Solutions 2015

A Sourcebook for Nevada Policymakers

Foreword

During what is being called Nevada's economic "recovery," the Silver State's economy has grown more slowly than that of any state west of Missouri, with the exception of Alaska.

That's a far cry from what was normal for the state in the decades before the Great Recession.

To date, entrenched special interests have led the fight against the types of transformational policy changes that would catapult the state into the forefront of those offering the greatest opportunities to their citizens.

To be sure, lawmakers took welcome steps in 2011 toward implementing performance-based budgeting. In 2013, however, politicians made new commitments handily outpacing revenue growth — expanding both Medicaid eligibility and ineffective educational programs. Public liabilities for unsustainable pensions and other benefits continue to accumulate and are pushing major municipalities to the brink of insolvency.

On the education front, Nevada parents have limited options, and this lack of options forces most parents to enroll their children in a failing monopoly that allocates money poorly and produces some of the worst graduation rates in the nation. Initial momentum in 2011 to free up charter schools and create a meaningful evaluation system for teachers has stalled as a powerful lobby for the status quo has fought back every subsequent attempt at reform.

We Nevadans cannot afford to see our fledgling recovery undone. Lawmakers must create the policy environment that will facilitate educational achievement and economic growth for generations to come.

To that end, I am proud to present *Solutions 2015*, a book of research and policy recommendations that, if enacted, would accomplish those objectives.

Building and expanding upon *Solutions 2013*, NPRI's director of research and *Solutions 2015* author Geoffrey Lawrence has spent hundreds of hours digging through budget documents, academic studies and best practices from other states. His concise summaries of over 50 issue areas provide lawmakers with needed information and recommendations in an easy-to-use reference format.

Regardless of where your political sympathies are, I hope you will consider these ideas and this research on their merits. I know this book will be useful to all as a sourcebook of information.

We all look forward to a future in which more and more individuals will choose to say, as in the state song, "Home means Nevada to me."

Andy Matthews
President
Nevada Policy Research Institute

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Spending Trends

Over the past two decades, lawmakers have nearly tripled the size of Nevada's General Fund, growing state spending from $1.2 billion in FY 1994 to $3.3 billion for FY 2015.

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 accounts for only about 40 percent of total state spending.

In addition to the General Fund, state spending includes federal dollars that are received to help pay for state-administered entitlement programs like Medicaid. Lawmakers have also established, and bear responsibility for, many secondary accounts like the highway fund and the permanent school fund, through which additional billions are spent annually.

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 percent as lawmakers increased government 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.

Despite recent reductions, current spending still outpaces historical levels. Although lawmakers were compelled to reduce per-capita spending in recent budget cycles because of plummeting state revenue growth during the Great Recession, inflation-adjusted per-capita spending remains higher than it was prior to the 2003 tax hikes.

In fact, since the 2003 tax hikes, lawmakers have spent a cumulative $5.0 billion beyond the inflation-adjusted per-capita spending levels that existed in the decade beginning in FY 1994 and ending in FY 2003.

Recommendations

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

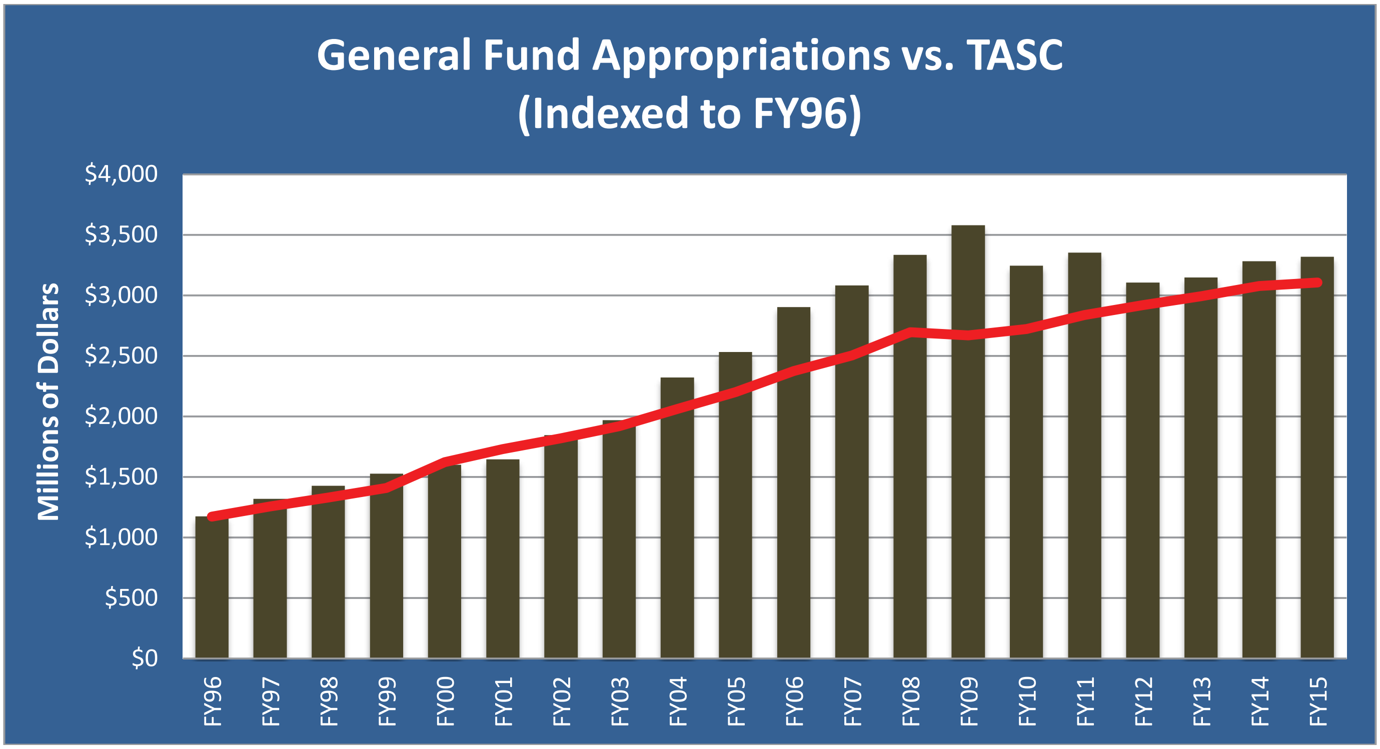
Opponents of TASC have argued that Nevada spending already has population-growth and inflation controls on it since the governor's Executive Budget proposal is prohibited from exceeding the per-capita spending level that occurred in the 1975-1977 biennium, indexed for inflation. This limitation is meaningless, however, because lawmakers are free to add as much spending as they like to the governor's proposal with no restraint whatsoever.[1]

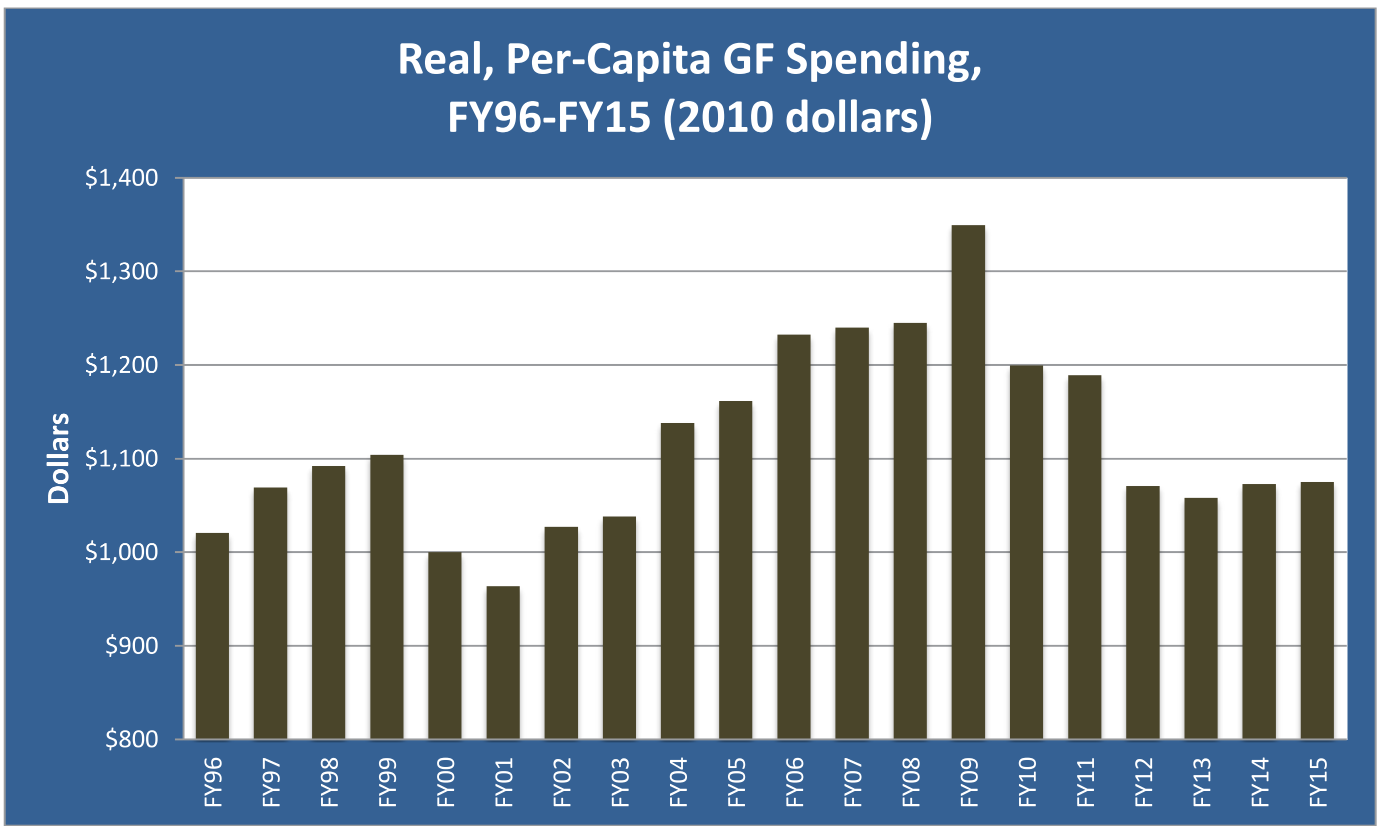
With TASC in place, lawmakers who are convinced of the merits of higher spending on a given program would first need to find savings elsewhere in the budget.

TASC would offer long-term certainty to potential investors and job-creators in Nevada by curtailing the perpetual drive for new taxes.

As such, 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.

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


General Fund Appropriations vs. TASC
(Indexed to FY96)
Millions of Dollars
$4,000
$3,500
$3,000
$2,500
$2,000
$1,500
$1,000
$500
$0
FY96
FY97
FY98
FY99
FY00
FY01
FY02
FY03
FY04
FY05
FY06
FY07
FY08
FY09
FY10
FY11
FY12
FY13
FY14
FY15


Real, Per-Capita GF Spending,
FY96-FY15 (2010 dollars)
Dollars
$1,400
$1,300
$1,200
$1,100
$1,000
$900
$800
FY96
FY97
FY98
FY99
FY00
FY01
FY02
FY03
FY04
FY05
FY06
FY07
FY08
FY09
FY10
FY11
FY12
FY13
FY14
FY15

Structural Reform: Charter Agencies

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

The new performance-based budgeting process now required as a result of 2011 legislation will finally begin to change this culture. This new accountability will be meaningless, however, if agency directors do not gain the flexibility needed to determine the best way to accomplish the Legislature's objectives.

Lawmakers should recognize that those with the greatest knowledge and insight into how public services can most effectively be delivered are often the employees of the state agencies. 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 experimented, highlighting broad policy objectives and allowing agency directors to determine the best means of achieving those objectives.

To ensure accountability, annual contracts were signed by agency directors, specifying the performance metrics they would be responsible for meeting at the risk of dismissal. They further agreed to smaller general fund allocations.

In exchange, directors who opted into the program 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.

Further, agencies that met their goals 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 results have been phenomenal. Even as Iowans saved millions of dollars, they saw remarkable improvements in the quality of public services. Iowa's "charter agency" approach has since been recognized with an Innovations in American Government Award from Harvard University's Kennedy School of Government.[1]

Recommendations

Clarify the goals and metrics. Nevada's new performance-based budgeting approach will place agency directors before lawmakers, reporting on the progress made toward specific objectives. It will be up to lawmakers to clearly outline the policy objectives they most highly value and to identify appropriate metrics for evaluating progress toward those goals.

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 introduced as Assembly Bill 371. Additional guidance may be provided by the 2003 enabling legislation from Iowa, SF 453 and HF 837. Agency directors who opt in should be signed to performance contracts that outline their responsibilities for meeting legislatively defined goals. These contracts should reward each agency increase in excellence with more and more agency discretion.

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

Charter Agency Successes 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 percent.
- Increased the number of female inmates receiving meaningful work experience by 50 percent while reducing operating costs by $700,000 per year.
- Increased the number of parole recommendations by five percent in one year.

Department of Revenue

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

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 percent.
- Increased the number of children with health care coverage by 12 percent in FY05 alone.

Iowa Veterans Home

- Reduced the number of residents experiencing moderate to severe pain by 50 percent.
- Reduced admission waiting times by increasing the rate of admissions processed within 30 days from 69 percent in FY04 to 90 percent 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 extending the state controller a broad mandate and sufficient funding to conduct performance audits at the 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. To date, the office has conducted 30 performance audits and has conducted reviews of more than 80 state and local governments, programs and services.

State and local governments in Washington report they have saved over $1 billion as a result of implementing the performance auditor's recommendations since the first performance audit was published in 2007. Over just the past four years, actual savings have amounted to more than $780 million. What's more, the auditor's advice has been accepted with enthusiasm, as 84 percent of recommendations have been 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 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 is a far more significant component of public spending than state expenditure. Therefore, while performance audits of state agencies will be valuable, the financial impact could be far greater if the controller also examines local government operations.

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

[2] Washington State Auditor's Office, "Annual Performance Audit Progress Report: Report No. 100777," November 2013.

Performance Audits in Washington State

Name of Audit	*Audit's Findings*
Department of Transportation — Congestion Management	Provided recommendations for reducing road congestion 20 percent 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

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, and then
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, Gov. 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] although legislative staff has shown a continued reluctance to facilitate the performance-based approach.

However, the legislation passed in 2011 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 the use of tax dollars, recognizing that the *results* of state programs — and not just policymaker intentions — are what matter. Not every spending program will produce, or has produced, a result that taxpayers value.

There is no entitlement to public money. Bureaucrats approaching lawmakers with funding requests often do so with 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.

[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.

The burden of proof should be on the 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 process in 2003, its policymakers realized significant cost savings through 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 over just the 2003-2005 budget cycle, while also receiving far greater value from their state government. The approach is still in use today, and allowed Washington lawmakers to pass a balanced 2011-2013 budget with no new revenue.[3]

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 is crucial to that effort.

[3] 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 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.

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	Current
Buy Next	56	Supt of Public Instruction	Curriculum and Instruction - Programs	Align curriculum, Instruction and Assessment	Math and Science Standards
Buy Next	57	Supt of Public Instruction	Highly Capable Student Education	Support parent and community 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

Tax Reform

For decades, Nevada lawmakers have discussed the possibility of tax "reform." Indeed, they have commissioned a growing library of studies to examine tax-reform possibilities — only to later ignore the recommendations of those studies.

It should be noted that Nevada's most prominent fiscal challenges have occurred on the spending side of the ledger — not the revenue side. After all, real per-capita spending remains higher today than it was two decades ago. Given this reality, there is little reason to believe that Silver State government suffers from insufficient revenue.

Nevertheless, NPRI 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 committed these revenues to expand government programs and liabilities, even though such expansion regularly proves unsustainable when economic recession arrives.

When recessions do occur, downward volatility enlarges the deficit between revenues and the inflated spending levels that lawmakers committed to during previous periods of economic growth. Historically, lawmakers have then 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. This causes a destruction of jobs and wealth as individuals are pushed 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, encouraging instead immediate consumption.

Compliance costs should be kept to a minimum. Complicated taxing mechanisms, such as the federal income tax, carry additional costs, since 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 will amount to $483 billion in 2015 — more than one-fifth of the total revenue collected from the tax![1]

Nevada lawmakers should avoid tax instruments that use complex arrays of deductions and stratified income brackets.

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 to ensure economic efficiency (vertical equity). Tax structures that are either overly regressive or overly progressive can obstruct economic growth.

Recommendations

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

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 show how to correct these deficiencies.

All four major objectives of tax reform — together optimizing Nevada's economic climate — can be accomplished through a *revenue-neutral* expansion of the sales tax base. NPRI has laid out a plan for expanding the sales-tax base with a consequent lowering of the statewide sales tax rate to 3.5 percent.[2] That analysis should serve as a primary guideline to any potential tax-reform effort.

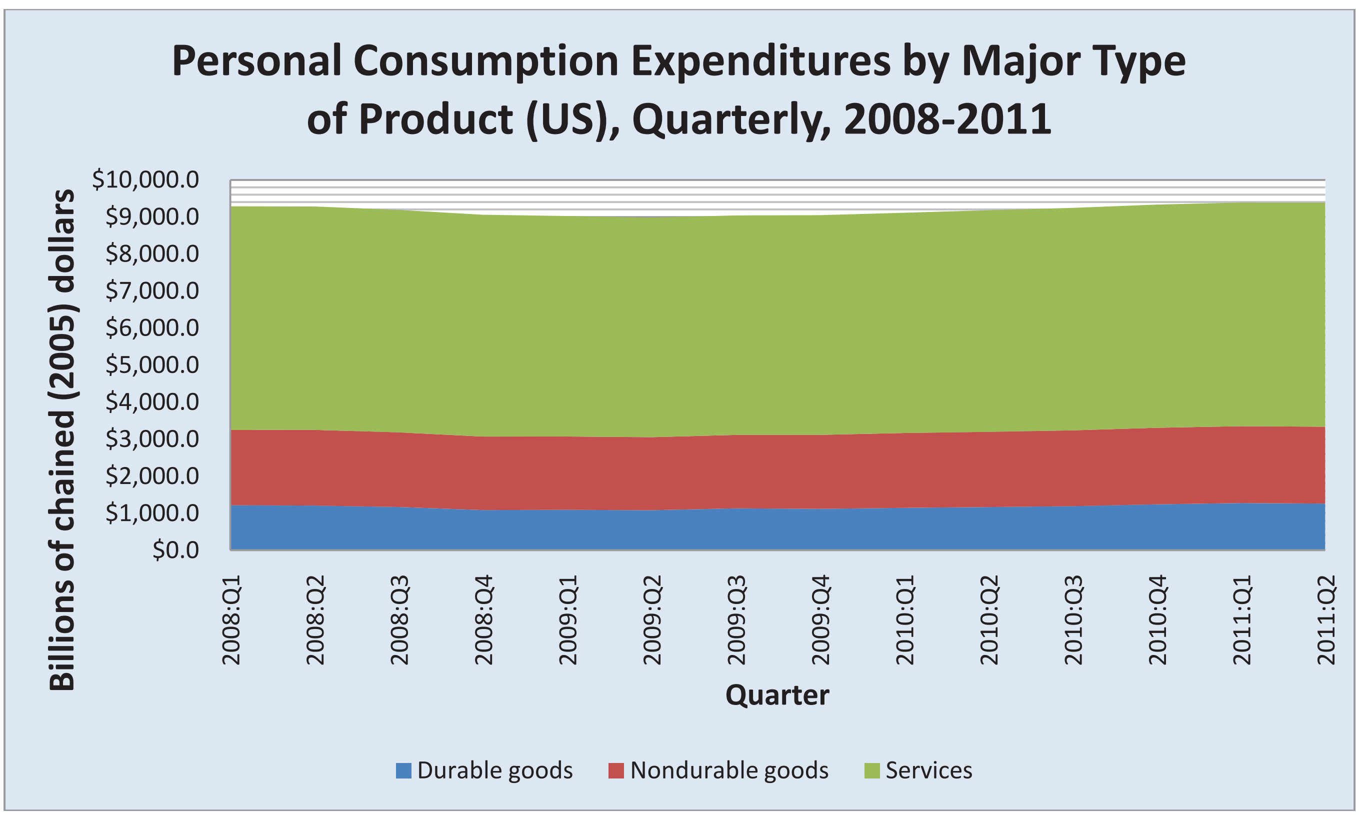
[1] Tax Foundation, Tax Data, Total Federal Income Tax Compliance Costs 1990-2015.

[2] Geoffrey Lawrence, "One Sound State, Once Again," Nevada Policy Research Institute policy study, 2010.

Volatility Levels of Major Tax Instruments in NV, FY99-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.



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

Business Margin Tax

In 2011, some lawmakers proposed a new tax instrument to be levied against Nevada businesses. Modeled after a Texas tax instrument of the same name, the proposed business margin tax would be assessed against firms with total taxable year revenue exceeding $1,000,000. For these firms, the proposed tax rate of 0.8 percent would be assessed against the least of:

A) 70 percent of total revenue,
B) Total revenue minus wages, or
C) Total revenue minus the cost of goods sold

The next year, state chapters of the AFL-CIO and the teacher union qualified a modified version of the proposal as a ballot initiative. The modified version more than doubled the rate of assessment to 2 percent and also changed some key legal definitions. After lawmakers failed to cast a vote on the proposal in 2013, the initiative appeared on the 2014 ballot.

Key Points

The business margin tax is a modified gross-receipts tax. Because the margin tax is assessed against gross business income, even businesses that lose money over the course of a year would face a new tax liability. This reality can accelerate the instance of firm closure and cause firms to lay off workers.

Gross receipts taxes are 'distortive and destructive.' The Tax Foundation calls gross-receipts taxation "distortive and destructive," because such taxes "pyramid," as they are 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 and would retard Nevada's economic diversification. As the Tax Foundation says, "Gross receipts taxes do not belong in any program of tax reform."[1]

A margin tax imposes high compliance costs. With a variety of deductions, margin taxes are extremely complicated. This is compounded by the vague legal definitions of terms such as "cost of goods sold." Consequently, high compliance costs accompany margin taxes, imposing disproportionate burdens on small businesses, which lack the accounting expertise to navigate the tax.

Changes to the 'affiliated group' definition could wreak havoc. In Texas, firms are considered an "affiliated group" for tax purposes if more than 80 percent of ownership is held in common. For the Nevada proposal, however, firms could be forced to file taxes jointly as an affiliated group even if they have only minority ownership in common.[2]

Nearly every major organization in Nevada opposes the margin tax. Prominent supporters of the margin tax include only the state teacher union and four state lawmakers. By contrast, nearly half of lawmakers have publicly condemned the margin tax along with the governor, both the Democrat and Republican nominees for lieutenant governor, and every major business group. Even the AFL-CIO — the measure's earliest supporter — now opposes it.

Recommendations

Reject any proposal for a margin tax. Tax scholar John L. Mikesell has appropriately referred to the margin tax as a "badly designed business profits tax … combin[ing] all the problems of minimum income taxation in general — excess compliance and administrative cost, penalization of the unsuccessful business, undesirable incentive impacts, doubtful equity basis — with those of taxation according to gross receipts."[3]

The Tax Foundation also declares, "there is no sensible case for gross receipts taxation, or modified gross receipts taxes such as a Texas-style margin tax."[4]

Indeed, there is broad consensus among tax economists that gross receipts or margin taxes are more destructive than alternative tax instruments yielding the same amount of revenue. As such, Nevada lawmakers should never consider the imposition of a margin tax in the Silver State.

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

[2] Geoffrey Lawrence, "Overlooked Problem with the Margin Tax," Nevada Policy Research Institute commentary, June 2014.

[3] John L. Mikesell, "Gross Receipts Taxes in State Government Finances," Tax Foundation & Council on State Taxation Background Paper No. 53, 2007.

[4] Henchman, note 1.

Estimated Economic Impact of Margin Tax (2013 $)		
Economic Indicators	**By 2015**	**By 2018**
Private Employment (jobs)	(3,610)	(3,670)
Public Employment (jobs)	1,970	2,115
Net Employment (jobs)	(1,640)	(1,555)
Investment ($ million)	(7.1)	(7.2)
Real Disposable Income ($ million)	(240)	(245)

Estimated Employment Effect of Margin Tax, by Sector		
	By 2015	**By 2018**
Agriculture, forestry and fishing	(16)	(16)
Mining	(40)	(39)
Construction	(140)	(146)
Food and tobacco products	(25)	(25)
Textiles and apparel	(2)	(2)
Building materials	(15)	(16)
Paper and publishing	(19)	(19)
Chemicals, petroleum, rubber and plastics	(13)	(13)
Electrical equipment and appliances	(1)	(1)
Computer and electronic manufacturing	(5)	(6)
Motor vehicles and other transportation vehicles	(3)	(3)
Primary and fabricated metal	(12)	(12)
Industrial machinery and equipment	(3)	(3)
Other manufacturing(includes metals machinery and other)	(30)	(30)
Transportation and warehousing	(161)	(161)
Information	(115)	(116)
Electricity, gas and utilities	(13)	(12)
Wholesale trade	(71)	(74)
Retail trade	(527)	(545)
Banking and finance	(366)	(358)
Insurance	(84)	(85)
Real estate, rental and leasing	(428)	(431)
Professional, technical and scientific services	(51)	(40)
Management, administrative and waste services	(221)	(228)
Health services and social assistance	(295)	(299)
Hotels, arts, food service and entertainment	(822)	(858)
Educational and other services	(130)	(129)

* Local School Support Tax, Basic City-County Relief Tax, Supplemental City-County Relief Tax

Source: Paul Bachman et al., "The Fiscal and Economic Impact of a Margin Tax on Nevada: A Dynamic General-Equilibrium Analysis," Nevada Policy Research Institute policy study, July 2014.

State Lottery

From session to session, Nevada lawmakers have repeatedly considered the creation of a state-run lottery to provide additional state revenue. However, in so doing, lawmakers have deliberately 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 three percent 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]

[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.

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]

[5] *Ibid,* p. 17.

State Lottery Revenues, by State, 2012

State	Income	Prizes	Administration	Net Proceeds
Alabama	--	--	--	--
Alaska	--	--	--	--
Arizona	$602,885,000	$396,714,000	$41,355,000	$164,816,000
Arkansas	$446,867,000	$315,319,000	$37,112,000	$94,436,000
California	$4,075,662,000	$2,560,307,000	$209,355,000	$1,306,000,000
Colorado	$503,663,000	$347,537,000	$39,363,000	$116,763,000
Connecticut	$1,021,000,000	$659,898,000	$42,315,000	$318,787,000
Delaware	$415,324,000	$85,649,000	$49,000,000	$280,675,000
Florida	$4,208,504,000	$2,766,119,000	$136,386,000	$1,305,999,000
Georgia	$3,335,602,000	$2,289,811,000	$142,758,000	$903,033,000
Hawaii	--	--	--	--
Idaho	$162,110,000	$108,862,000	$10,168,000	$43,080,000
Illinois	$2,676,996,000	$1,620,405,000	$303,626,000	$752,965,000
Indiana	$795,549,000	$532,962,000	$51,971,000	$210,616,000
Iowa	$310,852,000	$182,442,000	$48,948,000	$79,462,000
Kansas	$231,759,000	$138,904,000	$19,199,000	$73,656,000
Kentucky	$716,961,000	$459,164,000	$39,102,000	$218,695,000
Louisiana	$405,827,000	$226,283,000	$25,172,000	$154,372,000
Maine	$213,448,000	$144,019,000	$15,327,000	$54,102,000
Maryland	$1,807,299,000	$1,065,654,000	$71,833,000	$669,812,000
Massachusetts	$4,462,613,000	$3,396,833,000	$91,142,000	$974,638,000
Michigan	$2,207,472,000	$1,398,162,000	$65,167,000	$744,143,000
Minnesota	$488,618,000	$338,750,000	$25,479,000	$124,389,000
Mississippi	--	--	--	--
Missouri	$1,030,891,000	$722,079,000	$44,651,000	$264,161,000
Montana	$49,471,000	$28,615,000	$7,582,000	$13,274,000
Nebraska	$160,068,000	$87,393,000	$17,086,000	$55,589,000
Nevada	--	--	--	--
New Hampshire	$240,092,000	$158,887,000	$15,008,000	$66,197,000
New Jersey	$2,605,242,000	$1,655,553,000	$74,167,000	$875,522,000
New Mexico	$114,651,000	$74,918,000	$5,030,000	$34,703,000
New York	$7,402,515,000	$4,130,406,000	$345,693,000	$2,926,416,000
North Carolina	$1,484,460,000	$961,320,000	$68,141,000	$454,999,000
North Dakota	$25,273,000	$13,407,000	$4,155,000	$7,711,000
Ohio	$2,566,938,000	$1,680,790,000	$87,256,000	$798,892,000
Oklahoma	$213,088,000	$103,053,000	$10,890,000	$99,145,000
Oregon	$848,726,000	$238,279,000	$73,103,000	$537,344,000
Pennsylvania	$3,240,661,000	$2,120,500,000	$69,059,000	$1,051,102,000
Rhode Island	$539,661,000	$155,108,000	$6,272,000	$378,281,000
South Carolina	$1,055,296,000	$721,380,000	$37,428,000	$296,488,000
South Dakota	$138,572,000	$29,239,000	$7,392,000	$101,941,000
Tennessee	$1,224,679,000	$676,218,000	$54,134,000	$494,327,000
Texas	$3,964,939,000	$2,632,624,000	$402,453,000	$929,862,000
Utah	--	--	--	--
Vermont	$95,012,000	$64,408,000	$8,249,000	$22,355,000
Virginia	$1,525,328,000	$962,282,000	$74,541,000	$488,505,000
Washington	$501,813,000	$311,545,000	$45,034,000	$145,234,000
West Virginia	$783,163,000	$120,606,000	$37,825,000	$624,732,000
Wisconsin	$547,641,000	$320,115,000	$40,183,000	$187,343,000
Wyoming	--	--	--	--

Source: U.S. Census Bureau, State Government Finances, Income and Apportionment of State-Administered Lottery Funds, 2012.

Film Tax Credit

In 2013, lawmakers created a new, transferable tax credit for film production in Nevada. The credit is worth up to 19 percent of total production costs and can be applied against most gaming or business tax liabilities in the state.[1]

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.[2]

The state Office of Economic Development, which administers the new tax credit program, was permitted to award as much as $20 million annually in transferrable film tax credits through the end of calendar year 2017. During 2014's legislative special session, 90 percent of the funds were "re-purposed" toward Tesla subsidies.

Key Points

The value of the credit far exceeds film producers' actual tax liability. SB 165 instructs the Office of Economic Development to reward qualified applicants a tax credit equaling 15 percent of total production costs at minimum, while applicants can qualify to receive up to 19 percent of production costs by meeting certain additional requirements. The value of this credit, however, 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 — almost always from the film industry — like to cite Louisiana's program as a model of success, as they did during hearings for SB 165. In 1992, Louisiana became the first state 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.[3]

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."[4]

Similarly, an analysis in Ohio 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 additional revenue. In other words, Ohio loses 79 cents on the dollar.[5]

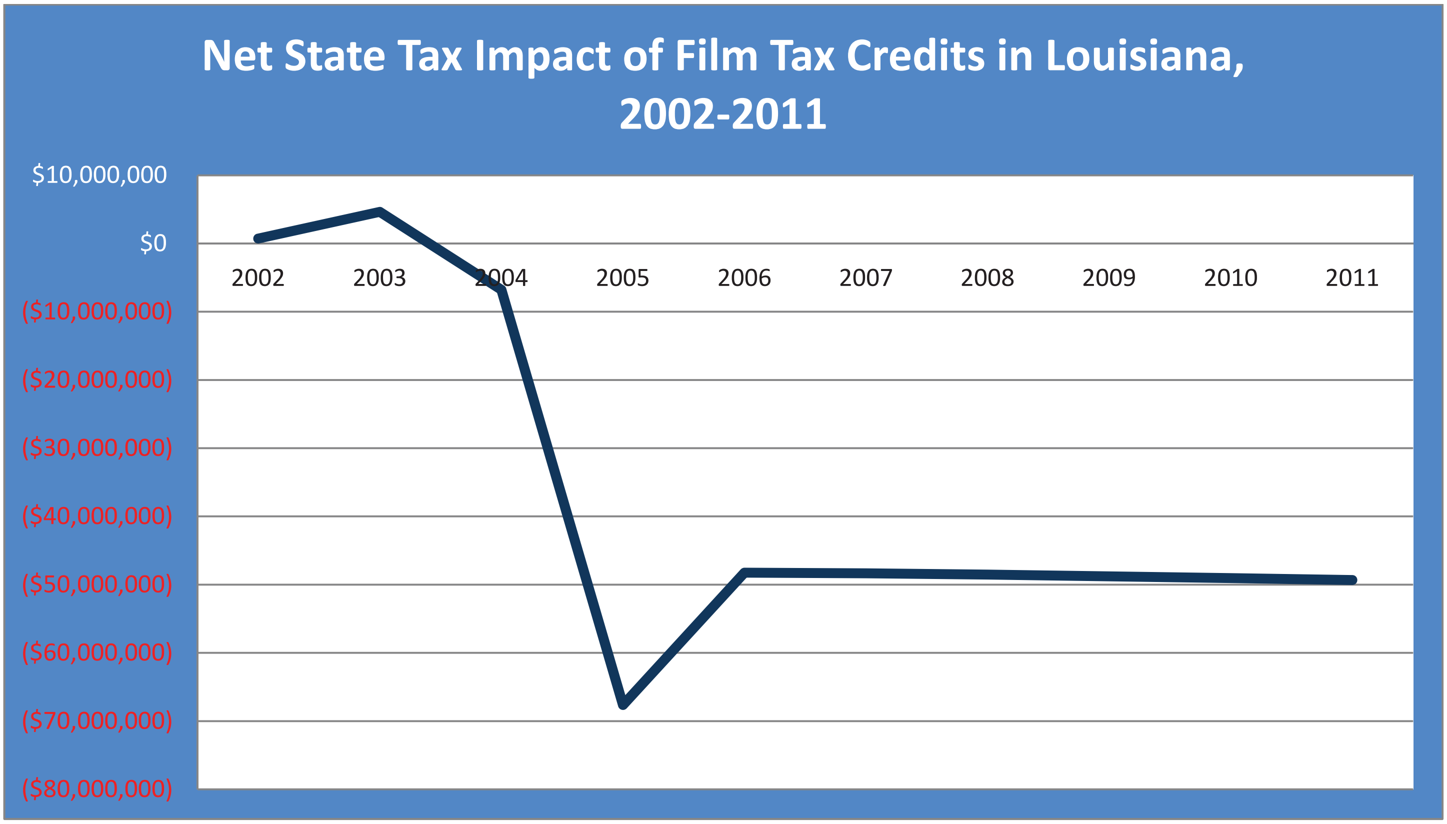
After failing to live up to hype, other states are now eliminating film tax credits. Nevada chose to enact its film tax credits at a time when other states are scaling back or ending theirs. Since 2009, at least eight states have either eliminated their film tax credits are stopped appropriating money for them. Nine other states have scaled back the value of the credits offered or the total amounts available for the credit.[6]

Recommendations

Do not revive the film tax credit. Nevada has much greater needs for $20 million per year than to subsidize wealthy film producers.

[1] Nevada Legislature, 77th Session, Senate Bill 165.
[2] Geoffrey Lawrence, "Can Hollywood be 'Caged' in Nevada?" NPRI commentary, October 2, 2013.

[3] State of Louisiana, Legislative Fiscal Office, "Film and Video Tax Incentives: Estimated Economic and Fiscal Impacts," March 2005.
[4] North Carolina General Assembly, Legislative Services Office, Fiscal Research Division, "Memorandum: Film Tax Credits," April 9, 2013.
[5] Candi Clouse, "Analysis and Economic Impact of the Film Industry in Northeast Ohio & Ohio," Cleveland State University, Center for Economic Development, March 2012.
[6] Joseph Henchman, "More States Abandon Film Tax Incentives as Programs' Ineffectiveness Becomes More Apparent," Tax Foundation Fiscal Fact No. 272, June 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.

PERS: Assessing the Liability

Official financial statements from the Nevada Public Employees' Retirement System indicate that, at the close of FY 2013, the system held $29.1 billion in assets versus $42.0 billion in liabilities. This ratio would mean that PERS has a funding ratio of 69.3 percent and an unfunded liability of $12.9 billion.[1]

However, the actuarial accounting method used by PERS and other public-sector pension programs is at odds with the Generally Accepted Accounting Principles that the SEC requires all other public companies to use. 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 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 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 (8 percent) to calculate the present value of liabilities. However, economists agree that liabilities should be calculated independently of assets, which are uncertain over time. Liabilities can be calculated with more certainty.

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 whenever risky investments do not achieve the expected yield.

[1] Nevada PERS, Comprehensive Annual Financial Report, FY 2013.

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

PERS accounting encourages risky behavior. Because PERS does not price for risk, its administrators can — on paper — strengthen PERS financial position simply by investing its resources in increasingly risky assets and assuming higher rates of return. PERS accounting practices allow administrators to incorporate these illusory gains into the balance sheet immediately — despite the fact that those gains might never actually be realized in the marketplace.

PERS' expected rate of return is unrealistic. PERS assumes that it can receive an 8 percent return on investments every year into perpetuity. However, PERS returns over the past 10 years have averaged only 3.8 percent.

PERS is 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 20 years ago to around 3 percent today.

Therefore, the PERS-assumed rate of return should be adjusted downward to reflect today's lower yield of zero-risk or risk-adjusted assets. This will re-incorporate the contingent liability that PERS has pushed off onto taxpayers and reveal the true size of the system's unfunded liability — estimated at $41 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. The current PERS accounting method obscures the magnitude of those commitments.

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

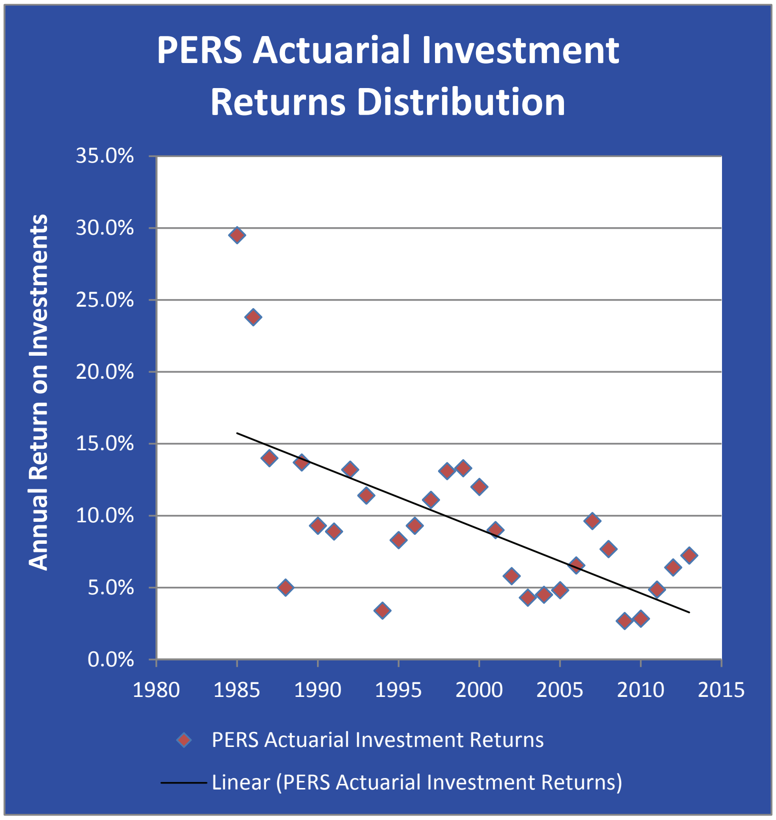
[3] *Ibid.*

[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.

Nevada PERS' Actuarial Returns*

Fiscal Year	Actuarial Return
1985	29.5%
1986	23.8%
1987	14.0%
1988	5.0%
1989	13.7%
1990	9.3%
1991	8.9%
1992	13.2%
1993	11.4%
1994	3.4%
1995	8.3%
1996	9.3%
1997	11.1%
1998	13.1%
1999	13.3%
2000	12.0%
2001	9.0%
2002	5.8%
2003	4.3%
2004	4.5%
2005	4.8%
2006	6.5%
2007	9.6%
2008	7.7%
2009	2.7%
2010	2.8%
2011	4.9%
2012	6.4%
2013	7.2%

* Book Value accounting used prior to fiscal year 1985



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.

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 currently approaches $41 billion.[1]

That amount is nearly seven times the annual payroll of all state and local governments that participate in PERS. Put another way, PERS' unfunded liability is slightly larger than all spending from the state general fund between FY 1986 and FY 2010 — a period of 25 years.

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.

To arrest or even reverse the growth in unfunded pension liabilities will require a significant restructuring of benefits.

Key Points

Defined-benefits (DB) pension plans leave taxpayers vulnerable. 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 taxpayers' required annual contributions to make up the difference. Thus, taxpayers — in addition to bearing the risk on their own retirement savings — are forced to bear PERS investment risks as well.

Defined-contribution (DC) retirement plans offer taxpayers greater assurance. DC plans inoculate taxpayers from PERS investment risk. Similar to a private-sector 401(k), a DC plan would have taxpayers contributing a set amount into government workers' personal retirement accounts, with government workers assuming their own investment risk — as do most private-sector workers.

DC plans benefit government workers in addition to taxpayers. If Nevada shifted to a DC retirement system, government workers would see many important benefits. First, DC plans are both personal and portable. Under the current, collectivized DB system, workers cannot take their retirement savings with them if they change jobs, resulting in "job lock." Portability of retirement benefits can thus make public service more attractive to younger workers.

Second, retirement savings in a DC account are a tangible asset that retirees can pass on to their children, upon death. This is not true of a DB plan. In the case of early or untimely death, retirees in a DB program lose their claim to full pension benefits even though they may name a "survivor" to receive partial benefits. In this case, retirees can become net losers, having contributed more money into the collectivized system than they and their survivors will ever receive.

Shifting to a DC plan can be costly in the short term. As PERS administrators have noted, an abrupt, not-well-planned shift to a DC plan could accelerate the amortization schedule of the unfunded liabilities that Nevada's DB plan has already incurred. Such a shift would require larger taxpayer contributions until PERS collects enough assets to cover its accrued liabilities. Although already destined to incur these costs, taxpayers would have to do so on a shorter timeline.

A hybrid approach allows such short-term costs to be avoided. Utah lawmakers created one such hybrid plan in 2010. It allows workers to participate in either a DB or DC retirement plan but it limits taxpayer contributions in either case to 10 percent of the workers' pay. Because Utah will continue its DB plan on an optional basis, its taxpayers will be able to avoid an accelerated amortization schedule for the DB system's accrued unfunded liability.

Recommendations

Restructure pension benefits around a Utah-style hybrid system. Nevada lawmakers should protect Silver State taxpayers from the open-ended liabilities associated with DB pension plans by adopting pension reform along the lines of Utah's hybrid system. Utah's system was put in place with the enactment of Senate Bill 63 from Utah's 2010 General Legislative Session, which should serve as a model to guide Nevadans.[2]

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

[2] Utah Legislature, 2010 General Session, Senate Bill 63, Third Substitute.

Current Structure of NV PERS

Initial employee + taxpayer contributions	+	Return on investment	=	Liabilities (promised retirement benefits)	–	Contingent liability

1. **Initial contributions.** State employees contribute a percentage of their salary toward retirement and that amount is matched by state taxpayers. These contributions currently total to 25.75 percent of wages for regular employees and 40.5 percent of wages for police and firefighters.

   At the local government level, retirement contribution rates are subject to collective bargaining agreements and, in many cases, retirement benefits are completely funded by taxpayers with public employees making no contribution toward their own retirement.

2. **Return on investment.** PERS administrators invest the retirement fund contributions made by employees and taxpayers in a combination of stocks, bonds and private equities in order to gain capital earnings. Currently, PERS' targeted rate of return is eight percent per annum, although PERS average annual yield over the past 10 years has been only 3.8 percent.

3. **Liabilities.** PERS is responsible for paying retirement benefits to participating employees calculated as a percentage of their highest-earning 36 consecutive months of employment. Calculating the total future liability facing PERS can be difficult because so many variables are involved, including: length of career, life expectancy, future pay raises, etc.

4. **Contingent liability.** Any time PERS' investment earnings fall short of its annual 8 percent target, its assets fail to keep track of its accrued liabilities (the retirement promises made to government workers). As a result, a corresponding share of PERS liabilities becomes "unfunded." To account for this unfunded liability, PERS increases the mandatory taxpayer contribution rates in subsequent years. Over time, retirement contributions grow to consume an ever larger proportion of state and local government finances — especially within local governments whose collective bargaining agreements exempt workers from contributing to their own retirement.

Structure of PERS under Utah Reform Model

Employee contributions	+	Taxpayer match (10 percent of wages)	+	Return on investment	=	DB retirement	OR	DC retirement

OPEB Liability

Beginning in FY 2008, new accounting standards became effective for state and local governments, requiring these agencies, for the first time, to carry on their balance sheets the full cost of future retiree benefits other than pensions.[1] These Other Post Employment Benefits (OPEB) in Nevada 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 valuation made by actuaries after the change revealed that the present value of future benefits would exceed $4 billion. Further, 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 would need 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 a structure of premium support combined with state contributions into a modified version of Health Savings Account, called a Health Reimbursement Account (HRA).[3]

Key Points

The 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 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 2013), the present value of future benefits is $1.95 billion.[5]

Despite progress, the program remains dramatically underfunded. The most recent statements show that only 0.1 percent of OPEB obligations are funded. The Public Employees' Benefits Program, which administers these benefits, holds only $1.3 million in assets against an actuarial accrued liability of $1.18 *billion*. As a result, Nevada governments would still need to contribute $68 million per year to retire the unfunded liability over the next three decades, *in addition* to the normal contribution of $74 million.

State and local governments are not making the required annual contribution. During FY 2013, Nevada's governments only paid 38.7 percent 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 percent of the required contribution was made and, in FY 2010, only 21.6 percent 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 required contributions toward OPEB obligations already incurred. Failure to address this issue will only make the problem worse. In the brief time since OPEB benefits were successfully restructured, failure to keep up with the required payments has already caused the unfunded accrued liability to creep up 24.7 percent.

[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] Aon Hewitt, "Nevada PEBP's Retiree Health and Life Insurance Plans Actuarial Valuation – Final," FY 2013.

State of Nevada Public Employees' Benefit Program Valuation Results (GASB 43/45)	FY 2008	FY 2010	FY 2011	FY 2013
Discount Rate	4.0%	4.0%	4.0%	4.0%
Present Value of Benefits				
Retirees	$800,378,000	$863,386,000	$493,453,000	$570,508,000
Terminated Vesteds	-	$25,022,000	$34,639,000	$46,063,000
Actives	$3,201,260,000	$2,374,955,000	$1,240,618,000	$1,334,853,000
Total	*$4,001,638,000*	*$3,263,363,000*	*$1,768,710,000*	*$1,951,424,000*
Actuarial Accrued Liability				
Retirees	$800,378,000	$863,386,000	$493,453,000	$570,508,000
Terminated Vesteds	-	$25,022,000	$34,639,000	$46,063,000
Actives	$1,446,776,000	$985,597,000	$448,953,000	$566,195,000
Total	$2,247,154,000	*$1,874,005,000*	*$977,045,000*	*$1,182,766,000*
Assets	$0	$23,536,000	$29,895,000	$1,278,000
Unfunded Actuarial Accrued Liability (UAAL)	$2,247,154,000	$1,850,469,000	$947,150,000	$1,181,488,000
Annual Required Contribution				
Normal Cost	$156,177,000	$113,735,000	$65,185,000	$74,130,000
Amortization of UAAL	$129,953,000	$108,374,000	$54,774,000	$68,325,000
Total	*$286,130,000*	*$222,109,000*	*$119,959,000*	*$142,455,000*
Participants				
Actives	26,346	27,068	26,085	19,657
Terminated Vesteds	-	1,311	1,688	1,688
Retirees and Disableds	7,126	8,206	8,569	8,693
Total	*33,472*	*36,590*	*36,342*	*30,038*

Source: Nevada Public Employees' Benefit Program OPEB Actuarial Reports.

Local Government Debt

Cities, counties and school districts in Nevada are legal subdivisions of the state. Nevada, unlike many other states, 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.

Consequently, state legislators have a special obligation to 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 $2.2 billion annually. The minimum debt payment for all local governments combined will be $2.215 billion for FY14, with Clark County governments owing $1.924 billion of that total.[1] Statewide, local governments' annual debt payments amount to 67.5 percent of total state general fund spending for FY14.

In total, local government debt is nearing $23 billion. As of June 30, 2013, the total of outstanding local government obligations in Nevada was $22.562 billion. That amount is 27.4 percent of the statewide assessed valuation total of $82.215 billion.

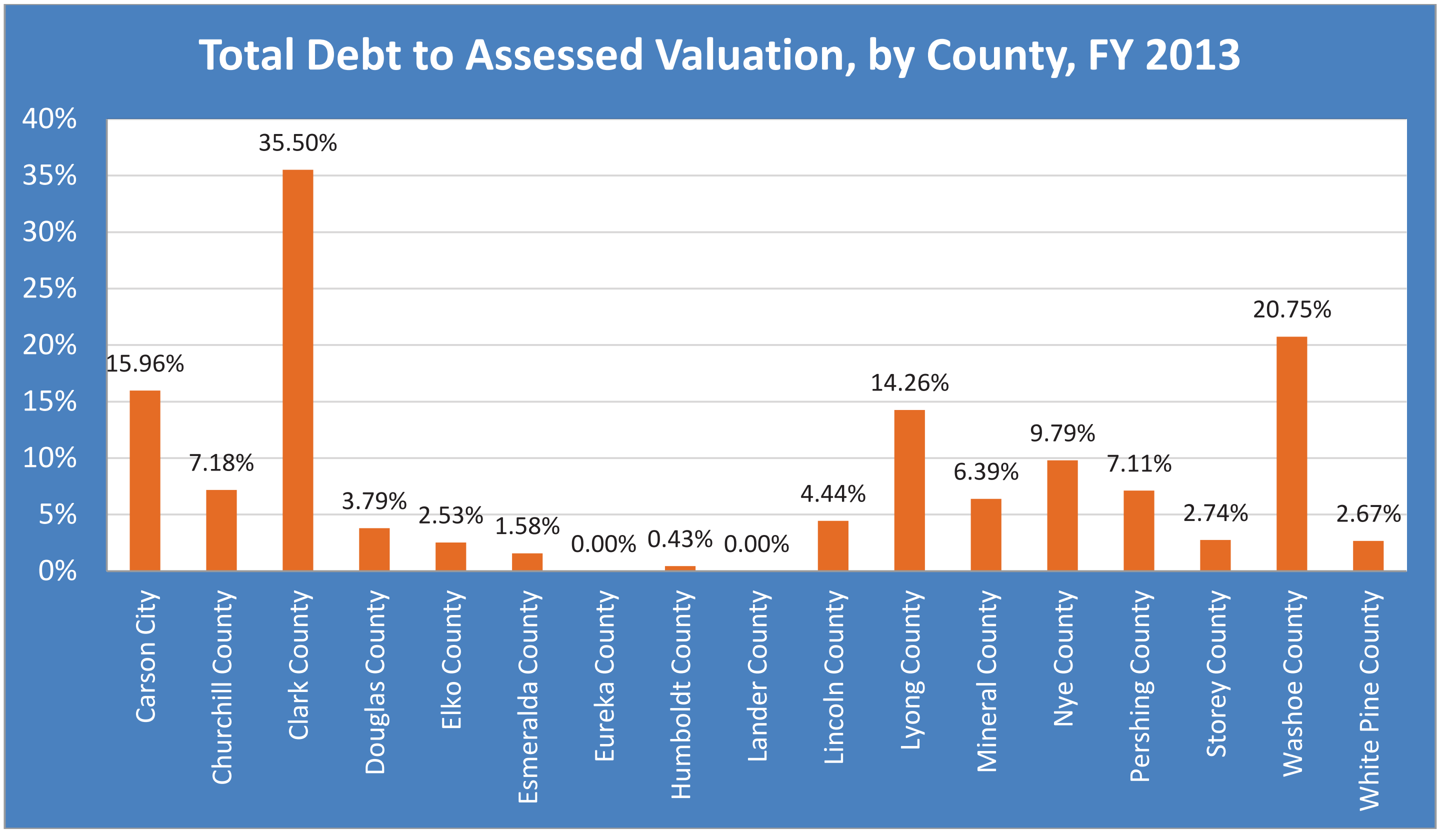
Recommendations

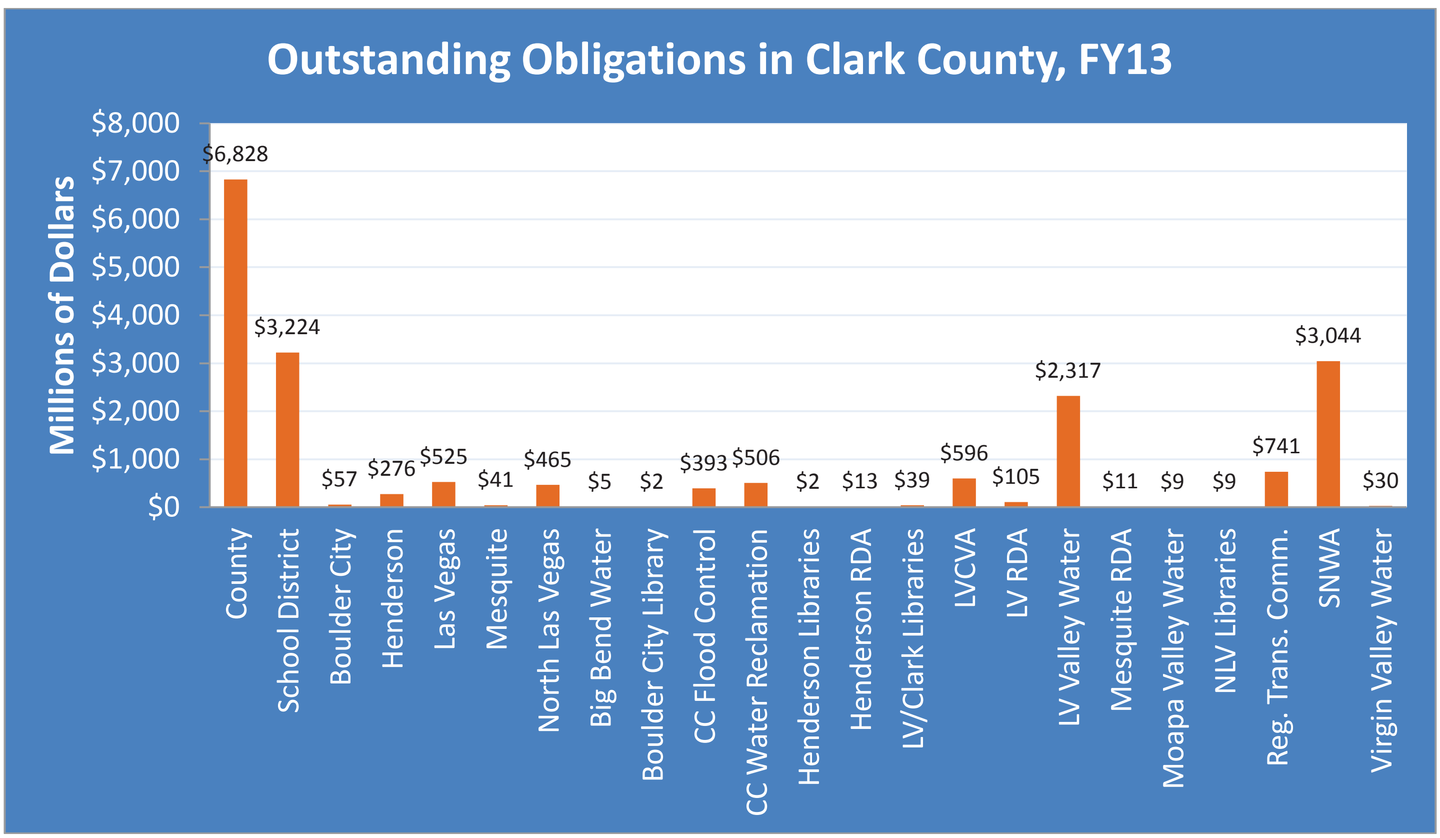
Reduce construction costs by repealing prevailing wage requirements. The bulk of local government bonds are issued to finance the construction of public infrastructure. These costs — and the bond issues required to finance them — can be dramatically reduced by repealing the state's prevailing wage requirements,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

[1] State of Nevada, Department of Taxation, Division of Assessment Standards, "FY 2012-2013 Report of Local Government Indebtedness," 2013.

[2] See "Prevailing Wage."





Source: State of Nevada, Department of Taxation, "FY 2012-2013 Report of Local Government Indebtedness."

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 self-evident 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. Historical evidence, however, reveals a marked inability of public school districts 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 — frequently fail to allocate resources cost-effectively.

Key Points

Nevada has nearly tripled per-pupil funding, on an inflation-adjusted basis, while educational quality has deteriorated. The U.S. Department of Education reports that, between FY1960 and FY2011, real, per-pupil funding for "current expenditures" (not accounting for employee benefits, capital outlays and debt repayment) increased from $3,268 to $9,035.[1] Over the same time period, test scores have remained flat while graduation rates have dramatically declined.[2]

The highest spending states have some of the worst results. No state spends more per pupil than the District of Columbia, which also suffers the nation's *worst* test scores — nearly two full grade levels below the national average on eighth-grade reading and math tests. Other high-spending states with mediocre results include Alaska, New York, Hawaii and Rhode Island.[3]

A majority of states that spend less than Nevada boast higher test scores. According to the U.S. Department of Education, Arizona, Idaho, Mississippi, North Carolina, Oklahoma, Tennessee and Utah all spent less per pupil in FY11 than did Nevada. All except Arizona and Mississippi performed better on the eighth grade NAEP reading test and all except Mississippi and Oklahoma performed better on the math test.[4]

Nevada is a high spender for its neighborhood, but a low performer. Among Nevada's five regional neighbors, only California and Oregon spend more per pupil. However, of the five, *only* California underperforms Nevada on both reading and math tests.[5]

Student achievement is directly 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, grading schools and teachers based upon student performance, open enrollment and maintaining strict academic standards.[6]

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 California — a regionally high-spending state. Nevada's educational challenges are structural and not funding related.

Build on reforms enacted in 2011. In 2011, lawmakers agreed to legislation creating an alternative teacher certification program, a statewide charter school authority, a meaningful evaluation system for teachers and a teacher merit pay program.

Those reforms should be regarded as merely the beginning and not the end. School choice programs, online learning, charter school growth and other important reforms have the potential to rapidly increase the cost-effectiveness of public education spending and deliver better results.[7]

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[1] U.S. Department of Education, National Center for Education Statistics, Digest of Education Statistics, 2013.
[2] *Ibid.*
[3] *Ibid.*
[4] *Ibid.*
[5] *Ibid.*
[6] 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.
[7] Geoffrey Lawrence, "33 Ways to Increase Student Achievement without Spending More," Nevada Policy Research Institute policy study, July 2014.

State	Total Per-Pupil Spending (FY11)	Rank	NAEP Eight Grade Reading Scores (2013)	Rank	NAEP Eight Grade Math Scores (2013)	Rank
Alabama	$9,653	43	257	T-46	269	50
Alaska	$18,333	4	261	T-42	282	T-31
Arizona	$9,183	46	260	T-44	280	T-37
Arkansas	$11,120	30	262	T-38	278	T-41
California	$10,594	37	262	T-38	276	T-44
Colorado	$10,298	40	271	T-10	290	T-7
Connecticut	$17,480	6	274	T-3	285	T-23
Delaware	$14,117	13	266	T-30	282	T-31
District of Columbia	$28,403	1	248	51	265	51
Florida	$10,162	42	266	T-30	281	T-34
Georgia	$10,227	41	265	T-34	279	40
Hawaii	$12,946	18	260	T-44	281	T-34
Idaho	$7,624	51	270	T-13	286	T-21
Illinois	$13,135	15	267	T-25	285	T-23
Indiana	$10,405	39	267	T-25	288	T-15
Iowa	$11,757	26	269	T-16	285	T-23
Kansas	$12,033	25	267	T-25	290	T-7
Kentucky	$10,570	38	270	T-13	281	T-34
Louisiana	$12,141	23	257	T-46	273	T-47
Maine	$13,761	14	269	T-16	289	T-12
Maryland	$15,516	8	274	T-3	287	T-19
Massachusetts	$15,342	10	277	1	301	1
Michigan	$12,041	24	266	T-30	280	T-37
Minnesota	$12,406	20	271	T-10	295	T-4
Mississippi	$8,643	48	253	50	271	49
Missouri	$10,746	34	267	T-25	283	30
Montana	$11,572	27	272	T-7	289	T-12
Nebraska	$13,072	17	269	T-16	285	T-23
Nevada	$9,650	44	262	T-38	278	T-41
New Hampshire	$14,836	12	274	T-3	296	T-2
New Jersey	$17,940	5	276	2	296	T-2
New Mexico	$10,759	33	256	49	273	T-47
New York	$20,174	2	266	T-30	282	T-31
North Carolina	$8,862	47	265	T-34	286	T-21
North Dakota	$12,362	21	268	T-20	291	6
Ohio	$13,130	16	269	T-16	290	T-7
Oklahoma	$8,493	49	262	T-38	276	T-44
Oregon	$10,821	31	268	T-20	284	T-27
Pennsylvania	$14,956	11	272	T-7	290	T-7
Rhode Island	$15,624	7	267	T-25	284	T-27
South Carolina	$10,821	32	261	T-42	280	T-37
South Dakota	$10,658	35	268	T-20	287	T-19
Tennessee	$9,325	45	265	T-34	278	T-41
Texas	$10,611	36	264	37	288	T-15
Utah	$7,749	50	270	T-13	284	T-27
Vermont	$15,511	9	274	T-3	295	T-4
Virginia	$11,360	29	268	T-20	288	T-15
Washington	$11,465	28	272	T-7	290	T-7
West Virginia	$12,263	22	257	T-46	274	46
Wisconsin	$12,823	19	268	T-20	289	T-12
Wyoming	$18,474	3	271	T-10	288	T-15

School Choice

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, in order to attract and retain customers, they must offer a product consumers are willing to pay for.

Yet, in the realm of education — arguably the most significant area of an individual's life — most Nevadans have been deprived of choice. Instead, they have been forced into a state-run monopoly. The outcome has been predictable: As monopoly educators have been protected from the accountability that choice imposes, Nevada's K-12 education system has grown ever-more expensive without any commensurate increase in quality. If Nevada's public school system is to prepare the next generation of Nevadans to compete in a global economy and, hopefully, lead the way into a new era of successful entrepreneurship, then greater accountability will be required. The best means of achieving that is through choice.

It is important to remember that *public* schools are not necessarily synonymous with a government monopoly on schools. Just as Food 4 Less and Albertson's serve the public as privately owned grocers, so, too, can private schools play an important role in providing for the public's education needs by expanding the realm of school choice.

Key Points

Private schools cost less. Nevada's largest school districts currently spend between $11,000 and $14,000 per pupil when all expenditures are considered. On the other hand, 79 percent of private schools nationwide charge tuition rates of less than $10,000 and 30 percent of private schools charge tuition of less than $3,500.[1]

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.[2] Also, graduation rates and the likelihood of attending college are far higher among private school students.[3]

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.[4]

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 improved graduation rates even for those who choose to remain in a government school.[5]

Recommendations

Create a Public Education Tax Credit and scholarship program. Allow businesses facing a tax liability in Nevada — such as the Modified Business Tax or sales tax — to receive a dollar-for-dollar tax credit for donations into a scholarship fund that would finance the educational dreams of Nevada's children. NPRI has already designed such a plan, which can be found on its website.[6]

Create Educational Savings Accounts. ESAs are private accounts held by individuals from which beneficiaries can make certain approved purchases for educational reasons. These include private-school tuition, online education, textbooks, transportation costs or private tutoring. Arizona became the first state to offer ESAs in 2011, and the idea has since been replicated in Florida. In Arizona, ESAs are available to students enrolled in failing schools and students with special needs. Beneficiaries receive 90 percent of per-student base funding in their ESA, and unspent monies remain in the account to help pay future college tuition costs.

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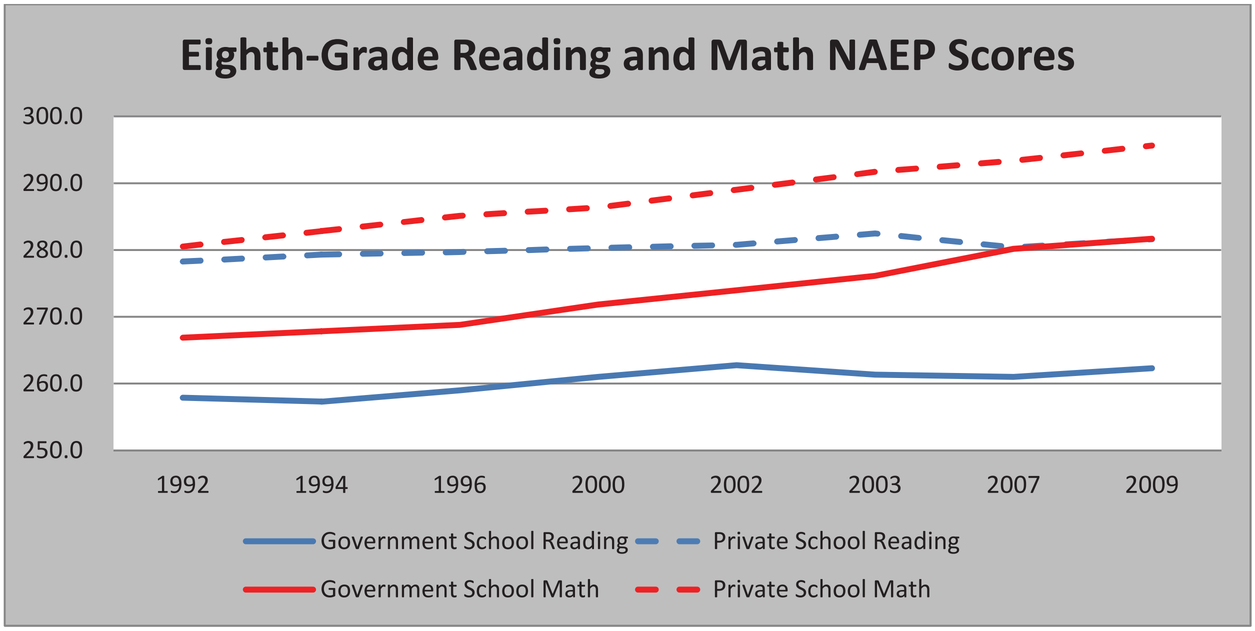
[1] U.S. Department of Education, National Center for Education Statistics, Digest of Education Statistics, 2013.
[2] *Ibid.*
[3] *Ibid.*
[4] See, e.g., Greg Forster, Ph.D., "A Win-Win Solution: The Empirical Evidence on School Vouchers," The Foundation for Educational Choice, 2011.
[5] *Ibid.*
[6] Andrew Coulson, "Choosing to Save: The Fiscal Impact of Education Tax Credits on the State of Nevada," Nevada Policy Research Institute, 2009, http://www.npri.org/publications/choosing-to-save.



Estimated Annual Savings from Public Education Tax Credit

Year	Net Annual Savings	Total Public School Spending	Private School Enrollment	Public School Enrollment	Existing Private Students Eligible if prev. yr grade less or = to:
	0	$10,019	30,745	425,872	N/A
1	$9,398,565	$10,105	38,217	418,400	Kindergarten
2	$21,839,268	$10,208	46,788	409,829	1
3	$38,725,997	$10,336	56,966	399,651	2
4	$60,300,016	$10,493	68,838	387,779	3
5	$86,552,205	$10,686	82,402	374,215	4
6	$117,142,801	$10,917	97,534	359,083	5
7	$83,723,768	$11,192	113,974	342,643	12
8	$131,741,506	$11,513	131,331	325,286	12
9	$180,922,914	$11,879	149,108	307,509	12
10	$229,757,936	$12,286	166,760	289,857	12
11	$276,778,346	$12,729	183,756	272,861	12
12	$320,728,025	$13,195	199,642	256,975	12
13	$360,682,852	$13,672	214,085	242,532	12
14	$396,099,637	$14,145	226,886	229,731	12
15	$426,797,480	$14,599	237,983	218,634	12
16	$452,892,091	$15,024	247,415	209,202	12
17	$474,709,114	$15,409	255,301	201,316	12
18	$492,698,393	$15,750	261,803	194,814	12
19	$507,362,544	$16,046	267,104	189,513	12
20	$519,204,957	$16,297	271,385	185,232	12
21	$528,696,613	$16,506	274,815	181,802	12
22	$536,258,177	$16,679	277,549	179,068	12
23	$542,253,093	$16,820	279,716	176,901	12
24	$546,987,769	$16,933	281,427	175,190	12
25	$550,715,826	$17,024	282,775	173,842	12

Charter Schools

Charter schools are public schools under the direction of an autonomous board. 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 42 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 them to first obtain support of the competing public school 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 to sponsor new charter schools. In 2013, lawmakers created a comprehensive performance framework that charter schools would be responsible for meeting to remain in operation and also gave charter schools bonding authority to meet capital needs.[2]

Key Points

Charter schools encourage innovation. The very 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 over five times more likely to offer innovative merit-pay incentives.[3] Charters are also more likely to hire alternatively certified teachers.[4]

Charter schools serve more 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 these populations generally perform well in a charter environment.[5]

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.[6] In Chicago, for instance, lottery-winning students performed about five percentile points higher in both reading and math.[7]

Recommendations

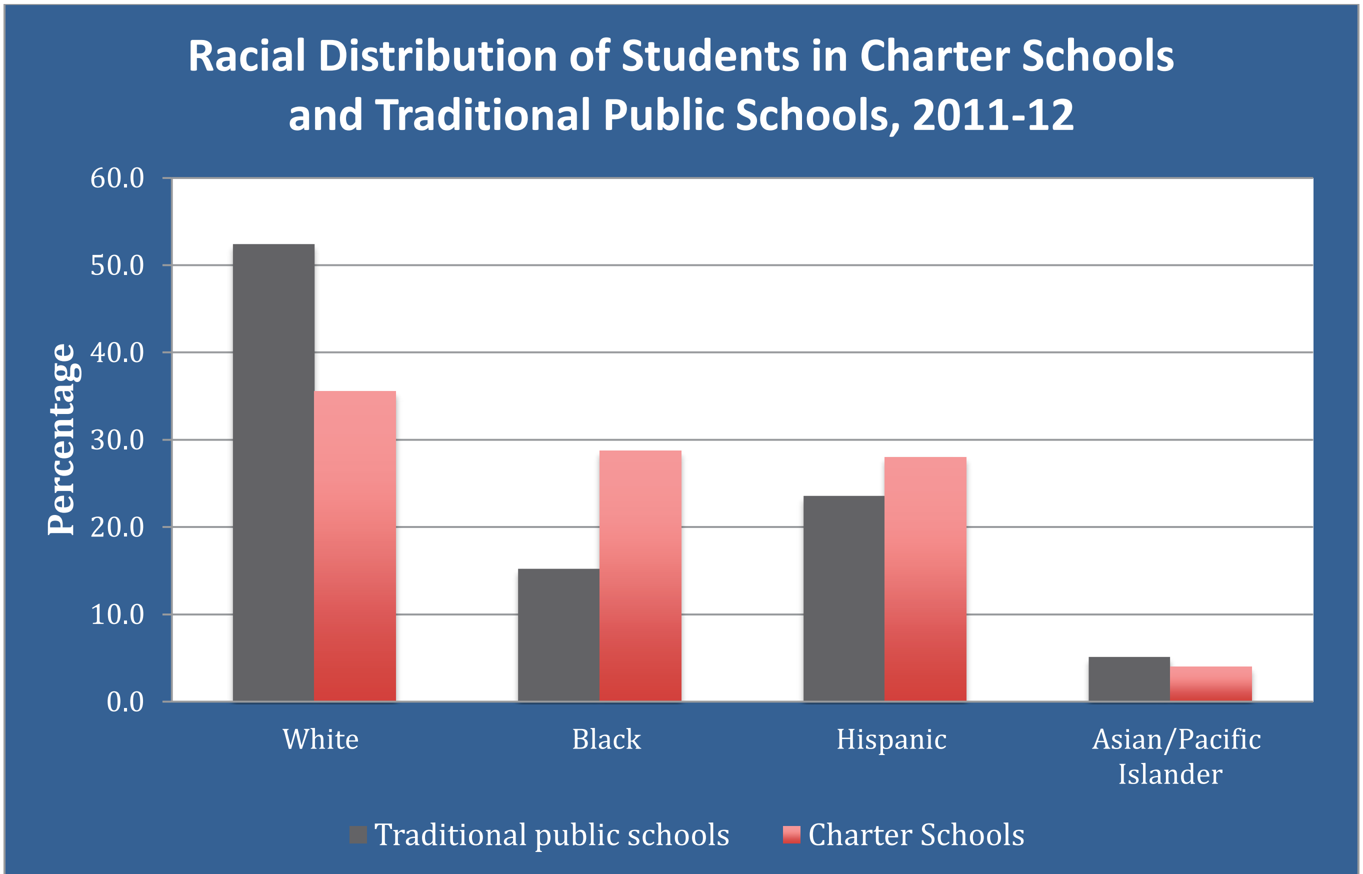
Establish a "Recovery School District." Taxpayers should not be forced to subsidize failure factories. If a district-run school cannot meet the educational needs of Nevada families, then it should close and have its staff reorganized and potentially converted into a charter school. Lawmakers can model this change after Louisiana's Recovery School District — a special statewide school district that helps failing schools transition into successful charter schools.

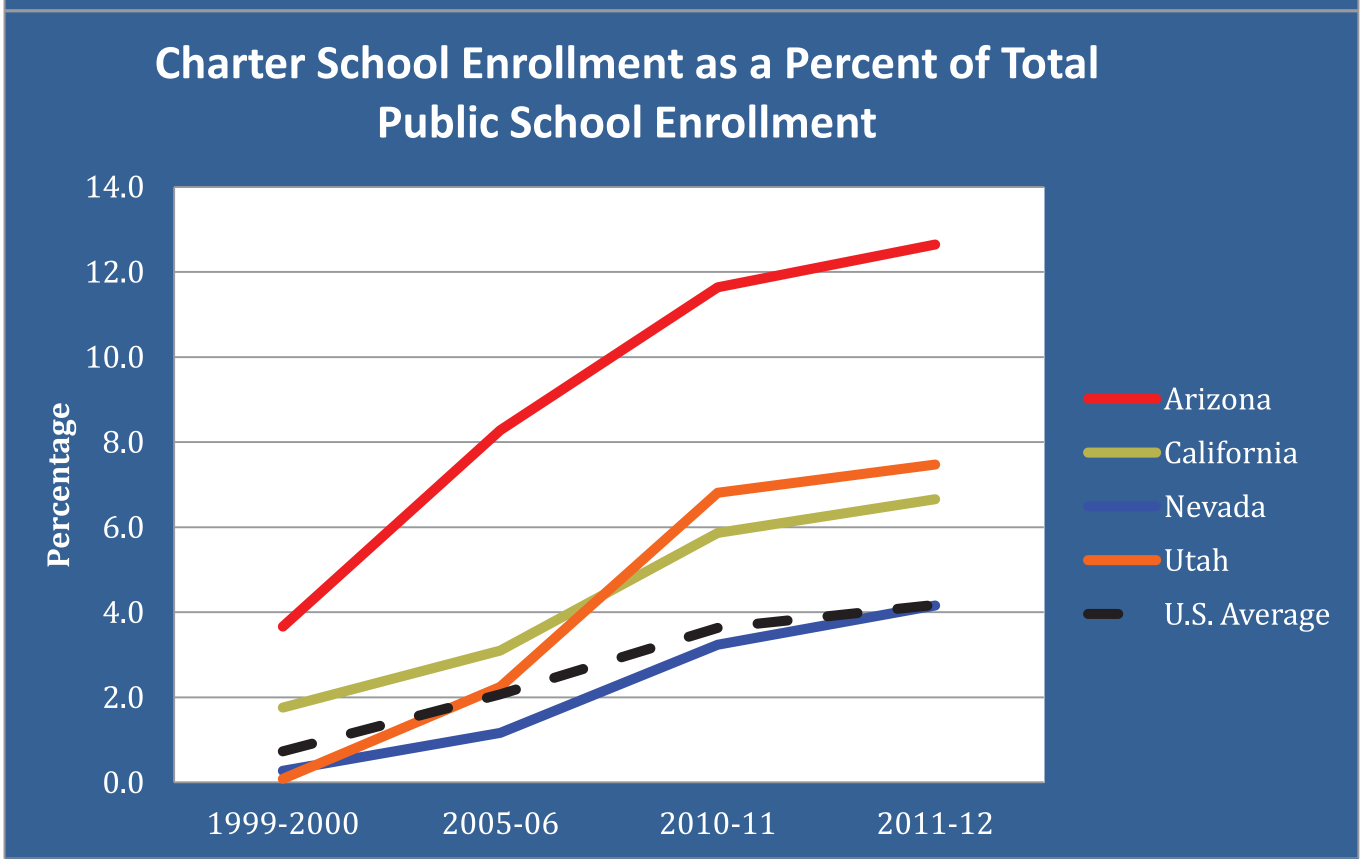
Create a "parent trigger." California state Sen. Gloria Romero authored the nation's first "parent trigger" law in 2010 that allows parents to transform failing traditional schools into charter schools if a majority of them sign a petition demanding such changes. While less systematic than the "Recovery School District," the parent trigger has been replicated in at least seven states. Nevada lawmakers heard three separate proposals to enact a parent trigger in 2013.

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.[8]

Allow charter contracts to cover multiple branches. According to the National Alliance for Public Charter Schools, a key improvement in Nevada's law would allow a single contract to cover multiple branches of a charter school.

[1] Geoffrey Lawrence, "33 Ways to Improve Nevada Education Without Spending More," NPRI policy study, July 2014.
[2] Ibid.
[3] Julie Kowal et al., "Teacher Compensation in Charter and Private Schools," Center for American Progress, 2007.
[4] U.S. Dept. of Education, "Evaluation of the Public Charter Schools Program, Final Report," 2004.
[5] Ibid.
[6] Lawrence, note 1.
[7] Caroline Hoxby and Jonah Rockoff, "Findings from the City of Big Shoulders," *Education Next*, 2005.
[8] CEE-Trust, "Charter School Incubation," 2011.





Source: U.S. Department of Education, National Center for Education Statistics, Digest of Education Statistics, 2013.

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 that 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 21.75 percent of jobs nationwide require applicants to hold a bachelor's degree or higher in order to be competitive. By 2018, this figure will increase only slightly — to 22.97 percent.[2]

The most prevalent qualification, for 72.19 percent of jobs in today's economy, is on-the-job training or related work experience. Possession of a postsecondary vocational credential accounts for an additional 6.03 percent.[3]

The proportion of Nevada residents holding degrees is in line with employer demand. Despite the many problems with public education in the Silver State, the U.S. Census Bureau reports that 22.2 percent of Nevadans age 25 and older hold a bachelor's degree or higher.[4] This is slightly higher than the employer demand for degreed professionals.

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 low graduation rates. It also means that including vocational programs in the educational curriculum is 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.

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[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, 2008-2018."
[3] *Ibid.*
[4] U.S. Department of Commerce, U.S. Census Bureau, American Community Survey, 2008-2012.
[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.
[6] James Kauffman and Daniel Hallahan, Teaching Children with Learning Disabilities, Merrill, 1976.
[7] Marisa Castellano, "The Effect of CTE-Enhanced Whole-School Reform on Student Coursetaking and Performance in English and Science," National Research Center for Career and Technical Education, Univ. of Minnesota, 2004.
[8] Texas Education Agency, Achieve Texas, "Achieve Texas in Action: A Best Practices Guide for Educators and Local Partners," 2010.

U.S. Occupations with the Largest Job Growth, 2008-2018, in Rank Order						
Rank	Occupation	Employment		Change		Most Prevalent Training
		2008	2018	Number	%	
1.	Registered nurses	2,618,700	3,200,200	581,500	22.20	Associate degree
2.	Home health aides	921,700	1,382,600	460,900	50.01	Short-term on-the-job training
3.	Customer service representatives	2,252,400	2,651,900	399,500	17.74	Moderate-term on-the-job training
4.	Combined food preparation and serving workers, including fast food	2,701,700	3,096,000	394,300	14.59	Short-term on-the-job training
5.	Personal and home care aides	817,200	1,193,000	375,800	45.99	Short-term on-the-job training
6.	Retail salespersons	4,489,200	4,863,900	374,700	8.35	Short-term on-the-job training
7.	Office clerks, general	3,024,400	3,383,100	358,700	11.86	Short-term on-the-job training
8.	Accountants and auditors	1,290,600	1,570,000	279,400	21.65	Bachelor's degree
9.	Nursing aides, orderlies, and attendants	1,469,800	1,745,800	276,000	18.78	Postsecondary vocational award
10.	Postsecondary teachers	1,699,200	1,956,100	256,900	15.12	Doctoral degree
11.	Construction laborers	1,248,700	1,504,600	255,900	20.49	Moderate-term on-the-job training
12.	Elementary school teachers, except special education	1,549,500	1,793,700	244,200	15.76	Bachelor's degree
13.	Truck drivers, heavy and tractor-trailer	1,798,400	2,031,300	232,900	12.95	Short-term on-the-job training
14.	Landscaping and groundskeeping workers	1,205,800	1,422,900	217,100	18.00	Short-term on-the-job training
15.	Bookkeeping, accounting, and auditing clerks	2,063,800	2,276,200	212,400	10.29	Moderate-term on-the-job training
16.	Executive secretaries and administrative assistants	1,594,400	1,798,800	204,400	12.82	Work experience in a related occupation
17.	Management analysts	746,900	925,200	178,300	23.87	Bachelor's or higher degree, plus work experience
18.	Computer software engineers, applications	514,800	689,900	175,100	34.01	Bachelor's degree
19.	Receptionists and information clerks	1,139,200	1,312,100	172,900	15.18	Short-term on-the-job training
20.	Carpenters	1,284,900	1,450,300	165,400	12.87	Long-term on-the-job training
21.	Medical assistants	483,600	647,500	163,900	33.90	Moderate-term on-the-job training
22.	First-line supervisors/managers of office and administrative support workers	1,457,200	1,617,500	160,300	11.00	Work experience in a related occupation
23.	Network systems and data communications analysts	292,000	447,800	155,800	53.36	Bachelor's degree
24.	Licensed practical and licensed vocational nurses	753,600	909,200	155,600	20.65	Postsecondary vocational award
25.	Security guards	1,076,600	1,229,100	152,500	14.16	Short-term on-the-job training
26.	Waiters and waitresses	2,381,600	2,533,300	151,600	6.37	Short-term on-the-job training
27.	Maintenance and repair workers, general	1,361,300	1,509,200	147,900	10.86	Moderate-term on-the-job training
28.	Physicians and surgeons	661,400	805,500	144,100	21.79	First professional degree
29.	Child care workers	1,301,900	1,443,900	142,100	10.91	Short-term on-the-job training
30.	Teacher assistants	1,312,700	1,447,600	134,900	10.28	Short-term on-the-job training

Source: U.S. Department of Labor, Bureau of Labor Statistics, “National Employment Matrix, 2008-2018.”

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 with the following conditions:

- The required education and training may be provided by any qualified provider that has been approved by the Commission, including institutions of higher education and other providers that operate independently of an institution of higher education;

- The education and training required under the alternative route to licensure may be completed in two years or less; and

- Upon an individual's completion of the alternative education and training requirements, and the satisfaction of all other requirements for licensure, the person *must* be issued a regular license.[2]

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.[3]

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 was created by strict certification requirements.[4]

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.[5]

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.[6]

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 certain 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.[7] Nevada should as well.

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[1] Nevada Legislature, 76th Session, Senate Bill 315.
[2] *Ibid.*
[3] Robert Gordon et al., "Identifying Effective Teachers Using Performance on the Job," Brookings Institution, The Hamilton Project, Discussion Paper 2006-01, 2006.
[4] Geoffrey Lawrence, "33 Ways to Improve Nevada Education Without Spending More," NPRI policy study, July 2014.
[5] Paul Peterson, "What Happens When States Have Genuine Alternative Certification," Education Next, Vol. 9, No. 1, 2009.
[6] *Ibid.*
[7] Op cit., Lawrence, note 4.

Alternative Certification and Minority Teacher Representation (States with genuine alternative certification are shaded.)

State	Teachers % Minority	Population over 21 % Minority	Index of Representation
Louisiana	27.4	35.8	0.77
Alabama	21.2	28.6	0.74
Florida	24.8	34.2	0.73
Maryland	23.9	34.7	0.69
Mississippi	26.7	38.6	0.69
New Mexico	29.7	44.4	0.67
Tennessee	13.6	19.8	0.69
Texas	31.3	45.8	0.68
California	22.8	40.5	0.56
Georgia	20.2	36.3	0.56
Michigan	11.1	18.4	0.60
Montana	1.6	2.7	0.59
North Carolina	16.7	27.9	0.60
Pennsylvania	8	14.4	0.56
South Carolina	17.9	32.6	0.55
Virginia	16.1	25.8	0.62
West Virginia	2.6	4.3	0.60
Arkansas	10	20.3	0.49
Delaware	11.8	26.4	0.45
New Jersey	13	28.5	0.46
Ohio	7.5	14.6	0.51
Wisconsin	4.7	10.4	0.45
Arizona	13.4	30.9	0.43
Colorado	8	22.8	0.35
Hawaii	3.7	8.7	0.43
Indiana	5.5	13.4	0.41
Maine	0.7	1.9	0.37
Massachusetts	6	13.9	0.43
Missouri	6.3	14.4	0.44
New York	11.8	31.5	0.37
Oregon	4.3	11.4	0.38
Alaska	2.4	8.7	0.28
Connecticut	6.1	20.3	0.30
Illinois	9.6	29	0.33
Kentucky	3.2	9.7	0.33
Nevada	8.9	30	0.30
Oklahoma	4.2	14.3	0.29
Vermont	0.5	1.8	0.28
Wyoming	2.2	7.5	0.29
Idaho	1.6	9.3	0.17
Iowa	1.1	6.1	0.18
Kansas	3.1	14.2	0.22
Minnesota	1.6	8.1	0.20
Nebraska	2	11.3	0.18
New Hampshire	0.8	3.2	0.25
North Dakota	0.4	2.4	0.17
Rhode Island	2.6	15.7	0.17
South Dakota	0.6	2.8	0.21
Washington	2.7	12.3	0.22
Utah	1.5	11.4	0.13

Source: Paul Peterson, "What Happens When States Have Genuine Alternative Certification," 2009.

Teacher Merit Pay

Nevada lawmakers first began to experiment with performance pay for teachers in 2005, when they implemented a pilot program with an annual appropriation of $5 million. Funding for the modest program, however, 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, and 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 will likely seek to neuter the 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.

Key Points

No school-controlled factor has a greater impact on student achievement than teacher quality. As Pres. Barack Obama says, "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."[4] Volumes of research confirm that improving teacher quality is the best, most cost-effective method schools can use for elevating student performance.[5]

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. Due to teachers' inflexible pay schedules, however, the earning potential of the most talented teachers is not at all competitive with the earning potential of talented workers in other fields.[6]

Teacher compensation is not aligned with the factors that influence student achievement. Pay schedules currently reward Nevada teachers for many activities that have been demonstrated to have little impact on student performance, such as pursuit of advanced degrees in non-technical fields. There is strong evidence, however that an exclusive system of performance pay — awarded only to the top five or 10 percent of educators — can dramatically improve student performance.[7]

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. Subsequent legislation in 2013, however, delayed implementation for most school districts by at least one year and perhaps longer. It is vital that this system is implemented soon in order to generate the information necessary to conduct meaningful evaluations about educators' effectiveness.

Reward the top 10 percent of teachers with $200,000 in total compensation. Along with former Nevada Superintendent of Public Instruction and UC-Berkeley education scholar James Guthrie, NPRI has designed an exclusive performance-pay system that would help Nevada lure the world's best educators into Nevada classrooms. In exchange for working in at-risk schools and spending a portion of the summer training other teachers, the top 10 percent of Nevada teachers would be recognized as "master teachers" and receive total compensation packages of $200,000. The program is revenue-neutral and is accomplished by diverting funding currently spent on less cost-effective programs, such as class-size reduction.

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[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] The White House, "Remarks by the President to the Hispanic Chamber of Commerce," March 10, 2009.

[5] 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.

[6] James Guthrie, "The $200,000-a-Year Classroom Teacher," NPRI Policy Study, April 2013.

[7] David Figlio and Lawrence Kenny, "Individual Teacher Incentives and Student Performance," NBER Working Paper 12627, October 2006.

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 students' access to the world's most talented educators, regardless of their place of residence.

Online learning can be used to supplement the efforts of a traditional classroom teacher or can eliminate 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. This way, teachers 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 percent in English, 44 to 13 percent in math, 41 to 19 percent in science and 28 to 9 percent in social studies. The approach has since been adopted school-wide by several schools nationwide 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] Student perform better in virtual schools because they (1) spend more time on task than in traditional courses, (2) can spend more time on material they do not understand and (3) benefit from more 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 — eliminating almost all transportation, construction, and facilities maintenance costs. These are some of the largest expenditures of traditional schools. As the assessment of Florida Virtual School concludes, "it is able to offer computer-delivered instruction at a lower per-student cost than traditional schools."[6]

Recommendations

Experiment with "flipped classroom" model at low-performing schools. Lawmakers should encourage Nevada school districts to create a "flipped classroom" pilot program in low-performing schools. Likewise, students should be required to take at least one online course for graduation — as Nevada joins Florida, Idaho and other states in moving to much more virtual schooling.

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[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.

[6] Ibid.

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 2007-08 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 percent 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 intrinsic value of learning. The Harvard research also 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

Directly address Nevada's disadvantaged-learners problem by creating 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 disadvantages.

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[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 percent more math concepts than students who did not receive incentives. Parents attended 87 percent 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 Fiscal Year 1991, is now entering its 25th 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 $2.54 billion from 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.

Key Points

On a national level, research shows that class-size reduction is not a cost-effective means for improving student performance. A growing library of empirical evidence indicates that reduced class sizes are associated with only tiny improvements in student performance, but that 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 (CSR). 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 *under*performed 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. This is a key reason behind the 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.

Recommendations

Eliminate the class-size reduction program. 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 or school choice.

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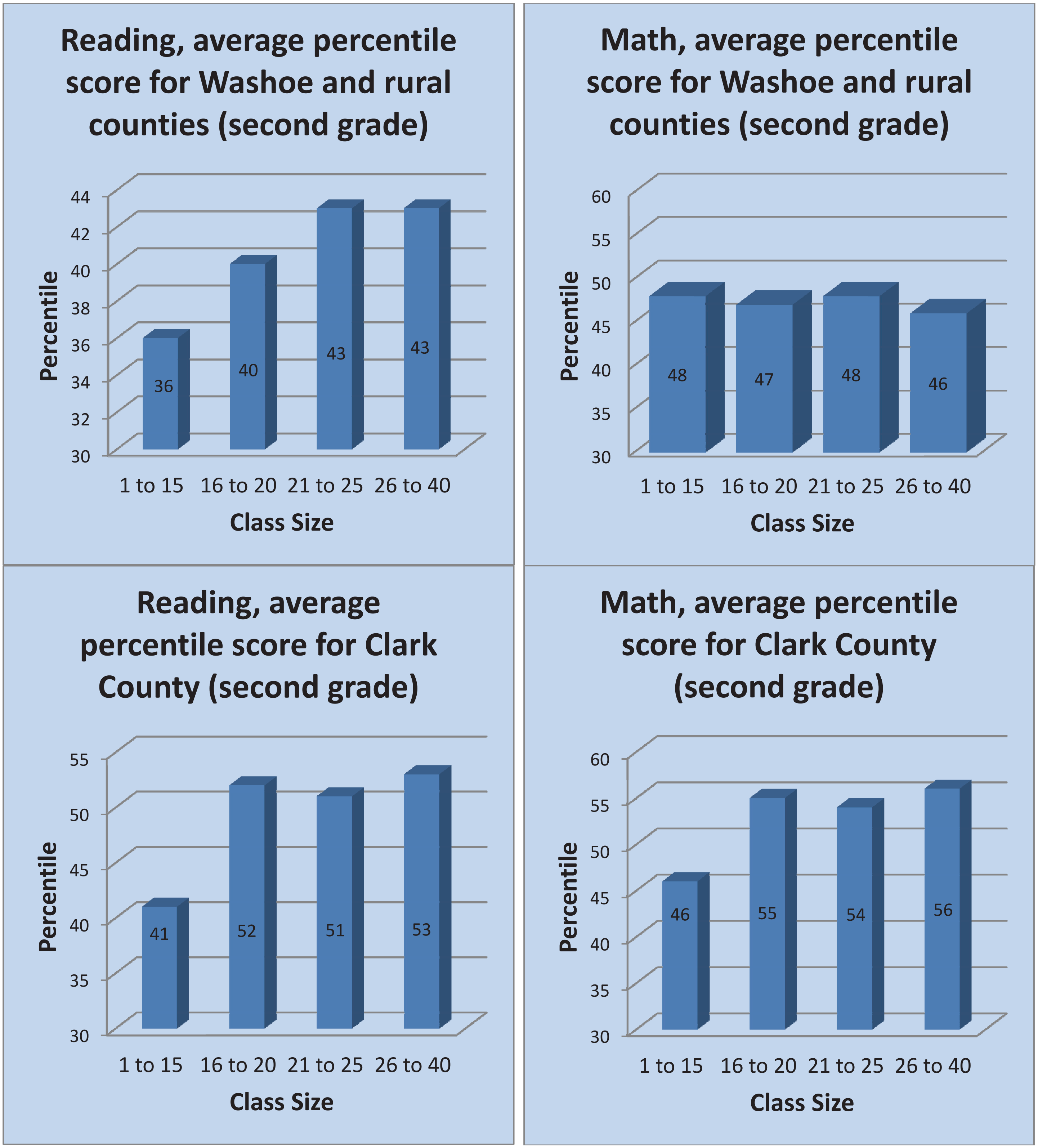
[1] Mathew M. Chingos, "The False Promise of Class-Size Reduction," Center for American Progress, April 2011.

[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.

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



*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]

Spending on the program contracted slightly during the subsequent two budget cycles, but then grew to $81 million for the 2013-2015 budget cycle after Gov. Brian Sandoval proposed to expand the availability of full-day kindergarten to 201 schools and hire 275 additional kindergarten teachers.[2]

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 the completion of the kindergarten year, students in full-day kindergarten demonstrated slight advantages in letter recognition and other skills.

Students, however, 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]

Nevada study by WestEd is frequently 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.

However, this is a misrepresentation of the report's findings. In reality, the report concludes similarly to 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. While a single teacher and classroom can accommodate multiple half-day classes, full-day programs require a dedicated teacher and classroom space for each class. This additional expense is why the program currently costs Nevadans $81 million to administer in only a portion of the state's elementary schools.

Recommendations

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

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[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.

A follow-up study by the research team involved in the U.S. Department of Education's longitudinal study actually shows 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:

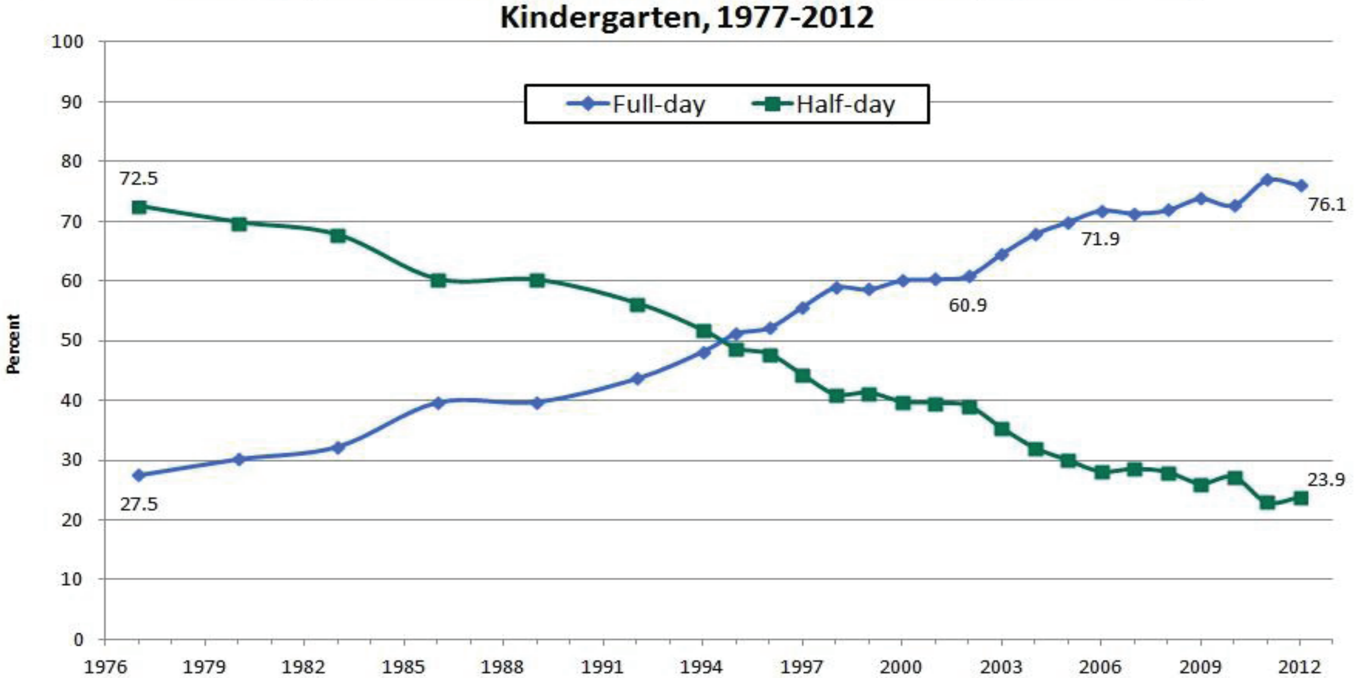
Linear Model of Growth from Kindergarten to Third Grade: Impact of Various Factors on Monthly Growth Rates in Scale Scores for Reading and Math

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.

Figure 1 **Percentage of All Kindergartners* Enrolled in Full-Day and Half-Day Kindergarten, 1977-2012**



*Data only includes those kindergartners ages four to six.
Source: Data for 1977-1992: Wirt, J., Choy, S., Rooney, P., Provasnik, S., Sen, A., and Tobin, R. (2004). *The Condition of Education 2004* (NCES 2004-077). U.S. Department of Education, National Center for Education Statistics.Washington, DC: U.S Government Printing Office. Data for 1994-2012: Child Trends' original analyses of data from the Current Population Survey October Supplement.

Child Trends DataBank
www.childtrendsdatabank.org

Early Education

In 2010, a report from a legislatively created "Nevada Vision Stakeholder Group" outlined the group's designs for expanding the scope of state government. Featured prominently in that report were calls for new spending on early childhood education programs. "College readiness," asserted the authors, "begins in preschool."[1]

The report cites the federal Head Start program, the largest and most significant early-childhood education program in the United States. The reference is unintentionally ironic, given that 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.[2]

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.[3]

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.

Following a slate of 1998 reforms, Florida has seen tremendous gains in academic achievement, as measured by the National Assessment of Educational Progress. Yet universal early education gets none of the credit. It was not even implemented until 2005, and participating students did not take the NAEP tests until 2010 — well after the remarkable rise in Florida's NAEP scores.[4]

Recommendations

Do not implement universal early education. With so many demands on public resources in Nevada, lawmakers cannot afford to spend tens of millions of dollars on programs they know will fail to achieve their goals. 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.

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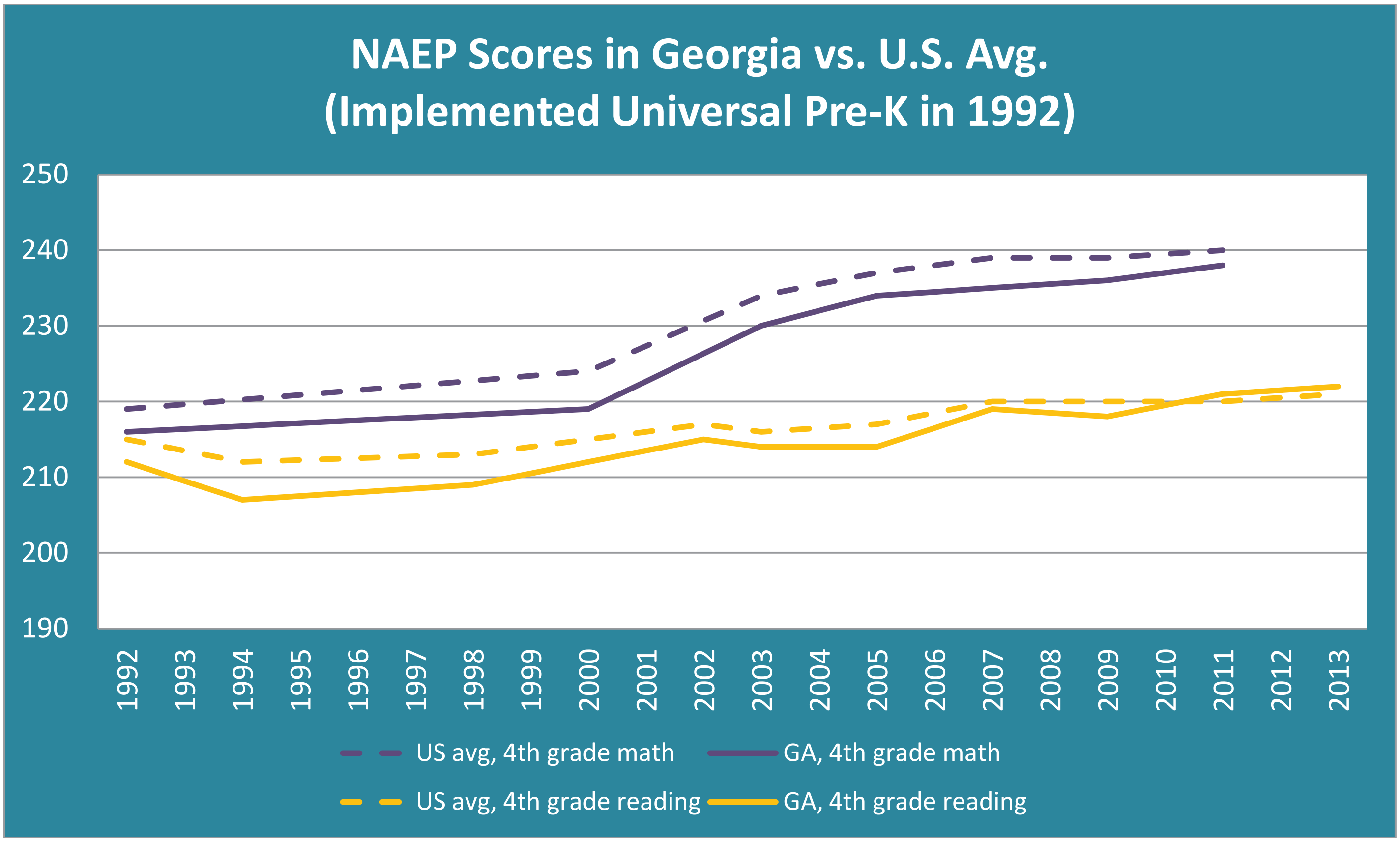
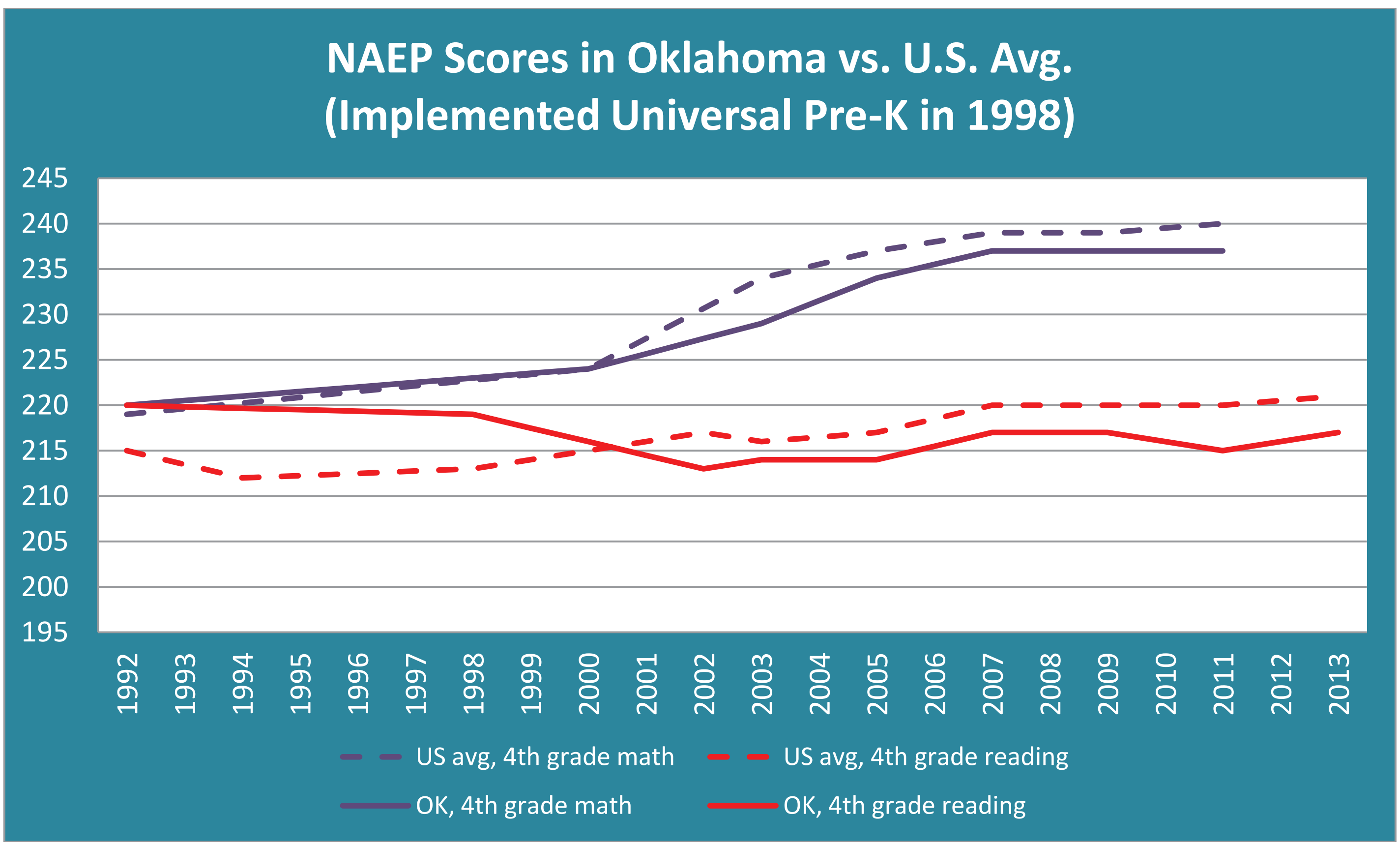
[1] Nevada Legislature, 75th Session, Interim Finance Committee, Nevada Vision Stakeholder Group, Consultant's Report, "Envisioning Nevada's Future," 2010.

[2] Ruth McKey et al., "The Impact o 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.

[3] Micheal Puma et al., "Head Start Impact Study, Final Report," Prepared for US Department of Health and Human Services, 2010.

[4] Victor Joecks, "Pre-K Doesn't Give Children a Lasting Head Start," NPRI Commentary, 2011.





Source: U.S. Department of Education, National Center for Education Statistics, Digest of Education Statistics, 2013.

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. 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 percent 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 (FY '08)				
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: Raegan Miller and Marguerite Rosa, "The Sheepskin Effect and Student Achievement," Center for American Progress, July 2012.

Teacher Absenteeism

According to statistics compiled by the left-leaning Center for American Progress, 31.4 percent of Nevada's schoolteachers missed more than 10 days of school during the 2009-2010 school year. In fact, schoolteachers nationwide miss work 77 percent more often than the average for full-time salaried workers.[1]

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 percent 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.[2]

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 from the 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.[3]

Students fail to learn when regular teacher is not in the classroom. Two separate longitudinal studies conducted at Harvard[4] and Duke[5] 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.[6] 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 district 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.[7] This amount should also be suitable in Nevada.

Offer bonuses for perfect attendance at work. Bonuses for perfect or near-perfect attendance have been proven to reduce teacher absenteeism. When Florida offered such bonuses to teachers in the late 1980s, teacher absenteeism declined by 20 percent.[8] 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.[9]

[1] Raegen Miller, "Teacher Absence as a Leading Indicator of Student Achievement," Center for American Progress, November 2012.
[2] Susan Rhodes and Richard Steers, *Managing Employee Absenteeism*, 1990, MA: Addison-Wesley Publishing.
[3] 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.
[4] Raegen Miller et al., "Do Teacher Absences Impact Student Achievement? Longitudinal Evidence from One Urban School District," NBER Working Paper 13356, August 2007.
[5] Charles Clotfelter et al., "Are Teacher Absences Worth Worrying About in the U.S.?" NBER Working Paper 13648, November 2007.
[6] 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.
[7] Ginger Moored, "A Closer Look at Teacher Leave Benefits: An Apples to Apples Comparison," National Council on Teacher Quality, August 2012.
[8] Nancy White, "Cut Sick-Pay a Day: An Incentive Plan to Reduce Teacher Absenteeism," Nova University, 1990.
[9] Donald Winkler, "The Effects of Sick-Leave Policy on Teacher Absenteeism," *Industrial and Labor Relations Review*, Vol. 33, No. 2 (January 1980), pp. 232-240.

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
Total	36.3	33.4	56,837	

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

NSHE Finance

State financial support for the Nevada System of Higher Education (NSHE) has grown from $431 million in FY 2000 to $798 million in FY 2010. Over the same period, the number of full-time equivalent students served by NSHE has grown from 48,688 to 69,154. This means that state support for each full-time student grew from $8,852 in FY 2000 to $11,568 in FY 2010 — an increase of 30.7 percent.

State support includes in-state tuition charges which are funneled through the general fund and then reallocated back to NSHE institutions.

In addition, NSHE institutions receive a significant amount of self-supported funds and grants. In FY 2000, these totaled to $402 million and, by FY 2010, they totaled to $924 million. This brought total spending in each of these years to $833 million and $1,724 million, respectively — or $17,106 and $24,936 per full-time student.

Yet, the share of these 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 $4,953 for the 2012-13 school year. That amount was the third lowest in the nation, $2,871 below the national median.[1]

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.[2] 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 51.4 percent graduate within six years. At the University of Nevada, Las Vegas, the rate is even lower — at 39.5 percent. The four-year graduation rate is a meager 16.2 percent at UNR and 13.7 percent at UNLV.[3]

Subsidized tuition rates discourage private competition. The highly subsidized tuition rates offered by NSHE institutions impair the ability of high-quality private universities to come to 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 pass through the state general fund.

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[1] U.S. Department of Education, National Center for Education Statistics, Digest of Education Statistics, 2010.

[2] 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.

[3] The Education Trust, College Results Online Databank, dataset for 2011.

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

	Public, 4-year			Public, 2-year		
State	*In-state, 2011-2012*	*In-state, 2012-2013*	*Out-of-state, 2012-2013*	*In-state, 2011-2012*	*In-state, 2012-2013*	*Out-of-state, 2012-2013*
Alabama	$7,528	$8,073	$20,380	$3,864	$4,048	$7,736
Alaska	$5,956	$6,317	$18,790	$3,883	$3,972	$4,150
Arizona	$9,030	$9,694	$21,201	$1,802	$1,842	$7,870
Arkansas	$6,377	$6,604	$15,669	$2,435	$2,633	$4,605
California	$8,830	$8,892	$30,765	$977	$1,225	$6,267
Colorado	$7,177	$7,656	$25,470	$3,484	$3,004	$8,882
Connecticut	$9,087	$9,517	$26,688	$3,490	$3,596	$10,512
Delaware	$10,470	$10,929	$26,228	$3,086	$3,242	$7,562
District of Columbia	$7,000	$7,244	$14,540	-	-	-
Florida	$4,042	$4,377	$17,050	$2,485	$2,486	$6,889
Georgia	$6,029	$6,325	$22,393	$2,645	$2,652	$7,554
Hawaii	$7,450	$7,731	$23,614	$2,388	$2,484	$7,166
Idaho	$5,673	$5,980	$17,736	$2,672	$2,915	$7,276
Illinois	$11,290	$11,882	$26,873	$3,086	$3,192	$9,034
Indiana	$7,937	$8,269	$26,538	$3,354	$3,455	$7,302
Iowa	$7,563	$7,832	$23,019	$3,998	$4,099	$5,190
Kansas	$6,660	$6,970	$17,646	$2,601	$2,621	$4,023
Kentucky	$7,942	$8,416	$19,040	$3,268	$3,391	$11,789
Louisiana	$5,205	$5,817	$17,405	$2,584	$2,837	$5,781
Maine	$9,294	$9,295	$24,397	$3,409	$3,409	$6,053
Maryland	$7,801	$8,051	$20,199	$3,356	$3,500	$8,355
Massachusetts	$10,094	$10,632	$24,399	$4,006	$4,186	$9,516
Michigan	$10,533	$11,027	$31,047	$2,595	$2,736	$5,651
Minnesota	$9,908	$10,291	$16,313	$5,195	$5,362	$6,197
Mississippi	$5,678	$6,147	$15,055	$2,212	$2,276	$4,284
Missouri	$7,609	$7,815	$18,885	$2,600	$2,716	$5,384
Montana	$5,995	$6,267	$20,164	$3,120	$3,151	$8,351
Nebraska	$6,749	$7,023	$16,702	$2,470	$2,594	$3,415
Nevada	***$4,624***	***$4,953***	***$19,156***	***$2,513***	***$2,700***	***$9,345***
New Hampshire	$13,339	$14,435	$24,945	$7,194	$7,218	$15,697
New Jersey	$11,580	$11,955	$24,447	$3,682	$3,782	$6,591
New Mexico	$5,275	$5,483	$14,327	$1,372	$1,399	$4,558
New York	$6,183	$6,556	$15,751	$4,143	$4,331	$7,827
North Carolina	$5,708	$6,223	$19,733	$2,138	$2,212	$8,171
North Dakota	$6,437	$6,572	$16,170	$3,994	$4,048	$8,216
Ohio	$8,860	$9,301	$21,683	$3,349	$3,480	$7,421
Oklahoma	$5,573	$5,882	$16,543	$2,732	$2,904	$7,101
Oregon	$7,978	$8,294	$25,067	$3,561	$3,752	$7,689
Pennsylvania	$11,817	$12,184	$22,891	$3,936	$4,133	$11,009
Rhode Island	$9,936	$10,817	$26,762	$3,676	$3,950	$10,582
South Carolina	$10,366	$10,691	$26,042	$3,710	$3,820	$7,910
South Dakota	$6,948	$7,413	$9,654	$4,802	$5,066	$5,261
Tennessee	$7,005	$7,472	$22,412	$3,380	$3,526	$13,682
Texas	$7,124	$7,402	$20,044	$1,750	$1,815	$5,075
Utah	$5,166	$5,375	$16,631	$3,021	$3,170	$10,012
Vermont	$13,084	$13,524	$32,650	$5,236	$5,452	$10,804
Virginia	$9,366	$9,866	$27,079	$3,749	$3,910	$8,592
Washington	$7,789	$8,856	$26,314	$3,713	$3,957	$6,983
West Virginia	$5,261	$5,599	$16,582	$3,011	$3,135	$7,798
Wisconsin	$7,864	$8,339	$20,146	$3,874	$4,073	$6,824
Wyoming	$3,501	$3,642	$10,962	$2,305	$2,420	$5,998

Source: U.S. Department of Education, National Center for Education Statistics, Digest of Education Statistics, 2013.

Millennium 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's higher education monopoly.

Former governor Kenny Guinn intended these scholarships to be funded out of revenues in the state's tobacco settlement fund. That tobacco settlement money, however, was soon insufficient to finance the scholarship program as 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 2013, an additional $15.2 million was transferred from the unclaimed property fund. Despite these legislative commitments of taxpayers' dollars, the scholarship fund is likely to become insolvent by 2017 without continued General-Fund support.

The Millennium Scholarship program must 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 2012-13 school year was $4,953. That amount was the third lowest in the nation and $2,871 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. Currently, 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's own finances can support. Indeed, the threshold requirements for obtaining a "merit-based" scholarship to the Nevada System of Higher Education are lower than the basic admission standards of many top-ranked public universities.

More than one-fourth of Millennium Scholars require remediation. More students qualify for the Millennium Scholarship than are actually capable of college-level coursework. According to NSHE data, 28.4 percent of Millennium Scholars were incapable of completing college-level coursework in 2011, needing remediation.[2]

NSHE's metrics for success 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 believe, demonstrates the program's effectiveness.

All these metrics reveal, however, is that students who are relatively more prepared to complete college-level work tend to have relatively more college success. They say nothing about the merit of the scholarship itself.

Recommendations

Eliminate general fund subsidies, eliminate the low eligibility threshold and instead encourage competition for the originally available funds. If the Millennium Scholarship is to be solvent in the long term, the total value of scholarships awarded must be restricted to the program's independent revenue sources.

The current approach will only become more problematic as Nevada's student population grows. The current threshold wastes money by giving public subsidies to students who are not ready for college.

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

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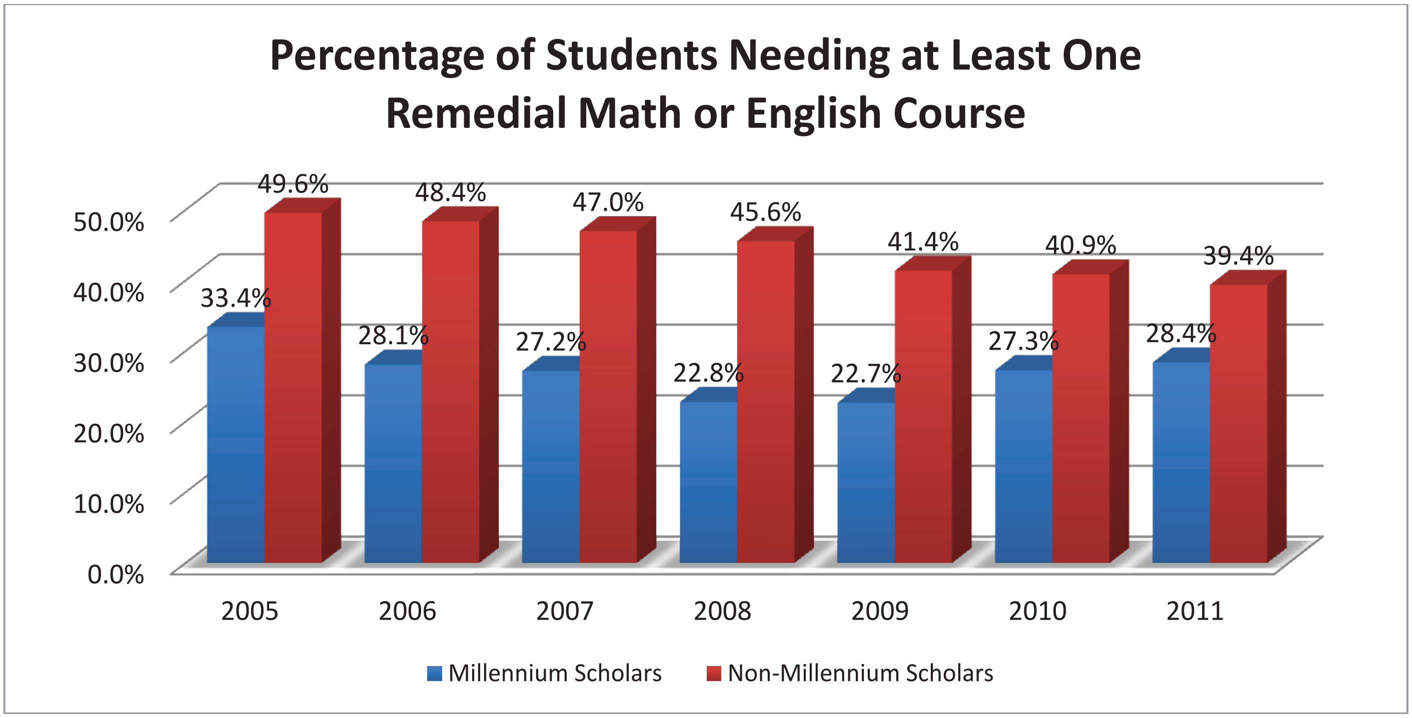
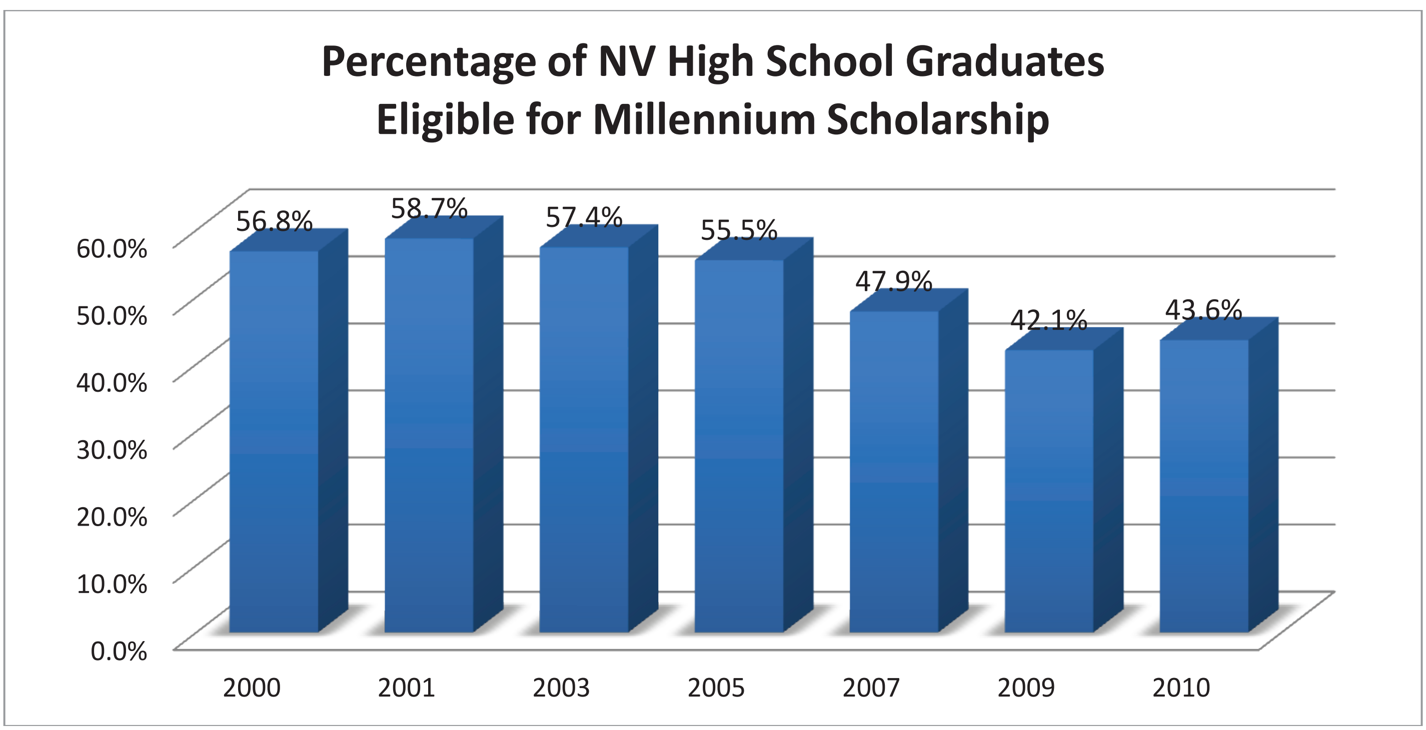
[1] U.S. Department of Education, National Center for Education Statistics, Digest of Education Statistics, 2013.

[2] Nevada Legislature, NSHE Presentation to Legislative Committee on Education, "The Millennium Scholarship and Investing in the Nevada System of Higher Education," April 2012.

[3] *Ibid.*



	2000	2001	2002	2003	2004	2005	2006	2007	2008
NV high school GPA requirement	3.00	3.00	3.00	3.00	3.00	3.10	3.10	3.25	3.25
MS-eligible graduates	7,361	7,909	8,204	8,702	9,086	8,631	8,755	8,174	8,786
Activated scholarships	5,657	6,028	6,221	6,554	6,626	6,179	6,194	5,677	5,947
Amount distributed to date	$30.5 million	$32.1 million	$33.2 million	$28.1 million	$27.1 million	$23.7 million	$22.2 million	$19.7 million	$17.0 million
Bachelor's degrees earned	2,331	2,282	2,412	1,976	2,015	1,794	1,330	434	37



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. But in no case does federal funding fall below 50 percent or above 83 percent of the program's costs.

The federal contribution rate is called the Federal Medical Assistance Percentage, or FMAP. For FY 2013, Nevada's FMAP is 59.74 percent. This means that Nevada taxpayers are *directly* liable for only 40 percent 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 many state budgets and accounted for 24 percent of state spending in FY 2012.[1]

Nevada will spend $1.08 billion out of the state general fund to support Medicaid during the 2013-2015 budget cycle, a 71 percent increase over the $630.4 million spent during the 2003-2005 budget.[2] In addition, because eligibility rules were expanded to include single, childless adults and all other individuals earning up to 138 percent of the federal poverty level in 2013, state Medicaid costs will increase even more sharply over the next 10 years.

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, Medicaid spending will eventually crowd out all other government functions in Nevada, including education.

Eligibility expansion will impose much higher Medicaid costs on Nevada taxpayers over the next decade. 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 to states to expand eligibility, which, in Nevada, would bring an estimated 239,000 additional enrollees into state Medicaid by 2014. For the first three years, state taxpayers will not directly pay for care received by these new enrollees as it will be paid by federal taxpayers. By the fourth year, however, federal contributions begin to decline to 85 percent. Given the fiscal challenges faced by Congress, those rates may end up even lower.

Second, the individual mandate included in the ACA will induce 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 will apply — meaning that state taxpayers will face a large and immediate new liability.

In total, Nevada Medicaid enrollment is expected to balloon from 319,000 to 624,000 during 2014. By 2023, the number of enrollees will exceed 800,000. ACA is expected to increase the cost of Medicaid to Nevada taxpayers over the next decade by a cumulative $5.4 billion above and beyond the increase expected without ACA. [3]

Recommendations

Implement a comprehensive re-design of Medicaid. If Nevada policymakers are intent on retaining the eligibility expansion they agreed to in 2013 under the federal ACA, then the imperative of redesigning Medicaid to make the program more cost-effective grows even larger.

Enrollment growth over the next decade will pose an insurmountable challenge for Nevada's budget — forcing major spending reductions in categories such as K-12 education. At the same time, unless Medicaid delivery systems are fundamentally restructured, the program will provide only sub-standard health care to Nevada citizens. Options for a Medicaid redesign are discussed in the Medicaid Reform sections.

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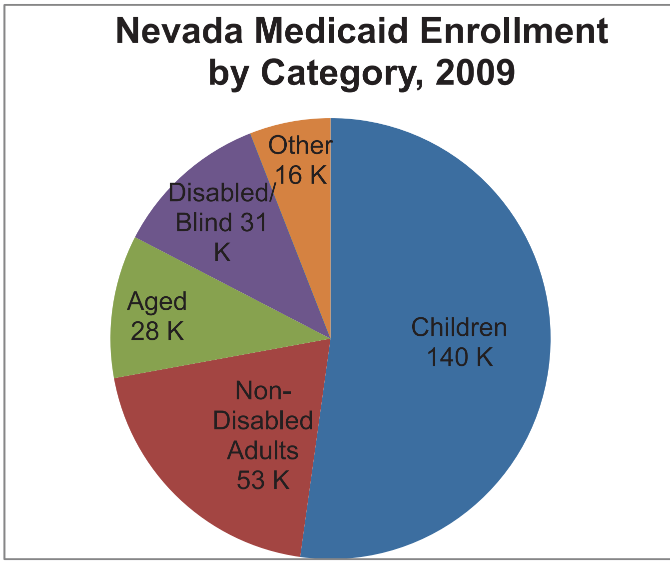
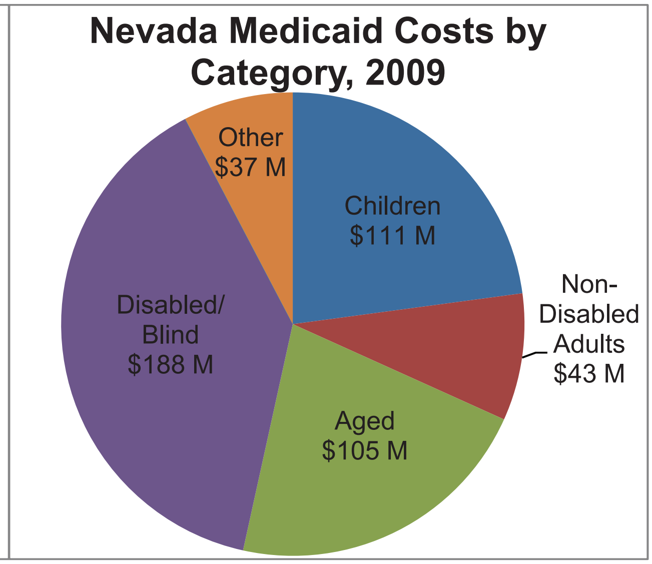
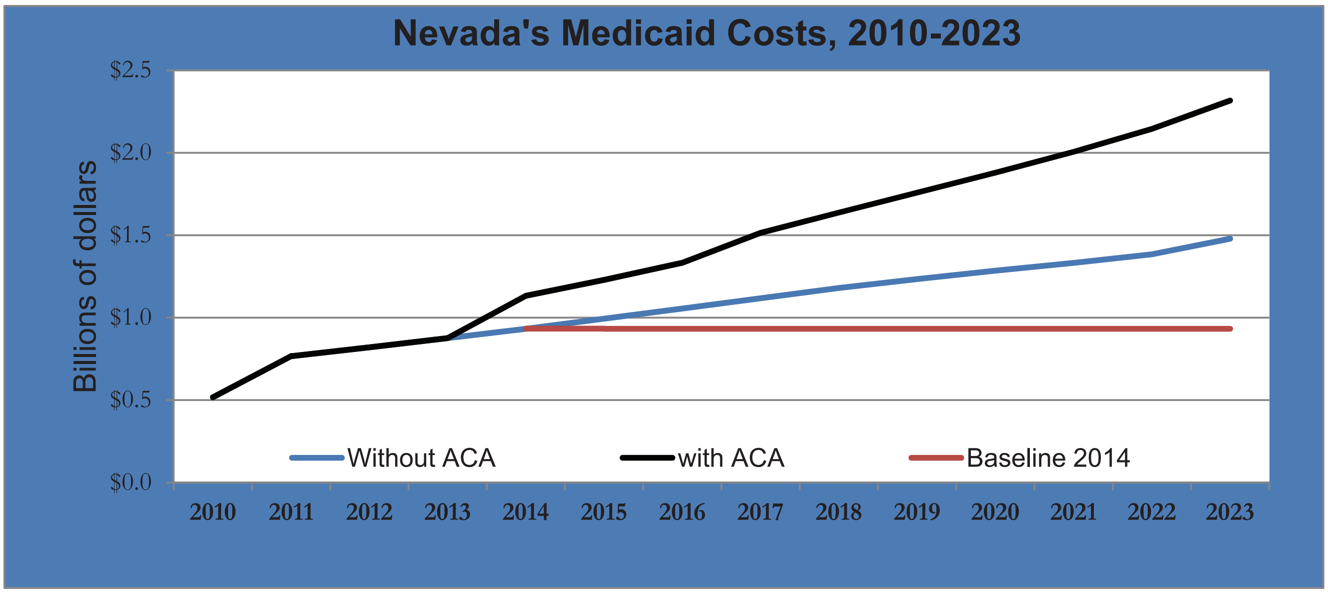
[1] National Association of State Budget Officers, "The Fiscal Survey of the States," 2012.

[2] Nevada Legislature, Legislative Counsel Bureau, "Appropriations Reports."

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







Medicaid Enrollments With and Without ACA by Category

	2014		2020		2023	
	Without	With	Without	With	Without	With
Children	166,000	255,000	200,000	301,000	217,000	324,000
Non-Disabled Adult	61,000	259,000	73,000	289,000	80,000	306,000
Aged	41,000	45,000	66,000	73,000	78,000	88,000
Disabled/Blind	31,000	43,000	25,000	48,000	22,000	50,000
Other	21,000	22,000	29,000	30,000	34,000	35,000
Total	*319,000*	*624,000*	*392,000*	*740,000*	*431,000*	*802,000*
Enrollment increase due to ACA	304,000		348,000		371,000	

Medicaid Reform: HOAs

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]

Now, after the expansion, the number of Medicaid enrollees in Nevada is projected to rise from 268,000 in 2009 to about 802,000 by 2023.[2]

The cost increases entailed by such enrollment growth make it essential that lawmakers reform Nevada Medicaid, if only to maintain the program's affordability. Such reform should be informed by the following principles.

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 indicate that only 40 percent of physicians nationwide now accept all new Medicaid 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. When individuals do not directly bear a significant share of treatment costs, they are more likely to approve unnecessary treatments. Those additional costs are then borne collectively — requiring higher premiums all around.

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 providers for the best value. 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 individuals to effectively coordinate their resources and desires.

Recommendations

Restructure Medicaid benefits around a "Health Opportunity Account (HOA)." The federal Deficit Reduction Act of 2005 allowed states, for the first time, to incorporate the benefits of private-sector health savings accounts into the way Medicaid benefits are delivered. States can now submit a state plan amendment to the Center for Medicaid Services to establish HOAs.

States that elect to establish HOAs deposit 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 percent 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.

HOAs 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 and better cost control.

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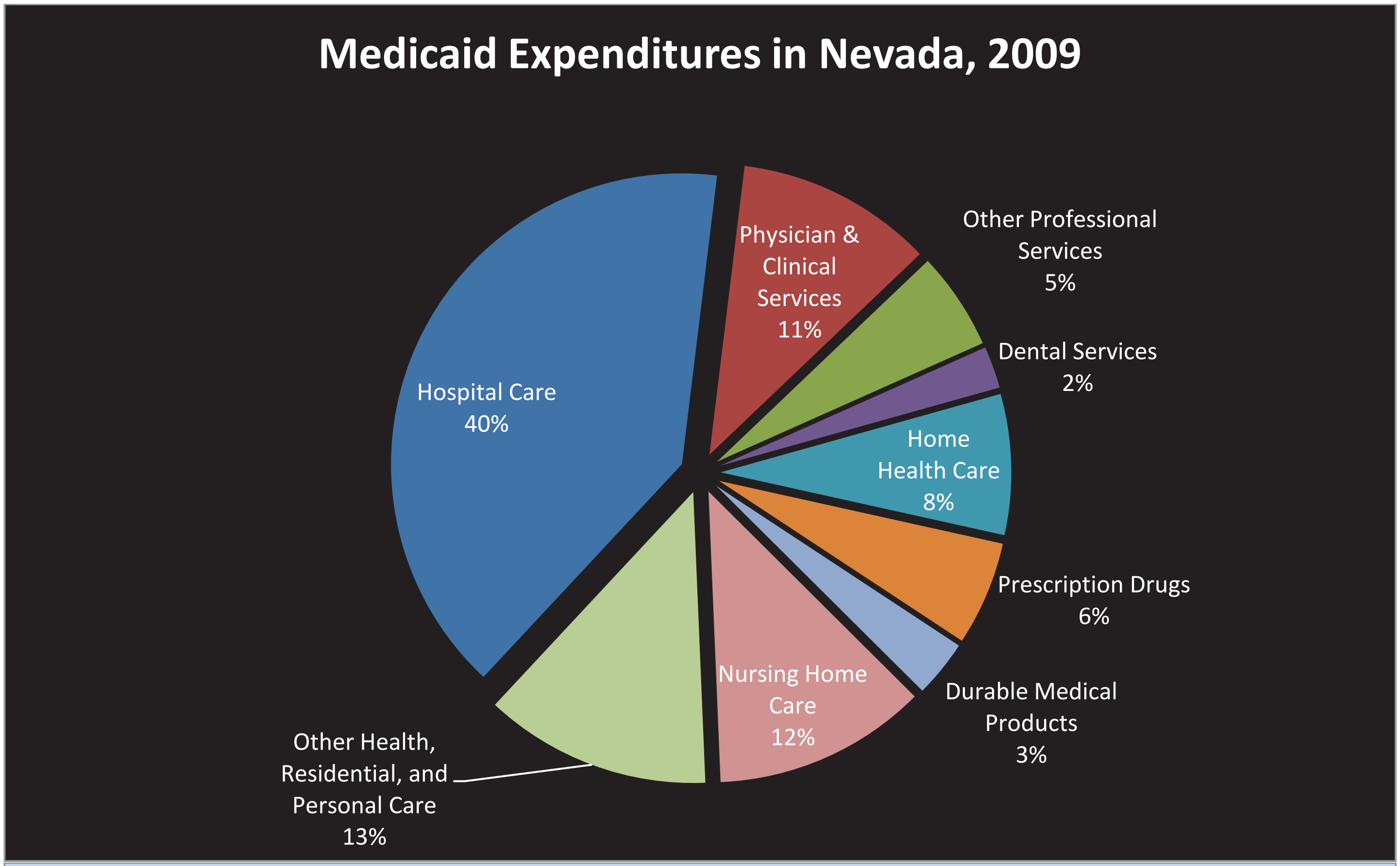
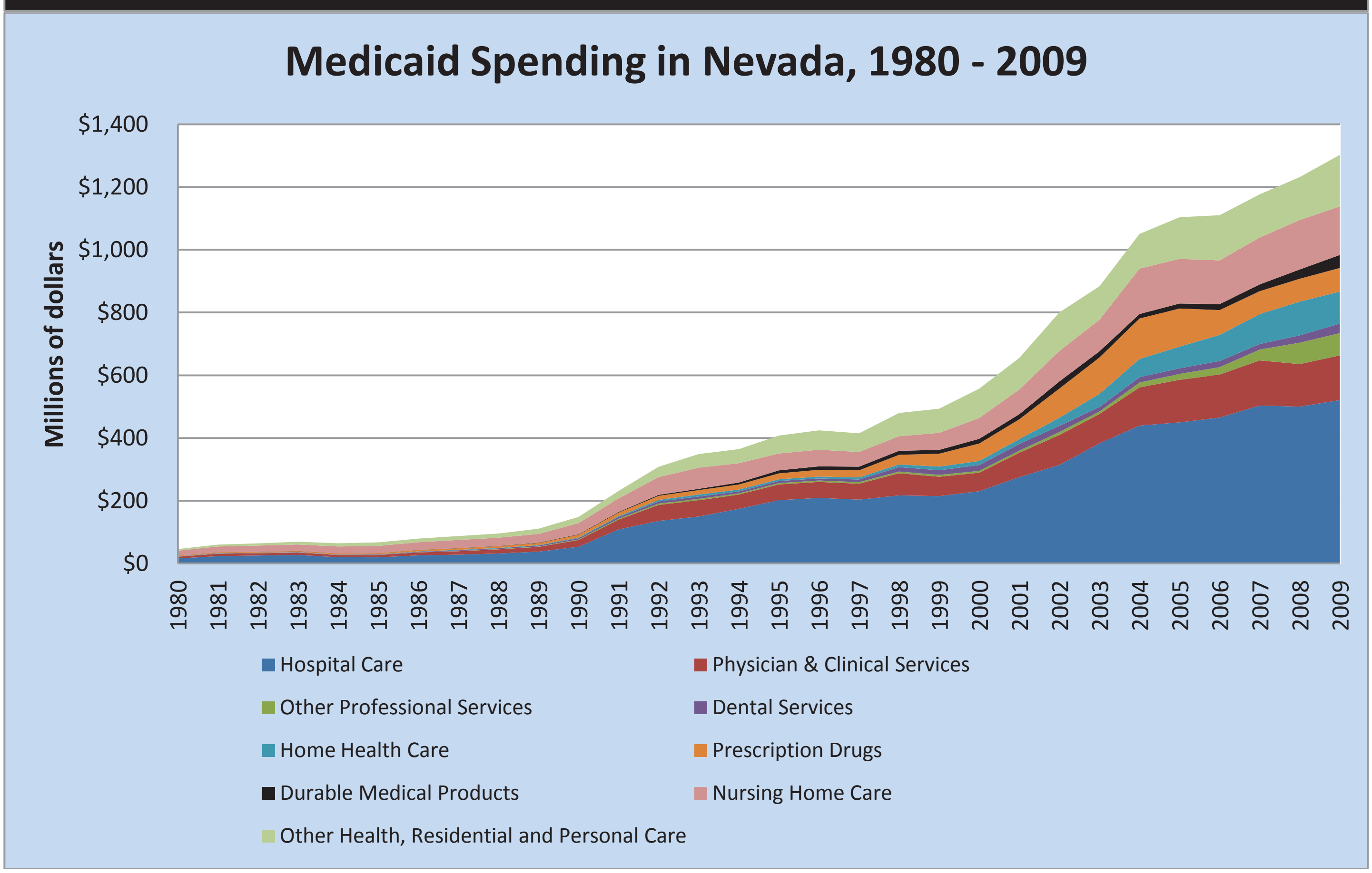
[1] Jagadeesh Gokhale et al., "The Impact of ObamaCare on Nevada's Medicaid Spending," Nevada Policy Research Institute policy study, 2011.
[2] *Ibid.*
[3] See, e.g., Ellyn Boukus et al., "A Snapshot of US Physicians: Key Findings from the 2008 Health Tracking Physician Survey," Center for Studying Health System Change data bulletin No. 35, 2009.
[4] Damien LaPar et al., "Primary Payer Status Affects Mortality for Major Surgical Operations," University of Virginia, 2010.


Medicaid Expenditures in Nevada, 2009
Hospital Care 40%
Physician & Clinical Services 11%
Other Professional Services 5%
Dental Services 2%
Home Health Care 8%
Prescription Drugs 6%
Durable Medical Products 3%
Nursing Home Care 12%
Other Health, Residential, and Personal Care 13%


Medicaid Spending in Nevada, 1980 - 2009
Millions of dollars
$1,400
$1,200
$1,000
$800
$600
$400
$200
$0
1980
1981
1982
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Hospital Care
Physician & Clinical Services
Other Professional Services
Dental Services
Home Health Care
Prescription Drugs
Durable Medical Products
Nursing Home Care
Other Health, Residential and Personal Care

Medicaid Reform: Florida Model

Medicaid spending is growing at an unsustainable rate in Nevada and will soon become the state's top spending item, displacing funding for classrooms and other top priorities. If Nevada is to remain fiscally solvent over the long term, state lawmakers must make finding ways to contain the growth in Medicaid spending their highest priority. While this implies the need for structural reform, Nevada will not walk this path alone: Other states have already experimented with varied approaches and seen high levels of success.

Florida's Medicaid reform program, in particular, merits closer examination. Its program has not only produced improvements in objective health measures for enrolled patients. It has also increased their choices and satisfaction — while still containing cost growth.

Key Points

Florida's Medicaid reform puts the patient in charge. Instead of a centrally administered Medicaid plan that provides fee-for-service payments directly to medical providers, Florida lawmakers restructured Medicaid to contract with private insurers to provide comprehensive medical services to patients in the system. The state offers to pay a flat rate that is risk-adjusted according to each patient's health status to qualified insurers who assume responsibility for managing that patient's care. Then, the patient is allowed to choose from among the providers available in the area. Depending on the year and county under examination, reform participants have had a minimum of two network choices and as many as 16.[1]

In order to attract patients, insurers have offered services not available through standard Medicaid, such as acupuncture and therapeutic massage. Insurers under the reform program have also encouraged healthy behavior by paying for memberships to gyms and health clubs.

Florida's reform shifts the risk of fraud and abuse from taxpayers to private insurers. By shifting away from the fee-for-service model, Florida taxpayers no longer bear the risk of overutilization by unscrupulous providers or of fraud in Medicaid reimbursement filings. This risk is shifted entirely to private insurers — who have both the incentives and resources to root out these problems.

Reform participants in Florida are happier and have experienced better health outcomes. Reform participants have experienced greater control over diabetes, mental health and preventive measures, as determined by the National Committee for Quality Assurance's Healthcare Effectiveness Data and Information Set.[2] At the same time, patients have indicated a high level of satisfaction. While patient satisfaction with state Medicaid offerings usually track well below that of commercial offerings, surveys show that nearly all Medicaid reform offerings in Florida are at or above the national commercial plan benchmarks.[3]

Florida's reform has saved hundreds of millions. As a pilot program in only five counties, Florida's Medicaid program saved an average of $118 million annually over its first five years. The reform has now been implemented statewide and is expected to produce $901 million in annual savings statewide. If the program were expanded nationwide, it would produce an estimated annual savings of $28.6 billion based on figures for Fiscal Year 2012.[4]

Recommendations

Model Medicaid reform after Florida. If Nevada lawmakers are unwilling or unable to structure Medicaid benefits around patient-centered HOAs,[5] then Florida's proven model of Medicaid reform should be considered as an alternative. Florida-style reform would improve the health and happiness of Medicaid beneficiaries while also limiting state Medicaid outlays and exposure to fraudulent claims.

[1] Tarren Bragdon, "Florida's Medicaid Reform Shows the Way to Improve Health, Increase Satisfaction, and Control Costs," Heritage Foundation Backgrounder No. 2620, November 2011.

[2] National Committee for Quality Assurance, "HEDIS & Quality Management," October 2011.

[3] Duncan et al., "Medicaid Reform Enrollee Satisfaction: Year Two Follow-Up Survey."

[4] Op cit, Bragdon, note 1.

[5] See "Medicaid Reform: HOAs."

Florida Medicaid Reform Enrollees' Patient Satisfaction, 2009					
	Reform Program (Provider Service Networks)	Standard Medicaid	At or Above Medicaid Benchmark	Commercial HMOs	At or Above National Commercial Benchmark
Health Care Satisfaction (% responding 9 or 10 on 10-point scale)	64%	49%	Y	48%	Y
Health Plan Satisfaction (% responding 9 or 10 on 10-point scale)	61%	54%	Y	38%	Y
Personal Doctor Satisfaction (% responding 9 or 10 on 10-point scale)	77%	62%	Y	63%	Y
Specialty Care Satisfaction (% responding 9 or 10 on 10-point scale)	69%	61%	Y	62%	Y
Ease of Getting Needed Care, Tests or Treatments (% responding "Almost Always")	56%	53%	Y	57%	N
Ease of Getting Specialist Appointments (% responding "Almost Always")	55%	49%	Y	48%	Y
Measures at or Above National Benchmarks			100%		83%

Source: U.S. Department of Health and Human Services, Agency for Healthcare Research and Quality, CAHPS Benchmarking Database: Comparative Data and R. Paul Duncan et al., "Medicaid Reform Enrollee Satisfaction, Year Two Follow-Up Survey," Vol. 2, "Plan Type Estimates," University of Florida, Department of Health Services Research, March 2011.

Truly Affordable Health Care

All observers profess that individuals should be able to access quality health care at prices they can afford. Nevertheless, legions of state laws have long kept citizens from purchasing health insurance policies appropriate to their individual needs.

Were state lawmakers to free the marketplace for health insurance of needless and costly regulations, they would dramatically improve low-income households' ability to access health insurance. This would lay the groundwork for a policy environment superior to that created by the federal Affordable Care Act, which, despite its name, has caused the cheapest health insurance premiums in Nevada to more than 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. One consequence of the law, however, was that state lawmakers, not only crafted regulatory regimes unique to their individual states, but also barred citizens from purchasing policies sold in other states that might better fit their needs. They thus limited competition and reduced 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 want or need or to forego coverage altogether. Mandates drive up the price of the insurance plans that remain available, driving away low- and middle-income earners. Nevada lawmakers have imposed 38 specific coverage mandates, thus barring consumers from purchasing any plan that does not include each of those mandated 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 have 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, the standard plan 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. Any regulatory regime that protects in-state oligopolies is economically inefficient and unnecessarily places at risk the physical health of residents. Model legislation from the American Legislative Exchange Council, if adopted, 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 mandates 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]

Allow the sale of mandate-lite 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 incomes to escape from public assistance programs that have limited acceptance by providers, such as Medicaid, 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 that will replace the ACA, offering truly affordable health care.

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

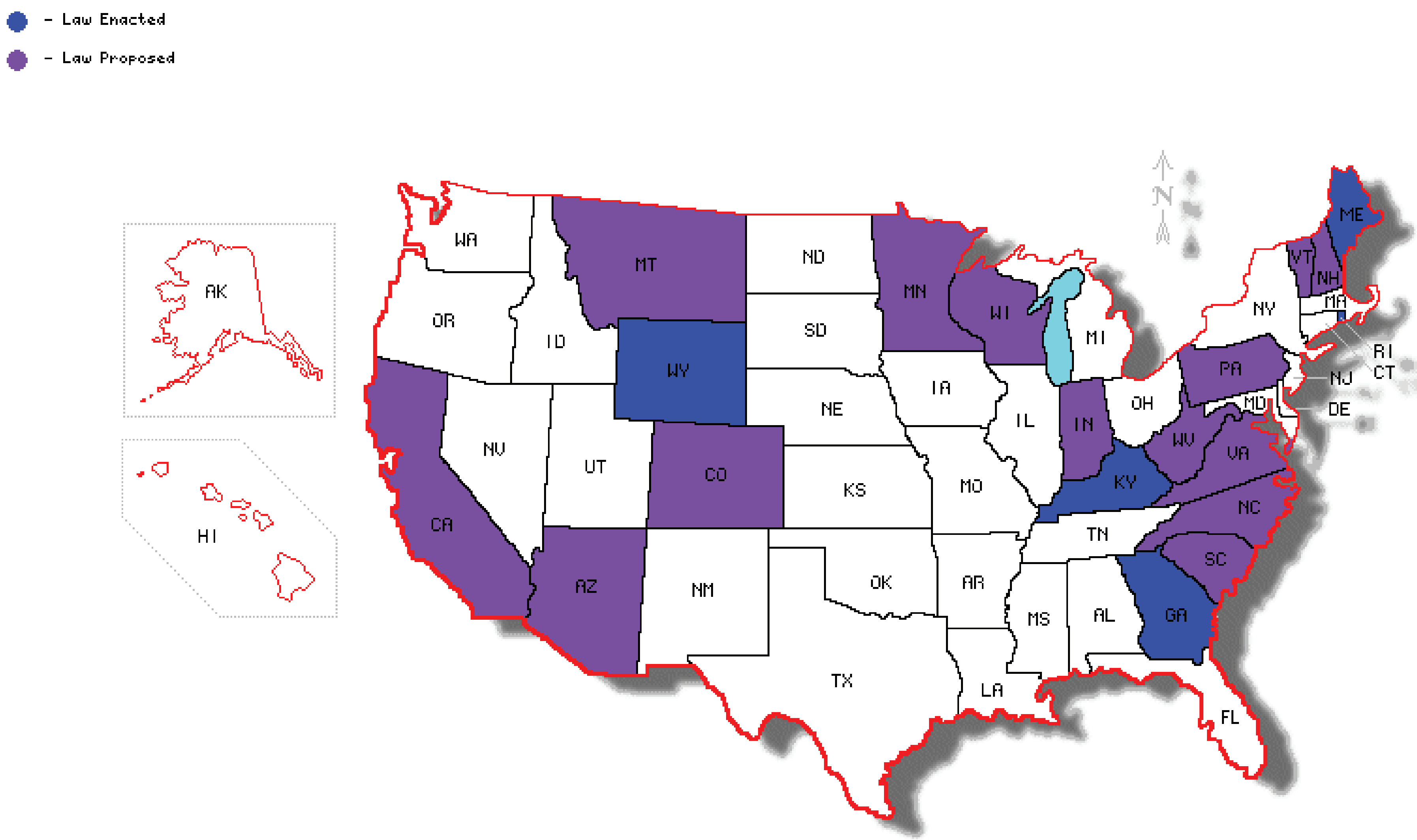
[2] Victoria Craig Bunce, "Health Insurance Mandates in the States, 2012," Council for Affordable Health Insurance, April 2013.

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

[4] American Legislative Exchange Council, "Health Care Choice Act for States," 2007.

[5] American Legislative Exchange Council, "Mandated Benefits Review Act," 2013.

States that Permit Insurance Sales from Out-of-State



Source: diymaps.net (c)

High-Risk Pools

In the wake of passage of the federal Affordable Care Act, public attention has been fixed 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. By ignoring the great diversity among the uninsured population, however, the law's architects failed to address many of the reasons individuals had gone without coverage and exacerbated the problems facing some demographic groups in order to address the concerns of those who suffered from pre-existing conditions.

Key Points

Many individuals were uninsured by choice. About 9 million uninsured Americans were receiving incomes greater than $75,000 annually. Although they could afford insurance, these individuals simply preferred to purchase health care on a cash basis. This group was also, for good reasons, 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 percent 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 combination of guaranteed issue and community rating provisions that are central components of the ACA will only further encourage this group to forego coverage by raising the price of insurance plans available to them.[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 after a job change.[4] For these individuals and others whose employers did not offer employer-sponsored insurance plans, purchasing insurance was, due to government rules, artificially costly. While employers can purchase health insurance with pre-tax dollars, individuals are only allowed to purchase insurance using *after-tax* dollars. This has long discouraged individuals from maintaining their own health insurance and fostered dependency on employer-provided plans.

Others were uninsured because other public policies unnecessarily inflate 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 small share of the uninsured were "medically uninsurable." Individuals with chronic, pre-existing conditions are considered "uninsurable" because they are not actually seeking "insurance" against the risk that such a condition might develop: They are, instead, seeking a third-party payer for treatment of a *known* condition. This does *not* mean that the public has no interest in helping such individuals. Nevertheless, public discourse has lost sight of the fact that *this demographic accounted for less than two percent* of the uninsured.[6]

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 the states subsidize the cost of care for the specified conditions had proliferated 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]

[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.

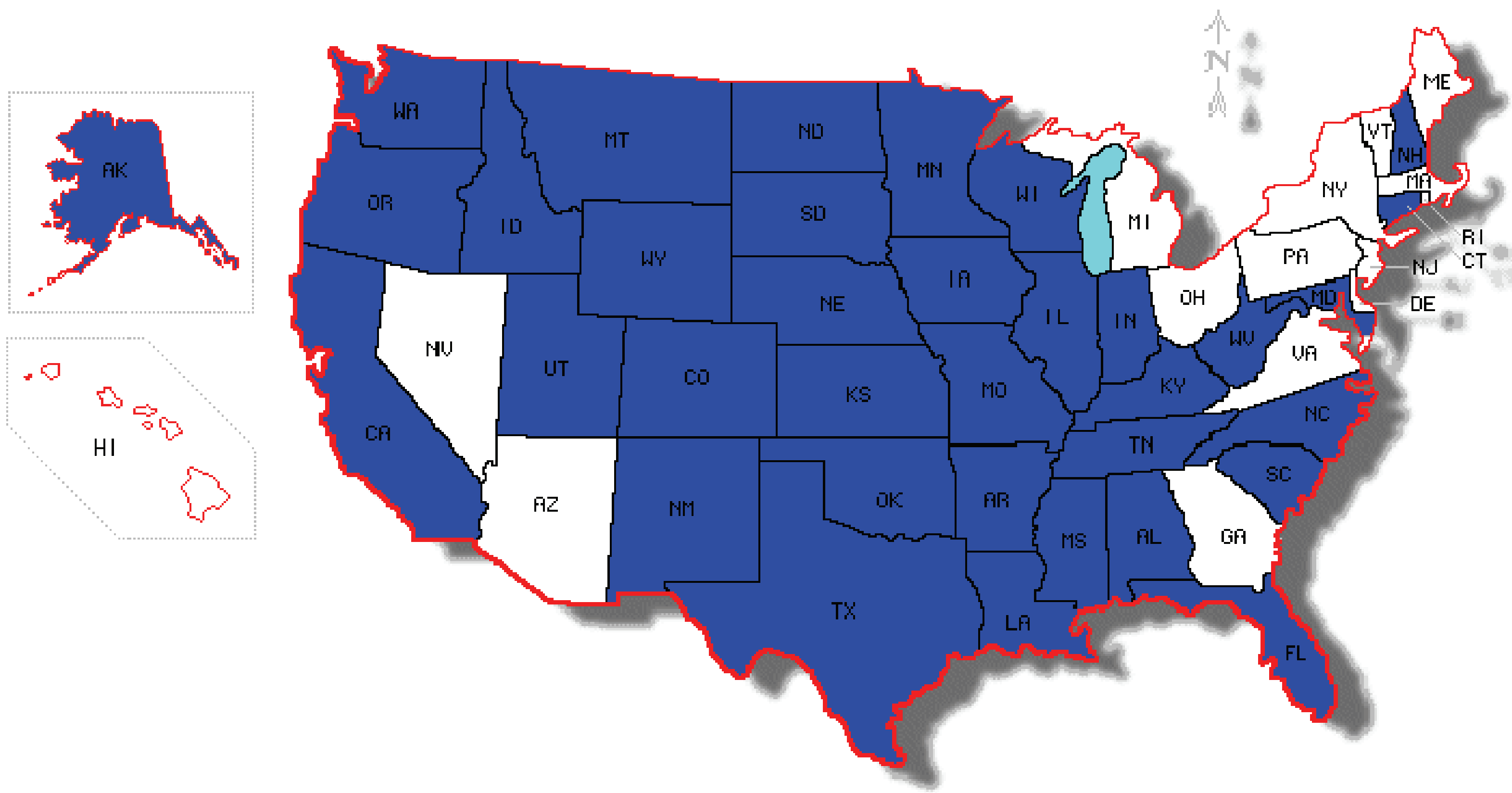
[4] Op cit, Wieske and Herrera, note 1.

[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.

States with High-Risk Pools (as of June 2013)



Source: diymaps.net (c)

Minimum Wage

The Nevada Constitution was amended in 2006 to impose a statewide minimum wage rate that is indexed to both changes in the consumer price index and increases in the federal minimum wage rate.

For FY 2015, the Nevada Labor Commissioner has decreed that the official state minimum wage amounts to $7.25 per hour for employers who provide qualifying health care benefits and $8.25 per hour for those who do not.[1]

Key Points

Market wages are a function of productivity. Individuals who earn higher wages in the market do so precisely because they possess the skills or education to produce goods or services that are highly valued within society.

In the long run, competitive markets render fair value for labor. There is no such thing as "exploitation of the workers" in a competitive marketplace; if a worker is paid less than the value of his or her labor, competing employers will bid him or her away. The only potential obstacle that can lead to worker exploitation is government protection of an employer's monopoly status — such as onerous regulations that impede a potential competitor from entering the marketplace.

Minimum-wage laws create higher unemployment. There are few topics of genuine consensus among economists. Yet, all major schools of economic thought recognize that minimum-wage laws, if effective, artificially raise the price of labor above the market-clearing price, leading to the unemployment or underemployment of workers.

Minimum-wage laws harm the same workers they supposedly are intended to benefit. The workers who are most likely to suffer unemployment as a result of minimum-wage laws are those who earn wages below the newly mandated "minimum." Employers will not consider these workers for employment at higher wage rates precisely because they do not produce enough value to justify the additional expense. Typically, this will be equally true for workers at the entry level.

[1] State of Nevada, Office of the Labor Commissioner, "Minimum Wage 2014 Annual Bulletin."

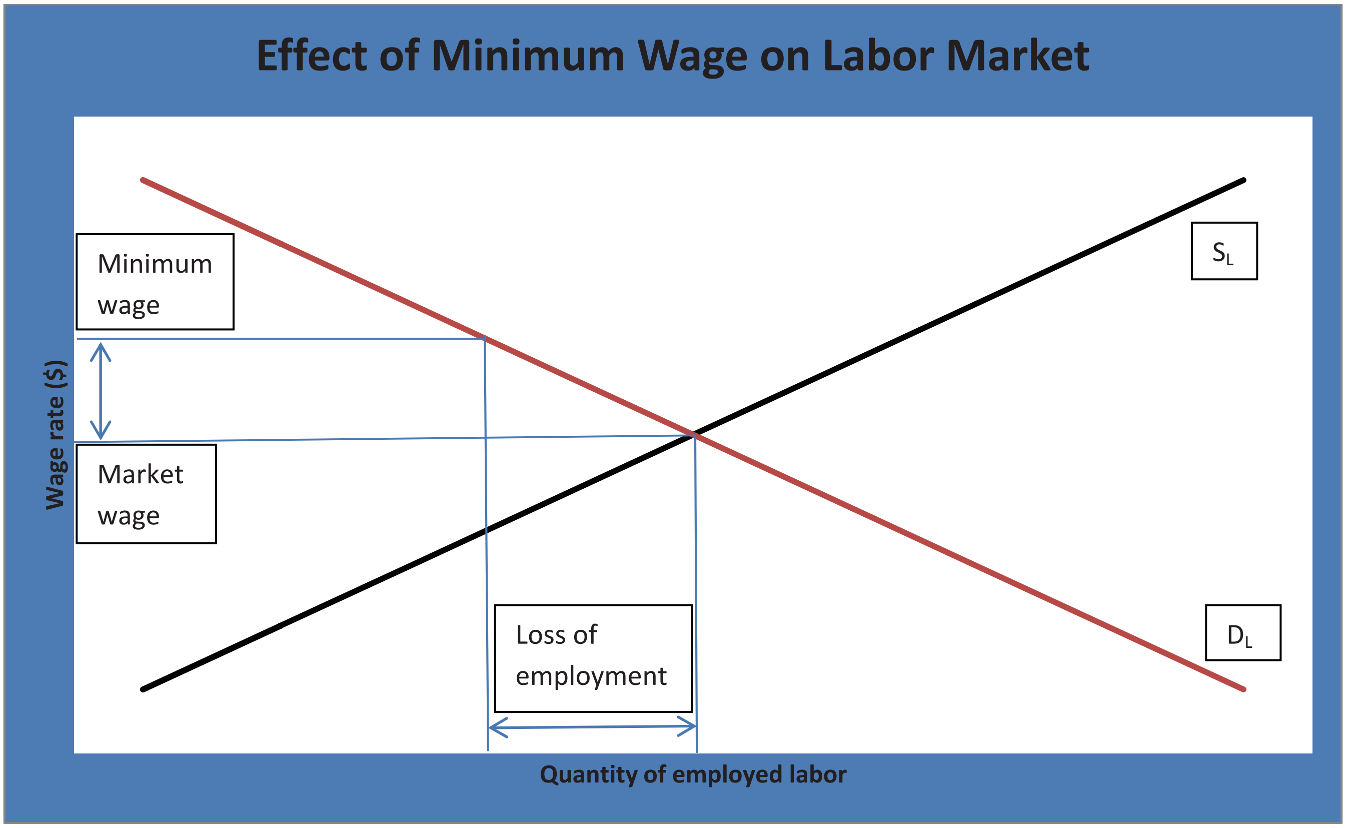
Minimum-wage laws disproportionately harm minorities. Minorities, teenagers and women are the demographic groups most likely to earn wage rates that fall below the minimums set by state or federal governments. As a result, these groups are most likely to experience unemployment as a result of minimum wage policies. Data from the U.S. Department of Labor shows, for instance, that the unemployment rate for teenage blacks is more than twice as high as that for teenage whites.[2]

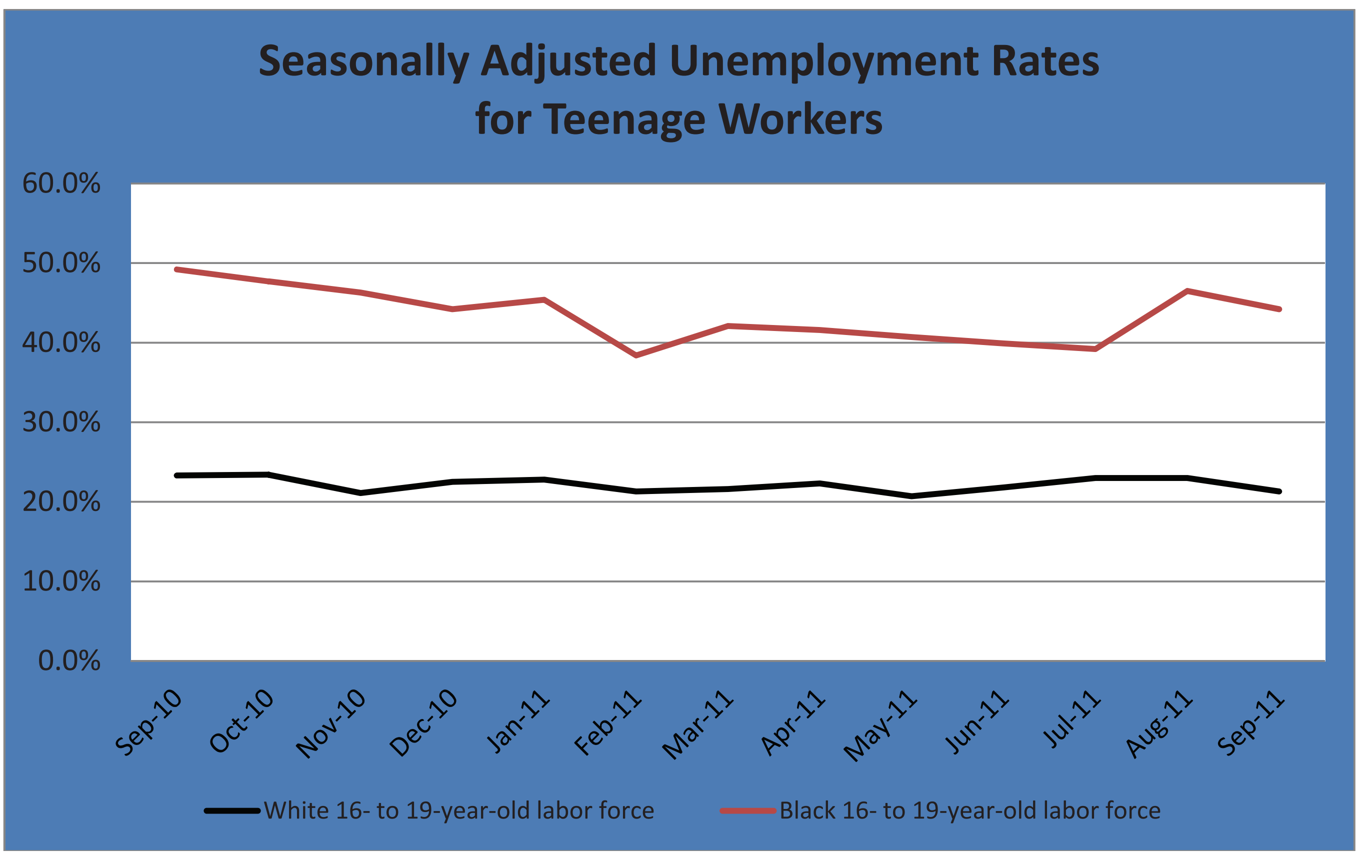
Early proponents for minimum-wage laws understood that a minimum wage would drive minorities, teenagers and women out of work. Yet, rather than view this result as problematic, these early advocates saw such unemployment of what they called "parasitic labor" as a primary virtue of the minimum wage.[3] Recognizing this ignominious motivation, Nobel laureate Milton Friedman classified the minimum wage law "as one of the most, if not the most, anti-black laws on the statute books."

Recommendations

Amend the state constitution to repeal the Nevada minimum wage law. Nevadans are already facing one of the highest unemployment rates in the nation.[4] The state's minimum wage law only exacerbates this problem — artificially imposing even more joblessness. Moreover, the individuals who suffer most as a result of minimum-wage laws are those who can least afford it.

[2] U.S. Department of Labor, Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey.
[3] See, e.g., Sidney Webb and Beatrice Potter Webb, 1897, Industrial Democracy, pp. 766-789.
[4] U.S. Department of Labor, Bureau of Labor Statistics, Local Area Unemployment Statistics, June 2014.





Source: U.S. Department of Labor, Bureau of Labor Statistics

Prevailing Wage

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

To the uninitiated, prevailing wage laws sound like they are intended to ensure that workers receive wages reflective of the local labor market. However, 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

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" — specifically, so that union firms constitute far more of the reporting sample than their actual share of the population. For example, to complete the survey, nonunion contractors would incur far higher accounting costs than do union contractors.[1]

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

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

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

Wage premiums cost taxpayers a combined $1 billion in 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.

Prevailing wage means fewer construction jobs. Prevailing wages are thus merely a type of minimum wage, suppressing the demand for labor by artificially raising its price. Since more taxpayer resources must be expended on each individual project, fewer projects can be undertaken, employing fewer workers.

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 intentionally aimed to undermine the competitiveness of black workers and ensure that unionized, white labor received federal contracts and higher pay.

Today, black workers remain statistically less likely to belong to a trade union. Thus, repeal of prevailing wage laws is still "associated with … a significant narrowing of the black/nonblack wage differential for construction workers."[2]

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 since 1978.[3] Nevada should become the eleventh.

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

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

[3] *Op cit.,* note 1.

Prevailing Wage Versus Market Wage (Reported by DETR), by Job Classification, Clark County, 2011			
Job Classification (Journeymen)	Prevailing Wage	DETR Average Wage	DETR Wage + 40 percent (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 DETR), by Job Classification, Washoe County, 2011			
Job Classification (Journeymen)	Prevailing Wage	DETR Average Wage	DETR Wage + 40 percent (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

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 six years earlier by North Carolina and stood in stark contrast to a concurrent wave of lawmaking across the states that gave union leaders representing government workers broad, coercive powers.

Union hostility toward Nevada's law, however, prompted picketing by teacher union operatives on the Las Vegas Strip in a campaign designed to disrupt the state's most important center of commerce. Acting at the behest of business leaders who wanted the disruptive picketing ended by any means necessary, 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 all employee groups and to submit to a fact-finding mediation procedure 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]

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 given to union leaders. Ranked from the weakest to the strongest powers of compulsion, these are:

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 expressly 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, while laws applying to other municipal workers have a rank of 6 and those for state workers a rank of 1.[2]

Econometric analysis shows that collective bargaining mandates adds tens of millions annually to Nevada's cost of government. The NBER database, when updated, can be used to compare changes in collective bargaining laws to changes in state and local government spending, all across the country. This allows economists to illuminate the financial impact of a state's choice in collective-bargaining regimes.[3]

Recommendations

Remove the powers of compulsion enjoyed by union leaders. Nevada lawmakers could realize tens of millions in annual cost savings by returning to the state's original prohibition on government-sector collective bargaining. Nearly the same amount, however, is available just by ending the coercive powers held by union leaders to compel local governments to sign union contracts. With no provision, local administrators would be free to choose whether to bargain collectively based upon the wishes of constituents.

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

[2] 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.

[3] Geoffrey Lawrence, James Sherk and Cameron Belt, "The Rise of Government Unions," Upcoming NPRI policy study.

NBER Classified Collective Bargaining Regimes by Employee Group, 2012				
	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, James Sherk and Cameron Belt, "The Rise of Government Unions: A 50-State Review of Public-Sector Unions and Their Impact on Public Policy," forthcoming NPRI policy study.

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]

Key Points

Transparency does not undermine collective bargaining. Union officials in Nevada claim that 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 to the public.

In Minnesota, where government unions enjoy some of the strongest powers in the nation, 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."[2]

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."[3]

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."[4]

There is no evidence from these states that collective bargaining has been undermined by transparency.

Management's incentives in collective bargaining are different in the public and private sectors. Private-sector business leaders must exercise restraint with regard to labor contracts in order to keep their firms competitive and offer goods or services at prices that customers are willing to pay. In the public sector, however, politicians often recognize that government unions can provide electoral support through campaign donations, volunteer hours and other organized efforts. Some politicians have sought out this support by encouraging unionization among government workers and promising compensation packages they know will strain public finances.

Transparency increases the odds that labor contracts reflect community values. Given the lack of incentive for political employers to exercise restraint in the collective-bargaining process, public oversight is critical to ensure that labor contracts agreed to by elected officials reflect the values of the community. 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.

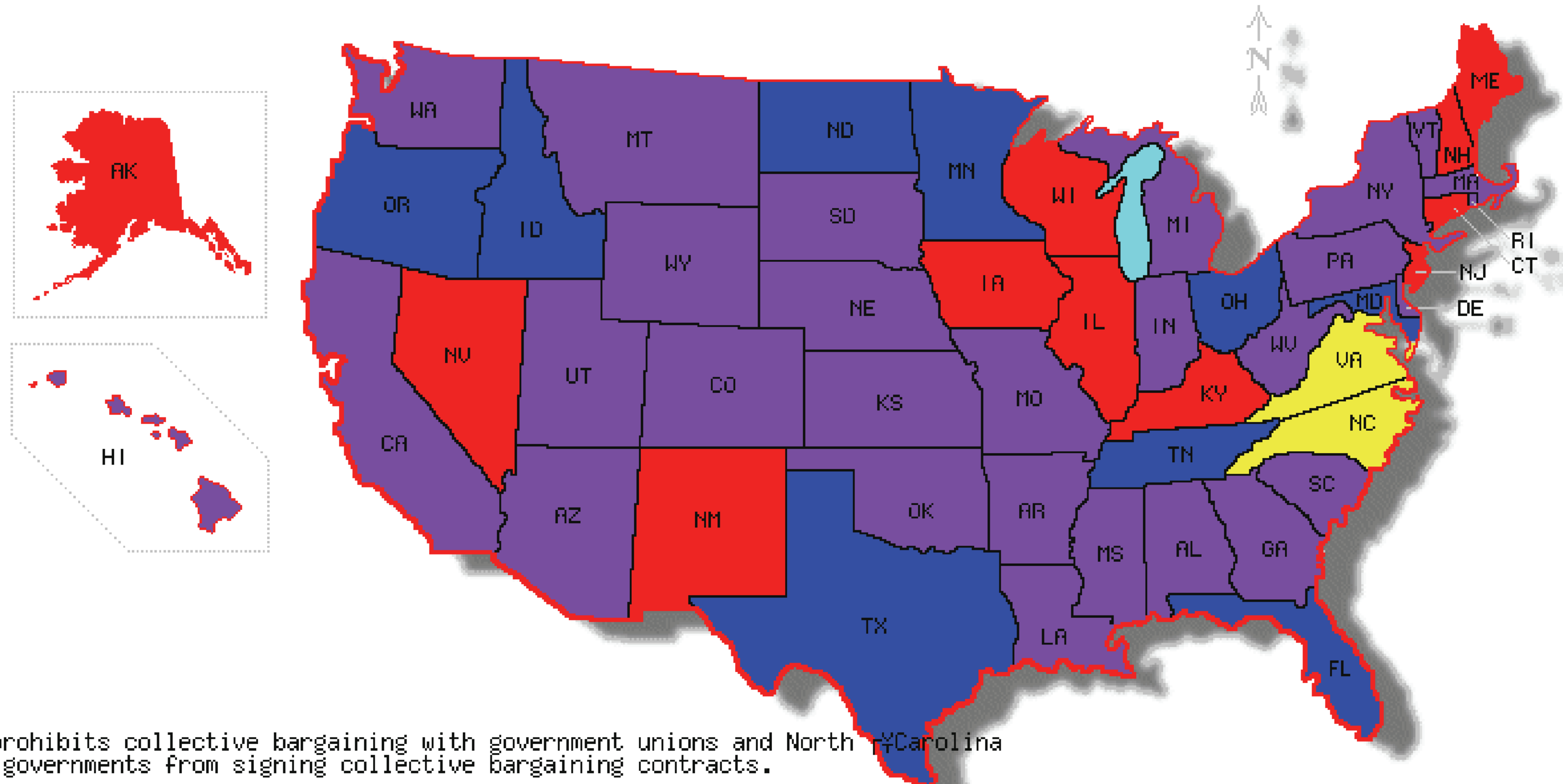
Recommendations

Pass a Public Employee Bargaining Transparency Act. If Nevada's local governments are to engage in collective bargaining with union officials, it should be officially recognized that these proceedings are an important element of the people's business, as employee compensation constitutes the bulk of local-government spending. Lawmakers can borrow language from Idaho, Minnesota or Texas or use model language available from the American Legislative Exchange Council[5] to bring transparency to collective bargaining.

1 Nevada Revised Statutes, 288.220.
2 Minnesota Statutes, 179A.14(3).
3 Idaho Statutes, 33-1273A(2).
4 Texas Statutes, Title 5, Subtitle C, 174.108.
5 American Legislative Exchange Council, "Public Employee Bargaining Transparency Act," 2011.

Collective Bargaining Transparency by State

- Secret Bargaining
- No Explicit Statute
- Transparent CB
- No Coll. Bargaining



NOTES:
Virginia prohibits collective bargaining with government unions and North Carolina prohibits governments from signing collective bargaining contracts.

Source: diymaps.net (c)

Employee Earnings

Employees of Nevada's local governments receive compensation packages that are currently out of line with the broader labor market. Considering wages alone, local-government workers are paid 10.8 percent more than state workers, on average, and 22.1 percent more than workers in Nevada's private sector.

Nevada's local government workers are also paid highly compared to their peers in other states. Only in eight states are local-government workers paid more on average and all of these states have a significantly higher cost of living. In fact, Nevada's local-government workers are paid more than their peers in many states with a higher cost of living index.

Key Points

Nevada's local-government workers are among the highest paid in the nation. While state workers and private-sector workers are the 31st and 32nd highest paid in the nation, respectively, Nevada's local government workers receive the 9th highest salaries nationwide.[1]

Difference in 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 for public-sector workers. 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]

Further, if higher pay were attributable to differences in educational attainment or other qualifications, local-government workers would enjoy pay levels similar to comparably qualified state workers. They do not.

Compensation consists of more than just wages. It is important to remember that a simple wage comparison significantly *understates* the compensation premiums awarded to local-government workers. That's because local-government 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]

High compensation costs mean fewer workers can be hired. Per 1,000 in population, Nevada state governments employ 11.0 full-time equivalent workers, ranking fourth lowest among the states. Nevada's local governments employ 32.3 full-time equivalent workers per 1,000 in population, again ranking fourth lowest among the states.[4]

While these figures have caused outcry among union leaders and others, Nevada's governments could hire many more workers if compensation schedules more closely reflected those found in other states. If, for instance, Nevada's public employees were merely paid at the national average for state and local government workers and all savings were used to hire additional employees, more than 24,000 additional full-time equivalent positions could exist.[5]

Recommendations

Phase out "longevity pay" within local governments. Longevity pay is foreign to the private sector and most of the public sector. Yet, among a series of automatic annual pay raises, some local governments in Nevada award a "longevity bonus" that amounts to two percent of base pay per year on the job.

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] Further, much of the compensation premiums associated with union contracts consist of fringe benefit packages that most workers find less valuable than current wages. Local-government administrators could improve fiscal management and deliver higher quality services if they had greater flexibility with employee compensation.

[1] US Department of Labor, Bureau of Labor Statistics, Quarterly Census of Employment and Wages, 2012.
[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] U.S. Department of Commerce, Census Bureau, "State and Local Government Employment and Average Monthly Earnings by State: 2000 to 2009."
[5] Author's calculations based on U.S. Census data.
[6] See "Cost of Collective Bargaining."

Average Annual Pay of Workers (Excluding Benefits), by State, 2012

State	State Employees	Rank	State	Local Government Employees	Rank	State	Employees in Private Industry	Rank
DC	$70,686	1	DC	$81,661	1	DC	$76,456	1
NJ	$66,232	2	NJ	$58,585	2	NY	$63,912	2
CA	$65,685	3	HI	$55,873	3	CT	$63,146	3
IL	$63,710	4	CA	$55,538	4	MA	$61,467	4
RI	$62,198	5	RI	$54,553	5	NJ	$58,089	5
CT	$60,881	6	NY	$54,234	6	CA	$56,295	6
MA	$60,173	7	MA	$52,716	7	IL	$52,322	7
IA	$60,053	8	CT	$51,886	8	MD	$51,910	8
MI	$57,608	9	***NV***	***$51,773***	***9***	WA	$51,765	9
OH	$57,477	10	MD	$50,441	10	DE	$51,697	10
NY	$57,014	11	WA	$49,110	11	TX	$51,593	11
MN	$55,299	12	DE	$48,859	12	VA	$51,381	12
AK	$55,054	13	IL	$46,165	13	CO	$50,920	13
WI	$53,552	14	PA	$45,319	14	MN	$49,750	14
PA	$53,073	15	OR	$45,020	15	AK	$49,587	15
CO	$52,496	16	FL	$44,959	16	NH	$48,775	16
WY	$51,972	17	AK	$44,795	17	PA	$48,147	17
DE	$51,773	18	MI	$43,688	18	GA	$46,980	18
WA	$51,740	19	OH	$42,305	19	ND	$46,823	19
AZ	$51,225	20	CO	$42,205	20	MI	$46,217	20
MD	$50,418	21	AZ	$42,198	21	AZ	$45,235	21
VT	$49,587	22	MN	$42,086	22	RI	$44,633	22
UT	$48,480	23	WY	$41,270	23	WY	$44,310	23
NM	$48,218	24	NH	$40,922	24	TN	$44,261	24
AL	$48,001	25	TX	$40,639	25	OR	$43,678	25
KS	$47,889	26	VA	$40,499	26	OH	$43,601	26
TX	$47,714	27	NC	$39,462	27	LA	$43,518	27
NH	$47,171	28	WI	$38,634	28	MS	$43,396	28
ND	$46,954	29	SC	$38,603	29	MO	$43,128	29
LA	$46,902	30	NE	$37,889	30	NC	$43,040	30
NV	***$46,716***	***31***	VT	$37,088	31	FL	$42,447	31
NE	$46,294	32	TN	$37,073	32	***NV***	***$42,410***	***32***
VA	$45,955	33	AL	$36,930	33	OK	$41,863	33
NC	$45,404	34	GA	$36,908	34	KS	$41,817	34
HI	$43,874	35	KY	$36,829	35	WI	$41,760	35
OR	$43,810	36	LA	$36,792	36	IN	$41,357	36
FL	$43,596	37	IA	$36,729	37	UT	$41,163	37
SD	$43,507	38	MO	$36,575	38	AL	$41,079	38
IN	$43,028	39	IN	$36,129	39	HI	$40,871	39
KY	$42,945	40	NM	$35,585	40	KY	$40,228	40
TN	$42,723	41	MT	$35,503	41	VT	$40,206	41
SC	$42,640	42	ME	$35,381	42	ME	$40,116	42
MT	$42,478	43	OK	$34,724	43	IA	$39,761	43
AR	$41,962	44	AR	$34,362	44	NM	$39,521	44
MS	$41,870	45	ND	$34,239	45	WV	$39,258	45
OK	$41,726	46	WV	$34,056	46	SC	$38,663	46
ID	$40,716	47	MS	$32,441	47	NE	$38,660	47
GA	$40,624	48	UT	$32,209	48	AR	$37,881	48
WV	$40,487	49	KS	$32,168	49	SD	$36,306	49
ME	$40,116	50	ID	$31,919	50	MT	$35,987	50
MO	$38,195	51	SD	$30,470	51	ID	$35,882	51

Source: U.S. Department of Labor, Bureau of Labor Statistics, Quarterly Census of Employment and Wages, 2012.

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 officials of rival unions, even when some workers might prefer alternative representation.

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 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. That's why all bargaining groups should be able to vote every year or every few years about whether they wish to continue with current representation. Similar changes have been enacted in Wisconsin and Ohio in recent years.[3]

Remove "exclusive bargaining agent" language 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.

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[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.

[3] Wisconsin State Legislature, January 2011 Special Session, Act 10; Ohio Legislature, 129th General Assembly, Senate Bill 5.

Cumulative Savings from Wisconsin's Act 10 (Jan. 2011 to Oct. 2013)	
School Districts	$1,862,489,379
Municipalities	$242,549,622
Counties	$106,986,190
Tech Colleges	$35,422,700
State – Health Care	$82,000,000
State – Retirement	$226,000,000
State – Plan Redesign	$65,000,000
State – Other	$71,300,000
CESA	$3,700,000
Special Purpose	$8,800,000
Total	$2,704,247,891

Source: MacIver Institute, "UPDATE: Act 10 Savings Up to $2.7 Billion," October 2013.

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 '89 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.

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 third most common causes of death in the United States for 2011, respectively.[1]

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 eligible for additional taxpayer-funded benefits.

The cost per claim to local taxpayers exceeds $1 million. During legislative hearings in 2011, risk management officers from the cities of Las Vegas and Henderson, and from the Public Agency Compensation Trust testified that the average heart and lung claim costs a municipality between $1 million and $1.5 million.[2]

[1] U.S. Centers for Disease Control and Prevention, National Center for Health Statistics, National Vital Statistics Reports, 2009.

[2] Nevada Legislature, 76th Session, Minutes of the Meeting of the Assembly Committee on Commerce and Labor, 16 May 2011.

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 five 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 conclude that the unfunded liability facing the six jurisdictions exceeds $2.4 billion combined.[3]

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. Nevada is the only state that does not cap the manifestation period for the onset of occupational diseases. In California, all claims must be made within five years from last employment.

Recommendations

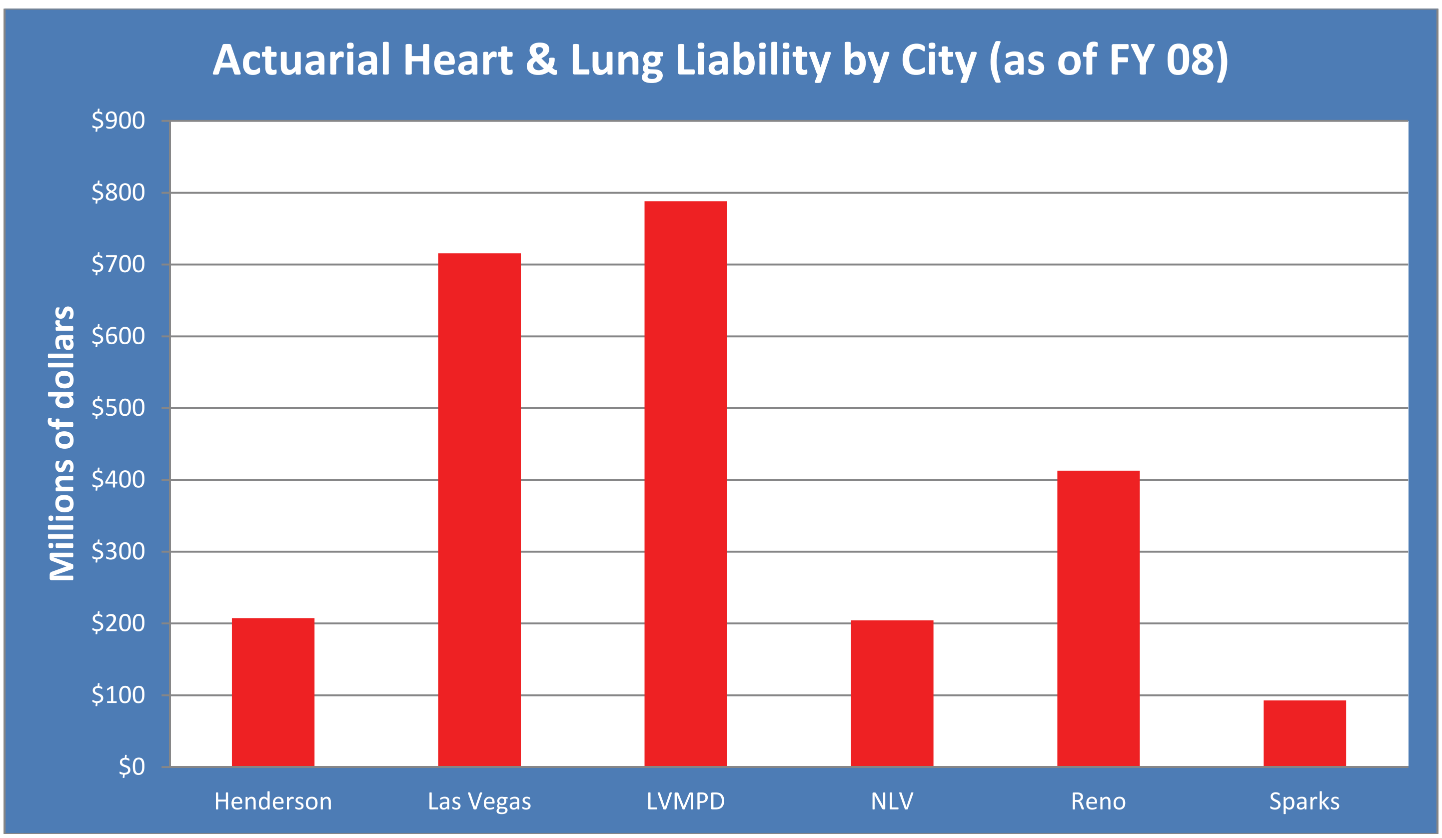
Repeal the conclusive presumption provisions. Officers who contract diseases in the course of duty deserve to receive compensation from their employer and to receive medical treatment. However, Nevada's conclusive presumption statutes make a mockery of that legitimate obligation by entitling retirees who contract disease as a result of an unhealthy lifestyle to the same benefits. Local taxpayers should not be forced to subsidize poor decision-making for public-sector retirees.

Cap the manifestation period. 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.

[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.

Leading Causes of Death in the United States, 2011	
Cause of death	**Number of mortalities**
1. Heart disease	***596,339***
2. Cancer	575,313
3. Lung disease	***143,382***
4. Stroke	128,931
5. Accidental injury	122,777
6. Alzheimer's disease	84,691
7. Diabetes	73,282
8. Influenza and pneumonia	53,667
9. Kidney disease	45,731
10. Suicide	38,285
11. Blood Poisoning	35,539
12. Liver disease	33,539
13. Hypertensive renal disease	27,477
14. Parkinson's disease	23,107
15. Pneumonitis due to solids or liquids	18,090

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



Source: Oliver Wyman Actuarial Consulting, Inc.

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 percent of the workers that have filled CLS positions did so without ever leaving the workforce. PERS' actuaries conclude 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 PERS' unfunded liability and result 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 percent 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 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 of 16.2 percent.[5] Even if Nevada suffered from a labor shortage a decade 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.

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

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

[3] *Ibid.*

[4] *Ibid.*

[5] U.S. 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.

Economic Development

In 2011, lawmakers enacted a dramatic overhaul to the state's economic development infrastructure, passing Assembly Bill 449.

AB 449 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" with $10 million in initial seed money transferred from the Unclaimed Property Fund. The purpose of the Catalyst Fund is to provide financial incentives to firms that are considering moving to Nevada or expanding in Nevada.[1]

This strategy of state-directed economic development will rely on public revenues — taxes — to pay off private businessmen for locating their production in Nevada. 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 plan for the provision of society's material needs than private entrepreneurs.[2]

Key Points

State-directed economic development is inefficient. When production decisions are shaped by politicians instead of market forces — i.e., consumer decisions determining what is produced and by which means — society's capital stock is likely to be invested in ways that serve politicians', not consumers', best interests. Publicly subsidized producers compete on an uneven playing field that can allow them to push out of the market the suppliers that consumers would otherwise prefer.

Public subsidies for private industry 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, American experience with this cronyism prompted many states to pass constitutional amendments that would ban states from giving gifts 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 a recession and to build a sustainable economic future. In many ways, however, Nevada's policy environment is 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.

Recommendations

Clarify and restrict mission of Economic Development Board. Nevada does not need a cabinet-level agency to dole out patronage to the politically corrected. However, the Economic Development Board created by AB 449 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. The Nevada Policy Research Institute 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.[3]

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

[2] 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.

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

Sampling of Tax Abatements Granted by Nevada Commission on Economic Development, Through FY 2008

Date	Company	County	Number of New Jobs	Estimated Sales & Use Tax Abatement	*Sales & Use Tax Abatement Per Job*	MBT Abatement	Personal Property Tax Abatement
11/12/2003	ORNI3, LLC - Ormat Nevada	CH	8	$2,662,272	*$332,784*	-	-
1/12/2005	RR Donnelly	WA	26	$1,934,525	*$74,405*	-	50%/10 years
7/13/2005	Polypipe, Inc	LY	6	$233,726	*$38,954*	-	50%/10 years
7/13/2005	Solargenix Energy, LLC	CL	28	$5,800,850	*$207,173*	-	50%/10 years
8/10/2005	Sho-Me Container	CL	13	$197,010	*$15,155*	50%/4 years	-
1/18/2006	Charles River Laboratories	WA	90	$1,571,426	*$17,460*	50%/4 years	50%/10 years
2/15/2006	Pro Line Printing	WA	24	$448,006	*$18,667*	-	-
4/19/2006	Vada Tech, Inc	CL	12	$858,125	*$71,510*	50%/4 years	50%/10 years
6/21/2006	Basalite Concrete Products, LLC	CC	14	$373,100	*$26,650*	50%/4 years	50%/10 years
7/19/2006	Sierra Stainless	LY	24	$298,805	*$12,450*	50%/4 years	50%/10 years
9/20/2006	SpecTIR LLC	WA	4	$207,605	*$51,901*	50%/4 years	-
10/18/2006	PowerLight Corporation/ Solar Star	CL	1	$5,608,413	*$5,608,413*	50%/4 years	-
11/15/2006	Varian Medical Systems, Inc	CL	45	$1,123,038	*$24,956*	50%/4 years	50%/10 years
1/17/2007	Western Dairy Specialties	LY	19	$1,022,132	*$53,796*	50%/4 years	50%/10 years
2/21/2007	Bottling Group LLC	CL	34	$2,772,368	*$81,540*	50%/4 years	50%/10 years
3/21/2007	Biodiesel of Las Vegas	CL	40	$2,427,978	*$60,699*	50%/4 years	50%/10 years
5/16/2007	Niotan, Inc.	LY	34	$855,402	*$25,159*	50%/4 years	50%/10 years
6/20/2007	Switch Communications Group, LLC	CL	7	$621,742	*$88,820*	50%/4 years	50%/10 years
7/18/2007	Arroweye Solutions, Inc	CL	6	$319,878	*$53,313*	50%/4 years	50%/10 years
8/15/2007	TG Power LLC	EL	15	$2,011,725	*$134,115*	-	-
8/15/2007	Erickson Manufacturing	CL	20	$544,525	*$27,226*	50%/4 years	-
9/19/2007	Enel North America, Inc	CH	12	$6,155,100	*$512,925*	50%/4 years	-
9/19/2007	U.S. Ordinance, Inc	ST	7	$233,008	*$33,287*	50%/4 years	50%/10 years
1/16/2008	GlobalWatt, Inc	LY	2	$1,606,965	*$803,483*	-	50%/10 years
2/20/2008	ICO Satellite Services GP	CL	2	$4,836,973	*$2,418,487*	50%/4 years	50%/10 years
6/24/2008	Switch Communications Group, LLC	CL	10	$12,023,341	*$1,202,334*	50%/4 years	50%/10 years
6/24/2008	El Dorado Energy, LLC	CL	1	$1,857,250	*$1,857,250*	50%/4 years	50%/10 years
6/24/2008	NGP Blue Mountain 1 LLC	HU	21	$3,116,019	*$148,382*	50%/4 years	-

Source: Nevada Legislature, Legislative Counsel Bureau, Fiscal Division, "Report on Tax Abatements, Tax Exemptions, Tax Incentives for Economic Development and Tax Increment Financing in Nevada," 2009.

Investment Capital

Nevada lawmakers in 2011 created a new Nevada Capital Investment Corporation to invest moneys from the state's Permanent School Fund. The goal of the venture was to disburse investment capital to firms locating to, or proposing to expand within, the Silver State. The enabling legislation, SB 75, allows for the creation of a "corporation for public benefit" to purchase, with $50 million from the Permanent School Fund, a direct equity stake in private firms. Historically, moneys in the Permanent School Fund[1] had been invested by the state treasurer in high-quality financial securities, with the returns on the investments going directly into the state's Distributive School Account.

Key Points

The purchase of private equity stakes with public funds is unconstitutional. Before voting on SB 75, lawmakers solicited an opinion from Attorney General Catherine Cortez-Masto to justify its passage, given its apparent conflict with the Nevada Constitution. As Article 8, Section 9 reads, "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."[2]

The bill's advocates argued that the corporation created by SB 75 met the "educational purpose" exemption because one component of its mission would be to seek a high investment yield, with this yield returning to the Distributive School Account. The corporation created by SB 75, however, would not be the final recipient of public funds — it would merely serve as a pass-through entity for the state to purchase equity stakes in firms that may not serve educational or charitable purposes.

Consequently, the opinion that lawmakers received to justify SB 75's constitutionality made no appeal to the "educational purpose" exemption. Instead, the opinion appealed to the legally tenuous "Special Funds Doctrine," which holds that lawmakers can get around constitutional restrictions on the use of public money if they first funnel those dollars through a fund created outside of the state's general fund.[3] Further, of the two judicial precedents cited, one is from Oregon and both are debt-related and not equity-related cases.

Capital for profitable ventures is not in short supply. An ostensibly central purpose of the investment corporation created by SB 75 is to provide liquid capital to firms seeking to locate to, or expand within, Nevada. Bill advocates complained that Nevada suffers from a paucity of in-state investment capital and that this obstacle could be alleviated by using public resources for this purpose. However, mobility is one of the most defining features of capital. Every day, capital flows across the world seeking out ventures that cater best to human needs, because these offer the highest rates of return.

Political influence over investments leads to economic inefficiency. Within the corporation created by SB 75, political appointees will make up the board of directors empowered to make investment decisions. Thus, the political interests of their masters will weigh heavily on the decisions of board members. Politically influenced investment decisions, however, regularly lead to a loss of wealth. That's because political players do not allocate capital resources on the strict basis of which ventures are most profitable — the clearest indication that a venture offers the highest and best value to consumers.

Recommendations

Repeal SB 75. It's highly doubtful that the corporatist scheme embodied in SB 75 would pass constitutional muster if reviewed by the Nevada Supreme Court. Moreover the rationales offered as to why such a corporatist scheme is supposedly necessary do not stand up to close scrutiny. Lawmakers should immediately repeal the authority for this scheme.

[1] Nevada's now-defunct estate tax yielded the seed funds.
[2] Nevada Constitution, Article 8, Section 9.
[3] Filed Declaratory Order, Attorney General Catherine Cortez-Masto, Filed in First Judicial Court of the State of Nevada, Case No. 11 OC 00092 1B, March 28, 2011.

Language from SB 75, Establishing a 'Corporation for Public Benefit'

Section 5.3.

1. The State Treasurer shall cause to be formed in this State an independent corporation for public benefit, the general purpose of which is to act as a limited partner of limited partnerships or a shareholder or member of limited-liability companies that provide private equity funding to businesses:

    (a) Located in this State or seeking to locate in this State; and

    (b) Engaged primarily in one or more of the following industries:

        (1) Health care and life sciences.
        (2) Cyber security.
        (3) Homeland security and defense.
        (4) Alternative energy.
        (5) Advanced materials and manufacturing.
        (6) Information technology.
        (7) Any other industry that the board of directors of the corporation for public benefit determines will likely meet the targets for investment returns established by the corporation for public benefit for investments authorized by sections 2 to 7, inclusive, of this act and comply with sound fiduciary principles.

2. The corporation for public benefit created pursuant to subsection 1 must have a board of directors consisting of:

    (a) Five members from the private sector who have at least 10 years of experience in the field of investment, finance or banking and who are appointed for a term of 4 years as follows:

        (1) One member appointed by the Governor;
        (2) One member appointed by the Senate Majority Leader;
        (3) One member appointed by the Speaker of the Assembly;
        (4) One member appointed by the Senate Minority Leader; and
        (5) One member appointed by the Assembly Minority Leader;

    (b) The Chancellor of the Nevada System of Higher Education or his or her designee;

    (c) The State Treasurer; and

    (d) With the approval a majority of the members of the board of directors described in subparagraphs (1), (2) and (3), up to 5 additional members who are direct investors in the corporation for public benefit.

Section 6.

If the State Treasurer obtains the judicial determination required by subsection 3 of NRS 355.060, the State Treasurer may transfer an amount not to exceed $50 million from the State Permanent School Fund to the corporation for public benefit. Such a transfer must be made pursuant to an agreement that requires the corporation for public benefit to:

1. Provide, through the limited partnerships or limited liability companies described in subsection 1 of section 5.3 of this act, private equity funding; and
2. Ensure that at least 70 percent of all private equity funding provided by the corporation for public benefit is provided to businesses:

    (a) Located in this State or seeking to locate in this State; and(b) Engaged primarily in one or more of the following industries:

        (1) Health care and life sciences.
        (2) Cyber security.
        (3) Homeland security and defense.
        (4) Alternative energy.
        (5) Advanced materials and manufacturing.
        (6) Information technology.
        (7) Any other industry that the board of directors of the corporation for public benefit determines will likely meet the targets for investment returns established by the corporation for public benefit for investments authorized by sections 2 to 7, inclusive, of this act and comply with sound fiduciary principles.

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]

In response to their dwindling opportunities for litigation, California trial lawyers 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 law places an asymmetrical liability for unknown defects on the seller of the home vis-à-vis the purchaser. It does 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 goes to court. Thus, while builders typically purchase insurance to safeguard against liabilities, many insurers refuse to issue coverage in states with construction defect laws or do so only at exorbitantly high rates.[4] The result is that fewer affordable-housing units are built, with higher prices for those that are.

Departure of willing insurers hits multi-family construction hardest. Multi-family housing developments — e.g., townhouses and condominiums — are typically the subjects of class-action construction-defect litigation because a defect occurring in one unit can, arguably, be replicated in all units.[5] Thus, in states where courts or legislatures have enabled rampant construction-defect litigation, insurers will no longer insure subcontractors, and the construction of for-sale affordable housing has virtually halted.

A significant share of Nevada construction-defect litigation may be fraudulent. Because Chapter 40 of the Nevada Revised Statutes incentivizes punitively long-running "prelitigation" maneuvering, it fosters the corruption of Nevada 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 control homeowners associations for the purpose of generating more construction defect lawsuits.[6]

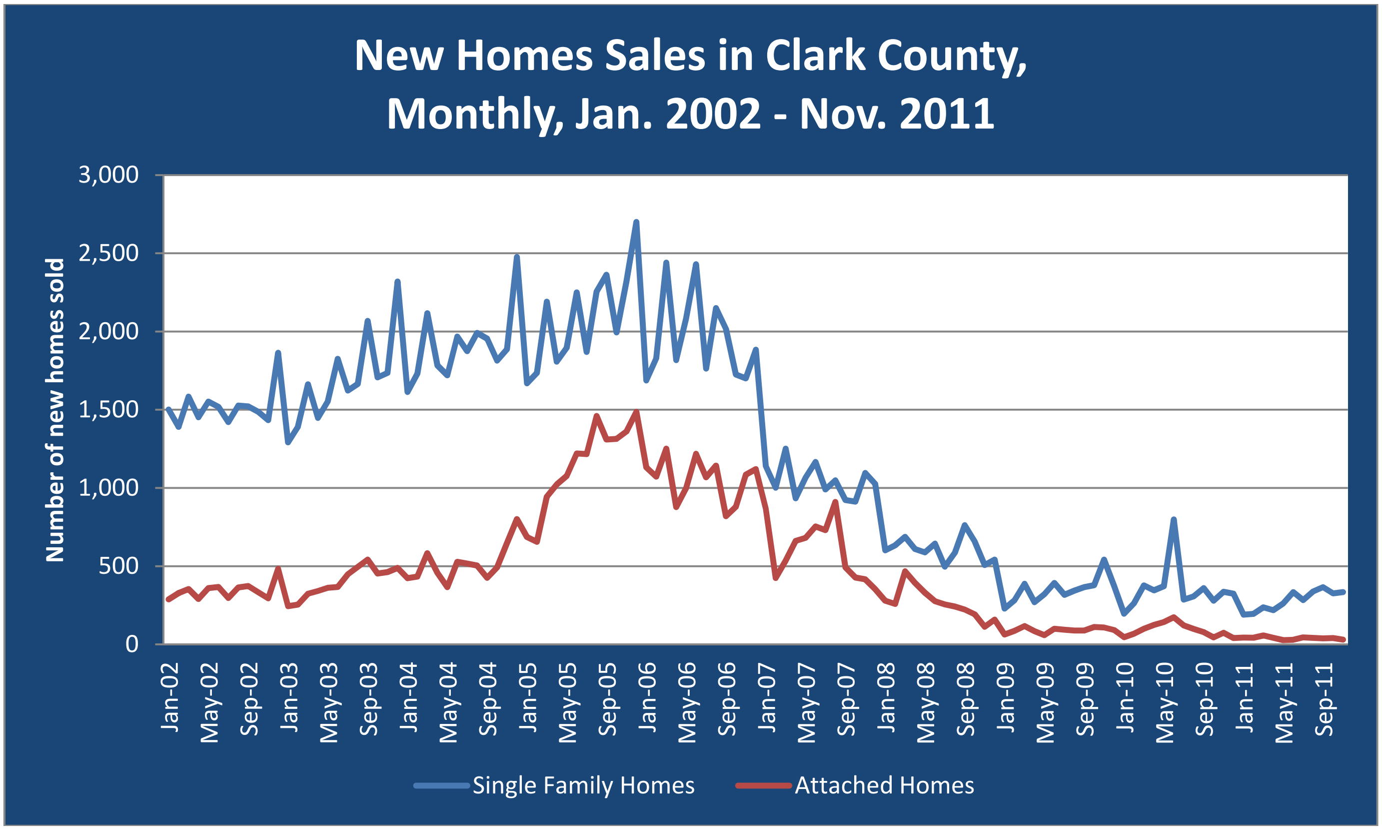
Recommendations

Repeal NRS 40.600 - 40.770, inclusive. Buyers certainly deserve recourse for construction defects, but current law destroys contractors' incentive — and, sometimes, legal ability — to make such repairs.

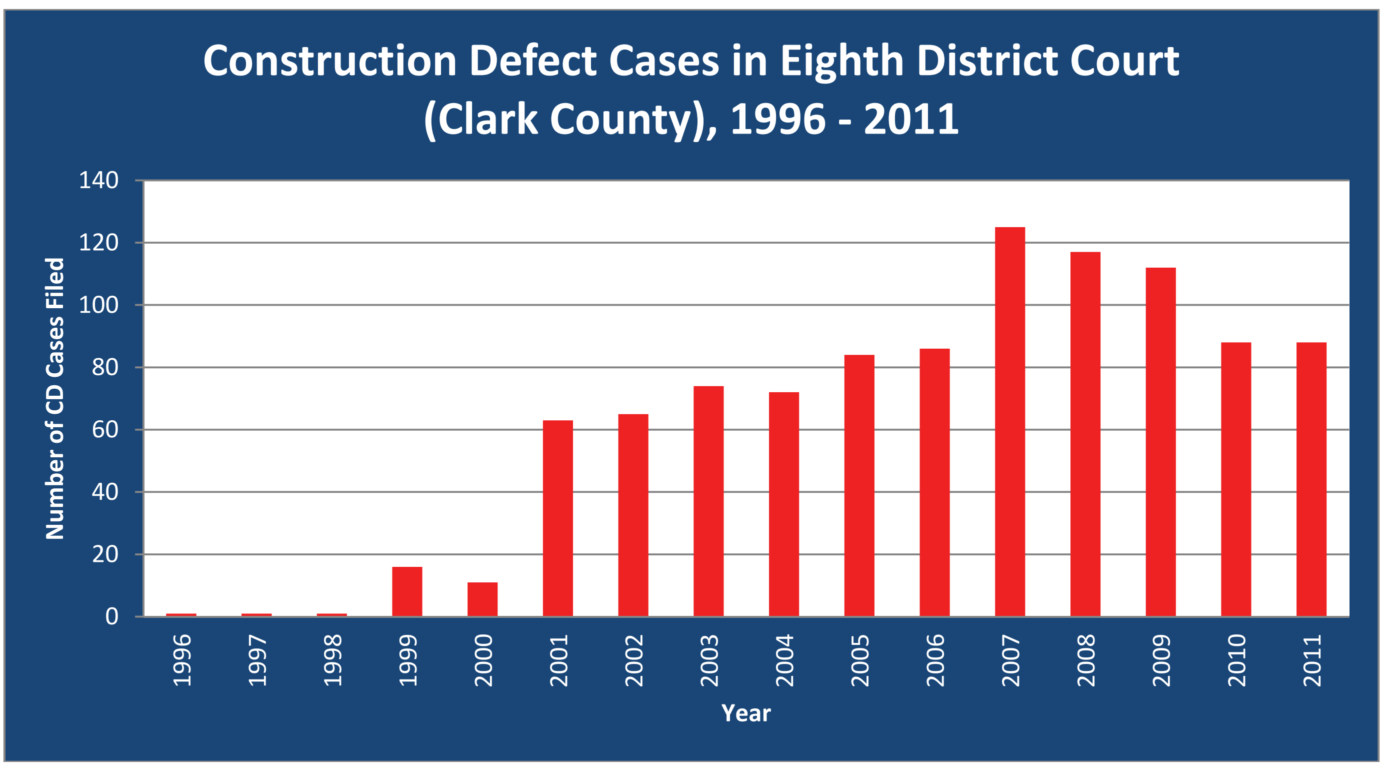
Construction of attached housing in Nevada will never fully recover until the construction-defect bar is no longer privileged with the guarantee of automatic prelitigation fees.

[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,* December 4, 1996.
[3] Nevada Legislature, 68th Session, Senate Bill 395; also, Nevada Legislature, 68th Session, Minutes of the Senate Committee on Judiciary, May 10, 1995.

[4] California Legislature, California Research Bureau, "Construction Defect Litigation and the Condominium Market," CRB Note, Vol. 6, No. 7, 1999.
[5] *Ibid.*
[6] Jeff German, "GOP Consultant Helped Rig HOA Elections in Plot," *Las Vegas Review-Journal*, 1 September 2011.



Source: Homebuilders' Research.



Source: Eighth District Court case filings.

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 dubiously 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.

For over 50 different occupations in Nevada, lawmakers have required providers to pay regular fees to a state-sanctioned licensing board or to face potential criminal charges. In many of these cases, the legislation is not in the public interest.

Key Points

Nevada imposes some of the most restrictive licensing requirements in America. According to a 2012 state-by-state analysis of occupational licensing laws:

> Nevada is among the top tiers of the most broadly and onerously licensed states, ranking fourth. The state requires a license for 55 of the 102 occupations studied, more than all but five other states. Nevada is the most expensive state in which to work in a licensed lower- and moderate-income occupation, with average fees of $505. It also requires an average of 601 days of education and experience and two exams, resulting in the third most burdensome licensing laws.[2]

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 against 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 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 essentially political methods are far 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.

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

[2] Dick Carpenter et al., "License to Work: A National Study of Burdens from Occupational Licensing," Institute for Justice, May 2012.

Occupations Requiring a License in Nevada

Occupation	Licensing Board
Accountants	Nevada State Board of Accountancy
Acupuncturists	Nevada State Board of Oriental Medicine
Alternative Medicine Practitioners	Homeopathic Medical Examiners Board
Appraisers	Appraiser's Certification Board
Apprentice Opticians	Nevada State Board of Dispensing Opticians
Architects	Nevada State Board of Architecture, Interior Design, and Residential Design
Assisted Care Administrators	Board of Examiners for Long Term Care Administrators
Athletic Trainers	Nevada State Board of Athletic Trainers
Attorneys	Bar Examiners of Nevada
Audiologists	Nevada State Board of Examiners for Audiology and Speech Pathology
Barbers	Barbers Health and Sanitation Board
Builders	Nevada State Contractors Board
Cemetery Operators	Nevada State Funeral Board
Chiropractors	Chiropractic Physicians' Board of Nevada
Cosmetologists	Nevada State Board of Cosmetology
Court Reporters	Certified Court Reporters Board
Crematory Operators	Nevada State Funeral Board
Dental Hygienists	Nevada State Board of Dental Examiners
Dentists	Nevada State Board of Dental Examiners
Embalmers	Nevada State Funeral Board
Engineers	Nevada State Board of Professional Engineers and Land Surveyors
Environmental Health Specialists	Nevada Board of Registered Environmental Health Specialists
Family Therapists	Board of Examiners for Marriage and Family Therapists and Clinical Professional Councilors
Funeral Directors	Nevada State Funeral Board
Gaming Operators	State Gaming Control Board
Herbal Medicine Practitioners	Nevada State Board of Oriental Medicine
Interior Designers	Nevada State Board of Architecture, Interior Design, and Residential Design
Land Surveyors	Nevada State Board of Professional Engineers and Land Surveyors
Landscapers	Nevada State Board Landscape Architecture
Marriage Counselors	Board of Examiners for Marriage and Family Therapists and Clinical Professional Councilors
Masseuses	Nevada State Board of Massage Therapists
Music Therapists	Nevada State Board of Health
Nurses	Nevada State Board of Nursing
Nursing Home Administrators	Board of Examiners for Long Term Care Administrators
Occupational Therapists	Nevada State Board of Occupational Therapy
Opticians	Nevada State Board of Dispensing Opticians
Optometrists	Nevada State Board of Optometry
Osteopathic Medicine Practitioners	Nevada State Board of Osteopathic Medicine
Pharmacists	Nevada State Board of Pharmacy
Physical Therapists	Physical Therapy Examiners' Board
Physical Therapists' Assistants	Physical Therapy Examiners' Board
Physicians	Nevada State Board of Medical Examiners
Physicians' Assistants	Nevada State Board of Medical Examiners
Podiatrists	Nevada State Board of Podiatry
Psychologists	Nevada State Psychological Examiners Board
Residential Designers	Nevada State Board of Architecture, Interior Design, and Residential Design
Social Workers	Nevada State Board of Examiners for Social Workers
Speech Pathologists	Nevada State Board of Examiners for Audiology and Speech Pathology
Teachers	Nevada State Board of Education
Vendors of Hearing Aids	Nevada State Board of Hearing Aid Specialists
Veterinarians	Nevada State Board of Veterinary Medical Examiners
Well Drillers	Well Drillers Advisory Board

Work vs. Welfare

Prosperity and social wealth 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 significant impact on social prosperity if they provide 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 their basic needs without working. Food, housing, utilities, health care and spending cash are all available through the various distributing government programs, 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, black-market 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.[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 can serve as a springboard for later career advancement and significant 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 percent of welfare recipients participate in any form of "work activities." In neighboring Idaho, the comparable figure is 87.9 percent. Furthermore, less 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 the 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.

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[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	District of Columbia	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.

Corrections

Historically, lawmakers have elected to invest heavily in the state prison system as a primary means of providing for the public's safety. For the 2013-2015 biennium, lawmakers appropriated $487.3 million to the Department of Corrections for this purpose — 84.1 percent of state General Fund dollars spent on public safety.[1]

Prison spending has risen rapidly in the Silver State as both the inmate population and the cost per inmate have increased. Between FY 2002 and FY 2009, Nevada's inmate population increased 34.6 percent while the cost per inmate increased 25.9 percent, for a total spending increase of 69.4 percent in just seven short years.[2] In the wake of recession, policymakers have begun to shrink prison spending by decreasing the rate of incarceration as well as per-inmate spending for medical services.

Public safety expenditures are no exception to the rule that lawmakers should constantly question whether they are spending public funds in the most cost-effective manner possible. Citizens expect to be protected from fraud and violence. Yet it is not obvious that high levels of prison spending are the most cost-effective means of providing that safety.

Key Points

Nevada's incarceration rate is exceptionally high. According to figures from the Department of Corrections, Nevada's incarceration rate (defined as the number of inmates per 100,000 in population) has consistently remained above the United States average[3] — and the United States leads all nations, by far.

A survey by the UK-based International Centre for Prison Studies put the average incarceration rate in the United States in 2009 at 743 per 100,000 — above Rwanda and the Russian Federation, which ranked second and third, with 595 and 542, respectively. Canada's incarceration rate was 117. For France and Germany, it was 109 and 87, respectively.[4]

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*."[5] (Emphasis added.)

Runaway prison spending is not fiscally conservative. Often policymakers who present themselves as "fiscally conservative" also seek a "tough on crime" reputation by sending individuals to prison for increasingly minor infractions. These two positions, however, are antithetical. As prison is expensive, it should be reserved only for offenders of the most serious infractions. For lesser infractions, alternative sentencing has proven to be far more cost-effective.

Recommendations

Reserve prison space for violent and high-rate offenders. Prison sentences for first-time offenders of non-violent crimes should be eradicated. Empirical evidence demonstrates that alternative sentencing techniques rehabilitate these offenders far more cost-effectively. Lawmakers can then re-allocate the financial savings that result from fewer incarcerations toward other public-safety expenditures.

Pass a Recidivism Reduction Act. Model legislation from the American Legislative Exchange Council (ALEC) would require that a minimum percentage of offenders be supervised using evidence-based practices that are designed to reduce recidivism rates.[6]

Pass a Community Corrections Performance Incentive Act. Model legislation from ALEC would allow probation departments to share in the savings when they develop successful strategies for reducing recidivism rates.[7]

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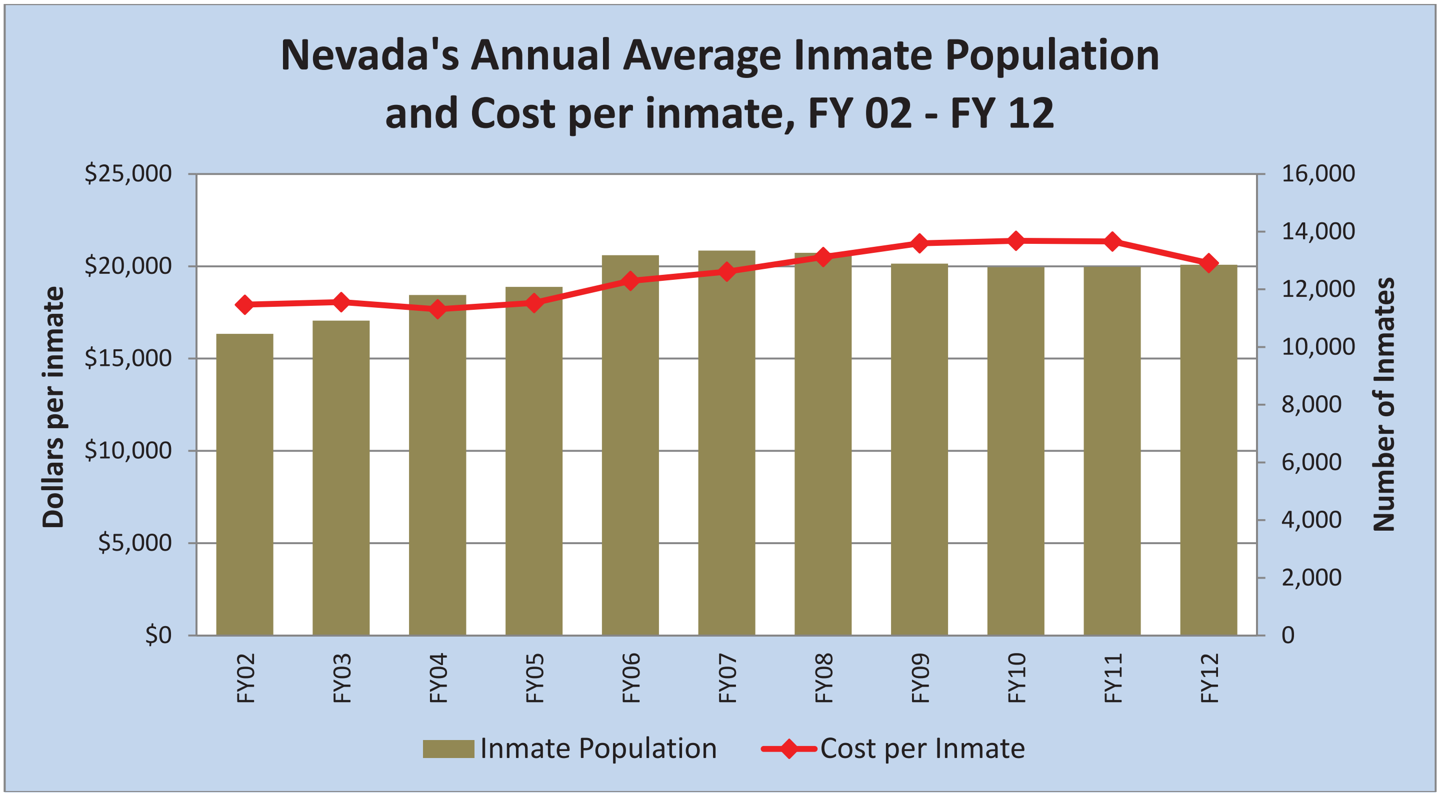
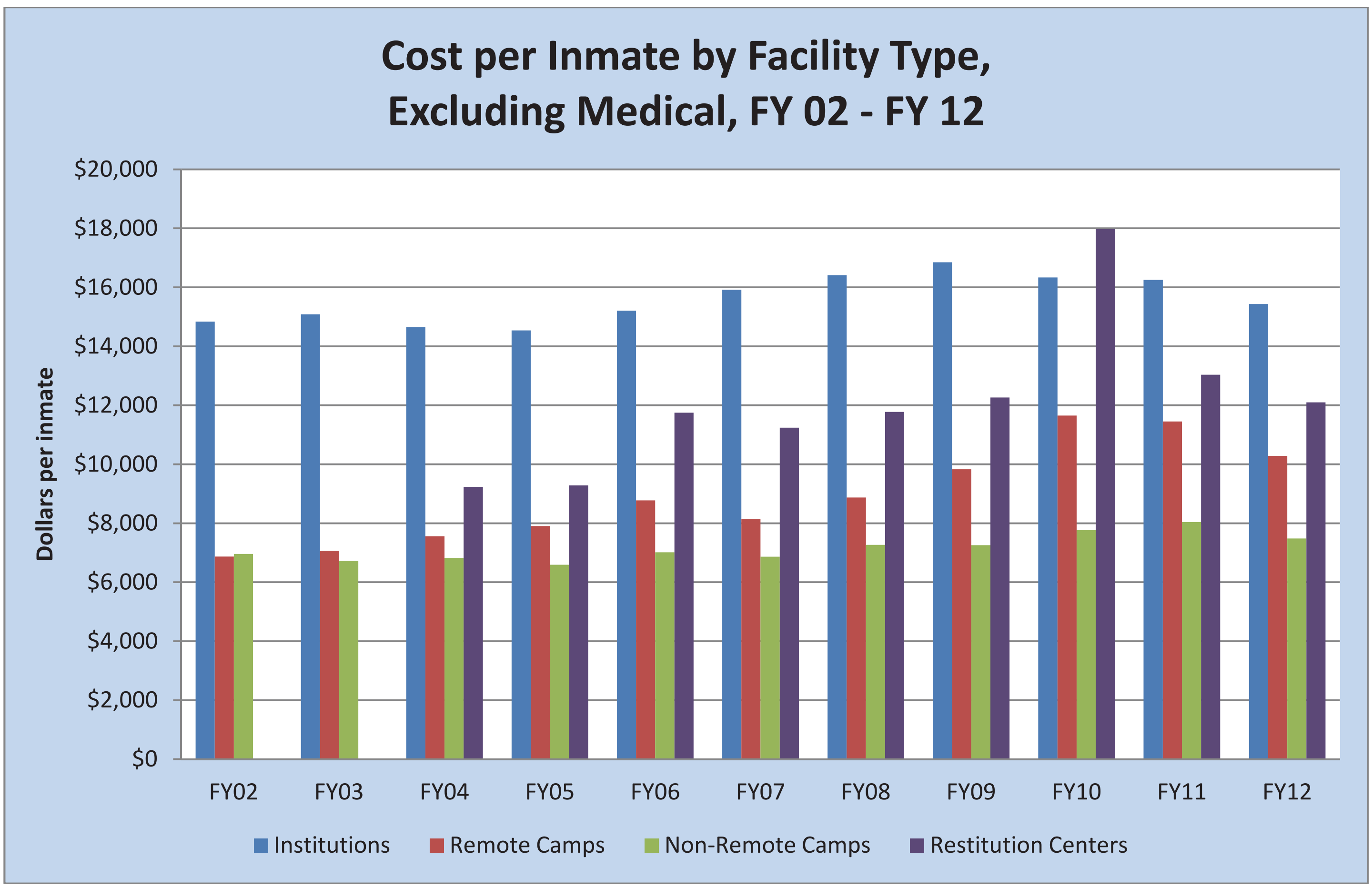
[1] Nevada Legislature, Legislative Counsel Bureau, Fiscal Division, "2013 Appropriations Report."
[2] State of Nevada, Department of Corrections, Statistical Abstract, Fiscal Year 2012.
[3] *Ibid.*
[4] International Centre for Prison Studies, University of Essex, World Prison Brief, 2009.
[5] Roger Przybylski, "What Works: Effective Recidivism Reduction and Risk-focused Prevention Programs," prepared for the Colorado Division of Criminal Justice, 2008.
[6] American Legislative Exchange Council, "Recidivism Reduction Act."
[7] American Legislative Exchange Council, "Community Corrections Performance Incentive Act."





Source: State of Nevada, Department of Corrections, Statistical Abstract, FY 2012.

Impact of Prohibition

Nevada governments spent roughly $258 million in 2008 to enforce drug prohibition within the state's borders. This includes $51 million for policing, $62 million in judicial expenses and $150 million for corrections.[1]

As these figures indicate, enforcing the prohibition of substance for which there is significant popular demand can be a costly proposition. This financial burden is further complicated by evidence that suggests that prohibition's positive impact on the public safety is ambiguous at best.

Key Points

Prohibition is expensive. Nevada governments target not only the sale and manufacture of substances they have classified as illicit, they also target individuals who possess even small amounts of these substances for personal consumption. Of the $258 million that Nevada taxpayers spent to enforce drug prohibition in 2008, nearly $50 million was spent to counter private citizens' ability to possess small amounts of marijuana: More than 7,000 citizens were arrested for simple possession of marijuana.[2]

Prohibition creates black markets. Regardless of any good intentions of lawmakers, experience has shown that legislation alone cannot alter the desires of individuals in society. As the so-called "Great Experiment" of American prohibition of alcohol in the 1920s made clear, black markets result when governments attempt to prevent the sale of goods that many people desire.

Black markets breed violence. Because buyers and sellers within black markets cannot turn to the legal system to resolve disputes or protect property rights, only violent means remain.

Indeed, many scholars argue that prohibition *increases* the rate of violence in society. When the legal system fails to recognize property rights and contract law, black markets thrive, generating opportunities for individuals to now profit through the most unscrupulous of behaviors. Drug cartels, narco-terrorism and gang violence spread — as America now witnesses daily on its southwestern borders.

Because of such effects, researchers have found, higher public spending on prohibition enforcement leads to *higher* murder rates and other violent crimes.[3] Hence, prohibition enforcement appears to be a public safety expenditure that actually *endangers* the public safety.

Prohibition is associated with higher usage rates. Proponents of drug and alcohol prohibition have argued that, regardless of the increase in violence, these policies carry a social benefit of less use and abuse. However, historical evidence — even that compiled by proponents of prohibition — reveals that alcohol prohibition in America led to higher rates of use and abuse.[4] Significantly, in Europe in the decade since Portugal decriminalized the possession of all drugs, usage rates in that nation have declined across the board.[5]

Recommendations

Prohibition enforcement is an unproductive use of tax dollars. Given Nevada's limited resources and the many competing demands for public revenues, spending that may well produce effects explicitly opposite to its goal — enhancing public safety — is difficult to justify. From a purely fiscal standpoint, enforcing prohibition appears to be an unproductive use of tax dollars.

If lawmakers want to discourage drug use among the public, demand-side policies that encourage individuals to seek treatment would most likely be more effective. In the language of economics, such policies will have less dire externalities.

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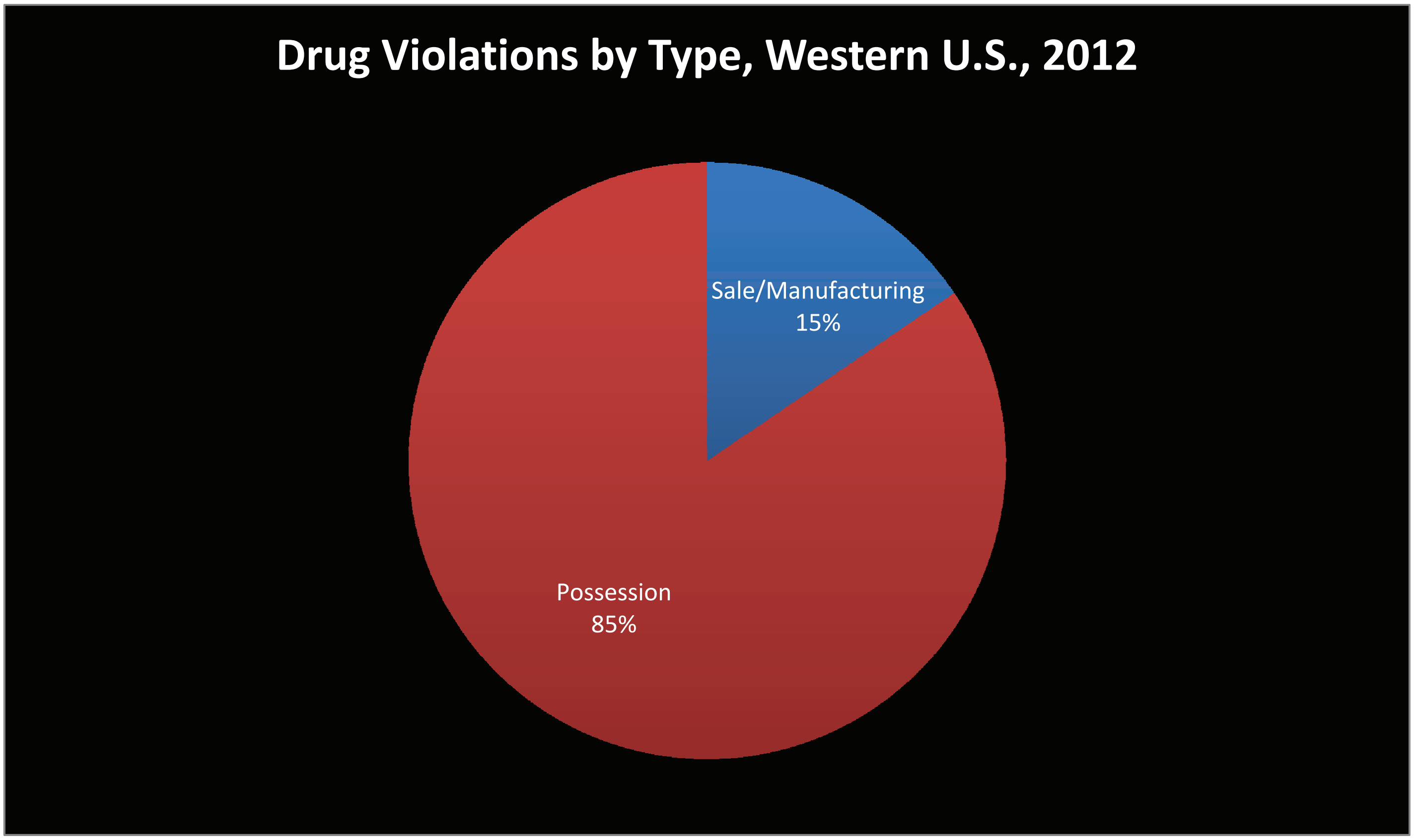
[1] Jeffrey Miron and Katherine Waldock, "The Budgetary Impact of Ending Drug Prohibition," Cato Institute, 2010.

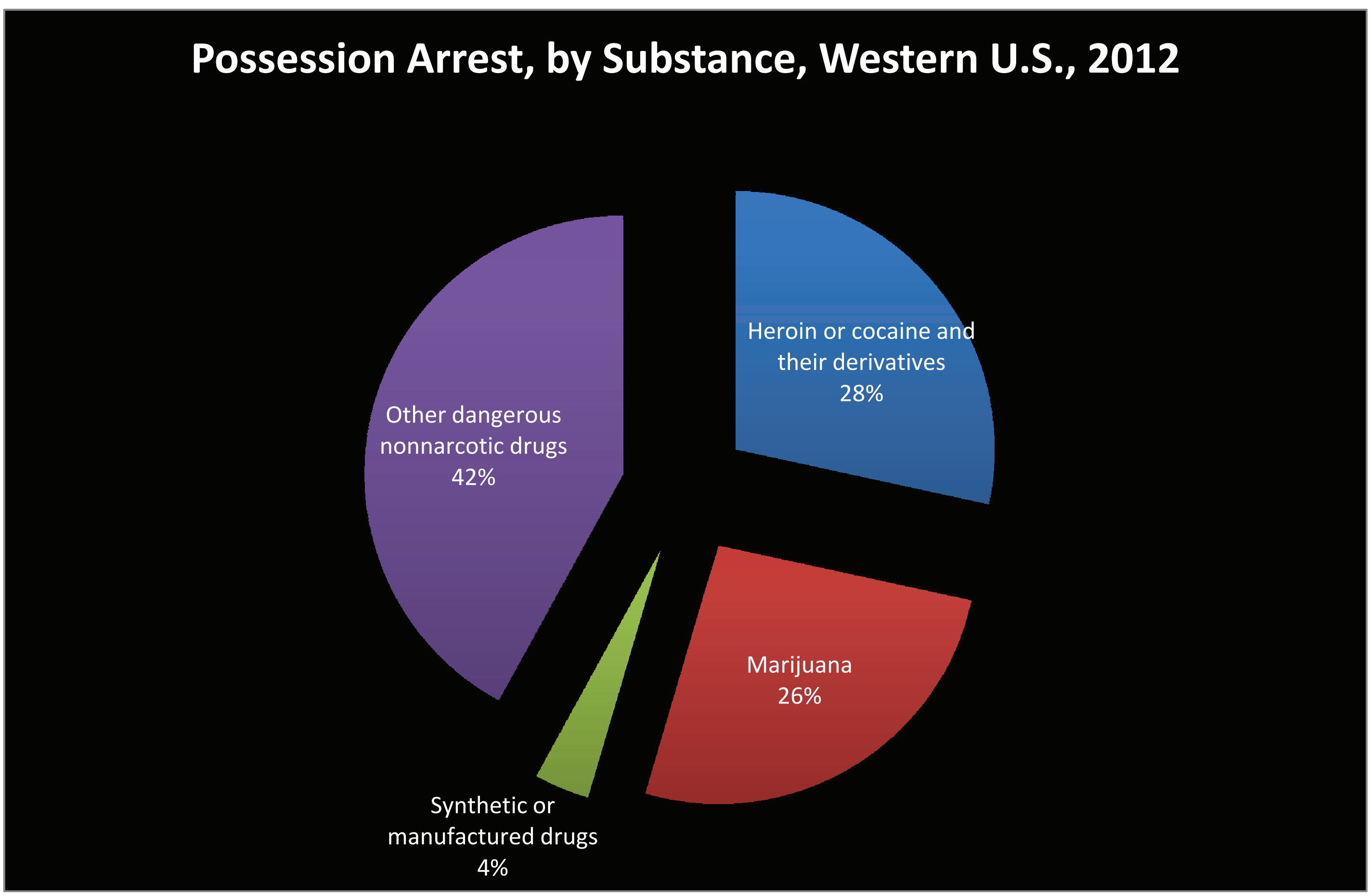
[2] *Ibid.*

[3] Jeffrey Miron, "Violence and the US Prohibitions of Drugs and Alcohol," American Law & Economics Review, Vol. 1, No. 1, pp. 78-114, 1999.

[4] Mark Thornton, "Alcohol Prohibition Was a Failure," Cato Institute Policy Analysis No. 157, 1991.

[5] Glenn Greenwald, "Drug Decriminalization in Portugal: Lessons for Creating Fair and Successful Drug Policies," Cato Institute, 2009.





Source: Federal Bureau of Investigation, Uniform Crime Reports, Drug Arrest Data, 2012.

Renewable Portfolio Standard

Renewable portfolio standards set by state law require electric utility companies to produce or purchase a minimum share of electricity from renewable energy facilities. Nevada's RPS mandates that renewable energy must account for a rising share of electricity sold within the state, regardless of the additional cost imposed. Current law requires renewable energy to account for:

- 15 percent of production by 2011.
- 18 percent of production by 2013.
- 20 percent of production by 2015.
- 22 percent of production by 2020.
- 25 percent of production by 2025.

Electricity generated from solar panels must be used to meet 5 percent of the RPS requirements until 2015 and 6 percent thereafter.[1] Legislation passed in 2013 also disqualified less costly energy-efficiency measures from satisfying any portion of the RPS.[2]

Key Points

Renewable energy is more expensive. The costs of energy production extend far beyond fuel expenses. Important factors include capital costs, financing, transmission, shipping, maintenance, efficiency, productive capacity, facility lifetime and decommissioning.

For an apples-to-apples unit comparison, all of these costs can be broken down to cost per kilowatt hour. The U.S. Department of Energy has estimated the costs of new electricity production projected to come online in 2016: New solar photovoltaic energy would be nearly 3.5 times more expensive than conventional power sources such as natural gas.[3]

High costs are passed on to ratepayers. When state law requires a utility provider to produce electricity through more expensive means, the utility recoups those costs by increasing the rates charged to customers. By 2025, it is expected that Nevada's electric rates will rise another 6 percent 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.[4]

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.

Nevada already has the highest electricity costs in the Intermountain West. According to the U.S. Department of Energy, residential electricity prices in Nevada have increased to 13.2 cents per kilowatt-hour in 2014. That's the highest in the region and 37 percent higher than neighboring Idaho's rate of 9.64 cents per kilowatt-hour.[5]

High energy costs 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 than in neighboring states. This damages state competitiveness and is a stumbling block to corporate investment and job growth.

Recommendations

Repeal the Nevada RPS in its entirety. Because of the renewable mandates, Nevadans are required to expend far greater resources to deploy the same amount of energy. This is the very definition of economic inefficiency.

Repeal of the RPS will lead to higher living standards and faster job growth.

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[1] Nevada Revised Statutes, 704.7801-704.7828, inclusive.
[2] Nevada Legislature, 77th Session, Senate Bill 252.
[3] U.S. Department of Energy, Energy Information Administration, "Levelized Cost of New Generation Resources in the Annual Energy Outlook 2011."
[4] David Tuerck et al., "RPS: A Recipe for Economic Decline," Beacon Hill Institute at Suffolk University, prepared for NPRI, April 2013.
[5] U.S. Department of Energy, Energy Information Administration, "Electric Power Monthly: Average Retail Price of Electricity to Ultimate Customers," May 2014.

Cost of the 25 Percent RPS Mandate on Nevada (2010 dollars)			
Cost Estimates	**Low**	**Medium**	**High**
Total Net Cost in 2025 (millions of $)	45	174	310
Total Net Cost 2013-2025 (millions of $)	993	2,275	3,581
Electricity Price Increase in 2025 (cents/kWh)	0.16	0.60	1.08
Percentage Increase	1.6	6.0	10.8
Economic Indicators			
Total Employment (jobs)	(590)	(1,930)	(3,070)
Investment ($ million)	(9)	(29)	(47)
Real Disposable Income ($ million)	(72)	(233)	(373)

Annual Effects of RPS on Electricity Ratepayers (2010 dollars)			
Cost in 2025	**Low**	**Medium**	**High**
Residential Ratepayer ($)	20	70	130
Commercial Ratepayer ($)	100	400	720
Industrial Ratepayer ($)	6,870	26,220	47,690
Cost over period (2013-2025)			
Residential Ratepayer ($)	410	940	1,480
Commercial Ratepayer ($)	2,190	5,050	7,980
Industrial Ratepayer ($)	145,030	334,080	527,440

Source: David Tuerck et al., "RPS: A Recipe for Economic Decline," Beacon Hill Institute at Suffolk University, April 2013.

Coal Divestment

During the 2013 Legislature, lawmakers created a new requirement for NV Energy to decommission at least 800 MW of coal-fired generation capacity ahead of schedule and to replace this lost capacity with new generation facilities, most of which, presumably, will be natural-gas fired. NV Energy can seek — through higher rates — recovery of all costs associated with decommissioning, any un-depreciated value remaining in the existing plants, and the value of existing coal stockpiles that would no longer be used.

NV Energy lobbyists originally presented a version of the plan to the Nevada Public Utilities Commission (PUC) in 2012. After the PUC rejected the plan, however, Sen. Kelvin Atkinson and Assemblyman David Bobzien introduced the proposal as Senate Bill 123.[1]

Key Points

SB 123 stripped the PUC of key oversight powers. The reason for the PUC's existence is to regulate operations of the state's monopoly electric provider in order to protect the interests of consumers while also ensuring the continued financial viability of the utility. SB 123, however, severely limited the PUC's ability to regulate NV Energy's asset portfolio. The new law limits the PUC's regulatory powers to: 1) either accepting any coal divestment plan proposed by NV Energy outright or 2) proposing modifications. The PUC no longer has the authority to reject a plan outright or to challenge the premise of a coal-divestment strategy.

NV Energy's estimate of rate impact was misleading. During legislative hearings, NV Energy told lawmakers they expected the plan to cause electric rates to rise 2.59 percent faster over a 10-year period.[2] As similar legislation was considered in Colorado in 2010, that state's major electric utility, Xcel Energy provided a similar rate-impact projection. However, subsequent analyses now show that electric prices there will rise between 11 and 50 percent due to the change.[3] It appears that a major shortcoming with NV Energy's projections is that the company failed to account for greater short-term price volatility and faster long-term cost growth in the natural gas market than in the coal market. Yet, projections from the U.S. Department of Energy show both of these factors will be significant in coming decades. When natural-gas prices are near $4 per million BTUs — as at the time of legislative hearings — electric generation from natural gas is cost-competitive with coal. However, natural gas prices have ranged to more than $14 per million BTUs in the past several years and are projected to reach sustained prices of $8 per million BTUs over the next few decades. At these prices, greater reliance on natural gas will lead to a significant rise in electric rates.[4]

It's for these and other reasons that PUC staff testified during hearings that they had "identified several problems with [NV Energy's] financial modeling that skew the rate impact analysis the company has set forward."[5]

Ratepayer protection in SB 123 is illusory. Section 11 of SB 123 limits the allowable rate increase NV Energy can seek under the bill's mandates to five percent in any general rate case hearing. However, that limitation only applies to hearings held prior to June 2018 — long before many of the costs associated with coal divestment are realized. In addition, the utility can seek additional rate hikes beyond the 5 percent limitation through quarterly fuel-cost adjustment proceedings.[6]

Both the PUC and the Attorney General's Bureau of Consumer Protection oppose coal divestment. The regulatory agencies, which, by custom, testify during the "neutral" portion of legislative hearings, took an extraordinary measure by testifying in explicit opposition to versions of SB123. Although the agencies testified as "neutral" on the bill's final version, their remarks were highly critical.

Recommendations

Eliminate or delay coal divestment mandates. The coal divestment mandates created by SB 123 will lead to dramatically higher electricity costs and damage state competitiveness.

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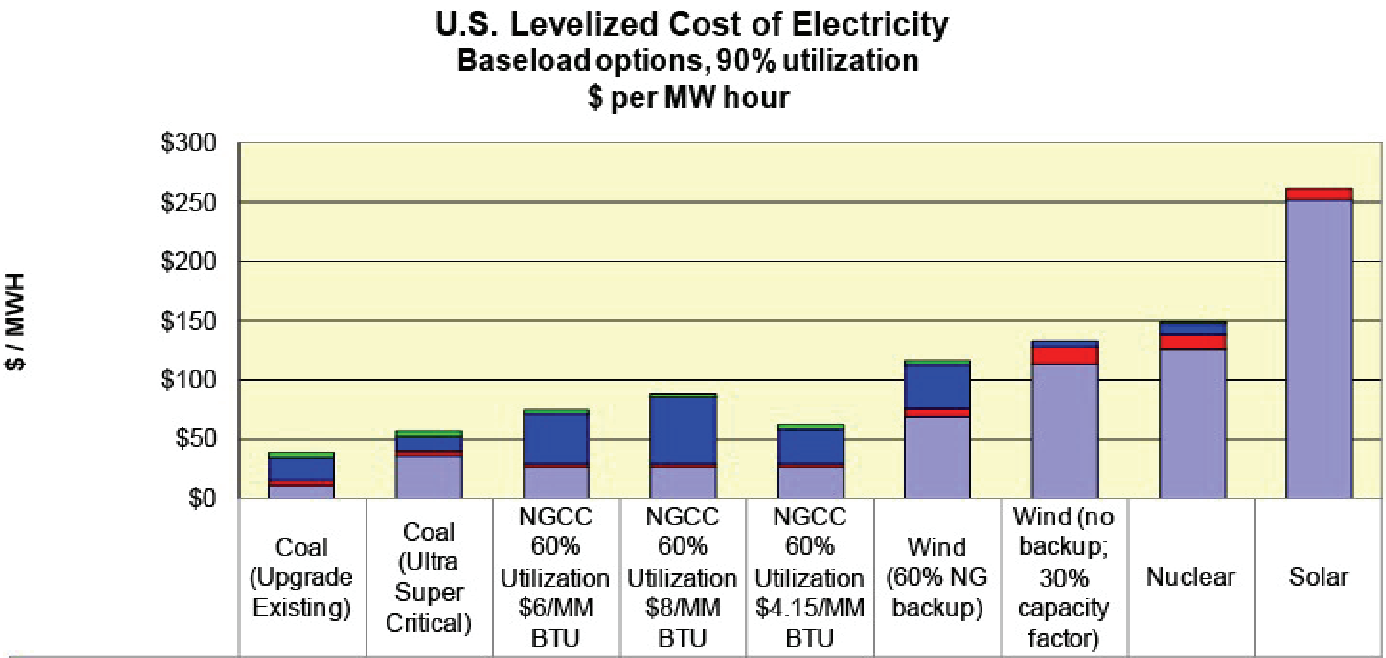
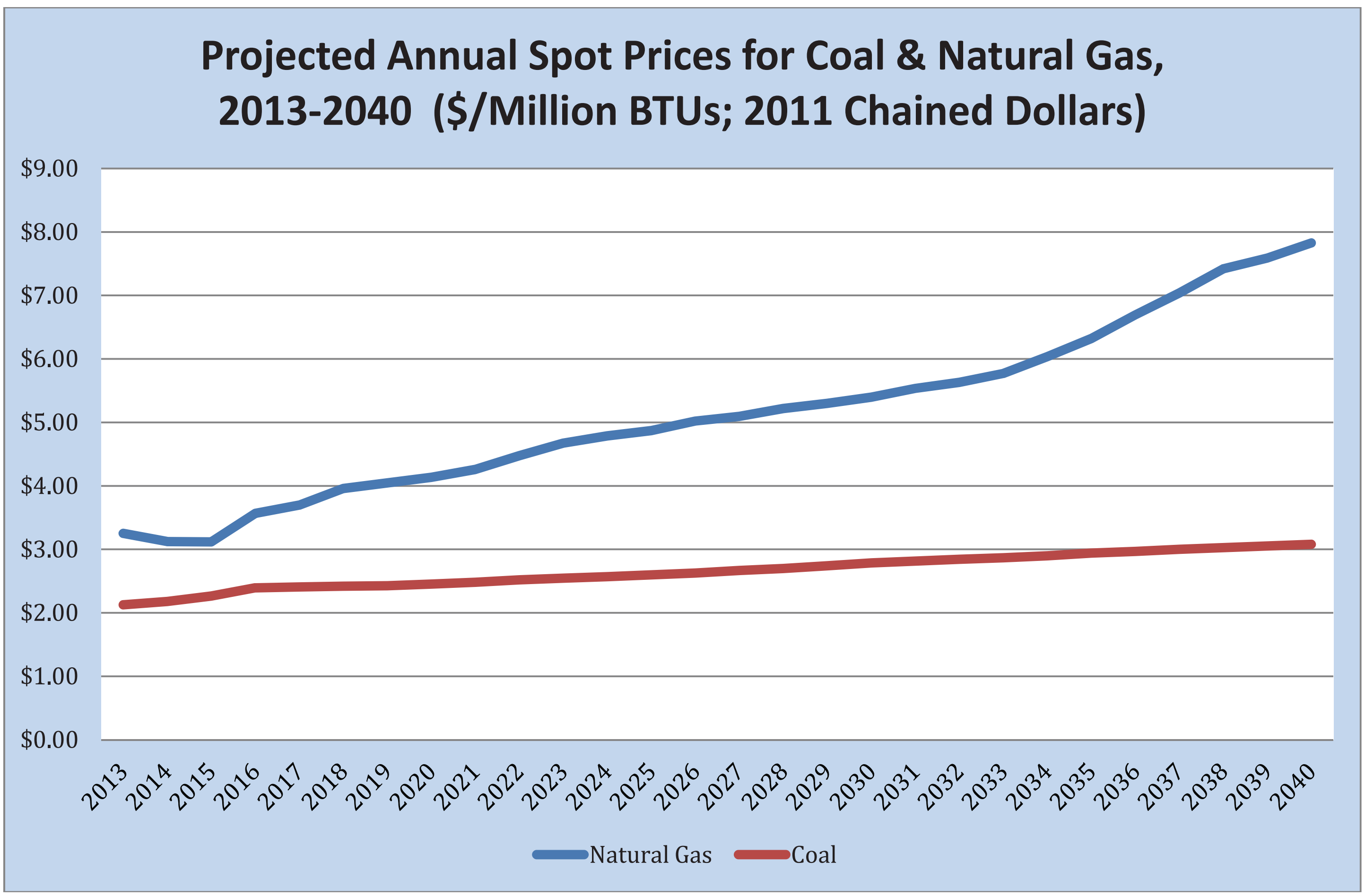
[1] Nevada Legislature, 77th Session, Senate Bill 123.
[2] Rate impact exhibit distributed by NV Energy at Nevada Legislature, May 9, 2013.
[3] Roger Bezdek and Robert Wendling, "Economic and Energy Impacts of Fuel Switching in Colorado," Management Information Services, August 2011.
[4] Geoffrey Lawrence, "NV Energy Plan Would Impose Big, New Hidden Costs on Ratepayers," NPRI policy study, May 2013.
[5] Nevada Legislature, 77th Session, Assembly Committee on Commerce and Labor, Meeting Minutes, May 27, 2013.
[6] Lawrence, note 4.



	Coal (Upgrade Existing)	Coal (Ultra Super Critical)	NGCC 60% Utilization $6/MM BTU	NGCC 60% Utilization $8/MM BTU	NGCC 60% Utilization $4.15/MM BTU	Wind (60% NG backup)	Wind (no backup; 30% capacity factor)	Nuclear	Solar
Variable O+M	$4.39	$4.39	$3.54	$3.54	$3.54	$2.30	$0.00	$2.10	$0.00
Fuel	$20.00	$13.20	$42.60	$56.80	$29.47	$38.42	$5.00	$10.00	$0.00
Fixed O+M	$3.89	$3.89	$2.46	$2.46	$2.46	$5.81	$14.79	$11.62	$9.76
Construction Cost	$9.68	$34.62	$25.28	$25.28	$25.28	$68.65	$112.14	$125.55	$252.54



Source: U.S. Department of Energy, Energy Information Administration.

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 will 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 due to the impossibility of gathering timely and reliable data about individuals' subjective and ever-changing valuations.[1]

State regulation incentivizes 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 percent of its costs. This means that the monopoly's shareholders can earn higher profits for operating less efficiently. This perverse incentive encourages the monopoly to support more onerous mandates and regulations that increase the cost of electricity production. While the electric monopoly makes more money, this 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 are misguided and that electricity production is not subject to market failure.[2] As a result, there is no longer a tenable argument for regulated monopolies.

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, the 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 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 2013 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 at least three cents per kWh lower than the national average. Meanwhile, Nevada's monopolistic energy market has produced electric rates that are among the highest in the West.[4]

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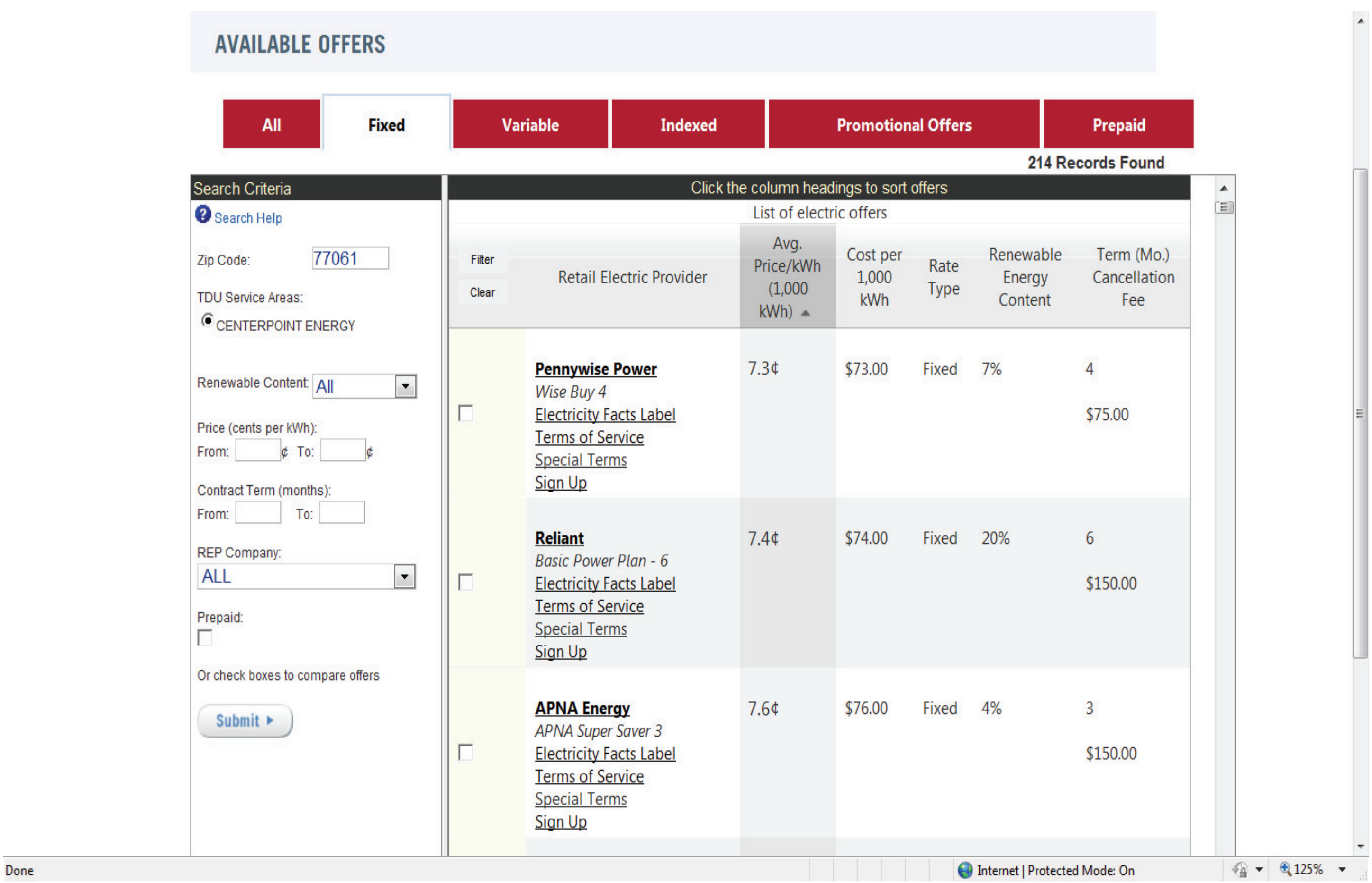
[1] Ludwig von Mises, Economic Calculation in the Socialist Commonwealth, 1920; see also, Jesus Huerta de Soto, Socialism, Economic Calculation and Entrepreneurship, 2010.

[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 Utilities Commission, "Report to the 83rd Texas Legislature: Scope of Competition in Electric Markets in Texas," 2013.

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.



Highway Quality

The Nevada Department of Transportation (NDOT) is responsible for building and maintaining public highways in the Silver State.

To accomplish this mission, NDOT receives funding from federal grants and state highway user funds that are generated primarily from motor-fuel taxes. For the 2013-2015 biennium, lawmakers approved a total of $1.183 billion in funding for NDOT, including $640 million from federal sources and $530 million out of the state highway fund.

Key Points

The condition of Nevada's highways is among the best in the nation. Nevada boasts the highest-ranked rural highway quality in the nation, with none of its rural interstate in poor condition. Of the state's remaining major rural highway network, only 0.28 percent is considered to be in poor condition. Nevada also boasts the lowest percentage of deficient bridges nationwide, at 10.96 percent.

Nevada ranks somewhat lower in urban interstate quality – at 20th overall – with the state reporting 1.59 percent of urban interstate miles in poor condition.[1]

Nevada's urban interstates are heavily congested. As Nevada's cities have grown, its urban interstate system has struggled to keep pace. The peak hour traffic volume is approaching or exceeding highway capacity on 54.4 percent of Nevada's urban interstate miles. This means that urban residents in the Silver State face the 11th most congested urban highways in the nation, behind those of California (79.81 percent), Minnesota (77.66), Maryland (69.23), Michigan (68.14), Connecticut (66.67), New Jersey (63.84), Ohio (63.08), Kentucky (62.68), North Carolina (60.89) and Rhode Island (56.00).[2]

Nevadans face relatively high costs per state-controlled highway mile. Nevada taxpayers spent $153,078 per state-controlled highway mile in 2008 – 20th highest in the nation. This relatively high cost was underscored by high administrative costs. At nearly $24,000 per state-controlled mile, Nevadans faced the 10th highest administrative costs in the nation. In terms of both capital and maintenance expenditures per state-controlled mile, Nevada is near the national median.

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.

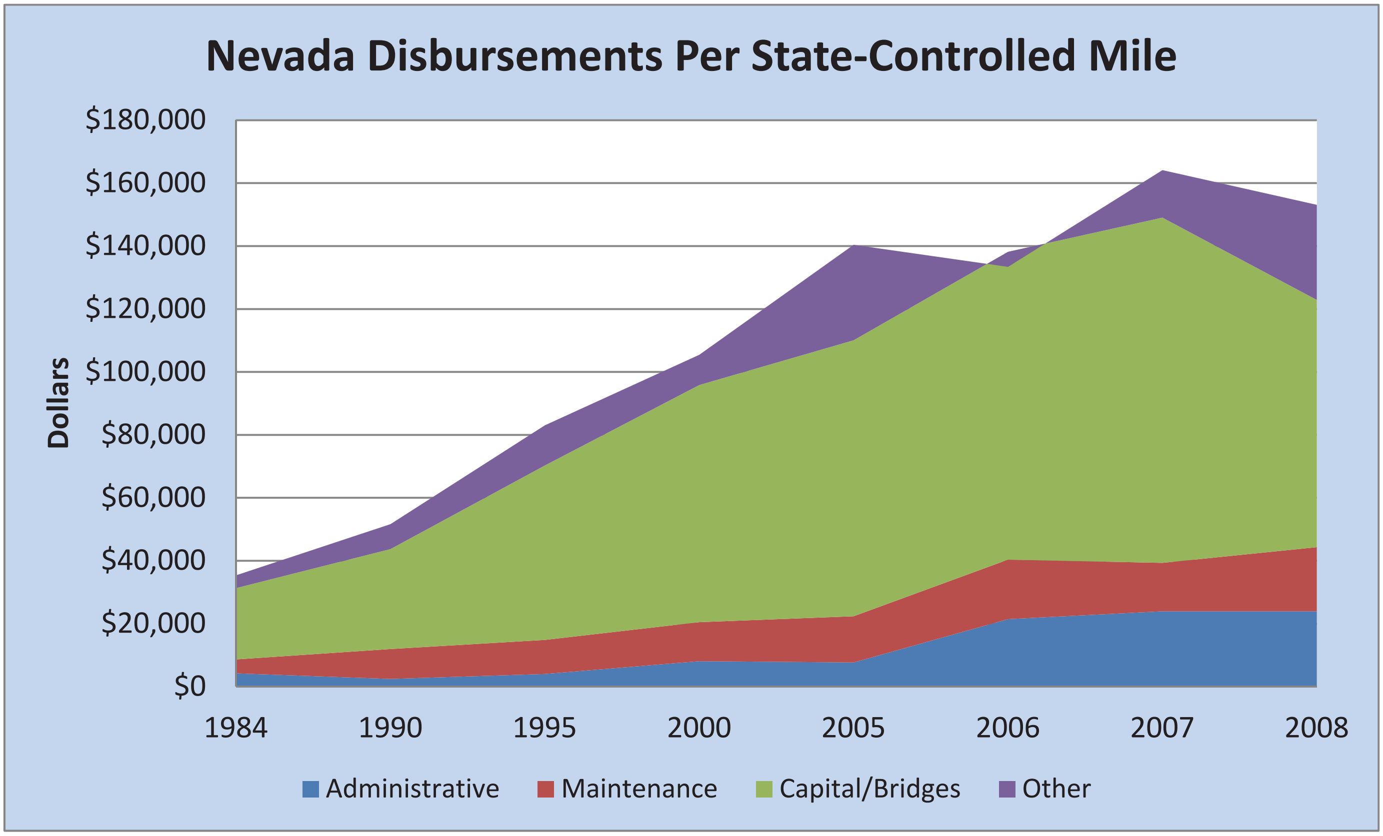
The HOT lane concept was developed by the Reason Foundation in 1993 and subsequently endorsed by the Federal Highway Administration.[3] HOT lanes now in operation in California, Colorado, Minnesota, Texas and Utah have proven tremendously effective at using the power of markets to control traffic volume and alleviate urban congestion.

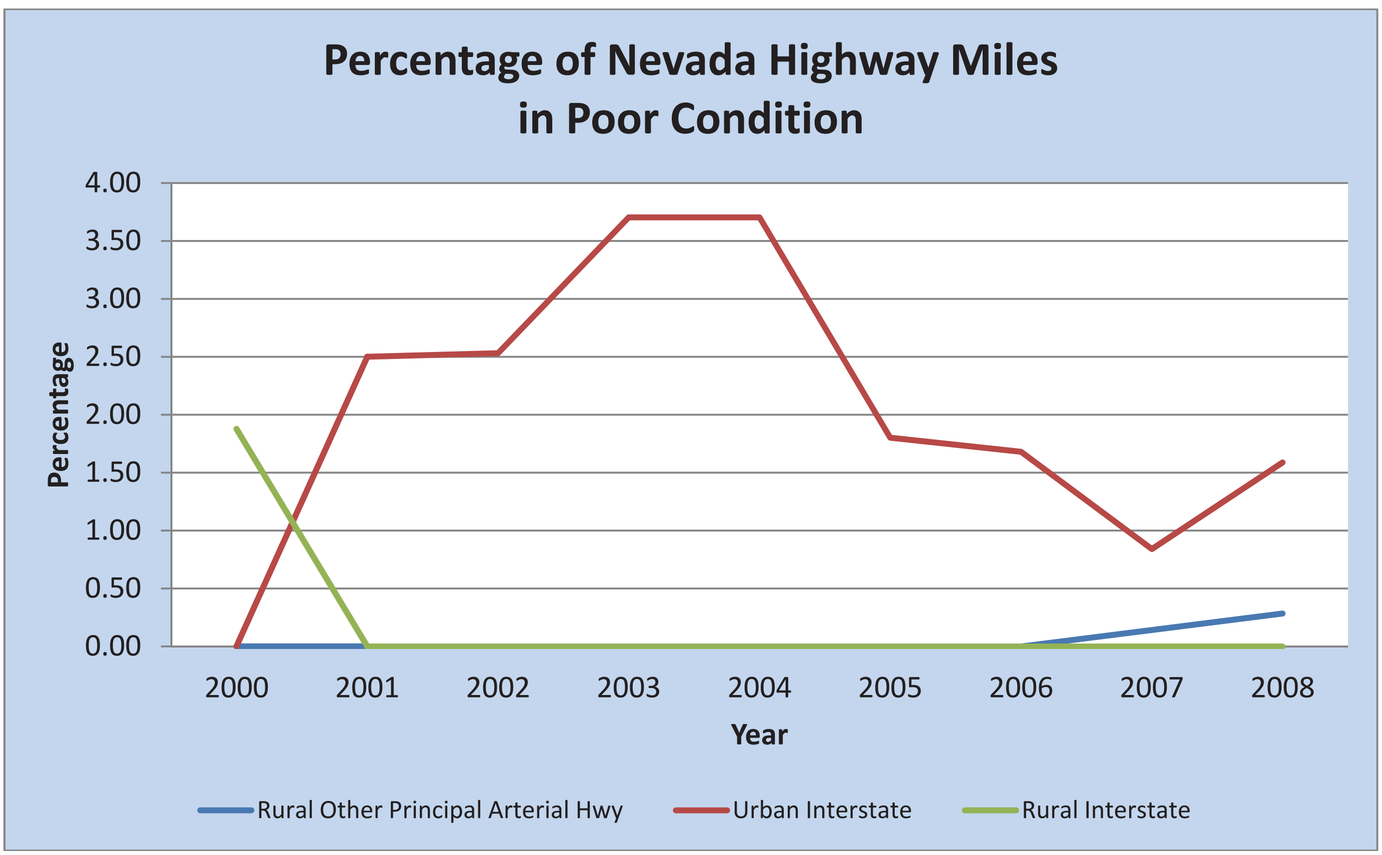
Pass a Community Transportation Corporation Act. Lawmakers can address the state's urgent need for urban highway development even during periods of stagnant revenue growth by allowing the private sector to develop additional highway capacity. Model legislation from the American Legislative Exchange Council would allow the establishment of non-profit corporations to issue revenue bonds and build highways and infrastructure for public use.[4]

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 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.[5]

[1] David Hartgen et al., "19th Annual Highway Report: The Performance of State Highway Systems," Reason Foundation, 2010.
[2] *Ibid.*

[3] Gordon Fielding & Daniel Klein, "High Occupancy/Toll Lanes: Phasing in Congestion Pricing a Lane at a Time," Reason Foundation Policy Study No. 170, 1993.
[4] American Legislative Exchange Council, "Community Transportation Corporation Act, 2003.
[5] *See "Structural Reform: Auditing."*


Nevada Disbursements Per State-Controlled Mile
Dollars
$180,000
$160,000
$140,000
$120,000
$100,000
$80,000
$60,000
$40,000
$20,000
$0
1984
1990
1995
2000
2005
2006
2007
2008
Administrative
Maintenance
Capital/Bridges
Other


Percentage of Nevada Highway Miles in Poor Condition
Percentage
4.00
3.50
3.00
2.50
2.00
1.50
1.00
0.50
0.00
2000
2001
2002
2003
2004
2005
2006
2007
2008
Year
Rural Other Principal Arterial Hwy
Urban Interstate
Rural Interstate

Federal Law Review

The U.S. Constitution 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 decide this division of powers, and when or whether federal entities overstep the "few and defined" powers the central government is delegated?

Key Points

The states must review the constitutionality of federal action. Wrote 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.)[1]

It is thus the states' responsibility to guard the powers reserved to them and to ensure that the federal government does not exceed its delegated powers.

Utah has 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."[2]

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:

> 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.[3]

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.

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[1] Resolutions Relative to the Alien and Sedition Acts, 10 Nov. 1798, Writings 17:379-80, 385-91.

[2] Utah Legislature, 2011 General Session, House Bill 76, Second Substitute.

[3] *Ibid.*

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, 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 percent of the lands in Nevada. The charges first raised by List and Silver State lawmakers sparked a movement across Western states for freedom from the encumbrance of federal land control. It became known as the "Sagebrush Rebellion."

This movement continues to gain strength. In 2011, Utah Governor Gary Herbert signed HJR 39, a joint legislative resolution that garnered 56 cosponsors. It relied upon many of the legal arguments first raised by Nevada lawmakers three decades ago, and called on Congress to relinquish control of "all right, title, and jurisdiction in those lands that were committed to the purposes of [that] state by terms of its enabling act compact."

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."

Gradually, however, federal politicians began ignoring the settled interpretation of key enabling-act provisions, and re-interpreting that clause to allow Congress to impose conditions upon western states to which the original states were never subject. Thus, the allegation emerged that most Nevada land had been permanently reserved for federal ownership. In 1845 the U.S. Supreme Court had declared a very similar federal interpretation of the State of Alabama's enabling act 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."[2] As soon as new states were formed, said the Court, "the power of the United States over these lands as property was to cease."[3]

"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," said List and Nevada lawmakers "was an act beyond the power of the Congress of the United States and is thus void."[4]

The disclaimer of interest originally held a different meaning. When 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.[5]

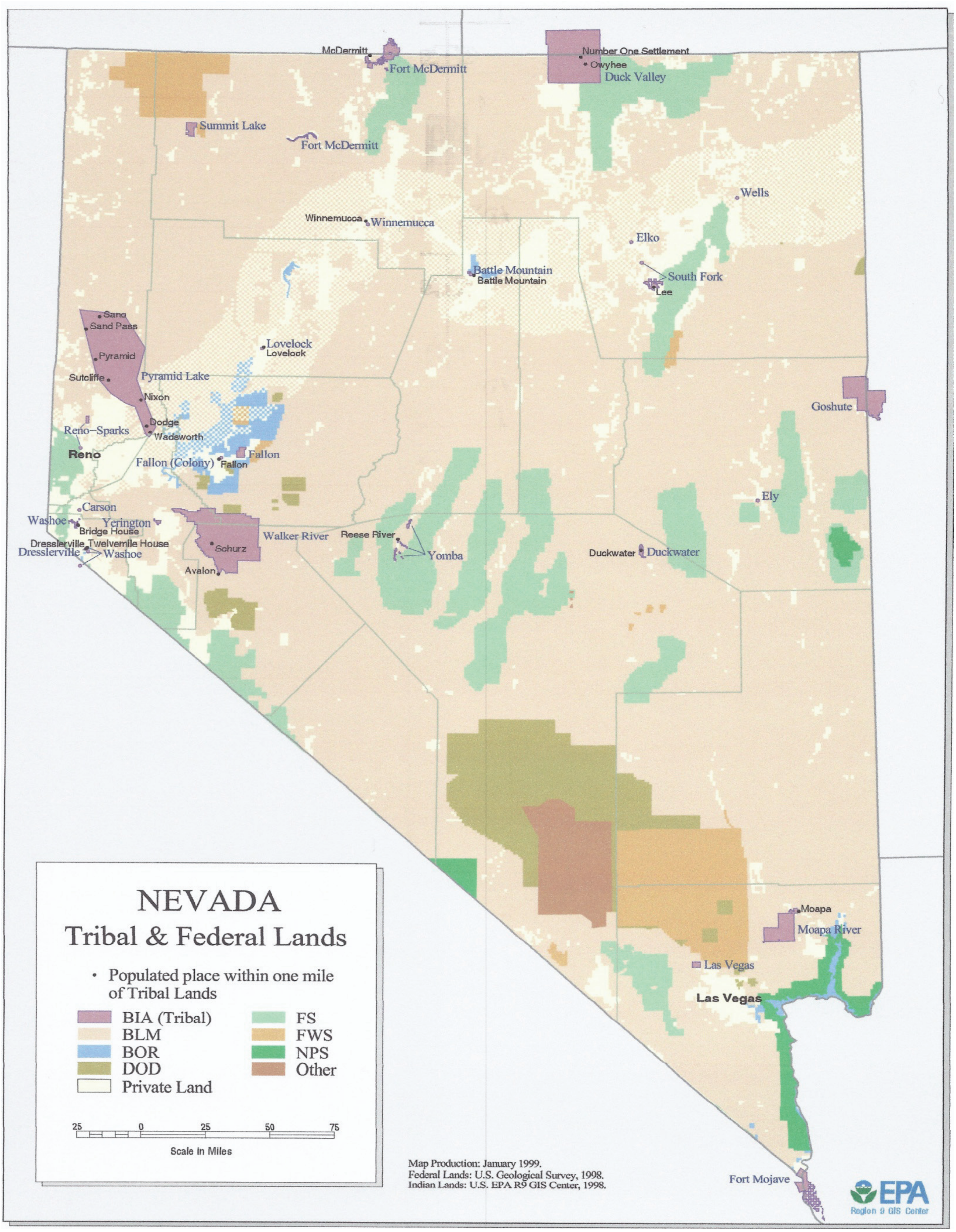
Nevadans overwhelmingly oppose federal land control. In the mid-1990s, Nevada lawmakers went further, with a proposal to amend the state constitution to remove the disclaimer. After unanimous approval by both legislative chambers, the measure was approved by popular vote. Needed to finally put this question to bed, however, is either explicit congressional consent or a judicial determination that consent is unnecessary.

Sale or lease of federal lands could alleviate short-term fiscal stress 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.[6] In addition, the new availability of land would ease the shortage of land in Nevada's urban areas and prompt new development and job creation.

Recommendations

Pass joint resolution proposed by Land Management Task Force. Pursuant to AB 227 of the 2013 legislative session, Nevada's Land Management Task Force has proposed legislation to implement its recommendations.

[1] Nevada Legislature, 60th Session, Assembly Bill 413.
[2] *Pollard v. Hagan*, 44 U.S. (3 How.) 212 (1845).
[3] *Ibid.*
[4] NRS 321.596(5).
[5] Steven Miller, "Broken Compact: The Hollowing Out of Nevada Statehood," NPRI Policy Study, August 2013.
[6] Nevada Legislature, Interim Legislative Committee on Public Lands, Land Management Task Force, "Congressional Transfer of Public Lands to the State of Nevada," July 2014.


NEVADA
Tribal & Federal Lands
• Populated place within one mile of Tribal Lands
BIA (Tribal)
BLM
BOR
DOD
Private Land
FS
FWS
NPS
Other
25 0 25 50 75
Scale in Miles
Map Production: January 1999.
Federal Lands: U.S. Geological Survey, 1998.
Indian Lands: U.S. EPA R9 GIS Center, 1998.
EPA
Region 9 GIS Center
McDermitt
Fort McDermitt
Number One Settlement
Owyhee
Duck Valley
Summit Lake
Fort McDermitt
Wells
Winnemucca
Winnemucca
Elko
Battle Mountain
Battle Mountain
South Fork
Lee
Sano
Sand Pass
Pyramid
Lovelock
Lovelock
Sutcliffe
Pyramid Lake
Nixon
Dodge
Reno-Sparks
Wadsworth
Reno
Fallon
Fallon (Colony)
Fallon
Goshute
Ely
Carson
Washoe
Yerington
Bridge House
Dresslerville
Twelvemile House
Dresslerville
Washoe
Schurz
Walker River
Reese River
Yomba
Duckwater
Duckwater
Avalon
Moapa
Moapa River
Las Vegas
Las Vegas
Fort Mojave

About the author

Geoffrey Lawrence is director of research at the Nevada Policy Research Institute. His commentaries run frequently in the Las Vegas Review-Journal and Nevada Business Magazine and have appeared in Forbes, The Washington Examiner, New Hampshire Union-Leader, and Kansas City Star, among many others. Geoffrey is also a frequent guest on radio and television.

Since joining NPRI in 2008, Geoffrey has authored several notable studies, including: Solutions 2013, an alternative state budget, and subsequent editions of the Nevada Piglet Book and NPRI's Legislative Review and Report Card. Geoffrey's work has drawn praise from The Tax Foundation, Americans for Tax Reform and the editorial pages of the Las Vegas Review-Journal and the Las Vegas Sun.

Prior to joining NPRI, Geoffrey spent two years at the John Locke Foundation in North Carolina, where he developed analyses of that state's energy policies. He attended graduate school at American University in Washington, D.C., earning an MA in International Economic Policy. As an undergraduate, he studied political science at the University of North Carolina at Pembroke where he was recognized as the department's "Most Outstanding Senior" and was a four-time Peach Belt Scholar while starting for the school's Top-20 wrestling team.

Geoffrey, his wife Jenna, and their son, Carson Hayek, live in Clark County, Nevada.

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