

The 2013 Nevada Legislative Session

Review & Report Card



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Background

After years during which baseline revenue failed to grow, state revenues were beginning to turn around ahead of the 2013 Nevada Legislative Session. Even with more than \$700 million in temporary tax hikes set to expire, Nevada was projected to receive more tax revenue by FY 2015 than it received in FY 2012.

The Economic Forum – tasked with developing official revenue estimates for the state – announced in November 2012 that, despite the pending expiration of statewide increases in sales and payroll taxes, Nevada’s general fund would receive \$5.812 billion for the 2013-2015 budget cycle. That’s very close to the \$6.152 billion state government received in the 2011-2013 budget cycle¹.

In March 2012, however, Gov. Brian Sandoval announced an intention to seek continuation, for another two years, of “temporary” tax hikes.² Originally passed by the 2009 Legislature over the veto of then-governor Jim Gibbons, this tax package includes:

- A 0.35 percent increase in the statewide sales tax,
- A near doubling – from 0.63 to 1.17 percent – of the tax on private-sector payroll,
- A doubling of annual state business license fees from \$100 to \$200, and
- Increases in annual car registration fees.

Most of these tax hikes were originally scheduled to sunset at the conclusion of the 2009-2011 budget cycle. The hike in car-registration fees was to remain in place, but with those revenues diverted from the general fund into the state highway fund.

Indeed, while on the campaign trail, Sandoval himself promised voters in 2010 that he would fight against any extension of the so-called “sunset taxes,” and, during most of the 76th (2011) Session, he kept that promise. The budget proposal he constructed would have funded state

government without those taxes. However, the governor was then caught off-guard by a Nevada Supreme Court decision less than two weeks before the session's conclusion.

It declared unconstitutional a state practice by which Sandoval was proposing to transfer local-government tax dollars into state use. Despite having added \$440 million into his spending plans during the weeks prior, as unexpected additional revenues had become available, Sandoval then agreed to extend the sunset taxes through FY 2013 in order to offset the sudden loss of those local-government revenues.³

By early 2012, though, Sandoval's anti-tax rhetoric began to change. He announced that he would propose a further extension of the sunset taxes – through at least FY 2015 – because he no longer viewed the extension of expiring taxes as a tax *increase* since “Nevadans will pay no more than they are in the current biennium.”⁴

While this shift was a clear break with his previous stands, Sandoval indicated that his motivation, at least in part, was to undercut political support for any *additional* tax hikes during the 2013 session.

If it moves, tax it!

Sandoval's apprehension about rising momentum for new taxes even beyond the further extension of the sunset taxes was not without merit. Following the defeat of a proposed business margin tax by the 2011 Legislature, a labor-union coalition – including the state AFL-CIO chapter and state teacher union – had begun pouring money into an initiative campaign to nevertheless impose the tax, and do so at a rate over twice as high as legislative leaders Steven Horsford and John Ocegüera had proposed in 2011.

The margin tax is a modified gross-receipts tax. That is, it is assessed against a firm's gross income, but offers a choice of deductions. Firms can either deduct: (a) a standard 30 percent of gross earnings, (b) for labor compensation, or

(c) for the “cost of goods sold” – a complex definition that includes payments for raw inputs, warehousing costs and machinery, but not for advertising or various other expenses.

Despite its name, the margin tax has nothing to do with a firm’s profit margin. In fact, because the tax is based on *gross* income instead of *net* income, many businesses would face a new tax liability under the proposal even during years in which they operate at a financial loss.⁵

The only state that currently assesses a margin tax is Texas, where it was implemented in 2006. By 2009, Texas lawmakers heard more than 100 bills proposing to modify or eliminate the tax because it was causing so many problems.⁶ In addition to being criticized for penalizing failing businesses, the tax has been perceived as unfair to small businesses that do not have internal accounting departments capable of navigating the tax.

Further, because the tax allows for deductions of labor or capital, very labor-intensive or capital-intensive industries such as law firms or heavy manufacturers are able to avoid much of the tax. Consequently, the onus of the tax falls more heavily on industries that employ a more proportionate mix of man and machine, such as agriculture or information technology. According to Texas’ nonpartisan legislative staff, that state’s agricultural industry bears a margin-tax burden 2.6 times greater than its share of state gross domestic product.⁷

When Horsford and Ocegüera first presented their plan for a Nevada margin tax during the 2011 legislative session, these concerns were enough to quickly scuttle the proposal. Unable to corral support from many of their

When union leaders revived the [tax] proposal as an initiative petition, they more than doubled the proposed rate, from 0.8 percent of gross to 2.0 percent.

own party members – much less achieve the two-thirds support necessary to implement a tax increase – Horsford and Ocegüera abandoned the idea before it even reached a committee vote.

When union leaders revived the proposal as an initiative petition, they more than doubled the proposed rate, from 0.8 percent of gross to 2.0 percent. (The rate in Texas is 0.5 percent for retailers and 1.0 percent for all other firms.) The teacher union then spent nearly \$645,000 to gather 150,000 signatures – enough to qualify the initiative for legislative consideration or, ultimately, the ballot.⁸

At the same time, several legislators were already submitting bill draft requests to increase property taxes,⁹ sales taxes¹⁰ and gasoline taxes¹¹ and to impose new taxes on business income¹² and fast food sales.¹³

It was against this backdrop that Sandoval announced his support for extending the sunset taxes in order to increase state spending and, thereby, undercut support for additional, and potentially more punitive, tax increases.

Sandoval stays out front on Obamacare

Tax policy wasn't the only major area in which Sandoval attempted to neutralize potential attacks from political opponents by preemptively acquiescing to their demands. As during the 2011 session, Sandoval continued to be the most active Republican governor nationwide to push for full implementation of the federal Patient Protection and Affordable Care Act (PPACA).

In 2011, it had been Sandoval who *proposed* legislation to establish a state-run health care exchange pursuant to PPACA despite the fact that 34 states explicitly rejected these exchanges. Eventually, Idaho and New Mexico would become the only other two states with Republican governors to implement a state-run exchange.¹⁴ This is significant because independent legal analyses have concluded that PPACA only allows the IRS to levy new

taxes against large employers who do not provide qualifying health insurance in states that have elected to establish a state-run exchange.¹⁵ Hence, Sandoval's 2011 decision is likely to make Nevada less competitive in attracting large firms.

Then, in December 2012 – just one month ahead of his “State of the State” speech – Sandoval doubled down on Obamacare by becoming the first Republican governor to expand Medicaid eligibility rules pursuant to the law’s vision. As a result, all individuals earning up to 138 percent of the federal poverty level would become eligible for full health coverage through Nevada Medicaid.

The expansion would make about 78,000 new individuals eligible to participate in the program. Although Congress has promised to pay 100 percent of the coverage costs for this newly eligible population through 2016, federal contributions thereafter are scheduled to decline to 90 percent by 2020 and perhaps lower in ensuing years. This means that state taxpayers would pick up an increasing share of the tab for Medicaid expansion. The decision is estimated to increase Nevada state taxpayer Medicaid outlays between \$5.4 billion and \$5.7 billion over the 2014-2023 period.¹⁶

...competition [for already limited Medicaid resources] could now come from single, childless, able-bodied adults and crowd out care for the disabled elderly and children in poverty. . . .

Worse yet, legitimate concerns exist regarding how the expansion will impact *existing* Medicaid beneficiaries. With fewer and fewer doctors willing to accept Medicaid reimbursement rates that are so low they often cause health care providers to lose money, the expansion would subject existing beneficiaries to greater competition for access to the already constrained supply of Medicaid resources.

Further, this competition could now come from single, childless, able-bodied adults and crowd out care for the disabled elderly and children in poverty.¹⁷

In announcing the decision, Sandoval said:

Though I have never liked the Affordable Care Act because of the individual mandate it places on citizens, the increased burdens on businesses and concerns about access to health care, the law has been upheld by the Supreme Court. As such, I am forced to accept it as today's reality and I have decided to expand Nevada's Medicaid coverage.¹⁸

The statement revealed a notable twist in Sandoval's logic: In his majority opinion, Chief Justice John Roberts explicitly wrote that Congress could not compel the states to expand Medicaid eligibility. In fact, 21 states have exploited the Roberts opinion to reject a Medicaid expansion.¹⁹ Yet, Sandoval referenced that very opinion while intimating that he was "forced" to expand eligibility.

Before he had even delivered his Executive Budget to lawmakers, then, Sandoval had already removed the potentially most contentious issues of debate from the legislative agenda by preemptively acceding to the demands of Democratic leaders and interest groups.²⁰

On high alert

Weeks before the 2013 session began, Assemblyman Steven Brooks was apprehended by police in Las Vegas after he was alleged to have made violent threats against soon-to-be Assembly Speaker Marilyn Kirkpatrick. Brooks was found with a loaded weapon in the trunk of his car.²¹

Days later, after being released and under the supervision of Legislative Police, Brooks was taken by police for a psychological evaluation after displaying "bizarre behavior" while reportedly wielding a sword at his grandmother's house.²²

Brooks' rapidly deteriorating mental state worried many lawmakers, and legislative staff ordered additional security

measures ahead of Brooks' arrival in Carson City. "You can imagine, there are a lot of nervous people in the building," said staff director Rick Combs, "so we are taking additional precautions."²³

Brooks would eventually be banned from the legislative building, expelled from the Assembly Democrat caucus and, ultimately, removed from office after a closed-door hearing in which a special committee found him unfit to serve.

The night after Brooks was expelled from the Legislature, he was arrested in Southern California after a high-speed chase during which he threw multiple objects, including a handgun, out the window of his vehicle at police officers.²⁴

The Brooks affair would create an ongoing and omnipresent distraction for lawmakers and hang as a cloud over the 2013 session.

Executive Budget

On Jan. 16, 2013, Gov. Sandoval delivered his biennial "State of the State Address" to lawmakers and unveiled his Executive Budget proposal. During his address, he declared, "Let me be clear: Nevada's employers cannot afford higher taxes, and I will not support them."²⁵

The statement appeared intended to undergird his proposal to broaden an exemption in the state payroll tax. Previously, the first \$62,500 in quarterly payroll for each business was exempt from taxation, and Sandoval proposed raising that exemption to \$85,000. Despite this apparent break, however, Sandoval's budget still doubled the payroll tax rate and business licensing fees that Nevada's entrepreneurs paid before 2009.

In total, Sandoval proposed \$6.546 billion in general-fund spending for the 2013-2015 budget cycle – a 5.5

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percent increase over the legislatively approved \$6.204 billion budget for the 2011-2013 budget cycle. Further, he proposed to spend monies held in existing state accounts and to accept more federal dollars in order to boost spending from all sources to \$17.635 billion for the 2013-2015 budget cycle, up from \$15.875 billion in the 2011-2013 budget cycle – an 11.1 percent increase. Total state employment would rise from 17,975 full-time equivalent positions in 2013 to 18,597 by 2015, according to the Executive Budget.²⁶

Gov. Sandoval also proposed to restore merit pay increases for state workers beginning in FY 2015 and to reduce the number of workers' furlough days from six to three.²⁷

Sandoval's Executive Budget also proposed to fund several new or expanded government programs. They included:

- \$71.5 million in general-fund spending to expand health coverage through Medicaid and Nevada Check-Up pursuant to PPACA,
- \$20 million to expand full-day kindergarten,
- \$2 million to hire new Teach for America educators,
- \$13.9 million to establish an English Language Learners program in public schools,
- \$1.5 million to establish a Jobs for America's Graduates program,
- \$4 million to establish a longitudinal student data system, and
- \$15.2 million to again temporarily arrest the insolvency of the Millennium Scholarship program.²⁸

Existing programs also grew more expensive across the board as personnel costs and caseloads increased. Hundreds of millions in additional dollars were allocated to increase payments into the underfunded Public Employees'

Retirement System, to restore pay raises and to reduce furlough days.

Baseline posturing

Sandoval had attempted a significant step forward – structuring the Executive Budget proposal on the basis of actual government performance. From the moment he took office, Sandoval had embraced the performance-based approach to budgeting, which ties funding to the achievement of certain objectives.²⁹

A central problem with the old method of “baseline budgeting” is that all funding for existing programs gets routinely carried over and expanded, whether or not state agencies are providing meaningful value to taxpayers. This practice – allowing the mere existence of an office to become sufficient rationale for its continuance – exerts virtually no accountability over the use of tax dollars.

Thus, when Sandoval’s staff began to construct the 2013-2015 Executive Budget proposal, they began by identifying eight core functions of government and then, from this, extrapolated 56 clear policy objectives they aimed to achieve and 148 different performance metrics that could be used to evaluate progress toward those objectives. In his 2011-2013 budget, Sandoval had *begun* to implement some performance-based concepts, but for his 2013-2015 budget, he would do it from the ground up – using objective, quantitative criteria to create a rational plan for delivering genuine financial value to taxpayers.

However, despite passage of Assembly Bill 248 in 2011 – which legislatively mandated that the Executive Budget be constructed using performance-based criteria – lawmakers

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complained that Sandoval did not also provide them with baseline figures.

For advocates of higher taxes and spending, the baseline figures provide a key point of political leverage: Although they represent only bureaucrats' "dream" spending levels and often incorporate vast inefficiencies, the contrast between baseline and performance-based figures allows politicians to routinely pretend that the Executive Budget includes drastic cuts in spending.

Disingenuously, Senate Finance Chair Debbie Smith, the primary sponsor of AB 248, took the lead in criticizing the governor's performance-based approach and demanded he release the baseline requests from state agencies. "I think legislators and the public should know what the requests are from agencies, what the real needs of the state are" she said. "It puts our staff, and ultimately legislators, at a severe disadvantage not to have that information."³⁰

Sandoval's budget director Jeff Mohlenkamp responded, "There could be wish lists – this could go on forever if you say, 'What are things people want that aren't in the budget?' I don't think it's fair to speculate on things that are not in the budget."³¹

Ultimately, though, Sandoval did succumb to this pressure and released the agency "wish lists." Within weeks, legislative staff also informed the governor's office that they would not facilitate his performance-based approach, essentially neutering this important reform.

Aimless and wandering

When the 2013 Legislature convened on Feb. 4, the turnover associated with term limits was on prominent display. All four legislative caucuses boasted first-time leaders. First-term Sens. Mo Denis and Michael Roberson rose to become Senate Majority Leader and Senate Minority Leader, respectively. Meanwhile, Assembly veterans Marilyn Kirkpatrick, William Horne and Pat Hickey rose to the posts

of Assembly Speaker, Majority Leader and Minority Leader, respectively.

Months before the session convened, Democratic leaders Denis and Kirkpatrick indicated that they supported extending the “sunset” taxes, but also planned to conduct a broad review of the state’s tax structure “from Day Two.”³²

In December 2012, Denis told reporters, “We’re not necessarily looking to increase revenue. I want to listen first.”³³ Indeed, during his response to Sandoval’s State of the State Address, Denis said, “We are told that taxes are too high and, thus, stifle job growth. I agree, taxes are too high on the middle class and poor.”³⁴

Yet, after Denis applauded Sandoval’s decisions to expand Medicaid and increase pay and benefits for state workers, he complained that Sandoval was not spending enough on K-12 education or social services.

When Denis outlined his vision for this additional spending, he declined to indicate which new taxes he’d raise to finance it. Indeed, he specifically excluded additional taxes on the middle class, tourists, the resort industry or small businesses.³⁵

When Speaker Kirkpatrick delivered her opening remarks at the outset of the session, she echoed another Denis talking point: “For too long, the answer to education has been to cut,” she said. “I am here to say we can no longer cut. We can no longer ask our teachers, students and parents to do more with less, then ask them why are we getting the same results.”³⁶

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In fact, Sandoval's Executive Budget proposed to spend nearly \$570 more per pupil in FY 2015 than was spent in FY 2008 – an 11 percent increase.³⁷

While Democratic leaders made it clear they wanted additional spending, they remained less than clear on how they would finance such spending.

It was not until three weeks before the session was scheduled to adjourn that Denis would unveil his tax proposal – a further increase in the state payroll tax from 1.17 percent to 1.5 percent.

When “Day Two” arrived, Kirkpatrick indicated that, instead of seeking new taxes, she would pursue revenue-neutral tax reform that would eliminate the state payroll tax and broaden the sales-tax base with a consequent lowering of the sales-tax rate.³⁸

Within weeks, however, Kirkpatrick abandoned this approach and instead sought major changes to the Live Entertainment Tax. She proposed an “Admissions Tax” on gym memberships, night clubs, movie theatres and other venues at a standard, 8 percent rate.³⁹ The

proposal was later derided by Senate Minority Leader Michael Roberson as a “family fun tax” and, although Kirkpatrick would submit a second version of the proposal late in the session, it would fail to even receive a committee vote.

It was not until three weeks before the session was scheduled to adjourn that Denis would unveil his tax proposal – a further increase in the state payroll tax from 1.17 percent to 1.5 percent. In addition, large gold and silver mining operations would pay a payroll tax equal to that imposed on financial institutions – a 2.0 percent rate.

Roberson responded to the proposal on the Senate floor, saying, “We have waited patiently for the majority party to fulfill their promise of an open and honest debate

about the future of this great state. But after promising an early and open discussion this year – Day Two if you’ll recall – on Nevada’s tax structure, the majority party has once again waited until the last possible minute to impose job-killing – yes, job-killing – taxes upon Nevada families and businesses.”⁴⁰

Roberson pronounced the tax proposal “dead on arrival” and, following a heated floor debate on May 21, Denis withdrew his proposal.

The Roberson Gambit

Democratic leaders weren’t the only ones calling for new taxes and higher spending, however. On March 5, Roberson, along with five of his caucus members, held a press conference to announce their support for a new tax on mining operations. The union-sponsored margin-tax initiative was headed for the ballot after lawmakers failed to cast a vote on it, and the Republican senators offered their mining-tax proposal as a competing ballot measure.

“We are proposing that we give voters a choice about how we generate more revenue to fund education in our state,” said Roberson at the time.⁴¹

Although Roberson was open about his intention of defeating the “fatally flawed, job-killing [margin] tax,”⁴² the move was met with sharp and immediate criticism from some Assembly Republicans and dissent from within Roberson’s own caucus. Republican Sens. Barbara Cegavske, Pete Goicoechea, Don Gustavson and James Settelmeyer refused to support the scheme.

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“I don’t believe it’s a united caucus,” Settlemeyer told reporters.⁴³

Gov. Sandoval also said that he would not support any competing ballot measure to the margin tax,⁴⁴ and it quickly became clear that Roberson and his colleagues had isolated themselves from fellow Republicans. Indeed, while the senators took great care to praise Sandoval’s proposed Executive Budget, their tax proposal implied Sandoval’s proposed spending levels were inadequate.⁴⁵

Over the following weeks, Roberson and his mining-tax colleagues ironed out the details of their plan and made overtures to Democratic colleagues to consider it. The proposal would have removed the existing Net Proceed of Minerals Tax, capped at 5 percent, and replaced it with a 10 percent excise tax on mining. But while increasing mining taxes had long been a goal of legislative Democrats, after the six senate Republicans assumed the issue as their own, Democratic leaders groaned and indicated they would not support the measure.⁴⁶ It was refused even a committee hearing.

Tax hike by proxy

So reluctant were lawmakers to vote for tax hikes not supported by Sandoval that they sought instead to allow local governing boards to do so. These so-called tax “authorization” bills are constitutionally suspect because a 1996 amendment to the state constitution says any measure that “increases any public revenue in any form” – including at the local level – must secure two-thirds support from the Legislature or secure a popular majority at the ballot.⁴⁷

In 2013, lawmakers challenged this constitutional provision by purporting to grant “authorization” to local governing boards to levy new taxes. Because the measures were only “authorizing” bills, argued lawmakers, there was no need for a two-thirds super-majority or a vote of the

people – the bills could be passed with a simple legislative majority.

In all, lawmakers passed three major tax “authorization” bills:

- AB 46: Allows Washoe County to increase sales-tax rates by 0.25 percent and property-tax rates by 5 cents per \$100 of assessed valuation.
- AB 413: Allows Clark County to increase motor fuel taxes based on a measure of inflation.
- AB 496/SB 1: Allows Clark County to increase sales taxes by 0.15 percent.

All taxes, no reform

Unlike previous sessions when Republicans demanded major government reforms in exchange for supporting new taxes, the 2013 session saw most Republicans, led by Sandoval, support higher taxes without demanding anything in return.

In fact, with few exceptions, many 2013 legislative changes will only further cloud the horizon for Nevada’s entrepreneurs, who must try to estimate the future costs of taxation and regulatory compliance.

Most significant among these changes were new regulations on electricity production that are expected to substantially increase Nevada’s already-high energy prices. Lawmakers barred NV Energy, the state’s protected electric monopoly, from using lower-cost efficiency measures to comply with the mandatory renewable-energy quotas lawmakers had set. This means the utility will be required to acquire more electricity from far-less-efficient renewable sources and pass the higher costs on to ratepayers.

Lawmakers barred the state’s protected electric monopoly from using lower-cost efficiency measures . . .

Additionally, the utility secured a legislative mandate to prematurely close its coal-fired power plants and replace the lost capacity with new natural gas-fired power plants. Nevada ratepayers are to be compelled to pay the utility for both types of power plants, though only one type will be in use.

Actor Nicolas Cage and other Hollywood film producers could also receive cash payments from Silver State taxpayers. . .

A similar measure passed by Colorado lawmakers in 2010 is expected to increase electric rates there by 11 to 50 percent.⁴⁸

Under Nevada law, the utility's profits are guaranteed as a share of its costs. Thus, the new 2013 rules will be a boon to the monopoly's shareholders even as ratepayers face

much higher power bills.

Businessmen with friends in the governor's office may get an exemption from these higher power bills, however, thanks to a new electric rate subsidy program for firms that the governor's office has identified as "economic development" targets.

Actor Nicolas Cage and other Hollywood film producers could also receive cash payments from Silver State taxpayers through a new transferable film tax credit program. Cage showed up personally in Carson City to lobby for the proposal.

Entrepreneurs who do not enjoy these political connections, however, will have to contend with a slew of costly new regulations designed to protect large gamers from competition and penalize online floral services or tanning salon operators, among many others.

Many market-oriented reforms that have secured strong, bipartisan support in other states did not even receive a hearing in Carson City.

No discussion was held on possible changes to the chronically underfunded Public Employees' Retirement

System or on a “charter agency” proposal that successfully transformed Iowa’s state government during Democrat Gov. Tom Vilsack’s administration.

Instead of modernizing the state’s union-subsidizing prevailing-wage laws, the costly and antiquated schemes were applied to even more programs.

Despite numerous bills designed to fix Nevada’s problems with its construction-defect laws, which invite costly and often spurious lawsuits, the Legislature enacted no changes.

Rather than address the underlying problems behind the financial collapse of North Las Vegas, lawmakers gave the city a bailout that will only temporarily address its insolvency.

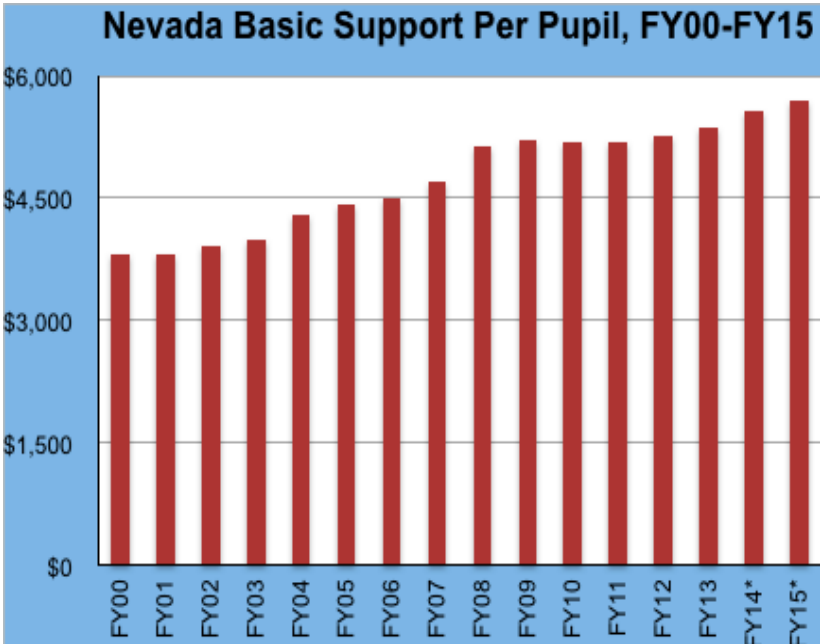
So, although most Republicans voted for extending the “sunset” taxes and for the various tax-authorization bills, they did not seek or receive changes such as the reforms to collective-bargaining rules or education policies they got in exchange for higher taxes in 2009 or 2011.

Education reform: What might have been

Although both Republicans and Democrats derided Nevada’s level of education funding in 2013, a few noted that Nevada already spends more, on a per-pupil basis, than most of its neighbor states. According to the U.S. Department of Education, Nevada spent \$9,870 per pupil in FY 2010 from state, local and federal sources. That amount was roughly \$800 more than Arizona, \$1,650 more than Idaho, and \$1,950 more than Utah. Yet, each of these states has consistently attained higher graduation rates and test scores than Nevada.⁴⁹

Members of both parties clamored for an expansion of programs that have been demonstrated to be relatively cost-ineffective, such as class-size reduction and full-day kindergarten.

Studies, however, have shown that if boosting student



Source: Legislative Counsel Bureau, Fiscal Analysis Division, Fiscal Reports. *projected.

achievement is the goal, money could be used more effectively elsewhere – most notably by increasing teacher quality. Improving teacher quality by one standard deviation has been shown to have a greater benefit on student achievement than a costly 10-student reduction in class size.⁵⁰ Thus, rational policy would invest education dollars in teacher development or higher pay to attract better teachers into the field.⁵¹

Not only, however, did lawmakers expand cost-ineffective programs, they even abandoned the positive education reforms that Sandoval said were his priorities. During his State of the State speech, Sandoval had said he sought creation of a longitudinal student data-tracking system to evaluate teacher performance and funding for cost-effective Teach for America educators. He also sought a new scholarship program for low-income students funded by corporate donations against which these firms could apply a new tax credit. Scholarship recipients would be able

to use this money to escape failing government-run schools and attend private schools of their choice.

If enacted, these would have represented impressive progress toward improved educational quality. Alas, they failed to even receive floor votes.

Another exciting education reform effort was sponsored by Sen. Aaron Ford. It would have allowed parents to transform a failing public school into a successful empowerment or charter school if enough of them signed a petition requesting the change. Called a “parent-trigger” law, it has been popular nationwide since California became the first state to pass it in 2010. The measure secured unanimous support in the Senate, but was eventually defeated in the Assembly after some Republicans joined with union-friendly Democrats to vote against it.

Leadership in disarray

Throughout the session, pundits speculated wildly about the ability of the Legislature’s inexperienced new leadership to manage the budget process and close the session on time. Word-of-mouth spread that the Democratic leaders of each chamber were not effectively coordinating with each other, and that few lawmakers from either party trusted Senate Republican boss Michael Roberson.

Thus, intrigue flourished and, on the final day of the session, the fears of many came to fruition when the Senate was unable to finish its business on time. The Legislature adjourned at midnight June 4, but within hours, Sandoval called lawmakers immediately back into a special session – the 27th in Nevada’s history. Lawmakers had failed to vote on key bills of interest to Gov. Sandoval, including a sales-tax hike authorization for Clark County.

As lawmakers began to return to legislative chambers around 4 a.m., leadership was accused of mismanagement. Republican Sen. Greg Brower said the Democratic majority was “a model of inefficiency in leadership.”⁵² Democratic

Sen. Tick Segerblom responded, “If there’s mismanagement, it was all around.”⁵³

Within hours, lawmakers passed the additional sales-tax hike for Clark County sought by Sandoval, along with four other bills, and adjourned.

It was not only the new legislative leadership team that seemed in disarray through much of the session, however. Key figures in the Sandoval administration also stepped down midway through the session, creating a leadership vacuum in key policy areas. State superintendent of education James Guthrie and Lucas Foletta, Sandoval’s policy director and general counsel, both resigned in the midst of session after irreconcilable disagreements with the governor’s policy direction. Indeed, Sandoval himself was notably absent from most of the legislative process as he began to turn his attention toward re-election.

It’s not over ‘til it’s over

At the forefront of post-session policy debates will be the margin-tax proposal that government-employee unions qualified for the 2014 ballot. The Legislature’s Democratic leadership refused to take a vote on the proposal, and while Republicans have adamantly opposed it, most Democrats have refused to take any public stance.⁵⁴

Weeks after the Legislature adjourned, the Nevada State Education Association deposited an initial \$1 million into a Political Action Committee to campaign for the imposition of the tax. Nevada’s business community is projected to spend upwards of \$5 million to campaign against the tax.⁵⁵

Other political dynamics surrounding the 2015 Legislature could also change significantly. All constitutional officers are up for election in 2014, as well as most legislative seats. Control of the state Senate is also in play, with the Democrats currently holding only a one-seat majority.

Legislative rankings

Because many Nevadans do not have the time to follow the individual performances of their representatives in the Nevada Legislature, NPRI keeps track of those performances. The following report card provides an objective measure of each lawmaker's voting record on legislation impacting the degree of economic freedom and education reform.

The grading system is an adapted version of that used by the National Taxpayers Union to grade Congress. A key advantage of the NTU methodology is that it allows bills of greater significance to be weighted accordingly. Thus, each bill impacting Nevada tax rates, either directly or indirectly as the result of spending beyond available revenues, is assigned a weight of 1 through 100, depending on magnitude of impact. Also considered are bills that would create hidden taxes through costly regulation and bills that provide targeted tax subsidies to politically favored recipients.

It should be noted that some legislative proposals can reduce the tax burden – either by lowering tax rates directly or by curtailing spending. Lawmakers can gain points by voting for such proposals. Lawmakers can also gain points by voting for bills that improve education through structural reform, increase government transparency and protect property rights.

Where substantial disagreement exists on how best to curtail spending, bills are not considered. When a legislator has been excused from or did not vote on a bill, its corresponding points are subtracted from the denominator to reflect his or her absence.

All scores are expressed as a percentage of the maximum possible number of points. No congressman has

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ever received a perfect score using the NTU model and so perfect scores should not be expected. Generally, a legislator with a score above 50 is considered to be an ally of economic liberty.

Since floor votes are the only objective criteria for evaluating lawmakers' performance, it is the only factor considered by NPRI's report card. For the 2013 session, NPRI identified 74 bills with a substantial impact on economic liberty that received floor votes.

A listing of these bills, and each lawmaker's voting history, is available on NPRI's website, www.npri.org, along with the underlying spreadsheet calculations. Within the spreadsheet, bills are grouped by topic (e.g. taxes, education, transparency, etc.), so citizens can not only review a lawmaker's overall performance, but also his or her performance within particular areas of interest.

Composite Scores	
Nevada Legislature	45.90%
Assembly	45.49%
Senate	46.72%
Democrats	36.28%
Republicans	60.51%
Assembly Democrats	34.75%
Assembly Republicans	64.80%
Senate Democrats	40.02%
Senate Republicans	54.09%

Rank	Name	Party	Chamber	Score
1	Michele Fiore	R	Assembly	87.13%
2	Jim Wheeler	R	Assembly	84.44%
3	John Ellison	R	Assembly	80.40%
4	Wesley Duncan	R	Assembly	78.18%
5	Pete Livermore	R	Assembly	77.71%
6	Don Gustavson	R	Senate	73.00%
7	Barbara Cegavske	R	Senate	71.67%
8	James Settelmeyer	R	Senate	70.35%
9	John Hambrick	R	Assembly	69.28%
10	Ira Hansen	R	Assembly	59.33%
11	Randy Kirner	R	Assembly	58.43%
12	Crescent Hardy	R	Assembly	57.09%
13	Melissa Woodbury	R	Assembly	56.30%
14	Tom Grady	R	Assembly	56.05%
15	James Oscarson	R	Assembly	55.00%
16	Pete Goicoechea	R	Senate	53.61%
17	Paul Anderson	R	Assembly	51.51%
18	Joyce Woodhouse*	D	Senate	51.26%
19	Pat Hickey	R	Assembly	51.26%
				50.00%
20	Lynn Stewart	R	Assembly	49.91%
21	Joe Hardy	R	Senate	47.00%
22	Scott Hammond	R	Senate	46.12%
22	Ben Kieckhefer	R	Senate	46.12%
24	Michael Roberson	R	Senate	44.80%
25	Greg Brower	R	Senate	44.68%
26	Mark Hutchison	R	Senate	43.48%
27	Marilyn Kirkpatrick	D	Assembly	40.04%
27	David Parks	D	Senate	40.04%
29	Justin Jones	D	Senate	39.91%
30	William Horne	D	Assembly	39.65%
31	Mo Denis	D	Senate	39.52%

* Absent for a substantial number of graded floor votes, due to illness or family event.

Rank	Name	Party	Chamber	Score
31	Debbie Smith	D	Senate	39.52%
33	Ruben Kihuen	D	Senate	39.15%
34	David Bobzien	D	Assembly	38.77%
35	Kelvin Atkinson	D	Senate	38.63%
35	Mark Manendo	D	Senate	38.63%
35	Pat Spearman	D	Senate	38.63%
38	Aaron Ford	D	Senate	37.48%
38	Tick Segerblom	D	Senate	37.48%
40	Elliot Anderson	D	Assembly	36.91%
40	Marilyn Dondero Loop	D	Assembly	36.91%
42	Harvey Munford	D	Assembly	36.46%
43	Joseph Hogan	D	Assembly	36.32%
44	Richard Carrillo	D	Assembly	36.01%
44	James Healey	D	Assembly	36.01%
46	Maggie Carlton	D	Assembly	35.56%
46	James Ohrenschall	D	Assembly	35.56%
48	Teresa Benitez-Thompson	D	Assembly	35.26%
49	Michael Sprinkle	D	Assembly	35.11%
49	Paul Aizley	D	Assembly	35.11%
49	Lesley Cohen	D	Assembly	35.11%
49	Ellen Spiegel	D	Assembly	35.11%
53	Andrew Martin	D	Assembly	34.42%
54	Dina Neal	D	Assembly	34.22%
55	Irene Bustamante Adams	D	Assembly	33.77%
56	Tyrone Thompson	D	Assembly	33.16%
57	Peggy Pierce*	D	Assembly	32.89%
58	Skip Daly	D	Assembly	32.87%
59	Heidi Swank	D	Assembly	31.52%
60	Lucy Flores	D	Assembly	30.63%
60	Jason Frierson	D	Assembly	30.63%
62	Olivia Diaz	D	Assembly	30.19%
63	Andy Eisen	D	Assembly	30.18%

* Absent for a substantial number of graded floor votes, due to illness or family event.

Grading the governor

Of the 74 bills that received floor votes and were cataloged in NPRI's legislative report card, 63 made it to the governor's desk. Each bill before him then demanded a decision: to approve or to veto.

These 63 Sandoval decisions constitute an important dimension of the governor's role within the legislative process. They also yield a significant and revealing metric for his performance within this responsibility.

It should be noted, of course, that a governor's decision to approve or veto a bill is institutionally and qualitatively different from a lawmaker's decision to vote yes or no on that particular bill, and a governor only gets to act on bills that pass both chambers of the Legislature.

Based upon Gov. Sandoval's decision to sign many new taxes, tax-authorization bills and costly regulations into law, however – while vetoing only four of the bills NPRI identified as hostile to economic liberty – his performance rating calculates out to 36.11 percent.

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