social Security Act Advance Program, to pay for benefits. As of today, 22 states have outstanding UI Trust Fund debt totaling \$21.4 billion. Nevada's loan amount is now \$537.2 million. At the beginning of the recession, Nevada had a positive and healthy balance of about \$800 million in the UI Trust Fund. When UI claims were at their highest point, in October 2009, Nevada began borrowing from the federal government. The peak of our borrowing occurred in April 2012 at about \$836 million. During the past 4 to 5 years, over \$7 billion, in State and federal benefits, has been paid in UI benefits. This money went directly into the State's economy.

Pursuant to the terms of Title XII loans, if any state has Title XII loans outstanding for more than 2 consecutive calendar years, that state must enact a repayment mechanism through a Federal Unemployment Tax Act (FUTA) tax credit reduction. This increases taxes for employers and employees in those states. The lowest rate an employer can pay in FUTA taxes is 0.6 percent. For each year that a state continues to borrow, that rate increases by 0.3 percent. Employers now pay a 1.2 percent FUTA tax. If Nevada does not pay off, or refinance, its federal debt by September 30, that rate will increase to 1.5 percent.

The interest rate charged by the federal government changes annually. Nevada is financing its debt each year at a different rate. We project that rate will increase from now into the future. As an alternative to the FUTA tax credit reduction repayment mechanism, states may authorize the issuance of tax-exempt bonds to repay the loan to the federal government.

This bill establishes authority to refinance the federal debt through bonding. It establishes an assessment to employers to fund the debt service, the interest and the principal, on those bonds.

Illinois, Texas, Colorado, Michigan, Connecticut, Idaho and Pennsylvania have opted for bonding through which they have been able to secure a lower interest rate. Based on projections of rising interest rates, this will mean a savings over time. Nevada could do the same.

Tax-exempt bonds would be secured by a special revenue assessment on employers throughout the State. As such, these bonds are not the general obligation of the State and do not count against the State's constitutional debt capacity limit. Given the current low tax-exempt interest rates for bond financing, issuing these bonds could create a savings to the State and to employers. On page 5 of [Exhibit D](#) is a table showing the estimated interest rate charged by the federal government, based on U.S. Treasury bonds' yield. It demonstrates the differential between the interest rate we now pay, approximately 2.6 percent, versus the interest rate we could conceivably secure on the bond market. That differential ranges from 2.12 percent to 2.39 percent.

The bill is enabling legislation. It does not mandate bonding to repay our debt to the federal government. It creates an option and an opportunity to find lower terms in the marketplace. It will allow DETR to investigate and evaluate our options in the bond market, with the goal of cost savings.

Because the State has a responsibility to ensure the UI Trust Fund maintains reserves to meet future sudden increases in unemployment claims rather than imposing sudden rate increases to employers, we can also consider a taxable bond series to fund our reserves. The interest rate that we now pay on the federal loan is the same interest rate we could earn from the federal government if we had a positive balance in the UI Trust Fund. If we were able to fund our reserves through a bond issuance, and earn 2.58 percent on the money we deposit in the UI Trust Fund while paying 1 percent on the bonds, we would be able to put more money into the reserves.

**Chair Smith:**

This is an extremely complicated issue. It required our bond counsel and our Fiscal Staff to draft the bill. We have heard this issue in previous meetings.

**Senator Kieckhefer:**

Conceptually, this bill makes sense. What are the layers of authority, decision making and checks and balances that will be required to implement the bill?

**Ms. Olson:**

The bill provides that the Administrator of DETR's Employment Security Division (ESD) has the authority to issue bonds, with technical advice and assistance from the Office of the State Treasurer and financial advisors contracted by the Office of the State Treasurer. We have received advice from bond counsel and underwriters. The authority to issue bonds rests with the Administrator.

**Mark Mathers (Chief Deputy Treasurer, Office of the State Treasurer):**

The Administrator would request that bonds be issued. The issuance would be implemented through the State Board of Finance. The Office of the State Treasurer would work with DETR to structure the bonds to meet their needs and satisfy the State's debt management policy regarding minimal savings thresholds. The Office would bring that to the five-member Board of Finance who will authorize issuance of the bonds. The Office would be delegated to go to the bond market, with the financing team, to issue that debt. Legal and technical advice will be used throughout the process.

**Senator Kieckhefer:**

Is the Board of Finance compelled to issue the bonds upon the recommendation of the Administrator?

**Mr. Mathers:**

They have authority to approve or deny the request of the Administrator.

**Senator Kieckhefer:**

Is there an estimate of what the overall rate employers will be paying if we issue bonds when we eliminate the FUTA tax?

**Ms. Olson:**

The rate depends on how much we bond. The idea will be to stabilize that rate, combining the regular State Unemployment Tax Act (SUTA) Dumping Prevention Act of 2004 rate with whatever the assessment would be to cover the debt service on the bond. We would save employers money, or at least not exceed what they would pay with the federal loan. According to our original estimates, if we bond the debt and the reserves out through 2018 and we

secure a bonding rate of about 2.3 percent, the employers would be paying a total tax rate of about 2.4 percent.

**Senator Kieckhefer:**

Do you think it is likely you will want to issue bonds for both the debt and the reserves?

**Ms. Olson:**

That would bring the best economic benefit. We will have to consider how much of the reserves should be financed by issuing bonds.

**Senator Goicoechea:**

What is our current SUTA rate?

**Ms. Olson:**

It is 2.25 percent and is based on an average of all employers.

**Senator Goicoechea:**

If bonds are issued, did you say the rate would be 2.4 percent?

**Ms. Olson:**

That includes the estimate for the FUTA rate.

**Senator Goicoechea:**

We cannot use the SUTA account to pay the interest, so it must come from the General Fund. If we use bond assessment, is it appropriate to retire the federal debt without the General Fund?

**Ms. Olson:**

That is correct. It is appropriate to use the one assessment for the bond debt service to account for the interest and principal separately. But we can still have one assessment to accomplish that. It does prevent us from using General Fund monies to pay any part of that bond debt service or interest.

**Marty Johnson (Bond Counsel, Office of the State Treasurer):**

I agree with everything Ms. Olson said.

**Tray Abney (The Chamber):**

We support the concept behind this bill. Every October 1, I testify to DETR's Employment Security Council about the employers' UI rate for the following year. We have supported an increase in that rate because of the existing federal debt. With this plan, we can retire the debt, pay the interest and replenish the UI Trust Fund, and still, in the short term, have employers pay a lower average rate. Replenishing the UI Trust Fund is important. We do not want to pay off the federal debt, pay off the interest and leave our UI Trust Fund at a zero balance. The average time between recessions is about 5 or 5 1/2 years. On that timetable, we are close to another recession. We want to establish a mechanism to have a balance in the UI Trust Fund from which to draw, when the need arises. This bill will enable us to do so.

**Brian Wachter (Retail Association of Nevada):**

We support S.B. 515. The current rate of 2.5 percent does not include the SUTA rate. Without retiring the debt, the combined rate would exceed 3 percent. The idea that we can reduce the combined rate to 2.4 percent while retiring the debt and replenish the reserves is a good idea. It will allow the State to control the interest rate. Keep in mind that the modified business tax is added to the unemployment rate when we compute per-employee costs.

**Carole Vilardo (Nevada Taxpayers Association):**

We support this bill. It enables the ESD to take action if and when they determine it is necessary to do so. That action will include regulatory hearings so that businesses can have a voice in the taxation rates.

**Ray Bacon (Nevada Manufacturers Association):**

Several years ago, DETR began issuing debit cards as a vehicle for unemployment benefit payments. With 140,000 claimants, the cost of writing checks every week would have increased the cost of doing business. They have already saved employers and the State a lot of money. We support this bill. The Federal Reserve System continues to print new money. At some point, we will begin to see a rise in inflation. This bill will put us ahead of that rise and return the UI Trust Fund to solvency.

**Samuel McMullen (Las Vegas Metro Chamber of Commerce):**

We support S.B. 515.

**Mr. Krmpotic:**

Later this week, the Committee will hear the Assembly bill that provides for the assessment to pay the interest until, if, and when the bonds are paid or issued to pay the debt. Is it intended that the assessment to pay the interest on the debt be discontinued once the bonds are issued?

**Ms. Olson:**

I would not recommend that. I would recommend that we advance the Assembly bill because if we get to the bond market, and the conditions are not conducive to saving the State money, we still have to pay the interest on the federal loan. We need the flexibility to act in the best interest of the State.

**Chair Smith:**

Seeing no further questions or comments on S.B. 515, the hearing is now closed. The hearing on S.B. 516 is open.

**SENATE BILL 516**: Revises provisions relating to tobacco. (BDR 32-1224)

**Alicia Lerud (Senior Deputy Attorney General, Office of the Attorney General):**

The Office of the Attorney General (AG) is in favor of S.B. 516. It makes alterations to statutes governing the sale of tobacco products in Nevada. Passage of this bill is vital to the continued funding of the Kenny C. Guinn Millennium Scholarship program and the Fund for a Healthy Nevada (FHN). In 1998, the State of Nevada entered into the Tobacco Master Settlement Agreement (MSA) which resolved health-related lawsuits among the Nation's largest tobacco manufacturers and 52 states and territories. Under the MSA, participating manufacturers make annual payments to the State of about \$40 million. Since 1999, we have received \$600 million. In exchange for this money, the State agreed to enact the provisions in *Nevada Revised Statutes* (NRS) 370A and to diligently enforce those provisions. The cornerstone of NRS 370A is the requirement that cigarette manufacturers either sign the MSA and make annual payments or deposit funds into an escrow account for each cigarette sold in Nevada for which an excise tax has been paid. These escrow funds are intended to provide a source of recovery in the event that Nevada prevails in a future health-related lawsuit against the manufacturer. If Nevada is found to have not diligently enforced the escrow provisions, its annual \$40 million MSA payment can be adjusted downward up to the entirety of the payment. Nevada, like all settlement states, has long been involved in litigation with the participating manufacturers relating to these annual payments. Because



of this litigation, Nevada could have been required to repay up to \$440 million in payments already received. However, in late 2012, the AG's Office entered into a settlement agreement with the tobacco manufacturer to resolve this liability. To fully effectuate this settlement and protect the continued receipt of annual payments, the statutory changes, as proposed in S.B. 516, are necessary. The bill will also strengthen Nevada's ability to regulate cigarette manufacturers as required under NRS 370A.

Section 33 of the bill makes a change to the cigarettes on which escrow deposits will be required. Current statute states that escrow deposits are to be made for cigarettes on which State excise tax has been collected. State excise tax is not collected on cigarettes sold on tribal reservations. Nevada has never required escrow payment on such cigarettes. The bill proposes to require escrow payments for cigarettes sold on tribal reservations to persons who are not enrolled members of that tribe. This provision will not affect the tribe's ability to collect a tribal excise tax under NRS 370.0751. The escrow deposits are not made by the tribal retailer. The deposits are made by the cigarette manufacturer.

Section 31 of the bill will give tribes an opportunity to recover part of the escrow deposits that relate to the cigarettes sold on tribal reservations. Now, without exception, once an escrow deposit is made, that deposit reverts back to the cigarette manufacturer 25 years after the date of deposit, if no court-ordered judgment has been entered against the company for a health-related lawsuit. This section establishes a mechanism whereby a portion of the escrow related to tribal sales can be assigned to the tribes for their use. This section gives the State compacting authority to implement the assignment provision.

Separate from the terms of settlement, section 30 contains a second assignment provision to allow escrow funds to be assigned to the State, under limited circumstances. Where a tobacco manufacturer voluntarily wants to assign its interest in escrow funds to the State, that assignment will be allowed. Where an escrow account has been abandoned by a tobacco manufacturer, as in the case of a foreign manufacturer no longer doing business in this Country, the State can seek to have that account declared abandoned property and the funds assigned to the State.

The remaining provisions in S.B. 516 are intended to enhance Nevada's enforcement of existing statutes.

Section 4 of the bill requires wholesale dealers to maintain current physical and electronic mail addresses with the Department of Taxation for the purpose of receiving official communications.

Sections 5, 6, 16 and 18 relate to the suspension and revocation of a tobacco manufacturer, a wholesaler and retail licenses. Section 5 requires the Department of Taxation to adopt regulations setting forth procedures for license revocation. Section 6 explicitly sets forth the procedures that are to be utilized when a brand of cigarettes is removed from the Nevada Tobacco Directory and no longer authorized for sale in Nevada. Section 16 specifies the circumstances where a wholesale dealer's license can be permanently revoked. The provisions of NRS 370.250 only provide for revocation where a dealer fails to file a report. Section 16 of the bill will make explicit that a license can be revoked where a wholesaler has not paid a tax that is due, fails to cure an escrow shortfall when required or deals in cigarettes that are not permitted to be sold in Nevada. Section 18 of the bill changes NRS 370.379 requirements for license suspension and revocation in the case of violation of the wholesale pricing statutes to more permissive language. The change will allow the Department to exercise its discretion in license suspension in lieu of automatic suspension or revocation.

Section 7 of the bill establishes importer joint-and-several liability for escrow shortfalls. Senate Bill No. 79 of the 76th Session made tobacco wholesalers jointly and severally liable for the failure of a manufacturer to make an escrow deposit for cigarettes sold by that wholesaler. This section provides similar jointly and several liability for cigarette importers who import foreign cigarettes for sale in Nevada. This will provide Nevada with one more option for recovery in the event a cigarette manufacturer refuses to make a proper escrow deposit, protecting Nevada from the potential downward adjustment of its MSA payment.

Section 8 explicitly authorizes the State to enter into a tribal compact for the purpose of enforcing any portion of NRS 370 or NRS 370A.

Section 10 amends Nevada's definition of "contraband tobacco products" to include cigarettes that are not properly approved for sale in Nevada and

cigarettes offered for sale in an open package. This will bring the definition of "contraband tobacco products" in line with other statutory provisions requiring brands to be approved for sale in Nevada and in line with Nevada's youth access statute that prohibits the sale of cigarettes in anything other than an unopened package. It amends the definition to include cigarettes that are offered for sale off a tribal reservation, but which are stamped with the tribal stamp. This will help to ensure that Nevada's excise tax has been paid on all cigarettes that are not sold by a tribal retailer.

Section 12 of the bill provides that a wholesale dealer is not entitled to a refund of any portion of a bond required under NRS 370.235 if the wholesale dealer has failed to file a report required by law or owes the Department any payment or penalty due under NRS 370.

Sections 13 and 14 of the bill enhance the Department's ability to control and regulate the distribution of cigarette tax stamps. These provisions make it explicit that the Department has ultimate control over all Nevada tax stamps and can issue regulations regarding the circumstances under which a wholesale dealer can purchase tax stamps.

Section 15 of the bill makes slight changes to NRS 370.235 governing the reporting requirements for manufacturers and wholesale dealers. Where the Department adopts regulations relating to reporting requirements, NRS 370.235 currently mandates the Department to require certain forms. As the tobacco industry changes, the reporting needs of the Department likewise change. This section changes the language to give the Department more discretion in determining what reporting requirements are necessary. It will allow the Department to require that information be submitted in a format as required by the Department. This will help the Department to move toward more electronic filing.

Section 17 of the bill allows the Department to share records with a data clearinghouse or similar entity established to enforce the terms of the MSA and the recent settlement. The recent settlement provides that a national data clearinghouse will be established to help states better track cigarette sales. Pursuant to NRS 370.257, the Department may share records related to the sale of tobacco with the federal government, other states, tribal governments or international authorities for the purposes of law enforcement. Section 17 of the

bill makes it explicit that records may also be shared with the data clearinghouse for the purposes of enforcing Nevada's escrow provisions.

Section 20 of the bill relates to the licensure of wholesale dealers who do not deal in cigarettes, but who do deal in other tobacco products. Pursuant to NRS 370.445, the Department may issue licenses to other tobacco product wholesalers. However, when enacted in 1997, this statute did not include a provision for the renewal, suspension or revocation of those licenses. Section 20 of the bill will give the Department the authority to issue regulations dealing with renewal, suspension and revocation.

Sections 23 and 25 of the bill make changes to the reporting requirements for cigarette manufacturers who are not signatories to the MSA. These sections apply only to those cigarette manufacturers who are obligated to make escrow deposits. Under section 23, manufacturers will be required to supply and keep updated physical and electronic mailing addresses for the purposes of official communications. Manufacturers will be required to provide and update, when appropriate, a list of wholesale dealers who distribute their brand families in Nevada. They will be required to allow the Office of the AG to obtain federal tax records or import records upon request of the AG. This will allow the Department and the AG to better track the sale volumes of nonparticipating manufacturers, identify discrepancies between what is reported by manufacturers and what is reported by distributors and ensure that appropriate escrow deposits are made. Section 25 allows the State to request supplemental information or documentation for a nonparticipating manufacturer at any time when that information may be relevant to the manufacturer's continued compliance with Nevada law. For instance, if Nevada is notified through interstate contacts that a manufacturer has failed to make an escrow payment in another state, Nevada can immediately request the information on that escrow deficiency directly from the manufacturer.

Section 24 of the bill requires wholesalers who sell cigarettes in Nevada to maintain a Nevada registered agent for the purposes of service of process.

Under current statute, Nevada can remove a manufacturer from the Nevada Tobacco Directory when that manufacturer is removed from another state's directory. Section 26 of the bill will allow Nevada to remove a manufacturer from the Nevada Tobacco Directory if that manufacturer has been notified of an escrow shortfall in another state and has failed to cure that shortfall. We have

encountered incidents in which a manufacturer may not be authorized to sell its product in another state because it is not on that state's directory. That state cannot remove it from the directory because it was never on the directory. Section 26 will allow us to remove such a manufacturer from the Nevada Tobacco Directory, if there has been a proper notice of a shortfall given by another state, even if that manufacturer was never on that state's directory.

We have provided you with five proposed amendments ([Exhibit E](#)). These amendments have been requested by various parties since the bill was introduced.

In section 3 of the bill, we propose to add to the definition of "qualified tribal land" as land that is subject to restrictions by the federal government against alienation.

In section 16, we propose to replace "suspend" with "suspend or revoke" a wholesaler's license as an authority of the Department in certain circumstances. This will bring the section in alignment with section 5.

We propose to eliminate section 19 in its entirety.

We propose to include "or colony" with "reservation" in section 31, subsection 1, paragraph (a). In section 31, subsection 3, we propose language to clarify that both requirements in paragraphs (a) and (b) must be met for subsection 3 to apply.

We propose to set the effective date for sections 17, 31 and 33 at January 1, 2014, and the effective date for the remainder of the bill at July 1. This will allow our office and the tribes more time to discuss the substantive issues to include in tribal compacts and regulations for enforcement of escrow provisions.

**Senator Kieckhefer:**

Section 8 of the bill contemplates compacts between the State and the tribes. Would the purpose of such compacts be for enforcement of escrow provisions? What are the potential consequences if agreements cannot be reached?

**Ms. Lerud:**

Regarding the tribal compacting provisions, there are statutory changes made by this bill that will necessitate the State and the tribal governments to earnestly seek agreements. We will likely negotiate individual compacts with those tribes that sell tobacco products. Failure to reach these agreements will not have a detrimental effect on the implementation of the rest of the bill. The purpose of the compacts is to allow us to distribute some of the escrow monies to the tribal governments. We need the compacts to be able to do that.

**Senator Kieckhefer:**

What percentage of the cigarettes sold in Nevada are manufactured by nonparticipating manufacturers?

**Ms. Lerud:**

It is a small portion of overall tobacco sales in Nevada. I do not have the exact percentage. I have information of sales volumes. Last year we had about 24 million "sticks" on which State excise tax was paid and for which we collected escrow funds. Approximately 120 million "sticks" manufactured by nonparticipating manufacturers were sold on tribal reservations last year. I can supply the Committee with further information on what percentage of total nonparticipating manufacturers' products sold in the State that 120 million represents.

**Senator Goicoechea:**

What is the significance of the June 12, 2012, date?

**Ms. Lerud:**

That date was established as a result of negotiations to settle our liability related to the MSA.

**Senator Goicoechea:**

Presently, are we returning any escrow funds to tribal governments?

**Ms. Lerud:**

No. We are not now returning escrow monies to the tribes, or to the State, because law requires that escrow money stay in the accounts for 25 years, unless we have a judgment. Currently, we do not have a mechanism to return any escrow monies. Pursuant to section 31 of the bill, no escrow monies received on sales made prior to January 1, 2014, will be released. Other

statutory changes in section 31 provide exceptions to allow escrow monies to be released to tribes under certain circumstances. Section 30 provides an exception to the escrow release provisions in NRS 370A.150 related to releasing funds to the State.

**Alfredo Alonso (RAI Services, Inc.):**

Reynolds American supports this bill and the enforcement measures therein. We appreciate the provisions that close the loop with nonparticipating manufacturers.

**Arlan Melendez (Tribal Chairman, Reno/Sparks Indian Colony):**

The Reno/Sparks Indian Colony understands the issue at hand. While the State's resolution of the issues related to diligent enforcement of the MSA will likely impact tribal tobacco sales, we are thankful the bill makes an attempt to minimize the effect. The biggest issue to the Colony is not the changing escrow provisions of the bill, it is the potential for the State to resolve its problems and issues by violating the sovereignty of a tribe. We are pleased to have been assured by the AG's Office that the bill has been written, and the State will proceed, mindful of NRS 370.520 which says, "Nothing in this chapter shall operate to abridge the rights of any Indian, individual or tribe, or to infringe upon the sovereignty of any Indian tribe, organized under the Indian Reorganization Act." The Colony is thankful that Nevada legislators and Executive Branch staff made a great effort to listen carefully to the Colony and attempt to reach common ground by resolving these issues in a manner that respects each other's interests and missions. The Colony has been assured by the AG's staff that there will be no State licensing of tribal retailers, no physical inspections of tribal smoke shops by State officials, no audits of tribal records by State agents and no requirements to submit reports by tribal retailers to State inspectors. The Colony has been responsibly carrying out its tobacco regulation duties on Colony lands for decades. The State of Nevada will enforce Nevada laws by enforcing the laws at the wholesale level on State lands prior to tribal retailers receiving shipments of inventory. The Nevada tribes and the Department have long-standing existing agreements on tax matters that are important to the tribes. Like other governments, the Colony collects taxes that are used to fund essential government services to its members, residents and many other Native Americans in Washoe County. We have been assured that these tax agreements will not be amended whatsoever. We trust that assurance. The Colony has enjoyed good relations with the State of Nevada, including its tobacco and tax administrators, the Department and the AG's Office. We have

a vested interest in diligently enforcing the Colony's tobacco regulations and federal regulations on land within the Colony's jurisdiction. None of these regulations conflict with Nevada laws. The Colony has, and will continue to coordinate such efforts with the State when necessary. We are pleased that the bill authorizes the State to share various records and reports with tribal law enforcement officials to assist enforcement of Nevada law, including NRS 370 and NRS 370A when necessary. We are also pleased that this bill authorizes the AG to discuss tobacco issues with tribes in a government-to-government relationship, including entering into compacts that memorialize decisions. We look forward to these discussions in the weeks ahead. We expect that the tribe and the State will arrive at a common ground, respectful of each other's sovereignty.

**Ernie Adler (Reno/Sparks Indian Colony):**

There is an error in the proposed amendment [Exhibit E](#). In section 16, line 7, the word "permanently" should have been removed when the word "suspend" was added.

The Reno/Sparks Indian Colony has had an excellent relationship with the State of Nevada, Washoe County and the cities of Reno and Sparks. It is ironic that Washoe County is supporting a bill to fund school improvements. Last year, the Colony's tribal council committed to fund school improvements in Washoe County. The Colony built the first section of the flood control project along the Truckee River. Currently, they are in negotiations to build an \$8 million restitution center as part of a revenue sharing agreement and a land exchange with the State.

We do not anticipate a problem with entering into a compact with the State pursuant to this bill. Colony representatives have already met with representatives of the AG's Office. There are opportunities to achieve mutual benefits for the parties.

With the passage of this bill, there will be a reduction in tobacco sales because the tribes are not currently required to escrow monies on sales of tobacco products manufactured by nonparticipating manufacturers. When that money is escrowed, it will add \$4 to \$5 to the cost of a carton of cigarettes and fewer people will purchase from tribal smoke shops. The AG's Office has tried to mitigate that by putting in a return of up to 50 percent of the escrowed money to the tribe. That will not fully replace the profit that will be lost on decreased



sales. The Colony is cognizant of the fact that the State will potentially lose hundreds of millions of dollars.

We support the amendments outlined in [Exhibit E](#). We want to be assured that S.B. 516 will be interpreted as being in accordance with NRS 370.520, as stated by Chairman Melendez, and NRS 370.515 regarding restrictions on the State from collecting certain excise taxes on Indian reservations and colonies.

We want to be assured that S.B. 516 will be interpreted consistent with existing agreements between the Colony, State and local governments and that those agreements will not be impaired by this bill.

The provisions in the bill calling for the State to work with the tribes to enforce and administer tobacco laws will result in mutual benefits and will improve the relationships between the tribes and the State.

**Mr. McMullen (Altria Client Services Inc. & Its Affiliates):**

We represent Phillip-Morris USA and its brand families. We support all of the amendments and the bill.

Anything relating to the MSA and any of the implementation of it has been a little bit of an odyssey and I think it has really been great to work with the AG's office and put these things into shape as we have done year-by-year. I cannot guarantee this will be the last but it has been quite an odyssey. We really appreciate their work. Thank you very much.

**Ms. Lerud:**

With respect to tribal wholesalers, there are a number of provisions in law to which I believe Chairman Melendez alluded. The tribal wholesalers in Nevada, to the best of my knowledge, have done a fantastic job of complying with those statutory provisions. Of course, we have not agreed that our tribal wholesalers would not submit reports in compliance with those laws, should, at any point, that be interpreted as a legislative audit. Chairman Melendez and I are in agreement on that.

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**Keith Munro (Assistant Attorney General, Office of the Attorney General):**

The Legislative staff has been working with us for several years. As things have changed, they have been up to speed on those changes. We could not have come to this point without them.

**Chair Smith:**

Seeing no further testimony on S. B. 516, the hearing is closed. Seeing no public comment, the meeting is adjourned at 6:57 p.m.

RESPECTFULLY SUBMITTED:

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Leslie Sexton,  
Committee Secretary

APPROVED BY:

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Senator Debbie Smith, Chair

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

<b><u>EXHIBITS</u></b>				
<b>Bill</b>	<b>Exhibit</b>		<b>Witness / Agency</b>	<b>Description</b>
	A	1		Agenda
	B	3		Attendance Roster
S.B. 515	C	1	Dennis Perea / Department of Employment, Training and Rehabilitation	Statement from Frank Woodbeck
S.B. 515	D	7	Renee Olson / Employment Security Division, Department of Employment, Training and Rehabilitation	Unemployment Insurance Funding
S.B. 516	E	3	Alicia Lerud / Office of the Attorney General	Proposed Amendments