

Nevada trying to protect its tobacco payments

By Sean Whaley, Nevada News Bureau

CARSON CITY — A state panel this week supported a request from the Department of Taxation for \$260,000 to hire a team of auditors to track cigarette sales to protect a \$40 million a year payment to Nevada from the nation's major tobacco companies.

As much as \$360 million paid to the state beginning in 2003 is at risk as Nevada engages in arbitration over the annual payments made by the nation's major tobacco companies as part of the 1998 Master Settlement Agreement (MSA), said William Chisel, director of the Tax Department.

"The stakes for the arbitration are high," he said. "The risk of losing substantial amounts of money increases over the years if we do not institute this team."

The tobacco payments help fund the Gov. Kenny Guinn Millennium Scholarship for eligible Nevada high school graduates, among other programs.

The Board of Examiners, made up of Gov. Brian Sandoval, Attorney General Catherine Cortez Masto and Secretary of State Ross Miller, approved the request for the funding from the Legislature's contingency fund to establish the three-person enforcement unit.

Lawmakers who serve on the Senate and Assembly money committees will meet as the Interim Finance Committee Feb. 9 to consider the request.

Sandoval asked Chisel if the request should have been submitted to the 2011 Legislature so tobacco funding could

have been used to fund the unit. The Attorney General's Office said the funding from the master settlement agreement has historically funded its oversight of the tobacco agreement, but that the Tax Department has not been funded in this way.

Sandoval said the enforcement unit costs should be built into the next budget with tobacco funds identified as the funding source.

Chisel said it is important for the state to monitor the sales of cigarettes by the smaller tobacco companies that are not part of a master settlement agreement.

As part of the MSA, there is a requirement that these smaller companies set aside a portion of their tobacco sales in an escrow account in an amount proportionate to the payments made to the state by the major tobacco companies. The MSA provides for a reduction of the required annual payments by the major tobacco companies to any state which fails to adequately enforce these laws in a particular calendar year.

Chisel said the team will work to protect the payments that have already been made to the state.

"Well, we're in arbitration right now with the big tobacco companies and our concern is that we want to track these nonparticipating manufacturers, the ones that did not get involved with the MSA," he said. "We're responsible to make sure that they pay into an escrow account of two cents per cigarette. At stake is the \$40 million we get each year for the MSA payment."

Nevada has not tracked these sales and payments before, and doing so would lessen the risk of losing any portion of the MSA payments in the arbitration process, Chisel said.