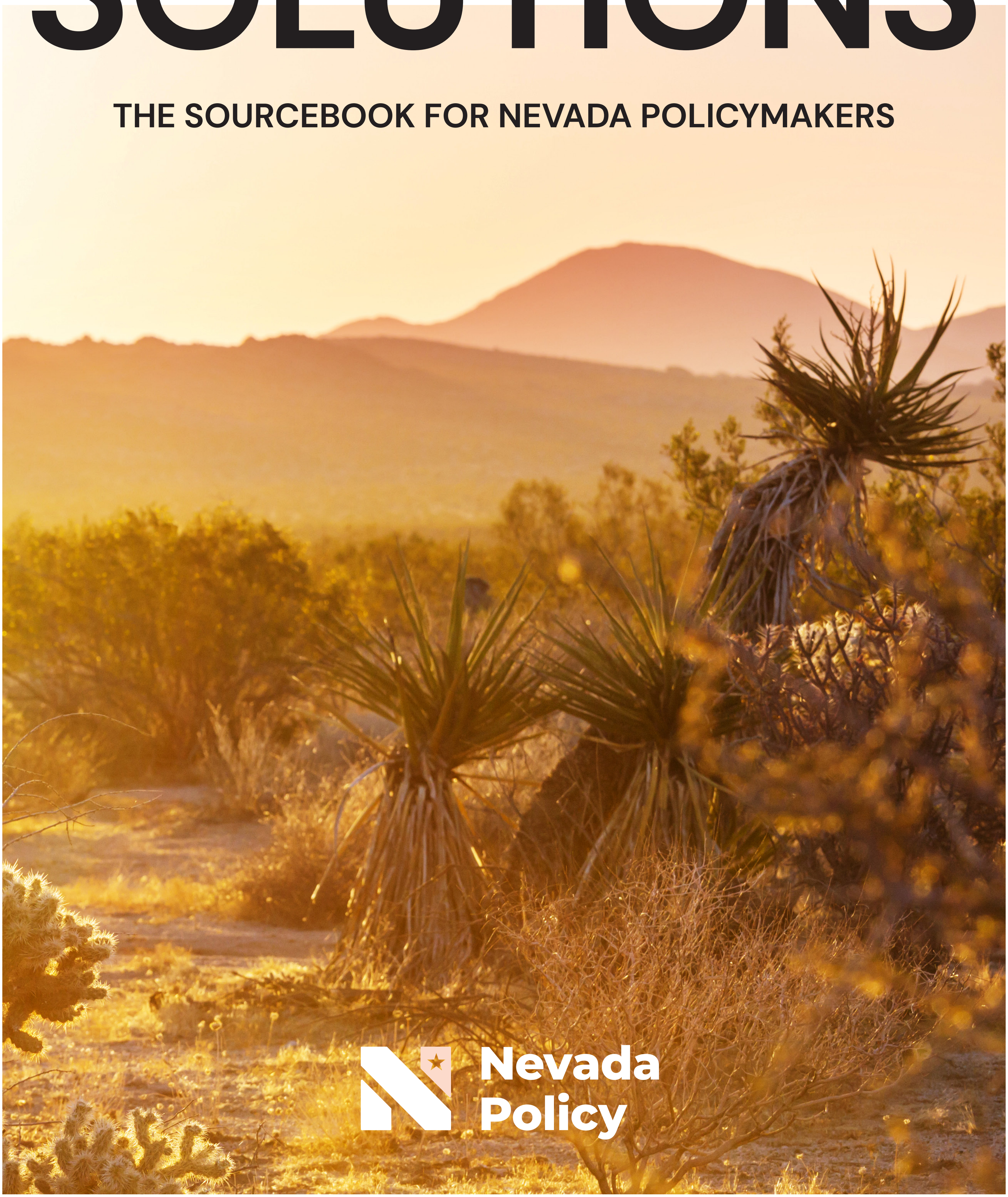
SOLUTIONS

THE SOURCEBOOK FOR NEVADA POLICYMAKERS



Nevada Policy

Since our organization was founded in 1991, Nevada Policy Research Institute has grown from one woman's vision into the state's leading authority on public policy and free markets. We believe that an empowered, educated populace is essential to the success of our society—and over the years, our research has been instrumental in informing current and potential residents, business owners, media groups, and lawmakers. By providing alternatives to government solutions, advocating for policies that increase opportunity and preserve freedoms, and demanding institutional accountability, Nevada Policy and our supporters work to build a free and prosperous future for Nevada.

Nevada Policy

Foreword

For decades, Americans viewed Nevada as a land of promise. They voted with their feet by moving to our state in droves to pursue a better life. From 1950 to 2010, Nevada was the fastest growing state in the union by a landslide. Her population grew by 1,587% in that time while the second-fastest growing state – Arizona – grew at less than half that pace.

Recently, though, our rate of growth has begun to slow. Between 2010 and 2020, Idaho, North Dakota, Texas and Utah all grew at a faster pace than Nevada. The Census Bureau estimates 12 states grew faster than Nevada between 2020 and 2023, with Idaho, South Carolina, Florida and Texas have experiencing the fastest growth.

I can't help but wonder if the changing policy environment is what has inspired Americans to begin seeing other states as more opportune than our beloved home. Over the past 20 years, we've had the three largest tax hikes in state history. We have extended the powers of union leaders to control state and local budgets. We have shut down reliable power sources and replaced them with more expensive and less reliable alternatives. We have tried and failed to enact school choice, while our public schools have simultaneously grown more expensive and less fruitful. We have allowed politicians to pick winners and losers in the economy. We have manipulated healthcare markets in ways that made care less accessible. And we have repeatedly witnessed a blatant disregard for the separation of powers principles designed to safeguard our republic from despotism.

These challenges are numerous. Fortunately, there is a pathway in all these areas to restore the Silver State's shine so that it is again viewed as the place offering the greatest opportunities. This book was created to do just that. It reviews the legislative history and available data on each of these topics and makes specific recommendations for how each of these challenges might be resolved. We expect this volume to be seized upon by any lawmaker for whom home means Nevada.

I'd like to thank Geoffrey Lawrence, who created the original version of this book prior to the 2013 legislative session and has updated and expanded it many times. He has worked tirelessly on this new and expanded volume over the past few months and I am thrilled with the result.

As always, I hope you will consider these ideas on their merits, regardless of where your political sympathies may lie. This volume dispels many myths and presents concrete data from objective sources. I believe it elevates the public-policy debate in the Silver State, and that, after all, is why Nevada Policy exists.

John A. Tsarpalas

John Tsarpalas
President

Content

Health Care

Labor

Industry & Commerce

Public Safety

Energy

Transportation

Constitutional Issues

Federalism

Understanding Nevada's Budget

State budgeting can be difficult to understand for the layperson. The most frequently cited figures are legislative appropriations from the state's general fund, which amount to $10.97 billion over the 2023-2025 budget cycle. Each budget cycle consists of two fiscal years which begin on July 1 and end June 30.

However, lawmakers wield control over far more spending than general-fund appropriations. They must authorize all spending by state agencies. In addition to general-fund dollars, agencies may receive grants from federal or private sources, fee-based program revenues and revenues from other sources. In total, state spending for FY 2022 amounted to $18.91 billion versus legislative appropriations of $4.633 billion for that single year.

In addition, lawmakers approve monies to be spent by local school districts which never pass through state accounts even though they result from statewide taxes imposed by the legislature.

Key Points

Federal grants drive many decisions over state spending. Congress has long used the promise of federal grants to motivate states to sign onto certain programs. Medicaid, for instance, is a state-run plan conceived by Congress and funded partially with federal dollars. Acceptance of federal grants, however, frequently obligates states to continue funding programs even after federal support wanes, such as with Medicaid expansion.[1]

Spending on K-12 and higher education is supplemented by outside sources. State appropriations for education constitute only a minor part of education spending. In higher education, state appropriations constituted about one-fourth of total spending, with self-supported funds and student fees making up the rest.[2] In K-12 education, 9.4% of revenue comes from local taxes and about 10.2% comes from federal sources.[3]

Lawmakers have routinely pushed spending off-budget. When the original "Nevada Plan" was written in 1967, it created a new 1.0% statewide sales tax on top of the constitutionally limited 2.0% tax already in existence. This new levy, called the Local School Support Tax (LSST), now goes into a State Education Fund, along with revenues from mining taxes, car registration fees, and a range of other local levies. Lawmakers then set a state-guaranteed Basic Support Per-Pupil amount to be disbursed to school districts each year, and appropriate from the general fund any difference between the revenues from these taxes and the Basic Support obligation. In effect, these outside and local revenue sources allow lawmakers to push most K-12 spending off-budget and general-fund dollars were just used to supplement these revenues.

Over time, lawmakers have elected to increase these outside sources during periods of recession rather than raise the taxes that go into the general fund, in part because general-fund figures are more visible to the public. The LSST was raised in 1981, 1991, 2009, 2011, 2013, and 2015, and is now at a statewide rate of 2.6%. Also, in 2009, room tax rates were raised in accordance with an advisory ballot question to increase teacher pay, although this revenue has

---

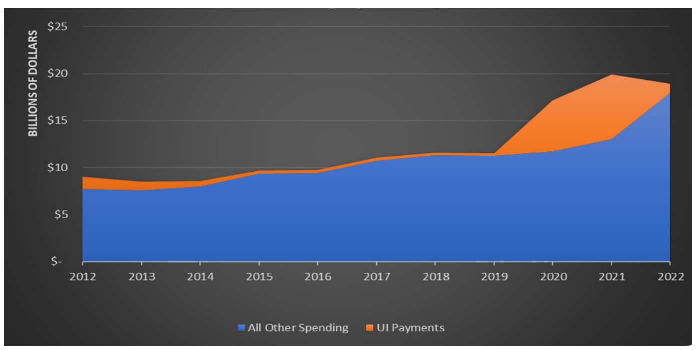
[1] See "Medicaid Spending."
[2] See "NSHE Finance."
[3] Nevada Department of Education, FY22 NRS 387 Report.

been continually diverted into general K-12 spending. The net effect was to further push most education spending off-budget.

A new education finance mechanism was implemented in 2021. State appropriations for K-12 are just one revenue component of the new "Pupil-Centered Funding Plan" for school finance. This plan replaced the "Nevada Plan" for school finance in 2021, following the recommendations of a Commission of School Funding created in 2019.[4] The revenue structure of the new plan is essentially unchanged, although it moved more spending on-budget beginning in FY 2022.

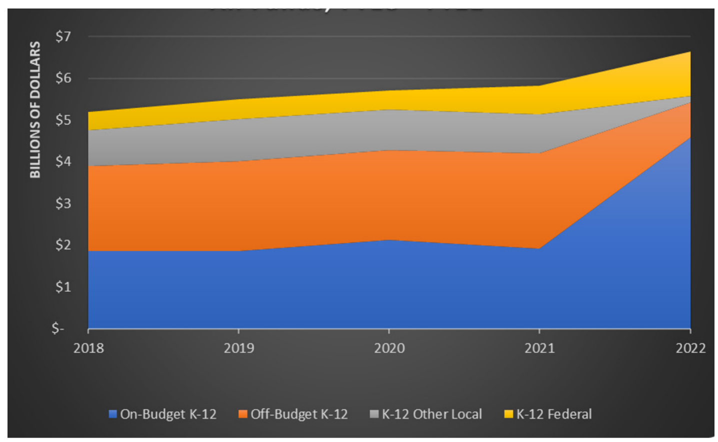
Total spending has grown steadily from year to year. When accounting for all spending – including amounts pushed off budget – Nevada's spending more than doubled just between FY 2013 and FY 2022.[5]

Nevada Total Annual Spending with and without UI payments, FY12 - FY22



Source: State of Nevada, Comprehensive Annual Financial Report, FY21.

Nevada Annual Spending on K-12 Education, All funds, FY12 - FY22



Source: Nevada Department of Education, NRS 387 Reports. **Note:** Off-budget state spending considers the two main DSA sources that do not come from the state general fund: DSA-bound ad valorem taxes and Local School Support Taxes. Revenues received from bonding, capital leases, loans and other financing arrangements are excluded from these totals.

[4] Nevada Department of Education, "Commission of School Funding" website.
[5] Nevada Controller's Office, Comprehensive Annual Financial Reports (FY12 & FY22).

Spending Trends

Over the past two decades, lawmakers have doubled the size of Nevada's general fund, growing state spending from $2.90 billion in FY 2006 to $5.80 billion for FY 2025.

During these years, Silver State population has grown significantly, creating additional demand for public services. Lawmakers, however, increased spending at a rate far greater than population growth and inflation combined – meaning that Nevadans face a higher per-capita cost of government today than they did 20 years ago.

Key Points

General fund spending is only one component of total spending. Public attention often focuses exclusively on the state's general fund, because this spending falls under the direct control of lawmakers every two years. However, general fund spending accounted for only 30% of total state spending in FY21.[1]

In fact, lawmakers have regularly played games with the budget by pushing spending outside of the general fund in order to make spending appear smaller. In 1967, when lawmakers created the Nevada Plan, they instituted a new sales-tax component to finance education, displacing what had previously been general-fund dollars for this purpose. This assessment was raised repeatedly to push spending off-budget before the new Pupil-Centered Funding Plan began pulling this money back on-budget.[2]

Growth in per capita spending was driven by the tax hikes of 2003. Between FY 1994 and FY 2003, inflation-adjusted, per capita, general fund spending remained relatively constant. However, following the record-breaking tax increases of 2003, lawmakers began spending significantly more on a per capita basis. Between FY 2003 and FY 2009, inflation-adjusted general fund spending per capita grew 30% as lawmakers increased employee pay and benefits, expanded the class-size reduction program, instituted limited full-day kindergarten programs in Clark and Washoe counties and began financing the Millennium Scholarship out of the general fund.

The Great Recession returned real, per-capita spending to historic levels, while tax hikes in 2015 aim to perpetuate boom-era spending levels. Lawmakers were compelled to reduce per capita spending beginning in FY 2010, as tax revenues plummeted due to recession. In constant 2023 dollars, per-capita spending fell from $1,796 in FY 2009 to $1,439 in FY 2015, but remained higher than the $1,345 per capita spent in FY 2001.

The 2015 tax hikes allowed per-capita spending to rise back to $1,642 by FY 2021. This would be higher than any year from FY 1990 to FY 2003.

Since the 2003 tax hikes, lawmakers have spent a cumulative $13.0 billion beyond the inflation-adjusted per capita spending levels that existed in FY 2001.

Recommendations

Enact meaningful spending controls to protect taxpayers. In successive legislative sessions, lawmakers debated whether to enact a constitutional limitation on the growth in state spending. The proposed "Tax and Spending

[1] Nevada Controller's Office, Annual Comprehensive Financial Report, FY 2021.

[2] See "Understanding Nevada's Budget."

[3] Geoffrey Lawrence, "Better Budgeting for Better Results," Nevada Policy Research Institute policy study, 2011.

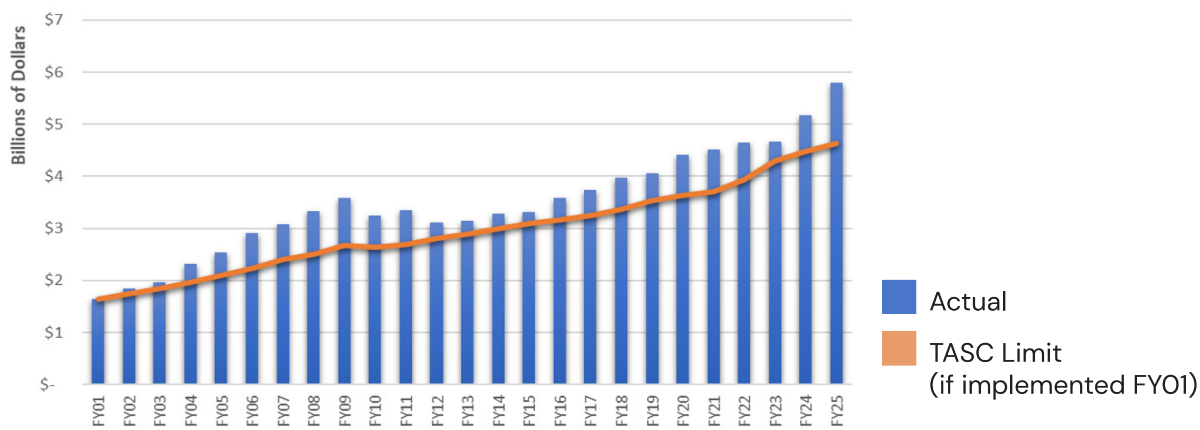
Control" (TASC) amendment would ensure that the real, per capita cost of government does not increase over time by prohibiting lawmakers from increasing spending faster than the rate of population growth combined with inflation.

Opponents of TASC have disingenuously argued that Nevada spending already has population-growth and inflation controls since the governor's executive budget proposal is prohibited from exceeding the per capita spending level that occurred in the 1975-1977 biennium, indexed for inflation. That limitation is meaningless, however, since lawmakers are free to add as much spending as they like to the governor's budget without restraint. [3]

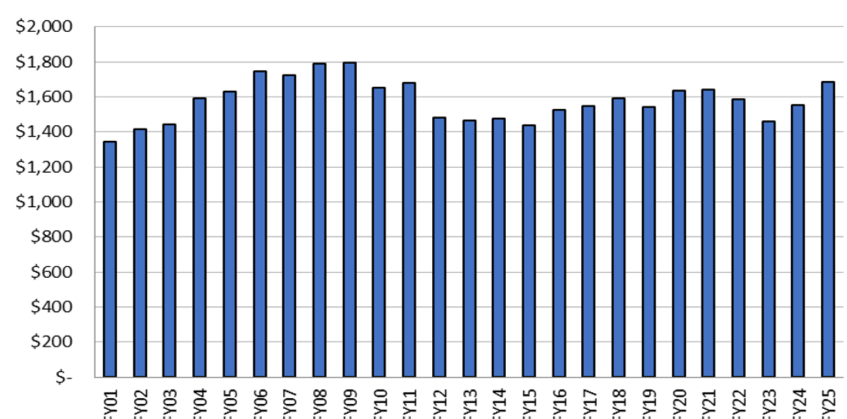
With TASC in place, lawmakers who are convinced of the merits of higher spending on a given program would first need to find savings elsewhere in the budget. TASC would offer long-term certainty to potential investors and job-creators in Nevada by curtailing the perpetual drive for new taxes.

Its enactment should be viewed not only as a centerpiece for fiscal policy, but also as a linchpin for economic development in the Silver State.

NV general fund spending FY01-FY25, Actual versus TASC



Real, per-capita general fund spending FY01 - FY25 (2023 dollars)



Source: State of Nevada, Comprehensive Annual Financial Report, FY21.

Structural Reform: Charter Agencies

Nevada's state government, like most other states, has over time turned into a collection of rigid bureaucracies conditioned to emphasize strict adherence to legislatively prescribed processes, rather than focused on achieving quantifiable results.

This generalized mentality is obstructive to innovation and can prevent organizations from adapting to meet the changing needs of citizens. In private enterprise, for instance, entrepreneurs succeed when they correctly anticipate the evolving needs of society and introduce creative solutions to those needs.

A constructive and creative culture can similarly be introduced within public administration by introducing the correct incentives. Lawmakers should recognize that employees of state agencies often have the greatest knowledge and insight into how those agencies can most effectively deliver public services. The top-down approach to governance that lawmakers have historically imposed fails to take advantage of the state's most valuable asset – the specialized knowledge of its employees.

The task of lawmakers should be restricted to setting broad policy goals, while specific decisions over the means for achieving those goals should be left to the agencies themselves.

Key Points

Extend school principals' "empowerment" model to agency directors. In Iowa, lawmakers looking to increase the cost-effectiveness of government successfully experimented, highlighting broad policy objectives while letting agency directors determine the best means of achieving those objectives.

To ensure accountability, annual contracts were signed with agency directors, specifying the performance metrics they would be responsible for achieving – at the risk of dismissal.

Directors further agreed to reduced general fund allocations, but in exchange, gained the freedom to hire and fire employees, upgrade their agencies' technology infrastructure, purchase equipment and outsource certain agency functions as they saw fit – without going through the state's central purchasing or personnel departments.
As incentive, agencies that both met their goals and remained below budget, retained half the savings with the remainder reverting to the state's general fund. Agency directors could use these savings to reward employees with bonuses or to purchase efficiency-enhancing capital equipment.

The idea was experimental and enjoyed only temporary authorization under the leadership of Gov. Vilsack, but the results were phenomenal. Even as Iowans saved millions of dollars, they saw remarkable improvements in the quality of public services. Iowa's "charter agency" approach was recognized with an "Innovations in American Government Award" from Harvard University's Kennedy School of Government.[1]

Recommendations

Clarify the goals and metrics. Lawmakers should clearly outline the policy objectives they most highly value and to identify appropriate metrics for evaluating progress toward those goals. They should use the budgeting

[1] Harvard University, John F. Kennedy School of Government, "Innovation in State Government: Iowa Charter Agencies," 2005.

process to review proposals for delivering these specified results, which might include an improvement in average life expectancy or student test scores. Once these broad policy priorities are elucidated, agency directors can craft innovative strategies for achieving those objectives and present evidence of tangible progress toward those goals during budget hearings.

Nevada should create a "charter agency" framework and allow agency directors to opt in. Proposed legislation to establish a charter-agency framework for Nevada was drafted during the 2013 session and was re-introduced during the 2015 session as Assembly Bill 104. Additional guidance may be provided by the 2003 enabling legislation from Iowa, SF 453 and HF 837. Agency directors who opt in should sign performance contracts that outline their responsibilities for meeting legislatively-defined goals. These contracts should reward each agency's increase in excellence with increasing agency discretion.

Charter Agency Success in Iowa

Department of Natural Resources

- Reduced turnaround time for air-quality construction permits from 62 days to six days and eliminated a backlog of 600 applications in six months.
- Reduced turnaround time for wastewater construction permits from 28 months to 4.5 months.
- Reduced turnaround time for landfill permits from 187 days to 30 days.
- Reduced time for processing corrective-action decisions on leaking underground storage tanks from 1,124 days to 90 days.
- Accomplished all reductions without compromising environmental standards or quality.

Department of Corrections

- Reduced the probation failure rate by 17%.
- Increased the number of female inmates receiving meaningful work experience by 50% while reducing operating costs by $700,000 per year.
- Increased the number of parole recommendations by 5% in one year.

Department of Revenue

- Raised the rate of income tax returns filed electronically from 55% to 67%.
- Increased the number of personal income tax filings completed within 45 days from 75% to 94%.

Department of Human Services

- Reduced the average child-welfare stay in shelter care by 10 days.
- Increased the number of eligible citizens receiving food and nutrition benefits by 44%.
- Increased the number of children with health care coverage by 12% in FY05 alone.

Iowa Veterans Home

- Reduced the number of residents experiencing moderate to severe pain by 50%.
- Reduced admission waiting times by increasing the rate of admissions processed within 30 days from 69% in FY04 to 90% in FY05.

Alcoholic Beverages Division

- Increased General Fund revenue by $9.7 million in FY04 and $11.6 million in FY05.

Structural Reform: Auditing

Entrepreneurs in the private sector often hire consultants to advise them on how best to streamline operations and deliver goods to market as efficiently as possible.

Public-sector entrepreneurs who direct charter agencies[1] could benefit from similar advice. The state of Nevada can ensure such valuable support for its new charter agency directors by empowering the state controller with a broad mandate and sufficient funding to conduct performance audits at state and local levels.

Key Points

Auditors should always remain free of political influence. Currently, the only state auditing offices in Nevada serve at the pleasure of incumbent politicians. The Audit Division of the Legislative Counsel Bureau is directly subordinate to legislative leadership while the Department of Administration's Division of Internal Audits is ultimately subordinate to the governor.

This subordinance compromises auditors' ability to choose which government agencies or functions should be reviewed as well as the integrity of their findings – which become subject to potential suppression by interested politicians. For this reason, state audit functions should be consolidated into a single office with independent electoral accountability.

Performance audits are different than financial audits. Financial audits merely review and reconcile accounting statements and practices without evaluating the relative effectiveness of each spending item. Performance audits go a step further by identifying the organizational structures and spending practices that would achieve optimal results.

Performance audits can identify substantial cost savings while simultaneously improving performance. In 2005, lawmakers in the State of Washington expanded the powers of that state's independent auditor to conduct performance audits for all state and local governments. In 2012, the office also launched a dedicated Local Government Performance Center. Within its first 10 years, the office conducted 30 performance audits and conducted reviews of more than 80 state and local governments, programs and services.

State and local governments in Washington reported saving over $1 billion as a result of implementing the performance auditor's recommendations since the first performance audit was published in 2007. The office estimated that every dollar spent on performance audits resulted in $16 in savings. What's more, the auditor's advice has been accepted with enthusiasm, as 86% of recommendations were fully or partially implemented.[2]

Performance audits are a natural complement to charter agencies. While a performance audit can be valuable to any organization, the organizational structure of charter agencies especially aligns the incentives facing agency directors with those of lawmakers and taxpayers. When agency directors and their employees see a direct financial benefit – and not a loss – as the result of increased cost-effectiveness, they have every motivation to actively solicit

---

[1] See "Structural Reform: Charter Agencies."

[2] Washington State Auditor's Office, "Annual Performance Audit Progress Report: Report No. 100777," December 2014.

and aggressively implement the recommendations of performance auditors.

Recommendations

Extend a mandate and sufficient funding to the state controller to conduct performance audits. Existing auditors' offices in the legislative and executive branches could be consolidated with the controller's office and used to conduct performance as well as financial audits.

The controller should gain explicit authority to conduct performance audits for any state or local government. Local government expenditure in Nevada has historically been a more significant component of public spending than state expenditure. Therefore, while performance audits of state agencies are valuable, the financial impact could be far greater if the controller also examines local government operations.

Performance Audits in Washington State

Name of Audit	Audit's Findings
Department of Transportation — Congestion Management	Provided recommendations for reducing road congestion 20% through low-cost measures; **Economic impact: $3 billion**
Collection of State Debt at Six State Agencies	**Uncollected debt: $319.4 million** within four agencies
Port of Seattle Construction Management	**Unnecessary spending: $97.2 million** due to inadequate oversight
King County Solid Waste and Wastewater Treatment Utility Operations	**Potential savings: $78.8 million to $82.4 million; Additional Revenue: $4.8 million to $6.8 million**
Opportunities for the State to Help School Districts Minimize the Costs and Interest Paid on Bond Debt	**Cost Avoidance: $44.6 million to $79.4 million** by following best practices
Administrative and Support Services at the 10 largest K-12 School Districts	**Unnecessary costs: $54 million** within eight school districts
Department of Transportation — Washington State Ferries	**Potential savings: $50.2 million** through better management practices
Department of Transportation — Highway Maintenance and Construction Management	**Cost avoidance: $42 million** by improving inventory and supply management
Educational Service Districts	Provided recommendations for better coordinating services and reducing administrative costs; **Cost avoidance: $25.3 million**
Seattle Public Utility Operations	**Potential savings: $17.6 million to $24.4 million** by restructuring operations
Department of Transportation - Administration & Overhead	**Cost avoidance: $18.1 million** by centralizing functions and avoiding redundancy
Three Public Hospital Districts	**Potential savings: $8.4 million** through organizational efficiencies
Sound Transit's Link Light Rail	**Unnecessary spending: $5.1 million** due to poor construction management
Department of General Administration Motor Pool	**Cost avoidance: $2.3 million** by changing purchasing methods and reassigning underused vehicles
Department of Commerce User Fees	**Could reduce general fund spending: $2.2 million to $2.4 million** if fees were charged for four programs
King County Rural Library District Construction Management Practices	**One-time savings: $715,000 to $1.3 million; Potential ongoing savings: $1.1 million** subject to price increases and labor disputes
Use of Impact Fees in Federal Way, Olympia, Maple Valley, Redmond and Vancouver	**One-time savings: $1.18 to $1.34 million** by more effectively calculating impact fees
Seattle Public Schools Construction Management	**Cost avoidance: $1.2 million** by implementing best practices
Travel Practices at 13 School Districts	**Cost avoidance: $1.1 million** by implementing best practices
Department of Fish and Wildlife Vehicle Use	**Net cost avoidance: $1 million** by improving fleet management practices

Underlying most arguments against the free market is a lack of belief in freedom itself.

–Milton Friedman

Performance-Based Budgeting

Performance-based budgeting is an approach to budgeting that ranks expenditures in order of their priority – increasing governmental accountability for the efficient use of tax dollars.

Under this approach, policymakers:
1) Outline their broad policy goals, in order of priority.
2) Define the performance metrics that will be used to measure progress toward those goals.

Thus armed, they next direct public monies specifically toward the accomplishment of those top goals.

In 2011, Governor Brian Sandoval submitted the Silver State's first performance-based Executive Budget document.[1] Later that year, Nevada lawmakers passed a bill that institutionalizes the performance-based approach into state law.[2]

The 2011 legislation was a tremendous step forward, but fails to envision the performance-based approach in its highest form, which entails a competitive bidding process.

Key Points

Prioritize the results, not the intentions. A performance-based budgeting process cannot succeed unless policymakers first establish their broad policy goals. Policymakers should be discriminating with their use of tax dollars, recognizing that the results of state programs – not policymaker intentions – are what matter. Not all spending programs produce results that taxpayers value. The International Monetary Fund has developed a helpful guide to implement performance-based budgeting.[3]

No offices are entitled to public money. Bureaucrats often approach lawmakers with funding requests based upon the expectation that just because a program has existed in the past, it should continue to receive funding into the future – regardless of its results.

The burden of proof should be on agency directors to demonstrate that each program operating within an agency reflects lawmakers' broad policy goals and is a worthwhile use of tax dollars. In effect, agency directors should "sell" their product to lawmakers, who in turn should act as taxpayers' vigilant stewards.

Government monopoly is not the only way to provide public services. If lawmakers are convinced that a particular program merits the use of tax dollars, they should "shop" for the most cost-effective supplier of that program. That supplier may not always be an existing state office.

Once lawmakers have decided on a list of worthwhile programs, they should issue a request for proposals to administer those programs. Any state agency or local government should be free to bid to administer a program – as should any potential private-sector or non-profit competitor. Lawmakers can then select from among the most cost-effective bids.

Competition spurs innovation. When the state of Washington pioneered the performance-based budgeting

---

[1] State of Nevada, Department of Administration, Division of Budget and Planning, "2011-2013 Executive Budget: Priorities and Performance Budget."
[2] Nevada Legislature, 76th Session, Assembly Bill 248.
[3] Marc Robinson and Duncan Last, "A Basic Model of Performance-Based Budgeting," IMF, September 2009.

process in 2003, its policymakers realized significant cost savings by submitting the delivery of public services to a competitive process. Facing competition, state agencies reinvented themselves to become more efficient – partnering with other agencies to streamline operations and avoid duplication.

As a result, Washington taxpayers were able to save more than $2 billion in the 2003-2005 budget cycle, while also receiving far greater value from their state government. The approach remains in use today and has allowed Washington to navigate fiscal headwinds without further burdening the private economy.[4]

Recommendations

Incorporate a competitive bidding process into the performance-based budgeting method. Nevada taxpayers deserve the highest value possible for their tax dollars. Competitive bidding through an open RFP process, even for services currently performed by existing state agencies, is crucial to that effort.

Washington Lawmakers' Statements of Prioritized Policy Objectives

1. Washingtonians value world class student achievement in early education, elementary, middle and high schools and postsecondary institutions.
2. We must improve the health of Washingtonians and support and keep safe our children and adults who are unable to care for themselves.
3. Washington must promote economic development in a growing competitive environment.
4. Efficient state government services are important to the people of Washington state.
5. It is our responsibility to provide for the public safety of people and property in Washington state.
6. Protect natural resources, cultural and recreational opportunities.

[4] State of Washington, Office of Financial Management, "Priorities of Government" website, accessed Oct. 2011; see also, David Osborne, "The Next California Budget: Buying Results Citizens Want at a Price They Are Willing to Pay," Reason Foundation, 2010.

Washington's 2009-2011 Purchase Plan for Student Achievement (Sample Items)

Priority	Rank	Agency Name	Activity	Strategy	Current/New
High		Supt of Public Instruction	Bilingual Education	Give students individual attention	Current
High		Supt of Public Instruction	General Apportionment	Provide general education support	Current
High		Supt of Public Instruction	Learning Assistance	Give students individual attention	Current
High		Supt of Public Instruction	Special Education	Give students individual attention	Current
High		Supt of Public Instruction	Student Transportation	Provide general education support	Current
Low	17	Supt of Public Instruction	Student Transportation	Provide general education support	Current
Low	18	Supt of Public Instruction	General Apportionment	Provide general education support	K-4 enhancement
Low	19	Supt of Public Instruction	General Apportionment	Provide general education support	All-day K
Low	20	Department of Early Learning	Early Learning Programs	Support early education and learning	Current
Low	21	Supt of Public Instruction	General Apportionment	Provide general education support	Skills centers
Low	22	Supt of Public Instruction	Student Health	Provide general education support	Current
Low	23	Supt of Public Instruction	Professional Development	Strategic and individualized preparation for education staff	Current
Buy Next	54	Supt of Public Instruction	Local Effort Assistance	Provide general education support	Current
Buy Next	55	Supt of Public Instruction	Student Achievement Fund	Provide general education support Align curriculum, Instruction and	Current
Buy Next	56	Supt of Public Instruction	Curriculum and Instruction - Programs	Assessment Support parent and community	Math and Science Standards
Buy Next	57	Supt of Public Instruction	Highly Capable Student Education	connections	Current
Do Not Buy	73	Supt of Public Instruction	Vocational Student Leadership	Support parent and community connections	Current
Do Not Buy	74	Department of Early Learning	Child Care and Early Learning Quality Initiatives		QRIS Pilot Expansion
Do Not Buy	75	State School for the Blind	Off-Campus Services to Students/Districts	Support parent and community connections	Teacher Recruitment

One of the great mistakes is to judge policies and programs by their intentions rather than their results.

–Milton Friedman

Fiscal Transparency

Elected officials are the stewards of tax dollars and thus hold a fiduciary responsibility to taxpayers. Elected officials therefore have an obligation to demonstrate the faithful exercise of this fiduciary responsibility, and taxpayers have a right to know how their money is used.

For these reasons, it is imperative that government financial data is made available to citizens for review. Nevada took a major step forward in 2024 when Controller Andy Matthews made a searchable version of the state checkbook accessible online.

Key Points

A lack of transparency enables recklessness and corruption. When a knowledgeable citizenry is unable to easily access and understand government financial data, unscrupulous individuals within government can more easily perpetrate fraud without fear of getting caught. Questionable or reckless spending may also occur that does not rise to the level of fraud.

The large majority of public officials and employees, along with taxpayers, want to ensure that public dollars are spent appropriately and do not wish to see their profession tarnished by the unscrupulous actions of a few individuals. Fiscal transparency therefore enjoys wide support from across the political spectrum.

Legacy financial systems offer limited transparency, but are being replaced. Taxpayers deserve a clear accounting of each tax dollar, including the identification of all vendors and other recipients of public funds. The progress of computer applications and online technologies should allow citizens to access a searchable database of this nature through an "online checkbook."

Several states have created an online checkbook and many also contain advanced analytical tools. Online checkbooks in Ohio and West Virginia are among the most recent and are currently ranked at the top by U.S. Public Interest Research Group.[1]

In 2011, Nevada launched its "Nevada Open Government" website, which provides a fund-level overview of revenue and spending, but its utility is limited because it does not provide a granular accounting of individual checks.

Transparency should apply to all uses of public funds. Payments to vendors and professional contractors are not the only items that should be reported to citizens. There should also be a clear accounting of monies spent to compensate public employees, both in terms of salary and benefits. This administrative cost should be delineated clearly from amounts used to provide transfer payments or other services to beneficiaries.

PERS has flouted judicial rulings and concealed financial data. Nevada's Public Employees' Retirement System provides publicly funded pension benefits to state and local government employees, meaning data about payments to beneficiaries should be public information. Yet, PERS twice refused to follow court orders to make this information available. In a third ruling, a District Court judge found that "PERS has sequentially manufactured barriers to prevent

[1] U.S. Public Interest Research Group, "Following the Money 2018," April 2018.

it from meeting its disclosure obligations to the public" and expressed concern about the "truthfulness" of its executive officer.[2]

Recommendations

Expand online checkbook to include local governments. The financial transparency portal developed by the Nevada Controller's Office in 2024 was engineered with the capability to host financial data of local governments at no additional cost. Lawmakers should require or encourage local governments to participate.

Enact strict penalties for officials who willfully withhold public financial data. Any agency that receives any appropriated monies from a state or local government should make its financial records searchable and easily accessible. Elected officials should hold accountable any recipient of these funds who refuses to make these records publicly available by imposing strict civil or criminal penalties in their personal capacity.

[2] Marth Bellisle, "Judge Orders Nevada PERS to Give RGJ Benefit Records," *Reno Gazette-Journal*, April 11, 2014.

U.S. PIRG Rankings for Fiscal Transparency

2018 Rank	State	Grade	2018 Score
T-1	Ohio	A+	98
T-1	West Virginia	A+	98
T-3	Minnesota	A	94
T-3	Wisconsin	A	94
T-5	Arizona	A–	93
T-5	Connecticut	A–	93
7	Iowa	A–	91
8	Louisiana	A–	90
9	South Carolina	B+	87
T-10	Kentucky	B	85
T-10	**Nevada**	**B**	**85**
12	Illinois	B	84
13	Indiana	B	83
T-14	Arkansas	B–	82
T-14	Texas	B–	82
16	Oregon	B–	81
T-17	Delaware	B–	80
T-17	Massachusetts	B–	80
T-17	Nebraska	B–	80
T-20	Colorado	C+	78
T-20	Michigan	C+	78
T-20	New York	C+	78
T-20	Utah	C+	78
T-24	Florida	C+	76
T-24	North Carolina	C+	76
26	New Mexico	C+	75
27	Virginia	C	74
T-28	Kansas	C+	73
T-28	New Hampshire	C	73
T-28	Pennsylvania	C	73
31	South Dakota	C	72
32	Washington	C	71
33	Montana	C–	69
34	North Dakota	C–	68
T-35	New Jersey	C–	67
T-35	Vermont	C–	67
T-37	Maryland	D+	63
T-37	Mississippi	D+	63
T-39	Maine	D+	62
T-39	Missouri	D+	62
41	Oklahoma	D+	60
42	Idaho	D	58
43	Georgia	D	57
44	Alabama	D	56
45	Rhode Island	D	55
46	Tennessee	D–	54
47	Hawaii	F	48
48	California	F	47
49	Alaska	F	46
50	Wyoming	F	35

Source: U.S. Public Interest Research Group, “Following the Money 2018,” April 2018.

When you want to help people, you tell them the truth. When you want to help yourself, you tell them what they want to hear.

–Thomas Sowell

Total Tax Burden

Much confusion exists concerning the actual tax burden facing Silver State residents. In popular narrative, Nevada is often referred to as a low-tax, business friendly state. However, the state tax burden, in isolation, is not what taxpayers find most relevant: It is the total tax burden – including the taxes assessed at federal, state and local levels.

It is this total tax burden that impacts human behavior – distorting investment and employment patterns and shifting consumer demand toward tax-exempt purchases. Differences in the tax burden across city, county, state and even national boundaries prompt both businesses and individuals to relocate with increasing frequency.

In fact, there has been a sizable population shift within the United States over the past decade as individuals have moved from high-tax states to low-tax states. Over this time, nearly one person per minute has left the 10 highest taxing states for states with lower tax burdens.[1]

While attention in Nevada is often drawn to a state-level tax burden that falls slightly below the national median, the local tax burden faced by Silver State residents is above the national median and partially offsets this minor advantage.

Key Facts

Nevadans face the 17th highest local government tax burden in the country. Tax collection data from the US Census Bureau show that Nevada's local government revenues were $701 higher per capita than the national median in 2021.[2]

Nevadans face the 31st highest state tax burden in the country. Tax collection data from the US Census Bureau show the state of Nevada received $10,944 per capita in tax revenue in 2021. This amount is $862 below the national median, although still thousands of dollars higher than other states that have rapidly attracted residents and investment dollars like Florida, Tennessee or Texas.

Total per capita government revenues in Nevada are near the national median. When both state and local government revenues are considered together, Nevada is neither a particularly low-tax, nor a particularly high-tax state. Silver State governments collected $15,001 for every man, woman and child in the state in 2021 – good for 32nd highest in the nation.[3]

Nevada's tax burden is at the median among contiguous states. Among regional neighbors, governments in California and Oregon receive more total tax dollars per capita than Nevada governments while those in Arizona, Idaho and Utah receive less.

[1] Arthur Laffer et al., Rich States, Poor States (15th Edition), American Legislative Exchange Council, 2022.
[2] US Department of Commerce, US Census Bureau, State and Local Government Finance.
[3] IBid.

A leading reason for high costs at the local government level is employee pay. Local government employee wages in Nevada in 2022 were 18.2% higher than the national average.[4] If local government workers in Nevada earned merely the national median wage for local government workers, Silver State taxpayers would realize a two-year savings approaching $150 million.[5]

Recommendations

Control local government spending. Through constitutional provision or statute, limit the growth in local government spending to the rate of population growth plus inflation. Lawmakers should also reform or repeal NRS 288, Nevada's collective bargaining statute, to eliminate upward pressure on local government spending from insider special-interest groups.

---

[4] See "Employee Earnings."
[5] Authors calculations based on data reported in U.S. Census Bureau, "Annual Survey of Public Employment & Payroll," 2021 release.

State and Local Government Revenue Per Capita, 2021*

State	State revenue, per capita	Rank	State	Local revenue, per capita	Rank	State	State + local revenue, per capita	Rank
VT	$31,554	1	DC	$29,245	1	VT	$33,846	1
RI	$19,572	2	NY	$13,551	2	DC	$29,245	2
AK	$19,362	3	CA	$11,827	3	NY	$27,720	3
DE	$17,526	4	AK	$ 9,890	4	AK	$26,307	4
HI	$17,453	5	WY	$ 9,599	5	CA	$25,170	5
MN	$16,928	6	NE	$ 8,405	6	RI	$23,468	6
CA	$16,781	7	WA	$ 8,345	7	MN	$21,254	7
NY	$16,686	8	IL	$ 7,614	8	OR	$20,810	8
NM	$16,568	9	CO	$ 7,237	9	HI	$20,783	9
OR	$16,319	10	MD	$ 7,004	10	WY	$20,536	10
CT	$15,538	11	ND	$ 6,968	11	CT	$20,359	11
ND	$15,201	12	MN	$ 6,895	12	DE	$20,172	12
AR	$14,200	13	OR	$ 6,629	13	NM	$19,396	13
MA	$14,153	14	MA	$ 6,582	14	ND	$19,373	14
WY	$14,132	15	CT	$ 6,568	15	WA	$19,156	15
IA	$14,000	16	IA	$ 6,552	16	MA	$19,081	16
WA	$13,293	17	**NV**	**$ 6,413**	**17**	IA	$18,480	17
SD	$13,234	18	VA	$ 6,347	18	SD	$17,160	18
MT	$12,698	19	TX	$ 6,293	19	NE	$16,832	19
WV	$12,547	20	PA	$ 6,115	20	MD	$16,493	20
ME	$12,127	21	NJ	$ 6,041	21	IL	$16,445	21
PA	$12,058	22	FL	$ 6,036	22	NJ	$16,361	22
NJ	$11,828	23	KS	$ 6,024	23	AR	$16,264	23
OH	$11,806	24	TN	$ 5,865	24	PA	$16,176	24
LA	$11,669	25	MI	$ 5,819	25	CO	$16,123	25
MS	$11,505	26	NC	$ 5,712	26	OH	$15,871	26
KY	$11,358	27	WI	$ 5,669	27	ME	$15,793	27
VA	$11,310	28	GA	$ 5,644	28	MT	$15,724	28
WI	$11,159	29	OH	$ 5,625	29	VA	$15,677	29
MD	$11,055	30	UT	$ 5,562	30	LA	$15,515	30
NV	**$10,944**	**31**	VT	$ 5,532	31	WV	$15,112	31
IL	$10,839	32	AL	$ 5,526	32	**NV**	**$15,001**	**32**
KS	$10,519	33	MO	$ 5,493	33	MS	$14,761	33
MI	$10,433	34	IN	$ 5,390	34	WI	$14,559	34
ID	$10,416	35	RI	$ 5,366	35	KS	$14,497	35
CO	$10,402	36	LA	$ 5,287	36	KY	$14,224	36
OK	$10,070	37	AZ	$ 5,277	37	MO	$14,089	37
MO	$ 9,895	38	SC	$ 5,224	38	UT	$14,084	38
UT	$ 9,885	39	SD	$ 5,169	39	GA	$14,081	39
NE	$ 9,827	40	NH	$ 5,147	40	MI	$14,044	40
GA	$ 9,783	41	ME	$ 5,122	41	NC	$13,865	41
NC	$ 9,737	42	NM	$ 5,068	42	TX	$13,832	42
NH	$ 9,639	43	MS	$ 4,979	43	OK	$13,341	43
IN	$ 9,600	44	MT	$ 4,536	44	SC	$13,263	44
AZ	$ 9,427	45	OK	$ 4,434	45	AZ	$13,229	45
SC	$ 9,406	46	DE	$ 4,424	46	IN	$13,153	46
TX	$ 9,015	47	ID	$ 4,239	47	NH	$13,133	47
AL	$ 8,685	48	KY	$ 3,982	48	ID	$12,990	48
TN	$ 8,160	49	AR	$ 3,935	49	TN	$12,790	49
FL	$ 7,677	50	HI	$ 3,913	50	AL	$12,624	50
DC	$ –	51	WV	$ 3,744	51	FL	$12,579	51

Source date: US Census Bureau, State and Local Government Finance.

*State revenue and local revenue may not add to values in state and local total columns due intergovernmental transfers.

I am favor of cutting taxes under any circumstances and for any excuse, for any reason, whenever it's possible.

-Milton Friedman

Tax Reform

For decades, Nevada lawmakers have discussed possibilities of tax "reform." Indeed, they have commissioned a growing library of studies to examine tax-reform possibilities only to later entirely ignore those studies' recommendations. Instead, "reform" has disingenuously become conflated with layering new taxes on top of the existing mix.

Nevada's most prominent fiscal challenges have occurred on the spending side of the ledger – not the revenue side. After all, excluding cyclical spending for unemployment benefits, Nevada's total spending has grown at an average annual rate of 9.3% over the past decade.[1] Given this reality, there is little reason to believe that Silver State government does not have sufficient revenue to sustain ongoing programs.

Nevertheless, Nevada Policy recognizes that no tax structure is perfect and that Nevada's taxing system could be improved, on a revenue-neutral basis, by designing reform around the considerations outlined here.

Key Points

Tax reform should minimize revenue volatility. Volatility in tax revenues exacerbates the tax-and-spend cycle. During periods of economic growth, upward volatility showers legislatures with unusually high revenues. Lawmakers have historically used these revenues to expand government programs and liabilities, even though such expansion regularly proves unsustainable when economic recession arrives.

When downturns do occur, downward volatility enlarges the deficit between revenues and the inflated spending levels previously committed to by lawmakers during the period of economic growth. Lawmakers have historically responded to this deficit by calling for new or higher taxes – only to once again over-commit tax dollars as soon as economic growth returns.

The tax structure should be designed to minimize distortions in economic behavior. Taxes that penalize specific behaviors or consumption patterns discourage individuals from engaging in those behaviors. These tax-induced distortions in decision-making push individuals away from welfare-maximizing behaviors and toward second-best alternatives. For instance, taxes on saving and investment such as capital gains taxes discourage individuals from saving and encourage immediate consumption, even though more savings might be preferable.

Compliance costs should be kept to a minimum. Complicated taxing mechanisms, such as the federal income tax, carry additional costs as filers must devote thousands of man-hours to understand the tax code and ensure compliance. The Tax Foundation estimates, for example, that compliance costs associated with the federal income tax amounted to $313 billion in 2022.[2]

Nevada lawmakers should avoid tax instruments that use complex arrays of deductions, stratified income brackets, or assessments at different rates depending on industrial classification.

Reform should protect tax equity. Taxpayers in similar circumstances should face similar tax burdens (horizontal equity). Taxpayers at different points along the income scale should also face a proportionally similar tax burden (vertical equity). Tax structures that are either overly regressive or overly progressive can obstruct economic growth and opportunity.

---

[1] See "Understanding Nevada's Budget."

Recommendations

If lawmakers are to pursue tax reform, it should be on a revenue-neutral basis. As this publication makes clear, current tax revenues in the Silver State are already more than adequate to sustain high-quality government services.

To the extent Silver State governments have failed to deliver high-quality services, the failure has resulted from poor policy design or implementation. The recommendations in this volume will correct for this.

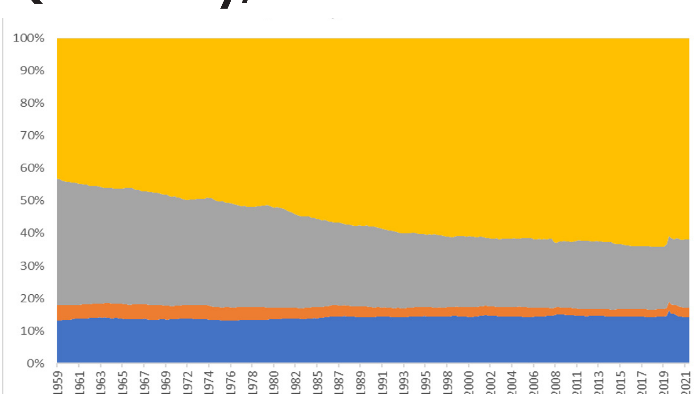
All four major objectives of tax reform can be accomplished through a revenue-neutral expansion of the sales tax base. Nevada Policy has laid out a plan for expanding the sales-tax base with a consequent lowering of the statewide sales tax rate to 3.5%.[3] That analysis should serve as a primary guideline to any potential tax reform.

Volatility levels of mayor tax instruments in NV, F99-FY09

Tax Instrument	Short-Run Elasticity (NV Personal Income)	Short-Run Elasticity (U.S. Personal Income)
Taxable Gaming Revenues	0.595	1.949
Sales & Use Taxes	1.031	2.211
Modified Business Tax	1.731	2.270
Insurance Premium Tax	1.193*	1.538*
Real Property Transfer Tax	-1.070**	-1.103
Liquor Tax	0.639	1.706
Cigarette Tax	0.305	1.204
Live Entertainment Tax	1.409	1.883
Governmental Services Tax	2.146*	1.297*
Corporate Income Tax (National Average)***	–	2.61

*Less statistical probability; indicating that variability is likely not associated with the business cycle.
**Declining sales in the real estate market preceded the decline in the overall economy, creating the statistical illusion that revenues from this tax instrument are counter-cyclical.
***Volatility values for state corporate income taxes were generated by analysts at the Federal Reserve Bank of Kansas City.
Source: Geoffrey Lawrence, "One Sound State, Once Again," NPRI policy study, 2010.

United States household consumption by mayor type, Quarterly, 1959 - 2022



Source: U.S. Department of Commerce, Bureau of Economic Analysis

Housing
Durable goods
Nondurable goods
Services

[2] Tax Foundation, "The Tax Compliance Costs of IRS Regulations," August 2022.
[3] Geoffrey Lawrence, "One Sound State, Once Again," Nevada Policy Research Institute policy study, 2010.

Gross Receipts Tax (Commerce Tax)

In 2003, Gov. Kenny Guinn proposed a new tax instrument to be levied against the gross revenue of Nevada businesses. Lawmakers rejected the scheme in favor of the current Modified Business Tax, a tax on private-sector payroll. Still, the idea has continued to retain zealous supporters.

In 2011, some lawmakers proposed a modified GRT, called a business “margin tax,” that would be assessed at a rate of 0.8% against gross profits prior to deductions for administrative and selling expenses. The proposal gained little support, but the next year, the state AFL-CIO and teacher union qualified a version of the proposal as a ballot initiative. That version more than doubled the rate of assessment to 2.0% and also changed some key legal definitions. The ballot initiative was defeated by a 4-to-1 margin.

Once re-elected in 2014, however, Gov. Sandoval included a new GRT in his 2015-2017 budget. Multiple versions were proposed by the administration and debated by lawmakers until a final version, called the “commerce tax,” could achieve the two-thirds supermajority required for passage.

Key Points

The commerce tax is a GRT like all its antecedents. The tax base for the commerce tax is a firm’s gross income, the top line on its income statement. Tax liability is assessed as a percentage of this figure regardless of the firm’s costs or profitability.

Gross receipts taxes are “distortive and destructive.” The Tax Foundation calls GRTs “distortive and destructive,” because they “pyramid” up the supply chain, being assessed at every level of production. Thus, highly complex goods that require multiple stages of production are repeatedly subjected to the tax. This results in a higher effective tax rate on more complex goods, which distorts economic behavior. As the Tax Foundation says, “Gross receipts taxes do not belong in any program of tax reform.” [1]

The commerce tax, like other GRTs, imposes high compliance costs. Every Nevada firm is required to file a commerce tax return with the state taxation department even if owners won’t be subject to the tax. This requires that they delineate all revenues earned within and without the state’s boundaries. For many Nevada businesses, the new accounting costs for this delineation may be higher than the taxes paid.

The commerce tax is more pernicious than previous incarnations. Apologists for the commerce tax argue that the currently applicable tax rates are lower than those under previous GRT proposals and that the tax contains an exemption for the first $4 million in Nevada gross receipts. However, the bill’s authors divided their private sector targets into 26 different categories, all with unique rates, so that future legislatures can pit one industry against another to extract higher taxes.

The biggest proponents of the commerce tax are exempt from it. Several large gaming companies have been the behind-the-scenes movers for imposing a GRT upon other Nevada businesses. They were able to write language into the legislation that exempts their gaming revenue and their Real Estate Investment Trusts, which these companies have used to structure their multi-billion dollar real-estate holdings.

Recommendations

---

[1] Joseph Henchman, “Nevada May Consider New Business Taxes,” Tax Foundation Fiscal Fact No. 270, 2011.

[2] Ibid.

Repeal the commerce tax and abandon GRTs. The Tax Foundation declares, "There is no sensible case for gross receipts taxation, or modified gross receipts taxes such as a Texas-style margin tax."[2]

Indeed, there is broad consensus among tax economists that gross receipts taxes are more destructive than alternative tax instruments yielding similar amounts of revenue. As such, Nevada lawmakers should immediately repeal the destructive and unpopular commerce tax and never again consider a GRT in Nevada.

Washington's 2009-2011 Purchase Plan for Student Achievement (Sample Items)

Industry	Number of Business Entities	Taxable Nevada Gross Receipts	Commerce Tax Rate	Estimated Commerce Tax	Average Commerce Tax/Entity
Agriculture	274	$102,134,105	0.063%	$64,344	$3,575
Mining & Extractive Industries	260	114,947,920	0.051%	58,623	2,931
Utilities	33	9,740,457,143	0.136%	13,247,022	441,567
Construction	5,710	9,565,342,791	0.083%	7,939,235	8,841
Manufacturing (NAICS 31)	277	458,857,817	0.091%	417,561	10,439
Manufacturing (NAICS 32)	518	775,058,625	0.091%	705,303	8,816
Manufacturing (NAICS 33)	988	880,089,853	0.091%	800,882	19,534
Wholesale Trade	4,647	18,404,647,387	0.101%	18,588,694	17,857
Retail Trade (NAICS 44)	3,189	29,658,883,166	0.111%	32,921,360	43,778
Retail Trade (NAICS 45)	1,592	7,077,836,386	0.111%	7,856,398	44,386
Transportation & Warehousing (NAICS 48)	1,241	1,190,638,914	0.058% – 0.331%	1,394,555	14,086
Transportation & Warehousing (NAICS 49)	483	985,769,826	0.128%	1,265,417	38,346
Information	1,083	2,305,083,749	0.136% - 0.253%	4,204,826	40,046
Finance & Insurance	3,175	5,398,751,401	0.111%	5,992,614	25,719
Real Estate Leasing	3,162	1,601,207,485	0.250%	4,003,019	27,607
Professional Services	9,497	3,204,491,479	0.181%	5,800,130	17,366
Management of Companies	1,502	12,827,980	0.137%	17,574	2,511
Administrative & Waste Management	4,923	3,640,794,762	0.154% - 0.261%	5,693,352	22,773
Educational Services	788	189,597,280	0.281%	532,768	19,732
Health Care & Social Assistance	5,667	10,672,432,316	0.190%	20,277,621	41,896
Arts, Entertainment & Recreation	1,291	1,180,676,395	0.240%	2,833,623	20,240
Accommodation & Food Services	3,947	3,223,386,639	0.194% - 0.200%	6,330,042	22,607
Other Services	3,331	677,146,417	0.142%	961,548	8,903
Unclassified	764	64,688,898	0.128%	82,802	5,914
Total	**58,342**	**$111,125,748,733**	**N/A**	**$141,989,314**	**$26,510**

Source: Eugenia Larmore and Brian Bonnenfant, "Analysis of Nevada Commerce Tax Impacts by Industry," Ekay Economic Consultants Report Prepared for University of Nevada, Reno College of Business, July 2015.

State Lottery

Nevada lawmakers have repeatedly considered creating a state-run lottery to generate additional state revenue. In so doing, however, lawmakers have purposefully ignored the advice of their own consultants.

In 1988, Nevada lawmakers commissioned a tax study from the Urban Institute and Price Waterhouse.[1] This study is still regarded as the most significant and comprehensive examination of Nevada's fiscal structure.

The study contains an entire chapter that examines whether Nevada should adopt a state-run lottery and concludes that the state should not do so for several reasons.

Key Points

State-run lotteries do not generate significant revenues. Lottery revenues account for less than 3% of total tax revenues, on average, in states that administer these games.[2]

State-run lotteries are not stable revenue sources. Nationwide, state lottery revenues fluctuate dramatically from year to year – for many reasons. Data shows that lottery revenues have increased by as much as 250% percent year-over-year, and have decreased by as much as 50% percent year-over-year. This high degree of volatility renders budgetary planning based on these revenues extremely difficult.[3]

State-run lotteries are a highly regressive form of taxation. Studies indicate that individuals at the bottom of the income scale spend a far higher percentage of their income on state lottery purchases, making state lotteries a highly regressive implicit tax. In fact, as Price Waterhouse says, "The information indicates that as a tax, lotteries are among the most regressive."[4]

In Nevada, a state-run lottery would compete directly with the private sector. Nevada is most unique among the states in the extent to which private-sector gaming is a legal enterprise. A state-run lottery would compete directly with private forms of lottery such as keno. Moreover, the state already draws revenue from these private-sector games through its array of gaming taxes.

Recommendations

Do not create a state-run lottery. As Price Waterhouse – the Nevada Legislature's own tax consultant – has concluded, "A state-run lottery fails every test of a 'good' tax policy. In Nevada, gaming should be left to the private sector." [5]

---

[1] Ed. Robert D. Ebel, A Fiscal Agenda for Nevada, The Urban Institute and Price Waterhouse, Prepared for the Nevada Legislature, University of Nevada Press, Reno, 1990.
[2] Ibid, p. 418.
[3] Ibid, p. 420.
[4] Ibid, p. 422.
[5] Ibid, p. 17.

State Lottery Revenues, by State, 2020 (In Thousands)

State	Income	Prices	Administration	Net Proceeds
Alabama	.	.	.	.
Alaska	.	.	.	.
Arizona	$1,023,405	$737,910	$42,211	$243,284
Arkansas	$531,443	$369,608	$44,448	$117,386
California	$6,622,003	$4,403,715	$313,998	$1,904,290
Colorado	$608,871	$424,560	$44,181	$140,130
Connecticut	$1,232,389	$822,243	$63,310	$346,837
Delaware	$303,083	$189,235	$10,776	$103,071
Florida	$7,090,784	$5,030,240	$189,907	$1,870,637
Georgia	$4,347,044	$3,045,570	$173,110	$1,128,364
Hawaii	.	.	.	.
Idaho	$255,657	$185,847	$13,896	$55,915
Illinois	$2,841,724	$1,842,188	$308,552	$690,984
Indiana	$1,289,404	$914,165	$72,502	$302,737
Iowa	$347,639	$236,317	$30,742	$80,580
Kansas	$249,305	$166,527	$17,569	$65,208
Kentucky	$1,132,397	$801,241	$58,161	$272,995
Louisiana	$480,233	$277,915	$25,860	$176,457
Maine	$293,293	$213,659	$16,845	$62,790
Maryland	$2,026,035	$1,369,036	$61,488	$595,511
Massachusetts	$5,246,038	$3,865,966	$101,761	$1,278,311
Michigan	$3,847,471	$2,640,004	$93,921	$1,113,546
Minnesota	$623,727	$440,231	$27,913	$155,584
Mississippi	$280,066	$198,263	$9,566	$72,237
Missouri	$1,423,039	$1,062,490	$54,154	$306,395
Montana	$59,855	$36,766	$7,872	$15,217
Nebraska	$171,708	$108,270	$20,389	$43,049
Nevada	.	.	.	.
New Hampshire	$369,151	$246,878	$22,752	$122,604
New Jersey	$3,030,187	$1,969,611	$113,158	$947,419
New Mexico	$127,053	$68,289	$11,948	$38,547
New York	$8,331,360	$4,623,604	$393,322	$3,314,434
North Carolina	$2,753,135	$1,957,586	$68,067	$725,486
North Dakota	$23,318	$12,669	$5,072	$5,577
Ohio	$3,237,953	$2,259,251	$87,740	$978,702
Oklahoma	$267,939	$166,693	$30,371	$70,875
Oregon	$927,391	$223,501	$127,734	$576,156
Pennsylvania	$4,139,905	$2,927,555	$106,924	$1,105,426
Rhode Island	$429,441	$156,724	$16,721	$255,997
South Carolina	$1,958,153	$1,424,229	$46,750	$487,174
South Dakota	$175,450	$36,147	$10,263	$129,040
Tennessee	$1,557,112	$1,092,050	$31,615	$433,497
Texas	$6,356,126	$4,442,358	$239,763	$1,674,006
Utah	.	.	.	.
Vermont	$128,726	$91,646	$9,698	$27,382
Virginia	$2,027,909	$1,318,103	$110,945	$598,860
Washington	$736,813	$530,238	$26,464	$180,111
West Virginia	$542,143	$127,853	$31,110	$383,180
Wisconsin	$684,462	$453,523	$48,840	$182,209
Wyoming	$22,546	$13,779	$2,620	$6,147

Source: U.S. Census Bureau, State Government Finances, Income and Apportionment of State-Administered Lottery Funds, 2020.

Tax Film Credit

In 2013, lawmakers created a new, transferable tax credit for film production in Nevada. The credit is worth up to 19% of total production costs and can be applied against most state taxes.[1] In 2021, lawmakers expanded this program by making not only feature films eligible, but also commercials and other short-form content.[2]

A unique characteristic of the credit is its transferability, meaning that film producers who qualify for the credit can sell it on a secondary market to speculators or to Nevada-based firms that can use the credit. Other states have created similar transferable tax credits in recent years and an online exchange has emerged to facilitate trading of these credits. Typically, the final recipient who intends to use the credit will acquire it for 70 to 85 cents on the dollar, while film producers can gain up-front liquidity to finance a film through sale of the asset.[3]

The state Office of Economic Development, which administers the new tax credit program, was authorized to award as much as $20 million annually in transferrable film tax credits through the end of calendar year 2017. After that authorization was temporarily diverted to provide transferable tax credits to Tesla Motors, the 2015 legislature made the film tax credit permanent with annual funding subject to legislative appropriations.[4] In 2023, lawmakers proposed to expand this tax credit to as much as $190 million annually for 25 years (roughly $4 billion in total) to lure film studios to Nevada.[5]

Key Points

The value of the credit far exceeds film producers' actual tax liability. The Office of Economic Development is instructed to reward qualified applicants a tax credit equaling 15% of total production costs at minimum. Proposed legislation in 2023 would expand this up to 30%. The value of the credit far exceeds any Modified Business Tax or sales tax liability that film producers are likely to accrue during the course of shooting a film. That means the credit is essentially a direct subsidy from state taxpayers for film production.

Film tax credits have been a net loser in other states. Advocates of tax credits for film production like to cite Louisiana's program as a model of success. In 1992, Louisiana began to offer a film tax credit for "investment losses in films with substantial Louisiana content."

In 2005, nonpartisan legislative staff reviewed the impact of the credit and determined that it resulted in major losses for the state's general fund even after accounting for any boost in employment or tourism that could be attributed to the credit. For each of the years 2006 through 2011, the Legislative Fiscal Office estimated that the credit would result in a net loss to the general fund of at least $48 million.[6]

In North Carolina, as well, legislative fiscal staff reviewed the impact of $30.3 million in film tax credits awarded in 2011. "Under the most plausible assumptions," report staff, "the Film Credit likely attracted 55 to 70 new jobs to North Carolina in 2011… The Film Credit created 290 to 350 fewer jobs than would have been created through an across-the-board tax reduction of the same magnitude."[7]

Similarly, in Ohio, an analysis of that state's film tax credit performed at Cleveland State University reached similar conclusions: Only $5.9 million of the $28.3 million awarded in tax credits has returned to the state in the form of

[1] Nevada Legislature, 77th Session, Senate Bill 165.
[2] Nevada Legislature, 81st Session, Assembly Bill 69.
[3] Geoffrey Lawrence, "Can Hollywood be 'Caged' in Nevada?" NPRI commentary, October 2, 2013.
[4] Nevada Legislature, 78th Session, Senate Bill 94.
[5] Nevada Legislature, 82nd Session, Senate Bill 496.
[6] State of Louisiana, Legislative Fiscal Office, "Film and Video Tax Incentives: Estimated Economic and Fiscal Impacts," March 2005.

additional revenue. In other words, Ohio loses 79 cents on the dollar.[8]

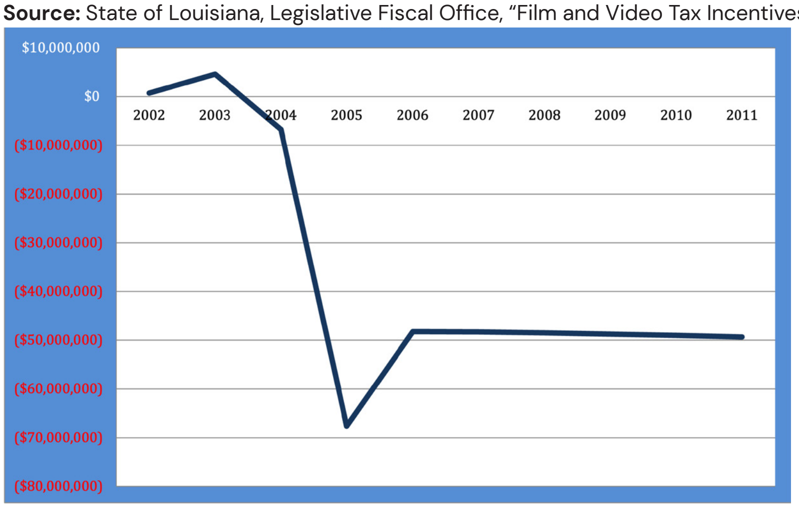
After flailing performance, other states are now eliminating film tax credits. Nevada chose to enact its film tax credits at a time when other states are scaling back or ending them. Since 2009, at least eight states have either eliminated their film tax credits or stopped appropriating money for them. Nine other states have scaled back the value of the credits offered or the total amounts available for the credit.[9]

Recommendations

Eliminate the film tax credit. Nevada has much greater needs for tax dollars than to subsidize film producers.

Net State Tax Impact of Film Tax Credtis in Louisiana, 2002-2011

Source: State of Louisiana, Legislative Fiscal Office, "Film and Video Tax Incentives," March 2005.



Year	States with Film Incentive Program	Incentive Amounts Offered
1999 and earlier	4	$2 million
2000	4	$3 million
2001	4	$1 million
2002	5	$1 million
2003	5	$2 million
2004	9	$68 million
2005	15	$129 million
2006	24	$369 million
2007	33	$489 million
2008	35	$807 million
2009	40	$1.247 billion
2010	40	$1.396 billion
2011	37	$1.299 billion

Source: Tax Foundation, "More States Abandon Film Tax Incentives as Programs' Ineffectiveness Becomes More Apparent," June 2011.

---

[7] North Carolina General Assembly, Legislative Services Office, Fiscal Research Division, "Memorandum: Film Tax Credits," April 9, 2013.
[8] Candi Clouse, "Analysis and Economic Impact of the Film Industry in Northeast Ohio & Ohio," Cleveland State University, Center for Economic Development, March 2012.
[9] Joseph Henchman, "More States Abandon Film Tax Incentives as Programs' Ineffectiveness Becomes More Apparent," Tax Foundation Fiscal Fact No. 272, June 2011.

Fiscal Transparency

Elected officials are the stewards of tax dollars and thus hold a fiduciary responsibility to taxpayers. Elected officials therefore have an obligation to demonstrate the faithful exercise of this fiduciary responsibility, and taxpayers have a right to know how their money is used.

For these reasons, it is imperative that government financial data is made available to citizens for review. Nevada took a major step forward in 2024 when Controller Andy Matthews made a searchable version of the state checkbook accessible online.

Key Points

A lack of transparency enables recklessness and corruption. When a knowledgeable citizenry is unable to easily access and understand government financial data, unscrupulous individuals within government can more easily perpetrate fraud without fear of getting caught. Questionable or reckless spending may also occur that does not rise to the level of fraud.

The large majority of public officials and employees, along with taxpayers, want to ensure that public dollars are spent appropriately and do not wish to see their profession tarnished by the unscrupulous actions of a few individuals. Fiscal transparency therefore enjoys wide support from across the political spectrum.

Legacy financial systems offer limited transparency, but are being replaced. Taxpayers deserve a clear accounting of each tax dollar, including the identification of all vendors and other recipients of public funds. The progress of computer applications and online technologies should allow citizens to access a searchable database of this nature through an "online checkbook."

Several states have created an online checkbook and many also contain advanced analytical tools. Online checkbooks in Ohio and West Virginia are among the most recent and are currently ranked at the top by U.S. Public Interest Research Group.[1]

In 2011, Nevada launched its "Nevada Open Government" website, which provides a fund-level overview of revenue and spending, but its utility is limited because it does not provide a granular accounting of individual checks.

Transparency should apply to all uses of public funds. Payments to vendors and professional contractors are not the only items that should be reported to citizens. There should also be a clear accounting of monies spent to compensate public employees, both in terms of salary and benefits. This administrative cost should be delineated clearly from amounts used to provide transfer payments or other services to beneficiaries.

---

[1] U.S. Public Interest Research Group, "Following the Money 2018," April 2018.

PERS has flouted judicial rulings and concealed financial data. Nevada's Public Employees' Retirement System provides publicly funded pension benefits to state and local government employees, meaning data about payments to beneficiaries should be public information. Yet, PERS twice refused to follow court orders to make this information available. In a third ruling, a District Court judge found that "PERS has sequentially manufactured barriers to prevent it from meeting its disclosure obligations to the public" and expressed concern about the "truthfulness" of its executive officer. [2]

Recommendations

Expand online checkbook to include local governments. The financial transparency portal developed by the Nevada Controller's Office in 2024 was engineered with the capability to host financial data of local governments at no additional cost. Lawmakers should require or encourage local governments to participate.

Enact strict penalties for officials who willfully withhold public financial data. Any agency that receives any appropriated monies from a state or local government should make its financial records searchable and easily accessible. Elected officials should hold accountable any recipient of these funds who refuses to make these records publicly available by imposing strict civil or criminal penalties in their personal capacity.

[2] Marth Bellisle, "Judge Orders Nevada PERS to Give RGJ Benefit Records," Reno Gazette-Journal, April 11, 2014.

U.S. PIRG Rankings for Fiscal Transparency

2018 Rank	State	Grade	2018 Score
T-1	Ohio	A+	98
T-1	West Virginia	A+	98
T-3	Minnesota	A	94
T-3	Wisconsin	A	94
T-5	Arizona	A–	93
T-5	Connecticut	A–	93
7	Iowa	A–	91
8	Louisiana	A–	90
9	South Carolina	B+	87
T-10	Kentucky	B	85
T-10	**Nevada**	**B**	**85**
12	Illinois	B	84
13	Indiana	B	83
T-14	Arkansas	B–	82
T-14	Texas	B–	82
16	Oregon	B–	81
T-17	Delaware	B–	80
T-17	Massachusetts	B–	80
T-17	Nebraska	B–	80
T-20	Colorado	C+	78
T-20	Michigan	C+	78
T-20	New York	C+	78
T-20	Utah	C+	78
T-24	Florida	C+	76
T-24	North Carolina	C+	76
26	New Mexico	C+	75
27	Virginia	C	74
T-28	Kansas	C+	73
T-28	New Hampshire	C	73
T-28	Pennslyvania	C	73
31	South Dakota	C	72
32	Washington	C	71
33	Montana	C–	69
34	North Dakota	C–	68
T-35	New Jersey	C–	67
T-35	Vermont	C–	67
T-37	Maryland	D+	63
T-37	Mississippi	D+	63
T-39	Maine	D+	62
T-39	Missouri	D+	62
41	Oklahoma	D+	60
42	Idaho	D	58
43	Georgia	D	57
44	Alabama	D	56
45	Rhode Island	D	55
46	Tennessee	D–	54
47	Hawaii	F	48
48	California	F	47
49	Alaska	F	46
50	Wyoming	F	35

Source: U.S. Public Interest Research Group, "Following the Money 2018," April 2018.

The combination of economic and political power in the same hands is a sure recipe for tyranny.

–Milton Friedman

PERS: Assessing the Liability

Official financial statements from the Nevada Public Employees' Retirement System indicate that, at the close of FY 2021, the system held $58.3 billion in assets versus $76.6 billion in liabilities. This ratio would mean that PERS has a funding ratio of 76.2% and an unfunded liability of $18.3 billion.[1]

However, the actuarial accounting method used by PERS and other public-sector pension programs is at odds with the generally accepted method that private companies use to value future liabilities. The PERS method glosses over most of the system's unfunded liability by failing to account for risk.

If PERS accounted for risk within its investment portfolio as private-sector pensions and other entities must do, it would become clear that PERS' official liability estimates are dramatically understated. The true value of the system's unfunded liability at the close of FY 2010, for example, was about $41.0 billion while PERS only reported an unfunded liability of $10.4 billion.[2]

Key Points

Actuarial accounting conflates assets and liabilities. PERS accounting methods discount the value of expected future liabilities by the system's assumed annual rate of return on investments (7.25%) to calculate the present value of liabilities. However, finance professionals generally agree that liabilities should be calculated independently of assets. The future value of financial securities are uncertain, while liabilities can be calculated with exactitude.

PERS does not account for risk in its investment portfolio. If retirement benefits promised to government workers in the Silver State are regarded as a zero-risk guarantee, then PERS accounting should backstop these benefits with zero-risk investments, or at least investments that are price-adjusted for risk.

The retirement system's current accounting practices treat high-risk investments the same as low-risk investments. This failure to account for the pricing of risk forces a contingent liability onto taxpayers when risky investments do not achieve the expected yield.

PERS accounting encourages risky behavior. PERS accounting practices allow administrators to incorporate illusory gains into the balance sheet immediately – despite the fact that those gains might never actually be realized in the marketplace. Administrators then must try to realize those gains and may be encouraged to purchase risky assets to achieve the return they need.

PERS expected rate of return has not always been realistic. PERS assumes that it can receive a 7.25% return on investments every year into perpetuity. However, in the decade between 2014-2023, the system achieved this return six times. When the targeted return isn't achieved PERS must reverse gains it has already effectively recognized, leading to a deterioration of the balance sheet.

---

[1] Nevada PERS, 2023 Comprehensive Annual Financial Report (Differences due to rounding).

[2] Andrew Biggs, "Reforming Nevada's Public Employees Pension Plan," NPRI policy study, 2011.

Depending on the future trajectory of Federal Reserve target rates, PERS may be unlikely to again see the higher return rates earned in decades past. The zero-risk baseline for earnings – 10-year federal Treasury bond yields – has fallen from the 8-plus percentage point range of the 1980s to around 5.3% today.

Therefore, the rate of return assumed by PERS should be adjusted downward to reflect the lower yield of today's zero-risk or risk-adjusted assets. This will re-incorporate the contingent liability and reveal the true size of the system's unfunded liability – estimated at $41.0 billion as of FY 2010.[3]

Recommendations

Require PERS to incorporate a market-based accounting approach. If policymakers and taxpayers want to uphold the promises made to public employees in Nevada, they first need to have a clear understanding of what those promises entail. Public pension systems are recommended to follow GASB standards, but can elect to follow more rigorous FASB standards.

Federal Reserve Board economists, along with many others, have urged this shift in accounting practices for public pension systems.[4]

---

[3] Ibid.

[4] See, e.g., Donald Kohn, "Statement at the National Conference on Public Employee Retirement Systems Annual Conference," May 20, 2008; David Wilcox, "Testimony before the Public Interest Committee Forum sponsored by the American Academy of Actuaries," September 4, 2008.

Summary Data for Nevada PERS Financing Under Current Valuation Practices, as of June 30, 2010.

	Regular	Police/Fire	Total
Employer normal cost	$712,018,796	$271,754,563	$983,773,359
Employee contribution	$90,295,302	$16,741,883	$107,037,185
Total normal cost	$802,314,098	$288,496,446	$1,090,810,544
Unfunded liability	$7,950,505,956	$2,401,769,113	$10,352,275,069
Annual amortization payment	$387,114,092	$116,943,334	$504,057,426
Payroll	$4,943,566,092	$968,353,118	$5,911,919,210
Percent of Payroll			
Employer normal cost	14.4%	28.1%	16.6%
Employee contribution	1.8%	1.7%	1.8%
Total normal cost	16.2%	29.8%	18.5%
Unfunded liability	160.8%	248.0%	175.1%
Annual amortization payment	7.8%	12.1%	8.5%
Total employer cost	22.2%	40.1%	25.2%

Source: Nevada PERS CAFR, June 30 2010.

Summary Data for Nevada PERS Financing Under Market Valuation, as of June 30, 2010.

	Regular	Police/Fire	Total
Employer normal cost	$2,171,657,328	$828,851,417	$3,000,508,745
Employee contribution	$275,400,671	$51,062,743	$326,463,414
Total normal cost	$2,447,057,999	$879,914,160	$3,326,972,159
Market assets (approx)	$16,628,121,287	$4,278,161,818	$20,906,283,105
Market liabilities	$48,709,012,854	$13,160,388,448	$61,869,401,302
Unfunded liability	$32,080,891,566	$8,882,226,630	$40,963,118,197
Annual amortization payment	$2,140,740,929	$646,696,637	$2,787,437,566
Payroll	$4,943,566,092	$968,353,118	$5,911,919,210
Percent of Payroll			
Employer normal cost	44%	86%	51%
Employee contribution	6%	5%	6%
Total normal cost	49%	91%	56%
Unfunded liability	649%	917%	693%
Annual amortization payment	43%	67%	47%
Total employer cost	87%	152%	98%

Source: Andrew Biggs, “Reforming Nevada’s Public Employees Pension Plan,” NPRI Policy Study, 2011.

The most harm of all is done when power is in the hands of people who are absolutely persuaded of the purity of their instincts–and the purity of their intentions.

–Milton Friedman

PERS: Structure of Benefits

When taxpayers' contingent liability for Nevada's Public Employees Retirement System is accounted for – through a market-based accounting technique – the system's unfunded liability has approached $41 billion.[1]

Obviously, an unfunded liability of such size means that Silver State taxpayers face a tremendous challenge in meeting obligations promised to Nevada's current and past public-sector workers. Moreover, given such a burden, Silver State taxpayers cannot allow PERS' unfunded liability to continue growing.

The system cannot count on achieving extraordinarily high returns, as it did in FY21, to fully reverse the growth in unfunded pension liabilities. This will also require some restructuring of benefits.

Key Points

Defined-benefits (DB) pension plans are bad for both taxpayers and government employees. The growing unfunded liability to which Nevada taxpayers are exposed stems from the fact that the pension benefits promised to retirees are certain whereas PERS investment returns are not. When a year's investment returns fall short, PERS increases the required annual contributions from taxpayers and employees alike to make up the difference.

Over the past 35 years, required contribution rates have more than doubled from 15 to 33.5% of pay for regular employees and from 17 to 50% of pay for police and fire. Supposedly, half of these required contributions are to be withheld from employee paychecks. However, union contracts increasingly require local-government employers – that is, taxpayers – to fund their entire contribution.[2]

Defined-contribution (DC) retirement plans offer greater cost control for both taxpayers and public employees. Similar to a private-sector 401(k), a DC plan would see taxpayers contribute a set amount into government workers' personal retirement accounts and then a knowledgeable portfolio manager, such as PERS, would invest those assets. Upon retirement, workers could purchase an annuity with the assets they've accumulated and draw a monthly benefit without ever having created any contingent liabilities. That means a DC plan would not continually consume larger portions of employees' take-home pay and would also save taxpayers from perpetually rising matching contributions.

Today's high contribution rates result in an intergenerational wealth transfer. A leading reason why contribution rates to PERS have grown so large is to pay down the accumulated, unfunded amount that's owed to employees in or near retirement. This means that younger workers, along with taxpayers, must pay more to finance the benefits of those who went before them in addition to financing their own future benefits. This inequity of the financing burden reduces take-home pay and makes public employment less attractive for skilled young professionals.

PERS board members are entrenched beneficiaries with a conflict of interest. Current law requires all PERS board members to be participants with at least 10 years' service time. As a result, the board is dominated by senior public employees who benefit from the intergenerational wealth transfer foisted on younger employees, creating the incentive to oppose any structural reform. Consequently, PERS officials routinely testify in opposition to reform legislation, while commissioning studies designed to make the existing DB plan look good by comparing it only to other DB plans with similar problems.[3]

Recommendations

Change composition of PERS board. Assembly Bill 3 of the 2015 session would have added three members to the

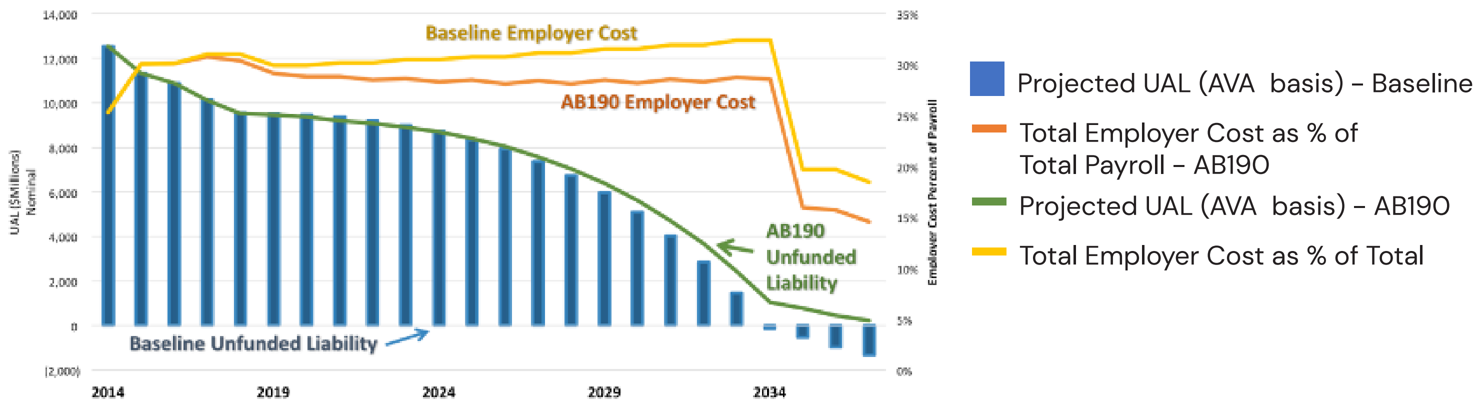
[1] See "PERS: Assessing the Liability."

[2] See "PERS: Local Government Employees."

board who are nonparticipants and have strong knowledge and background in financial planning.[4]

Restructure pension benefits around a Utah-style hybrid system. Assembly Bill 190 of the 2015 session would have transitioned new employees into a DC alternative while keeping the DB plan open to avoid any up-front transition costs.[5] Over time, it would allow the existing unfunded liability to be paid down and required contribution rates to fall back to historic levels, saving money for taxpayers and public employees alike.

Projected Unfunded Liability (AVA basis) and Total Employer Cost Current DB Plan (Combined) vs. AB190



Fiscal Effect of AB 190 Reform Plan: (Cost)/Savings

Inflation adjusted			
Fiscal Year	Regular	Public Safety	Combined Savings
FY 2017	$12 million	$2 million	$14 million
FY 2018	$27 million	$6 million	$33 million
Cumutative Savings			
FY 2017-2021 (5 yrs)	$177 million	$39 million	$216 million
FY 2017-2026 (10 yrs)	$604 million	$150 million	$754 million
FY 2017-2036 (20 yrs)	$1.85 billion	$576 million	$2.42 billion

Monthly Income Replacement Rates in Retirement, Baseline Case vs. AB 190 Reform Case

Retirement Age	Regular Employees		Public Safety Employees	
	Baseline	AB190	Baseline	AB190
52	41%	45%	64%	64%
57	72%	59%	71%	98%
62	72%	79%	71%	127%
67	72%	117%	71%	166%

Source: Reason Foundation, "AB 190 Pension Reform Actuarial Analysis," Presented to Nevada Assembly Committee on Ways and Means, April 2015.

[3] See, e.g., Aon Hewitt, "Report to the Retirement Board of the Public Employees' Retirement System of Nevada," November 2013.
[4] Nevada Legislature, 78th Session, Assembly Bill 3.
[5] Nevada Legislature, 78th Session, Assembly Bill 190.

PERS: Local Government Employees

Retirement benefits available to public employees through the Public Employees' Retirement System are financed by contributions from employees that are withheld from paychecks and from employers, frequently on a matching basis. These contributions provide the capital that PERS administrators then invest over time in order to build an asset capable of providing pension payments to the employee upon retirement.

Theoretically then, PERS retirements are financed jointly and equally by the employee and the employer. Each year, the system's actuary calculates the total annual contribution into the system that must be made in order to meet its future obligations and then breaks this amount down into a percentage of payroll. The current Actuarially Required Contribution amount is 33.5% of pay for regular employees and 50.0% of pay for police and firefighters. Of this amount, state law requires that employees contribute half, or 17.5% for regular employees and 25.75% for police and firefighters. The employing jurisdiction then matches this contribution.[1]

In practice, however, many local-government employees do not contribute their half because they have secured provisions in their collective bargaining agreements stipulating that the employer will make the full contribution.

Key Points

Local-government employees already receive more in salary than state employees. According to data from the U.S. Department of Labor, Nevada's local-government employees receive an average salary that is 10th-highest in the United States. State employees, however, receive an average annual salary that ranks 25th nationally, while workers in private industry receive an annual salary ranking 28th nationally.[2]

This means that Nevada's local-government employees are paid disproportionately to their peers in state government and private industry even before accounting for any difference in benefits. Their ability to evade personal contributions into PERS through collective bargaining agreements further inflates their take-home pay amount, vis-à-vis state employees, by 17.5% for regular employees or 25.75% for police and firefighters.

Pay disparity belies claims on employer certification filings. In order to prevent local-government employees and their unions from forcing all retirement costs onto the employer, lawmakers began requiring local governments to certify that any amounts paid by the employer above 50% of contributions are (1) made in lieu of salary increases; or (2) offset by reductions in base salaries. While local governments file annually with PERS and make these claims, such claims are undermined by the pay disparity between state and local-government workers for similar work. Instead, the annual employer certification letters appear to be a formality for satisfying the conditions of union contracts while ostensibly following the law.

Nevada's local governments spent nearly $1.5 billion during the 2015-2017 budget cycle to pay employees' share of PERS contributions. This amount is over and above what local governments pay to PERS on a matching basis with employees according to state law. This expense is for picking up the employees' portion of PERS contributions in addition to the employer's portion.[3]

Recommendations

[1] Nevada Revised Statutes, 286.410.

[2] See "Employee Earnings."

Require local-government employees to make personal contributions toward their retirement, as intended. State employees already follow the spirit of the law by contributing half of annual PERS payments from their paychecks. Local-government employees should be required to contribute with no loopholes for union contracts to exploit.

State Controller Ron Knecht proposed to balance the state budget in 2015 without tax increases, largely by requiring that local-government employees come only halfway to parity with their peers at the state level, contributing 7.0% of pay to PERS for regular employees and 10.0% for police and fire.[4]

Example Employer Certification Letter to NV PERS

Public Employees' Retirement System of Nevada
693 W. Nye Lane, Carson City, NV 89703 (775) 687-4200 Fax (775) 687-5131
5820 S. Eastern Ave. Suite 220, Las Vegas, NV 89119 (702) 486-3900 Fax (702) 678-6934
7455 W. Washington Ave. Suite 150, Las Vegas, NV 89128 (702) 486-3900 Fax (702) 304-0697
Toll Free 1-866-473-7768 Website www.nvpers.org

2015 Contribution Rate Change Certification

Agency Name: **Clark County**
Agency Number: **303**
Contribution Report Affected By New Rate: **AUGUST 2015**

INSTRUCTIONS

NRS 286.421(3) requires each employee to cost share 50% in the contribution rate, including contribution rate increases, through one of two methods: (1) in lieu of equivalent basic salary increases or cost of living increases; or (2) by reduction of salary.

A. In the box below, place an "L" in the space next to each employee group that paid the employee portion of the contribution rate increase "In Lieu Of" a promised pay increase effective July 1, 2015.

B. In the box below, place an "R" in the space next to each employee group that paid the employee portion of the contribution rate increase by a salary reduction effective July 1, 2015.

Employee Group*	Indicate "L" or "R"
1. Regular Members	R
2. Police/Fire Members	N/A — no rate change
3.	
4.	
5.	
6.	

*Employee Group represents Regular & Police/Fire Members

Liaison Officer Signature

Date 07/09/15

RECEIVED
JUL 09 2015
PERS OF NEVADA

---

[3] Nevada Controller's Office, "Balanced Plan for Growth," Presentation Delivered to Assembly Taxation Committee, May 14, 2015.
[4] Ibid.

OPEB Liability

Beginning in FY 2008, new accounting standards became mandatory for state and local governments, requiring these entities, for the first time, to carry on their balance sheets the full cost of future retiree benefits other than pensions.[1] In Nevada, these Other Post Employment Benefits (OPEB) consist of medical, prescription drug, dental and life insurance coverage.

The changed accounting standards made it immediately clear that Nevada governments faced large, looming and unfunded liabilities for providing these benefits: The first actuarial valuation made after the change revealed that the present value of future benefits would exceed $4 billion. Furthermore, Nevada governments had made no effort to prefund this obligation. While state and local governments were already spending $156 million annually to pay for benefits as they came due, they now needed to contribute an additional $130 million annually just to retire the unfunded liability within 30 years.[2]

This first-time recognition of Nevada governments' unfunded OPEB liabilities prompted action by lawmakers to change the design of medical benefits beginning in FY 2011. Starting that year, benefit plans would be changed from the conventional fee-for-service model to one in which a structure of premium support was combined with state contributions into a modified version of a Health Savings Account, called a Health Reimbursement Account (HRA).[3]

Key Points

Restructuring of benefits around HRAs has dramatically reduced OPEB liabilities. Few policy changes have been as immediately successful as Nevada lawmakers' decision to restructure OPEB benefits. According to actuarial valuations, the present value of future benefits already accrued fell by more than half as a result of the change – moving from $3.61 billion to $1.77 billion.[4] As of the most recent valuation (FY 2023), the present value of future benefits is $1.44 billion.[5]

Despite progress, the program remains dramatically underfunded. The most recent financial statements show that all future OPEB obligations remain unfunded. The plan's net position at the close of FY23 was $20 million in the red. Cash outflows have exceeded cash inflows in each of the past six years.

State and local governments do not always make the required annual contribution. During FY 2013, Nevada's governments only paid 38.7% of the annual contribution that would be required to make whole the state's OPEB obligations. Worse, this low amount was no aberration – in FY 2011, only 43.0% of the required contribution was made and, in FY 2010, only 21.6% of the required contribution was made.

Recommendations

Make required payments. Nevada's state and local governments must reduce spending elsewhere in order to keep up with the annual requirement contributions toward OPEB obligations that have already been incurred. Failure to address this issue will only make the problem worse.

[1] Government Accounting Standards Board Statements 43 and 45.
[2] Aon Consulting, "Nevada Public Employees' Benefits Program's Retiree Health and Life Insurance Plans Actuarial Report for GASB OPEB Valuation – Final," FY 2008.
[3] Aon Hewitt, "Nevada PEBP's Retiree Health and Life Insurance Plans Actuarial Valuation – Final," FY 2011.
[4] Ibid.
[5] Segal, "Nevada PEBP Retiree Health and Life Insurance Plans Actuarial Valuation Review," FY 2023.

Reporting Date for Employer under GASB 75	June 30, 2022	June 30, 2021
Measurement Date	**June 30, 2022**	**June 30, 2021**
Total OPEB Liability		
Service Cost	$52.675.056	$55,710,061
Interest	33,718,089	33,852,685
Change of benefit terms	38,605,492	0
Difference between expected and actual experience	(19,315,612)	(2,313,154)
Change of assumptions	(159,738,443)	(937,989)
Benefit payments, including refunds of member contributions	(64,012,286)	(44,187,551)
Net change in Total OPEB Liability	$(118,067,704)	$42,124,052
Total OPEB Liability – beginning	1,540,182,727	1,498,058,675
Total OPEB Liability – ending	$1,422,115,023	$1,540,182,727
Plan Fiduciart New Position		
Contributions – employer	$53,980,293	$39,563,787
Contributions – employee	0	0
Net investment income	(92,890)	307,551
Benefit payments, including refunds of member contributions	(64,012,286)	(44,187,551)
Administrative expense	0	0
Other	0	0
Net change in Plan Fiduciart New Position	$(10,124,883)	$(4,316,213)
Plan Fiduciart New Position – beginning	(9,967,828)	(5,651,615)
Plan Fiduciart New Position – ending	$(20,092,711)	$(9,967,828)
Net OPEB Liability – ending	$1,442,207,734	$1,550,150,555
Plan Fiduciary Net Position as a percentage of the Total OPEV Liability	(1.41)%	(0.65)%
Covered Payroll	$2,277,677,722	$2,090,281,552
Plan Net OPEB Liability as percentage covered payroll	63.32%	74.16%

Source: Nevada Public Employees' Benefit Program OPEB Actuarial Valuation Report, FY 2023.

Local Government Debt

Cities, counties and school districts in Nevada are legal subdivisions of the state. Unlike many states, Nevada has no municipal bankruptcy statute to allow mismanaged local governments to restructure debt obligations. This means the liability of poor fiscal management at the local government level ultimately falls upon state taxpayers.

As such, state lawmakers must remain vigilant over local government finances and indebtedness. Lawmakers are responsible for developing the finance rules within which local governments must operate and for monitoring to ensure that these statutory parameters are effectively safeguarding taxpayers' interests.

Key Points

Current local government debt restrictions are tied to property values. Because significant shares of local government revenues are generated through property taxes, local government debt limits are expressed as a percentage of the total assessed valuation (AV) within each jurisdiction. The limits are as follows:

Counties:	10% of AV
Cities:	Depends on charter
School Districts:	15% of AV
Towns:	25% of AV
General Improvement Districts:	50% of AV
Library Districts:	10% of AV
Hospital Districts:	10% of AV
Convention Centers:	10% of AV
Fire Protection Districts:	5% of AV

Revenue bonds and other special obligations do not count towards debt limits. Current statutory language exempts revenue bonds and similar special obligations from debt-limit restrictions even though these obligations can encumber local government finances. For example, revenue bonds issued by redevelopment agencies against future appreciation in property values can encumber for decades revenue that would otherwise be available to finance core government services.

To meet debt obligations in full, Nevada's local governments must pay more than $2.0 billion annually. The minimum debt payment for all local governments combined will be $2.090 billion for FY24, with Clark County governments owing $1.767 billion of that total.[1]

In total, local government debt exceeds $20 billion. As of June 30, 2023, the total of outstanding local government obligations in Nevada was $20.229 billion. That amount is 12.54% of the statewide assessed valuation total of $167.1 billion.

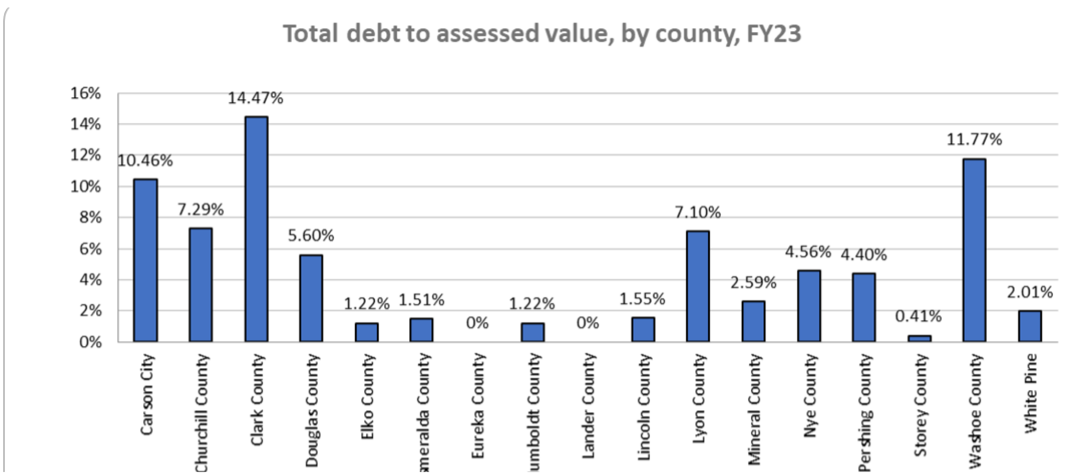
The debt-to-assessed-value ratio has fallen rapidly over the past decade as total assessed value has grown. At the close of FY14, total outstanding debt amounted to 23.5 of statewide assessed value. Local governments have retired only 7.7% of debt, on net, since FY15. Assessed values have grown 99.6% over the same time period, reflecting a rapid increase in the value of Nevada's real properties and, consequently, local governments' official bonding capacity.

Recommendations

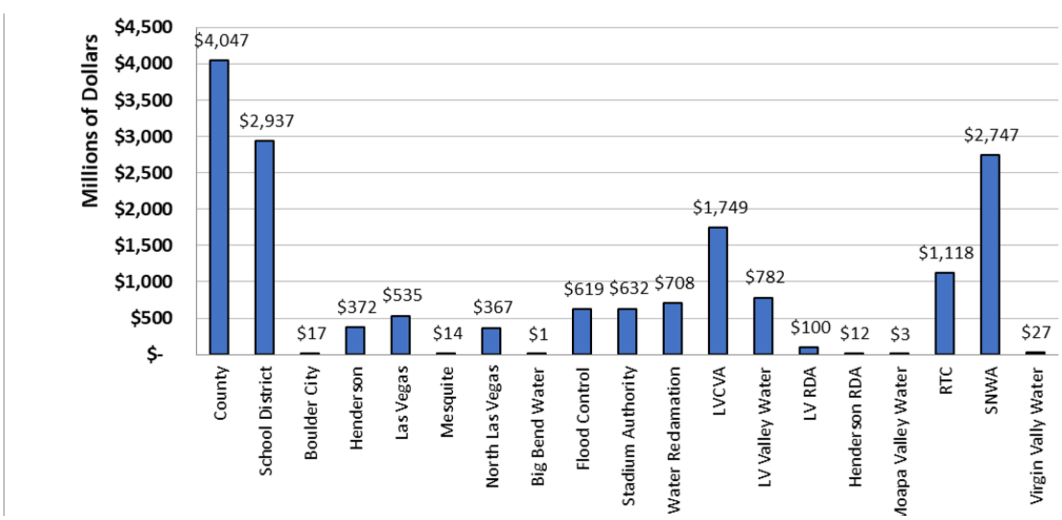
Reduce construction costs by repealing prevailing wage requirements. The bulk of local government bonds are issued to finance the construction of public infrastructure. These costs – and the bond issues required to finance them – can be dramatically reduced by repealing the state's prevailing wage requirements, which artificially inflate labor costs by about 45%, on average.[2]

Enact a municipal bankruptcy statute. State taxpayers should not be forced to act as a backstop for poor fiscal management by local politicians. Instead, local politicians who make elaborate and unaffordable promises should openly face the market discipline imposed by investors who must consider default risk.

Total debt to assessed value, by country, FY23



Outstanding obligations in Clark Country, FY23



Source: State of Nevada, Department of Taxation, "FY 2022-2023 Report of Local Government Indebtedness."

---

[1] State of Nevada, Department of Taxation, Division of Assessment Standards, "FY 2020-2021 Report of Local Government Indebtedness."
[2] See "Prevailing Wage."

Education Spending vs. Student Performance

Lawmakers often hear that the only way to boost educational performance is through massive increases in K-12 spending. It may seem intuitive that a greater input of funding should yield a superior educational output, or that lawmakers can "purchase" better educational results by simply allocating more money. However, public school districts have historically struggled to translate increased funding into improved student performance.

This unfortunate result occurs because public school districts – constantly subject to the political influence of entrenched interest groups – regularly fail to allocate resources cost-effectively.

Key Points

Nevada has more than doubled per-pupil funding, on an inflation-adjusted basis, while educational quality has deteriorated. The U.S. Department of Education reports that, between FY1970 and FY2021, real, per-pupil funding for "current expenditures" (not accounting for employee benefits, capital outlays and debt repayment) increased from $6,104 to $12,465.[1] Over the same time period, Nevada's performance on college admission exams, which measure students' ability to complete college-level coursework, have continually deteriorated.[2]

A majority of states that spend less than Nevada boast higher test scores. According to the U.S. Department of Education, Alabama, Arizona, Idaho, Mississippi, North Carolina, Oklahoma, Tennessee and Utah all spent less per pupil in FY21 than did Nevada. Half of those states outperformed Nevada on the NAEP 8th grade reading test and a majority outperformed Nevada in math.[3]

Nevada is a high spender for its neighborhood, but a low performer. Among Nevada's five contiguous neighbors, only California and Oregon spend more per pupil. However, of the five, only Oregon underperforms Nevada in student achievement.[4]

Student achievement is correlated with genuine education reform. Much more than per-pupil spending levels, specific education reforms have been shown to lead directly to greater student achievement. These reforms include school-choice programs, alternative teacher certification, teacher evaluations based upon student performance, leveraging technology and maintaining strict academic standards.[5]

Recommendations

Current per-pupil spending levels are appropriate to the region. Nevadans already spend more per pupil than a majority of their regional neighbors. Yet, children in Nevada outscore only those of Oregon – a regionally high-spending state. Nevada's educational challenges appear to be mainly structural.

Restore and expound on reforms enacted in 2011 and 2015. In 2011, lawmakers agreed to legislation creating an

[1] U.S. Department of Education, National Center for Education Statistics, Digest of Education Statistics, 2023.
[2] Ibid.
[3] Ibid.
[4] Ibid.
[5] Matthew Ladner, Ph.D. et al., "Report Card on American Education: Ranking State K-12 Performance, Progress and Reform, 16th Edition," American Legislative Exchange Council, 2010.

alternative teacher certification program, a statewide charter school authority and a meaningful evaluation system for teachers. In 2015, lawmakers also created an Achievement School District, ended the practice of social promotion and tried to create school choice.

In 2017 and 2019, lawmakers began walking back these changes. They decided not to evaluate teachers based on student performance,[6] weakened alternative teacher certification laws,[7] and repealed language authorizing education savings accounts.[8] Those incipient reforms have experienced great success in other states but were never given the chance to succeed in Nevada.

There are at least 33 ways to improve student performance without spending more. Nevada Policy has developed a comprehensive framework for school reform including 33 major components that should guide future legislative efforts.[9]

---

[6] Nevada Legislature, 79th Session, Assembly Bill 320.
[7] See "Alternative Teacher Certification."
[8] Nevada Legislature, 80th Session, Senate Bill 551.
[9] Geoffrey Lawrence, "33 Ways to Increase Student Achievement without Spending More," Nevada Policy Research Institute policy study, July 2014.

State	Total Spending per Student (2021)	Rank	NAEP 8th-grade math (2022)	Rank	NAEP 8th-grade reading (2022)	Rank
Alabama	$11,864	44	264	T-46	251	1
Alaska	$21,222	7	270	T-34	253	2
Arizona	$11,625	47	271	T-31	259	3
Arkansas	$12,912	40	267	43	255	T-4
California	$16,975	21	270	T-34	259	T-4
Colorado	$15,432	27	275	T-20	263	T-4
Connecticut	$23,988	5	276	T-16	264	T-7
Delaware	$18,047	16	264	T-46	253	T-7
District of Columbia	$33,222	1	260	T-49	250	T-9
Florida	$12,279	42	271	T-31	260	T-9
Georgia	$13,570	38	271	T-31	260	T-9
Hawaii	$17,588	20	270	T-34	259	T-9
Idaho	$10,261	51	282	T-2	264	T-9
Illinois	$20,843	8	275	T-20	262	T-9
Indiana	$12,811	41	279	T-9	261	T-15
Iowa	$15,206	28	277	T-14	260	T-15
Kansas	$14,328	32	272	T-28	256	T-15
Kentucky	$13,703	36	269	T-39	258	T-18
Louisiana	$14,102	33	266	T-44	257	T-18
Maine	$20,183	10	273	T-25	257	T-18
Maryland	$18,754	15	269	T-39	259	T-18
Massachusetts	$22,798	6	284	1	269	T-18
Michigan	$15,594	25	273	T-25	259	T-23
Minnesota	$17,594	19	280	8	260	T-23
Mississippi	$11,791	46	266	T-44	253	T-23
Missouri	$13,746	35	272	T-28	258	T-23
Montana	$15,546	26	277	T-14	261	T-23
Nebraska	$16,667	22	279	T-9	259	T-23
Nevada	**$12,074**	**43**	**269**	**T-39**	**259**	**T-23**
New Hampshire	$20,705	9	279	T-9	263	T-23
New Jersey	$24,403	4	281	T-3	270	T-23
New Mexico	$13,643	37	259	51	248	T-32
New York	$28,261	2	274	T-22	262	T-32
North Carolina	$11,552	48	274	T-22	256	T-32
North Dakota	$17,769	18	278	13	258	T-32
Ohio	$16,218	23	276	T-16	262	T-36
Oklahoma	$11,431	49	264	T-46	251	T-36
Oregon	$17,913	17	270	T-34	257	T-36
Pennsylvania	$19,824	12	274	T-22	259	T-39
Rhode Island	$19,691	13	270	T-34	259	T-39
South Carolina	$14,511	31	269	T-39	254	T-41
South Dakota	$13,239	39	281	T-3	262	T-41
Tennessee	$11,802	45	272	T-28	258	43
Texas	$13,900	34	273	T-25	255	T-44
Utah	$10,802	50	282	T-2	265	T-44
Vermont	$25,124	3	276	T-16	264	T-44
Virginia	$15,091	29	279	T-9	260	T-47
Washington	$19,310	14	276	T-16	262	T-47
West Virginia	$14,585	30	260	T-49	249	49
Wisconsin	$15,712	24	281	T-3	262	50
Wyoming	$19,938	11	281	T-3	261	51

Nevada Policy

Education Savings Accounts

In virtually every aspect of life, Nevadans demand choice. They expect a choice of grocers, retailers, food service providers, health care specialists and automobile manufacturers. Choice begets accountability because producers of these goods quickly learn that, to attract and retain customers, they must offer a product consumers are willing to pay for.

In 2015, lawmakers took a bold step toward giving Nevadans similar choices regarding their children's education by passing the nation's first near-universal program of Education Savings Accounts (ESAs).[1] An ESA is a private account into which the state deposits monies that parents can use for certain approved purchases. Approved purchases include tuition at a private or online school, transportation, textbooks, study materials and even private tutoring. The high degree of flexibility associated with an ESA means that each child can receive a course of study customized specifically for their individual needs.

Sadly, ESAs were enjoined by the Nevada Supreme Court in 2016 due to the funding mechanism. The court said the program must be funded through a separate account rather than through the state's account for distributing resources to school districts. Although some lawmakers proposed to do this in 2017 and 2019,[2] this new account was never created.

In 2019, new Senate Majority Leader Nicole Cannizzaro proposed and passed legislation eliminating all statutory authority for ESAs, along with eliminating tax relief and ensuring no additional low-income students could receive grants to pursue alternative education options.

Key Points

ESAs give children from poor families the same opportunities previously available only to children from wealthy families. Educational choice has always been available to those who have money and can afford private-school tuition on their own. It has traditionally been less affluent children who were forced to remain in underperforming public schools, perpetuating a cycle of poverty in some communities. ESAs can end this tragic cycle by offering an equality of opportunity.

Private schools yield better results. Nationwide, students in private schools score almost two grade levels higher on standardized math and reading tests than do their government-school peers.[3] Also, graduation rates and the likelihood of attending college are far higher among private school students.[4]

Every child can learn. It's not just the wealthy elite who perform well in private schools. Low-income beneficiaries of school choice programs in Washington, D.C., Milwaukee, Florida and elsewhere have shown significant improvement after participating in choice programs for only a few years.[5]

Choice improves government schools. Despite opponents' claims that choice programs "cream" the best students away from government-run schools, empirical evidence shows that the presence of alternatives leads to higher test scores and graduation rates even for those who choose to remain in a government school.[6] Because students with ESAs receive lower funding, the per-pupil funding level for those who choose to remain in public schools also rises.

---

[1] Nevada Legislature, 78th Session, Senate Bill 302.

[2] Nevada Legislature, 79th Session, Senate Bills 359 and 506; Nevada

[3] U.S. Department of Education, National Center for Education Statistics, Digest of Education Statistics, 2019.

[4] Ibid.

[5] See, e.g., Greg Forster, Ph.D., "A Win-Win Solution: The Empirical Evidence on School Vouchers," The Foundation for Educational Choice, 2011.

[6] Ibid.

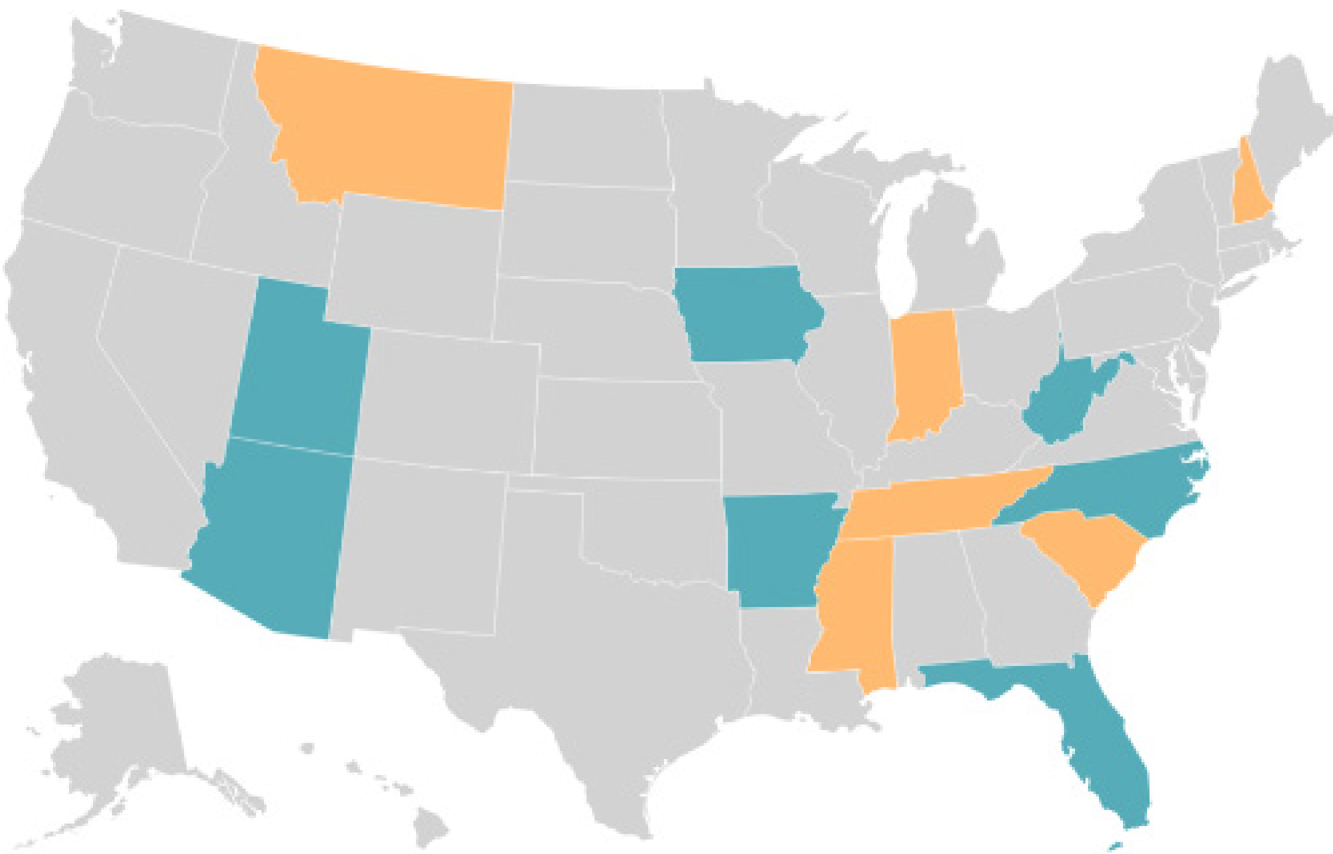
[7] ExcelinEd, "Education Scholarship Accounts."

ESAs have quickly become popular in other states. Nevada was an early leader when it first authorized an ESA program. Now, eight states have active ESA programs in place: Arizona, Florida, Indiana, Mississippi, New Hampshire, North Carolina, Tennessee and West Virginia.[7]

Recommendations

Restore authorization for Education Savings Accounts and cure funding deficiency. Lawmakers should restore the authorization provisions from Senate Bill 302 in the 2015 session, while correcting for the funding deficiency identified by the Nevada Supreme Court. Senate Bills 359 and 506 from 2017 each included language to cure this deficiency.

States with education savings accounts (ESA) programs



States with universal or near-universal ESA programs
States with only restricted ESA programs
States with no ESA programs

Nevada Opportunity Scholarship

In 2015, lawmakers created a new tax credit program intended to provide better educational options for the children of low-income families. The Nevada Opportunity Scholarship allowed any Nevada business facing a tax liability under the Modified Business Tax to contribute money to a scholarship-granting organization and receive a dollar-for-dollar tax credit. The program was initially capped at $5 million in total tax credits available per year, although it was adjusted for inflation.

In turn, nonprofit scholarship-granting organizations could use these funds to provide scholarships to families with a household income not more than 300% of the federal poverty level. These scholarships could finance private-school tuition, among other things. Scholarship-granting organizations could use no more than 5% of donations for administrative expenses, keeping the remaining 95% available for scholarships.[1]

Following a change of leadership in 2019, lawmakers prohibited Opportunity Scholarships from being extended to any student who had not already received one.[2] This restriction was removed in 2021 as part of a legislative compromise to raise mining taxes.[3] In 2023, Gov. Joe Lombardo proposed to expand the total tax credit that funds the program from $6.65 million to $25 million annually. Instead, lawmakers repealed the tax credit program entirely.

Key Points

Opportunity scholarships even the financial playing field. Educational choice has always been available to those who have money and can afford private-school tuition on their own. It has traditionally been less affluent children who were forced to remain in underperforming public schools, perpetuating a cycle of poverty in some communities. As a means-tested scholarship, opportunity scholarships benefit this specific demographic.

Opportunity scholarships are less costly per pupil than public school expenditures. The total value of Opportunity Scholarships varies by provider, but has ranged between $3,805 and $6,645 per student.[4] By contrast, average spending per student in Nevada public schools was $12,074 in FY 2021.[5]

This means Opportunity Scholarships don't just provide options to new students, but they result in increased per-pupil funding for students who remain in public schools. Every Opportunity Scholarship results in $5,429 to $8,269 in savings that can be allocated across students remaining in public schools.

Every child can learn. It's not just the wealthy elite who perform well in private schools. Low-income beneficiaries of school choice programs in Washington, D.C., Milwaukee, Florida and elsewhere have shown significant improvement after participating in choice programs for only a few years.[6]

Choice improves government schools. Despite opponents' claims that choice programs "cream" the best students away from government-run schools, empirical evidence shows that the presence of alternatives leads to higher test scores and graduation rates even for those who choose to remain in a government school.[7]

Recommendations

Reinstate and expand the Nevada Opportunity Scholarship. The Opportunity Scholarship has improved the educational landscape for thousands of low-income students. It should be made available to an increasingly large

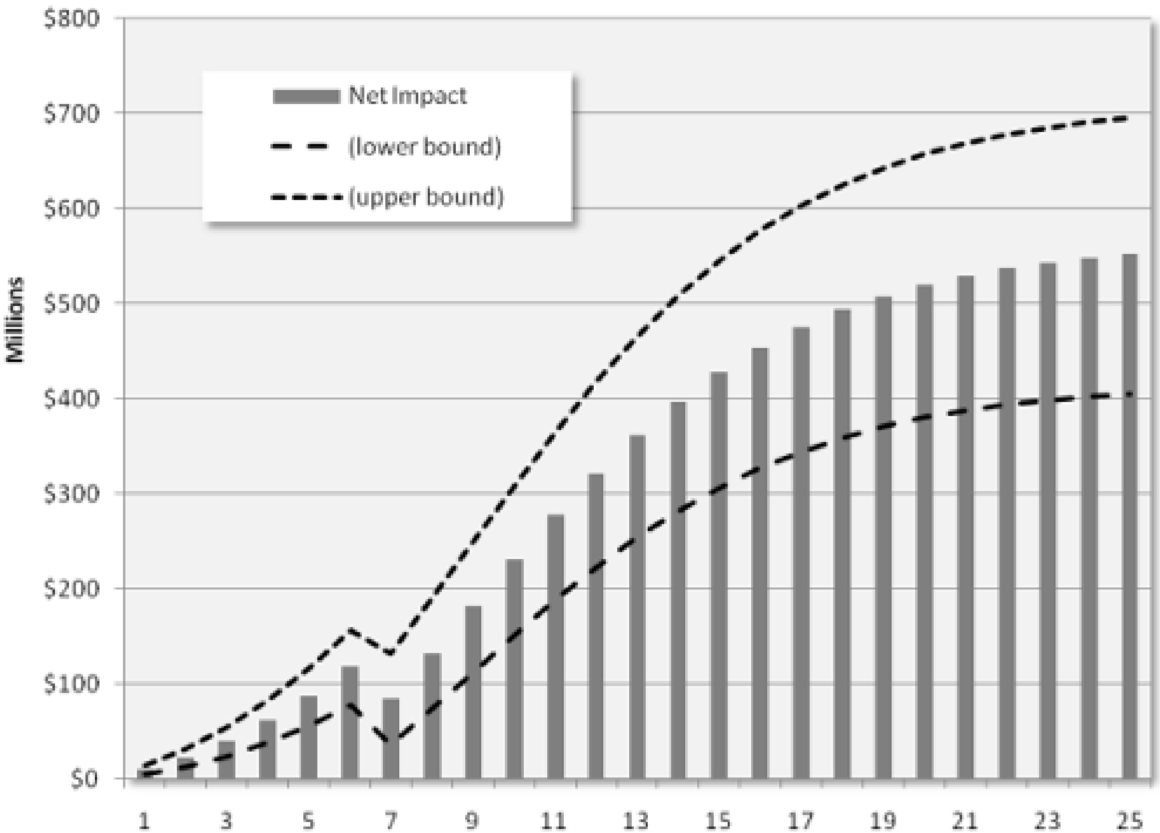
---

[1] Nevada Legislature, 78th Session, Assembly Bill 165.
[2] Nevada Legislature, 80th Session, Senate Bill 551.
[3] Nevada Legislature, 81st Session, Assembly Bill 495.
[4] Nevada Educational Choice Scholarship Program 2017-2018 Report.
[5] U.S. Department of Education, National Center for Education Statistics, Digest of Education Statistics, 2023.

population of students.

Nevada Policy has modeled the effect of making all families eligible to participate in the Opportunity Scholarship program and estimated it would result in a savings of $590 million to $1.3 billion over 10 years that could be reallocated across students who choose to remain in public schools.[8]

Net Fiscal Impact of Universal Opportunity Scholarships in Nevada, by Year



Source: Andrew J. Coulson, "Choosing to Save: The Fiscal Impact of Education Tax Credits on the State of Nevada," NPRI policy study, January 2009.

---

[6] See, e.g., Greg Forster, Ph.D., "A Win-Win Solution: The Empirical Evidence on School Vouchers," The Foundation for Educational Choice, 2011.
[7] Ibid.
[8] Andrew J. Coulson, "Choosing to Save: The Fiscal Impact of Education Tax Credits on the State of Nevada," NPRI policy study, January 2009.

Charter Schools

Charter schools are public schools that are directed by autonomous boards. As a result, charter schools compete with traditional public schools run by school districts to attract students, creating choice and accountability within the public school system.

Minnesota achieved widespread success after becoming the first state to experiment with charter schools in 1991. Since then, 45 states have passed laws allowing charter schools. Nevada passed its first charter-school law in 1997, although that law limited the number of charter schools statewide to 21 and forced charters to first obtain the support of their would-be competitors – school district boards.[1]

Over time, Nevada lawmakers have gradually liberalized the state's charter school laws. The statewide cap was relaxed and then removed and landmark legislation in 2011 created the State Public Charter School Authority (SPCSA) to sponsor new charter schools. In 2013, lawmakers gave charter schools bonding authority to meet capital needs.[2]

In 2015, lawmakers established an "Achievement School District" (ASD) responsible for transitioning a limited number of failing public schools each year into successful charter schools.[3] Similar innovations in Louisiana and Tennessee have proven extremely effective at elevating school quality and student performance. Additional legislation in 2015 made it easier for established operators of charter schools in other states to receive charter contracts in Nevada and to operate multiple schools.[4] Each of these changes had been recommended in previous editions of this volume.

In 2019, Nevada lawmakers abolished the ASD following a change in legislative control.[5] The district's existing four schools were transferred to the SPCSA despite opposition testimony from those schools' directors. The schools overwhelmingly served disadvantaged students and had dramatically elevated achievement levels. Teacher unions testified in support of the change and for additional spending in traditional schools.

Key Points

Charter schools encourage innovation. The concept of charter schools is that, by operating free of strict district-level policies, these schools can experiment with better approaches to education. Indeed, research shows that charter schools are more than five times likely to offer innovative merit-pay incentives.[6] Charters are also more likely to hire alternatively certified teachers.[7]

Charter schools serve high proportions of at-risk students. A national report on charter schools commissioned by the U.S. Department of Education shows that charter schools attract higher concentrations of low-income, minority, and low-performing students than traditional public schools and that charters generally serve these populations well.[8]

Empirical evidence shows charter schools elevate student performance. Random assignment studies in Boston, New York and Chicago have all shown that students who won lotteries to attend charter schools performed significantly better than students who did not win these lotteries.[9] In Chicago, for instance, lottery-winning students performed about five percentile points higher in both reading and math.[10]

Recommendations

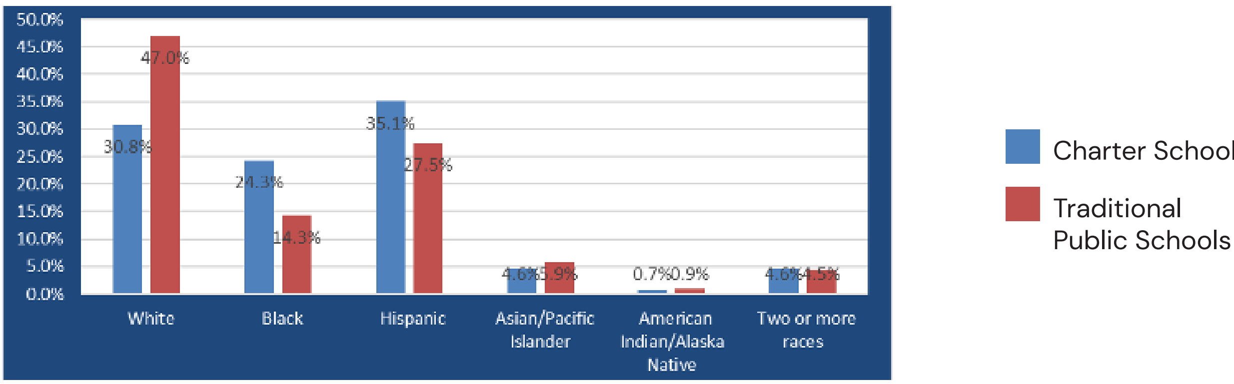
---

[1] Geoffrey Lawrence, "33 Ways to Improve Nevada Education without Spending More," NPRI policy study, July 2014.
[2] Ibid.
[3] Nevada Legislature, 78th Session, Assembly Bill 448.
[4] Nevada Legislature, 78th Session, Senate Bill 509.
[5] Nevada Legislature, 80th Session, Senate Bill 321 and Assembly Bill 78.
[6] Julie Kowal et al., "Teacher Compensation in Charter and Private Schools," Center for American Progress, 2007.
[7] U.S. Dept. of Education, "Evaluation of the Public Charter Schools Program, Final Report," 2004.

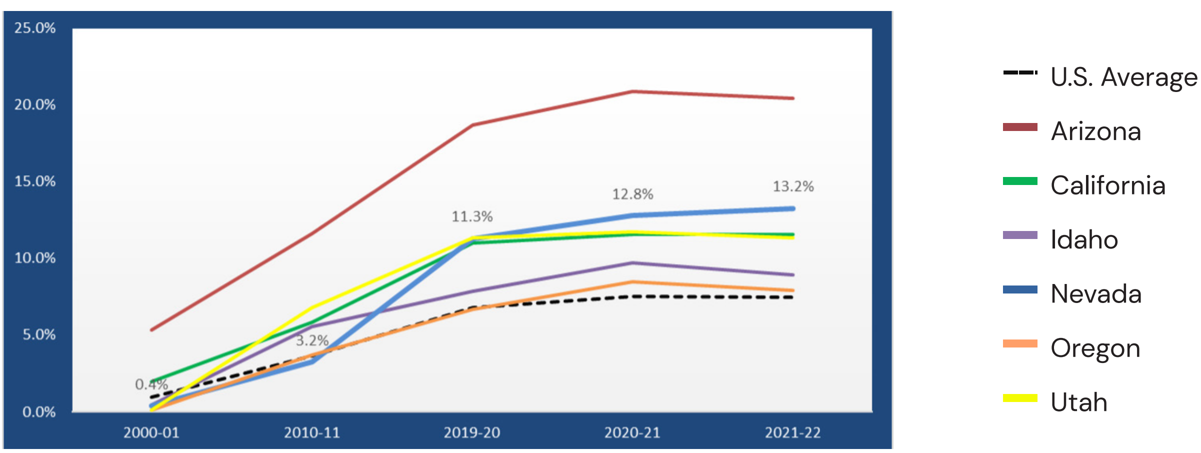
Revive the ASD. Nevada's ASD had barely gotten off the ground when it was abolished. Students at one school had exceeded expected growth in reading by 48% and math by 64%.[11]

Create a charter school incubator. In Arizona, Louisiana, Minnesota and Tennessee, charter school incubators have been instrumental in developing the talent to lead successful new charter schools and helping get these schools off the ground with funding and technical support.[12]

Racial Distribution of Students in Charter and Traditional Public Schools, 2020-2021



Charter School Enrollment as a Percentage of Total Public School Enrollment



Source: U.S. Department of Education, National Center for Education Statistics, Digest of Education Statistics, 2023.

[8] Ibid.
[9] Lawrence, note 1.
[10] Caroline Hoxby and Jonah Rockoff, "Findings from the City of Big Shoulders," Education Next, 2005.
[11] Testimony of Futuro Academy Charter School Executive Director Ignacio Prado to Assembly Committee on Education, February 8, 2019.
[12] CEE-Trust, "Charter School Incubation," 2011.

Vocational Education

Nevada's K-12 educational curriculum emphasizes preparing students for advancement to higher education at the expense of preparing students for the job market.

Certainly, a college-preparation track is a necessary and valuable component of the K-12 curriculum. However, often neglected are the "forgotten half" of students who are unlikely to attend college.[1] For these students, formal training in a skilled trade that will provide meaningful employment upon graduation is the highest value the educational system can offer. Unfortunately, school districts in Nevada have been slow to attend to this demographic – leaving graduates unprepared for the job market.

Key Points

Most employers are seeking skills, not degrees. According to statistics from the U.S. Department of Labor, only 6.49% of jobs nationwide require applicants to hold a bachelor's degree or higher in order to be competitive. By 2031, this figure will increase only slightly – to 6.70%.[2] Possession of a postsecondary vocational credential accounts for an additional 1.4%.[3]

The proportion of Nevada residents holding degrees exceeds base employer demand. Despite the many problems with public education in the Silver State, the U.S. Census Bureau reports that 27.0% of Nevadans age 25 and older hold a bachelor's degree or higher.[4]

At-risk students are most likely to excel in vocational education programs. With the lowest high-school graduation rate in the nation, Nevada's public schools suffer from extraordinarily high dropout rates. Research has shown that students suffering from one or more "at-risk" conditions have a more difficult time staying on task during academic activities and are less likely to graduate.[5] However, these students have performed much better when enrolled in vocational training programs.[6]

At-risk students, such as those for whom English is a second language or whose parents did not graduate high school, are numerous in Nevada. This undoubtedly contributes to the state's historically low graduation rates. It also renders the inclusion of vocational programs into the educational curriculum even more important.
It is better to prepare at-risk students for meaningful employment upon graduation than to allow their academic frustrations to result in higher dropout rates and reduced lifetime earning potentials.

Recommendations

Encourage systematic integration of vocational training into the educational curricula. To prepare many more students for success in the labor market, the Nevada Legislature should incentivize Nevada school districts to replicate statewide the highly successful model provided by Reno's Academy for Career Education (ACE High School) charter school. Enthusiastically backed by private-sector professionals, ACE cost-effectively integrates sound, professional career training into a rigorous academic curriculum – reflecting exactly the kind of reforms that have proven most effective in national longitudinal studies.[7] The Lone Star State's Achieve Texas program[8] can provide Nevada lawmakers and local groups with additional, highly valuable guidance – including a statewide career initiative model for the Nevada Department of Education.

---

[1] Robert Schmidt, "Teaching the Forgotten Half: Career and Vocational Education in Nevada's High Schools," NPRI policy study, 2006.
[2] U.S. Department of Labor, Bureau of Labor Statistics, Employment Projections Program, "National Employment Matrix, 2021-2031."
[3] Ibid.
[4] U.S. Department of Commerce, U.S. Census Bureau, American Community Survey, 2022.
[5] See, e.g., Greg Druian and Jocelyn Butler, "Effective Schooling Practices and At-Risk Youth: What the Research Shows," Office of Educational Research and Improvement (OERI), U.S. Department of Education, 1987.

Forecast Job Growth by Occupation and Educational Prerequisites in the United States (Numbers in Thousands)

Occupation	Employment change, 2021–31	Typical education needed for entry	Typical on-the-job training needed to attain competency in the occupation
Food preparation and serving related occupations	1,319.9	—	—
Healthcare support occupations	1,253.8	—	—
Home health and personal care aides; and nursing assistants, orderlies, and psychiatric aides	990.7	—	—
Home health and personal care aides	924.0	High school diploma or equivalent	Short-term on-the-job training
Management occupations	883.9	—	—
Transportation and material moving occupations	861.8	—	—
Healthcare practitioners and technical occupations	795.3	—	—
Computer and mathematical occupations	764.8	—	—
Business and financial operations occupations	715.1	—	—
Computer occupations	682.8	—	—
Educational instruction and library occupations	658.2	—	—
Postsecondary nondegree	651.9		
Healthcare diagnosing or treating practitioners	562.5	—	—
Food and beverage serving workers	549.4	—	—
Personal care and service occupations	544.8	—	—
Business operations specialists	516.2	—	—
Cooks, restaurant	459.9	No formal educational credential	Moderate-term on-the-job training
Software and web developers, programmers, and testers	439.0	—	—
Cooks and food preparation workers	437.0	—	—
Cooks	419.3	—	—
Material moving workers	417.7	—	—
Software developers	370.6	Bachelor's degree	None
Motor vehicle operators	369.6	—	—
Other management occupations	360.2	—	—
Laborers and material movers	350.8	—	—
Installation, maintenance, and repair occupations	304.0	—	—
Community and social service occupations	294.6	—	—
Building and grounds cleaning and maintenance occupations	290.8	—	—
Counselors, social workers, and other community and social service specialists	275.5	—	—
Operations specialties managers	267.5	—	—
Driver/sales workers and truck drivers	265.1	—	—
Construction and extraction occupations	252.9	—	—
Fast food and counter workers	243.2	No formal educational credential	Short-term on-the-job training
Preschool, elementary, middle, secondary, and special education teachers	230.5	—	—
Other healthcare support occupations	217.7	—	—
Health technologists and technicians	216.4	—	—
General and operations managers	209.8	Bachelor's degree	None
Building cleaning and pest control workers	208.7	—	—
Other installation, maintenance, and repair occupations	206.0	—	—
Building cleaning workers	202.5	—	—
Financial specialists	198.9	—	—
Waiters and waitresses	197.0	No formal educational credential	Short-term on-the-job training
Construction trades workers	195.6	—	—
Registered nurses	195.4	Bachelor's degree	None

: A

on Student Coursetaking and Performance in English and Science,"

Source: U.S. Department of Labor, Bureau of Labor Statistics, "National Employment Matrix, 2021-2031."

Alternative Teacher Certification

In 2011, Nevada lawmakers passed landmark legislation – SB 315 – creating an alternative route to licensure for public school teachers in the state.[1] The legislation instructs the Commission on Professional Standards in Education to create an alternative path to licensure for mid-career professionals who complete an approved training course within two years or less.[2]

In 2019, lawmakers weakened alternative routes to licensure by eliminating a pre-existing "special qualifications" license that allowed college professors and others with significant experience in a field of high need to be issued a provisional teaching license. The original version of this legislation, introduced by the Sisolak administration, also sought to require alternative licensure programs to include in-person components, whereas the 2011 law had allowed all coursework to be done virtually. Fortunately, lawmakers amended out this second provision prior to passage. One year later, Gov. Sisolak ordered the closing of all in-person instruction, which would have eliminated alternative certification.[3]

Key Points

Traditional licensure has no bearing on student achievement. Researchers at the Brookings Institution have tracked the impact of traditional teacher licensure on student achievement. Their results show that students of teachers who have received a license through alternative means perform no worse than students of traditionally certified teachers. In fact, Brookings' study shows that even students of unlicensed teachers perform no worse than students of traditionally certified teachers – indicating that licensure has no bearing at all on student achievement.[4]

Strict certification requirements create an artificial shortage of teachers. Given that teacher licensure has no tangible benefit for children, it is clear that the primary function of licensing is to exclude potential teachers from the marketplace. In fact, the first programs of alternative certification in the nation – those in New Jersey and Texas – were created explicitly to remedy a teacher shortage in those states that had been created by strict certification requirements.[5]

Certification requirements exclude minority teachers from the classroom. Harvard education scholar Paul Peterson has shown that, in states with genuine, undiluted alternative teacher-certification programs, the population of minority teachers is more likely to reflect the state's demographics. In states without genuine alternative teacher certification, minorities are likely to be underrepresented among the teacher labor force – indicating that licensure requirements operate to statistically exclude minorities from the classroom.[6]

Alternative certification programs lead to greater student achievement. While certification has been shown to have no bearing on student achievement, the presence of a genuine path to alternative certification allows more highly qualified professionals to enter the teaching profession, and this benefits students. Test score data from the U.S. Department of Education shows that states with genuine alternative certification have increased student achievement at a far greater pace.[7]

---

[1] Nevada Legislature, 76th Session, Senate Bill 315.

[2] Ibid.

[3] Nevada Legislature, 80th Session, Senate Bill 41.

[4] Robert Gordon et al., "Identifying Effective Teachers Using Performance on the Job," Brookings Institution, The Hamilton Project, Discussion Paper 2006-01, 2006.

[5] Geoffrey Lawrence, "33 Ways to Improve Nevada Education Without Spending More," NPRI policy study, July 2014.

Recommendations

Allow prospective teachers to test out of coursework requirements. The alternative certification process created by SB 315 can still take two full years for prospective teachers to complete. For talented, mid-career professionals seeking to transfer into the classroom, this barrier to entry is still needlessly onerous. Knowledgeable professionals should be able to have coursework requirements waived if they can achieve a reasonable score on a subject-matter test.

Recognize teaching credentials gained in any other state. While Nevada has reciprocity agreements to recognize teaching credentials gained by individuals in certain other states, credentials gained in several states are not recognized by Nevada. A majority of states recognize licensure gained anywhere in the United States.[8] Nevada should as well.

---

[6] Paul Peterson, "What Happens When States Have Genuine Alternative Certification," Education Next, Vol. 9, No. 1, 2009.
[7] Ibid.
[8] Op cit., Lawrence, note 5.

Enrollment in Alternative Teacher Certification Programs as Percentage of Total Enrollment in Teacher Certification Programs, by State

State	2008–09	2010–11	2012–13	2014–15	2016–17	2018–19	2019–20
Alabama	28.7%	25.2%	26.0%	27.7%	28.1%	20.2%	21.2%
Alaska	0.0%	0.6%	2.3%	0.0%	0.0%	0.0%	0.0%
Arizona	3.0%	2.1%	1.8%	3.1%	2.6%	6.6%	6.6%
Arkansas	14.4%	27.8%	27.7%	34.6%	38.0%	33.1%	39.9%
California	25.2%	11.1%	9.8%	12.7%	19.7%	22.4%	23.0%
Colorado	5.8%	3.1%	6.1%	10.1%	7.9%	16.8%	16.3%
Connecticut	5.0%	4.4%	5.3%	2.8%	5.9%	7.3%	11.9%
Delaware	1.5%	3.3%	4.3%	7.7%	13.2%	13.0%	17.1%
D.C.	31.3%	45.2%	45.2%	58.9%	59.6%	79.7%	81.6%
Florida	33.2%	24.2%	21.2%	29.5%	38.6%	38.4%	37.4%
Georgia	9.2%	4.3%	5.2%	12.0%	16.2%	17.2%	16.5%
Hawaii	38.6%	40.5%	24.5%	23.2%	33.4%	38.9%	41.0%
Idaho	7.1%	4.0%	4.9%	16.0%	11.5%	22.0%	19.6%
Illinois	2.7%	3.1%	3.5%	2.6%	1.5%	2.5%	3.9%
Indiana	7.9%	12.4%	14.3%	22.0%	26.0%	26.4%	30.7%
Iowa	0.1%	0.2%	0.1%	0.7%	1.0%	1.2%	1.1%
Kansas	5.2%	4.3%	3.2%	4.8%	5.5%	11.8%	21.3%
Kentucky	14.6%	9.6%	7.0%	17.0%	22.3%	23.5%	26.1%
Louisiana	27.5%	44.8%	44.0%	43.8%	53.9%	45.1%	49.9%
Maine	0.0%	7.8%	0.0%	0.0%	0.0%	0.0%	0.0%
Maryland	7.0%	8.3%	9.6%	10.8%	11.9%	11.8%	15.5%
Massachusetts	2.3%	3.1%	4.4%	3.9%	4.3%	5.6%	5.0%
Michigan	0.1%	0.7%	1.3%	1.0%	1.7%	10.3%	16.5%
Minnesota	0.4%	0.0%	1.0%	1.8%	9.4%	6.9%	5.5%
Mississippi	23.3%	31.7%	33.0%	32.0%	32.1%	32.9%	49.0%
Missouri	24.6%	16.1%	11.6%	13.1%	13.5%	15.3%	17.7%
Montana	6.8%	4.7%	5.0%	5.9%	1.8%	0.4%	0.4%
Nebraska	1.4%	0.7%	0.5%	0.6%	1.4%	3.6%	2.9%
Nevada	0.0%	35.1%	9.4%	24.7%	29.2%	34.6%	40.2%
New Hampshire	33.1%	16.0%	8.3%	7.8%	6.6%	23.7%	27.4%
New Jersey	0.0%	5.2%	20.4%	17.7%	5.9%	18.5%	21.5%
New Mexico	18.1%	19.5%	32.5%	36.7%	55.4%	48.9%	57.2%
New York	1.1%	5.7%	5.3%	6.6%	9.9%	12.6%	11.9%
North Carolina	0.0%	14.8%	36.3%	40.6%	48.0%	49.4%	47.0%
North Dakota	0.0%	0.0%	0.0%	0.0%	1.7%	0.0%	0.2%
Ohio	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Oklahoma	0.0%	6.9%	6.7%	9.9%	0.0%	0.0%	0.0%
Oregon	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Pennsylvania	4.1%	4.5%	2.5%	2.9%	2.7%	5.8%	3.9%
Puerto Rico	0.0%	0.7%	1.7%	10.4%	25.7%	32.1%	33.4%
Rhode Island	0.0%	1.9%	1.3%	2.6%	1.9%	1.7%	1.0%
South Carolina	14.8%	12.3%	12.4%	16.4%	14.7%	21.6%	27.9%
South Dakota	5.9%	1.4%	4.7%	7.2%	7.9%	0.0%	0.0%
Tennessee	14.5%	16.3%	16.2%	14.9%	17.0%	24.9%	23.3%
Texas	50.6%	45.9%	48.6%	53.1%	72.5%	71.3%	78.1%
Utah	14.3%	5.3%	2.8%	5.0%	6.3%	10.5%	13.4%
Vermont	5.8%	9.0%	12.3%	13.7%	17.9%	17.9%	27.3%
Virginia	4.4%	4.1%	2.8%	2.6%	2.0%	4.6%	6.5%
Washington	3.2%	2.9%	4.0%	4.5%	5.5%	12.6%	9.5%
West Virginia	0.1%	1.8%	0.6%	0.0%	1.3%	4.3%	3.7%
Wisconsin	3.9%	3.8%	3.6%	3.5%	3.5%	5.5%	5.7%
Wyoming	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%

Source: U.S. Dept. of Education, Higher Education Act Title II State Report Card System.

Not all ‘schooling’ is ‘education,’ and not all ‘education’ is ‘schooling’.

–Milton Friedman

Teacher Merit Pay

Nevada lawmakers first experimented with performance pay for teachers in 2005, when they implemented a small pilot program at $5 million per year. Funding for the modest program was eliminated during the 2007-2009 budget cycle.[1]

Landmark legislation in 2011 created the Teachers and Leaders Council of Nevada to develop a statewide framework for evaluating teacher performance using multiple measures. Parallel legislation instructed local school districts to implement a performance-pay system beginning with the 2014-2015 school year.[2]

One major drawback with the 2011 laws, however, is that the structure of any new performance-pay system will be subject to collective bargaining negotiations within each school district. Union leaders representing teachers have long opposed the concept of true performance pay and generally seek to neuter any real changes by making teachers broadly eligible to receive modest bonuses with "performance" or "merit" in the title.[3] Research shows that these diluted forms of merit pay are ineffective at improving student outcomes. In 2015, additional fears came to fruition when lawmakers actually reduced the significance of student achievement as a component of teacher evaluations.[4]

Key Points

No school-controlled factor has a greater impact on student achievement than teacher quality. As former President Barack Obama said, "From the moment students enter a school, the most important factor in their success is not the color of their skin or the income of their parents, it's the person standing at the front of the classroom."[5] Volumes of research confirm that improving teacher quality is the best, most cost-effective method schools can use for elevating student performance.[6]

Current teacher compensation schemes are not attractive to the most talented professionals. Annualized to a standard, 44-week work year, entry-level pay for teachers in Nevada is comparable to entry-level pay in many other professions. Inflexible teacher-pay schedules, however, make the earning potential of the most talented teachers not competitive with what they could achieve in other fields.[7]

Teacher compensation is not aligned with the factors that influence student achievement. Pay schedules currently reward Nevada teachers for many activities that have little impact on student performance, such as pursuit of advanced degrees in non-technical fields. Strong evidence suggests that an exclusive system of performance pay – awarded only to the top 5-% of educators – can dramatically improve student performance.[8]

Recommendations

Implement longitudinal data tracking system. Legislation passed in 2011 instructed the Nevada Department of Education to design and implement a data-tracking system for the 2013-14 school year. Implementation of this system was repeatedly delayed and lawmakers suspended its use for teacher evaluations in 2021.[9]

Reward the top 10% of teachers with $200,000 in total compensation. Along with former Nevada Superintendent of Public Instruction and UC-Berkeley education scholar James Guthrie, Nevada Policy has designed an exclusive performance-pay system that would lure into Nevada classrooms the world's best educators. In exchange for working in at-risk schools and spending part of the summer training other teachers, the top 10% of Nevada teachers would be acknowledged as "master teachers" and receive total compensation packages of $200,000. The revenue-neutral program is realized by diverting funding currently spent on less cost-effective programs, such as class-size reduction. Legislation heard in 2015 would have implemented this proposal.[10]

---

[1] Nevada Legislature, Legislative Counsel Bureau, "Research Brief on Teacher Pay-for –Performance Plans," September 2012.
[2] Ibid.
[3] See, e.g., Stephen Sawchuck, "Duncan Presses NEA on Merit Pay, Tenure," Education Week, July 2, 2009.
[4] Nevada Legislature, 78th Session, Assembly Bill 447.
[5] The White House, "Remarks by the President to the Hispanic Chamber of Commerce," March 10, 2009.
[6] See, e.g., Eric Hanushek and Steve Rivkin, "Teacher Quality." In Handbook of the Economics of Education (2007), Vol. 2, Ch. 18., pp. 267-327.
[7] James Guthrie, "The $200,000-a-Year Classroom Teacher," NPRI Policy Study, April 2013.
[8] David Figlio and Lawrence Kenny, "Individual Teacher Incentives and Student Performance," NBER Working Paper 12627, October 2006.
[9] Nevada Legislature, 81st Session, Assembly Bill 57.
[10] Nevada Legislature, 78th Session, Assembly Bill 378, As Introduced.

Teacher Salaries, by State (2011)

State or jurisdiction	Beginning Teacher Salary	Beginning Salary Annualized to 44-Week Work Year	Average Teacher Salary	Average Teacher Salary Annualized to 44-Week Work Year
Alabama	$36,144	$43,373	$46,879	$56,255
Alaska	$42,687	$51,224	$58,395	$70,074
Arizona	$31,888	$38,266	$46,358	$55,630
Arkansas	$30,525	$36,630	$47,472	$56,966
California	$41,181	$49,417	$68,093	$81,712
Colorado	$30,140	$36,168	$48,487	$58,184
Connecticut	$40,079	$48,095	$63,152	$75,782
Delaware	$36,633	$43,960	$56,667	$68,000
District of Columbia	–	–	$62,557	$75,068
Florida	$34,605	$41,526	$46,921	$56,305
Georgia	$33,424	$40,109	$52,879	$63,455
Hawaii	$43,157	$51,788	$55,733	$66,880
Idaho	$31,581	$37,897	$45,178	$54,214
Illinois	$33,962	$40,754	$61,344	$73,613
Indiana	$33,370	$40,044	$44,650	$53,580
Iowa	$27,178	$32,614	$48,638	$58,366
Kansas	$31,763	$38,116	$46,401	$55,681
Kentucky	$30,525	$36,630	$47,472	$56,966
Louisiana	$38,523	$46,228	$48,627	$58,352
Maine	$30,732	$36,878	$44,731	$53,677
Maryland	$42,297	$50,756	$62,849	$75,419
Massachusetts	$38,570	$46,284	$66,712	$80,054
Michigan	$35,164	$42,197	$57,327	$68,792
Minnesota	$32,315	$38,778	$51,938	$62,326
Mississippi	$30,090	$36,108	$44,498	$53,398
Missouri	$28,055	$33,666	$44,249	$53,099
Montana	$24,685	$29,622	$44,426	$53,311
Nebraska	$27,030	$32,436	$44,957	$53,948
Nevada	$34,193	$41,032	$50,067	$60,080
New Hampshire	$32,549	$39,059	$49,872	$59,846
New Jersey	$44,872	$53,846	$63,111	$75,733
New Mexico	$36,003	$43,204	$45,752	$54,902
New York	$41,079	$49,295	$69,118	$82,942
North Carolina	$31,892	$38,270	$48,648	$58,378
North Dakota	$25,793	$30,952	$41,654	$49,985
Ohio	$31,876	$38,251	$54,656	$65,587
Oklahoma	$31,611	$37,933	$43,846	$52,615
Oregon	$31,556	$37,867	$54,085	$64,902
Pennsylvania	$38,229	$45,875	$57,237	$68,684
Rhode Island	$38,466	$46,159	$58,407	$70,088
South Carolina	$31,710	$38,052	$47,421	$56,905
South Dakota	$34,016	$40,819	$35,070	$42,084
Tennessee	$32,525	$39,030	$45,549	$54,659
Texas	$32,868	$39,442	$47,157	$56,588
Utah	$32,393	$38,872	$42,335	$50,802
Vermont	$33,100	$39,720	$47,884	$57,461
Virginia	$36,634	$43,961	$48,365	$58,038
Washington	$35,018	$42,022	$52,567	$63,080
West Virginia	$30,815	$36,978	$44,701	$53,641
Wisconsin	$31,714	$38,057	$51,121	$61,345
Wyoming	$36,262	$43,514	$54,602	$65,522

Source: The Council of State Governments, “Does Merit Pay for Teachers Have Merit?” November 2011.

Online Learning

Online educational platforms have the potential to drastically alter traditional education paradigms by allowing students to engage in a highly personalized course of instruction and to work at their own pace. Online platforms also improve rural students' access to the world's most talented educators.

Online learning can be used to supplement the efforts of a traditional classroom teacher or can obviate the need for a traditional classroom altogether. "Blended learning" involves the use of online materials within a traditional classroom setting, while "virtual schooling" refers to an entire academic course or curriculum delivered electronically.

Key Points

Blended learning is an effective way for students to overcome parental disengagement. A research team at Indiana University tracked the performance of 10,371 students participating in the Cisco Networking Academy – one of the earliest and most uniform blended-learning programs – across 1,641 schools. The scholars found that the "combination of centralized curriculum, standards-based testing, and local instruction worked equally well in a variety of environments and enabled students to reach their own potential" regardless of their socioeconomic or family background.[1]

Further evidence comes from experimentation with the "flipped classroom" model developed at a Detroit-area high school. There, a pilot program was implemented to reverse students' daytime and nighttime tasks. Teachers were asked to record or assign lecture material for students to watch online as homework and then students would spend class time completing assignments traditionally assigned as homework. Teachers now would be able to assist students with problems that parents in the low-income neighborhood were unable to help with.

Within the first year, failure rates plummeted: from 52 to 19% in English, 44 to 13% in math, 41 to 19% in science and 28 to 9% in social studies. The approach has since been adopted school-wide by several schools across the country and has been lauded by Harvard's Graduate School of Education as a means of helping students overcome parental disengagement.[2]

Students perform better in virtual schools than in traditional schools. In 2010, the U.S. Department of Education completed a meta-analysis of virtual schooling in the United States and found that "on average students in online learning conditions performed better than those receiving face-to-face instruction."[3] Superior performance in virtual schools is due to (1) students spending more time on task than in traditional courses, (2) alternative pacing that allows students to spend more time on material they do not understand and (3) a higher level of student-teacher interaction.[4]

Students can succeed in virtual schools regardless of their background. At the Florida Virtual School, the nation's largest, a comprehensive assessment shows that "students consistently outperformed their counterparts in Florida's traditional schools" despite substantially higher enrollment percentages of minority and at-risk students.[5]

Virtual schooling lowers the cost of public education. Virtual schools eliminate almost all the need for transportation, construction, and facilities maintenance – some of the largest expenditures of traditional schools.

Recommendations

Experiment with "flipped classroom" model at low-performing schools. Lawmakers should encourage Nevada

[1] Alan Dennis et al., "Student Achievement in a Blended Learning Environment: Lessons from the Cisco Networking Academy," Indiana University, 2006.
[2] Geoffrey Lawrence, "33 Ways to Improve Nevada Education Without Spending More," NPRI policy study, July 2014.
[3] U.S. Department of Education, "Evaluation of Evidence-Based Practices on Online Learning: A Meta-Analysis and Review of Online Learning Studies," 2010.
[4] Op cit., Lawrence, note 2.
[5] Florida Tax Watch Center for Educational Performance and Accountability, "A Comprehensive Assessment of Florida Virtual School," 2007.

school districts to create a "flipped classroom" pilot program in low-performing schools.

Require students to take at least one online course for graduation. Nevada should join Florida, Idaho and other states to require online courses as this is preparation for the modern working world.

Multi-District Fully Online Schools, by State (2012-2013 School Year)

	Enrollments 2012-13	Annual growth SY 2011-12 to SY 2012-13	5-year growth (2008- 2013)	2013 % of state K-12 population
Alaska	166	95%	-53%	0.14%
Arizona	42,000	8%	40%	4.28%
Arkansas	499	0%	0%	0.12%
California	40,891	76%	289%	0.71%
Colorado	17,289	7%	49%	2.31%
Florida	14,000	45%	1197%	0.58%
Georgia	13,412	27%	212%	0.89%
Idaho	5,213	0%	44%	2.06%
Indiana	6,733	80%	n/a	0.70%
Iowa	302	New in 12-13	n/a	0.07%
Kansas	4,689	18%	51%	1.10%
Louisiana	2,562	28%	n/a	0.42%
Massachusetts	476	-2%	n/a	0.06%
Michigan	7,850	94%	n/a	0.55%
Minnesota	9,196	13%	82%	1.21%
Nevada	10,414	19%	126%	2.61%
New Hampshire	125	21%	n/a	0.07%
New Mexico	498	New in 12-13	n/a	0.16%
Ohio	38,519	9%	42%	2.42%
Oklahoma	6,298	31%	473%	1.11%
Oregon	6,637	19%	n/a	1.27%
Pennsylvania	34,694	7%	56%	2.11%
South Carolina	8,130	2%	310%	1.26%
Tennessee	1,679	-7%	n/a	0.19%
Texas	8,441	36%	323%	0.20%
Utah	3,336	8%	567%	0.63%
Virginia	447	-8%	n/a	0.04%
Washington	2,745	9%	49%	0.29%
Wisconsin	6,721	50%	117%	0.88%
Wyoming	1,377	21%	1277%	1.70%

Source: John Watson et al., "Keeping Pace with K-12 Online Learning: An Annual Review of Policy and Practice, 2013," Evergreen Education Group.

Student Incentives

Providing modest financial incentives to students for the mastery of academic concepts is at the forefront of new techniques for boosting student achievement.

Researchers from Harvard University experimented with various types of student incentives in 250 low-performing, urban schools across the nation between the 2007-2008 and 2010-2011 school years. They offered modest financial rewards to students who completed tasks such as reading books, mastering mathematical concepts, or achieving high test scores or report card grades.[1]

The overwhelming success of the Harvard experiment should attract the attention of policymakers everywhere. It shows that K-12 students, like all individuals, respond to incentives. Especially for students who suffer from disadvantages such as parental disengagement, incentives can be very effective at teaching children to value educational attainment.

Key Points

Incentives are a highly cost-effective means of promoting student achievement. Harvard researchers offered second-graders $2 for every book they read, up to a maximum of 20 books per school year. On average, students were paid $13.81 per year. This relatively small cost was associated with more than two months' worth of additional learning per school year. When fifth-graders were offered $2 for each math concept they mastered, they mastered 125% more math concepts than students who were not offered incentives.[2]

Comparatively speaking, this success rate indicates that student incentives are far more cost-effective at boosting student achievement among disadvantaged students than virtually all other forms of school spending.

Incentives are most effective when attached to completion of short-term goals. The Harvard project showed that student progress increased most quickly when incentives were provided for reading books or mastering mathematical concepts, while incentives for higher scores on standardized tests or report card grades had little effect. Students appear to respond best to incentives with more immediate time horizons.

As the Harvard team suggests, students at the low-performing, urban schools they examined are less likely to understand the value of educational attainment or the habits that lead to higher attainment. They believe this is why it was more effective to provide incentives for "inputs" rather than "outputs," such as test scores.[3]

Student incentives do not destroy the intrinsic value of learning. The Harvard research shows that the behaviors students adopted in pursuit of incentives tend to persist long after the incentives are removed. Surveys conducted of the participating students also indicated that students' intrinsic motivation for learning may have actually improved after participating in an incentive program.

Recommendations

Create an incentive program to reward students for productive behaviors in education. The Harvard team recommends that policymakers could realize highly cost-effective gains in student achievement by providing modest financial incentives for the completion of short-term objectives, while allowing students to earn up to a pre-determined maximum each year.[4]

Incentive programs are likely most effective when offered at an early age in order to teach students productive habits. This lesson is particularly relevant for students who suffer from parental disengagement or other disadvantage.

[1] Roland G. Fryer, "Financial Incentives and Student Achievement: Evidence from Randomized Trials," Quarterly Journal of Economics, 2011.
[2] Ibid.
[3] Ibid.
[4] Bradley M. Allan and Roland G. Fryer, "The Power and Pitfalls o Education Incentives," The Hamilton Project at The Brookings Institution, Discussion Paper 2011-07.

Student Incentive Programs in Harvard Study

	Reward Structure	Amounts Earned	Operating Costs	Results
		A. Input Experiments		
Dallas (2nd graders)	Students earned \$2 per book to read books and pass a short test to ensure they read it.	Average: \$13.81 Max: \$80	\$126,000 total cost. 80% consent rate. One dedicated project manager.	Students increased learning by an amount equivalent to 2.25 months of schooling.
Washington DC (6th–8th graders)	Students were rewarded for meeting behavioral, attendance, and performance- based metrics. They could earn up to \$100 every two weeks - up to \$1500 for the year.	Average: \$532.85 Max: \$1322	\$3,800,000 distributed. 99.9% consent rate. 86% of students understood the basic structure of the program. Two dedicated project managers.	Students increased learning by an amount equivalent to 1.78 months of schooling.
Houston (5th graders)	Students and parents earned \$2 for each math objective the student mastered by passing a short test, and parents earned \$20 for each teacher conference attended.	Student Average: \$228.72 Max: \$1392 Parent Average: \$254.27 Max: \$1000	\$870,000 distributed. 99.9% consent rate. Two dedicated project managers.	Students mastered 125% more math concepts than students who did not receive incentives. Parents attended 87% more teacher conferences.
		B. Output Experiments		
NYC (4th graders and 7th graders)	Students were paid for interim tests similar to state assessments. 4th graders could earn up to \$25 per test and \$250 per year. 7th graders could earn up to \$50 per test and \$500 per year.	4th grader Average: \$139.43 Max: \$244 7th grader Average: \$232 Max: \$495	\$1,600,000 distributed. 82% consent rate. 90% of students understood the basic structure of the program. 66% opened bank accounts. Three dedicated project managers.	No statistically significant effect.
Chicago (9th graders)	Students earned money for their report card grades. The scheme was A=\$50, B=\$35, C=\$20, D=\$0, and F=\$0 (and resulted in \$0 for all classes). They could earn up to \$250 per report card and \$2,000 total. Half of the rewards were given immediately; the other half at graduation.	Average: \$422.93 Max: \$1000	\$3,000,000 distributed. 88.97% consent rate. 91% of students understood the basic structure of the program. Two dedicated project managers	No statistically significant effect.

Source: Bradley M. Allan and Roland G. Fryer, "The Power and Pitfalls of Education Incentives," The Hamilton Project at The Brookings Institution, 2011.

Class-size Reduction

Nevada's class-size reduction program, first implemented in FY 1991, is now entering its 34th year. The program was sold on the expectation that reducing pupil-to-teacher ratios in grades K-3 would significantly improve Nevada students' achievement.

To date, Nevadans have spent about $4 billion out of the state General Fund to hire and retain additional teachers under the program. This figure excludes the costs borne by local school districts for the construction of additional classroom space, heating and cooling that space, and other additional operating expenditures.

In 2021, lawmakers eliminated class-size reduction as a separate line-item within the state budget and folded it into the state's new Pupil-Centered Funding Formula. The class-size reduction mandates, however, remain in effect.

Key Points

Research on the national level shows that class-size reduction is not a cost-effective means for improving student performance. A growing library of empirical evidence indicates that, while reduced class sizes are associated with slight improvements in student performance, far more cost-effective approaches are available. Education scholars from across the political spectrum now agree that students would be better served by using education dollars in ways other than class-size reduction. As scholars from the left-leaning Center for American Progress, for instance, write:

> Large-scale CSR policies clearly fail any cost-benefit test because they entail steep costs and produce benefits that are modest at best. There are certainly many policies that might be proposed as cost-effective alternatives to CSR, but one set of policies that stand out are those aimed at improving teacher quality. Researchers agree that teacher quality is the single most important in-school determinant of how much students learn … Investing less in CSR would free up resources that could be used to recruit and retain highly effective teachers.[1]

In Nevada, students in larger classes have outperformed students in smaller classes. Regardless of the observed national trend, Nevada's students in class sizes of one to 15 have dramatically underperformed their peers in larger class sizes on both reading and math tests.[2]

Class-size reduction dilutes teacher quality. The program's architects believed that smaller class sizes would increase the level of attention given by a teacher to each student – yielding higher achievement. The failure of the program to achieve this objective most likely has to do with the well-documented fact that no variable bears a greater relationship to student achievement than teacher quality. Yet, standout teachers – like standout surgeons and engineers – are necessarily in limited supply. Empirical evidence shows that hiring more teachers to fill additional classrooms only increases the likelihood that a student will receive a less-effective teacher and that this is a key reason behind the relative failure of class-size reduction.[3]

Class-size reduction funds could be used more productively elsewhere. Whatever the reasons for the program's failure, one truth is clear: Every dollar that lawmakers commit to class-size reduction is a dollar that cannot be spent elsewhere.

---

[1] Mathew M. Chingos, "The False Promise of Class-Size Reduction," Center for American Progress, April 2011.

[2] Legislative Counsel Bureau, Senate Human Resources Committee, "Background Paper 01-2: Nevada's Class-Size Reduction Program: Program Data and Summary of Evaluation Reports," 2001

[3] Christopher Jepsen and Steven Rivkin, "Class Size Reduction and Student Achievement: The Potential Tradeoff between Teacher Quality and Class Size," Journal of Human Resources, Vol. 44, No. 1 (2009) pp. 223-250

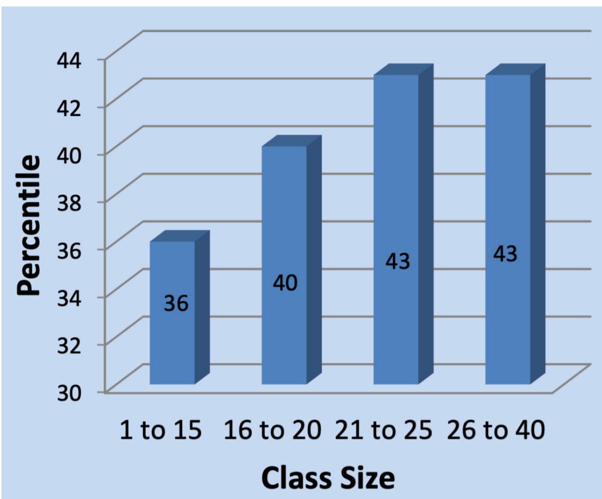
Recommendations

Eliminate class-size mandates. Policymakers who genuinely care about the quality of education available to Nevada's children should want to see whatever limited education resources are available spent in the most cost-effective manner. Today broad agreement exists among education scholars that class-size reduction is among the least cost-effective means of increasing student achievement.

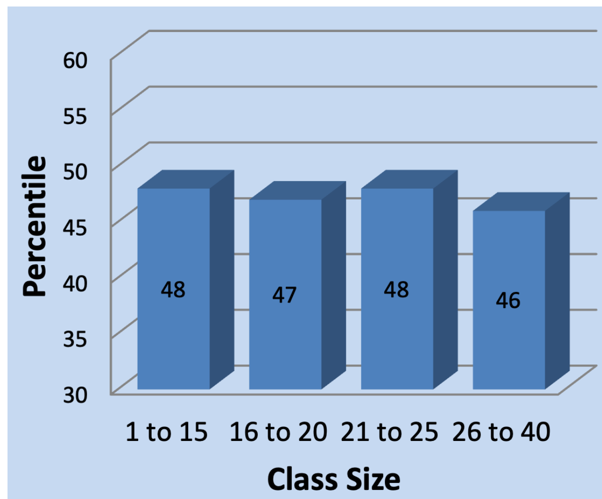
Policymakers should divert funding currently devoted to class-size reduction toward other education programs that offer a greater return on investment, such as an aggressive program of teacher merit pay. Following the elimination of class-size reduction as a categorical spending item in 2021, lawmakers only need to remove the mandates in NRS 388.700 and allow school districts to determine how best to allocate resources.

Results of First Evaluation Report of Class-Size Reduction Program*

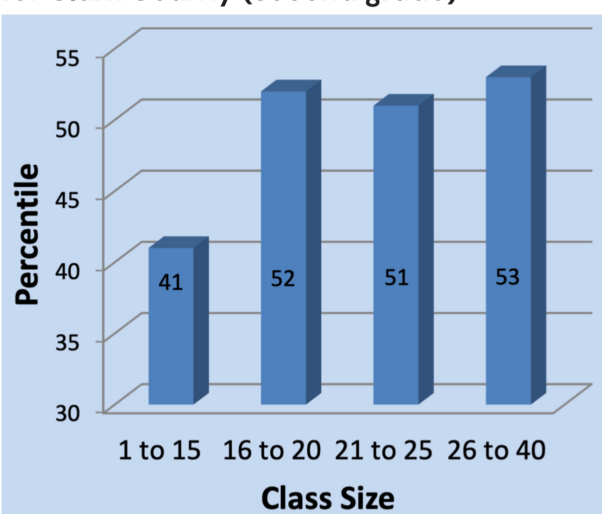
Reading, average percentile score for Washore and rural counties (second grade)



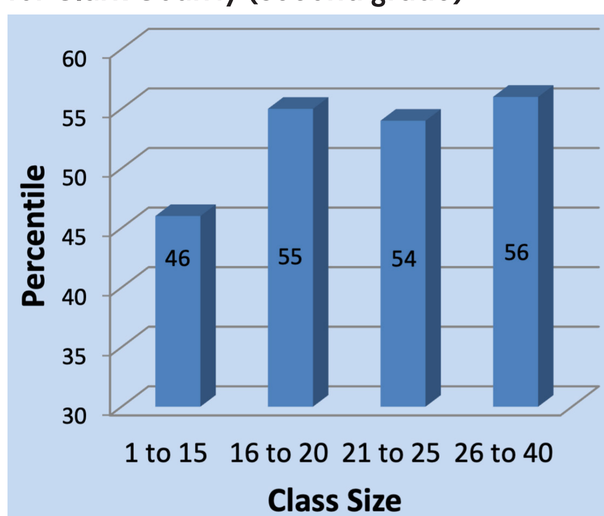
Math, average percentile score for Washore and rural counties (second grade)



Reading, average percentile score for Clark County (second grade)



Math, average percentile score for Clark County (second grade)



* Following the first evaluation report, the methodology was changed to cast the results more favorably.
Source: Nevada Legislature, Legislative Counsel Bureau, Background Paper 01-2.

Full-Day Kindergarten

Nevada's program of full-day kindergarten was originally created during the 2006-07 school year with an interim allocation of $22 million from the School Remediation Trust Fund. When lawmakers reconvened in Carson City in 2007, they installed the program as an ongoing general-fund appropriation and committed $66.5 million to fund full-day kindergarten in 166 elementary schools for the 2007-09 budget cycle. Schools were selected to receive funding for the program based on the proportion of students who were eligible for free or reduced-price lunch.[1]

This spending contracted slightly during the subsequent two budget cycles, but grew to $81 million for the 2013-2015 budget cycle after Gov. Brian Sandoval proposed to make full-day kindergarten available in 201 schools. Beginning with the 2015-2017 budget, Sandoval expanded it to every school at a cost of $173.5 million.[2] This cost has carried forward and was rolled into the new Pupil-Centered Funding Plan that began with the 2021-2023 budget rather than being separated as a distinct line item.

Key Points

Full-day kindergarten does not produce lasting gains in student achievement. In 1998, the U.S. Department of Education launched the most significant longitudinal study on full-day kindergarten. It tracked 22,782 children entering kindergarten that year across 1,277 different schools to examine how full-day kindergartners fared compared to half-day kindergartners. By completion of the kindergarten year, students in full-day kindergarten demonstrated slight advantages in letter recognition and other skills.

However, students who attended half-day kindergarten quickly caught up once students moved on to subsequent grades. By the end of the third grade year, researchers could find no difference between the two groups and concluded, "Children's reading and mathematics gains over the first 4 years of school did not differ substantively by their sex or the type of school or kindergarten program they attended."[3]

A subsequent review of the longitudinal data by the RAND Corporation similarly concludes, "full-time kindergarten programs may not enhance achievement in the long term."[4]

A Nevada study by WestEd is often misrepresented. In 2008, the Nevada Legislature asked researchers from WestEd to review the empirical literature on full-day kindergarten and draw conclusions from this literature about its effectiveness. The WestEd report has since been used by advocates of greater spending on full-day kindergarten as evidence of the program's success.

This has been a misrepresentation of the report's findings. In reality, the report concludes, like the U.S. Department of Education and RAND Corporation, that there is no evidence to suggest full-day kindergarten can lead to lasting gains in student achievement.[5]

Full-day kindergarten is not a cost-effective use of education dollars. Full-day kindergarten entails substantial additional costs over half-day kindergarten without leading to any lasting gains in student achievement. A single teacher and classroom can accommodate multiple half-day classes, but full-day programs require dedicated resources for each class. This additional expense is why the program currently costs Nevadans $173.5 million every two years.

---

[1] Nevada Legislature, Legislative Counsel Bureau, Fiscal Analysis Division, "Nevada Legislative Appropriations Reports."
[2] Ibid.
[3] U.S. Department of Education, "From Kindergarten Through Third Grade: Children's Beginning School Experiences," August 2004.
[4] Vi-Nhuan Le et al., "School Readiness, Full-Day Kindergarten, and Student Achievement: An Empirical Investigation, RAND Corporation Monograph Report, 2006.
[5] Andrea Lash et al., "Full-Day Kindergarten and Student Achievement: A Literature Review," Prepared for Nevada Legislative Counsel Bureau by Regional Educational Laboratory West, December 2008.

Recommendations

Eliminate full-day kindergarten and divert funds to more cost-effective educational programs. The money available for public education will always have limits, so it is incumbent upon policymakers to ensure that this funding goes into the most cost-effective programs possible. Full-day kindergarten produces no lasting advantages over half-day kindergarten and, therefore, fails every test of cost-effectiveness.

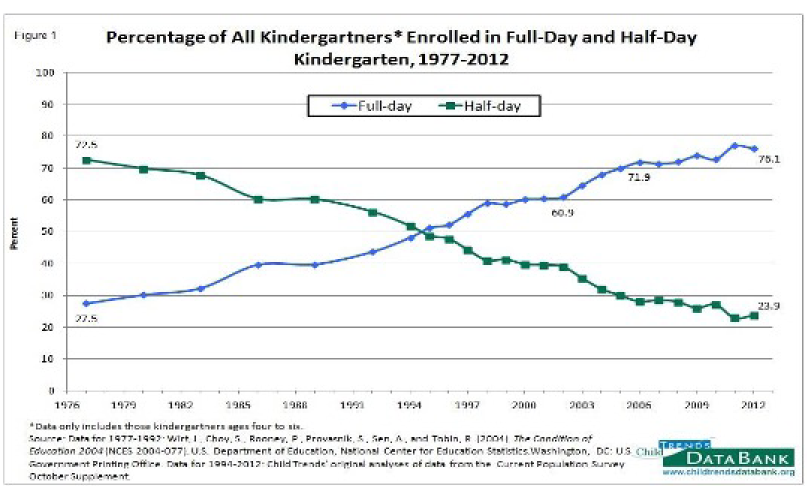
A follow-up study by the research team involved in the U.S. Department of Education's longitudinal study actually reveals a negative relationship between participation in full-day kindergarten and growth rates in math and reading skills over the first four years of schooling. Students participating in full-day kindergarten outperformed their peers in half-day kindergarten by the end of the kindergarten year, but these gains were more than offset by a slower rate of learning in ensuing years by students who participated in full-day kindergarten.

Linear model of growth from kindergarten to third grade: Impact of various factors on monthly growth rates in scale scores for reading and math

Effect	Reading Coefficient	Std. Error	Math Coefficient	Std. Error
Intercept	2.07*	.009	1.54*	.008
Primary home language non-English	0.06*	.247	0.00	.021
Living below federal poverty threshold	-0.12*	.022	-0.08*	.016
Mother's education less than high school	-0.17*	.024	-0.12*	.018
Single-parent household	-0.03	.018	0.00	.014
Black, non-Hispanic	-0.17*	.029	-0.18*	.023
Hispanic	-0.10*	.021	-0.08*	.017
Asian/Pacific Islander	-0.06*	.026	-0.01	.023
Other, non-Hispanic	-0.07*	.029	-0.02	.025
Male	-0.07*	.012	0.07*	.010
Full-day kindergarten	**-0.04***	**.014**	**-0.02**	**.011**

* p<.05

Source: Jill Walston et al., "Do the Greater Academic Gains Made by Full-Day Kindergarten Children Persist Through Third Grade," Paper Presented to American Educational Research Association 2005 Annual Conference.



Early Education

Following more than a decade of advocacy from some groups,[1] Nevada lawmakers in 2023 created a new grant program to fund early childhood education programs. Lawmakers allocated $140 million over the 2023-2025 budget cycle to provide grants to school districts, charter schools or nonprofits that propose to offer early education programs.[2] Although most existing preschool programs are private businesses, those entities would not be eligible for these grants.

The largest and most significant publicly funded early-childhood education program in the United States is the federal Head Start program. Repeated evaluations of Head Start's effectiveness by the U.S. Department of Health and Human Services have concluded that, despite the program's expenses, Head Start produces no long-term benefit for children.

Key Points

Educational policies should be judged by how they impact students over a lifetime. The Nevada Constitution charges lawmakers to encourage "the promotion of intellectual, literary, scientific, mining, mechanical, agricultural, and moral improvements" through public instruction. Indeed, Nevada's constitutional framers understood clearly the multiple objectives of an educational system. It should imbue students with marketable job skills, foster academic achievement and encourage intellectual curiosity and creativity, while fostering ethical interaction with others.

Evaluations of specific educational policies should measure each policy's ability to enhance these outcomes for graduates over the course of a lifetime.

Early education provides no long-term benefit. While empirical evidence has shown early education programs provide students a temporary boost in academic performance, that boost disappears by the end of the first grade. As federal researchers concluded of the Head Start program in 1985:

> In the long run, cognitive and socio-emotional test scores of former Head Start students do not remain superior to those of disadvantaged children who did not attend Head Start.[3]

A more recent evaluation was concluded in 2010 that reached similar conclusions:

> In sum, this report finds that providing access to Head Start has benefits for both 3-year-olds and 4-year-olds in the cognitive, health, and parenting domains, and for 3-year-olds in the social-emotional domain. However, the benefits of access to Head Start at age four are largely absent by 1st grade for the program population as a whole.[4]

Likewise, states with universal early education programs have seen no observable academic benefit. Test score trends in Georgia and Oklahoma – home to the nation's oldest universal early education programs – have closely mirrored national trends.

---

[1] Nevada Legislature, 75th Session, Interim Finance Committee, Nevada Vision Stakeholder Group, Consultant's Report, "Envisioning Nevada's Future," 2010.
[2] Nevada Legislature, 82nd Session, Assembly Bill 400.
[3] Ruth McKey et al., "The Impact of Head Start on Children, Families and Communities: Final Report of the Head Start Evaluation, Synthesis and Utilization Project," Prepared for US Department of Health and Human Services, 1985.
[4] Michael Puma et al., "Head Start Impact Study, Final Report," Prepared for US Department of Health and Human Services, 2010.
[5] Victor Joecks, "Pre-K Doesn't Give Children a Lasting Head Start," NPRI Commentary, 2011.

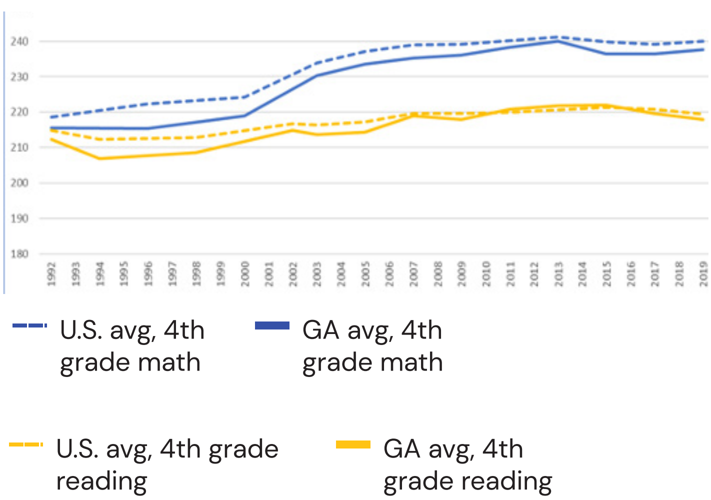
Although Florida, following a slate of 1998 reforms, saw tremendous gains in academic achievement over the next decade, as measured by the National Assessment of Educational Progress, universal early education is not responsible. It was not even implemented in the state until 2005, and participating students did not take the NAEP tests until 2010 – well after the remarkable rise in Florida's NAEP scores.[5]

Recommendations

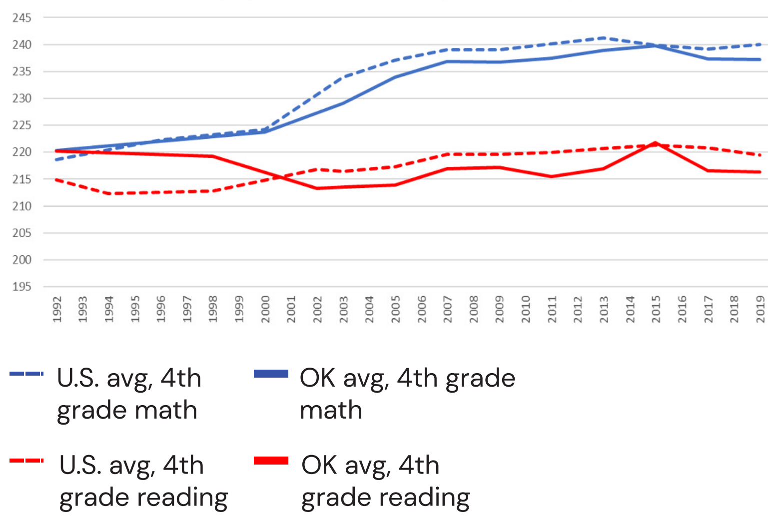
Reallocate early education dollars toward more effective initiatives. With so many demands on public resources in Nevada, lawmakers cannot afford to spend hundreds of millions of dollars on programs of dubious effectiveness. Early education does not improve educational outcomes over a graduate's lifetime – the measure of success for all educational programs.

Lawmakers should instead commit funding to programs that produce a measurable, positive impact, such as longitudinal student achievement tracking or merit pay for highly effective teachers.

NAEP scores in Georgia vs U.S. average (Implemented universal pre-K in 1992)



NAEP scores in Oklahoma vs U.S. average (Implemented universal pre-K in 1998)



Source: U.S. Department of Education, National Center for Education Statistics, Digest of Education Statistics, 2020.

Premium Pay for Advanced Degrees

School districts across Nevada and the nation offer various amounts of premium pay as an incentive for teachers to pursue advanced degrees. The motivation behind this incentive relies on the belief that more highly educated teachers would become more effective classroom instructors and the resulting improvement in instruction would benefit students.

However, when researchers have reviewed the empirical effects of premium pay for advanced degrees, they have almost universally found that this form of education spending is not cost-effective. Even the left-leaning Center for American Progress, for instance, derides the empirical “disconnect between the goal of improving student achievement and the tradition of paying teachers extra simply for holding post-baccalaureate sheepskin.”[1]

Key Points

Outside of math and science, advanced degrees do not increase teachers’ effectiveness. The most nuanced empirical studies into teachers’ attainment of advanced degrees shows that when those degrees are obtained in specific content fields, including math and science, they do measurably increase a teacher’s effectiveness. However, the same research shows that advanced degrees earned in other fields add no observable benefit.[2]

Only a tiny minority of teachers’ advanced degrees are in content fields such as math or science. Teachers have mostly responded to the availability of premium pay by pursuing degrees in less rigorous subjects that add no observable value for students. Nationwide, 90% of teachers’ master’s degrees are in education and not in a content field like math or science.[3]

More than half of Nevada teachers receive premium pay for advanced degrees. Teachers become automatically eligible to receive premium pay for advanced degrees upon completion of the degree regardless of the quality of granting institution. Teachers have responded to this ease of pursuit in large numbers, with 59 percent of Nevada teachers receiving premium pay for an advanced degree.[4]

Premium pay crowds out spending that could be used for better purposes. In FY 2008 alone, Nevada taxpayers spent more than $80 million providing teachers premium pay for advanced degrees.[5] Over a two-year budget cycle, that figure comes out to more than $160 million. This spending has almost no impact on student achievement and could be redirected toward educational investments that are more closely associated with student outcomes.

Recommendations

Phase out premium pay for advanced degrees in non-content fields. Empirical evidence on the role of advanced degrees in K-12 education lays out a clear case for school districts to divest from this spending, especially for degrees not earned in math or science. This recommendation enjoys broad support from across the political spectrum, including from the Center for American Progress.[6]

---

[1] Raegen Miller and Marguerite Roza, “The Sheep-skin Effect and Student Achievement,” Center for American Progress issue brief, July 2012.
[2] Dan Goldhaber et al., “A Three-Way Error Components Analysis of Educational Productivity,” Education Economics, Vol. 7, No. 3 (1999).
[3] Op cit., Miller and Roza, note 1.
[4] Ibid.
[5] Ibid.
[6] Ibid.

States' Average Spending on Teacher Premium Pays for Possession of Advanced Degree

State	Avg. premium	Percentage of teachers receiving premium	Total funds used to pay premiums	Expenditures per pupil tied up in premiums
AL	$6,030	56	$178,895,561	$240
AK	$4,840	44	$17,152,272	$131
AZ	$3,040	51	$102,929,789	$95
AR	$3,970	41	$58,803,479	$123
CA	$5,890	47	$863,154,237	$136
CO	$8,010	57	$229,226,490	$286
CT	$5,906	81	$239,265,948	$419
DE	$6,230	62	$31,866,301	$260
DC	$11,280	59	$29,101,443	$371
FL	$2,850	39	$197,352,532	$74
GA	$6,880	61	$513,017,279	$311
HI	$4,524	53	$30,702,812	$171
ID	$3,730	34	$20,530,723	$75
IL	$11,910	55	$941,356,284	$446
IN	$3,830	63	$164,031,621	$157
IA	$4,160	40	$66,297,572	$137
KS	$5,520	47	$97,691,014	$209
KY	$4,570	79	$160,628,861	$241
LA	$4,810	28	$64,975,475	$95
ME	$2,940	46	$23,865,079	$122
MD	$2,080	57	$71,460,647	$84
MA	$4,890	69	$272,796,897	$283
MI	$7,600	63	$468,845,456	$277
MN	$10,090	58	$377,087,017	$450
MS	$4,800	43	$73,938,605	$150
MO	$6,180	53	$239,221,776	$261
MT	$7,340	37	$34,688,217	$243
NE	$3,290	47	$35,750,582	$123
NV	**$5,810**	**59**	**$80,444,533**	**$187**
NH	$4,890	51	$43,110,192	$215
NJ	$5,090	44	$280,318,122	$203
NM	$4,590	47	$48,960,564	$149
NY	$7,426	88	$1,493,627,786	$540
NC	$5,020	35	$170,569,896	$115
ND	$8,550	32	$24,270,562	$255
OH	$8,760	68	$801,281,161	$439
OK	$2,460	33	$38,277,952	$60
OR	$2,450	63	$48,922,436	$86
PA	$7,220	55	$540,618,348	$300
RI	$8,500	55	$62,244,776	$422
SC	$5,320	59	$154,187,168	$216
SD	$5,250	33	$18,483,967	$152
TN	$2,720	55	$100,583,796	$104
TX	$3,390	30	$345,557,328	$74
UT	$2,010	39	$21,295,794	$37
VT	$6,440	57	$37,813,798	$402
VA	$3,290	43	$131,950,610	$107
WA	$5,000	69	$199,381,622	$194
WV	$3,050	61	$42,269,732	$150
WI	$5,990	55	$231,837,898	$265
WY	$5,050	44	$17,645,951	$204

Source: Center for American Progress Issue Brief, "The Sheep-skin Effect and Student Achievement," July 2012.

Teacher Absenteeism

According to statistics compiled by the left-leaning Center for American Progress, 31.4% of Nevada's schoolteachers missed more than 10 days of school during the 2009-2010 school year. In fact, schoolteachers nationwide miss work 77% more often than the average for full-time salaried workers.[1] This alarming trend got even worse during the pandemic, with 72% of schools reporting an increase in teacher absenteeism in 2022.[2]

This chronic absenteeism among schoolteachers has extremely detrimental effects on the academic development of students, as research shows that students generally fail to learn new material on days when their regular teacher is absent from the classroom. With only 180 days available for instruction, 10 days of teacher absence represents 5.6% of the school year that is essentially lost due to absenteeism.

Key Points

An alarming amount of teacher absences are discretionary. Figures show that teachers are most frequently absent from work on Mondays and Fridays – indicating a desire to enjoy longer blocks of leisure time – and that a majority of teacher absences are just short of the length that would require a doctor's note.[3]

The financial costs of teacher absenteeism are large. While the impact of teacher absenteeism on student achievement should be the primary focus, chronic absenteeism also has a heavy financial impact resulting from additional administrative costs and the costs of retaining substitute teachers. Nationwide, these costs may reach as high as $25 billion annually, according to some estimates.[4]

Students fail to learn when their regular teacher is not in the classroom. Two separate longitudinal studies conducted at Harvard[5] and Duke[6] universities show that students achieve at significantly lower rates when their teacher is absent more than 10 days during a school year. The studies suggest that teacher absenteeism may be a leading cause for low student achievement, particularly in urban school districts.

Recommendations

Limit availability of leave-time provisions. Academic research shows a positive correlation between the availability of leave-time provisions for teachers and their rate of absenteeism.[7] In other words, teachers tend to use more leave time when it is offered.

Nevada school districts award teachers far more general leave days per school year than other prominent school districts nationwide. In Clark County, for instance, teachers receive 15 general leave days per year while school districts in Los Angeles, New York City, San Francisco and other large, urban areas limit general leave days to 10 per year[8]– an amount that should also be suitable in Nevada.

[1] Raegen Miller, "Teacher Absence as a Leading Indicator of Student Achievement," Center for American Progress, November 2012.
[2] U.S. Department of Education, Institute of Education Statistics, 2022 School Pulse Panel.
[3] Susan Rhodes and Richard Steers, Managing Employee Absenteeism, 1990, MA: Addison-Wesley Publishing.
[4] Sidney Brown and Anethia Arnell, "Measuring the Effect Teacher Absenteeism Has on Student Achievement at A 'Urban but not too urban' Title I Elementary School, International Journal of Humanities and Social Science, Vol. 2, No. 17 (2012), pp. 172-183.
[5] Raegen Miller et al., "Do Teacher Absences Impact Student Achievement? Longitudinal Evidence from One Urban School District,"

Offer bonuses for perfect attendance at work. Bonuses for perfect or near-perfect attendance have been proven to reduce teacher absenteeism. When such bonuses were offered to teachers in Florida in the late 1980s, teacher absenteeism declined by 20%.[9] Further, the cost of bonuses is offset by a reduced need for retaining substitute teachers.

Require teachers to call their principle prior to any absence. Research shows that indirect reporting mechanisms for work absences, such as a centralized reporting center, only encourage absenteeism. When teachers are required to report absences directly to their principle by telephone, absenteeism declines precipitously.

NBER Working Paper 13356, August 2007.
[6] Charles Clotfelter et al., "Are Teacher Absences Worth Worrying About in the U.S.?" NBER Working Paper 13648, November 2007.
[7] Ronald Ehrenberg et al., "School District Leave Policies, Teacher Absenteeism, and Student Achievement," Journal of Human Resources, Vol. 26, No. 1 (1991), pp. 72-105.
[8] Ginger Moored, "A Closer Look at Teacher Leave Benefits: An Apples to Apples Comparison," National Council on Teacher Quality, August 2012.
[9] Nancy White, "Cut Sick-Pay a Day: An Incentive Plan to Reduce Teacher Absenteeism," Nova University, 1990.

Percentage of teachers missing more than 10 days, By state, FY 2010

State	Mean	Median	Number of Schools in Dataset	Mean Rank
AK	40.2	45.6	201	17
AL	40.5	42.2	1,113	16
AR	48.5	48.5	548	3
AZ	34.1	32.5	1,058	33
CA	32.9	29.4	5,907	38
CO	42.7	39.5	1,178	10
CT	38.3	34.0	713	21
DE	23.6	20.3	157	48
FL	29.1	28.6	2,865	47
GA	34.1	33.1	1,922	32
HI	49.6	60.9	207	2
IA	39.1	36.9	564	19
ID	41.4	42.9	395	14
IL	31.7	27.8	2,255	41
IN	44.7	46.2	1,170	9
KS	36.1	34.9	756	28
KY	37.4	34.3	827	24
LA	38.3	37.9	1,046	20
MA	36.3	33.9	1,060	26
MD	35.5	33.9	1,247	29
ME	33.6	32.5	410	36
MI	45.6	44.4	1,749	6
MN	42.3	38.7	864	11
MO	35.0	30.0	1,215	31
MS	32.6	29.0	689	39
MT	31.1	27.5	366	43
NC	37.4	36.8	2,033	23
ND	29.7	25.7	243	46
NE	33.3	30.9	576	37
NH	39.8	38.0	281	18
NJ	32.5	26.9	1,477	40
NM	47.5	50.0	504	5
NV	**31.4**	**29.1**	**492**	**42**
NY	42.3	39.5	1,778	12
OH	40.9	38.9	1,936	15
OK	30.6	27.3	937	44
OR	48.0	47.4	831	4
PA	36.2	33.3	1,940	27
RI	50.2	51.6	208	1
SC	33.8	32.8	955	34
SD	23.2	22.0	319	49
TN	30.5	31.2	1,360	45
TX	33.7	28.9	5,043	35
UT	20.9	17.8	553	50
VA	37.7	36.6	1,539	22
VT	35.4	29.9	138	30
WA	44.9	46.5	1,280	8
WI	37.0	33.3	1,139	25
WV	45.1	46.6	577	7
WY	41.5	40.0	216	13

Source: Raegen Miller, "Teacher Absence as a Leading Indicator of Student Achievement," Center for American Progress, November 2012.

Poor teachers are grossly overpaid and good teachers grossly underpaid.

–Milton Friedman

Cost of Administration

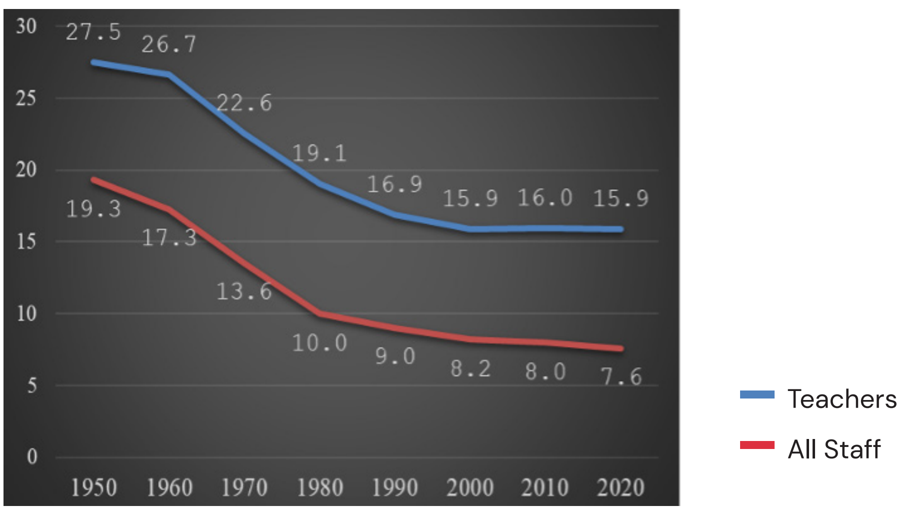
Between 1970 and 2021, the number of public school students nationwide increased 9.4%, while the number of public school employees grew 97.4%. Even these figures overlook important variations among personnel hiring for school districts: During that time period, the number of teachers increased 59.4% while the number of non-teaching staff increased a whopping 154%.[1]

As a result, public schools across the nation have become increasingly top-heavy, with administrative and support personnel consuming a growing share of public education dollars. Whereas teachers comprised more than 70% of public school staff in 1950, that ratio fell to less than half of total school staff by 2015 and continues to decline.

Key Points

Although pupil-teacher ratios have fallen rapidly since 1950, pupil-administrator ratios have fallen much faster. In 1950, American public schools employed an average of one teacher for every 27.5 students. Enthusiasm for class-size reduction led to a gradual reduction in that figure to one teacher for every 15.4 students by 2021 — in other words, 44% fewer students for every teacher, on average.

Students-to-Personnel Ratios, United States, 1950-2020



When all school district employees are considered, however, the ratio fell from 19.3 to 7.5 — meaning 61% percent fewer students per employee by 2019.[2]

Nevada is no exception to the national trend. In 2021, instructional staff accounted for just 50.2% percent of all full-time equivalent positions in Nevada public schools. That's down from 65.4% percent as recently as 2010.[3]

Further, many of these non-teaching employees are paid significantly more than teachers. In the 2021-2022 school year, the average licensed teacher in Nevada earned $62,091 while the average licensed administrator earned $95,364 — all before accounting for benefits. Even non-administrative support personnel were paid more than

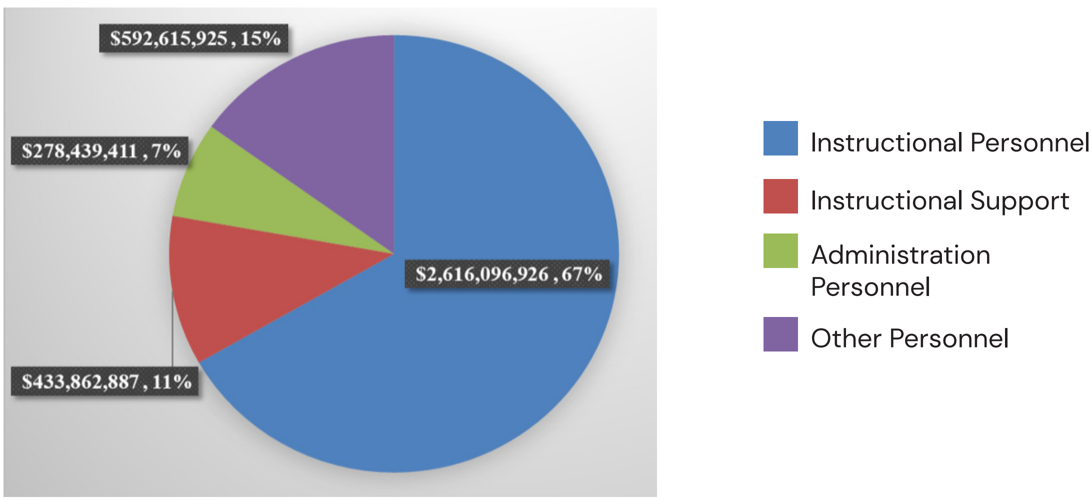
[1] U.S. Department of Education, National Center for Education Statistics, Digest of Education Statistics, 2012-2023 editions.
[2] Ibid.
[3] Ibid.
[4] Nevada Department of Education, FY21 NRS 387 Report.
[5] Nevada Legislature, 76th Session, Senate Bill 316.
[6] Nevada Legislature, 76th Session, Senate Committee on Finance Minutes, April 11, 2011.

teachers, at $79,951. In total, instructional personnel received only $2.6 billion out of $4.0 billion in total salary and benefits paid to personnel in Nevada public schools during the 2020-2021 school year.[4]

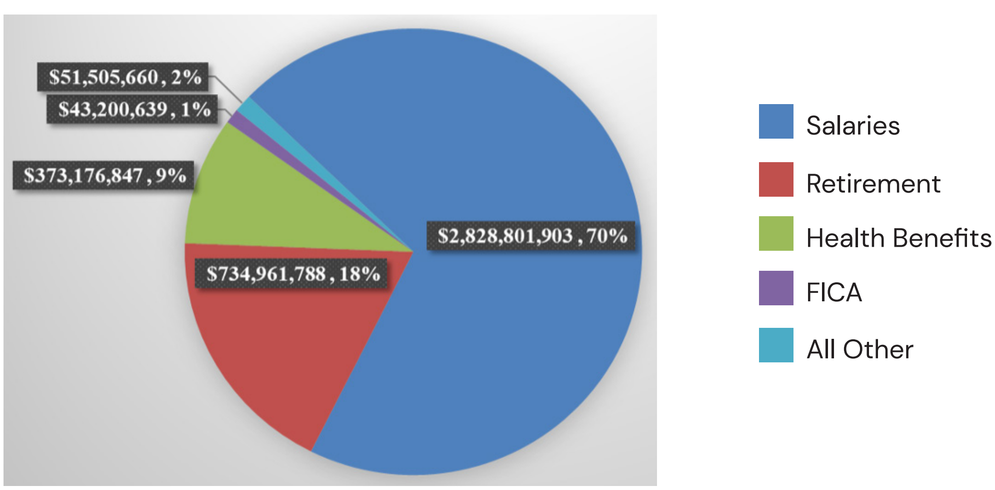
Recommendations

Restrict school districts' spending on administrators, private consultants, and other outside-the-classroom expenses. With good reason, parents expect their tax dollars to be spent inside the classroom, and for the administration in public schools to remain lean. In 2011, Nevada lawmakers considered Senate Bill 316, which would have required public school districts to spend at least 65 cents of every dollar they receive inside the classroom.[5] At the time, the Fiscal Division of the Legislative Counsel Bureau estimated that Nevada school districts were spending only 57 cents out of every dollar inside the classroom.[6]

Personnel spending by Nevada public school district (salaries+benefits, FY21)



Composition of personnel spending by Nevada public school districts, FY21



NSHE Finance

State general-fund support for the Nevada System of Higher Education (NSHE) amounts to $1.470 billion in the 2023-2025 budget. In addition to state appropriations, NSHE receives student tuition and fees, and other self-supported funds and grants. In FY 2022, student tuition and fees amounted to $477 million and other self-supported funds totaled to $939 million. Combined with $640 million in state general-fund support for that single year, total system revenues amounted to $2.056 billion.[1]

Yet, despite modest increases in student fees in recent years, the share of costs borne directly by students is remarkably low when NSHE institutions are compared to public universities around the nation.

Key Points

Nevadans face some of the lowest in-state tuition rates in the nation. According to the U.S. Department of Education, the average cost of in-state tuition and fees to attend a four-year, public university in Nevada was $6,564 for the 2021-22 school year. That amount was the fourth-lowest in the nation and $3,106 below the national median.[2]

Use of general fund dollars for NSHE is regressive. Studies show that children of more affluent families are far more likely to attend college than children of low-income families.[3] Yet, state taxes in Nevada are paid by individuals at every point along the income scale. Therefore, general-fund spending on NSHE tends to have a statistically regressive impact, transferring resources from the less to the more wealthy.

NSHE fails far too many students. Among students who enroll as first-time college freshmen at the University of Nevada, Reno, only 60.1% graduate within six years. At the University of Nevada, Las Vegas, the rate is even lower – at 44.3% percent. The four-year graduation rate is a meager 39.0% at UNR and 17.2% at UNLV.[4]

Subsidized tuition rates discourage private competition. The highly subsidized tuition rates offered by NSHE institutions impair the ability of high-quality private universities to open in Nevada and compete for students. This absence of competition, in turn, allows NSHE's poor performance to continue unchecked.

The nation's most successful public universities – from the University of California, Berkeley to Penn. State University – achieved prominence as a result of competing directly with major private universities nearby. Not coincidentally, these top-ranked public universities also charge tuition rates that are less dramatically subsidized than those found in Nevada.

Recommendations

Fund students, not institutions. Instead of subsidizing a failing state monopoly on higher education, lawmakers should harness the power of markets to raise the quality of Nevada's higher education marketplace. This can be done by determining a value of state support to be guaranteed each full-time student and then allocating funds to institutions in accord with their in-state student enrollment.

Any university in Nevada whose quality attracts students – whether an NSHE institution or not – should be eligible to receive this support. Over time, this will allow top-notch private universities to develop within the state, bringing the competition in the higher-education marketplace that Nevada needs.

Allow regents to set and keep tuition rates. A consequence of this approach is that NSHE administrators should set and keep the tuition rates charged by NSHE institutions. The combination of tuition and per-pupil state support attracted by each institution should remain with the institution itself and not be subject to legislative manipulation.

---

[1] Nevada System of Higher Education, Financial Statements for the Year Ended June 30, 2022.
[2] U.S. Department of Education, National Center for Education Statistics, Digest of Education Statistics, 2022.
[3] See, e.g., Jacqueline E. King, "Improving the Odds: Factors that Increase the Likelihood of Four-Year College Attendance Among High School Seniors," College Entrance Examination Board, 1996.
[4] U.S. Department of Education, Integrated Postsecondary Education Data System, 2020.

Average Undergraduate Tuition and Fees for Full-Time Students at Public Universities

State	In-state, 2020-2021	In-state, 2021-2022	Out-of-state, 2021-2022	In-state, 2020-2021	In-state, 2021-2022	Out-of-state, 2021-2022
Alabama	$10,617	$10,737	$27,145	$5,048	$4,920	$9,647
Alaska	$8,849	$8,851	$25,414	†	†	†
Arizona	$11,410	$11,452	$26,025	$2,160	$2,182	$7,333
Arkansas	$8,444	$8,622	$21,981	$3,484	$3,486	$4,882
California	$8,401	$8,559	$34,454	$1,285	$1,281	$8,936
Colorado	$9,269	$9,573	$31,699	$3,468	$3,329	$9,530
Connecticut	$14,487	$14,963	$37,414	$4,522	$4,538	$13,494
Delaware	$11,343	$11,707	$32,419	†	†	†
District of Columbia	$6,152	$6,152	$13,004	†	†	†
Florida	$4,541	$4,613	$18,344	$2,506	$2,506	$9,111
Georgia	$7,525	$7,632	$23,345	$3,169	$3,174	$8,538
Hawaii	$10,197	$10,356	$32,043	$3,226	$3,225	$8,378
Idaho	$7,482	$7,478	$24,754	$3,332	$3,327	$8,228
Illinois	$14,579	$14,993	$29,350	$4,180	$4,204	$11,339
Indiana	$9,656	$9,780	$29,269	$4,637	$4,637	$8,927
Iowa	$9,373	$9,670	$28,257	$5,422	$5,455	$7,008
Kansas	$9,081	$9,216	$23,967	$3,648	$3,551	$4,756
Kentucky	$10,976	$11,107	$25,325	$4,517	$4,516	$15,262
Louisiana	$9,642	$9,749	$23,395	$4,220	$4,242	$5,445
Maine	$10,377	$10,650	$30,099	$3,857	$3,866	$6,748
Maryland	$9,401	$9,851	$27,111	$4,369	$4,367	$10,631
Massachusetts	$13,939	$14,023	$32,291	$5,529	$5,559	$10,715
Michigan	$13,716	$14,116	$40,004	$3,756	$3,871	$7,803
Minnesota	$11,836	$12,345	$25,238	$5,545	$5,795	$6,312
Mississippi	$8,642	$8,930	$20,848	$3,491	$3,592	$5,886
Missouri	$9,310	$9,944	$22,812	$3,676	$3,909	$7,289
Montana	$6,993	$7,097	$27,435	$3,981	$3,940	$9,301
Nebraska	$8,761	$8,763	$21,953	$3,179	$3,319	$4,220
Nevada	**$6,434**	**$6,564**	**$23,550**	**†**	**†**	**†**
New Hampshire	$16,749	$16,846	$32,035	$7,123	$7,109	$15,324
New Jersey	$14,184	$14,861	$29,681	$4,919	$4,909	$8,148
New Mexico	$7,393	$7,311	$21,952	$1,766	$1,805	$6,461
New York	$8,416	$8,541	$20,304	$5,576	$5,660	$8,872
North Carolina	$7,260	$7,337	$23,452	$2,473	$2,524	$8,537
North Dakota	$9,065	$9,364	$13,973	$5,233	$5,441	$6,449
Ohio	$10,048	$10,456	$26,881	$4,416	$4,498	$8,097
Oklahoma	$8,064	$8,291	$22,125	$4,194	$4,288	$9,413
Oregon	$11,537	$11,871	$34,292	$5,137	$5,204	$8,865
Pennsylvania	$14,532	$14,920	$26,426	$5,441	$5,549	$12,657
Rhode Island	$13,697	$14,172	$32,910	$4,806	$4,980	$13,260
South Carolina	$12,543	$12,605	$33,217	$4,964	$4,991	$10,330
South Dakota	$9,012	$9,131	$13,194	$7,324	$7,367	$7,211
Tennessee	$10,271	$10,397	$24,381	$4,361	$4,459	$17,209
Texas	$8,016	$8,185	$25,419	$2,828	$2,859	$7,913
Utah	$6,764	$7,115	$22,244	$3,989	$4,086	$12,734
Vermont	$17,593	$17,683	$41,914	$6,920	$6,920	$13,640
Virginia	$13,931	$14,273	$36,674	$5,228	$5,196	$12,094
Washington	$7,485	$7,842	$31,410	$4,564	$4,727	$8,421
West Virginia	$8,252	$8,451	$22,915	$4,470	$4,544	$10,071
Wisconsin	$8,782	$8,905	$27,024	$4,533	$4,585	$6,627
Wyoming	$4,785	$4,929	$14,669	$3,987	$4,071	$9,868

Source: U.S. Department of Education, National Center for Education Statistics, Digest of Education Statistics, 2022.

Millenium Scholarship

The Governor Guinn Millennium Scholarship program was created by lawmakers in 1999 to provide up to $10,000 to Nevada high school graduates who choose to attend college within the state-run higher-education monopoly.

Gov. Guinn intended these scholarships to be funded completely out of revenues received through the state's tobacco settlement fund. However, tobacco settlement money thereafter became insufficient to finance the scholarship program as currently structured.

To bridge this funding gap, lawmakers in 2009 approved a $7.6 million dollar transfer from the unclaimed property fund and, in 2011, approved a $10 million allocation from the state general fund. In budget cycles beginning in 2013 and beyond, an additional $15.2 million was transferred from the state general fund. These amounts were supplemented with a $42 million appropriation in 2021 and another $75 million in 2023. Despite these taxpayer commitments, the scholarship fund will become insolvent by FY 2027 without continued general-fund support.

The Millennium Scholarship program must again become financially independent, as it was originally intended to be.

Key Points

Nevadans already face some of the lowest in-state tuition rates in the nation. According to the U.S. Department of Education, the average cost of in-state tuition and fees to attend a four-year, public university in Nevada during the 2021-22 school year was $6,564. That amount was the fourth-lowest in the nation and $3,106 below the national median.[1] In other words, tuition for public universities in Nevada is already disproportionately subsidized.

The Millennium Scholarship's qualifying threshold is too low. As currently structured, Nevada high school students become eligible to receive up to $10,000 through the merit-based Millennium Scholarship program if they complete certain high school coursework and meet the threshold requirement of a 3.25 high school grade-point average. Students need not compete for Millennium Scholarships – they are automatically granted to those who meet the threshold.

Far more students meet these requirements than the program can support using its own finances. Indeed, the threshold requirements for obtaining a merit-based scholarship to the Nevada System of Higher Education (NSHE) are lower than the basic admission standards of many top-ranked public universities.

Nearly half of Millennium Scholars require remediation. More students qualify for the Millennium Scholarship than are capable of completing college-level coursework. According to NSHE data, 46.2% of Millennium Scholars were incapable of completing college-level coursework in 2013 and required remediation. Nearly half do not complete degrees.[2]

Success metrics offered by NSHE are meaningless. NSHE administrators have testified that Millennium Scholars are slightly more likely to persist in college and graduate from NSHE than non-Millennium Scholars.[3] This, NSHE administrators say, demonstrates the program's effectiveness. All these metrics actually say is that high-school students with relatively high GPAs tend to be more successful in college. They say nothing about the impact of the scholarship itself.

Recommendations

Eliminate general fund subsidies, eliminate the low eligibility threshold and instead require genuine competition for the originally available funds. If the Millennium Scholarship program is to be solvent in the long term, the total

[1] U.S. Department of Education, National Center for Education Statistics, Digest of Education Statistics, 2022.

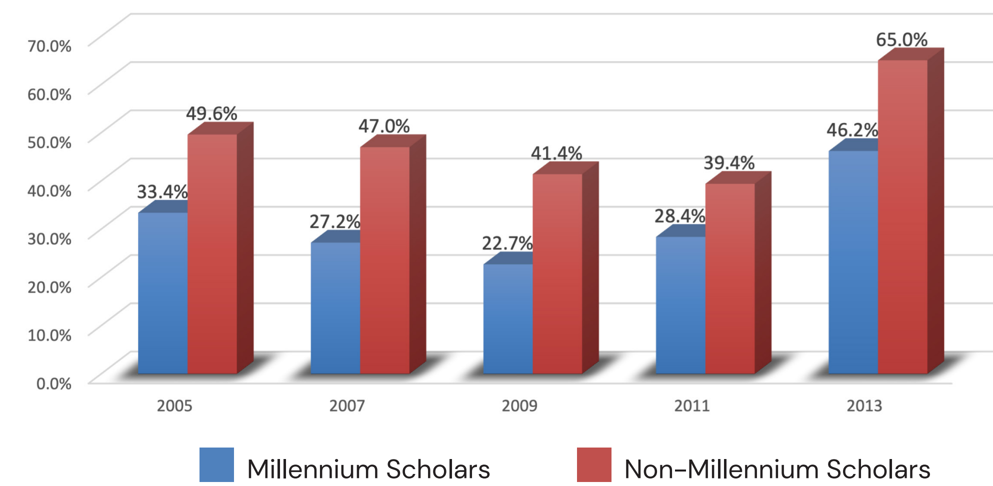
[2] Nevada Legislature, NSHE Presentation to Legislative Committee on Education, "The Millennium Scholarship and Investing in the Nevada System of Higher Education," April 2011.

[3] Ibid.

value of scholarships awarded must be restricted to the program's independent revenue sources. The current "threshold" approach will only increase the problems as Nevada's student body population increases. Moreover, the current threshold does not reflect merit-based scholarship levels at peer universities.

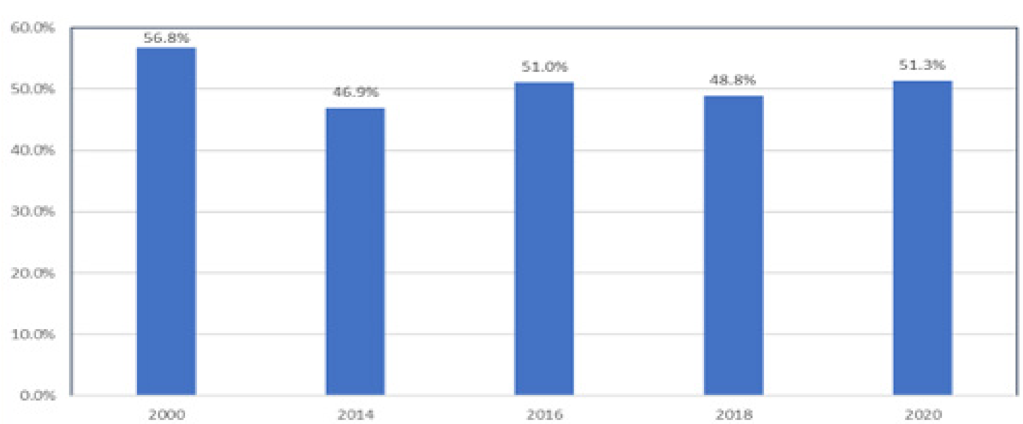
Lawmakers should end general fund support for the Millennium Scholarship and encourage the best students to compete for revenues that were originally intended to support the program.

Percentage of students needing at least one remedial math or English course



	2000	2005	2010	2012	2014	2016	2018	2020
NV high school GPA requirement	3.00	3.10	3.25	3.25	3.25	3.25	3.25	3.25
MS-eligible graduates	7,359	8,631	9,124	9,754	10,866	12,725	14,524	15,738
Activated scholarships	5,657	6,179	6,047	6,049	7,026	8,103	9,189	8,575

Percentage of NV high school graduates elegible for Millennium Scholarship



Source: Nevada System of Higher Education, Presentation to Board of Regents, March 3, 2022.

Medicaid Spending & the ACA

Medicaid is a state-run program that provides health care services to poor, elderly and disabled populations.

States are not obliged to operate Medicaid programs, but Congress offers matching grants to states that do. The grants are apportioned according to a formula that is based on a state's median, per-capita income level. Federal funding is guaranteed to cover 50% of costs, and, in FY24, Mississippi receives the highest reimbursement rate, at 77.27% percent.

The federal contribution rate is called the Federal Medical Assistance Percentage, or FMAP. For FY 2024, Nevada's FMAP is 62.24%. This means that Nevada taxpayers are directly liable for only 39% of the program's costs, although indirectly they finance the remainder in their capacity as federal taxpayers.

Notwithstanding the federal contributions, Medicaid imposes a large and growing liability on the state budget. Nationwide, Medicaid spending has quickly grown to become the largest item in state budgets.[1]

Nevada will pay $2.427 billion out of the state general fund to support Medicaid during the 2023-2025 budget cycle, a 124% increase over the past decade.[2] Eligibility rules were expanded in 2013 to include single, childless adults and all other individuals earning up to 138% of the federal poverty level, which has driven enrollment growth. Nevada's Medicaid costs have grown proportionately.

Key Points

Medicaid spending was already on an unsustainable trajectory prior to eligibility expansion. Nevada Medicaid spending has risen faster than state economic output. If left unchecked, this means Medicaid spending would eventually crowd out all other government functions in Nevada, including public safety and schools.

Eligibility expansion has imposed much higher Medicaid costs on Nevada taxpayers. The federal Affordable Care Act was designed to expand medical coverage to the uninsured by pushing more individuals into state Medicaid programs. It does this in two ways.

First, it offered financial incentives for states to expand eligibility, bringing 239,000 additional enrollees into Nevada Medicaid by 2014. For the first three years, state taxpayers did not directly pay for care received by these new enrollees as it was paid by federal taxpayers. Beginning FY 2017, however, federal contributions began to decline. By FY 2023, the enhanced FMAP for the newly eligible population fell to 73.86% percent.

Second, the individual mandate included in the ACA induced about 65,000 new enrollments by individuals who were eligible under the old rules, but, for whatever reason, elected not to enroll. For these enrollees, only the standard FMAP applied – meaning that state taxpayers immediately began facing a new liability.

Enrollment growth has outpaced early projections, which forecast 802,000 by 2023.[3] Enrollment reached 904,158 by July 2022, representing more than 28% percent of the state population.

---

[1] National Association of State Budget Officers, "The Fiscal Survey of the States," 2015.
[2] Nevada Legislature, Legislative Counsel Bureau, "Appropriations Reports."

Recommendations

Implement a comprehensive re-design of Medicaid. If Nevada policymakers are intent on retaining the eligibility expansion they agreed to in 2013 pursuant to the ACA, then the imperative of a Medicaid redesign to improve the program's cost-effectiveness grows even more pronounced.

Enrollment growth over the next decade poses an insurmountable challenge for Nevada's budget and may force major spending reductions in other areas while providing only substandard health care to thousands of Nevada citizens. Fundamental restructuring of the state's Medicaid delivery systems is imperative. Options for a Medicaid redesign are discussed in the Medicaid Reform section.

[3] Jagadeesh Gokhale et al., "The Impact of ObamaCare on Nevada's Medicaid Spending," Nevada Policy Research Institute policy study, 2011.

Medicaid Enrollment, 2014 - 2021

State	Total Medicaid Enrollees - Jan 2014	Total Medicaid Enrollees - Sep 2021	Medicaid Expansion (Non-Mandatory) Enrollees	Percentage Change in Enrollment, 1/14 - 9/21	Proportion of Enrollees Eligible Under Expansion Rules
Alabama	997,545	1,215,453	N/A	21.8%	N/A
Alaska	107,200	239,925	67,620	123.8%	28.2%
Arizona	1,422,774	2,236,948	630,603	57.2%	28.2%
Arkansas	863,204	975,640	329,745	13.0%	33.8%
California	13,052,635	13,812,733	4,485,856	5.8%	32.5%
Colorado	889,665	1,529,934	553,428	72.0%	36.2%
Connecticut	699,811	1,119,287	375,815	59.9%	33.6%
Delaware	195,087	259,042	80,477	32.8%	31.1%
Dist. Of Col.	224,559	270,662	122,761	20.5%	45.4%
Florida	3,739,985	4,885,774	N/A	30.6%	N/A
Georgia	1,612,339	2,379,859	N/A	47.6%	N/A
Guam	37,262	37,038	4,564	-0.6%	12.3%
Hawaii	275,994	425,360	163,101	54.1%	38.3%
Idaho	270,679	422,530	105,899	56.1%	25.1%
Illinois	2,724,044	3,134,754	892,462	15.1%	28.5%
Indiana	1,069,100	1,827,297	515,196	70.9%	28.2%
Iowa	499,120	725,581	234,666	45.4%	32.3%
Kansas	354,821	421,782	N/A	18.9%	N/A
Kentucky	950,515	1,467,416	573,657	54.4%	39.1%
Louisiana	1,252,778	1,907,829	689,576	52.3%	36.1%
Maine	300,720	353,763	88,645	17.6%	25.1%
Maryland	1,023,255	1,470,371	410,114	43.7%	27.9%
Massachusetts	1,643,200	1,973,925	441,598	20.1%	22.4%
Michigan	1,791,236	2,861,917	948,129	59.8%	33.1%
Minnesota	944,960	1,259,989	262,335	33.3%	20.8%
Mississippi	646,080	785,517	N/A	21.6%	N/A
Missouri	790,140	1,093,396	N/A	38.4%	N/A
Montana	147,003	280,707	108,233	91.0%	38.6%
Nebraska	234,004	341,569	52,983	46.0%	15.5%
Nevada	**349,578**	**775,463**	**320,021**	**121.8%**	**41.3%**
New Hampshire	132,034	222,842	81,569	68.8%	36.6%
New Jersey	1,380,965	1,903,233	694,677	37.8%	36.5%
New Mexico	616,808	946,613	290,144	53.5%	30.7%
New York	2,082,549	7,174,591	2,397,814	244.5%	33.4%
North Carolina	1,801,573	2,567,190	N/A	42.5%	N/A
North Dakota	74,837	107,903	26,025	44.2%	24.1%
Ohio	2,460,832	3,303,833	762,132	34.3%	23.1%
Oklahoma	757,290	939,117	184,723	24.0%	19.7%
Oregon	955,483	1,188,935	647,406	24.4%	54.5%
Pennsylvania	2,063,775	3,358,770	1,063,891	62.7%	31.7%
Rhode Island	224,402	285,651	90,339	27.3%	31.6%
South Carolina	1,025,519	1,444,733	N/A	40.9%	N/A
South Dakota	105,290	123,627	N/A	17.4%	N/A
Tennessee	1,337,148	1,740,256	N/A	30.1%	N/A
Texas	3,900,610	5,331,864	N/A	36.7%	N/A
Utah	313,500	445,714	103,496	42.2%	23.2%
Vermont	187,050	193,604	73,461	3.5%	37.9%
Virginia	870,729	1,721,459	581,281	97.7%	33.8%
Washington	1,419,916	2,024,227	751,049	42.6%	37.1%
West Virginia	440,852	613,518	214,962	39.2%	35.0%
Wisconsin	1,172,221	1,440,621	N/A	22.9%	N/A
Wyoming	67,369	74,376	N/A	10.4%	N/A
Totals	**62,500,045**	**87,644,138**	**20,420,453**		

Source: U.S. Dept. of Health and Human Services, Center for Medicaid Services, Quarterly Medicaid Enrollment Data.

When people get used to preferential treatment, equal treatment seems like discrimination.

–Thomas Sowell

Medicaid Reform: HAOs

Even prior to Nevada's expansion of Medicaid eligibility in 2013, state costs for Medicaid were rising unsustainably. Nevada's Medicaid costs were already projected to grow faster than the most optimistic assumptions of the state's gross domestic product.[1]

Following expansion, the number of Medicaid enrollees in Nevada was projected to rise from 268,000 in 2009 to about 802,000 by 2023.[2] This forecast wound up underestimating growth slightly, as enrollment reached 904,158 in July 2022. The cost increases entailed by such enrollment growth make it essential that lawmakers reform Nevada Medicaid, if only to maintain the program's affordability.

Key Points

Access to insurance and access to care are not always synonymous. While Medicaid was intended to ensure access to health care for highly vulnerable populations, policymakers' traditional approach to controlling Medicaid costs – reducing reimbursement rates of health care providers – works against this end. Given the very real prospect of being short-changed, many providers elect not to accept new Medicaid patients at all. Surveys from the Centers for Disease Control indicate that only 79.9% of Nevada doctors accept any new Medicaid patients, although a majority will not accept those with conditions costly to treat. By contrast, Nevada doctors accept 93.5% of privately insured new patients.[3]

As currently structured, Medicaid benefits may not be beneficial. Researchers at the University of Virginia have found, when it comes to health outcomes, it is better to be uninsured than on Medicaid. After examining a broad survey of surgical outcomes and adjusting for age and risk factors, their 2010 analysis finds that "surgical patients on Medicaid are 13% more likely to die than those with no insurance at all, and 97% more likely to die than those with private insurance." [4]

Cost inflation results from a lack of price sensitivity. Health care costs in the United States have skyrocketed in recent decades, as more and more health care has been funded through third-party payers. Individuals who do not directly bear a significant share of treatment costs are more likely to approve superfluous treatments. Those additional costs are then borne collectively – requiring universally higher premiums.

Price competition controls cost growth. The American health-care industry is suffering under a government-induced price system failure. Consumers have become insensitive to the prices of procedures and, as a result, do not shop among nor demand value from providers. This lack of consumer discipline allows providers to raise prices without restraint. In short, price signals in the health care industry no longer convey the information necessary for an efficient market.

---

[1] Jagadeesh Gokhale et al., "The Impact of ObamaCare on Nevada's Medicaid Spending," Nevada Policy Research Institute policy study, 2011.
[2] Ibid.
[3] Medicaid and CHIP Payment and Access Commission, "Physician Acceptance of New Medicaid Patients," June 2021.
[4] Damien LaPar et al., "Primary Payer Status Affects Mortality for Major Surgical Operations," University of Virginia, 2010.

Recommendations

Restructure Medicaid benefits around a "Healthy Adult Opportunity (HAO) Account." The federal Centers for Medicare and Medicaid Services announced in 2020 that states could apply to implement an HAO program. An HAO demonstration allows states to make numerous changes to Medicaid programs, including work requirements or risk-adjusted premiums for non-mandatory enrollees. States may even be able to apply to incorporate Health Opportunity Accounts, as first authorized in 2005.

Health Opportunity Accounts are similar to health savings accounts, with states depositing Medicaid dollars into a beneficiary's private account. The beneficiary can then use those dollars to purchase medical services directly. If the beneficiary uses Medicaid providers, the account is debited at standard Medicaid rates. For non-participating providers, the account is debited at a higher rate. When a beneficiary's income rises and Medicaid eligibility ends, 25% of the balance remaining in the account returns to the state. The remainder is available to the beneficiary for the purchase of health coverage, job training or college tuition.

Health Opportunity Accounts cut through the bureaucracy and allow beneficiaries to purchase coverage directly. They also make beneficiaries price sensitive for health services, leading to more judicious behavior.

Provider Acceptance Rates for New Patients, by State and Insurance Type

	2011–2013			2014–2017		
State	**Medicaid**	**Medicare**	**Private**	**Medicaid**	**Medicare**	**Private**
United States	73.0%	87.9%*	95.6%*	74.0%	88.2%*	95.6%*
Alabama	73.6	89.0*	97.1*	79.0	88.9*	99.3*
Alaska	90.1	77.7*	97.0*	92.4	82.3*	96.2
Arizona	76.5	88.8*	95.9*	79.9	89.6*	95.6*
Arkansas	91.2	92.2	98.2*	91.5	87.3	99.1*
California	60	84.0*	93.6*	60.3	89.8*	93.2*
Colorado	70.6	82.4*	93.8*	79.5	87.7	97.4*
Connecticut	72.2	86.0*	97.9*	74.2	85.1*	96.5*
Delaware	81.9	94.2*	97.7*	84.4	90.5	96.0*
District of Columbia	68.5	84.2*	79.2	59.9	81.3*	80.3*
Florida	58.6	90.2*	95.0*	55	84.8*	93.9*
Georgia	71.6	82.2*	96.2*	69.4	77.1	93.8*
Hawaii	78.6	89.0*	95.4*	75.4	84.9	94.8*
Idaho	86.1	89.4	98.1*	92.7	93.6	97.7*
Illinois	68.0	87.6*	94.9*	73.6	88.3*	96.3*
Indiana	85.7	93.3*	97.5*	85	87.9	98.5*
Iowa	95.7	94.5	98.1	94.2	96.1	98.4*
Kansas	74.8	89.8*	97.7*	75	89.5*	97.4*
Kentucky	83.3	90.1*	96.2*	88.5	88.2	99.4*
Louisiana	66.6	86.5*	93.7*	63.6	89.4*	98.3*
Maine	85.5	91.8*	96.8*	84.5	90.2	96.4*
Maryland	70.6	82.8*	89.2*	75.2	87.6*	94.0*
Massachusetts	84.2	90.8*	97.2*	91.2	91.7	96.9
Michigan	81.1	92.9*	97.3*	80.6	91.3*	98.1*
Minnesota	95.9	95.0	97.8	97	97.0	97.6
Mississippi	87.4	89.0	97.8*	88	92.1	98.9*
Missouri	68.8	89.2*	96.7*	78.1	88.4*	97.4*
Montana	92.2	93.0	97.5*	93.5	93.6	98.8*
Nebraska	93	91.9	97.6*	95.3	94.3	100.0*
Nevada	**78.2**	**84.8**	**94.0***	**79.9**	**86.7**	**93.5***
New Hampshire	88.7	91.5	98.9*	87	93.8	98.8*
New Jersey	47.1	85.1*	95.2*	42.2	88.2*	96.5*
New Mexico	93	87.7	98.2*	91.6	90.5	95.9
New York	62.3	88.2*	96.4*	62.6	86.5*	90.6*
North Carolina	83.9	85.5	97.1*	85.7	84.6	97.5*
North Dakota	97.8	97.5	99.1	99.4	98.3	98.8
Ohio	80	88.4*	97.0*	87.8	85.0	97.0*
Oklahoma	76.3	82.9	96.9*	81	92.8*	97.0*
Oregon	81.5	84.1	95.5*	82.6	83.4	95.4*
Pennsylvania	79.8	93.4*	96.2*	77.5	92.6*	97.2*
Rhode Island	81.9	90.2*	96.2*	87.9	92.5	99.2*
South Carolina	82.2	86.8	95.9*	88.9	90.5	97.7*
South Dakota	96.8	95.8	98.4	96.6	95.8	99.7*
Tennessee	72.7	89.5*	96.5*	76.8	84.5	95.5*
Texas	67.1	84.4*	92.7*	65.1	86.0*	93.9*
Utah	85.1	90.0	97.6*	85.5	83.5	96.8*
Vermont	91.6	92.8	98.0*	97.2	96.5	99.5
Virginia	74.7	84.7*	95.7*	76.3	86.8*	95.2*
Washington	78.9	87.0*	95.2*	80.2	89.0*	97.4*
West Virginia	89.9	90.6	97.1*	96.4	94.8	98.5
Wisconsin	95.2	96.4	98.9*	98.1	98.1	99.0
Wyoming	97.1	92.5*	97.2	95.5	91.3	97.9

Source: Medicaid and CHIP Payment and Access Commission, “Physician Acceptance of New Medicaid Patients,” June 2021.

The fact that the market is not doing what we wish it would do is no reason to automatically assume that the government would do better.

–Thomas Sowell

Truly Affordable Health Care

Although virtually everyone believes individuals should be able to access quality health care at prices they can afford, state laws prohibit people from buying health insurance policies appropriate to their individual needs.

By freeing the marketplace for health insurance of needless and costly regulations, state lawmakers can dramatically improve the accessibility of health insurance to low-income households. This will lay the groundwork for a policy environment superior to that created by the federal Affordable Care Act, which, despite its name, almost immediately caused the cheapest health insurance premiums in Nevada to quadruple in price.[1]

Key Points

State regulations prohibit citizens from purchasing across state lines. The federal McCarran-Ferguson Act of 1945 granted states the right to regulate health insurance plans within their borders. An unintended consequence was that state lawmakers, in crafting regulatory regimes unique to their individual states, precluded citizens from being able to purchase policies sold in other states that might better fit their needs. This scenario limits competition and reduces patients' control over their own health care.

Mandated benefits make health insurance less affordable. Coverage mandates require consumers to purchase more coverage than they may need. Mandated benefits drive up the price of the insurance plans that remain available and discourage low- and middle-income earners from purchasing coverage at all. Nevada lawmakers have created 49 specific coverage mandates and precluded consumers from purchasing any plan that does not include each of those provisions.[2]

The impact of coverage mandates on premium rates cannot be understated. When comparing insurance costs across states, for example, scholars from the Cato Institute found that the standard plan for a 25-year-old male in Kentucky, where few mandates exist, would be only around $980 per year. The standard plan for the same man in New Jersey, where he would be required to purchase coverage for in-vitro fertilization, contraceptives, chiropodists and other services that he may not need or want, would average about $5,580.[3]

Recommendations

Allow individuals to purchase health insurance from anywhere in the United States. Greater competition in the health insurance marketplace will give consumers greater choice and control over their own health care needs and will lead to lower costs by enlarging risk pools and exploiting economies of scale. Regulatory regimes that protect in-state oligopolies are functionally predatory, economically inefficient and unnecessarily place the physical health of residents at risk. Model legislation from the American Legislative Exchange Council would allow Nevadans to purchase health insurance offered anywhere in the United States.[4]

Conduct a cost/benefit analysis of all coverage mandates. Since coverage mandates make health insurance less affordable – placing it out of the reach of some households – lawmakers should give careful consideration to how a mandate would impact consumers. Model legislation from ALEC would require the Nevada Division of Insurance to conduct a medical efficacy and cost/benefit analysis of all current or proposed coverage mandates.[5]

---

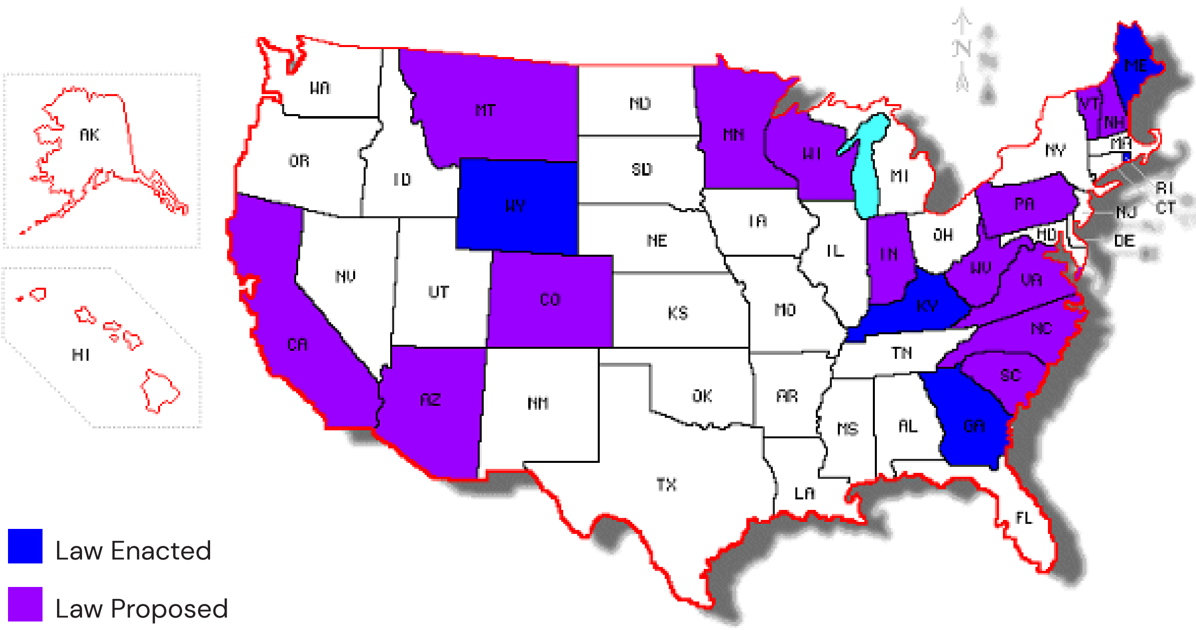
[1] Sam Cappellanti, "Premium Increases for 'Young Invincibles' Under the ACA and the Impending Premium Spiral," American Action Forum, October 2013.

[2] State of Nevada, Department of Business & Industry, "Nevada Mandated Benefits," September 2018.

[3] Michael Tanner, "Obama Doesn't Have the Only Prescription for Healthcare Reform," Cato Institute, July 5, 2009.

Allow the sale of mandate-light policies or limited-benefits policies. These policies are attractive to young people because they frequently offer just the right amount of coverage at prices that are attractive to this demographic. Such policies also allow households with limited income to escape from low-quality public-assistance programs such as Medicaid that have limited acceptance by providers and purchase higher-quality private coverage. While these policies currently conflict with the so-called "Essential Health Benefits" requirements imposed by the ACA, state lawmakers need to lay the groundwork for a superior policy environment to replace the ACA and offer truly affordable health care.

States that Permit Insurance Sales from Out-of-State



[4] American Legislative Exchange Council, "Health Care Choice Act for States," 2007.
[5] American Legislative Exchange Council, "Mandated Benefits Review Act," 2013.

High-Risk Pools

In the wake of the federal Affordable Care Act's passage, public attention has fixated on extending health insurance to the uninsured. It is important to recognize, however, that substantial portions of the uninsured population were uninsured for reasons other than income limitations or the inability to purchase coverage due to pre-existing conditions.

The ACA painted the uninsured with a broad brush and imposed sweeping changes to health insurance markets nationwide. The law's architects ignored diversity within the unemployed population and, therefore, many of the reasons individuals had gone without coverage. The problems facing some demographic groups were exacerbated in order to subsidize groups with pre-existing conditions.

Key Points

Many individuals were uninsured by choice. About 9 million uninsured Americans were receiving annual incomes over $75,000 but simply preferred to purchase health care on a cash basis. This group was also among the fastest-growing uninsured demographics.[1] Cash-based health care is often far less costly per procedure because providers needn't burden staff with the lengthy task of seeking reimbursement from an insurance bureaucracy and because competition for customers encourages providers to control costs in a way that large, third-party payers cannot.

Similarly, 58% of uninsured Americans were under 35 years of age and many of those individuals chose to forego insurance because their relative health led them to believe that the price of insurance coverage exceeded the value that could be gained from it.[2] The guaranteed-issue and community-rating provisions that are central to the ACA will only further encourage this group to forego coverage by raising the price of available insurance.[3]

Distortions in the tax code left additional millions uninsured. Nearly half of all uninsured Americans were uninsured only on a temporary basis and went without coverage for six months or less, usually as a result of a job change.[4] For these individuals, and for individuals whose employers did not offer employer-sponsored insurance plans, insurance had been made artificially costly by longstanding federal tax policy. While employers can purchase health insurance using pre-tax dollars, individuals are only allowed to purchase insurance using after-tax dollars. This discouraged individuals from maintaining their own health insurance and fostered dependency on employer-provided plans.

Others were uninsured because public policy unnecessarily inflates the price of insurance. Mandated coverage requirements and other regulations often prevented Americans with limited incomes from being able to purchase insurance coverage they could afford and led them to forego coverage altogether.[5]

Only a tiny proportion of uninsured were "medically uninsurable." Individuals with chronic, pre-existing conditions are considered "uninsurable" because they technically are not seeking "insurance" against the possibility that such a condition might develop; they instead seek a third-party payer for treatment of a known condition. This doesn't mean that there is no public interest in helping such individuals, but the public dialogue has lost sight of the fact that this demographic accounted for less than 2% of the uninsured.[6]

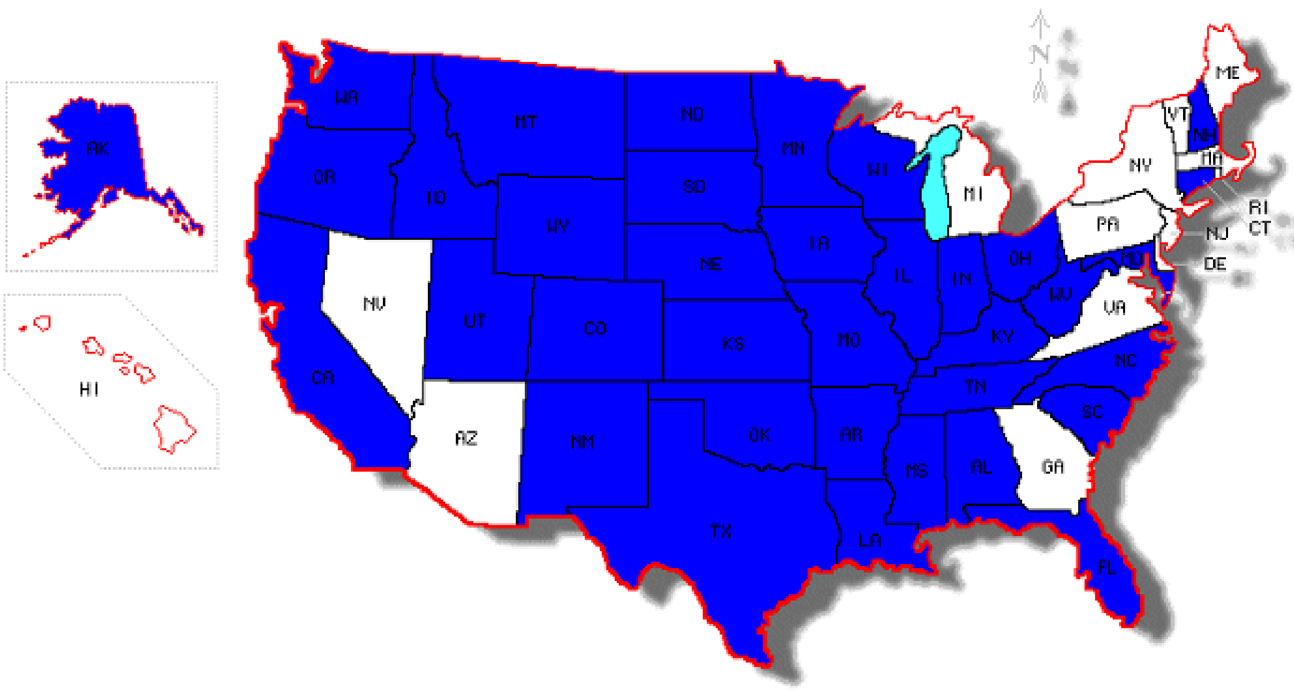
---

[1] J.P. Wieske and Christie Herrera, "2010 State Legislators Guide to Health Insurance Solutions," American Legislative Exchange Council and Council for Affordable Health Insurance, 2010.
[2] Ibid.
[3] Geoffrey Lawrence, "Health-exchange rate shock," NPRI commentary, October 10, 2013.
[4] Op cit, Wieske and Herrera, note 1.

Recommendations

Create a high-risk health insurance pool. Long before the ACA, states were already developing a mechanism to help the small fraction of the uninsured who had pre-existing conditions to afford treatment. High-risk pools through which states subsidize the care costs for specified conditions had spread to 34 states by 2008, covering nearly 200,000 individuals. Nevada was among a minority of states not to have created such a high-risk pool, but Silver State lawmakers should pro-actively create one in order to lay the groundwork for a policy regime superior to the ACA. Model legislation is available from the American Legislative Exchange Council.[7]

States with High Risk Pools (as of June 2015)



[5] See "Truly Affordable Health Care."
[6] Op cit, Wieske and Herrera, note 1.
[7] American Legislative Exchange Council, "High-Risk Health Insurance Pool Model Act," 2013.

Public Option Insurance

Presented with continually escalating premiums for health insurance in the wake of the Affordable Care Act (ACA), Nevada lawmakers began evaluating prospects for a public health insurance option in 2019. They passed Senate Concurrent Resolution 10, which directed the Legislative Commission to study the feasibility of allowing all Nevadans to buy coverage through the Public Employees' Benefits Program (PEBP) or through a public option on the ACA healthcare exchange. The resulting study discouraged using PEBP as a public option. As a non-exchange offering, participants would be ineligible for federal tax credits and its benefits structure is so that its premiums would only be attractive to very high-income households. Instead, the study recommended a publicly administered lower-tier plan offered through the exchange.[1]

Lawmakers followed in 2021 with the enactment of Senate Bill 420.[2] That law required any private carrier that bids to offer managed care through the state's Medicaid program to also offer a health insurance policy on the exchange with premiums discounted at least 5% from the second-lowest cost silver plan. These "Battle Born State Plans" (BBSPs) would be eligible for federal tax credits. Simultaneously, the state would apply for a federal Medicaid waiver seeking to recapture any savings of federal tax credits that result from premium reductions to further buy down premiums across all plans on the exchange. The state health department submitted a Medicaid waiver application in December 2023 that proposed a statewide reinsurance program, using federal savings from BBSP premium reductions to subsidize high-cost claims.[3]

Key Points

The public option is not expected to significantly increase insurance coverage. The study that resulted from SCR 10 in 2019 concluded that "a 10 percent or 20 percent reduction in premiums may not be enough to substantially encourage the currently uninsured to enroll in coverage for the first time."[4] The study estimated that 331,700 Nevadans remained uninsured in 2020 despite the Affordable Care Act. Among this population, 83% were already eligible for either Medicaid or federal subsidies for an exchange-based plan. This implies most of Nevada's uninsured population is uninsured by choice. Modest reductions in exchange-based premiums would therefore have little impact on the uninsured rate.

A public option in Colorado has resulted in higher, not lower, premium prices. Colorado has implemented a similarly conceived public option. Only one of 13 public option providers were able to meet the premium reduction targets for 2024. The state responded by threatening fines, which prompted multiple large carriers to leave the state (e.g., Bright Health, Humana, Oscar Health). With less competition, premium prices in Colorado began increasing rapidly.[5]

Public option will further strain Medicaid provider network. Carriers offering BBSPs are also Medicaid managed care providers and SB 420 requires them to align their provider networks between these offerings to leverage buying power discounts for medical supplies. A consequence of this alignment is to place additional demands on an already-strained provider network. Medicaid typically reimburses providers at lower rates than other insurers, so only a subgroup of providers accept Medicaid patients. Following Medicaid expansion in 2014, hundreds of thousands of new patients were already placed into the Medicaid provider network, leading to extraordinarily long wait times for care as demand outstrips supply.[6]

SB 420 may be unconstitutional. Senator Robin Titus and the National Taxpayers Union filed suit in January 2024 seeking an injunction against the law's implementation. They claim the law generates public revenue and failed to receive the required two-thirds vote, gives unlawful discretion to the state treasurer for use of funds, and violates the

---

[1] Chiquita Brooks-LaSure et al., "Senate Concurrent Resolution No. 10 Study," Manatt, January 2021.
[2] Nevada Legislature, 81st Session, Senate Bill 420.
[3] Nevada Department of Health and Human Services, "Nevada Coverage & Market Stabilization Program."
[4] Brooks-LaSure et al., note 1.

separation of powers.[7]

Recommendations

Repeal SB 420. Price controls always fail because prices simply balance supply and demand. Colorado has demonstrated the public option will lead to fewer suppliers, and increase prices in the long run.

Modeling of Public Option Enrollment by DHHS Consultants

State of Nevada
Nevada Public Option Actuarial and Economic Analysis
Scenario 1A: ARP Public Option - PTF Accumulation
Individual Market Estimated Enrollees: 2026 through 2035 by FPL

Total Enrollment by FPL % - Baseline

Income Level	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
Under 100%	3,170	3,210	3,250	3,300	3,340	3,380	3,430	3,470	3,520	3,560
100 to 133%	6,710	6,790	6,880	6,970	7,060	7,150	7,250	7,340	7,440	7,530
133 to 150%	20,680	20,940	21,220	21,490	21,770	22,060	22,340	22,630	22,930	23,220
150 to 200%	27,850	28,210	28,580	28,950	29,320	29,700	30,090	30,480	30,880	31,280
200 to 250%	24,340	24,650	24,970	25,300	25,630	25,960	26,300	26,640	26,990	27,340
250 to 300%	22,270	22,560	22,860	23,150	23,460	23,760	24,070	24,380	24,700	25,020
300 to 400%	11,960	12,110	12,270	12,430	12,590	12,760	12,920	13,090	13,260	13,430
Over 400%	20,120	20,390	20,650	20,920	21,190	21,470	21,750	22,030	22,320	22,610
Total Individual	137,090	138,870	140,680	142,510	144,360	146,240	148,140	150,070	152,020	153,990

Total Enrollment by FPL % - With Waiver

Income Level	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
Under 100%	3,180	3,220	3,270	3,320	3,360	3,400	3,450	3,490	3,540	3,580
100 to 133%	6,710	6,800	6,890	6,980	7,070	7,160	7,250	7,350	7,440	7,540
133 to 150%	20,680	20,950	21,230	21,510	21,790	22,070	22,360	22,650	22,940	23,240
150 to 200%	27,870	28,250	28,630	29,020	29,400	29,780	30,170	30,560	30,950	31,360
200 to 250%	24,360	24,690	25,020	25,360	25,690	26,020	26,360	26,700	27,050	27,400
250 to 300%	22,300	22,600	22,910	23,220	23,520	23,830	24,140	24,450	24,770	25,090
300 to 400%	12,050	12,250	12,460	12,670	12,840	13,000	13,170	13,340	13,520	13,690
Over 400%	20,380	20,770	21,170	21,580	21,860	22,150	22,430	22,720	23,020	23,320
Total Individual	137,530	139,540	141,580	143,650	145,520	147,410	149,330	151,270	153,230	155,230

Change in Enrollment Due to Waiver

Income Level	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
Under 100%	10	10	20	20	20	20	20	20	20	20
100 to 133%	0	10	10	10	10	10	0	10	0	10
133 to 150%	0	10	10	20	20	10	20	20	10	20
150 to 200%	20	40	50	70	80	80	80	80	70	80
200 to 250%	20	40	50	60	60	60	60	60	60	60
250 to 300%	30	40	50	70	60	70	70	70	70	70
300 to 400%	90	140	190	240	250	240	250	250	260	260
Over 400%	260	380	520	660	670	680	680	690	700	710
Total Individual	440	670	900	1,140	1,160	1,170	1,190	1,200	1,210	1,240

** Changes at the FPL level may not sum to the Total due to rounding.*

Source: Fritz Busch et al, "1332 Waiver Actuarial / Economic analysis and Certification for Nevada's Public Option," Prepared for Nevada Department of Health and Human Services by Milliman, December 16, 2022.

[5] Wiley Long, "Why Are Health Insurance Companies Leaving Colorado?" ColoHealth, July 18, 2023.
[6] Megan Messerly, "With Physician Shortages in Nevada, Medicaid Patients Feel Acute Pain of Long Wait Times," The Nevada Independent, July 23, 2017.
[7] Kevin Glass, "NTU Files Lawsuit Challenging Constitutionality of Nevada Public Option," National Taxpayers Union, January 2023.

Prescription Drug Pricing

In 2017, Nevada lawmakers passed Senate Bill 539, which made Nevada the first state in the nation to require manufacturers of pharmaceutical products to file reports with the state detailing their manufacturing and marketing costs along with any rebates and promotions they offer. The bill was narrowly targeted to essential treatments for diabetes and was intended to make manufacturers rationalize the prices of these goods with their costs. It also established similar new reporting requirements for sales representatives and pharmacies.[1]

An original version of the legislation would have imposed direct price controls on these medications that made it illegal for prices to rise faster than inflation, regardless of companies' cost structure. That version was vetoed by then-Gov. Brian Sandoval.[2]

Lawmakers subsequently expanded these reporting requirements to asthma medications in 2019[3] and then to all medications costing more than $40 for a full course of treatment in 2021.[4]

As a result, the Nevada Department of Health and Human Services now maintains a list of thousands of pharmaceutical products that are subject to these reporting requirements.[5]

Key Points

The major reason for high pharmaceutical prices is FDA regulation. Concern about high pharmaceutical prices is understandable. In the United States, the estimated capitalized cost of bringing any new drug to market approaches $1.8 billion. That's largely because of 1962 amendments to the federal Food, Drug and Cosmetic Act that requires drug makers to prove the effectiveness of their products and not just product safety. Previously, effectiveness was a judgment for the medical community while the FDA just prevented the marketing of unsafe products. After passage of these amendments, the cost of bringing a new drug to market increased by an order of magnitude and pharmaceutical development slowed.

The amendments also led to increased market concentration among a handful of firms, as few firms could afford the capital expense necessary for drug development. Nearly half of drug makers dropped out of the market within six years. Today, this lack of competition within the pharmaceutical industry continues to undergird rising consumer prices of pharmaceuticals.[6]

Nevada's requirements further reduce competition and increase market power of remaining suppliers. Extensive reporting requirements give a competitive advantage to well-capitalized firms with large bureaucratic capacity. In 2019, Nevada fined 21 small drug manufacturers a total of $17.4 million for failure to timely file Nevada's unique reports. Several of these companies indicated they weren't even aware of the new reporting requirements.[7] Small manufacturers may respond by abandoning the relatively small Nevada market.

Nevada's requirements likely violate federal law. After passage of the original 2017 prescription drug law, a trade group of drugmakers sued, claiming the required disclosures included trade secrets and would require drugmakers to forfeit their intellectual property rights. The group voluntarily dismissed its claim only when the department agreed in its implementation to prevent public disclosure of sensitive information. The group noted it "continue[s] to believe that [the law] is facially unconstitutional," and may recommence litigation if any proprietary information is made public.[8]

---

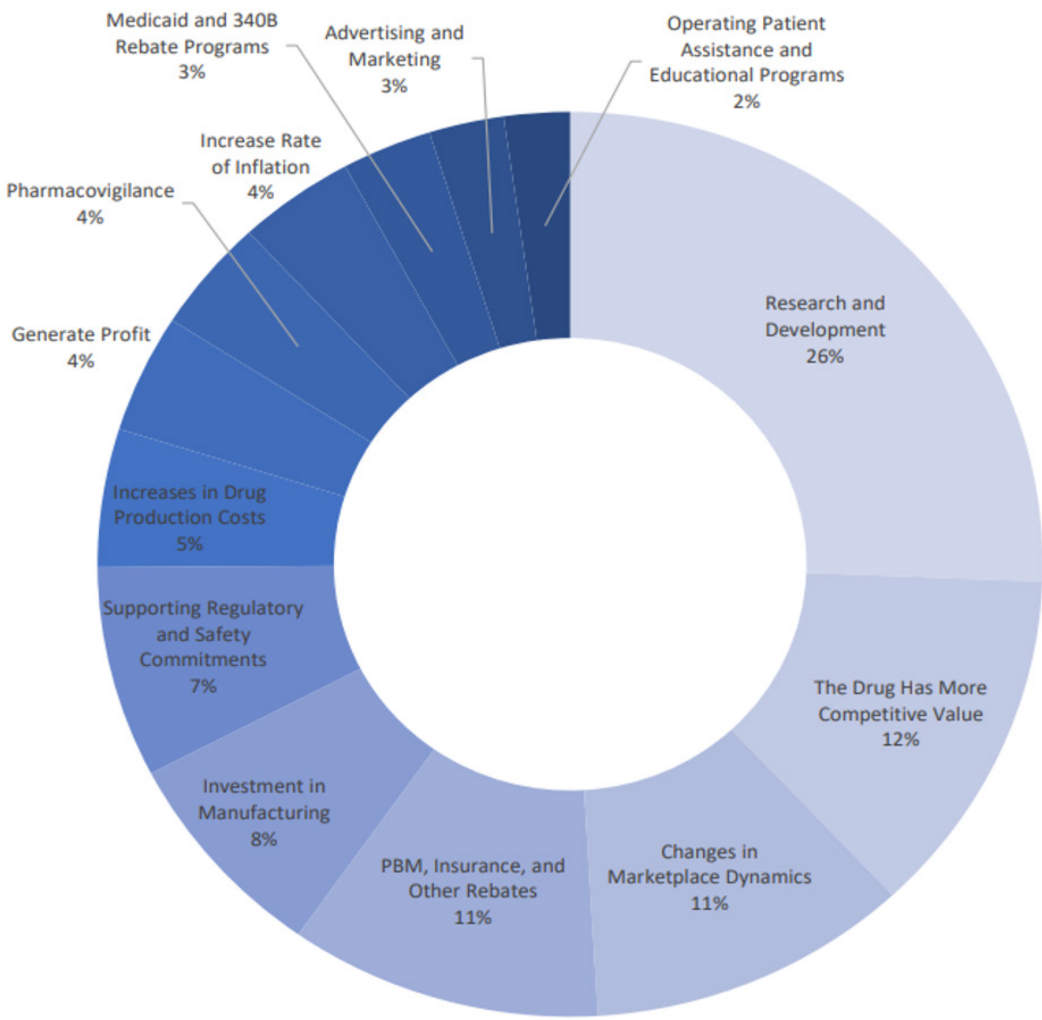
[1] Nevada Legislature, 79th Session, Senate Bill 539.
[2] Geoffrey Lawrence, "Nevada's Pharmaceutical Disclosure Law Could Cause Drug Prices to Escalate Even More," The Nevada Independent, December 2, 2019.
[3] Nevada Legislature, 80th Session, Senate Bill 262.
[4] Nevada Legislature, 81st Session, Senate Bill 380.
[5] Nevada Dept. of Health & Human Services, "Nevada Drug Transparency 2024 Drug Lists," January 31, 2024.
[6] Geoffrey Lawrence, "Focus at the FDA," Reason Foundation policy brief, August 2022.
[7] Lawrence, note 2.
[8] Ibid.

Recommendations

Eliminate Nevada's drug price-reporting laws. Nevada's reporting requirements expose the state to civil liability for an unconstitutional taking of private property. Moreover, they raise barriers to entry and restrict competition among drugmakers, ultimately contributing toward even higher prescription costs.

Allow the medical community to assess the effectiveness of drugs in intrastate trade once safety has been established. If lawmakers want to reduce drug costs, they should address the underlying cause of high costs and allow drugs to enter intrastate trade after they have been demonstrated safe, but without relying on the FDA's determination of effectiveness.

Manufacturer Justifications for Price Increases of Essential Diabetes Drugs



Source: Nevada Department of Health and Human Services, "Drug Transparency Report: 2019 Essential Diabetes Drugs."

Prevailing Wage

Since 1937, Nevada law has required that workers building state-funded public works projects receive a special kind of minimum wage, called "prevailing wage."

Prevailing wage laws might sound like they are intended to ensure that workers receive wages reflective of the local labor market, but these laws are administered in a way that ensures construction unions are able to control these state-mandated wage rates.

This bias in favor of trade unions leads to wage rates far above those found on the local labor market. This inflates the labor-cost component of public works projects – straining taxpayer resources and ultimately limiting the number of projects that can be completed.

Key Points

The survey methodology is flawed. State-mandated prevailing wage rates are determined through a survey administered by the Nevada Labor Commissioner. However, the survey is structured to induce "sampling error" – meaning that the representation of unions among the responses is far higher than among the actual population. For numerous reasons, nonunion contractors would incur unrealistic accounting costs to complete the surveys.[1]

Even after the survey methodology has systematically excluded most nonunion contractors, the survey results are dismissed if at least 50% of its reported billable hours for a given job classification were subject to a collective bargaining agreement. In that case, Nevada Administrative Code 338 stipulates that the "prevailing wage" must equal the union wage.

State-mandated prevailing wages are 45% higher than market wages, on average. The flawed survey methodology allows unions to dictate wage rates paid on public works projects in Nevada. As a result, workers on these projects typically receive a "wage premium."

The approximate magnitude of the wage premium can be determined by comparing prevailing wage rates with wage rates paid in the local marketplace, as reported by the Nevada Department of Employment, Training and Rehabilitation. These figures show that, on average, workers receive a 44.2% wage premium in Northern Nevada and a 45.8% wage premium in Southern Nevada.

Wage premiums cost taxpayers an extra $1 billion in just 2009 and 2010. When the wage premium ratios are applied to the total cost of public works projects undertaken in 2009 and 2010, it becomes clear that nearly $1 billion was expended on wage premiums in 2009 and 2010 alone.[2]

[1] Geoffrey Lawrence, "Who Really Prevails Under Prevailing Wage?"
Nevada Policy Research Institute, 2011.

Prevailing wage laws are racially discriminatory. Prevailing wage laws in the states are modeled after the federal Davis-Bacon Act of 1931 which effectively required union wages on federally funded projects. The explicit intent of the Davis-Bacon Act was to prevent contractors who employed black labor from winning federal contracts. At the time, trade unions systematically excluded blacks from membership. The Davis-Bacon Act aimed to legally undermine the ability of black workers to compete and ensure that federal contracts went to unionized, white labor.

Today, black workers remain statistically less likely to belong to a trade union. Thus, repeal of prevailing wage laws is "associated with … a significant narrowing of the black/nonblack wage differential for construction workers."[3]

Recommendations

Repeal Nevada's prevailing wage laws. In recognition of the racial discrimination, job loss and other economic distortions that result from prevailing wage laws, 10 states have repealed these laws outright since 1978.[4]

The Nevada legislature temporarily exempted school construction from prevailing wage requirements in 2015.[5] However, those requirements were reinstated later in the same session, albeit at wage levels equal to 90% percent of the standard prevailing wage.[6] Even this modest reform was reversed during the 2017 session following a change in leadership.[7]

---

[2] Ibid.

[3] Daniel P. Kessler and Lawrence Katz, "Prevailing Wage Laws and Construction Labor Markets," National Bureau of Economic Research Working Paper No. 7454.

[4] Op cit., note 1.

[5] Nevada Legislature, 78th Session, Senate Bill 119.

[6] Nevada Legislature, 78th Session, Assembly Bill 172.

[7] Nevada Legislature, 79th Session, Assembly Bill 154.

Prevailing Wage Versus Market Wage (Reported by Department of Employment, Training and Rehabilitation), by Job Classification, Clark County, 2011

Job Classification (Journeymen)	Prevailing Wage	DETR Average Wage	DETR Wage + 40% (accounting for benefits)
Alarm Installer	$55.95	$24.59	$34.43
Bricklayer	$44.71	$20.07	$28.10
Carpenter	$48.95	$26.57	$37.20
Cement Mason	$46.28	$22.63	$31.68
Electrician - Communication	$39.83	$25.33	$35.46
Electrician- Wireman	$56.31	$30.01	$42.01
Floor Coverer	$47.32	$23.63	$33.08
Glazier	$57.51	$28.10	$39.34
Iron Worker	$56.74	$26.25	$36.75
Laborer	$42.94	$19.15	$26.81
Mechanical Insulator	$56.23	$21.42	$29.99
Millwright	$49.95	$31.07	$43.50
Operating Engineer	$55.67	$29.23	$40.92
Painter	$46.64	$24.37	$34.12
Plumber/Pipefitter	$56.52	$28.25	$39.69
Refrigeration	$35.17	$21.28	$29.79
Roofer	$31.91	$18.62	$26.07
Sheet Metal Worker	$59.52	$34.86	$48.80
Surveyor	$57.59	$29.70	$41.58
Taper	$46.64	$21.03	$29.44
Tile Setter	$34.63	$23.56	$32.98
Truck Driver	$46.13	$22.45	$31.43

Prevailing Wage Versus Market Wage (Reported by Department of Employment, Training and Rehabilitation), by Job Classification, Washoe County, 2011

Job Classification (Journeymen)	Prevailing Wage	DETR Average Wage	DETR Wage + 40% (accounting for benefits)
Alarm Installer	$27.95	$21.48	$30.07
Carpenter	$38.80	$23.60	$33.04
Cement Mason	$34.40	$25.45	$35.63
Electrician - Communication	$29.36	$18.01	$25.21
Electrician- Wireman	$50.78	$25.21	$35.29
Iron Worker	$56.74	$34.02	$47.63
Laborer	$30.82	$17.89	$25.05
Operating Engineer	$43.08	$25.53	$35.74
Painter	$32.74	$18.74	$26.24
Plumber/Pipefitter	$45.20	$33.47	$46.86
Refrigeration	$41.58	$27.28	$38.19
Roofer	$41.58	$27.28	$38.19
Sheet Metal Worker	$48.35	$17.90	$25.06
Surveyor	$27.88	$39.80	$55.72
Taper	$36.28	$19.38	$27.13
Tile Setter	$32.87	$20.86	$29.20

Source: Geoffrey Lawrence, "Who Really Prevails Under Prevailing Wage?" Nevada Policy Research Institute, 2011.

Making it illegal to pay less than a given amount does not make a worker's productivity worth that amount—and, if it is not, that worker is unlikely to be employed.

–Thomas Sowell

Cost of Collective Bargaining

Nevada's first collective bargaining law, passed in 1965, expressly prohibited bargaining with government unions for all employee groups. It followed similar legislation passed in North Carolina six years earlier and stood in stark contrast to a concurrent wave of legislation across the states awarding union leaders representing government workers broad, coercive powers.

Union hostility toward this law, however, prompted picketing by teacher union operatives on the Las Vegas Strip aimed at disrupting the state's most important commercial center. Acting at the behest of business leaders who wanted the disruption ended no matter the policy cost, Nevada lawmakers reversed the 1965 law during the 1969 legislative session. The new Local Government Employee-Management Relations Act required administrators within Nevada's local governments to bargain collectively with unions representing employee groups and to submit to fact-finding mediation procedures to resolve impasses.

Subsequent legislation in 1977 created a binding arbitration procedure for police and fire unions that would guarantee union contracts. This power was extended to teacher unions in 1991.[1] In 2019, lawmakers extended similar powers to unions representing all state employees, including those of the Nevada System of Higher Education.[2]

Key Points

States can have one of several collective bargaining regimes. While the legal environment for collective bargaining in the government sector varies markedly by state, scholars with the National Bureau of Economic Research have classified state collective bargaining regimes according to the specific powers of compulsion awarded to union leaders. These rank, from the weakest to the strongest powers of compulsion, as:

1. Collective bargaining prohibited
2. No legal provision for collective bargaining
3. Collective bargaining permitted, but not required
4. Public employers are required to "meet and confer" with union leaders
5. Public employers have a duty to bargain collectively, express or implied
6. Compulsory bargaining with fact-finding or mediation required
7. Compulsory bargaining with strikes permitted
8. Compulsory bargaining with mandatory arbitration

The NBER coding scheme applies these rankings to each of five different employee groups: state workers, local teachers, local police, local firefighters, and other local employees. Thus, according to the NBER ranking system, Nevada's laws grant the strongest possible powers to police, fire and teacher unions and, after 2019, those representing state workers. Laws applying to other municipal workers have a rank of 6.[3]

---

[1] R. Hal Smith, "Collective Bargaining in the Nevada Public Sector," State & Local Government Review, Vol. 11, No. 3 (1979), pp. 95-98.

[2] Nevada Legislature, 80th Session, Senate Bill 135.

Econometric analysis shows that collective bargaining mandates add more than $1 billion annually to Nevada's cost of government. Using an update of the NBER database to compare changes in collective bargaining laws to changes in state and local government spending nationwide, economists can estimate the financial impact of a state's choice in collective-bargaining regime.

If Nevada had maintained its original prohibition on collective bargaining with all government unions, annual spending by state and local governments in the state would have been $0.8 to $1.7 billion lower in 2014. However, if unions for all employee groups held the same powers as those held by police, fire and teacher unions – as state workers now do – annual spending was estimated to increase by $282 to $597 million.[4]

Recommendations

Remove the powers of compulsion enjoyed by union leaders. Nevada lawmakers could realize up to $1.7 billion in annual cost savings by returning to the state's original prohibition on government-sector collective bargaining.

However, just making collective bargaining optional for local governments could save more than $1 billion annually. Without a mandate, administrators would be free to choose whether to bargain collectively based upon the wishes of constituents. Constituents, in turn, would gain at least an indirect voice. Language contained in Assembly Bill 280 from the 2015 session would effect this change.[5]

---

[3] Richard Freeman and Robert Valletta, "The Effects of Public Sector Labor Laws on Labor Market Institutions and Outcomes," In When Public Sector Workers Unionize, 1988, pp. 81-106; Henry Farber, "Union Membership in the United States," Working Paper #503, Princeton University, 2005.

[4] Geoffrey Lawrence et al., "How Government Unions Affect State and Local Finances: An Empirical 50-State Review," Heritage Foundation Special Report, January 2015.

[5] Nevada Legislature, 78th Session, Assembly Bill 280.

NBER Classified Collective Bargaining Regimes by Employee Group, 2014

	State Workers	Police	Firefighters	Teachers
Alabama	1	1	4	4
Alaska	7	8	8	7
Arizona	3	3	3	3
Arkansas	3	3	3	3
California	6	6	6	6
Colorado	6	2	2	3
Connecticut	8	8	8	8
Delaware	8	8	8	8
Florida	6	6	6	6
Georgia	1	2	6	1
Hawaii	8	8	8	8
Idaho	2	3	7	6
Illinois	7	8	8	7
Indiana	1	3	3	6
Iowa	8	8	8	8
Kansas	4	3	3	8
Kentucky	4	6	6	3
Louisiana	3	3	3	3
Maine	8	8	8	8
Maryland	6	3	3	8
Massachusetts	8	8	8	8
Michigan	5	8	8	5
Minnesota	7	6	6	7
Mississippi	2	2	2	2
Missouri	4	2	4	2
Montana	7	8	6	7
Nebraska	8	8	8	8
Nevada	**1**	**8**	**8**	**8**
New Hampshire	6	6	6	6
New Jersey	5	8	8	5
New Mexico	8	8	8	8
New York	6	8	8	6
North Carolina	1	1	1	1
North Dakota	3	3	3	6
Ohio	7	8	8	7
Oklahoma	2	8	8	6
Oregon	7	8	8	7
Pennsylvania	7	8	8	8
Rhode Island	8	8	8	8
South Carolina	3	3	3	3
South Dakota	6	6	6	6
Tennessee	1	1	1	6
Texas	1	3	3	1
Utah	4	4	8	4
Vermont	6	8	8	7
Virginia	1	1	1	1
Washington	8	8	8	6
West Virginia	3	3	3	3
Wisconsin	6	8	8	8
Wyoming	2	2	8	2

Source: Geoffrey Lawrence et al., "The Rise of Government Unions: A 50-State Review of Public-Sector Unions and Their Impact on Public Policy," Heritage Foundation Special Report/NPRI policy study, January 2015.

The biggest myth about labor unions is that unions are for the workers. Unions are for unions, just as corporations are for corporations and politicians are for politicians.

–Thomas Sowell

Transparent Collective Bargaining

Nevada's legal requirements for local governments to engage in collective bargaining with union leaders specifically exempt these bargaining sessions from public view.

NRS 288.220 declares that the following meetings "are not subject to any provision of NRS which requires a meeting to be open or public":

1. Any negotiation or informal discussion between a local government employer and an employee organization.
2. Any meeting of a mediator with either party or both parties to a negotiation.
3. Any meeting or investigation conducted by a fact finder.
4. Any meeting of the governing body of a local government employer with its management representative.
5. Deliberations of the [Local Government Employee-Management Relations] Board toward a decision on a complaint, appeal or petition for declaratory relief.[1]

Legislation adopted in 2015 requires that a proposed collective bargaining agreement be made available to the public at least three days before a public board votes on it,[2] but otherwise all collective bargaining activities remain hidden from public view.

Key Points

Transparency does not undermine collective bargaining. Certain union officials in Nevada claim collective bargaining proceedings cannot be subject to the state's Open Meetings Law because it would undermine negotiations. However, several states that require local governments to engage in collective bargaining also require these proceedings to be open.

In Minnesota, where government unions enjoy very strong powers, the state's collective-bargaining law still proclaims: "All negotiations, mediation sessions, and hearings between public employees and public employers or their respective representatives are public meetings."[3]

Likewise, Idaho's collective-bargaining law declares: "All documentation exchanged between the parties during negotiations, including all offers, counteroffers and meeting minutes shall be subject to public writings disclosure laws."[4]

Also, in Texas, the law requires that "A deliberation relating to collective bargaining between a public employer and an association … shall be open to the public and comply with state law."[5]

There is no evidence from these states that collective bargaining has been undermined by transparency.
Management incentives in collective bargaining differ in public and private sectors. Private-sector business leaders must exercise restraint with regard to labor contracts in order to remain competitive, offering goods or services at prices that customers are willing to pay. In the public sector, however, politicians recognize that government unions can support their election campaigns through donations, volunteering and other efforts. Politicians may seek such support by backing unionization of government workers and compensation packages they know will strain public finances.

---

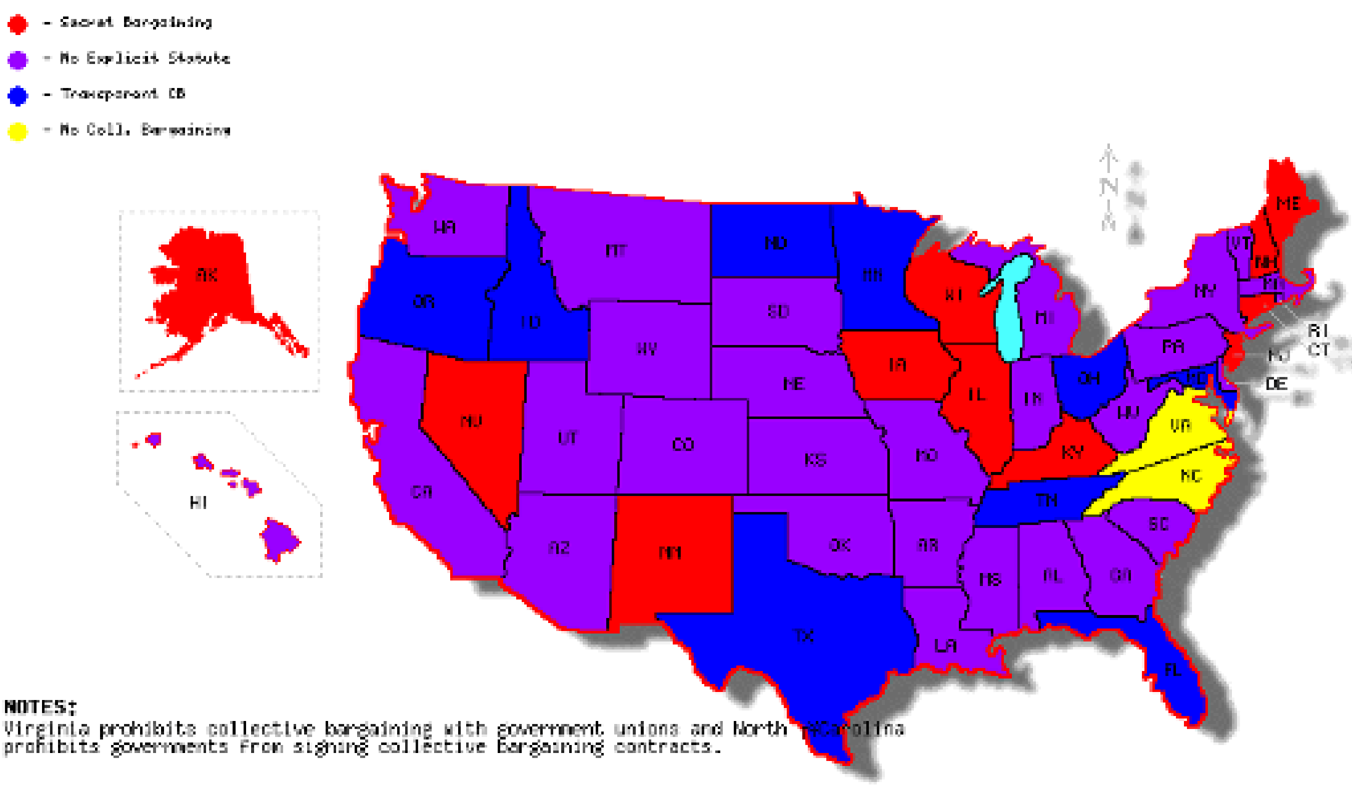
[1] Nevada Revised Statutes, 288.220.
[2] Nevada Legislature, 78th Session, Senate Bill 158.
[3] Minnesota Statutes, 179A.14(3).
[4] Idaho Statutes, 33-1273A(2).
[5] Texas Statutes, Title 5, Subtitle C, 174.108.

Transparency ensures that labor contracts reflect community values. Given the incentives of political employers to forego restraint at the bargaining table, public oversight is critical. If residents approve of collective bargaining agreements, they will continue to elect the political leaders who agree to them and, if not, they will elect new leaders.

Recommendations

Pass a Public Employee Bargaining Transparency Act. Since Nevada's local governments are required to bargain with union officials, lawmakers should recognize the serious fiscal implications of these proceedings. Lawmakers can borrow language from Idaho, Minnesota or Texas or use model language available from the American Legislative Exchange Council[6] to bring transparency to collective bargaining.

Collective Bargaining Transparency by State



---

[6] American Legislative Exchange Council, "Public Employee Bargaining Transparency Act," 2011.

Employee Earnings

Employees of Nevada's local governments historically were paid much more than counterparts in state government or private industry. Recent data, however, indicates an improvement in wage rates for these latter sectors and an evening of the playing field.

Government employees should face financial incentives rewarding productivity and the development of creative and cost-effective solutions to public problems. Pay structures should reflect this approach by rewarding successful agency and individual performance rather than rewarding mere time in office.

Key Points

Nevada's local-government workers are well paid in comparison to other states. While state workers and private-sector workers are the 25th and 28rd highest paid in the nation, respectively, Nevada's local government workers receive the 10th highest salaries among peers nationwide.[1]

The difference in public versus private earnings cannot be explained by education levels or other factors. While there is a higher concentration of academic credentials among workers in the public sector, studies show that this does not fully explain the pay difference. Less than half of the pay premium enjoyed by public-sector workers can be plausibly attributed to differences in educational attainment, years of experience or other personal characteristics.[2]

Compensation consists of more than just wages. It is important to remember that a simple wage comparison significantly understates the compensation premiums awarded to public-sector workers. Public-sector workers also receive deferred-compensation and other benefits more generous than those found in the private sector. In fact, the average annual value of pension benefits for full-career retirees is higher in Nevada than in any other state, at $64,008.[3] While state workers must contribute on a matching basis with taxpayers toward their pension, most local-government workers contribute nothing personally toward this benefit due to collective bargaining provisions.[4]

Recommendations

Phase out "longevity pay." Longevity pay is foreign to the private sector and most of the public sector. Yet, decades ago some local governments in Nevada began awarding a "longevity bonus" that amounts to 2% of base pay per year on the job. In 2023, lawmakers extended longevity pay to state workers who are not unionized.[5] This pay structure rewards time in office rather than effectiveness.

Give local government administrators more flexibility by easing mandates for collective bargaining. Union leaders representing most employee groups at the local level have been granted far-reaching powers to bind local governments into costly and inflexible pay schedules. Empirical research shows that this legal environment inflates annual spending by Nevada's state and local governments by more than $1 billion.[6] This guide provides many options for changing collective bargaining requirements to result in better outcomes for taxpayers and government workers alike.

Recognize excellence through bonuses. Pay structures should reward both workers for individual and agency effectiveness. If agencies achieve clearly defined goals under budget, workers should share in the savings. The recommendation herein for charter agencies would allow employees to earn up to a 50% annual bonus if they can meet performance goals while reducing spending.[7]

---

[1] US Department of Labor, Bureau of Labor Statistics, Quarterly Census of Employment and Wages, 2021.
[2] See, e.g., Bahman Bahrami et al., "Union Worker Wage Effect in the Public Sector," Journal of Labor Research Vol. 30, (2009), pp. 35-51.
[3] Andrew G. Biggs, "Not So Modest: Pension Benefits for Full-Career State Government Employees," American Enterprise Institute, March 2014.
[4] See "PERS: Local Government Employees."
[5] Nevada Legislature, 82nd Session, Assembly Bill 522.
[6] See "Cost of Collective Bargaining."
[7] See "Charter Agencies."

Average Annual Pay of Workers (Excluding Benefits), by State, 2022

State	State employees	Rank
NY	$108,963	1
CA	$97,009	2
DC	$94,278	3
MA	$85,370	4
NJ	$83,862	5
CT	$82,684	6
OR	$79,915	7
RI	$79,666	8
WA	$78,249	9
IL	$77,341	10
CO	$76,865	11
OH	$76,803	12
MN	$75,872	13
IA	$74,919	14
MI	$73,739	15
PA	$71,477	16
TX	$70,640	17
WI	$70,485	18
MD	$70,240	19
AZ	$68,283	20
VT	$67,710	21
UT	$67,682	22
NM	$66,780	23
AK	$66,549	24
NV	**$65,236**	**25**
VA	$64,487	26
AL	$63,100	27
TN	$62,694	28
NE	$62,619	29
ND	$62,212	30
NH	$62,193	31
NC	$61,647	32
WY	$60,781	33
LA	$60,519	34
DE	$59,960	35
KY	$59,890	36
IN	$59,831	37
GA	$59,795	38
HI	$59,342	39
ME	$58,875	40
SD	$58,389	41
AR	$58,319	42
SC	$57,836	43
KS	$57,644	44
OK	$56,999	45
MT	$56,908	46
FL	$56,326	47
MS	$56,314	48
ID	$52,799	49
MO	$51,648	50
WV	$50,540	51

State	Local government employees	Rank
DC	$122,679	1
CA	$78,729	2
HI	$77,957	3
NY	$77,557	4
WA	$74,118	5
NJ	$72,265	6
MA	$72,065	7
CT	$68,322	8
OR	$68,203	9
NV	**$67,816**	**10**
MD	$67,683	11
RI	$66,326	12
FL	$62,506	13
PA	$61,144	14
IL	$60,819	15
DE	$59,832	16
AZ	$59,402	17
CO	$58,827	18
MN	$58,716	19
AK	$57,844	20
NC	$56,784	21
OH	$55,975	22
TX	$55,384	23
VA	$55,283	24
MI	$55,047	25
NH	$54,069	26
SC	$52,836	27
GA	$52,273	28
WY	$51,945	29
NM	$50,596	30
NE	$50,584	31
VT	$50,572	32
AL	$50,339	33
IA	$49,620	34
TN	$49,479	35
WI	$49,360	36
MO	$48,689	37
MT	$48,585	38
OK	$48,484	39
IN	$48,082	40
ME	$47,972	41
ND	$47,527	42
LA	$47,380	43
UT	$47,244	44
KY	$46,936	45
AR	$45,494	46
ID	$45,255	47
WV	$44,827	48
KS	$43,042	49
SD	$42,439	50
MS	$42,428	51

State	Employees in private industry	Rank
DC	$109,408	1
MA	$91,435	2
NY	$90,620	3
WA	$85,246	4
CA	$84,496	5
CT	$82,372	6
NJ	$78,875	7
CO	$75,588	8
NH	$73,985	9
IL	$73,717	10
VA	$71,305	11
MD	$71,170	12
TX	$70,917	13
MN	$70,438	14
DE	$68,791	15
PA	$67,338	16
GA	$66,616	17
OR	$65,367	18
AK	$64,832	19
AZ	$64,669	20
MI	$63,985	21
FL	$63,658	22
NC	$63,642	23
RI	$62,977	24
TN	$62,852	25
UT	$61,633	26
ND	$61,352	27
NV	**$61,092**	**28**
OH	$60,639	29
MO	$60,158	30
WI	$59,686	31
VT	$59,346	32
HI	$59,291	33
IN	$58,594	34
ME	$58,372	35
KS	$57,640	36
NE	$57,489	37
IA	$57,484	38
LA	$57,018	39
AL	$56,735	40
WY	$56,216	41
KY	$56,055	42
SC	$55,275	43
ID	$54,819	44
SD	$54,748	45
MT	$54,232	46
AR	$54,174	47
OK	$53,737	48
NM	$53,698	49
WV	$52,895	50
MS	$46,853	51

Source: U.S. Department of Labor, Bureau of Labor Statistics, Quarterly Census of Employment and Wages, 2021.

Workers' Choice of Representation

Many workers value professional representation in negotiations with their employer. Workers in Nevada's local governments, however, are restricted in their right to choose how they will be represented.

Nevada's Local Government Employee-Management Relations Act forbids workers in local governments from seeking representation other than the approved employee organization for the bargaining group to which employees are assigned. The approved organization is recognized by law as "the exclusive bargaining agent of the local government employees in that bargaining unit."[1]

Scholars refer to this as a "union security" provision because it protects union officials from competition by rival unions, lawyers or others who offer representation services, even when some workers might prefer these alternatives.

Key Points

Union security provisions violate workers' freedom of association. As British labor scholar Henry Richardson recognized:

> [T]he right to set up a rival union is included in freedom of association, and to take away this right could weaken the vitality of the trade union movement. Groups of workpeople may hold quite different views upon trade union policy and methods, and if they cannot reach agreement they are likely to form separate unions … Again where only one union has hitherto operated some of the members may consider that its policy and leadership have become too extreme and aggressive or too complacent and spineless, and if they are unable to bring about change from within, they may cease to be members or may decide to form a rival union.[2]

Union security provisions enable union leaders to become less responsive to workers. As in other industries, individuals who provide employee- representation services are much more likely to remain responsive to their customers' needs when those customers have other options available. When representation providers enjoy a protected monopoly status, however, that likelihood diminishes.

Many of Nevada's local government employees have never voted for their current representation. In many cases, elections for union representation occurred decades ago before current employees even entered the workforce. The bargaining group to which employees were assigned upon being hired could well have taken office decades ago – meaning that many of today's workers have never been able to vote on the group of representatives to which they've been assigned.

Recommendations

Allow workers to periodically vote on their representation. Union officials should have to prove their worth to the employees they represent and generate value for those employees. Moreover, Nevada's local government workers

---

[1] Nevada Revised Statutes, 288.160(2).
[2] J. Henry Richardson, An Introduction to the Study of Industrial Relations, London: George Allen and Unwin, 1954, pp. 187-188.

should have a right to at least vote on their representation instead of being forced into a decades-old relationship over which they have little say. All bargaining groups should be able to vote every year or every few years on whether they wish to continue with their current representation. Similar changes have been enacted in Wisconsin and Ohio in recent years.[3] When given the choice, nearly 15,000 public employees chose not to support their existing union in Wisconsin in 2014.[4]

Remove "exclusive bargaining agent" language from Nevada law and allow workers to select representation of their choosing. A further step is to remove the union security provisions that guarantee current union leaders protected monopoly status and allow employees to acquire whatever representation they prefer, including themselves. Exclusivity prevents an employee from approaching their superior directly to discuss wages or working conditions.

Total Act 10 Savings (in billions)

Total Savings From Act 10 2011-2023

Retirement Savings	
State Government	$ 1,633,680,425
University of Winsonsin System	$ 1,651,470,364
Tech College System	$ 481,744,607
Local Government	$ 3,290,454,246
Schools	$ 4,205,629,583
Retirement Savings	
State Government	$ 727,254,004
University of Winsonsin System	$ 720,168,874
Tech College System	$ 263,746,499
Local Government	$ 2,479,780,992
Schools	$ 1,368,687,929
Total	**$16,822,617,523**

Source: MacIver Institute, "Act 10 Savings Tops $16.8 Billion Since 2011," March 2023.

[3] Wisconsin State Legislature, January 2011 Special Session, Act 10; Ohio Legislature, 129th General Assembly, Senate Bill 5.
[4] Nick Novak, "100 Fewer Wisconsin School District Unions Seek Recertification Under Act 10," MacIver Institute, December 2014.

Heart & Lung

According to NRS 617.453-617.487, inclusive, it is "conclusively presumed" that public-safety officers in Nevada who contract heart disease, lung disease or hepatitis at any point in their lifetime did so as a result of their occupation – making each such individual eligible for permanent disability benefits, complete medical coverage and potential indemnity. These benefits must be provided by taxpayers in the city or county where the officer was employed.

Prior to 1989, the burden of proof fell on employees to demonstrate that they had been exposed to dangerous materials in the course of their duties which increased the likelihood of contracting disease. However, during the 1989 session, lawmakers amended NRS 617 to remove this burden of proof and make retired public-safety workers who contract one of these diseases – even if the result of old age or an unhealthy lifestyle – eligible for the same benefits as those who legitimately contract disease through the course of their duties.

Lawmakers in the 2015 session took initial steps to reform this entitlement by limiting the benefits available to medical coverage only when a claim is filed post-retirement, and by disqualifying those who regularly use tobacco products or fail to follow a doctor's guidance.[1]

Key Points

Heart and lung disease are among the most common causes of death nationwide. According to the Centers for Disease Control, heart and lung disease were the first and sixth most common causes of death in the United States for 2020, respectively.[2]

Because heart and lung diseases are so pervasive within the general population, Nevada's "conclusive presumption" that public-safety officers get these diseases as a result of their occupation means many individuals who would have contracted these diseases regardless of their occupation are likely to qualify.

Presumptive liabilities exceed $2.4 billion for just six jurisdictions. It's difficult to calculate a finite figure for the heart and lung liabilities facing Nevada's local governments because their liability is open-ended – employees can file a claim decades after retirement providing they served in municipal police or fire positions for at least 20 years. (For non-public-safety personnel, occupational disease claims must be filed within five years of retirement.)

Nevertheless, the cities of Henderson, Las Vegas, North Las Vegas, Reno and Sparks and the Las Vegas Metropolitan Police Department jointly commissioned a series of actuarial studies in 2008 that remain the most authoritative source for quantifying heart and lung liabilities. These studies concluded that the unfunded liability then facing the jurisdictions exceeded $2.4 billion combined.[3] It remains unclear how the change in scope of benefits enacted in 2015 impacts this estimate.

Nevada is the only state in the union with a lifetime manifestation period. While some other states have presumptive benefits statutes, none are as generous as Nevada's. Legislation in 2015 capped the manifestation period for the onset of occupational diseases to a time period equivalent to an employee's period of service, but there is no limitation for those who served 20 or more years. In California, all claims must be made within five years from last employment and this provision is typical in states with presumptive benefits.

---

[1] Nevada Legislature, 78th Session, Senate Bill 153.
[2] U.S. Centers for Disease Control and Prevention, National Center for Health Statistics, National Vital Statistics Reports, 2020.
[3] Scott Lefkowitz, "Unpaid Benefit Costs for Heart Disease, Lung Disease, Hepatitis, and Cancer Claims, as of June 30, 2008," Oliver Wyman Actuarial Consulting, Inc., Prepared for Cities of Henderson, Las Vegas, North Las Vegas, Reno and Sparks and the Las Vegas Metropolitan Police Department.

Recommendations

Repeal the conclusive presumption provisions. Officers who contract diseases in the course of duty deserve to receive compensation from their employer and to receive medical treatment. However, Nevada's conclusive presumption statutes make a mockery of that legitimate obligation by entitling retirees who contract disease as a result of poor diet, lack of exercise or other unhealthy lifestyles to the same benefits.

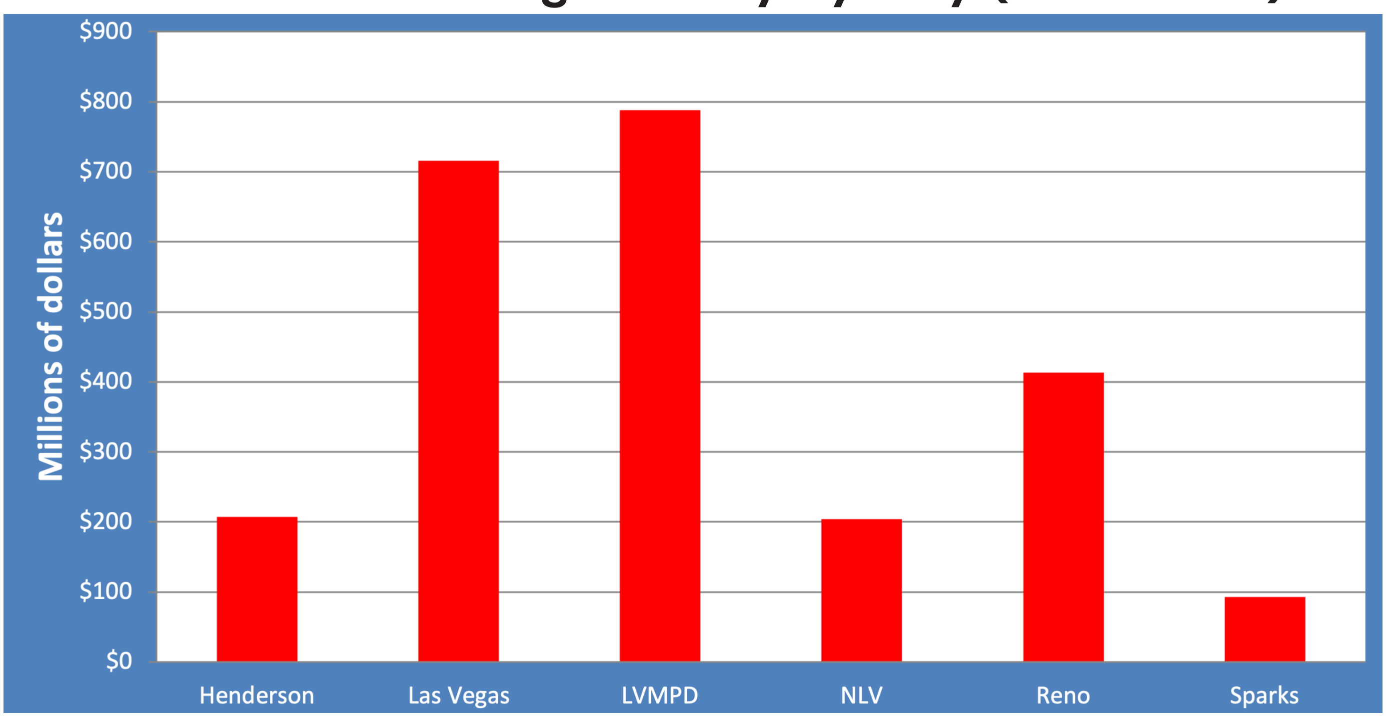
Cap the manifestation period to five years. The open-ended nature of heart and lung liabilities makes it nearly impossible for local governments to accurately account for these liabilities. Forty-nine states limit the manifestation period. Nevada should as well.

Leading Causes of Death in the United States, 2021

Cause of death		Number of mortalities
1.	Heart disease	695,457
2.	Cancer	605,213
3.	COVID-19	416,893
4.	Accidental injury	224,935
5.	Stroke	162,890
6.	Lung disease	142,342
7.	Alzheimer disease	119.399
8.	Diabetes	103.294
9.	Liver disease	56,585
10.	Kidney disease	54,358

Source: U.S. Centers for Disease Control and Prevention, National Center for Health Statistics.

Actuarial Heart & Lung Liability by City (as of FY08)



Double Dipping

Originally passed in 1947, The Nevada Public Employees' Retirement Act specifically prohibited public-sector retirees from receiving pension benefits if they accept new "employment or an independent contract with a public employer" that pays one-half or more of the average salary for state and local workers, excluding public safety officers. This limitation was intended to prevent abuse of the pension system by workers who had no intention of retiring.

In 2001, however, lawmakers created an end-run – NRS 286.523 – around this prohibition, to allow public-sector workers to receive pension payments without ever leaving their salaried positions. To do so, workers must only convince their superiors to classify their position as one that suffers from a "critical labor shortage" (CLS). Once the position has been thus classified, a worker can immediately declare retirement and start collecting pension benefits while remaining in their position and receiving a full salary.

Key Points

Abuse of the CLS exemption has been rampant. Lawmakers' intent in crafting the CLS exemption was to alleviate a perceived shortage of teachers during the 2001-2003 biennium by allowing school districts to re-employ retired teachers.

However, the first positions to be classified as CLS positions were those held by high-ranking political appointees within the Guinn Administration – including one cabinet-level appointee. On Jan. 10, 2001 – immediately after the CLS law became effective – the Board of Examiners classified the director of public safety and deputy director of public safety positions as CLS. The next day, incumbents Richard Kirkland and David Kieckbusch officially retired and two days later they each resumed their positions with CLS status. Records show Kirkland began receiving $70,000 in annual pension benefits in addition to his cabinet-level salary of $103,301 as a result of the change.[1]

As CLS induces more workers to declare retirement, PERS realizes a financial loss. An actuarial review commissioned by PERS shows Kirkland and Kieckbusch were not alone in abusing the CLS exemption. Nearly 44% of the workers that have filled CLS positions did so without ever leaving the workforce. PERS actuaries concluded that the retirees who "immediately returned to their positions would not have otherwise retired if there was no opportunity to be rehired under critical labor shortage exemption."[2]

As a result, PERS made avoidable pension payments of $54 million to these workers between 2001 and 2008. PERS administrators have testified that these CLS-related payments exacerbate the PERS unfunded liability and resulted in higher contribution rates from state and local governments to keep the fund solvent. PERS actuaries have determined that the CLS exemption is directly responsible for raising contribution rates by 0.33% of payroll.[3]

Lawmakers acted against the advice of the Retirement Board. The CLS exemption would have expired prior to FY 2010 if lawmakers had not reauthorized it. Because of the exemption's detrimental effects on PERS finances, the Retirement Board had recommended its discontinuation.[4] Despite this recommendation and the labor force reductions required at that time due to recession – which should have undermined the very concept of a "labor shortage" – lawmakers during the 2009 session reauthorized the CLS exemption.

Recommendations

Immediately discontinue the CLS exemption. The Silver State suffers from an effective unemployment rate (u6) of 10.3%.[5] Even if Nevada suffered from a labor shortage two decades ago, that certainly is no longer the case. Unfortunately the CLS exemption has, in practice, become little more than a mechanism for well-connected bureaucrats and even political appointees to loot the assets held by PERS. The CLS exemption inspires cronyism and corruption. It should be discontinued immediately.

---

[1] Nevada Public Employees' Retirement System, "Critical Labor Shortage Estimated Cost through Nov. 1, 2008," Presented to Legislative Interim Retirement and Benefits Committee 15 Dec. 2008; see also, Martha Bellisle, "Nevada's Pension Laws Allow Double-Dipping," Reno Gazette-Journal, 30 May 2011.

[2] Nevada Legislature, Minutes of the Legislative Interim Retirement and Benefits Committee, 15 Dec. 2008.

[3] Ibid.

[4] Ibid.

[5] US Department of Labor, Bureau of Labor Statistics, "Alternative Measures of Labor Underutilization for States."

Sampling of retirees who were immediately rehired under CLS status

Employer	Position	Date Retired	Date Employed as CLS
State	Deputy Director, Public Safety	7/11/2001	7/13/2001
State	Senior Judge	1/2/2005	1/3/2005
State	Director, Public Safety	7/11/2001	7/13/2001
Storey County	Wastewater Treatment Op	8/30/2008	8/30/2008
JRS	Senior Judge	1/5/2009	1/5/2009
Battle Mtn Gen Hosp	Chief Risk Officer	8/2/2008	8/2/2008
State	Senior Judge	2/12/2006	2/12/2006
Clark Co SD	Teacher Development Mentor	7/11/2006	10/5/2006
State	Senior Judge	3/2/2007	3/2/2007
Mt Grant Gen Hosp	Medical Records Tech	9/1/2008	9/1/2008
JRS	Senior Judge	1/21/2006	1/21/2006
Grover C Dils Med	Registered Nurse	12/2/2004	12/3/2004
Clark Co SD	Project Facilitator	10/4/2007	9/17/2007
Canyon GID	Manager	1/1/2005	1/1/2005
Lander County	Detentions Sergeant	12/1/2007	12/3/2007
City of Reno	Land Use Attorney	6/28/2005	6/29/2005
Clark Co SD	Psychologist	2/5/2004	2/5/2004
Storey Co SD	SC On-Line Coordinator	9/1/2008	9/1/2008
JRS	Senior Judge	1/5/2009	1/5/2009
State	Highway Patrol Trooper	11/26/2001	11/27/2001
JRS	Senior Judge	5/19/2009	5/20/2009
Mineral County	Building Inspector	8/30/2008	9/9/2008
JRS	Senior Judge	7/1/2008	8/1/2008
Clark Co SD	Nurse	12/10/2008	11/17/2008
Clark Co Health	Vector Control Entomol	6/30/2005	7/1/2005
JRS	Senior Judge	1/5/2009	2/1/2009
Mineral County	Juvenile Master	1/1/2007	1/2/2007
State	Senior Judge	1/3/2005	1/4/2005
Clark Co SD	Psychologist	9/1/2006	8/23/2006
Battle Mtn Gen Hosp	ER Nurse	9/1/2008	9/1/2008
JRS	Senior Judge	1/6/2003	1/7/2003
JRS	Senior Judge	1/5/2009	1/5/2009
Clark Co SD	Nurse	9/1/2006	8/23/2006
Team A Charter	Psychologist	9/1/2006	9/1/2006
Clark Co SD	Psychologist	9/1/2008	8/20/2008
SNHD	Vax Computer Programmer	7/12/2008	8/1/2008
Clark Co SD	Psychologist	9/1/2006	8/23/2006
State	Senior Judge	7/1/2005	7/1/2005
Mt Grant Hosp	Insurance/Admitting Super	8/16/2008	8/27/2008
Clark Co SD	Psychologist	8/22/2008	8/20/2008
State	Senior Judge	1/14/2006	1/14/2006
Humboldt Co SD	Principal	7/1/2008	7/1/2008
State	Parole Board Member	8/6/2001	8/7/2001
Clark Co SD	Psychologist	9/1/2008	8/20/2008
Douglas Sewer Imp	District Controller	2/8/2004	2/8/2004
NSHE	Visiting Professor	9/1/2003	10/8/2003
JRS	Senior Judge	1/3/2005	1/4/2005
NSHE	Tech Prep Coordinator	9/1/2004	10/14/2004

Source: Nevada Public Employees' Retirement System.

Striking by Public Sector Unions

In January 2024, the Clark County teachers union established a political action committee and filed a proposed ballot initiative that would change existing statute to give teacher unions a protected right to strike.[1] The proposal would amend the Local Government Employee-Management Relations Act, which lawmakers passed in 1969. A prior law in 1965 declared collective bargaining illegal in the public sector, but a series of disruptive demonstrations by Clark County teachers on the Las Vegas Strip led lawmakers to reverse this policy in 1969 and instead make collective bargaining mandatory.[2]

Union powers under this law have strengthened in the decades since then. Firefighter unions first began to promote the idea that an interruption of critical public services was too disruptive and pressed lawmakers to create a binding arbitration process in exchange for declaring strikes illegal. Arbitration is a forcible dispute-resolution process which effectively guarantees a union contract. Lawmakers acceded to this demand for firefighters in 1977 and later expanded this bargain to include police in 1985 and teachers in 1991, all at the behest of unions representing those groups.[3]

The ballot initiative was filed after the Clark County teachers union was enjoined from conducting what courts declared an illegal strike in September 2023. The union had organized coordinated "sick outs" in a number of schools that caused the schools to close without notice to parents or students. The union also challenged the constitutionality of Nevada's anti-striking provisions, claiming those provisions violate federal First Amendment rights to speech and assembly.

Key Points

The striking ban was implemented at the behest of unions and to their benefit. While strikes are a tactic for unions to gain leverage during contract negotiations, it does not guarantee a union contract. Unions asked the legislature to trade striking rights for arbitration because it guarantees a union contract.

Nearly all states ban strikes by public employees. Thirty-four states expressly ban strikes by public school teachers. These bans exist across states that make public-sector collective bargaining illegal, optional, or mandatory in some form. Another seven states are silent about the legality of strikes, but also don't require collective bargaining with teacher unions. Only nine states expressly protect teachers unions' right to strike, but only in Hawaii and Pennsylvania do teachers have both arbitration powers and the protected right to strike.[4]

The disruption of essential services is incompatible with the state's responsibilities. Current law declares:

> "The services provided by the State and local government employers are of such nature that they cannot be duplicated from other sources and are essential to the health, safety and welfare of the people of the State of Nevada...[t]he continuity of such services is likewise essential and their disruption incompatible with the responsibility of the State to its people."[5]

Court precedent has consistently upheld bans on public-sector strikes. Despite union claims that the ban

---

[1] Nevada Secretary of State, "2024 Petitions & General Election Ballot Questions: S-02-2024."
[2] See "Cost of Collective Bargaining."
[3] Fred Welden, "History of Major Collective Bargaining Laws in Nevada," Nevada Legislative Counsel Bureau Research Division, Background Paper 93-1.
[4] Geoffrey Lawrence et al., "How Government Unions Affect State and Local Finances: An Empirical 50-State Review," Heritage Foundation Special Report, April 2016.
[5] Nevada Revised Statutes, 288.700.

infringes on unions' First Amendment rights, courts have ruled that public employees are held in a position of public trust. They can exercise all First Amendment rights privately, but not within the context of public employment. In its response to the union lawsuit, the Clark County School District cited dozens of cases across multiple states that reached this conclusion.

Recommendations

Do not enshrine a right for public employees to strike in Nevada. Unions should not hold both a forcible dispute-arbitration process and a protected right to strike. The Clark County teachers union eventually won exactly the contract it was seeking through the structured arbitration process despite its antics.

If a teachers union organizes a strike, it should lose its arbitration powers and parents should automatically be granted control over tax dollars allocated for the benefit of their children's education.

Government-Sector Labor Laws in 2012, by State (Page 3 of 5)

	Massachusetts	Michigan	Minnesota	Mississippi	Missouri
Collective Bargaining Regime					
State Workers	Compulsory	Compulsory	Compulsory	No Law	Meet-and-Confer
Police	Compulsory	Compulsory	Compulsory	No Law	No Law
Firefighters	Compulsory	Compulsory	Compulsory	No Law	Meet-and-Confer
Teachers	Compulsory	Compulsory	Compulsory	No Law	No Law
Other Local	Compulsory	Compulsory	Compulsory	No Law	Meet-and-Confer
Dispute Resolution Mechanism					
State Workers	Arbitration	None Required	Mediation	None Required	None Required
Police	Arbitration	Arbitration	Arbitration	None Required	None Required
Firefighters	Arbitration	Arbitration	Arbitration	None Required	None Required
Teachers	Arbitration	None Required	Mediation	None Required	None Required
Other Local	Arbitration	None Required	Mediation	None Required	None Required
Strikes					
State Workers	Prohibited	Prohibited	Protected	No Law	Prohibited
Police	Prohibited	Prohibited	Prohibited	No Law	No Law
Firefighters	Prohibited	Prohibited	Prohibited	No Law	Prohibited
Teachers	Prohibited	Prohibited	Protected	Prohibited	No Law
Other Local	Prohibited	Prohibited	Protected	No Law	Prohibited
Gov't Employees' Union Participation					
% Union Members	59.8	54.3	54.9	9.0	19.2
% Covered by Union Contract	63.9	55.4	56.9	13.8	23.2
Right to Work?	No	Yes (2012)	No	Yes (1960)	No
Labor Law Environment (LLE) Score	0.864	0.595	0.887	0.179	0.518

	Montana	Nebraska	Nevada	New Hampshire	New Jersey
Collective Bargaining Regime					
State Workers	Compulsory	Compulsory	Prohibited	Compulsory	Compulsory
Police	Compulsory	Compulsory	Compulsory	Compulsory	Compulsory
Firefighters	Compulsory	Compulsory	Compulsory	Compulsory	Compulsory
Teachers	Compulsory	Compulsory	Compulsory	Compulsory	Compulsory
Other Local	Compulsory	Compulsory	Compulsory	Compulsory	Compulsory
Dispute Resolution Mechanism					
State Workers	Mediation	Arbitration	None Required	Mediation	None Required
Police	Arbitration	Arbitration	Arbitration	Mediation	Arbitration
Firefighters	Mediation	Arbitration	Arbitration	Mediation	Arbitration
Teachers	Mediation	Arbitration	Arbitration	Mediation	None Required
Other Local	Mediation	Arbitration	Mediation	Mediation	None Required
Strikes					
State Workers	Protected	Prohibited	No Law	Prohibited	Prohibited
Police	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Firefighters	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Teachers	Protected	Prohibited	Prohibited	Prohibited	Prohibited
Other Local	Protected	Prohibited	Prohibited	Prohibited	Prohibited
Gov't Employees' Union Participation					
% Union Members	41.7	18.2	40.3	48.2	59.7
% Covered by Union Contract	45.5	25.0	46.4	55.1	61.2
Right to Work?	No	Yes (1946)	Yes (1951)	No	None Required
Labor Law Environment (LLE) Score	0.846	0.625	0.526	0.805	0.781

Source: Geoffrey Lawrence et al., "How Government Unions Affect State and Local Finances: An Empirical 50-State Review," Heritage Foundation Special Report, April 2016.

Right to Work

The National Labor Relations Act (NLRA) was passed by Congress in 1935 just months after the U.S. Supreme Court struck down the National Industrial Recovery Act as unconstitutional. The language of the NLRA mirrored closely Section 7 of the National Industrial Recovery Act and many observers also expected the Supreme Court to strike down the NLRA. However, President Franklin Roosevelt's support of a proposal to pack the Court influenced the Court to leave the NLRA intact.

In short, the NLRA created the National Labor Relations Board (NLRB) and charged it with supervising elections for union representation among private-sector workers. If a union wins an NLRB-supervised election with a simple majority of votes cast, it becomes the "exclusive bargaining agent" of all members of the bargaining group, regardless of whether each employee wishes to be represented by a union. Employers also must negotiate "in good faith" toward a collective bargaining agreement with the exclusive bargaining agent.

In the post-war era, perceived abuses by union leaders inspired Congress to pass the Taft-Hartley Act of 1947. This law amended the NLRA to give employees the right to refrain from participating in union activities and named several union tactics as "unfair labor practices" that could no longer be used against employees. It also allowed states to pass right-to-work (RTW) laws. An RTW law makes it illegal to require an employee to join a union and have dues withheld as a condition of employment. RTW laws are in force in 26 states.

Key Points

A person's right to work is consistent with individual liberty. States without RTW laws effectively deprive workers of their First Amendment right to freedom of association. Workers may be required to join an organization against their will and have dues forcibly withheld from their paychecks to finance activities with which they may disagree.

Right-to-work states experience faster economic growth. Empirical evidence shows that RTW states experience faster growth in median household income, GDP per capita and corporate income tax receipts. Unemployment is also lower in RTW than non-RTW states.

Critics note states without RTW laws still boast larger median incomes on average. However, this is a legacy of historical economic performance. States with RTW laws began with much smaller median household incomes, but incomes have grown faster than in non-RTW states.

Americans prefer to live in right-to-work states. Americans often express their preferences by voting with their feet—moving to locales that match their desires. On the whole, RTW states have experienced much faster population growth than non-RTW states. The five fastest growing states, and eight of the top 10 fastest growing states, all have RTW laws.

Right-to-work laws inspire investment. Private-sector enterprises have demonstrated a preference for RTW states by choosing to invest more into facilities in those states. In 23 states, for instance, Japanese firms rank in the top three of foreign firms employing local workers. Only 7 of those states do not have RTW laws.

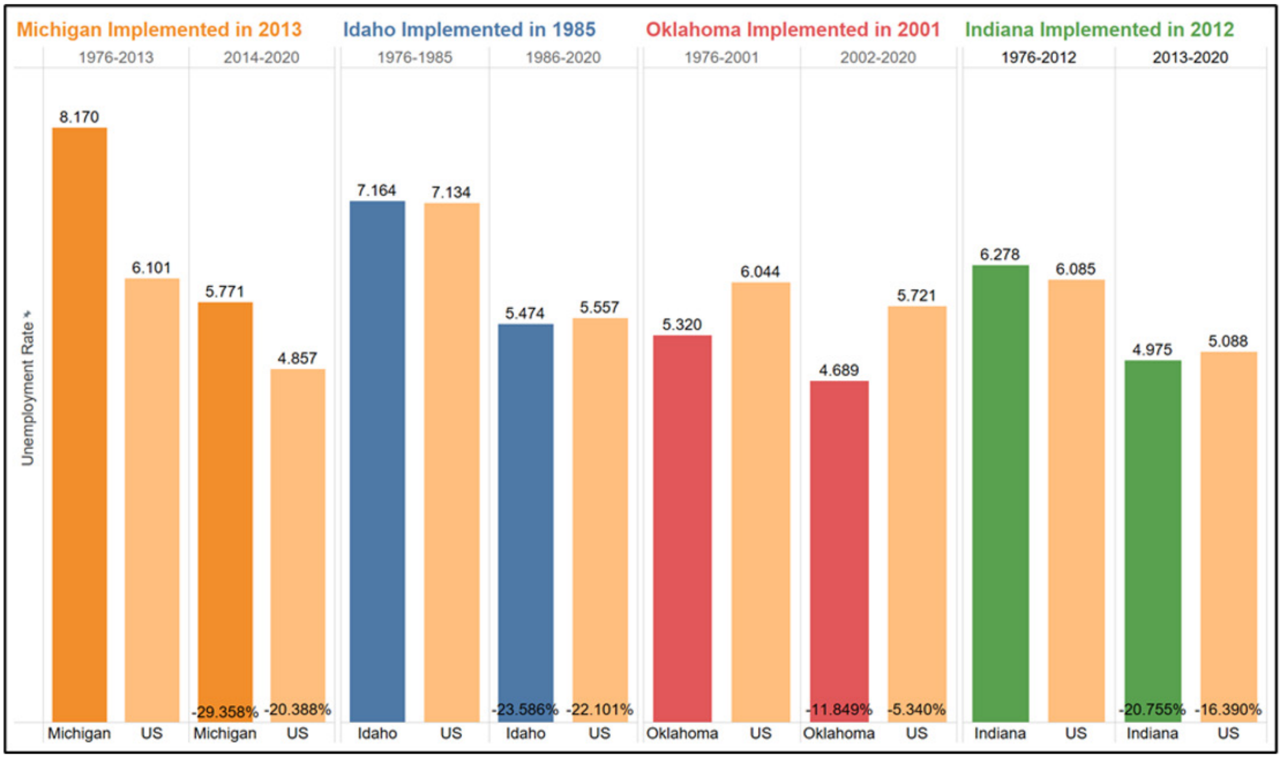
Nevada has demonstrated that RTW can be compatible with union participation. Nevada has the highest union participation rate among RTW states, with 12.4% of private-sector workers belonging to a union. This rate is higher than 10 of the 24 non-RTW states. If unions provide value to workers, then workers will join them even without coercion.

Recommendations

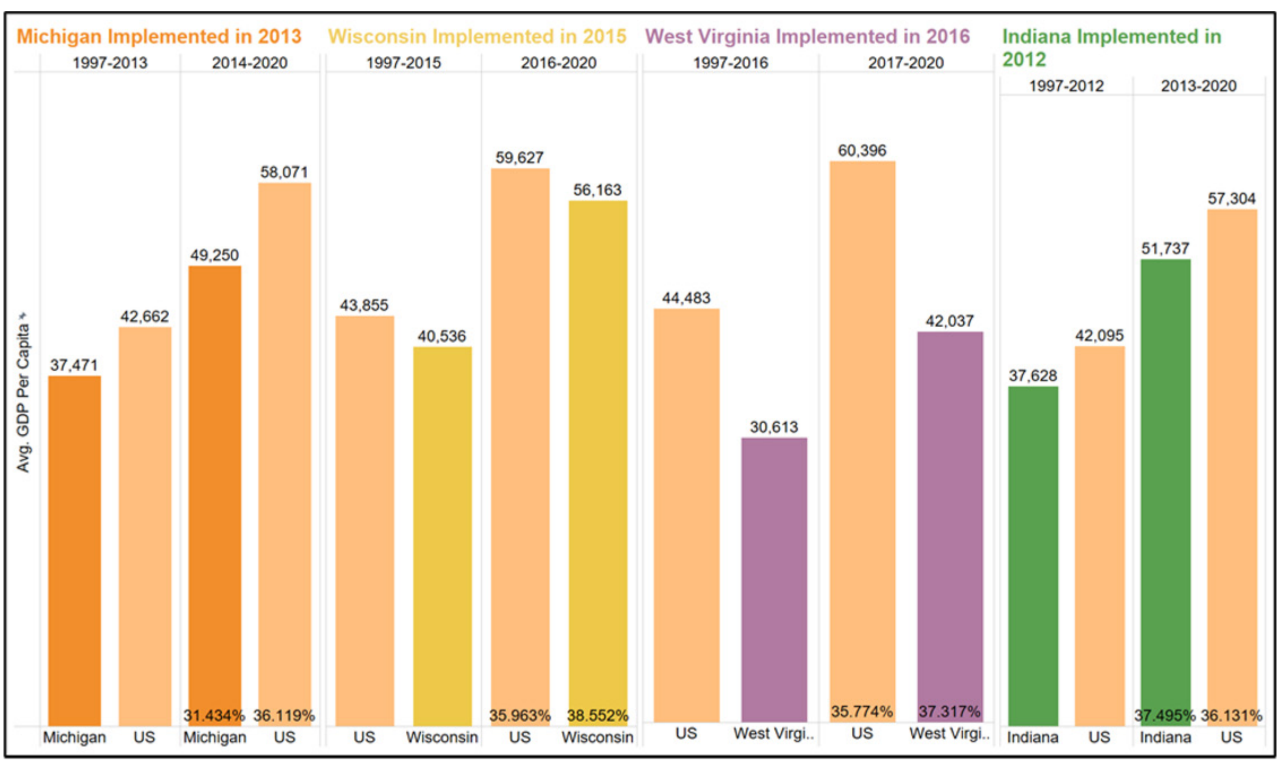
Preserve Nevada's RTW status. Nevada was among the first wave of state's to approve a RTW law, passing it as a ballot measure in the 1952 general election. The law has helped preserve economic dynamism in Nevada, provided incentives for growth and investment, and has proven compatible with large-scale union participation. Lawmakers should reject any proposal to repeal Nevada's RTW laws.

Enshrine RTW into the state constitution. Among the 26 states with RTW laws, 10 have elevated these provisions into their state constitutions to enshrine the rights of workers and make these rights more difficult to overturn.

Average Unemployment Rate Before vs. After RTW Laws Implemented, 1976 - 2020



Average GDP Per Capita Before vs. After RTW Implemented 1997 - 2020



Economic Development

In 2011, lawmakers dramatically changed the state's economic development infrastructure.

They passed AB 449, which created a new cabinet-level position for economic development, restructured the state's economic development efforts in a more top-down manner and created a "Catalyst Fund." The declared purpose of the Catalyst Fund is to provide financial incentives to firms considering moving to, or expanding in, Nevada.[1] Lawmakers in 2019 reduced appropriations toward the Catalyst Fund, but left in place a program that allows the Office of Economic Development to issue up to $5 million annually in transferable tax credits, effectively accomplishing the same purpose.[2]

Lawmakers should question whether a state-directed approach to economic development is superior to a market-directed approach and whether bureaucrats are better able to identify viable opportunities for successful investment than private entrepreneurs.[3]

Key Points

State-directed economic development is inefficient. When production decisions are shaped by politicians instead of market forces – i.e., consumer decisions – society's capital stock is likely to be invested in ways that serve the best interests of politicians, not consumers.

Public subsidies for private firms promote cronyism and are unconstitutional. The availability of public subsidy through the Catalyst Fund deters productive, entrepreneurial activity in favor of rent-seeking. As a result, incestuous relationships develop between politicians and private industry that can devolve into outright cronyism. During the 19th century, multiple states' experiences with such cronyism prompted them to pass constitutional amendments prohibiting the giving of public monies to private corporations. In fact, Article 8, Section 9 of Nevada's constitution explicitly forbids the type of subsidy scheme used by the Catalyst Fund:

> The state shall not donate or loan money, or its credit, subscribe to or be, interested in the Stock of any company, association, or corporation, except corporations formed for educational or charitable purposes.

Steps can be taken to promote economic development, but AB 449 was the wrong approach. Private entrepreneurship is the best means to overcome the impact of recession and to build a sustainable economic future. However, in many ways, Nevada's policy environment has been and remains hostile to the formation of new, small businesses. Licensing, zoning, and filing requirements, labor market strictures, and a cumbersome regulatory apparatus discourage aspiring entrepreneurs and impede economic recovery.

Tax giveaways force a higher tax burdens onto non-privileged businesses. In late 2014 and 2015, Nevada lawmakers convened special sessions to approve a combined $1.5 billion in tax giveaways for two specific manufacturing firms, Tesla Motors and Faraday Future. In between those special sessions, lawmakers met in general session to raise the modified business and commerce taxes on Nevada businesses lacking such political connections. Politically unconnected businesses are thus forced to cross-subsidize competitors armed with political clout.

---

[1] Nevada Legislature, 76th Session, Assembly Bill 449.

[2] Nevada Legislature, 78th Session, Senate Bill 507; See also: Michael Schaus, "Transferable Tax Credits," NPRI commentary, December 13, 2016.

[3] John Locke, The Second Treatise of Civil Government, 1690; see also, Adam Smith, An Inquiry into the Nature and Causes of the Wealth of Nations, 1776.

[4] Nevada Governor's Office of Economic Development, Annual Catalyst Report, FY20 and Annual Report, FY21.

Subsidies are taken when they're available. In FY20 and FY21, the Office of Economic Development granted tax abatements for new locations of Foot Locker, T-Mobile and Kroger. It also awarded cash from the Catalyst Fund to Petco and Starbucks. It's debatable whether these entities would have installed their new locations without subsidy.[4]

Recommendations

Clarify and restrict the mission of the Office of Economic Development. Nevada does not need a cabinet-level agency to dole out patronage. However, the Office of Economic Development could take meaningful steps to ensure future economic development if its mission is changed to identify and correct policies that unnecessarily impede new business formation.

Clear the path for entrepreneurs. Nevada Policy has produced a comprehensive guide to economic development detailing a series of highly specific policy changes that would facilitate sustainable growth and economic development in Nevada.[5]

Catalyst Fund Awards (FY20)

Recipient	City/County	Jobs	Average Wage	Average Wage
Take Two Interactive Software	Las Vegas	150	$ 18.00	$ 600,000
Cristek Interconnects, Inc.	Douglas Co.	50	$ 24.93	$ 200,000
Nicholas & Company	North Las Vegas	125	$ 26.25	$ 625,000
SolarCity Corp.	Clark Co.	800	$ 21.31	$ 1,200,000
Ardagh Metal Packaging, Inc.	Storey Co.	118	$ 24.18	$ 630,000
New Logic Research	Douglas Co.	30	$ 30.01	$ 75,000
Torchmate-Lincoln Cutting	Reno	40	$ 17.73	$ 125,000
Barclays, PLC	Henderson	1,005	$ 14.25	$ 1,875,000
Kareo, Inc.	Las Vegas	300	$ 20.54	$ 750,000
Garlock Printing	Reno	175	$ 18.04	$ 77,500
Petco	Reno	44	$ 21.00	$ 100,000
Clear Capital	Reno	400	$ 31.86	$ 1,000,000
Scientific Games Corporation	Clark Co.	250	$ 22.00	$ 1,400,000
Grand Rounds	Reno	70	$ 30.43	$ 150,000
Barclays, PLC II	Clark Co.	150	$ 33.71	$ 1,125,000
Bently Heritage	Douglas Co.	12	$ 51.90	$ 99,000
Starbucks Coffee Co.	Douglas Co.	100	$ 21.16	$ 250,000
Polaris Industries, Inc.	Fernley	50	$ 21.95	$ 100,000
Cyanco Company, LLC	Winnemucca	20	$ 44.53	$ 140,000
Figure Technologies	Reno	150	$ 30.01	$ 600,000
Aqua Metals, Inc.	Reno	50	$ 67.73	$ 150,000
Hyperloop	North Las Vegas	100	$ 30.00	$ 750,000
Marys Gone Crackers	Reno	40	$ 25.00	$ 100,000
Stixis Technologies Inc.	Las Vegas	140	$ 25.00	$ 1,750,000
Xtreme Manufacturing, LLC	Las Vegas	200	$ 18.50	$ 600,000
Scientific Games	Las Vegas	200	$ 34.00	$ 1,825,000
Caremark, LLC	Las Vegas	100	$ 25.73	$ 350,000
KRS Global Biotechnology, Inc.	Las Vegas	160	$ 25.00	$ 640,000
Total		**5029**	**$ 27.67**	**$ 17,286,500**

Source: Nevada Public Employees' Retirement System.

[5] Geoffrey Lawrence and Cameron Belt, "The Path to Sustainable Prosperity: Removing the Obstacles Facing Nevada's Entrepreneurs," NPRI Policy Study, January 2013.

Construction Defect

Real property transactions in the United States have been governed by the principle of *caveat emptor* since at least 1817, when the Marshall Court incorporated this principle into its decision in *Laidlaw v. Organ*.

Caveat emptor means that it is incumbent upon the purchaser to research and inspect any defects within the property for sale and to make his offer commensurate with his knowledge of defects. Under this principle, the seller retains no liability for any defects after the date of purchase unless the seller has deliberately misrepresented the property or has committed other fraudulent action.

Beginning in the 1960s, however, a series of court decisions began to confer onto sellers a liability for latent defects after the time of sale. This evolving body of "construction defect law" was formalized most clearly in California, where, by the 1990s, litigating arguably defective construction had become a highly prevalent and lucrative occupation. The increasing rate of litigation has significantly impacted California's construction market, particularly for attached housing units – the most frequent target of litigators.[1]

California trial lawyers, facing dwindling opportunities for litigation in that state, began looking east to Nevada, hoping to create a new market for litigation by shepherding construction defect legislation through the state capitol.[2] In 1995, Nevada lawmakers acceded to their overtures, voting unanimously in favor of construction defect legislation that had been rewritten by lobbyists from the Nevada Trial Lawyers Association.[3]

Key Points

Construction-defect laws mean higher home prices. Nevada's construction-defect laws originally placed an asymmetrical liability for unknown defects on the seller of the home vis-à-vis the purchaser. It did this by – in a significant departure from all other sectors of Nevada civil law – guaranteeing attorneys unlimited "prelitigation" fees, whether or not the case ever went to court. Thus, while builders typically purchased insurance to safeguard against liabilities, many insurers refused to issue coverage in states with construction defect laws or did so only at exorbitantly high rates.[4] The result was that fewer affordable-housing units were built, with higher prices for those that were.

A significant share of Nevada construction-defect litigation may have been fraudulent. Because Chapter 40 of the Nevada Revised Statutes incentivized long-running "prelitigation" maneuvering, it fostered the corruption of Nevada's legal process. Builders and their insurers became prey for endless, highly lucrative tag-teaming between the plaintiff bar and their defense bar counterparts — before judges whose election campaigns were funded with contributions from both legal camps. Not coincidentally, the FBI has charged lawyers and other insiders with corrupt schemes to stack homeowners associations with board members who would agree to their representation in construction-defect lawsuits.[5] In many instances, these suits were filed on behalf of entire neighborhoods although many residents never knew their home was involved in a lawsuit that could cloud its title.

Reform legislation in 2015 enacted sweeping reforms. Many were reversed in 2019. Assembly Bill 125 narrowed the definition of a construction defect to items that present "an unreasonable risk of injury to a person or property" or that are "not completed in a good or workmanlike manner and proximately causes physical damage to the residence." AB 125 further removed the guarantee of legal fees for attorneys. In response to a series of exposed frauds and conspiracies, AB 125 barred homeowners' associations from initiating a construction-defect lawsuit, although this ability was partially restored in 2019. AB 125 also reduced the statute of limitations for filing claims from 10 years to six years after construction. This change was reversed in 2019. Additional changes in 2019 weakened the notice requirements to contractors and relieved plaintiffs from first exhausting claims under a homeowner warranty.[6]

Recommendations

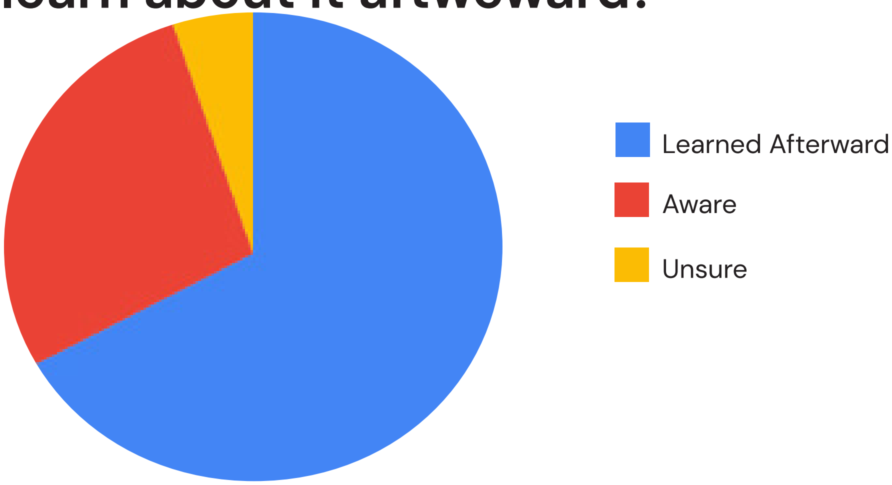
---

[1] Association of Bay Area Governments, "Service Matters: Issue No. 60," July/August 2002.
[2] Andrea Adelson, "Building is Booming and California Lawyers Are Massing on State Line," New York Times, 4 December 1996.
[3] Nevada Legislature, 68th Session, Senate Bill 395; also, Nevada Legislature, 68th Session, Minutes of the Senate Committee on Judiciary, 10 May 1995.
[4] California Legislature, California Research Bureau, "Construction Defect Litigation and the Condominium Market," CRB Note, Vol. 6, No. 7, 1999.

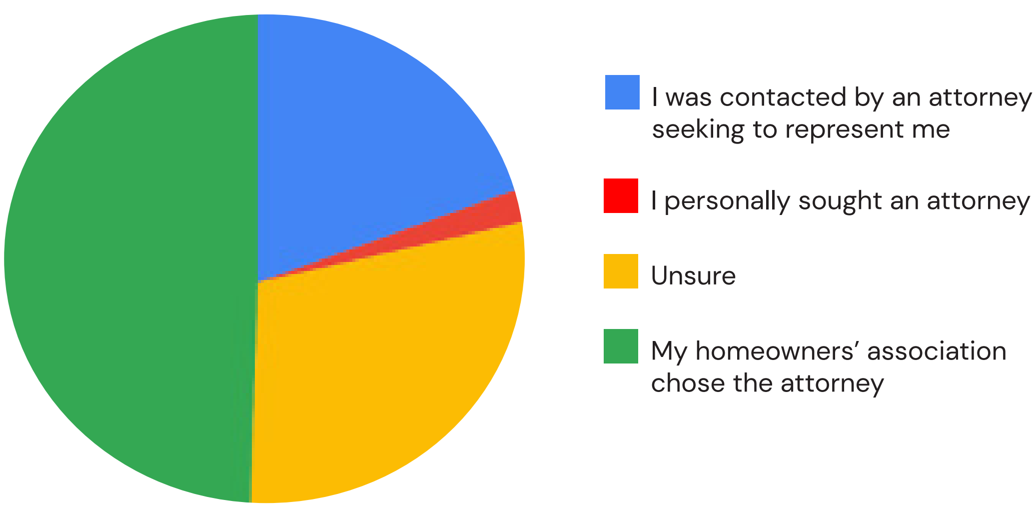
Prevent further erosion of 2015 reforms. AB 125 enacted the reforms previously outlined in this volume. Lawmakers should maintain them.

From January to February 2015, LUCE Research conducted a survey of Nevada homeowners whose homes had been involved in a construction-defect lawsuit. The survey indicates that a majority of these homeowners had gotten involved in these lawsuits without their knowledge and that their homeowners associations had initiated the lawsuit.

Survey Question: Were you aware of the construction-defect lawsuit involving your home before lawsuit was filed or did you learn about it aftweward?



Survey Question: Which of the following best describes how you came to be represented by a construction defect attorney?



Source: LUCE Research, Survey Conducted for Nevada Homebuilders Association, February 2015.

[5] Jeff German, "GOP Consultant Helped Rig HOA Elections in Plot," Las Vegas Review-Journal, 1 September 2011.
[6] Nevada Legislature, 78th Session, Assembly Bill 125; Nevada Legislature, 80th Session, Assembly Bill 421.

Occupational Licensing

In 2011, Nevada lawmakers passed legislation that made it a criminal offense to practice music therapy without a license.[1]

According to the statutory language, "music therapy" is defined as the "clinical use of music interventions … to accomplish individualized goals within a therapeutic relationship." These music interventions "may include, without limitation, music improvisation, receptive music listening, song writing, lyric discussion, music and imagery, music performance, learning through music and movement to music."

In other words, lawmakers made it a criminal offense to teach someone how to dance, write songs, or even listen to music unless the instructor has paid fees and obtained a state-sanctioned license.

Indeed, for more than 70 different occupations in Nevada, lawmakers have required providers to pay regular fees to a state-sanctioned licensing board, or face potential criminal charges. In many of these cases, it is clear such legislation is not in the public interest.

Key Points

Nevada imposes some of the most restrictive licensing requirements in America. According to a 2017 state-by-state analysis of occupational licensing laws:

> Nevada is the second worst state in the nation for occupational licensing of lower-income occupations. Licensing 75 of the 102 [occupations] studied here, Nevada is more broadly and onerously licensed than all but one other state. Nevada also has the second most burdensome licensing laws, requiring, on average, $704 in fees, 861 days – more than two years – of education and experience, and around two exams.[2]

A 2022 update to that analysis confirms that Nevada's licensing "[b]urden remained the second worst and [its] combined rank remained the worst" among the states.[3]

Occupational licensing is often designed by industry insiders to exclude competition. In many cases, occupational licensing bills are heavily influenced by industry insiders who want to forcibly exclude competition from the marketplace. Once lawmakers create an occupational licensing board, the members who populate that board are typically industry insiders, as well. This ensures an obvious conflict of interest, empowering board members to decide who may legally compete with them.

Statutory language is ambiguous. The statutory language providing for many occupational licenses fails to clearly limit the law's coverage to only "for profit" providers. For instance, NRS Chapter 640C appears to make it a criminal offense for an individual to give his or her spouse a massage without a state-sanctioned license.

Many occupations subject to licensing present no meaningful danger of physical harm. In Nevada, individuals

---

[1] Nevada Legislature, 76th Session, Senate Bill 190.

[2] Dick Carpenter et al., "License to Work: A National Study of Burdens from Occupational Licensing (2nd Edition)," Institute for Justice, November 2017.

[3] Lisa Knepper el al., "License to Work: A National Study of Burdens from Occupational Licensing (3rd Edition)," Institute for Justice, November 2022.

cannot cut hair, apply makeup, give advice on interior design, or provide landscaping services without first paying a fee and obtaining permission from their would-be competitors. The transparent intention behind these obstacles is to dissuade talented new individuals from entering these markets.

Occupational licensing is not "consumer protection." The demand for an individual's services on the open marketplace is only as strong as that individual's reputation for quality. Interior designers who dispense poor advice, for instance, are unlikely to remain in that industry for an extended time. Although advocates of occupational licensing claim to be intent on protecting consumers from poor quality, their political methods are less adequate for this task than simple market forces.

Recommendations

Restrict occupational licensing to professions that meet a narrow definition for "substantial risk of physical harm." Lawmakers should immediately repeal all occupational licensing requirements for professions that do not pose a substantial risk of physical harm to consumers when the occupation is not performed by a trained professional. Assembly Bill 269 was introduced during the 2015 session to accomplish this task, but it failed to receive a committee hearing.[4]

[4] Nevada Legislature, 78th Session, Assembly Bill 269.

Nevada Licensing Requirements by Occupation

Ocupation	Fees	Estimated Calendar Days Lost	Education	Experience	Exams	Min.Age
Earth Driller, Water Well	$1,178	2190	–	6 years	3	18
Interior Designer	$1,215	2190	4 years	2 years	1	0
Interpreter, Sign Language	$675*	1469*	4 years and 40 clock hours*	–	2	18
Fire Alarm Installer	$1,545	1460	–	4 years	2	18
Landscape Contractor	$1,253	1460	–	4 years	2	18
Carpenter/Cabinet Maker	$1,078	1460	–	4 years	2	18
Cement Finisher	$1,078	1460	–	4 years	2	18
Door Repair Contractor	$1,078	1460	–	4 years	2	18
Floor Sander Contractor	$1,078	1460	–	4 years	2	18
HVAC Contractor	$1,078	1460	–	4 years	2	18
Iron/Steel Contractor	$1,078	1460	–	4 years	2	18
Mason Contractor	$1,078	1460	–	4 years	2	18
Painting Contractor	$1,078	1460	–	4 years	2	18
Paving Contractor	$1,078	1460	–	4 years	2	18
Pipelayer Contractor	$1,078	1460	–	4 years	2	18
Sheet Metal Contractor	$1,078	1460	–	4 years	2	18
Cement Finishing Contractor (Residential)	$938	1460	–	4 years	2	18
Glazier Contractor	$1,033	1460	–	4 years	1	18
Insulation Contractor	$1,033	1460	–	4 years	1	18
Terrazzo Contractor	$1,033	1460	–	4 years	1	18
Drywall Installation	$983	1460	–	4 years	1	18
Preschool Teacher, Public School	$577	1460	4 years	–	3	0
Athletic Trainer	$640	1460	4 years	–	1	0
Optician	$900	1118	2 years	1 year and 100 clock hours	3	18
Barber	$165	896	1500 clock hours	18 months	4	18
Bill Collection Agency	$1,010	730	–	2 years	1	21
Veterinary Technician	$410	730	2 years	–	2	0
Mobile Home Installer	$553	730	–	2 years	1	0
Cosmetologist	$145	373	1600 clock hours	–	2	18
Child Care Home, Family	$58	235	–	1000 clock hours	0	21
Skin Care Specialist	$145	210	900 clock hours	–	2	18
Pest Control Applicator	$450	294	16 credit hours	6 months	3	18
Vegetation Pesticide Applicator	$450	294	16 credit hours	6 months	3	18
Pharmacy Technician	$80	222	600 clock hours	350 clock hours	0	18
Manicurist	$145	140	600 clock hours	–	2	18
Emergency Medical Technician	$90	26	110 clock hours	–	2	18
Travel Guide	$2,250	0	–	–	2	21
School Bus Driver	$260	3	10 clock hours	10 clock hours	6	21
Massage Therapist	$575	117	500 clock hours	–	1	18

Source: Carpenter et al., "License to Work (2nd Edition), Institute for Justice, 2017.

Government "planning" is not an alternative to chaos. It is a pre-emption of other people's plans.

-Thomas Sowell

Work versus Welfare

Social wealth and prosperity result from the productivity of individuals. To the extent that society's individual members contribute their labor, knowledge and ingenuity in productive ways, society grows richer.

However, the incentive structure facing individuals has a substantial impact on their observed willingness to contribute their productive capacities. This means policymakers can have a meaningful impact on social prosperity by providing the correct incentives that induce individuals to contribute their skills and energy.

The level and availability of public support has a direct and meaningful impact on individuals' decisions to pursue knowledge, skill development and career advancement. Overly generous public subsidy for unemployment can discourage individuals from seeking entry-level positions and working toward achieving their full potential. This is not to say that some form of safety net is undesirable, but policymakers must strike a balance that does not discourage productive activity and which recognizes that communities succeed only when individuals achieve.

Key Points

Nevada offers one of the nation's most generous welfare packages. According to a state-by-state comparison of the generosity of welfare packages completed in 2013, Nevada offers the nation's 15th most generous welfare package, if households enroll in every program for which they are eligible. Valued at $31,409 annually, Nevada's total welfare package is significantly higher than in neighboring states like Arizona, Idaho and Utah, where welfare packages amount to $21,364, $17,766, and $19,612, respectively.[1]

Nevadans can receive all basic needs without working. Food, housing, utilities, health care and spending cash are all available through the various government programs that distribute them, including: SNAP, WIC, TEFAP, LIHEAP, TANF, Medicaid, and Section 8.

Welfare can subsidize black market activities. Eligibility for participation in most welfare programs is determined by reportable income. This provides an incentive for individuals to pursue only income that is non-reportable, so as not to compromise program eligibility. Thus, welfare programs can have the effect of promoting an underground, illicit economy.

The hourly wage equivalent of welfare benefits is higher than is available at entry-level jobs. When Nevada's total welfare package is broken down into an hourly wage equivalent, assuming a 40-hour work week, it amounts to $14.34 (2013 dollars).[2] This amount is higher than what is offered at most entry-level jobs and encourages individuals to forego entry-level positions in order to retain superior welfare benefits – even though entry-level positions may serve as a springboard for later career advancement and income growth.

Very few welfare recipients participate in work activities. Despite the acclaimed federal welfare reforms of the 1990s that imposed some work requirements on welfare recipients, records indicate that few Nevada beneficiaries actually fulfill these requirements. Only 49.1% of welfare recipients participate in any form of "work activities." Comparatively, the figure is 87.9% in neighboring Idaho. Further, fewer than half of those who do participate actually work in a traditional job. Others satisfy the requirement through more nebulous "work activities," including "work preparation" or "job search."[3]

Recommendations

Limit availability of welfare. If policymakers truly wish to eradicate poverty and promote social prosperity, they cannot make individuals comfortable in their poverty. Entry-level work in the legal marketplace must become more rewarding than public support.

While most welfare programs are created by Congress and administered by states, state policymakers still have wide flexibility within several programs. Lawmakers in a number of states, for instance, have reduced housing subsidies available to TANF recipients and encouraged them to use their cash benefits to finance their own housing.

[1] Michael Tanner and Charles Hughes, "The Welfare Versus Work Trade-Off: 2013," Cato Institute, October 2013.

[2] Ibid.

[3] U.S. Department of Health and Human Services, "National TANF Datafile."

Total Value of Welfare Benefits, by State (2013)

Rank	State	TANF ($)	SNAP ($)	Housing ($)	Medicaid ($)	WIC ($)	LIHEAP ($)	TEFAP ($)	Total ($)
1	Hawaii	7,632	8,827	23,798	6,776	1,289	553	300	49,175
2	D.C.	5,136	6,081	21,775	8,136	1,071	600	300	43,099
3	Massachusetts	7,416	6,247	17,203	9,920	979	450	300	42,515
4	Connecticut	6,804	6,312	14,243	9,175	1,253	675	300	38,761
5	New Jersey	5,088	6,145	17,428	8,153	1,265	348	300	38,728
6	Rhode Island	6,648	6,249	12,702	11,302	1,156	275	300	38,632
7	New York	8,292	5,251	12,044	10,464	1,309	344	300	38,004
8	Vermont	7,980	4,999	13,083	9,988	1,154	200	300	37,705
9	New Hampshire	7,500	4,837	13,296	10,044	825	358	300	37,160
10	Maryland	6,780	5,881	13,056	7,884	1,320	450	300	35,672
11	California	8,676	4,994	14,821	4,459	1,170	868	300	35,287
12	Wyoming	6,924	6,312	9,044	9,612	799	128	300	33,119
13	Oregon	5,652	6,312	10,701	7,452	957	300	300	31,674
14	Minnesota	6,384	6,247	8,207	9,000	1,041	424	300	31,603
15	Nevada	4,596	6,312	12,475	6,455	908	363	300	31,409
16	Washington	6,744	5,164	11,040	6,400	999	169	300	30,816
17	North Dakota	5,724	6,312	8,568	8,280	1,163	335	300	30,681
18	New Mexico	5,364	6,312	8,711	8,467	936	345	300	30,435
19	Delaware	4,056	6,312	11,989	6,084	1,001	633	300	30,375
20	Pennsylvania	4,836	6,164	8,947	8,100	1,184	286	300	29,817
21	South Dakota	6,468	5,648	7,428	8,261	1,100	233	300	29,439
22	Kansas	4,836	6,312	8,197	8,309	962	480	300	29,396
23	Alaska	11,076	7,017	–	8,467	1,256	1,159	300	29,275
24	Montana	5,664	6,312	8,551	6,876	1,030	390	300	29,123
25	Michigan	5,868	6,312	8,344	6,618	980	450	300	28,872
26	Ohio	4,920	6,312	8,152	7,857	864	317	300	28,723
27	North Carolina	3,264	6,312	9,393	7,452	1,083	338	300	28,142
28	West Virginia	4,080	6,312	8,070	7,742	1,056	167	300	27,727
29	Indiana	3,456	6,312	8,827	6,534	912	550	300	26,891
30	Missouri	3,504	6,312	8,295	7,092	935	400	300	26,837
31	Oklahoma	3,504	6,312	8,061	7,342	959	306	300	26,784
32	Alabama	2,580	6,312	8,196	6,560	1,197	1,493	300	26,638
33	Louisiana	2,880	6,312	8,556	6,776	1,247	467	300	26,538
34	South Carolina	3,156	6,312	8,337	7,063	1,118	250	300	26,536
35	Wisconsin	7,536	5,919	–	6,540	1,035	153	300	21,483
36	Arizona	4,164	6,312	–	8,676	1,012	900	300	21,364
37	Virginia	4,668	6,312	–	8,640	786	178	300	20,884
38	Nebraska	4,368	6,312	–	8,388	1,055	375	300	20,798
39	Colorado	5,544	6,312	–	6,901	973	720	300	20,750
40	Iowa	5,112	6,266	–	7,024	883	516	300	20,101
41	Maine	5,820	6,312	–	6,000	989	450	300	19,871
42	Georgia	3,360	6,312	–	7,920	1,345	560	300	19,797
43	Utah	5,688	6,312	–	6,228	859	225	300	19,612
44	Illinois	5,184	6,301	–	5,961	1,146	550	300	19,442
45	Kentucky	3,144	6,312	–	7,560	973	474	300	18,763
46	Florida	3,636	6,312	–	6,196	1,077	600	300	18,121
47	Texas	3,156	6,312	–	7,337	703	229	300	18,037
48	Idaho	3,708	6,312	–	6,012	884	550	300	17,766
49	Arkansas	2,448	6,312	–	6,377	1,113	873	300	17,423
50	Tennessee	2,220	6,312	–	7,344	1,006	231	300	17,413
51	Mississippi	2,040	6,312	–	6,909	1,023	400	300	16,984

Source: Michael Tanner and Charles Hughes, "The Work Versus Welfare Trade-Off: 2013," Cato Institute, October 2013.

Rent Control

In 2019, Oregon and California became the first states in the nation to adopt a statewide rent control law. Rent control is simply a price control for leased housing and it can function in a number of ways. The strictest rent control policies either specify a rental price by government fiat or prohibit rental rates from increasing during the lifetime of a tenancy. More lenient rent control policies allow rental rates to rise by a specified amount over the lifetime of a tenancy.

Although many American cities experimented with rent control policies in the 1970s, no state had enacted rent controls statewide until 2019. Oregon's law took effect first and limited the annual rise in rental rates to 7% plus the rate of inflation during the lifetime of a tenancy if the unit is 15 years or older at the time the lease is executed. Rates could reset prior to accepting a new tenant, but would be controlled during a tenancy. In 2023, Oregon lawmakers tightened the control further by capping the annual increase to 10% regardless of the rate of inflation. California's law is similar but applies only to housing units owned by a corporation or real estate investment trust. It limits annual increases to the lower of: 10%; or 5% plus the rate of inflation.

In 2022, Nevada's Culinary Union unsuccessfully sponsored a initiative to impose rent controls in North Las Vegas. Then-Gov. Steve Sisolak responded by predicting lawmakers would take up rent control in 2023.[1] Lawmakers introduced four different rent control proposals. These ranged from legislation that would give cities and counties express authority to enact rent control on their own[2] to a far-reaching proposal backed by the Culinary Union that would mirror California's approach, but with stricter controls. It would have limited annual increases to the lower of: 5% or the cost of inflation and would exempt units constructed within the past 15 years or units that are the only unit owned by a landlord.[3]

Key Points

Like all price controls, rent control distorts the balance of supply and demand. Prices are the mechanism that communicate signals between consumers and producers of any good. When prices are unable to move freely, producers don't receive the signal to respond to an increase in demand with a corresponding increase in supply, resulting in a shortage.

Rent control leads to fewer units and poor maintenance. Price controls limit the profit potential of housing investment and may even expose investors to potential losses. These limitations discourage investment in housing markets subject to rent control.

Rent control may make housing affordability worse. In San Francisco, landlords reduced the supply of rental units by 15% after rent control was adopted, leading to a city-wide rent increase of 5.1% that fell largely on renters of non-controlled units.[4]

Rent control leads to less turnover of existing inventory. Renters who benefit from price controls tend to retain a residency longer than they otherwise would, leading to less availability for rising generations. In 1994, voters in the City of Cambridge, Mass.,repealed rent control laws that began in 1970. Immediately, housing turnover increased and new housing starts doubled on an annual basis as the value of rental properties as an asset increased by 18% to 25%.[5]

Rising housing costs in Nevada result from a supply shortage and rising inflation. As during the 1970s, the United States has recently faced rising inflation after nearly doubling the money supply between March 2020 and December 2021.[6] Inflation is not the only driver of rising rent prices, however, as new housing starts have not kept pace with population growth since the 2007-09 recession. Key reasons for this include local zoning ordinances,

---

[1] Dana Gentry, "Sisolak: Legislature May Take Up Rent Control," Nevada Current, June 30, 2022.

[2] Nevada Legislature, 82nd Session, Senate Bill 371.

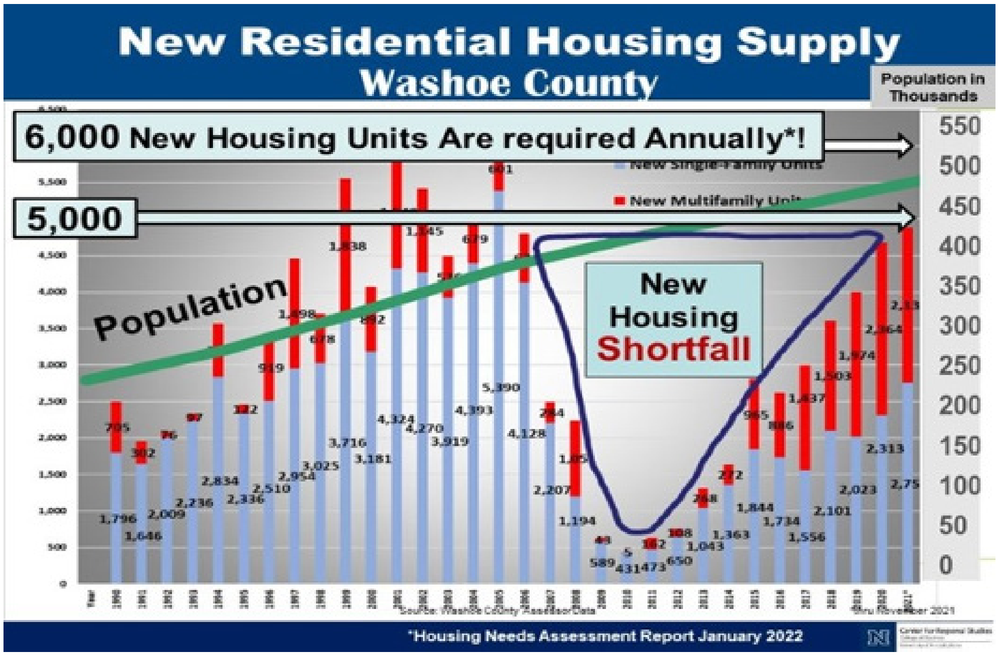
[3] Nevada Legislature, 82nd Session, Senate Bill 426.

[4] Rebecca Diamond et al., "The Effects of Rent Control Expansion on Tenants, Landlords and Inequality: Evidence from San Francisco," National Bureau of Economic Research Working Paper # 24181, December 2017.

licensing fees, and the unavailability of land for private development.[7]

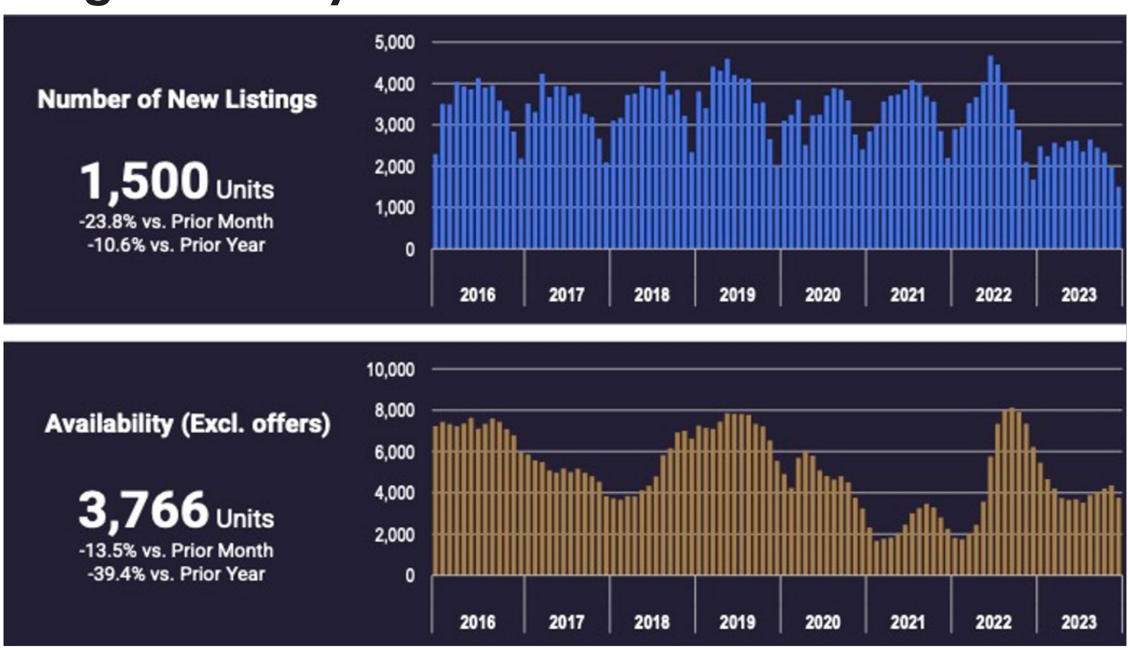
Recommendations

Do not implement rent control. Nevada needs to encourage greater investment in rental housing to keep prices in check. Rent control dissuades this investment.



Source: University of Nevada Center for Regional Studies, "Housing Needs Assessment Report January 2022."

Monthly Listings and Availability of Single-Family Homes, 2016 - 2023



Source: Las Vegas Realtors, "Monthly Housing Market Update: December 2023."

[5] David Autor et al., "Housing Market Spillovers: Evidence from the End of Rent Control in Cambridge Massachusetts," National Bureau of Economic Research Working Paper # 18125, June 2012.
[6] Federal Reserve Economic Data, "Monetary Base, Total."
[7] Michael Calabrese et al., "The Construction of a Crisis," Nevada Policy Research Institute policy study, April 2022.

Regulatory Sandbox

Social advancement is driven largely by the development of new technologies or products that propose to satisfy people's needs in new ways. The market process is a process of discovery. It is not always possible to foresee which new technologies or processes market participants may select. This makes it difficult for lawmakers and regulators to correctly anticipate the emergence of new industries. Meanwhile, relative inflexibility of existing legal restrictions may impede the emergence of these new industries.

An example is the emergence of on-demand ride-sharing services. Even as these products were being adopted in other markets, Nevada's existing regulatory regime treated ride-share drivers as livery drivers by default and these drivers were subject to minimum fees and drive times that made ride-sharing unworkable.

In 2014, the United Kingdom began to pioneer a new approach to regulation called a "regulatory sandbox." This approach allows an innovative company to apply for temporary relief from existing regulations in order to test their products on a limited scale and establish proof of concept. Regulators can also use these trials to assess the market challenges that confront a new industry and how regulations might be tailored to better protect the public interest. Hundreds of innovative companies participated in the United Kingdom's program and research shows these companies were 50% more likely to attract capital after demonstrating proof of concept.[1]

The success of this program has inspired nine U.S. states to create regulatory sandboxes within specific industries while another three states have created a sandbox framework that can be used by companies in any industry. Nevada launched a temporary sandbox framework targeted specifically to financial technology firms following 2019 legislation.[2]

Key Points

Regulatory sandboxes should be available in every industry. In 2021, Utah became the first state to make its sandbox available for applicants in any industry. Arizona and Kentucky followed suit in 2022 and 2023, respectively. These frameworks are poised to make these states havens of economic innovation and development, as entrepreneurs flock to these areas to try new ideas.

Sandboxes include consumer protections. Although the point of a sandbox is to create needed flexibility within the regulatory structure, participants in these programs may still be required to carry appropriate insurance coverages, submit their products to assurance companies like Underwriters Laboratory, or hold consumer funds in an escrow account until the product has been delivered.

There are many examples of technologies that could have emerged faster with a sandbox. From the sharing economy to cryptocurrency and even healthcare, Nevada Policy has documented multiple examples where a sandbox could have helped innovators overcome existing regulatory hurdles. One such example was 23andMe's inability to mine its large database of genetic data to offer its customers diagnoses of treatable medical conditions.[3]

Sandboxes are a low-cost way to create a hub of innovation. Many of Nevada's efforts to spur economic development have focused on targeted tax breaks or grants of taxpayer dollars to specific companies. This approach entails high costs, rests on questionable constitutional grounds, and is not highly innovative. Sandboxes are an alternative approach to development that unleashes the dormant creativity of startup entrepreneurs.

Recommendations

Enact a universal regulatory sandbox. In collaboration with the Libertas Institute, Nevada Policy has proposed model language that would create a universal regulatory sandbox.[4]

---

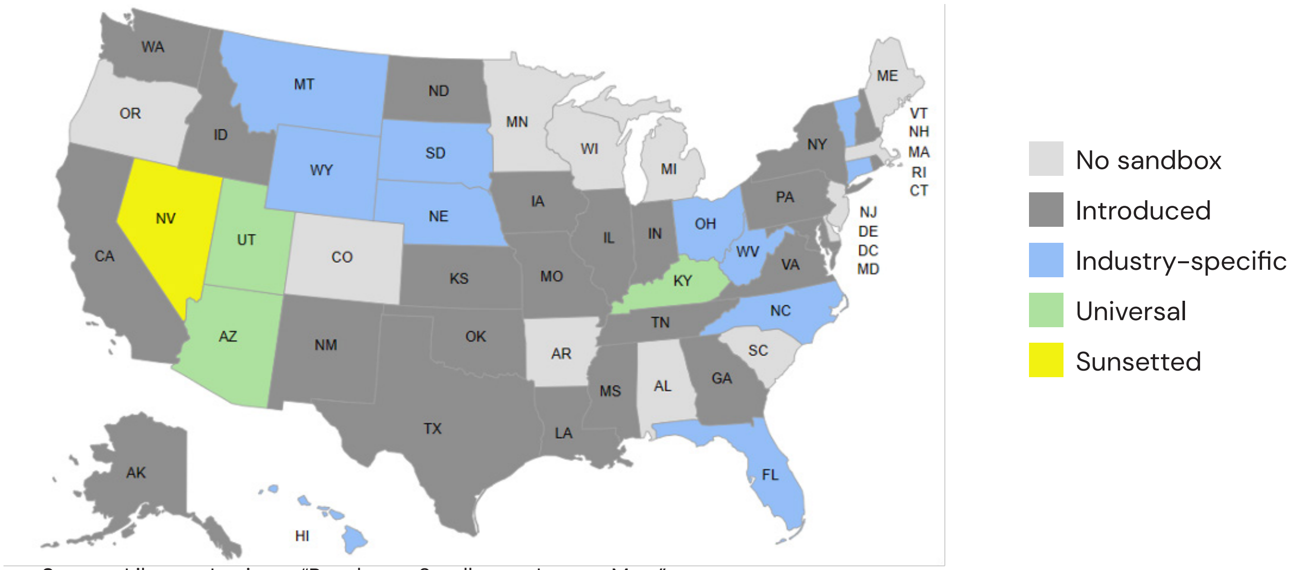
[1] Ouarda Merrouche et al., "Digging for Gold: How Regulatory Sandboxes Help Fintechs Raise Funding," Centre for Economic Policy Research.

[2] Nevada Legislature, 80th Session, Senate Bill 161.

[3] Cameron Belt, "State Permissions vs. Market Possibilities: Regulatory Sandboxes in Nevada," Nevada Policy Research Institute policy study, October 2023.

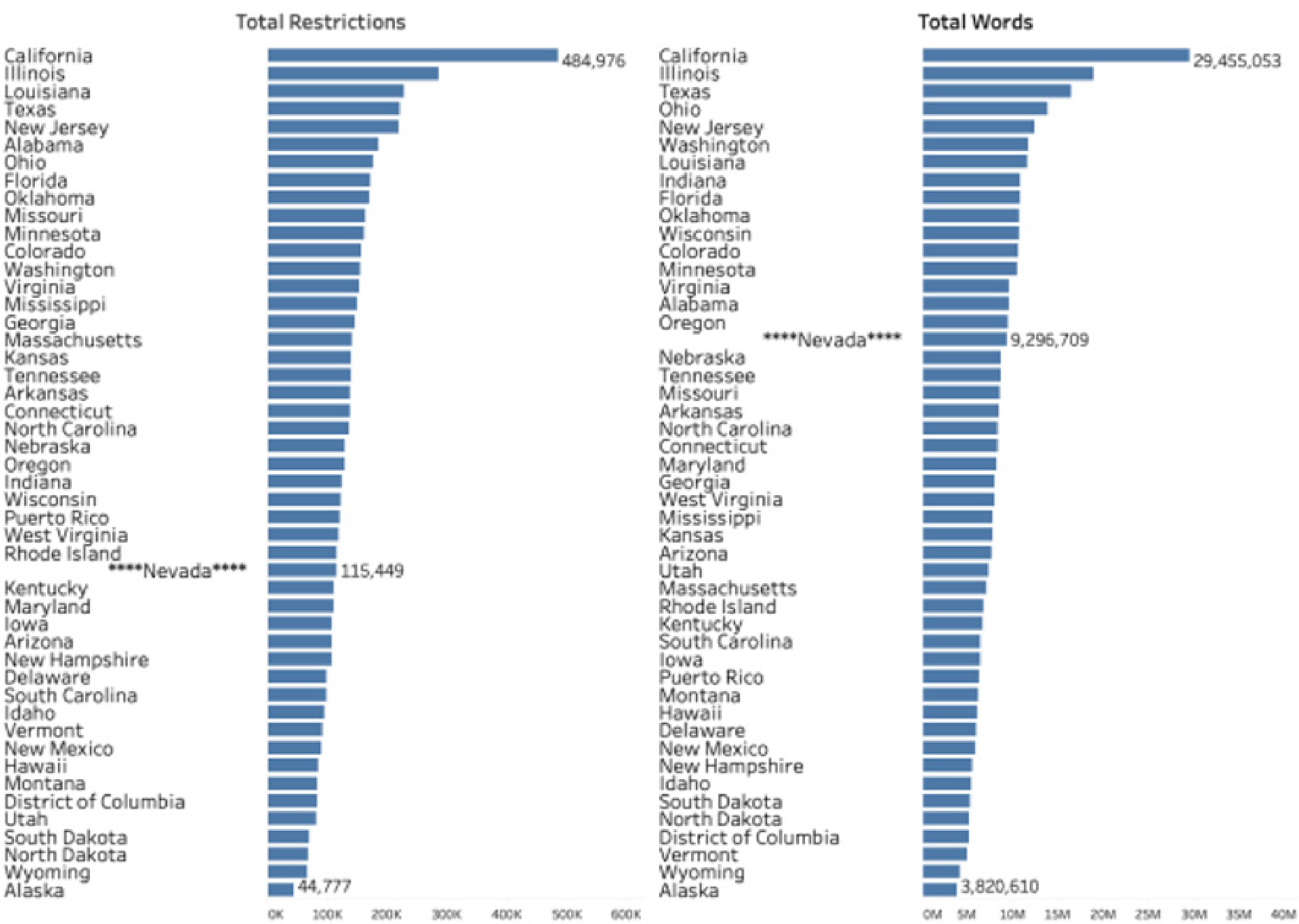
[4] Ibid.

Modeling of Public Option Enrollment by DHHS Consultants



Source: Libertas Institute, "Regulatory Sandboxes: Impact Map."

Volume of Regulations by State (2023)



Source: RegData State Statute Tracker.

Publicly Funded Stadiums

In 2016, then-Gov. Brian Sandoval called lawmakers into a special session to authorize the largest public subsidy for a professional sports stadium in world history. That legislation required Clark County to issue $750 million in general obligation bonds and directed the county to commit the proceeds of those bonds to development of a football stadium. The county deposited these funds into a newly created Las Vegas Stadium Authority that would technically own and manage the stadium and enter into a lease agreement with the Raiders. The authority would also sell personal seat licenses to customers and accept capital contributions from the Raiders and sponsors to develop a $1.9 billion total stadium. The $750 million in public debt would ultimately be backed by Clark County taxpayers, but the measure also included a new tax on hotel rooms intended to defray the cost of debt service.[1] In 2020, then-Gov. Steve Sisolak ordered hotels to close, interrupting this revenue stream.

Six business days prior to the conclusion of the 2023 legislative session, Gov. Joe Lombardo introduced a proposal to publicly finance a professional baseball stadium to recruit the Oakland Athletics. The proposal would require Clark County to issue another $120 million in general obligation bonds and would divert the proceeds of all sales tax, live entertainment tax and payroll tax that would normally accrue within the stadium from the Athletics and third-party vendors to defray debt servicing on the bonds. It would also award $180 million in transferable tax credits to the Athletics and direct Clark County to abate property taxes and create other tax credits. All of this summed to a $380 million public subsidy. Lawmakers didn't approve the proposal prior to the session's conclusion, but they were recalled into a special session the following week and approved the bill after adding additional expense items.[2]

Key Points

Professional sports are private businesses. Professional sports leagues were first developed in the mid-19th century because a rising American middle class was gaining disposable income and sought entertainment. William Hulbert recognized this market potential and organized the National League of Professional Baseball Clubs. The various franchises would generate revenue through ticket sales and advertisements to pay their costs and earn a profit.

Although sporting events can create a sense of community, professional franchises still follow the same basic business model from the 19th century. Public subsidies toward capital expense simply wind up padding private earnings for these franchises.

Stadium subsidies fail to create economic growth. Subsidy supporters often allege that stadium spending produces "multiplier effects" that will lead to widespread prosperity. These analyses invariably ignore taxpayers' loss of disposable income due to higher taxes and the inverse multiplier created by this loss. Even when taxes are concentrated on items paid by tourists, these higher prices lead to marginal declines in tourism demand.

According to Stanford economist Roger Noll, who specializes in this field: "NFL stadiums do not generate significant local economic growth, and the incremental tax revenue is not sufficient to cover any significant financial contribution by the city."[3]

A 2022 meta-analysis of 130 studies examining the economic effects of stadium subsidies concludes: "Even with added non-pecuniary social benefits from quality-of-life externalities and civic pride, welfare improvements from hosting teams tend to fall well short of covering public outlays."[4]

Recommendations

Do not allocate public dollars to stadium building. State and local governments in the U.S. spent $33 billion on stadium subsidies between 1970 and 2020. Economic data overwhelmingly shows this spending has resulted in a net loss to taxpayers.[5]

[1] Nevada Legislature, 30th Special Session, Senate Bill 1.

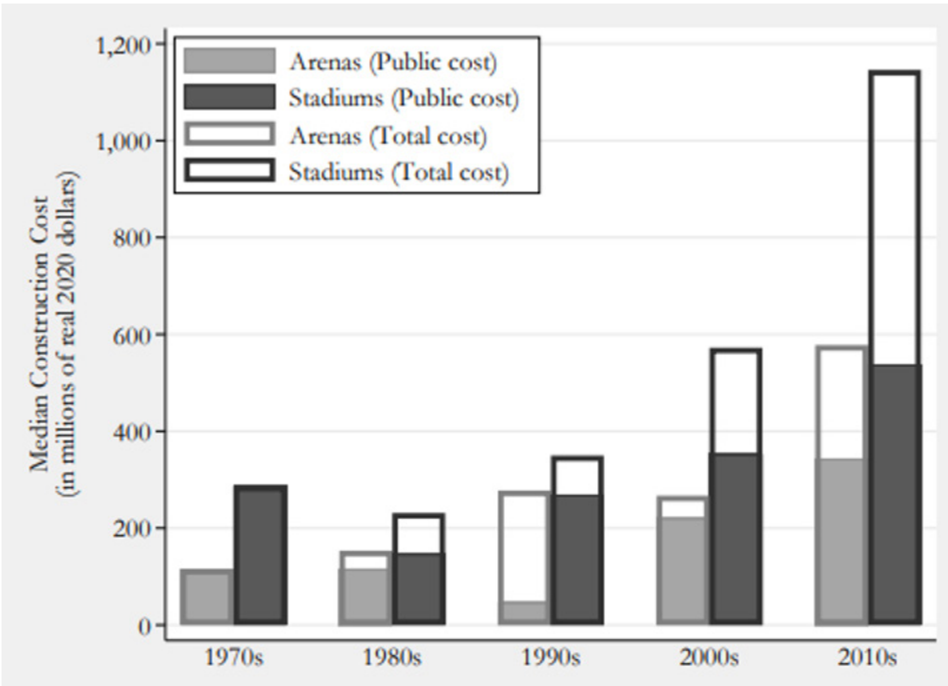
[2] Nevada Legislature, 35th Special Session, Senate Bill 1.

[3] Clifton Parker, "Sports Stadiums do not Generate Significant Local Economic Growth, Stanford Expert Says," Stanford News, July 30, 2015.

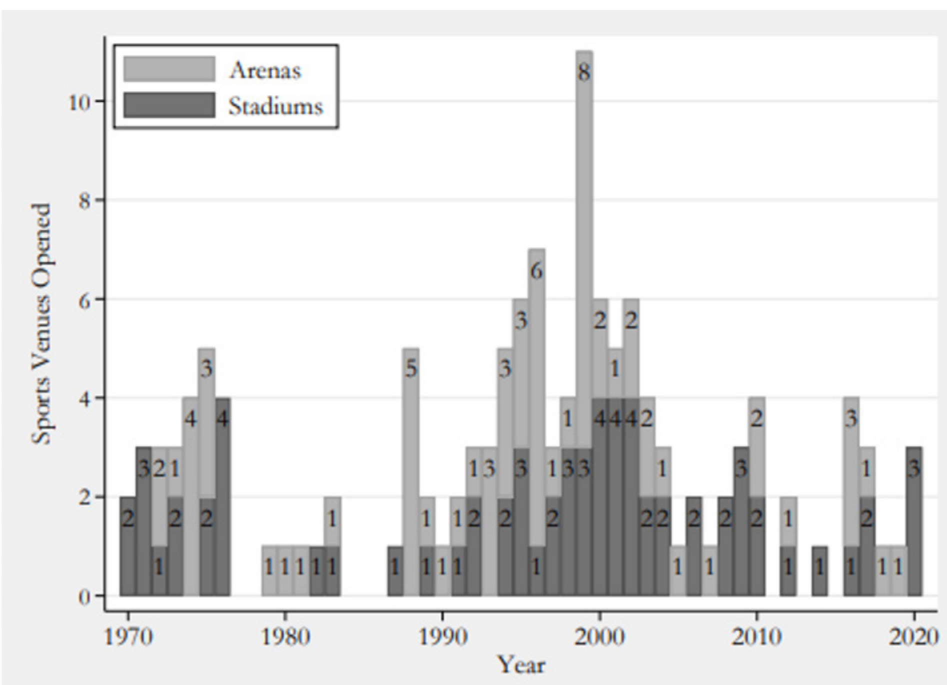
[4] John Bradbury et al., "The Impact of Professional Sports Franchises and Venues on Local Economies," Journal of Economic Surveys, January 2022.

[5] Ibid.

Median Construction Cost of Professional Sports Venues, by Decade



Number of Sports Venues Opened, by Year



Source: John Bradbury et al., "The Impact of Professional Sports Franchises and Venues on Local Economies," Journal of Economic Surveys, January 2022.

Payday Lending

Payday loans are short-term loans that a borrower agrees to repay upon receipt of their next paycheck. Borrowers often must provide a payday lender with bank account information so the lender can withdraw payment electronically on the date of maturity. These short-term, low-principal loans often bear a high nominal rate of interest on an annualized basis, although interest only accrues during the weeks the loan is outstanding.

Eighteen states have effectively banned payday lending by setting a statutory cap on the annualized rate of allowable interest. Another three states have either banned the assignment of wages as security for a loan or have prohibited loans with small principal amounts.

In 2017, Nevada lawmakers created new limitations on payday lending: These loans cannot have terms greater than 90 days and cannot require a payment that would be greater than 25% of the borrower's gross monthly income. Upon borrower default, the lender must also drop the interest rate to prime plus 10% and provide a repayment plan.[1] In January 2024, a new nonprofit filed a ballot initiative aiming to ban payday lending by capping annualized interest rates at 36%.[2]

Key Points

Borrowers often pose high credit risks. Borrowers of payday loans tend to be young, hourly wage earners. Early-career hourly wage earners may have unpredictable work schedules that lead to inconsistent earnings. Borrowers require access to some form of short-term credit to meet ongoing obligations. An average borrower uses eight loans over the course of the year, lasting 18 days each and 69% of loans are used to cover monthly expenses like rent and utilities during times of inconsistent earnings.[3]

Unavailability of short-term credit can be detrimental to borrowers. When asked what they would do if payday loans were unavailable, four-fifths of respondents to a Pew poll said they would have to buy less food or clothing. Majorities said they would delay paying bills like rent and would sell or pawn personal possessions.[4] These outcomes may be worse alternatives.

Payday loans may be the cheapest form of credit for high-risk borrowers. Research from the Federal Reserve indicates that borrowers resort to more costly forms of financing in states without payday lending. After Georgia and North Carolina banned payday lending in 2004 and 2005, respectively, households bounced more checks and paid more overdraft fees, which are forms of temporary bank financing that imply interest rates higher than payday loans. Households in these states also began filing for bankruptcy at higher rates.[5]

Payday lenders face higher administrative costs than traditional lenders. The principal amount of a payday loan is typically $500 or less and loans are often due within 2-4 weeks.[6] More traditional lending often involves much greater loan principals and longer terms. This can mean the administrative expense of qualifying borrowers for payday loans is higher as a proportion of total lending volume than for traditional lenders. Higher costs and rapid turnover, combined with greater risk among the borrower population, explain why payday lenders charge high interest rates on an annualized basis.

An interest-rate cap is a price control. Interest is the price paid by borrowers to savers so borrowers can accelerate future consumption into the present while savers agree to delay consumption to the future. Interest is the price signal that coordinates society's consumption and production signals across time. As with all price controls, interest-rate caps distort these signals and may lead to a suboptimal allocation of society's available resources –

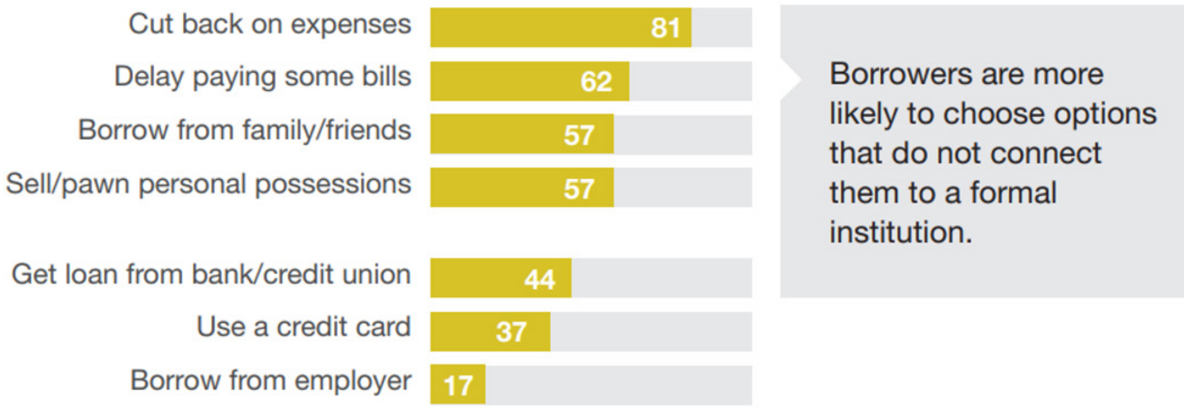
[1] Nevada Legislature, 79th Session, Assembly Bill 163.
[2] Eric Neugeboren, "Initiative Filed to Cap Nevada Payday Loan Interest Rates," The Nevada Independent, January 8, 2024.
[3] Nick Bourke et al., "Payday Lending in America: Who Borrows, Where They Borrow, and Why," Pew Charitable Trusts, July 2012.
[4] Ibid.

savers reduce their savings while borrowers are forced to forego consumption in the present.

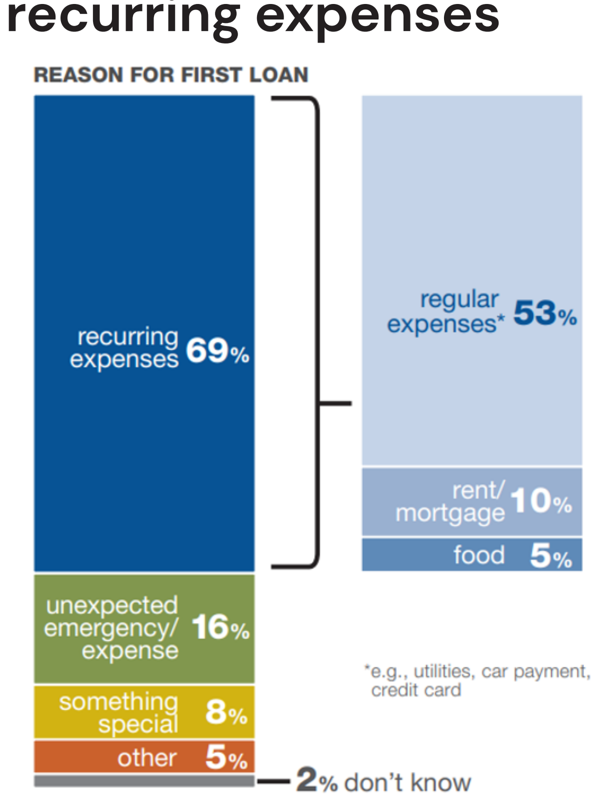
Recommendations

Do not ban payday lending. Although payday loan servicing may appear unfair to observers who have many available alternatives, payday loans might be the cheapest and best form of credit for high-risk borrowers.

Alternatives if payday loans were unavailable



Most borrowers use payday loans for recurring expenses



Source: Nick Bourke et al., "Payday Lending in America," Pew Charitable Trusts.

---

[5] Donald Morgan and Michael Strain, "Payday Holiday: How Households Fare after Payday Credit Bans," Federal Reserve Bank of New York Staff Report No. 309, November 2007 (Revised: February 2008); Donald Morgan et al., "How Payday Credit Access Affects Overdrafts and Other Outcomes," Journal of Money, Credit and Banking, Vol. 44, Iss. 2-3 (March 2012).

[6] Federal Trade Commission, "What to Know About Payday and Car Title Loans," July 2023.

Corrections

Historically, lawmakers have elected to invest heavily in the state prison system as a primary means of providing for public safety. In 2019, lawmakers began to shift this focus substantially by focusing resources away from incarceration and toward rehabilitation and successful re-entry of prisoners into society with an aim to reduce recidivism.

Incarceration is a costly approach to criminal justice as taxpayers must bear significant costs for prison construction, staffing, and the alimentation, health care and programming needs for prisoners. While citizens expect to be protected from fraud and violence, it is not obvious that high levels of prison spending are the most cost-effective means of providing that safety.

Key Points

American incarceration rates are exceptionally high, and not tied to crime rates. The prison population in America has nearly quadrupled over the past 40 years, growing to more than 1.5 million individuals. This occurred during a time of mostly declining crime rates.[1] The United States has one of the highest incarceration rates in the world at 505 per 100,000 in population, ranking sixth between Cuba and Panama – countries that jail political dissenters. The United Kingdom and Canada are ranked 113th and 161st with 135 and 85 prisoners per 100,000 in population, respectively.[2]

High incarceration rates yield diminishing returns. A 2008 study prepared for the Colorado Division of Criminal Justice noted that "Incarceration has a far greater impact and return on investment when it is used for violent and high-rate offenders." While prisons are expensive, "violent and career criminals impose tremendous financial and social costs on society. The empirical evidence is increasingly clear, however, that *the increased use of incarceration for low-rate, non-violent offenders prevents and deters fewer crimes.*"[3] (Emphasis added.)

More recent research tracking the rates of recidivism among individuals sentenced alternatively to prison or probation found that incarceration has no significant effect in deterring an individual from committing violent crime within five years.[4]

Recidivism drives long-term spending. When an individual is released from prison, they face increased difficulty securing lucrative employment, pursuing higher education or starting a business. This limits their potential to contribute to the market and often leads to frustration and a return to criminal behavior. More than 80% of individuals released from state prisons are arrested again within nine years of release.[5]

Lawmakers' 2019 reforms are estimated to save more than $640 million on prisons. Assembly Bill 236 reduced the number of offenses requiring incarceration, making increased use of probation. It also directed various agencies to develop evidence-based programs to treat mental health problems or substance abuse and deliver vocational training. These strategies focus on successful rehabilitation rather than punishment.[6]
The Nevada Sentencing Commission now forecasts the state to house 2,000 fewer prisoners by FY 2028, avoiding the need for construction of new facilities. It forecasts these changes will result in at least $640 million in savings over the next eight years.[7]

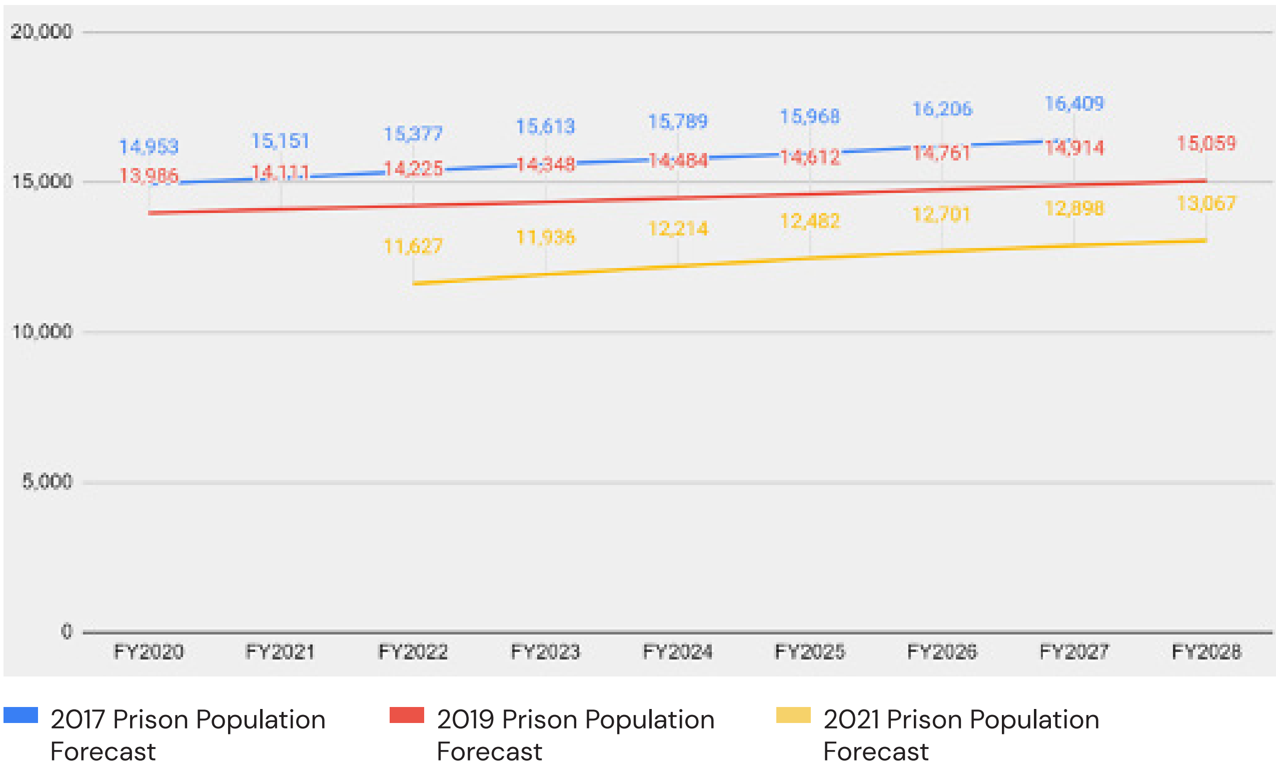
[1] Stand Together Trust, "Why Prison Reform Matters in America," 2018.
[2] Institute for Crime & Justice Policy Research, World Prison Brief, 2021.
[3] Roger Przybylski, "What Works: Effective Recidivism Reduction and Risk-focused Prevention Programs," prepared for the Colorado Division of Criminal Justice, 2008.
[4] David J. Harding et al., "A Natural Experiment Study of the Effects of Imprisonment on Violence in the Community," Nature, Vol. 3 (2019), pp. 671-677.
[5] U.S. Department of Justice, Bureau of Justice Statistics, "2018 Update on Prisoner Recidivism."

Recommendations

Maintain 2019 reforms. The reforms included in Assembly Bill 236 closely mirror those in model legislation previously recommended in this volume.[8]

Pass a Community Corrections Performance Incentive Act. Model legislation from the American Legislative Exchange Council would allow probation departments to share in the savings when they develop successful strategies for reducing recidivism rates.[9]

Nevada Prison Population Forecast, Before and After AB236



Source: Nevada Sentencing Commission, "Projected Amount of Costs Avoided Report," August 2022.
Note: Future prison population forecasts developed in 2019 reflect the anticipated impact of AB 236. Updated forecasts developed in 2021 additionally reflect a reduction in prison population due to measures taken to address the impact of COVID-19 within prison facilities.

[6] Nevada Legislature, 80th Session, Assembly Bill 236.
[7] Nevada Sentencing Commission, "Projected Amount of Costs Avoided Report," August 2022.
[8] American Legislative Exchange Council, "Recidivism Reduction Act."
[9] American Legislative Exchange Council, "Community Corrections Performance Incentive Act."

Civil Asset Forfeiture

Historically, civil forfeiture laws enabled law enforcement officials to seize the private property of individual citizens on the mere suspicion that this property has some connection to criminal activity. The property of citizens could be seized under these laws without the citizens even being charged with a crime and police departments could spend the proceeds.

This flips due process on its head and creates financial incentives for police to seize the property of innocent citizens. In 2015, Nevada adopted legislation to require a conviction in criminal court before civil property can be seized. Clear and convincing evidence must then tie the property in question to the crime. In addition, that legislation required the attorney general to begin collecting and publishing data on asset forfeitures.[1] In FY 2021, Nevada police seized $5.8 million in property and ultimately kept $3.2 million of that amount.[2]

Key Points

Civil forfeiture operates differently under state and federal laws. States can set limiting standards for property seizures by state and local law enforcement. However, state and local law enforcement agencies often can circumvent those limitations by partnering with federal law enforcement.

Any joint task force or investigation with federal authorities allows for forfeiture to occur under federal law, which has few limitations and few protections for innocent property owners. Further, under the equitable sharing program operated by the U.S. Department of Justice, state and local law enforcement agencies can keep up to 80% of forfeiture proceeds.

State and local law enforcement can thus profit handsomely by seizing the property of innocent citizens under the federal "equitable sharing" program even when state laws provide more protection to innocent property owners. Empirical research confirms that state and local police agencies systematically participate more in the equitable sharing program when state laws include greater protection for property owners.[3] Between 2000 and 2019, Nevada law enforcement received $73 million in seizures through the equitable sharing program.[4]

Very few victims of asset forfeiture are found to be criminals. From 1997 to 2013, just 13% of forfeitures enacted by the U.S. Department of Justice were associated with a criminal conviction; 87% were civil forfeitures with no conviction.[5]

Civil forfeiture targets innocent parties and does not reduce crime. In 2015, New Mexico abolished civil forfeiture and joined Nebraska and North Carolina as states that only permit forfeiture in a criminal proceeding. This prevents police from seizing property from innocent third-party owners who had no knowledge or relation to a crime. Data tracking has shown no measurable difference in New Mexico's crime rates when compared to neighboring states.[6]

Civil forfeiture doesn't target kingpins. The attorney general's data collection obligations that began in 2016 have revealed the median seizure in Nevada to be worth $908.[7] These seizures penalize individuals without significant assets. Forfeiture becomes more likely when the amount seized is lower than the likely legal fees to contest a seizure. In 2021, lawmakers considered a bill that would have prevented seizures of less than $200 in cash,[8] but took no action following opposition from the Las Vegas Metropolitan Police Department.

---

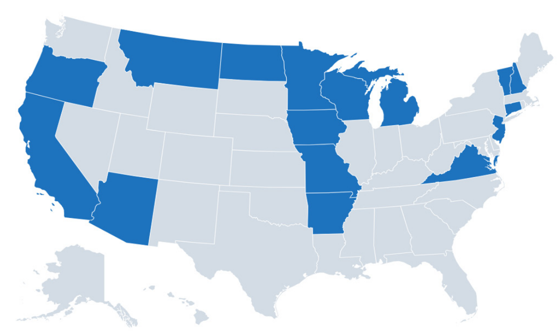
[1] Nevada Legislature, 78th Session, Senate Bill 138.
[2] Nevada Attorney General, NRS Chapter 179 Annual Asset Seizure and Forfeiture Reporting, FY 2021.
[3] Jefferson Holcomb et al., "Civil Asset Forfeiture, Equitable Sharing, and Policing for Profit in the United States," Journal of Criminal Justice, Vol. 39 No. 3.

Recommendations

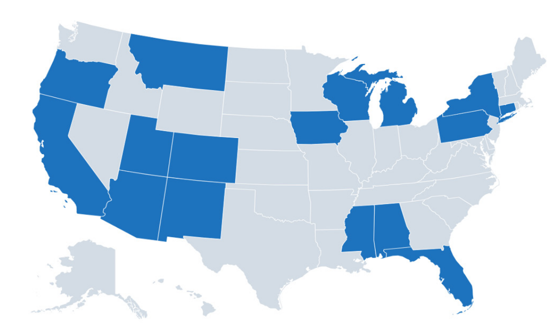
Reduce profit incentive for police agencies. Police agencies should not be able to expand their budgets or salaries through civil-asset forfeiture, a practice that incentivizes abuses. Legitimate seizures should be directed to the state or local government treasury.

Follow New Mexico and abolish civil forfeiture. Lawmakers should replicate the successful reform enacted in New Mexico as House Bill 560 (2015).[9]

States that Require a Criminal Conviction Before Property Can Be Seized (2020)



States that Place the Burden of Proof on Government (2020)



Source: Lisa Knepper et al., "Policing for Profit, 3rd Edition," Institute for Justice, December 2020.

[4] Lisa Knepper et al., "Policing for Profit, 3rd Edition" Institute for Justice, December 2020.
[5] Dick Carpenter et al., "Policing for Profit, 2nd Edition" Institute for Justice, November 2015.
[6] Op. cit., note 4.
[7] Ibid.
[8] Nevada Legislature, 81st Session, Assembly Bill 425.
[9] New Mexico Legislature, 2015 Session, House Bill 560.

Renewable Portfolio Standard

Renewable portfolio standards (RPS) set by state law require electric utility companies to produce or purchase a minimum share of electricity from renewable energy facilities. Nevada mandates that renewable energy must account for a rising share of electricity sold within the state, regardless of the additional cost imposed. Under current law, renewable energy must account for:

- 29% of production by 2022.
- 34% of production by 2024.
- 42% of production by 2027.
- 0% of production by 2030.[1]

Legislation passed in 2013 disqualified less costly energy-efficiency measures from satisfying any portion of the RPS.[2] The current requirements result from 2019 legislation that doubled the previous targets.[3]

Key Points

Renewable energy is less reliable than traditional sources. Electricity generated from wind turbines and solar cells, in particular, are subject to high variability throughout the day and year and may not be available to grid operators during periods of peak demand. Traditional power sources, however, can be reliably scheduled to be available during times of high demand.

A 2021 study in leading scientific journal Nature reviewed the performance of solar and wind power sites over the past 38 years and determined that these systems can satisfy consumer demand in 72 to 91% of available hours, depending on location. That means electric grids heavily reliant on these sources could experience hundreds of hours annually of power shortages.[4]

High costs are passed on to ratepayers. When state law requires a utility provider to produce electricity through more expensive means like renewable sources, the utility recoups those costs by increasing the rates charged to customers. By 2025, it is expected that Nevada's electric rates will rise by 6% due to the RPS alone, costing ratepayers an additional $174 million annually. This amounts to $70 per year for the average household and $400 for the average business.[5]

The RPS is a regressive tax. Essentially a tax on energy, the state-imposed renewable energy mandate hits low-income Nevada families hardest, as they must expend a greater proportion of their earnings to meet their energy needs.

High energy costs and grid unreliability damage state competitiveness. Energy is an input into every production process. When entrepreneurs decide whether to open a new manufacturing plant, restaurant, department store, or casino in Nevada, they must factor energy costs into their calculations.

Nevada's RPS has made and will continue to make electricity in Nevada more costly and less reliable. This damages

---

[1] Nevada Revised Statutes, 704.7801-704.7821, inclusive.
[2] Nevada Legislature, 77th Session, Senate Bill 252.
[3] Nevada Legislature, 80th Session, Senate Bill 358.
[4] Dan Tong et al., "Geophysical Constraints on the Reliability of Solar and Wind Power Worldwide," Nature (2021).
[5] David Tuerck et al., "RPS: A Recipe for Economic Decline," Beacon Hill Institute at Suffolk University, Prepared for NPRI, April 2013.

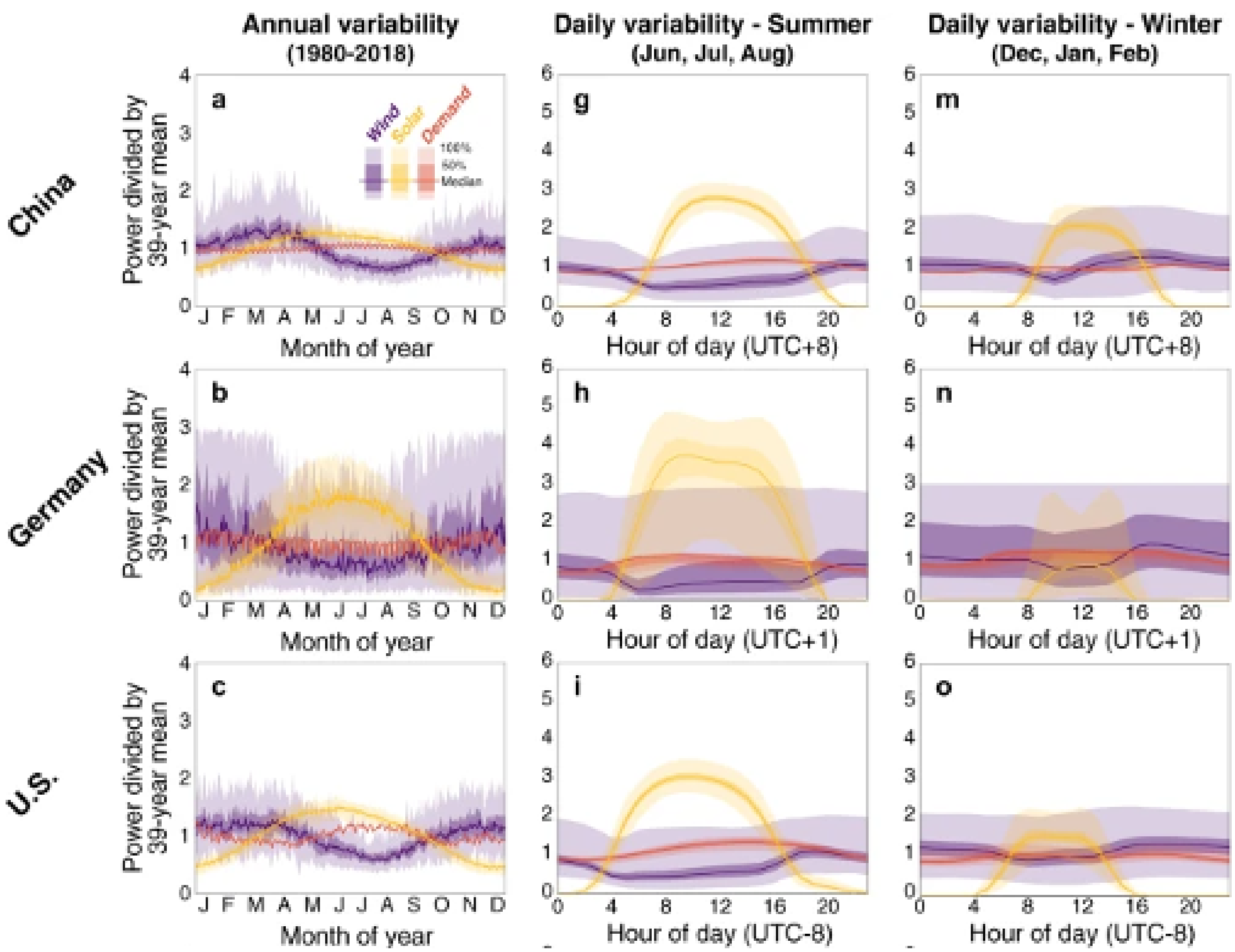
state competitiveness and is a stumbling block to corporate investment and job growth.

California has provided a cautionary tale in recent years as state RPS mandates have encouraged regulated utilities to defer maintenance of the existing grid in favor of constructing renewable generation facilities. As a result, increasing failures within the transmission system have led to routine rolling blackouts across the state.

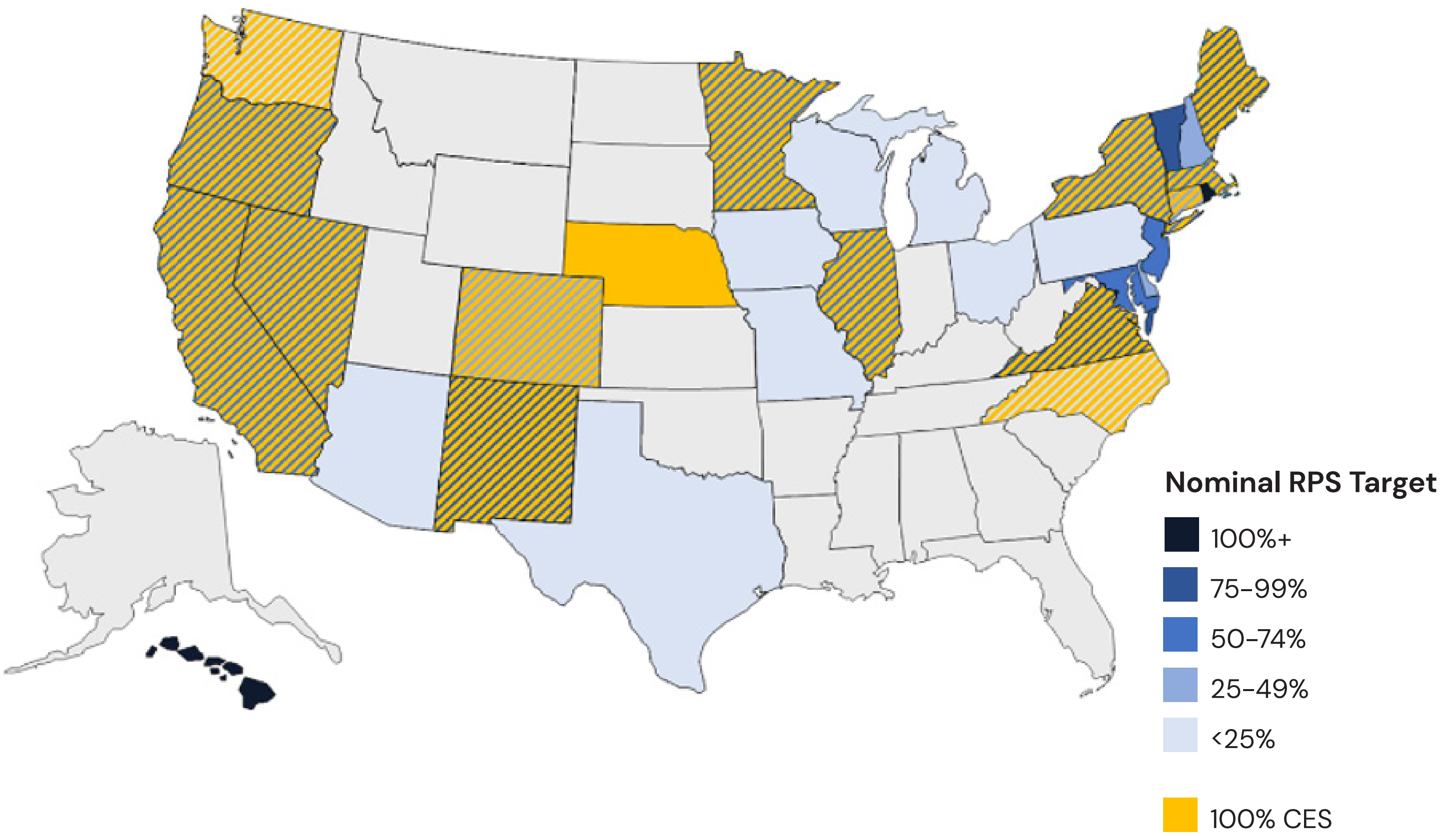
Recommendations

Repeal the Nevada RPS in its entirety. Because of the renewable mandates, Nevadans are required to expend greater resources to deploy the same amount of energy and that energy is not always available when it is needed. This is the very definition of economic inefficiency.

Repeal of the RPS will lead to higher living standards and faster job growth.



Source: Dan Tong et al., "Geophysical Constraints on the Reliability of Solar and Wind Power Worldwide," Nature (2021).



Source: Berkeley Lab (June 2023)

There is no worse tyranny than to force a man to pay for what he does not want merely because you think it would be good for him.

-Robert Heinlein

Electricity Deregulation

NRS Chapters 701-704, inclusive, govern energy policy in the state of Nevada and provide for the protection of regional monopoly providers from potential competitors. NRS Chapter 703 establishes a Public Utilities Commission (PUC) and charges this body with the task of fixing and regulating the prices charged by the state-protected monopoly provider.

Key Points

Central planning is inherently inefficient. Yet the PUC centrally plans for one of the most critical inputs into every productive process in Nevada: energy. The PUC decides how much electric capacity shall be constructed, through which means electricity shall be produced, and at what price electricity must be sold. The PUC operates at the direction of the legislature, meaning that these critical economic decisions about price and supply are constantly subjected to political manipulation and not market forces.

For reasons articulated by Ludwig von Mises and other famed economists, it is, at all times, impossible for central planners to efficiently coordinate the use of society's resources. The reason is the impossibility of gathering timely and reliable data about individuals' subjective and ever-changing valuations.[1]

State regulation creates incentives for monopoly providers to produce through the most expensive means possible. Nevada's regulatory structure guarantees the protected monopoly provider of electricity a "rate of return" of between 8.5% and 11% of its costs. This means that the monopoly's shareholders can earn higher profits by operating less efficiently. This perverse incentive encourages the monopoly to support increasingly onerous mandates and regulations that increase the cost of electricity production. While the electric monopoly's shareholders make more money, the inefficiency is pushed onto ratepayers in the form of higher electricity prices.

Choice imposes accountability. In any marketplace, consumers allowed to choose generally bypass the least efficient providers and purchase instead the product offering the qualities they most want for the best price.

Electricity is not a 'natural monopoly.' The traditional argument for electricity regulation was that the industry was subject to conditions of "market failure" and that electricity production was a "natural monopoly" that should be protected and regulated by the state. However academic economists – including some on the political Left – have recognized for at least 35 years that these theories were misguided and that electricity production is not subject to market failure.[2] As a result, no tenable argument for regulated monopolies exists.

Recommendations

Deregulate Nevada's electricity market. Lawmakers should facilitate open competition in the production, transmission and retail distribution of electricity. Generation facilities should be required to meet safety and environmental standards, but otherwise, choices about how electricity is produced should ultimately be made by consumers – as their preferences about price, quality and reliability flow through the market.

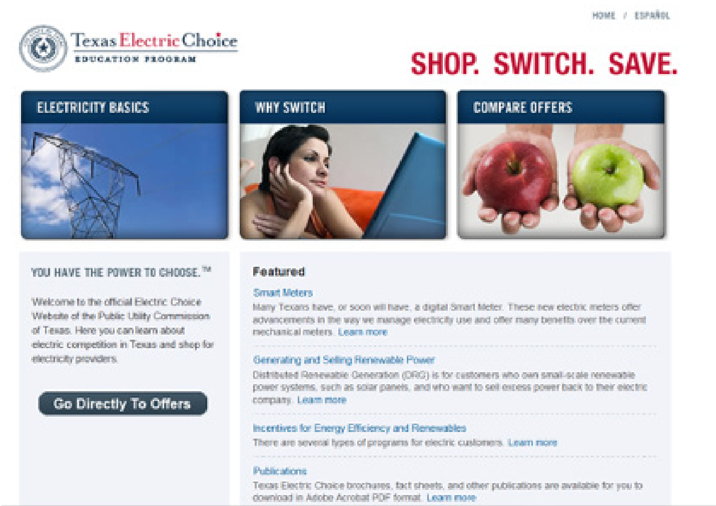
Deregulation does not mean an end to renewable energy. Rather, it can hasten the day of its genuine sustainability. Even now, retailers pursue customers by advertising that they procure electricity from renewable facilities on the wholesale market. Consumers are then left to make the choice among retail providers based on their own

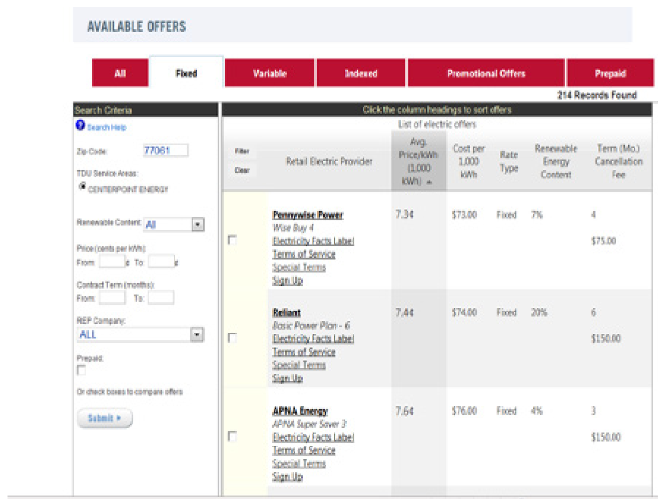
[1] Ludwig von Mises, Economic Calculation in the Socialist Commonwealth, 1920; see also, Jesus Huerta de Soto, Socialism, Economic Calculation and Entrepreneurship, 2010.

preferences and values.

Texas has been among the most aggressive states in pursuing electricity deregulation. Texas lawmakers in 1999 passed Senate Bill 7, which laid out the process for deregulation and required full retail competition by 2002.[3] In a 2019 report to lawmakers, the Texas PUC reported that Texans have access to the lowest-cost electricity in the nation and that consumers in every part of Texas face retail electric rates lower today than in 2001 and lower than the national average by nearly four cents per kWh. The market even offers plans that generate 100% percent of electricity from renewable sources.[4] Currently, Nevada law only allows very large industrial ratepayers to exit the monopoly utility and shop for alternative energy sources.

Electricity consumers in Texas can visit a website run by the state's PUC and shop for competitive retail providers based on price, structure and renewable content





---

[2] See, e.g., Leonard Weiss, "Antitrust in the Electric Power Industry," in Promoting Competition in Regulated Markets, ed. Almarin Phillips, pp. 138-173, Brookings Institution, 1975.

[3] Texas Legislature, 76th Legislative Session, Senate Bill 7.

[4] State of Texas, Public Utility Commission, "Report to the 86th Texas Legislature: Scope of Competition in Electric Markets in Texas," 2019.

Highway Quality

The Nevada Department of Transportation (NDOT) is responsible for building and maintaining public highways in the Silver State and oversees about 84,277 lane miles.[1]

To accomplish this mission, NDOT receives funding from federal grants and state highway user funds that are generated primarily from taxes on motor fuels. For the 2023-2025 biennium, lawmakers approved a total of $1.932 billion in funding for NDOT, including $840.5 million from federal sources and $936 million out of the state highway fund.

Key Points

The condition of Nevada's roads are among the best in the nation. Based on pavement quality, Nevada interstates rank second- and 13th-highest in the nation in rural and urban settings, respectively. Arterial routes rank even higher, at first- and 12th highest for rural and urban settings, respectively. Nevada also boasts the second-lowest percentage of deficient bridges nationwide. Nevada ranks 11th in urbanized congestion.

However, Nevada ranks poorly in highway fatality rates, at 32nd in urban areas and 48th in rural areas. Nevada also ranks poorly in administrative disbursements per mile, at 47th.[2]

Nevada's urban interstates have been upgraded to avoid congestion. In 2014, Nevada was ranked as having the sixth-most congested urban interstates in the nation. By 2023, Nevada had improved to 11th among the states for avoiding urban congestion, with the average motorist losing 7.28 hours per year to urban congestion. This compares favorably to the national average of 23.83 hours lost to urban congestion.[3]

Nevadans face above-average costs per state-controlled highway mile. Nevada taxpayers spent $90,048 per state-controlled highway mile in 2019 including all administrative and maintenance costs – 31st highest in the nation. This amount is slightly above the national average of $83,714. This relatively high cost was underscored by high administrative costs. At $13,614 per lane-mile, *administrative costs were more than double the national average of $5,342.*[4]

Recommendations

Install High-Occupancy Toll (HOT) lanes to parallel congested urban interstates. HOT lanes are limited-access lanes reserved for high occupancy vehicles but open to motorists who elect to pay a toll in order to access these lanes. Toll rates are managed electronically and subject to variable pricing in order to control the volume of traffic on HOT lanes. During hours of peak traffic when the lane demand increases, so does the price of accessing HOT lanes.
The HOT lane concept was developed by the Reason Foundation in 1993 and subsequently endorsed by the Federal Highway Administration.[5] HOT lanes now in operation in California, Colorado, Minnesota, Texas and Utah have proven tremendously effective at using the power of markets to control traffic volume and alleviate urban congestion.

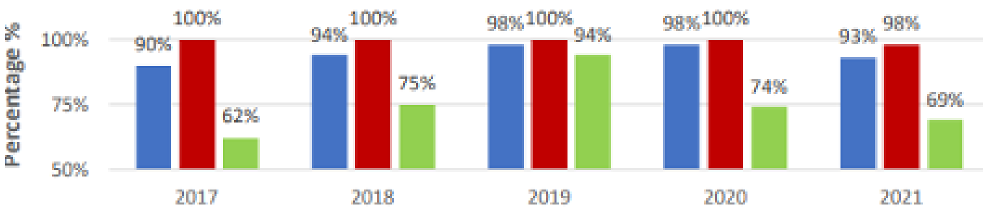
Pass a Community Transportation Corporation Act. Lawmakers can address the state's need for urban highway development even during periods of stagnant revenue growth by allowing the private sector to develop additional highway capacity. Model legislation from the American Legislative Exchange Council would allow the establishment of non-profit corporations to issue revenue bonds and build highways and infrastructure for public use.[6]

Streamline operations at the Department of Transportation. While NDOT has consistently kept Nevada atop the quality rankings for state highway systems, the department is also responsible for saddling taxpayers with relatively high administrative costs. Lawmakers should direct NDOT to submit to an independent performance audit in order to determine how administrative costs can best be reduced.[7]

[1] Nevada Department of Transportation, 2021 Lane Miles.
[2] Baruch Feigenbaum et al., "Annual Highway Report: Ranking Each State's Highway Conditions and Cost-Effectiveness, 2023.
[3] Ibid.
[4] Ibid.

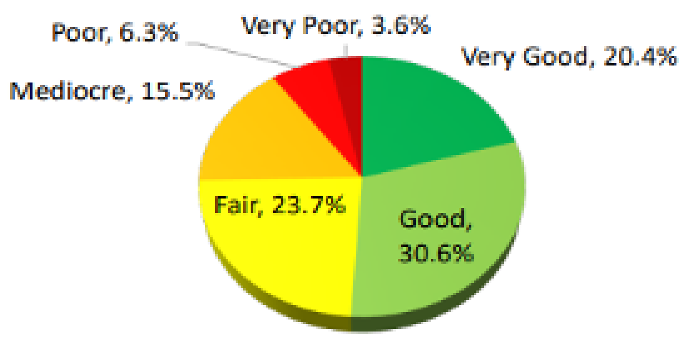
[5] Gordon Fielding & Daniel Klein, "High Occupancy/Toll Lanes: Phasing in Congestion Pricing a Lane at a Time," Reason Foundation Policy Study No. 170, 1993.
[6] American Legislative Exchange Council, "Community Transportation Corporation Act, 2003.
[7] See *"Structural Reform: Auditing."*

Projects Completed On Schedule, Within Budget & Change Order Constraint



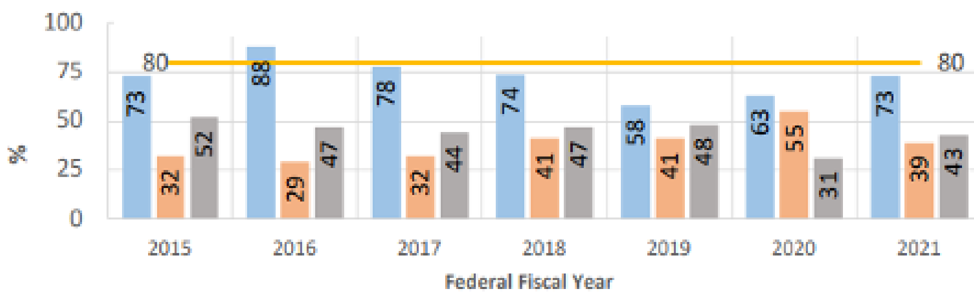
% Completed Within Budget % Completed Within Schedule % Change Order <3% Increase

Percentage Miles of Road Quality



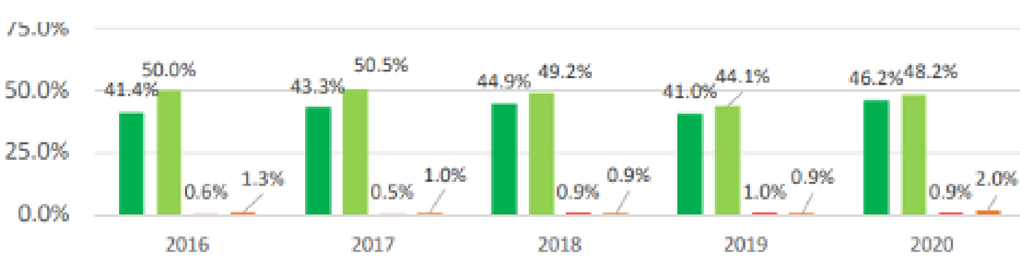
Very Good Good Fair Mediocre Poor Very Poor

Percent of Projects Delivered on Schedule & Within Cost Estimate Range



% Completed on Schedule % Within Budget (Int. vs Award)

Percentage of Bridge Condition Performance



Good Condition NHS Good Condition Non-NHS Poor Condition NHS Poor Condition Non-NHS

Source: Nevada Department of Transportation, “2021 Performance Management Report.”

Separation of Powers and Emergency Powers

American systems of government were intentionally designed to prevent sovereign powers from concentrating in too few hands. The framers of the U.S. Constitution were guided by Western liberal values informed by the experience of centuries of oppression under despotic rulers in Europe. They knew that a concentration of power could endanger the rights and welfare of all citizens by enabling systematic repression of dissent, upward mobility, or individual rights.

As Thomas Jefferson wisely advised, "The concentrating [of all the powers of government] in the same hands is precisely the definition of despotic government."[1]

The U.S. Constitution therefore requires all new states admitted to the union to adopt a republican form of government to safeguard its citizens and uphold the values of Western liberalism. Nevada's constitutional framers embraced this charge and crafted some of the strongest provisions in the nation to prevent the concentration of power.

Article 3, Section 1 states: "The powers of the Government of the State of Nevada shall be divided into three separate departments–the Legislative–the Executive and the Judicial; and no persons charged with the exercise of powers properly belonging to one of these departments shall exercise any functions, appertaining to either of the others, except in the cases expressly directed or permitted in this constitution." (Emphases added.)

Key Points

The Nevada constitution does not allow legislators to serve in the executive branch. The state constitution prohibits any person "charged with the exercise of powers" of one branch to "exercise any functions" within another branch. The only caveat is for items "expressly directed or permitted" within the constitution. Lawmakers have routinely violated this constitutional provision and thus endangered the separation of powers principle which is Americans' primary safeguard against despotic government.

Over the years, dozens of incumbent lawmakers have simultaneously held full-time positions within the executive branch. In some cases, lawmakers have served as law enforcement officers – enforcing the very laws they enacted or have the power to change.

Lawmakers have sometimes disingenuously countered that they don't exercise "the powers" of the executive branch and therefore don't violate the separation of powers principle. However, they clearly exercise "the powers" of the legislative branch, and the Nevada Constitution therefore prevents them from fulfilling "any functions" of another branch.[2]

In Nevada, local governments are political subdivisions of the state. Nevada is a Dillon's Rule state, which means that it incorporates cities and counties to help carry out public services that could not be provided efficiently at the state level alone. Local governments are not fully autonomous units, but are essentially component units of the state. Therefore, if a person is employed within a branch of local government, that person is effectively employed within the equivalent branch of the state.

Emergency powers circumvent the separation of powers principle and should be limited. NRS Chapter 414 grants the governor the ability to declare an "emergency," allowing that governor to assume broad, unilateral powers. This

---

[1] Thomas Jefferson, Notes on Virginia. 1782.
[2] Robert Fellner, "Defending the Constitution: Nevada Policy's Separation of Powers Lawsuit," Nevada Policy Research Institute.

includes the ability to "make, amend and rescind … orders and regulations" toward the civilian population without legislative consent.

While it is conceivable that timely response to an emergency may require a pace of action faster than that with the legislature can deliver, the governor's unilateral ability to assume these powers should not be open-ended.

Recommendations

Place a time limit on emergency powers. Any emergency declared by the governor should be limited to a matter of days until the legislature can authorize a declaration of emergency, which should require renewal every 90 days.

Refuse to seat lawmakers who violate the constitution. The constitution says the legislature can judge the qualifications of its own members. Violating that constitution should be automatically disqualifying.

Key Provisions of Nevada Emergency Powers Statute

NRS 414.060 Powers and duties of Governor.

1. The Governor is responsible for carrying out the provisions of this chapter, and in the event of an emergency or disaster beyond local control, may assume direct operational control over all or any part of the functions of emergency management within this State.
2. In performing his or her duties under this chapter, the Governor may cooperate with the Federal Government, with other states and with private agencies in all matters pertaining to emergency management in this State and the nation.
3. In performing his or her duties under this chapter and to effect its policy and purpose, the Governor may:
   (a) Make, amend and rescind the necessary orders and regulations to carry out the provisions of this chapter within the limits of the authority conferred upon the Governor in this chapter, with due consideration of the plans provided by the Federal Government.
   (b) Prepare a comprehensive state emergency management plan and develop a program for emergency management in this State to be integrated into and coordinated with the plans of the Federal Government and of other states for emergency management to the fullest possible extent, and coordinate the preparation of plans and programs for emergency management by the political subdivisions of this State to be integrated into and coordinated with the plan and program of this State to the fullest possible extent.
   (c) In accordance with the plan and program for the emergency management in this State, procure supplies and equipment, institute planning, training and exercise programs, carry out public information programs, and take all other preparatory steps, including the partial or full mobilization of organizations for emergency management in advance of an actual emergency or disaster, to ensure the availability of adequately trained and equipped forces in time of need.
   (d) Make such studies and surveys of industries, resources and facilities in this State as may be necessary to ascertain the capabilities of the State for emergency management and plan for the most efficient use thereof.
   (e) On behalf of this State, enter into mutual aid agreements with other states and coordinate mutual aid plans between political subdivisions of this State.
   (f) Delegate any administrative authority vested in him or her under this chapter, and provide for the subdelegation of any such authority.
   (g) Cooperate with the President of the United States and the heads of the Armed Forces, the agency of the United States for emergency management and other appropriate federal officers and agencies, and with the officers and agencies of other states in matters pertaining to emergency management in the State and nation, including the direction or control of:
      (1) Mobilizing forces for emergency management and other tests and exercises.
      (2) Mechanical devices to be used in connection with warnings and signals for emergencies or disasters.
      (3) The effective screening or extinguishing of all lights and lighting devices and appliances.
      (4) Coordinating the efforts of all public utilities in terminating and restoring service to the general public during an emergency or disaster.
      (5) The conduct of the general public and the movement and cessation of movement of pedestrians and vehicular traffic during, before and after exercises or an emergency or disaster.
      (6) Public meetings or gatherings.
      (7) The evacuation and reception of the general public during an attack or an emergency or disaster.

Election Integrity

In July 2020, lawmakers were convened into a special session to overhaul Nevada's election laws. Three months prior, then-Gov. Steve Sisolak had declared a public emergency due to COVID-19 and effectively forbade any social gathering. Under the guise of facilitating this social isolation, Sisolak asked lawmakers to approve his proposals for changing the way the 2020 and future elections would be administered. His legislation was approved on strict party-line votes in each chamber. It directed county election departments to automatically send mail ballots to all registered voters and allowed third parties to collect and remit (or "harvest") ballots.[1]

During the 2020 and 2022 elections, Nevada was not able to certify election results on a timely basis. In 2022, control of the U.S. Senate remained unclear as all Americans waited nearly a week beyond election day for Nevada to tabulate results.

Key Points

The public must have faith in electoral outcomes. Although some spurious claims emerged in the wake of the 2020 election,[2] the circumstances and scope of election-law changes a few months prior, combined with Nevada's subsequent inability to certify timely results, clearly failed to inspire public confidence. Democracy can become imperiled when the public loses faith in the legitimacy of election procedures. Regardless of viewpoint, lawmakers should work expeditiously to inspire confidence in the electoral system.

Ballot "harvesting" is inconsistent with democratic norms. Harvesting allows unrelated third parties to appear at a voter's house to solicit and remit their completed ballots. Harvesters need not register with any election authority, may be paid for their efforts from unknown sources, and may even instruct a voter how to complete the ballot. This process threatens the integrity of the secret ballot and leaves voters subject to possible intimidation. That's why this practice was previously a felony in Nevada.

Mail ballots are highly popular. Eight states mail ballots to all registered voters, including Nevada. In another 35 states, voters can receive a mail ballot on request. Universal mail balloting began in Oregon in 1998, followed by Washington, Colorado, and Utah. Nationally, 46% of voters cast ballots by mail in 2020 and this rate remained high in 2022, at 33%. Mail balloting has been increasingly popular among older and college-educated demographics, presumably because it requires less time.

Voter identification requirements inspire public confidence. In a 2022 Gallup poll, 79% of Americans supported a requirement for voters to show photo identification prior to voting. This included 77% of racial minorities and 80% of white respondents, and majorities of both major political parties.[3]

Although one notable study has alleged that voter ID laws suppress Hispanic turnout, follow-on studies have pointed to data errors that, when corrected, show voter ID has no measurable effect on turnout. The bulk of the research confirms this view.[4]

Same-day voter registration and prolonged cure procedures delay results. Nevada allows voters to cure a rejected ballot six days beyond election day. Although about half of states have no cure process, others like Montana and Vermont require ballots to be cured by election day. Nevada is also one of 21 states with same-day voter registration, although most of the others do not have automatic registration like Nevada. These late actions by voters slow the tabulation process.[5]

---

[1] Nevada Legislature, 32nd Special Session, Assembly Bill 4.
[2] See, e.g., Sam Metz, "Distrust in Election Process Grips Nevada Community," Associated Press, July 29, 2022.
[3] Nicole Willcoxon and Lydia Saad, "Eight in 10 Americans Favor Early Voting, Photo ID Laws," Gallup, October 14, 2022.
[4] German Lopez, "A Major Study Finding the Voter ID Laws Hurt Minorities Isn't Standing Up Well Under Scrutiny," Vox, March 15, 2017.
[5] Walter Olson, "Efficient, Timely and Reliable: A Framework for Election Law in Nevada," Nevada Policy, February 2024.

Recommendations

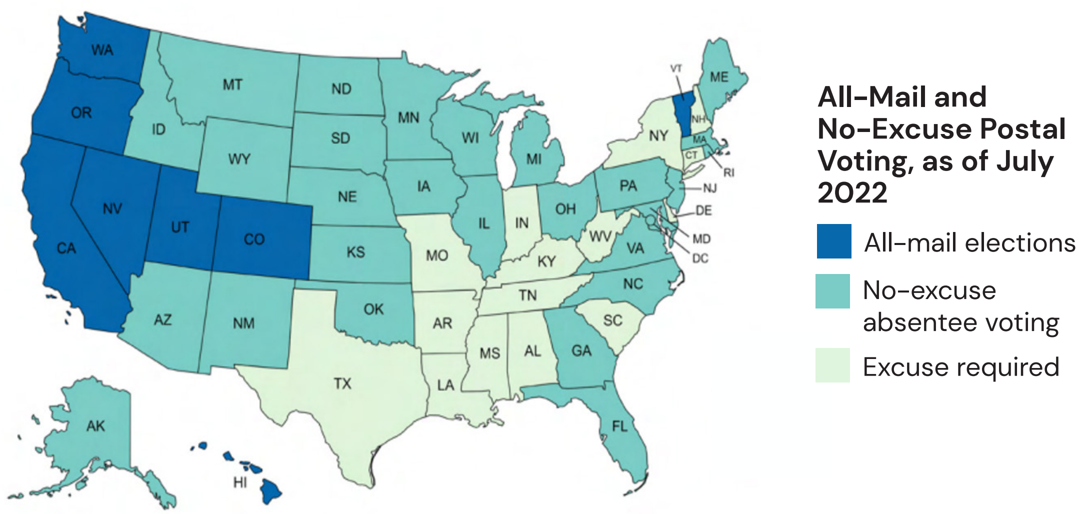
Make ballot "harvesting" a crime once again. Ballot harvesting creates the conditions for harassment or duress. It is anathema to a free election.

Eliminate same-day voter registration. Nevada already automatically registers voters at the Dept. of Motor Vehicles. Same-day registration slows tabulation.

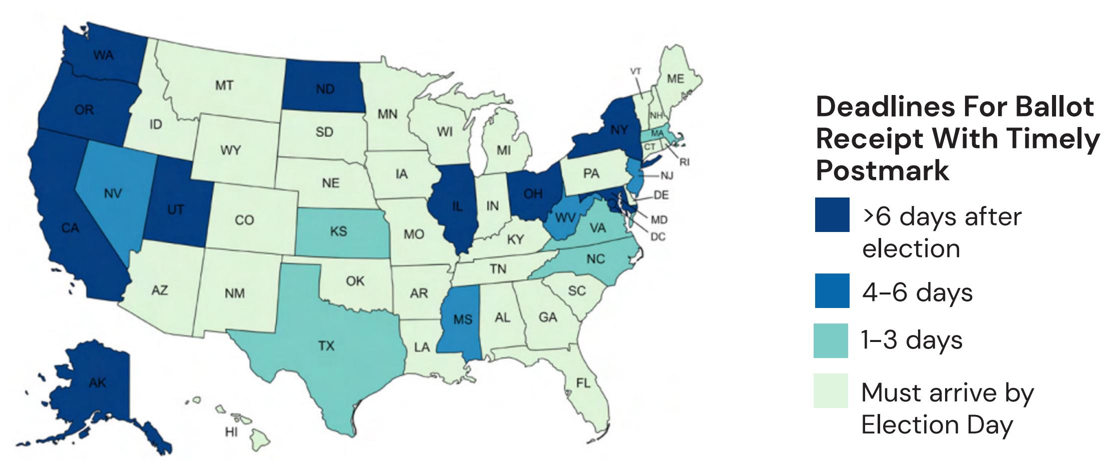
Require mail ballots to be received by election day. Timely tabulation of results is a universal expectation of electoral systems.

Implement a voter identification requirement. Although voter ID laws don't have much impact on electoral outcomes, they are highly popular and engender trust.

Mail Voting Laws by State (2022)



Deadlines for Mail Ballot Receipt by State (2022)



Source: Walter Olson, "Efficient, Timely and Reliable: A Framework for Election Law in Nevada," Nevada Policy, February 2024.

Federal Law Review

The U.S. Constitution is a compact among the states that divides authority between the federal and state governments. As James Madison wrote in Federalist Paper #45:

> The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State.

But who should be the final arbiter of this division of powers, and when or whether federal entities overstep the "few and defined" powers they are delegated?

Key Points

The states must review the constitutionality of federal action. Said Thomas Jefferson:

> The several states composing the United States of America are not united on the principle of unlimited submission to their general government; but by a compact under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a general government for special purposes [and] delegated to that government certain definite powers and whensoever the general government assumes undelegated powers, its acts are unauthoritative, void, and of no force. To this compact each state acceded as a state, and is an integral party, its co-states forming, as to itself, the other party. The government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the Constitution the measure of its powers." (Emphasis added.)

It is thus the states' responsibility to guard the powers reserved to them and to constantly monitor federal acts to ensure the federal government does not act beyond its constitutional authority.

Utah created a standing legislative subcommittee to review the constitutionality of federal action. In 2011, Utah lawmakers created a Federalism Subcommittee within the legislative Constitutional Defense Council. The subcommittee's role is to review the constitutionality of any federal action that might "impact a power or a right reserved to the state or its citizens by the United States Constitution, Amendment IX or X; or expand or grant a power to the United States government beyond the limited, enumerated powers granted by the United States Constitution."[1]

If the subcommittee determines a federal action exceeds the constitutional authority granted by the states, the subcommittee may pursue information regarding the action from a federal agency or a member of the state's congressional delegation. Additionally, the Subcommittee may:

---

[1] Utah Legislature, 2011 General Session, House Bill 76, Second Substitute.
[2] Ibid.

Give written notice of the evaluation to the federal governmental entity responsible for adopting or administering the federal law; and request a response by a specific date to the evaluation from the federal governmental entity; and request a meeting, conducted in person or by electronic means, with the federal governmental entity and a council member, a representative from another state, or a United States Senator or Representative elected from the state to discuss the evaluation of federal law and any possible remedy.

The Federalism Subcommittee may recommend to the governor that the governor call a special session of the Legislature to give the Legislature an opportunity to respond to the subcommittee's evaluation of a federal law.

The Federalism Subcommittee chair may coordinate the evaluation of and response to federal law with another state.[2]

Recommendations

Pass legislation to systematically evaluate and respond to federal actions. Nevada lawmakers should follow the lead of their Utah counterparts and act in concert with policymakers from other states to evaluate the constitutionality of all meaningful federal action.

Powers of the United States Congress, Enumerated under Article I, Section 8 of the U.S. Constitution

- Lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States, but all duties, imposts, and excises shall be uniform throughout the United States
- Borrow money on the credit of the United States
- Regulate commerce with foreign nations, among the several states, and with the Indian tribes
- Establish a uniform rule of naturalization and uniform laws on the subject of bankruptcies throughout the United States
- Coin money, regulate the value of coin money and of foreign coin, and fix the standard of weights and measures
- Provide for the punishment of counterfeiting the securities and current coin of the United States
- Establish post offices and post roads
- Promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries
- Constitute tribunals inferior to the supreme court
- Define and punish piracies and felonies committed on the high seas and offences against the law of nations
- Declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water
- Raise and support armies, but no appropriation of money to that use shall be for a longer term than two years
- Provide and maintain a navy
- Rules for the government and regulation of the land and naval forces
- Provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions
- Provide for organizing, arming, and disciplining the militia, and for governing the part of the militia that may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress
- Exercise exclusive legislation in all cases whatsoever, over such district, which may not exceed 10 miles square, as may, by cession of particular states and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the place shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings
- Make all laws which shall be necessary and proper for carrying into execution the powers listed in this section, and all other powers vested by the United States Constitution in the government of the United States, or in any department or officer of the United States

Federal Lands

On June 2, 1979, Nevada's then-governor, Bob List, signed into law AB 413[1] – encoded today as NRS 321.596-321.599, inclusive. AB 413 laid out clearly the unconstitutionality of federal control over 87% of the lands in Nevada. The charges raised by List and Silver State lawmakers lit a spark in states across the American West, illuminating the increasing burdens of federal land control.

Today that movement – known as the "Sagebrush Rebellion" – continues to gain strength. In 2011, Utah Governor Gary Herbert signed HJR 39, calling on the U.S. Congress to transfer control of many public lands to that state. In 2015, Nevada lawmakers followed suit, passing SJR 1 which requests a transfer of lands to state control according to a planning schedule developed by the Nevada Land Management Task Force.[2]

Key Points

Federal land control runs afoul of the "equal footing" clause and doctrine. The 1864 enabling act by which Congress granted Nevada statehood declared that Nevada "shall be admitted into the Union upon an equal footing with the original states, in all respects whatsoever."

However, the act then attached conditions to Nevada's statehood to which the original states were never subject, including the reservation of most land within the state's boundaries for federal ownership. In 1845 the U.S. Supreme Court had declared an almost identical provision contained in the enabling act for the State of Alabama unconstitutional, because it ran afoul of the equal footing doctrine. Said the Court, "the United States never held any municipal sovereignty, jurisdiction, or right of soil in and to the territory of which Alabama or any of the new states were formed; except for temporary purposes."[3] As soon as new states were formed, said the Court, "the power of the United States over these lands as property was to cease."[4]

List and Nevada lawmakers concluded that, "the attempted imposition upon the State of Nevada by the Congress of the United States of a requirement in the enabling act that Nevada 'disclaim all right and title to the unappropriated public lands lying within said territory,' as a condition precedent to acceptance of Nevada into the Union, was an act beyond the power of the Congress of the United States and is thus void." [5]

Nevadans overwhelmingly oppose federal land control. In the mid-1990s, Nevada lawmakers went further, with a proposal to amend the state constitution and remove the disclaimer of interest in public lands. After securing unanimous support in both chambers of the legislature, the measure went to the ballot in 1996, where it garnered 56.3% of the popular vote. Despite this action, however, and due to the requirement in the state's enabling act, the amendment cannot become effective without congressional consent or a judicial determination that consent is unnecessary.

The disclaimer of interest originally held a different meaning. At the time Nevada entered the union, it was widely understood that the reason for requiring a disclaimer of interest in public lands was so that federal authorities could clear title to all lands within the state and more quickly dispose of those lands via private auction. Congress, however, later reneged on this obligation.[6]

Sale or lease of federal lands could provide a fiscal boon and lead to economic development. If Nevada could gain title to its own lands, it could generate massive public revenues through the sale or lease of those lands. During the 2013-2015 legislative interim, Nevada's Land Management Task Force calculated that state and local governments could net up to an additional $205.8 million annually by managing 7.2 million acres of BLM lands directly, or $1.3 billion annually by managing 45 million acres of BLM-held land.[7] In addition, the new availability of land would ease

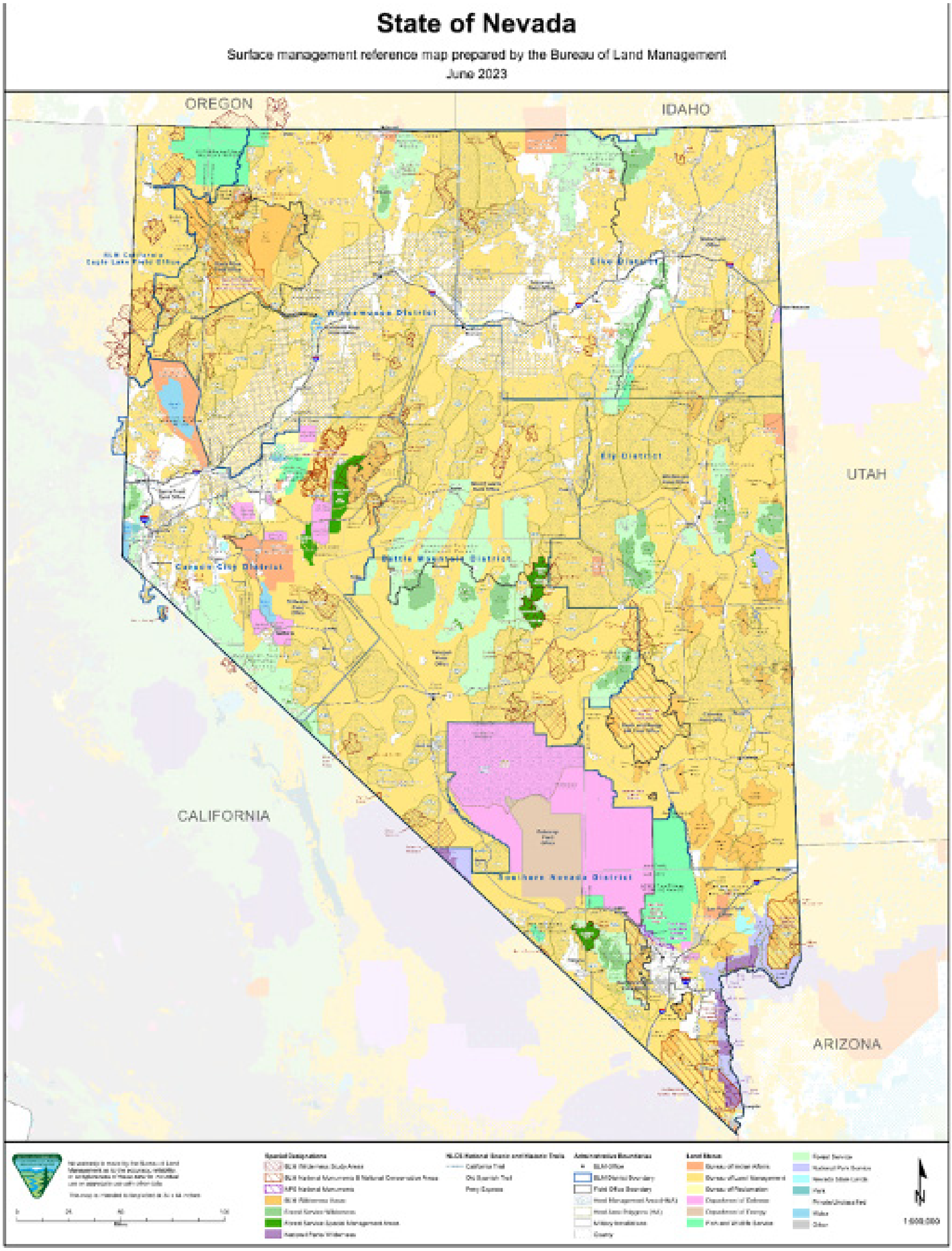
---

[1] Nevada Legislature, 60th Session, Assembly Bill 413.
[2] Nevada Legislature, 78th Session, Senate Joint Resolution 1.
[3] Pollard v. Hagan, 44 U.S. (3 How.) 212 (1845).
[4] Ibid.
[5] NRS 321.596(5).
[6] Steven Miller, "Broken Compact: The Hollowing Out of Nevada Statehood," NPRI Policy Study, August 2013.
[7] Nevada Legislature, Interim Legislative Committee on Public Lands, Land Management Task Force, "Congressional Transfer of Public Lands to the State of Nevada," July 2014.

congestion in Nevada's urban areas and prompt new development and job creation.

Recommendations

Congress has ignored SJR 1 and Nevada should pursue its legal remedy. The Nevada constitution currently conflicts with the federal enabling statute for statehood. The attorney general should file suit to resolve this conflict in federal court. Lawmakers can direct the attorney general to do so through a resolution.



From Nevada Policy

To our elected officials

Nevada Policy is dedicated to assisting elected officials with unbiased, rigorous research to achieve the best policies for Nevadans. Our team is committed to providing data-driven insights and non-partisan analysis to help legislators make informed decisions that positively impact our state. If you are a legislator seeking counsel, please contact us to benefit from our expertise and resources.

Email: info@nevadapolicy.org
Phone: 702-222-0642

To our citizens

Nevada Policy stalwartly defends your interests and works tirelessly to ensure that your voice is heard in the legislative process. We thank you for your unwavering support. If you would like to enhance our advocacy efforts this legislative session, please consider giving by scanning the QR code or mailing a check to the address below. Your contributions help us continue our mission to protect and empower all Nevadans.

Nevada Policy