Solutions 2017

A Sourcebook for Nevada Policymakers

Foreword

Nevadans who appreciate the superiority of market-driven approaches to public policy were still optimistic at this time last year. Political leadership in Carson City appeared to have undergone a sea change in the previous general election, and the state seemed poised to at last implement numerous intelligent policy changes that had been outlined in previous editions of Solutions. To be sure, many of the proposals offered herein were, indeed, introduced as legislation, with policy experts from around the nation testifying in support.

However, the 2015 legislative session ended disappointingly, as few substantive reforms in the areas of collective bargaining, pensions, prevailing wage, health care or economic development turned out to be actual priorities of the Sandoval administration. Instead, once the administration had been reelected, it devoted most of its time and energy to saddling Nevadans with a new gross receipts tax — one remarkably similar to the 2014 ballot proposal that nearly 80 percent of Nevadans had rejected. Although NPRI had successfully led the educational campaign against that ballot proposal, once lawmakers convened in Carson City Gov. Sandoval — proposing multiple versions of the same idea — was ultimately able to push the new tax through the legislature and sign it into law.

The one outstanding achievement of the 2015 legislature was the passage of a near-universal program of education savings accounts. NPRI had introduced the idea to Nevadans when the previous edition of this text was published and today Nevada has the best program of school choice in the country. Although, the program is under attack by special interests who have sued to stop its implementation, it is the best hope many lower-income Nevada families have to provide their children with a quality education. This year's edition of Solutions shows how popular education savings accounts have been with parents from all income brackets — and especially those with the most limited means.

If nothing else, we were reminded of the significance and influence of the ideas presented in this volume during 2015. Dozens of the proposals herein were introduced as legislation in 2015 and we fully anticipate that dozens more will be introduced in future legislative sessions. We at NPRI are thankful to our former colleague, Geoffrey Lawrence, for having brought this publication to life in its previous versions and are happy to extend and update his work. Our staff has worked tirelessly on this new and expanded volume over the past few months and I am thrilled with the result.

Once again, I hope you will consider these ideas on their merits, regardless of where your political sympathies may lie. This volume dispels many myths, presents concrete data from objective sources and provides information that everyone should find valuable, regardless of their political or philosophical persuasion. I believe it elevates the public-policy debate in the Silver State.

And that, after all, is why NPRI exists.

Sharon

Sharon Rossie
President
Nevada Policy Research Institute

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Understanding Nevada's Budget

State budgeting can be difficult to understand for the lay person. The most frequently cited figures are legislative appropriations from the state's general fund, which amount to $7.33 billion over the 2015-2017 budget cycle. Each budget cycle consists of two fiscal years which begin on July 1 and end June 30.

However, lawmakers wield control over far more spending than general-fund appropriations. They must authorize *all* spending by state agencies. In addition to general-fund dollars, agencies may receive grants from federal or private sources, fee-based program revenues and revenues from other sources. In total, state spending in FY 2015 amounted to $9.703 billion versus legislative appropriations of $3.319 billion for that single year.

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

Key Points

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

Spending on K-12 and higher education is supplemented by outside sources. State appropriations for education constitute only a minor part of education spending. In higher education, state appropriations constituted about one-third of total spending, with self-supported funds and student fees making up the rest.[1] In K-12 education, more than half of revenues come from local taxes and about 11 percent comes from federal sources.[2]

Lawmakers have routinely pushed spending off-budget. K-12 appropriations are just one component of the "Nevada Plan" for school finance. When the plan was written in 1967, it created a new 1.0 percent statewide sales tax on top of the constitutionally limited 2.0 percent tax already in existence. This new levy, called the Local School Support Tax (LSST), would go into a special fund called the Distributive School Account, along with some mining tax revenues. Lawmakers would then set a state-guaranteed Basic Support per-pupil amount to be disbursed to school districts each year, and would appropriate from the general fund any difference between the revenues from these taxes and the Basic Support obligation. In effect, the new revenue sources allowed lawmakers to push most K-12 spending off-budget and general-fund dollars were just used to supplement these revenues.

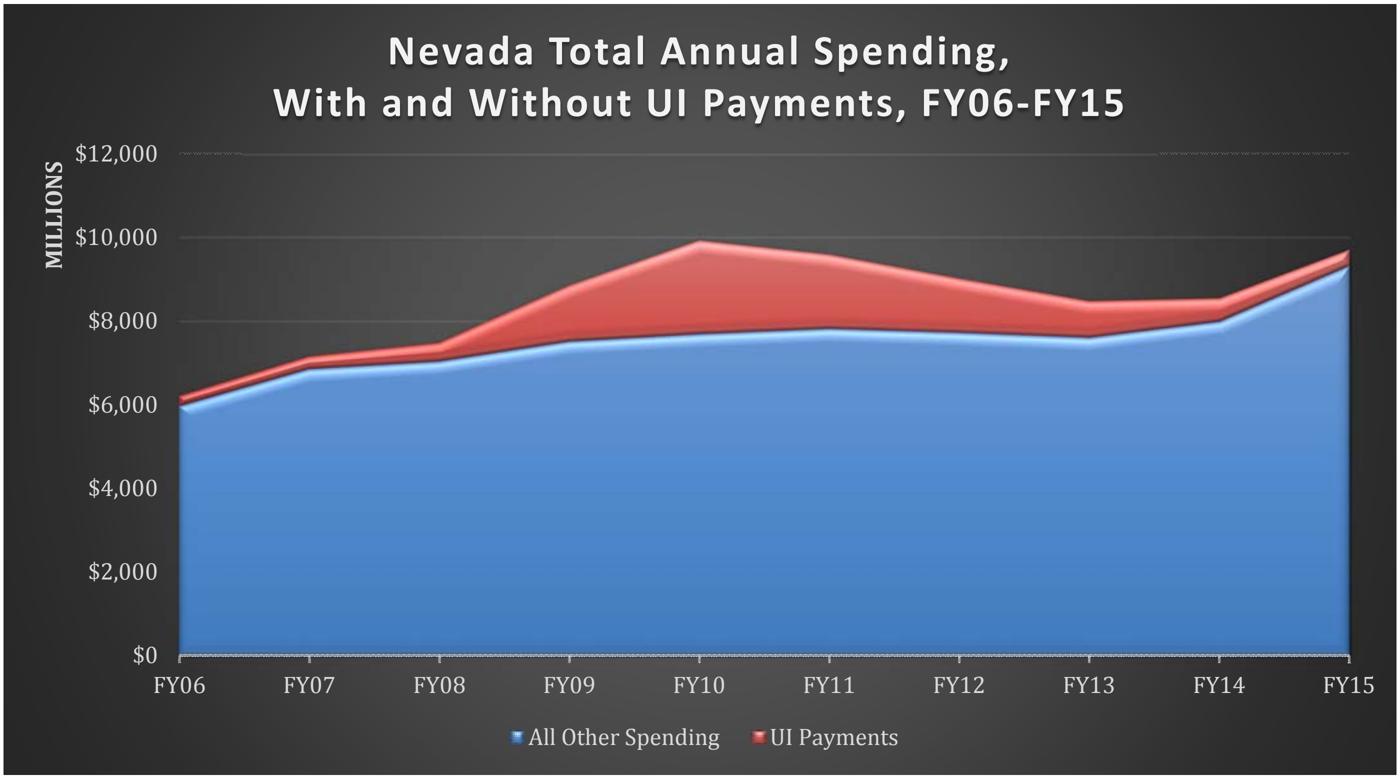
Over time, lawmakers have elected to increase these outside sources during periods of recession rather than raise the taxes that go into the general fund, in part because general-fund figures are more visible to the public. The LSST was raised in 1981, 1991, 2009, 2011, 2013, and 2015 and is now at a statewide rate of 2.6 percent.[3] Also, in 2009, room tax rates were raised in accordance with an advisory ballot question to increase teacher pay, although this revenue has been continually diverted into the DSA without passing through the general fund. The net effect is to further push most education spending off-budget and make the growth in general-fund spending appear less pronounced.

Total spending has grown steadily from year to year. When accounting for all spending — including amounts pushed off budget — Nevada has experienced constant year-over-year spending growth. From FY 2007 to FY 2015, payments for unemployment benefits, which are largely determined by federal policy and are financed by dedicated taxes on employers, hit a cyclical peak. Netting out this aberration beyond the control of state lawmakers, total state spending experienced an average annual growth of 5.3 percent from FY 2006 to FY 2015, during a period when the broader economy contracted significantly.

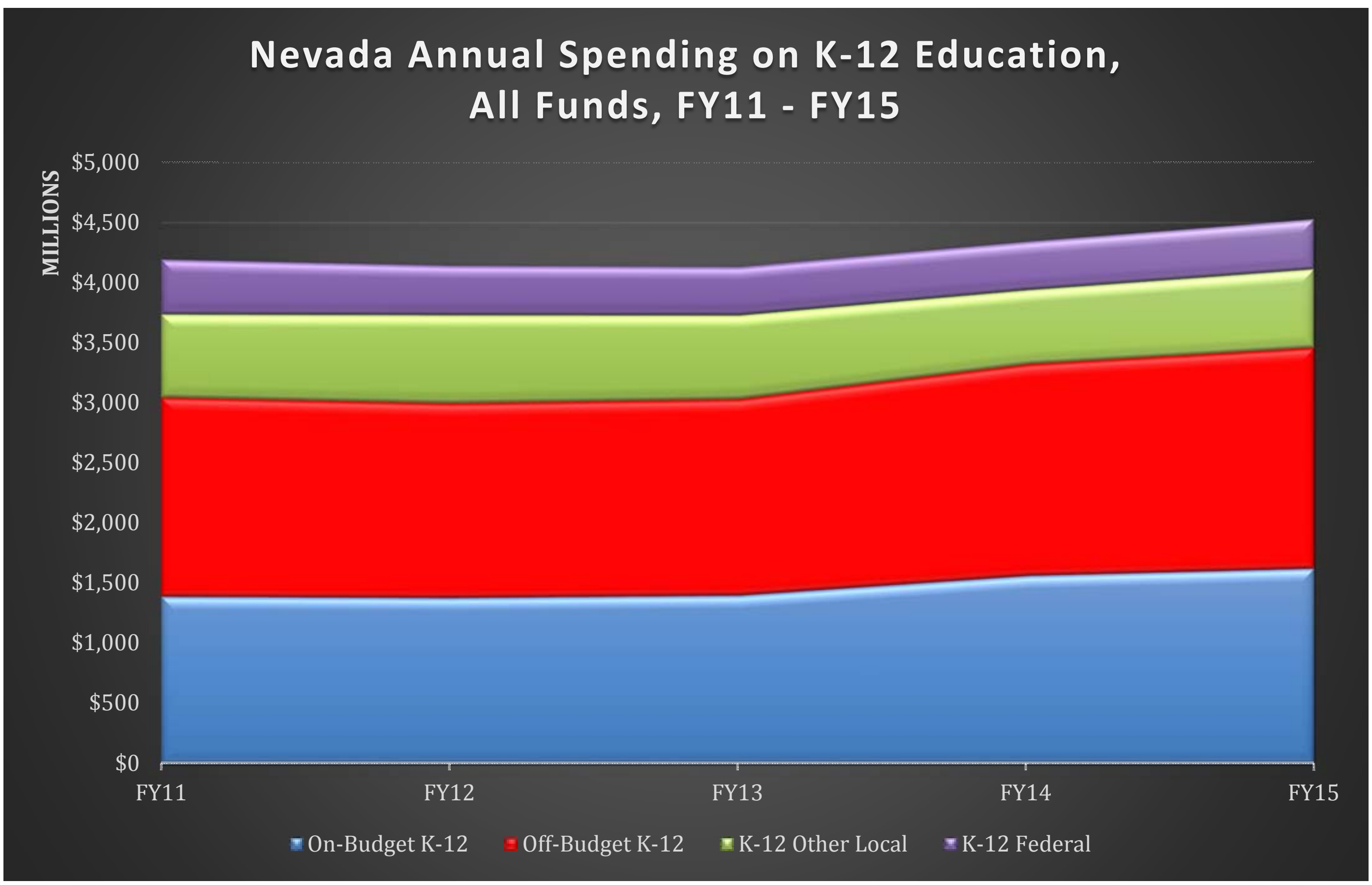
[1] See "NSHE Finance."

[2] Nevada Legislative Counsel Bureau, Fiscal Analysis Division, "The Nevada Plan for School Finance: An Overview," 2015 Legislative Session.

[3] Nevada Controller's Office, *Controller's Monthly Report*, Vol. 1, No. 4, April 2015.



Source: State of Nevada, Comprehensive Annual Financial Report, FY15.



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

Spending Trends

Over the past two decades, lawmakers have tripled the size of Nevada's general fund, growing state spending from $1.17 billion in FY 1996 to $3.74 billion for FY 2017.

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 fact, lawmakers have regularly played games with the budget by pushing spending outside of the general fund in order to make spending look smaller than in truly is. In 1967, when lawmakers created the Nevada Plan, they instituted a new sales-tax component to finance education, displacing what had previously been general-fund dollars for this purpose. This assessment has been raised repeatedly to push spending off-budget.[1]

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 employee pay and benefits, expanded the class-size reduction program, instituted limited full-day kindergarten programs in Clark and Washoe counties and began financing the Millennium Scholarship out of the general fund.

The Great Recession returned real, per-capita spending to historic levels, while tax hikes in 2015 aim to perpetuate boom-era spending levels. Lawmakers were compelled to reduce per capita spending in beginning in FY 2010, as tax revenues plummeted due to recession. In 2015 dollars, per-capita spending fell from $1,444 in FY 2009 to $1,148 in FY 2015, matching the amount spent in FY 1996, but still higher than the levels of the early 2000s.

The 2015 tax hikes will allow per-capita spending to rise back to $1,276 (in 2015 dollars) by FY 2017. This would be higher than any year from FY 1990 to FY 2003.

Since the 2003 tax hikes, lawmakers have spent a cumulative $5.34 billion beyond the inflation-adjusted per capita spending levels that existed in FY 1996.

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 disingenuously 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. That limitation is meaningless, however, since lawmakers are free to add as much spending as they like to the governor's budget with no restraint whatsoever.[2]

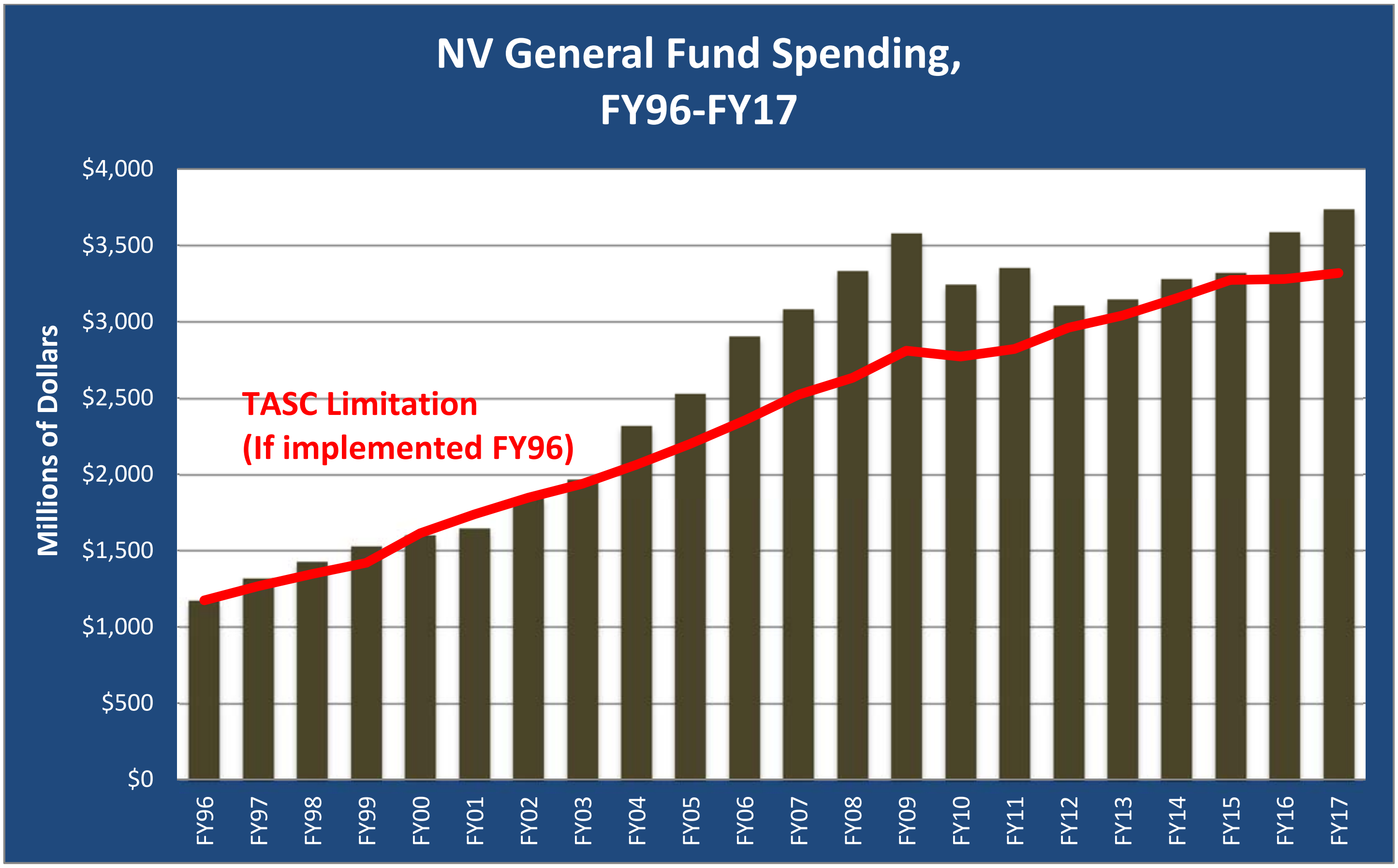
With TASC in place, lawmakers who are convinced of the merits of higher spending on a given program would first need to find savings elsewhere in the budget.

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] See "Understanding Nevada's Budget."

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


NV General Fund Spending,
FY96-FY17
Millions of Dollars
$4,000
$3,500
$3,000
$2,500
$2,000
$1,500
$1,000
$500
$0
TASC Limitation
(If implemented FY96)
FY96
FY97
FY98
FY99
FY00
FY01
FY02
FY03
FY04
FY05
FY06
FY07
FY08
FY09
FY10
FY11
FY12
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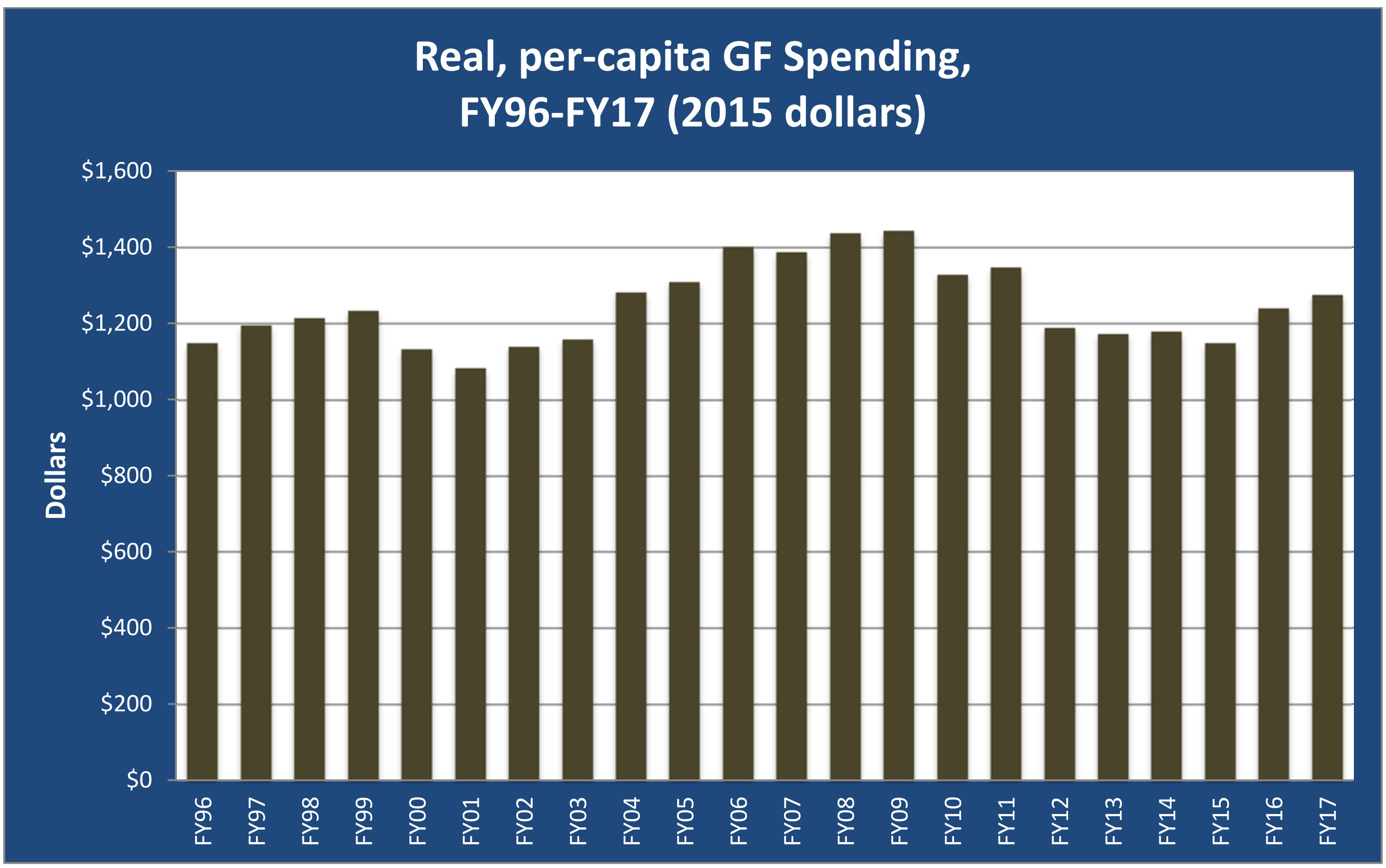
FY14
FY15
FY16
FY17


Real, per-capita GF Spending,
FY96-FY17 (2015 dollars)
Dollars
$1,600
$1,400
$1,200
$1,000
$800
$600
$400
$200
$0
FY96
FY97
FY98
FY99
FY00
FY01
FY02
FY03
FY04
FY05
FY06
FY07
FY08
FY09
FY10
FY11
FY12
FY13
FY14
FY15
FY16
FY17

Structural Reform: Charter Agencies

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

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

Lawmakers should recognize that it's often the employees of state agencies who bring the greatest knowledge and insight into how those agencies can most effectively deliver public services. The top-down approach to governance that lawmakers have historically imposed fails to take advantage of the state's most valuable asset — the specialized knowledge of its employees.

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

Key Points

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

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

Directors further agreed to reduced general fund allocations, but in exchange, gained the freedom to hire and fire employees, upgrade their agencies' technology infrastructure, purchase equipment and outsource certain agency functions as they saw fit — without going through the state's central purchasing or personnel departments.

As incentive, agencies that both met their goals and remained below budget, retained *half* the savings with the remainder reverting to the state's general fund. Agency directors could use these savings to reward employees with bonuses or to purchase efficiency-enhancing capital equipment.

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

Recommendations

Clarify the goals and metrics. Performance-based budgeting in Nevada would 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.

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

Key Points

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

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

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

Performance audits can identify substantial cost savings while simultaneously improving performance. In 2005, lawmakers in the State of Washington expanded the powers of that state's independent auditor to conduct performance audits for all state and local governments. In 2012, the office also launched a dedicated Local Government Performance Center. 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. The office estimates that every dollar spent on performance audits has resulted in $16 in savings. What's more, the auditor's advice has been accepted with enthusiasm, as 86 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 has historically been a more significant component of public spending than state expenditure. Therefore, while performance audits of state agencies are valuable, the financial impact could be far greater if the controller also examines local government operations.

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

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

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.

Next, they direct public moneys specifically toward the accomplishment of those top goals.

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

Another issue is that the 2011 legislation fails to envision the performance-based approach in its highest form, which entails a competitive bidding process.

Key Points

Prioritize the results, not the intentions. A performance-based budgeting process cannot succeed unless policymakers first establish their broad policy goals. Policymakers should be discriminating with their use of tax dollars, recognizing that the *results* of state programs — not announced policymaker intentions — are what matter. Not all spending programs produce results that taxpayers value.

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

The burden of proof should be on agency directors to demonstrate that each program an agency is operating actually 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 by submitting the delivery of public services to a competitive process. Facing competition, state agencies reinvented themselves to become more efficient — partnering with other agencies to streamline operations and avoid duplication.

As a result, Washington taxpayers were able to save over $2 billion in 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.

[1] State of Nevada, Department of Administration, Division of Budget and Planning, "2011-2013 Executive Budget: Priorities and Performance Budget."

[2] Nevada Legislature, 76th Session, Assembly Bill 248.

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

Nevada's most prominent fiscal challenges have occurred on the spending side of the ledger — not the revenue side. After all, excluding cyclical spending for unemployment benefits, Nevada's total spending has grown at a steady rate of 5.3 percent annually over the past decade.[1] Given this reality, there is little reason to believe that Silver State government does not have sufficient revenue to sustain ongoing programs.

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

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

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

Compliance costs should be kept to a minimum. Complicated taxing mechanisms, such as the federal income tax, carry additional costs as filers must devote thousands of man-hours to understand the tax code and ensure compliance. The Tax Foundation estimates, for example, that compliance costs associated with the federal income tax amounted to $483 billion in 2015 — more than one-fifth of the total revenue collected![2]

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

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

Recommendations

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

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

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

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

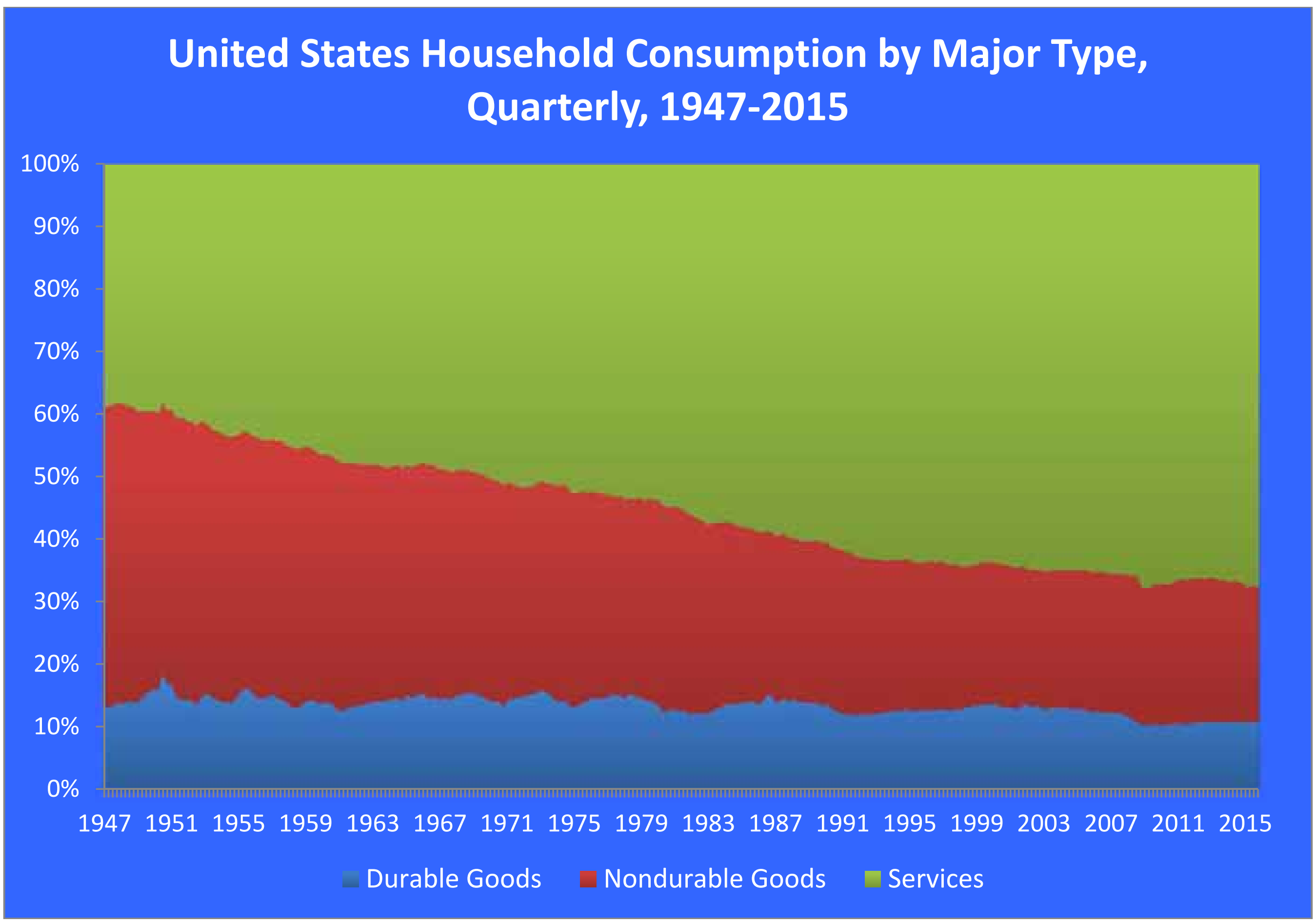
[2] Tax Foundation, Tax Data, Total Federal Income Tax Compliance Costs 1990-2015.

[3] 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

Gross Receipts Tax (Commerce Tax)

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

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

Once reelected, however, Gov. Sandoval immediately reversed his public position and included a new GRT in his 2015-2017 budget, demanding that lawmakers authorize it. Multiple versions were proposed by the administration and debated by lawmakers until a final version, called the "commerce tax," could achieve the two-thirds supermajority required for passage.

Key Points

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

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

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

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

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

Recommendations

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

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

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

[2] Ibid.

Estimated Annual Commerce Tax by Major Industry Category

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

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 state taxes.[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 authorized to award as much as $20 million annually in transferrable film tax credits through the end of calendar year 2017. After that authorization was temporarily diverted to provide transferable tax credits to Tesla Motors, the 2015 legislature made the film tax credit permanent with annual funding subject to legislative appropriations.[3]

Key Points

The value of the credit far exceeds film producers' actual tax liability. The Office of Economic Development is instructed to reward qualified applicants a tax credit equaling 15 percent of total production costs at minimum, but applicants can qualify to receive up to 19 percent of production costs. The value of this credit far exceeds any Modified Business Tax or sales tax liability that film producers are likely to accrue during the course of shooting a film. That means the credit is essentially a direct subsidy from state taxpayers for film production.

Film tax credits have been a net loser in other states. Advocates of tax credits for film production — 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 attributable to the credit. For years 2006 through 2011, the Legislative Fiscal Office estimated the credit would result in an annual loss to the general fund of at least $48 million.[4]

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."[5]

Similarly, in Ohio, an analysis of that state's film tax credit performed at Cleveland State University reached similar conclusions: Only $5.9 million of the $28.3 million awarded in tax credits has returned to the state in the form of additional revenue. In other words, Ohio loses 79 cents on the dollar.[6]

After flailing performance, other states are now eliminating film tax credits. Nevada chose to enact its film tax credits at a time when other states are scaling back or ending them. Since 2009, at least eight states have either eliminated their film tax credits 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.[7]

Recommendations

Eliminate the film tax credit. Nevada has much greater needs for tax dollars 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.

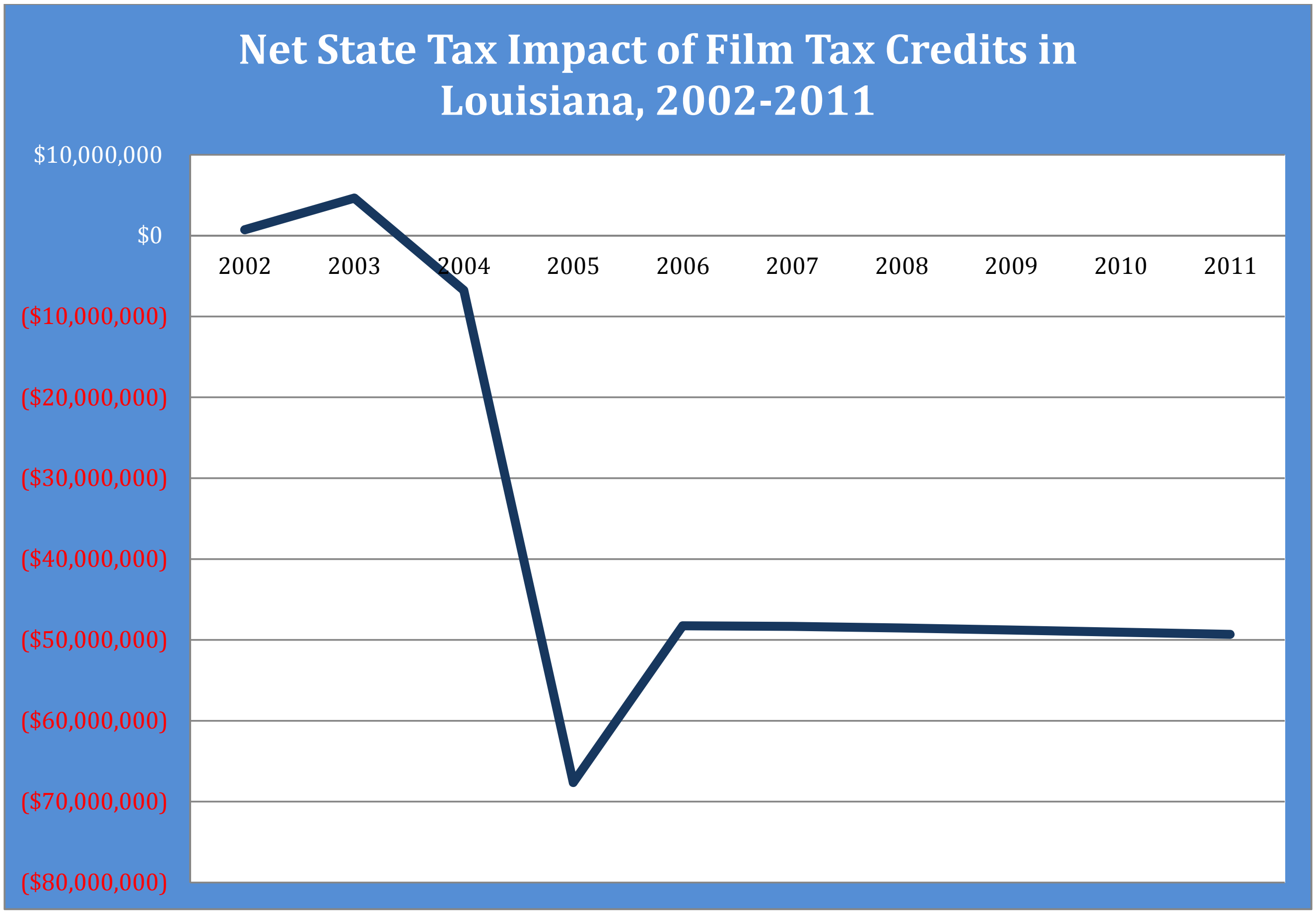
[3] Nevada Legislature, 78th Session, Senate Bill 94.

[4] State of Louisiana, Legislative Fiscal Office, "Film and Video Tax Incentives: Estimated Economic and Fiscal Impacts," March 2005.

[5] North Carolina General Assembly, Legislative Services Office, Fiscal Research Division, "Memorandum: Film Tax Credits," April 9, 2013.

[6] Candi Clouse, "Analysis and Economic Impact of the Film Industry in Northeast Ohio & Ohio," Cleveland State University, Center for Economic Development, March 2012.

[7] 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.

State Lottery

Repeatedly over the years, session after session, Nevada lawmakers have considered creating a state-run lottery to give them additional state revenue. In so doing, however, lawmakers have purposefully ignored the advice of their own consultants.

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

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

Key Points

State-run lotteries do not generate significant revenues. Lottery revenues account for less than 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]

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]

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[1] Ed. Robert D. Ebel, A Fiscal Agenda for Nevada, The Urban Institute and Price Waterhouse, Prepared for the Nevada Legislature, University of Nevada Press, Reno, 1990.

[2] *Ibid*, p. 418.

[3] *Ibid,* p. 420.

[4] *Ibid,* p. 422.

[5] *Ibid,* p. 17.

State lottery revenues, by state, 2013 (In Thousands)				
State	Income	Prizes	Administration	Net Proceeds
Alabama	X	X	X	X
Alaska	X	X	X	X
Arizona	$645,853	$426,143	$43,007	$176,703
Arkansas	$414,561	$292,124	$34,771	$87,666
California	$4,445,874	$2,652,095	$224,063	$1,569,716
Colorado	$524,074	$345,640	$39,621	$138,813
Connecticut	$1,059,930	$699,063	$43,292	$317,575
Delaware	$452,962	$99,264	$44,509	$309,189
Florida	$4,741,570	$3,162,889	$147,588	$1,431,093
Georgia	$3,407,047	$2,332,453	$145,606	$928,988
Hawaii	X	X	X	X
Idaho	$182,232	$122,888	$11,167	$48,177
Illinois	$2,832,575	$1,743,685	$317,697	$771,193
Indiana	$870,510	$581,346	$63,662	$225,502
Iowa	$339,252	$200,802	$52,564	$85,886
Kansas	$230,469	$138,555	$19,740	$72,174
Kentucky	$758,665	$494,912	$37,764	$225,989
Louisiana	$422,633	$236,159	$25,953	$160,521
Maine	$212,886	$143,938	$14,880	$54,068
Maryland	$2,021,118	$1,038,476	$340,991	$641,651
Massachusetts	$4,565,196	$3,523,859	$94,327	$947,010
Michigan	$2,260,945	$1,493,438	$70,835	$696,672
Minnesota	$527,007	$365,831	$25,392	$135,784
Mississippi	X	X	X	X
Missouri	$1,116,996	$752,964	$50,003	$314,029
Montana	$60,188	$32,176	$7,991	$20,021
Nebraska	$170,807	$93,092	$17,034	$60,681
Nevada	X	X	X	X
New Hampshire	$263,794	$173,357	$15,961	$74,476
New Jersey	$2,663,519	$1,631,717	$70,859	$883,588
New Mexico	$139,267	$79,548	$18,329	$41,390
New York	$7,697,675	$4,218,988	$388,580	$3,090,107
North Carolina	$1,570,874	$1,024,347	$72,220	$474,307
North Dakota	$26,603	$14,217	$4,101	$8,285
Ohio	$2,531,002	$1,668,038	$99,872	$763,092
Oklahoma	$200,209	$104,463	$23,641	$72,105
Oregon	$864,231	$206,837	$70,198	$587,196
Pennsylvania	$3,441,263	$2,299,006	$72,293	$1,069,964
Rhode Island	$539,026	$153,206	$6,204	$379,616
South Carolina	$1,114,410	$775,453	$37,100	$301,857
South Dakota	$146,536	$32,418	$7,767	$106,351
Tennessee	$1,278,328	$720,231	$57,068	$501,029
Texas	$4,139,450	$2,767,359	$181,966	$1,190,125
Utah	X	X	X	X
Vermont	$96,067	$64,556	$8,619	$22,892
Virginia	$1,594,265	$1,025,175	$80,727	$488,363
Washington	$534,041	$339,366	$49,954	$144,721
West Virginia	$713,850	$116,230	$32,897	$564,723
Wisconsin	$566,103	$329,202	$38,155	$198,746
Wyoming	X	X	X	X

Source: U.S. Census Bureau, State Government Finances, Income and Apportionment of State-Administered Lottery Funds, 2013.

Fiscal Transparency

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

For these reasons, it is imperative that government financial data is made available to citizens for review. Effective public officials will welcome this review because it will confirm the care they have placed on ensuring that public dollars are spent appropriately.

Key Points

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

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

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

Several states have created an online checkbook and many also contain advanced analytical tools. Ohio's online checkbook is among the most recent and is currently regarded as one of the best.[1]

In 2011, Nevada launched its "Nevada Open Government" website, which provides a fund-level overview of revenue and spending, but its utility is limited because it does not provide a granular accounting of individual checks. In 2015, however, lawmakers approved a $1 million appropriation for a new business intelligence tool intended to enable a true online checkbook.

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

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

Recommendations

Ensure online checkbook is developed. Lawmakers should monitor the controller's implementation of the state's new business intelligence tool to ensure the online checkbook provides easily accessible data at a granular level, as intended.

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

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[1] U.S. Public Interest Research Group, "Following the Money 2015," March 2015.

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

U.S. PIRG Rankings for Fiscal Transparency			
2015 Rank	**State**	**Grade**	**2015 Score**
1.	Ohio	A+	100
2.	Indiana	A	97
3.	Wisconsin	A	96.5
4.	Oregon	A	96.5
5.	Louisiana	A	96
6.	Connecticut	A	96
7.	Massachusetts	A	95.5
8.	Florida	A	95
9.	Iowa	A-	94
10.	Illinois	A-	93
11.	Montana	A-	92
12.	New York	A-	91
13.	Texas	A-	91
14.	South Dakota	A-	90
15.	North Carolina	B+	89.5
16.	Colorado	B+	89
17.	Vermont	B+	89
18.	Oklahoma	B+	88
19.	Maryland	B+	87
20.	Michigan	B+	87
21.	Nebraska	B+	87
22.	Washington	B	86
23.	Utah	B	86
24.	Kentucky	B	86
25.	Minnesota	B	85
26.	New Jersey	B	84
27.	Arizona	B	84
28.	Kansas	B	84
29.	Pennsylvania	B	83
30.	Arkansas	B-	82
31.	Tennessee	B-	82
32.	Virginia	B-	82
33.	Mississippi	C+	79
34.	South Carolina	C+	78
35.	New Mexico	C+	77
36.	Missouri	C+	77
37.	Maine	C+	76
38.	Rhode Island	C+	76
39.	New Hampshire	C+	75
40.	Georgia	C	74
41.	Nevada	C	74
42.	West Virginia	C	73
43.	Hawaii	C	71
44.	Delaware	C	71
45.	Wyoming	C-	67
46.	North Dakota	D+	64
47.	Alabama	D	55
48.	Idaho	F	45
49.	Alaska	F	43
50.	California	F	34

Source: U.S. Public Interest Research Group, “Following the Money 2015,” March 2015.

PERS: Assessing the liability

Official financial statements from the Nevada Public Employees' Retirement System indicate that, at the close of FY 2015, the system held $33.7 billion in assets versus $46.0 billion in liabilities. This ratio would mean that PERS has a funding ratio of 73.2 percent and an unfunded liability of $12.4 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 IRS 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 must do, it would become clear that PERS' official liability estimates are dramatically understated. The true value of the system's unfunded liability at the close of FY 2010, for example, was about $41.0 billion while PERS only reported an unfunded liability of $10.4 billion.[2]

Key Points

Actuarial accounting conflates assets and liabilities. PERS accounting methods discount the value of expected future liabilities by the system's assumed annual rate of return on investments (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, while 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 when risky investments do not achieve the expected yield.

PERS accounting encourages risky behavior. Because PERS does not price for risk, its administrators can make PERS' financial position appear stronger by simply investing the system's 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 6.9 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 rate of return assumed by PERS should be adjusted downward to reflect the lower yield of today's zero-risk or risk-adjusted assets. This will re-incorporate the contingent liability that PERS has pushed off onto taxpayers and reveal the true size of the system's unfunded liability — estimated at $41.0 billion as of FY 2010.[3]

Recommendations

Require PERS to incorporate a market-based accounting approach. If policymakers and taxpayers want to uphold the promises made to public employees in Nevada, they first need to have a clear understanding of what those promises entail. 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]

[1] Nevada PERS, 2015 Comprehensive Annual Financial Report (Differences due to rounding).

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

[3] *Ibid.*

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

Summary data for Nevada PERS financing under current valuation practices, as of June 30, 2010.			
	Regular	**Police/Fire**	**Total**
Employer normal cost	$712,018,796	$271,754,563	$983,773,359
Employee contribution	$90,295,302	$16,741,883	$107,037,185
Total normal cost	$802,314,098	$288,496,446	$1,090,810,544
Unfunded liability	$7,950,505,956	$2,401,769,113	$10,352,275,069
Annual amortization payment	$387,114,092	$116,943,334	$504,057,426
Payroll	$4,943,566,092	$968,353,118	$5,911,919,210
Percent of payroll			
Employer normal cost	14.4%	28.1%	16.6%
Employee contribution	1.8%	1.7%	1.8%
Total normal cost	16.2%	29.8%	18.5%
Unfunded liability	160.8%	248.0%	175.1%
Annual amortization payment	7.8%	12.1%	8.5%
Total employer cost	22.2%	40.1%	25.2%
Source: Nevada PERS CAFR, June 30 2010.			

Summary data for Nevada PERS financing under market valuation, as of June 30, 2010.			
	Regular	**Police/Fire**	**Total**
Employer normal cost	$2,171,657,328	$828,851,417	$3,000,508,745
Employee contribution	$275,400,671	$51,062,743	$326,463,414
Total normal cost	$2,447,057,999	$879,914,160	$3,326,972,159
Market assets (approx)	*$16,628,121,287*	*$4,278,161,818*	*$20,906,283,105*
Market liabilities	*$48,709,012,854*	*$13,160,388,448*	*$61,869,401,302*
Unfunded liability	*$32,080,891,566*	*$8,882,226,630*	*$40,963,118,197*
Annual amortization payment	$2,140,740,929	$646,696,637	$2,787,437,566
Payroll	$4,943,566,092	$968,353,118	$5,911,919,210
Percent of payroll			
Employer normal cost	44%	86%	51%
Employee contribution	6%	5%	6%
Total normal cost	49%	91%	56%
Unfunded liability	649%	917%	693%
Annual amortization payment	43%	67%	47%
Total employer cost	87%	152%	98%

Source: Andrew Biggs, "Reforming Nevada's Public Employees Pension Plan," NPRI Policy Study, 2011.

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]

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

Over the past 35 years, required contribution rates have grown from 15 to 28 percent of pay for regular employees and from 17 to 40.5 percent of pay for police and fire. Supposedly, half of these required contributions are to be withheld from employee paychecks. However, union contracts increasingly require local-government employers — that is, taxpayers — to effectively fund all the contribution.

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

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

PERS board members are entrenched beneficiaries with a conflict of interest. Current law requires all PERS board members to be participants with at least 10 years' service time. As a result, the board is dominated by senior public employees who benefit from the intergenerational wealth transfer foisted on younger employees, creating the incentive to oppose any structural reform. Consequently, PERS officials routinely testify in opposition to reform legislation, while commissioning studies designed to make the existing DB plan look good by comparing it only to other DB plans with similar problems.[2]

Recommendations

Change composition of PERS board. Assembly Bill 3 of the 2015 session would have added three members to the board who are nonparticipants and have strong knowledge and background in financial planning.[3]

Restructure pension benefits around a Utah-style hybrid system. Assembly Bill 190 of the 2015 session would have transitioned new employees into a DC alternative while keeping the DB plan open to avoid any up-front transition costs.[4] Over time, it would allow the existing unfunded liability to be paid down and require contribution rates to fall back to historic levels, saving money for taxpayers and public employees alike.

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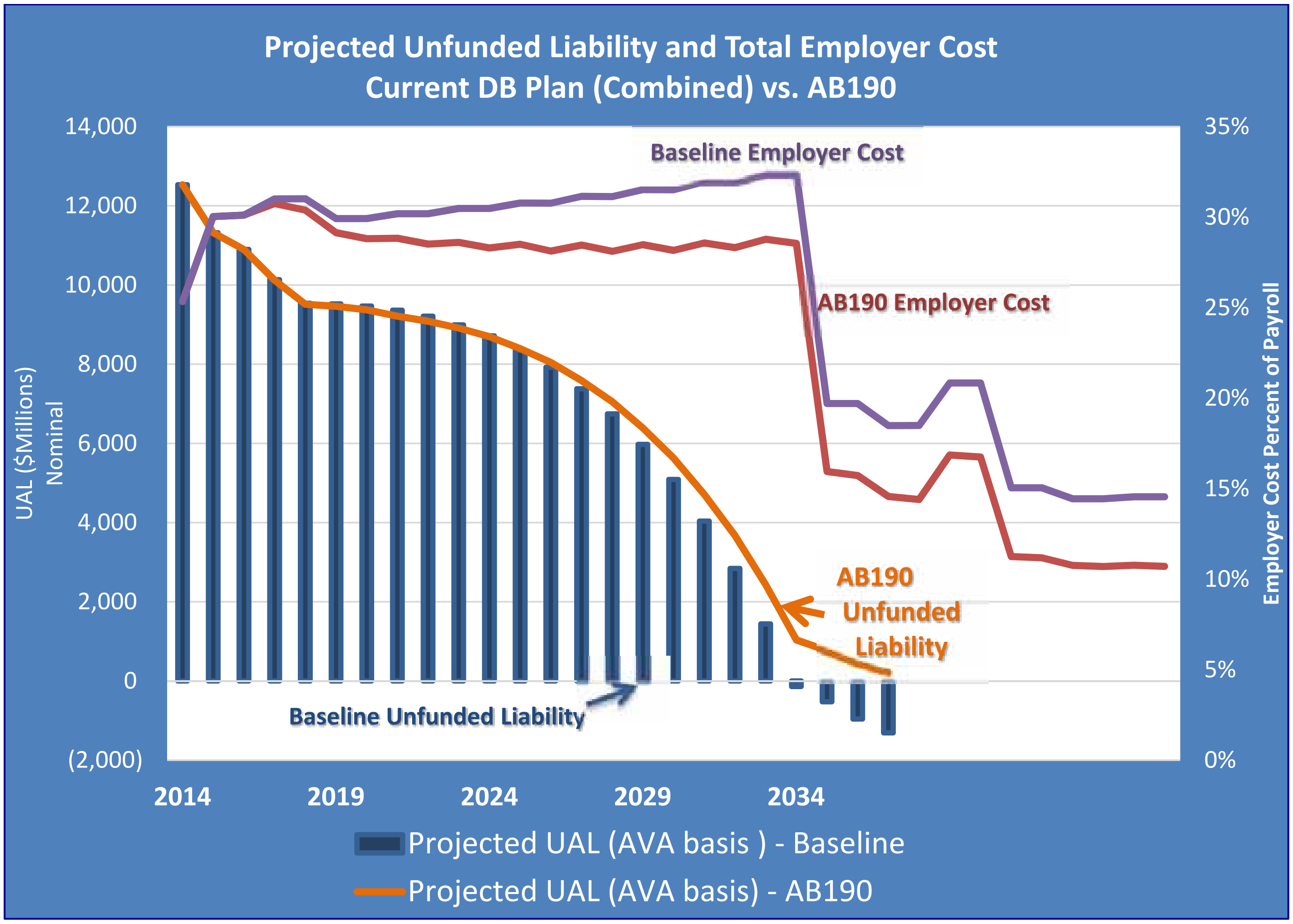
[1] See "PERS: Assessing the Liability."

[2] See, e.g., Aon Hewitt, "Report to the Retirement Board of the Public Employees' Retirement System of Nevada," November 2013.

[3] Nevada Legislature, 78th Session, Assembly Bill 3.

[4] Nevada Legislature, 78th Session, Assembly Bill 190.



Fiscal Effect of AB 190 Reform Plan: (Cost)/Savings *(Inflation Adjusted)*			
Fiscal Year	Regular	Public Safety	Combined Savings
FY 2017	$12 million	$2 million	$14 million
FY 2018	$27 million	$6 million	$33 million
Cumulative Savings			
FY 2017-2021 (5 yrs)	$177 million	$39 million	$216 million
FY 2017-2026 (10 yrs)	$604 million	$150 million	$754 million
FY 2017-2036 (20 yrs)	$1.85 billion	$576 million	$2.42 billion

Monthly Income Replacement Rates in Retirement, Baseline Case vs. AB 190 Reform Case				
Retirement Age	Regular Employees		Public Safety Employees	
	Baseline	AB190	Baseline	AB190
52	41%	45%	64%	64%
57	72%	59%	71%	98%
62	72%	79%	71%	127%
67	72%	117%	71%	166%

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

PERS: Local government employees

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

Theoretically, then, PERS retirements are financed jointly and equally by the employee and the employer. Each year, the system's actuary calculates the total annual contribution into the system that must be made in order to meet its future obligations and then breaks this amount down into a percentage of payroll. The current Actuarially Required Contribution amount is 28.0 percent of pay for regular employees and 40.5 percent of pay for police and firefighters. Of this amount, state law requires that employees contribute half, or 14.0 percent for regular employees and 20.25 percent for police and firefighters. The employing jurisdiction then matches this contribution.[1]

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

Key Points

Local-government employees already receive more in salary than state employees. According to data from the U.S. Department of Labor, Nevada's local-government employees receive an average salary that is ninth-highest in the United States. State employees, however, receive an average annual salary that ranks 31st nationally, while workers in private industry receive an annual salary ranking 32nd nationally.[2]

This means that Nevada's local-government employees are paid disproportionately to their peers in state government and private industry even before accounting for any difference in benefits. Their ability to evade personal contributions into PERS through collective bargaining agreements, further inflates their take-home pay amount, vis-à-vis state employees, by 14.0 percent for regular employees or 20.25 for police and firefighters.

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

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

Recommendations

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

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

[1] Nevada Revised Statutes, 286.410.
[2] See "Employee Earnings."
[3] Nevada Controller's Office, "Balanced Plan for Growth," Presentation Delivered to Assembly Taxation Committee, May 14, 2015.
[4] Ibid.

Example Employer Certification Letter to NV PERS

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

2015 Contribution Rate Change Certification

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

INSTRUCTIONS

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

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

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

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

*Employee Group represents Regular & Police/Fire Members

[signature] 07/09/15

Liaison Officer Signature Date

RECEIVED
JUL 09 2015
PERS OF NEVADA

OPEB Liability

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

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

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

Key Points

Restructuring of benefits around HRAs has dramatically reduced OPEB liabilities. Few policy changes have been as immediately successful as Nevada lawmakers' decision to restructure OPEB benefits. According to actuarial valuations, the present value of future benefits already accrued fell by more than half as a result of the change — moving from $3.61 billion to $1.77 billion.[4] As of the most recent valuation (FY 2014), the present value of future benefits is $2.025 billion.[5]

Despite progress, the program remains dramatically underfunded. 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 $1.06 million in assets against an actuarial accrued liability of $1.27 *billion*. As a result, Nevada governments still need to contribute $73 million annually to retire the unfunded liability over the next three decades, *in addition* to normal contribution of $67 million.

State and local governments are not making the required annual contribution. During FY 2014, Nevada's governments only paid 41.9 percent of the annual contribution required — which includes both new, ongoing costs as well as the minimum amount needed to pay down the unfunded liability over a 30 year time period. Worse, this low amount was no aberration – in FY 2011, only 43.0 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 requirement contributions toward OPEB obligations that have already been 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 34 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 2014.

State of Nevada Public Employees' Benefit Program Valuation Results (GASB 43/45)				
	FY 2008	**FY 2010**	**FY 2011**	**FY 2014**
Discount Rate	4.0%	4.0%	4.0%	4.0%
Present Value of Benefits				
Retirees	$800,378,000	$863,386,000	$493,453,000	$621,252,000
Terminated Vesteds	-	$25,022,000	$34,639,000	$36,909,000
Actives	$3,201,260,000	$2,374,955,000	$1,240,618,000	$1,367,734,000
Total	*$4,001,638,000*	*$3,263,363,000*	*$1,768,710,000*	*$2,025,895,000*
Actuarial Accrued Liability				
Retirees	$800,378,000	$863,386,000	$493,453,000	$621,252,000
Terminated Vesteds	-	$25,022,000	$34,639,000	$36,909,000
Actives	$1,446,776,000	$985,597,000	$448,953,000	$613,591,000
Total	*$2,247,154,000*	*$1,874,005,000*	*$977,045,000*	*$1,271,752,000*
Assets	$0	$23,536,000	$29,895,000	$1,061,000
Unfunded Actuarial Accrued Liability (UAAL)	$2,247,154,000	$1,850,469,000	$947,150,000	$1,270,691,000
Annual Required Contribution				
Normal Cost	$156,177,000	$113,735,000	$65,185,000	$67,361,000
Amortization of UAAL	$129,953,000	$108,374,000	$54,774,000	$73,485,000
Total	*$286,130,000*	*$222,109,000*	*$119,959,000*	*$140,846,000*
Participants				
Actives	26,346	27,068	26,085	18,639
Terminated Vesteds	-	1,311	1,688	2,004
Retirees and Disableds	7,126	8,206	8,569	9,056
Total	*33,472*	*36,590*	*36,342*	*29,699*

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. Unlike many states, Nevada has no municipal bankruptcy statute to allow mismanaged local governments to restructure debt obligations. This means the liability of poor fiscal management at the local government level ultimately falls upon state taxpayers.

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

Key Points

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

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

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

To meet debt obligations in full, Nevada's local governments must pay more than $2.1 billion annually. The minimum debt payment for all local governments combined will be $2.122 billion for FY16, with Clark County governments owing $1.846 billion of that total.[1] Statewide, local governments' annual debt payments amount to 57.8 percent of total state general fund spending for FY16.

In total, local government debt exceeds $21 billion. As of June 30, 2015, the total of outstanding local government obligations in Nevada was $21.370 billion. That amount is 23.5 percent of the statewide assessed valuation total of $91.046 billion.

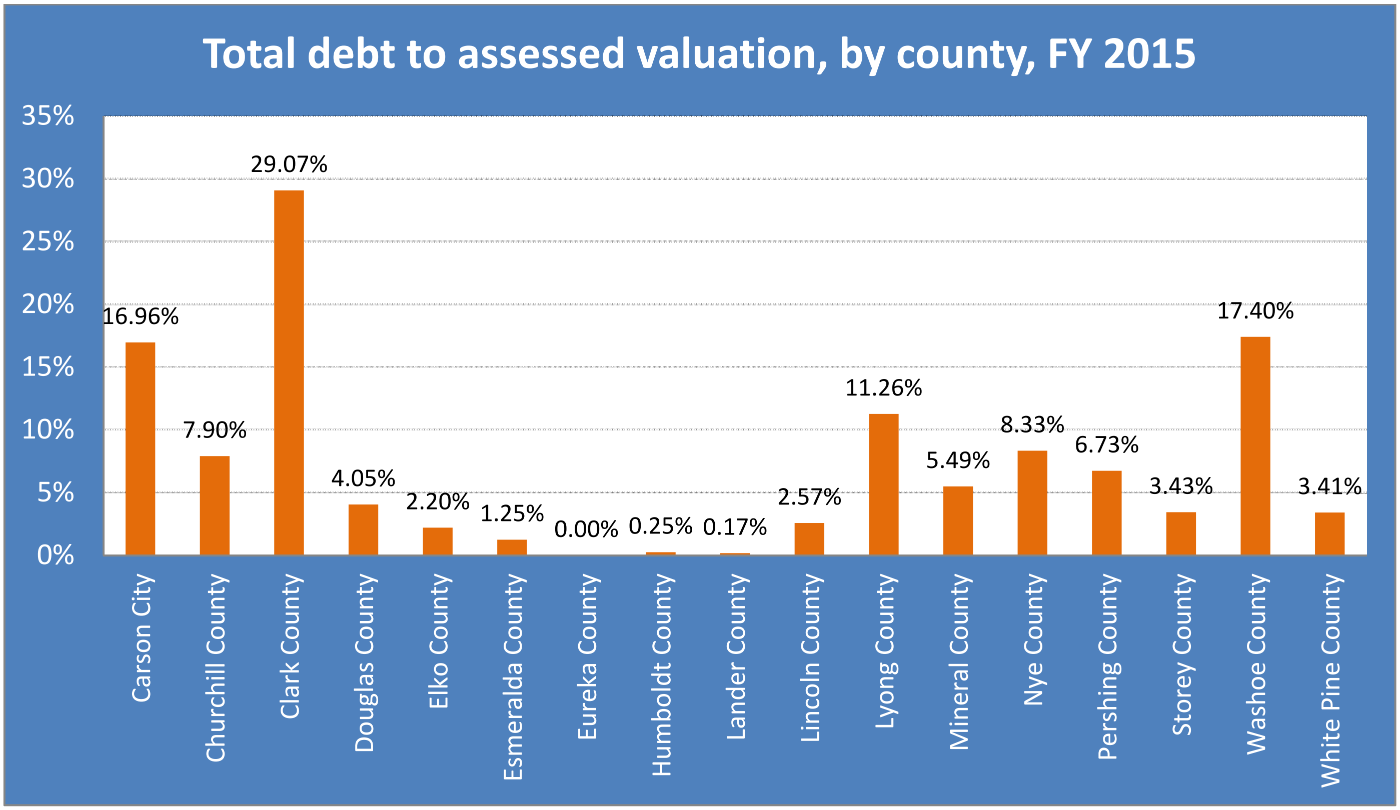
Recommendations

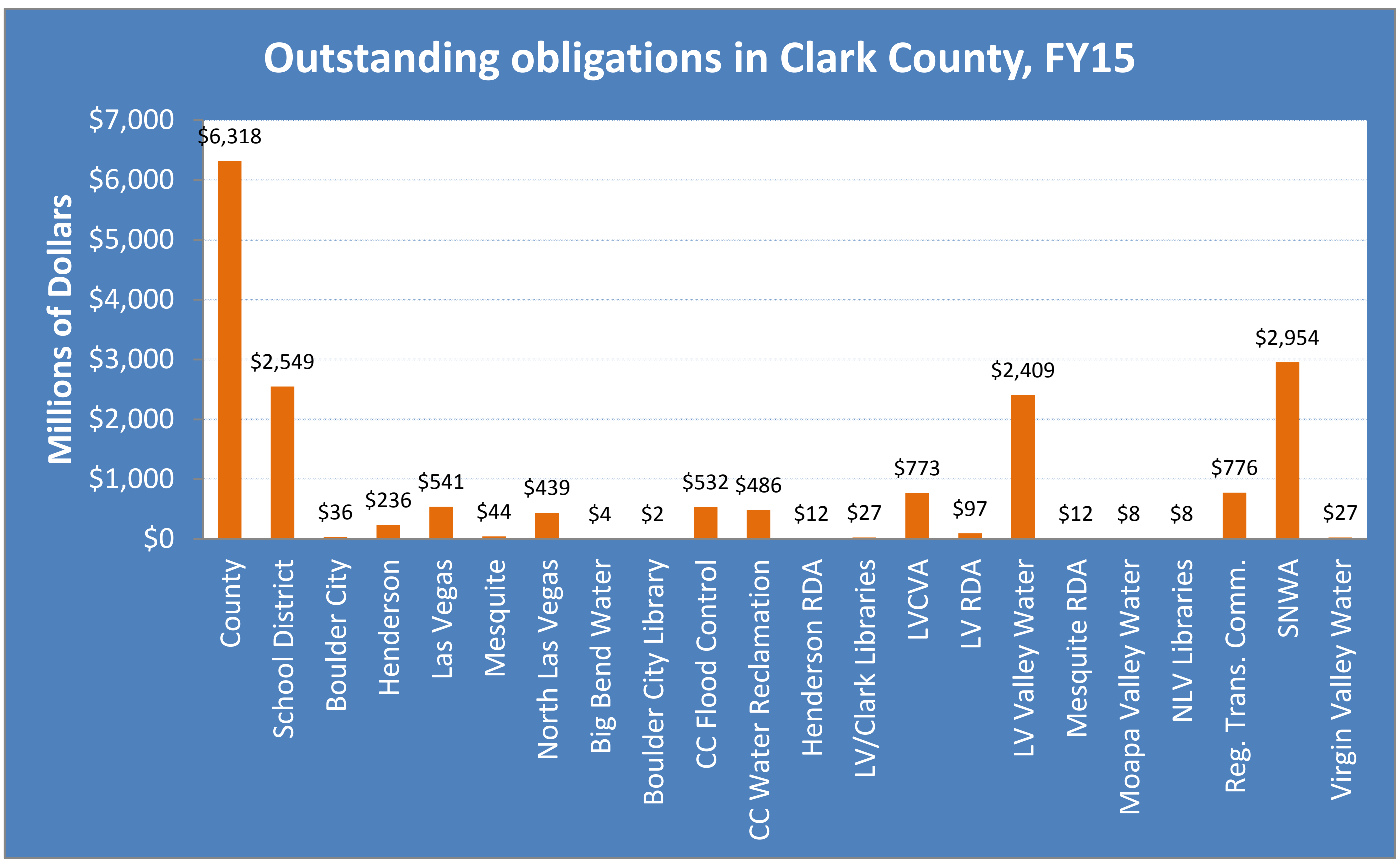
Reduce construction costs by repealing prevailing wage requirements. The bulk of local government bonds are issued to finance the construction of public infrastructure. These costs — and the bond issues required to finance them — can be dramatically reduced by repealing the state's prevailing wage requirements, 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 2014-2015 Report of Local Government Indebtedness."

[2] See "Prevailing Wage."





Source: State of Nevada, Department of Taxation, "FY 2014-2015 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. However, historical evidence reveals an 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 — regularly 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 FY2012, real, per-pupil funding for "current expenditures" (not accounting for employee benefits, capital outlays and debt repayment) increased from $3,268 to $8,959.[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 FY12 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 in student achievement.[5]

What student achievement *is* correlated with is *genuine* education reform. Much more than per-pupil spending levels, specific education reforms have been shown to lead directly to greater student achievement. These reforms include school-choice programs, alternative teacher certification, teacher evaluations based upon student performance, leveraging technology and maintaining strict academic standards.[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 past educational challenges appear to be mainly structural, although recent reforms should ameliorate these problems going forward.

Build on reforms enacted in 2011 and 2015. In 2011, lawmakers agreed to legislation creating an alternative teacher certification program, a statewide charter school authority and a meaningful evaluation system for teachers. In 2015, lawmakers also created the nation's first universal program of Education Savings Accounts and ended the practice of social promotion.

These reforms are a tremendous start along the pathway to improved educational performance, but more remains to be done. NPRI has developed a comprehensive framework for school reform that should guide future legislative efforts.[7]

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[1] U.S. Department of Education, National Center for Education Statistics, Digest of Education Statistics, 2014.

[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 (FY12)	Rank	NAEP Eighth Grade Reading Scores (2013)	Rank	NAEP Eight Grade Math Scores (2013)	Rank
Alabama	$9,549	42	257	T-46	269	50
Alaska	$18,873	4	261	T-42	282	T-31
Arizona	$8,444	49	260	T-44	280	T-37
Arkansas	$11,100	30	262	T-38	278	T-41
California	$10,795	35	262	T-38	276	T-44
Colorado	$9,928	41	271	T-10	290	T-7
Connecticut	$18,324	6	274	T-3	285	T-23
Delaware	$15,009	11	266	T-30	282	T-31
District of Columbia	$25,038	1	248	51	265	51
Florida	$9,480	43	266	T-30	281	T-34
Georgia	$10,348	38	265	T-34	279	40
Hawaii	$13,206	16	260	T-44	281	T-34
Idaho	$7,316	51	270	T-13	286	T-21
Illinois	$13,468	14	267	T-25	285	T-23
Indiana	$10,825	34	267	T-25	288	T-15
Iowa	$12,078	21	269	T-16	285	T-23
Kansas	$11,840	26	267	T-25	290	T-7
Kentucky	$10,720	36	270	T-13	281	T-34
Louisiana	$11,954	23	257	T-46	273	T-47
Maine	$13,274	15	269	T-16	289	T-12
Maryland	$15,433	10	274	T-3	287	T-19
Massachusetts	$16,273	8	277	1	301	1
Michigan	$11,911	24	266	T-30	280	T-37
Minnesota	$12,515	20	271	T-10	295	T-4
Mississippi	$8,788	46	253	50	271	49
Missouri	$10,876	31	267	T-25	283	30
Montana	$11,537	28	272	T-7	289	T-12
Nebraska	$13,142	17	269	T-16	285	T-23
Nevada	$9,421	44	262	T-38	278	T-41
New Hampshire	$14,844	12	274	T-3	296	T-2
New Jersey	$19,156	3	276	2	296	T-2
New Mexico	$10,543	37	256	49	273	T-47
New York	$20,617	2	266	T-30	282	T-31
North Carolina	$8,619	47	265	T-34	286	T-21
North Dakota	$13,026	19	268	T-20	291	6
Ohio	$13,066	18	269	T-16	290	T-7
Oklahoma	$8,591	48	262	T-38	276	T-44
Oregon	$10,830	33	268	T-20	284	T-27
Pennsylvania	$14,699	13	272	T-7	290	T-7
Rhode Island	$15,745	9	267	T-25	284	T-27
South Carolina	$10,849	32	261	T-42	280	T-37
South Dakota	$10,155	39	268	T-20	287	T-19
Tennessee	$9,221	45	265	T-34	278	T-41
Texas	$9,929	40	264	37	288	T-15
Utah	$7,969	50	270	T-13	284	T-27
Vermont	$17,303	7	274	T-3	295	T-4
Virginia	$11,650	27	268	T-20	288	T-15
Washington	$11,494	29	272	T-7	290	T-7
West Virginia	$11,884	25	257	T-46	274	46
Wisconsin	$11,979	22	268	T-20	289	T-12
Wyoming	$18,382	5	271	T-10	288	T-15

Education Savings Accounts

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

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

To become eligible for an ESA, a student must have attended public school for at least 100 uninterrupted days immediately prior to applying. Upon meeting this criterion, the State Treasurer must create an ESA on the child's behalf and deposit an amount equal to 100 percent of the state-guaranteed Basic Support per Pupil for students in households earning less than 185 percent of the Federal Poverty Level and. Students from households earning more than this amount, will receive 90 percent of Basic Support per Pupil.[2]

Key Points

Many Nevada private schools offer tuition within the range of an ESA. NPRI has compiled a listing of all private schools in Nevada along with tuition rates at NevadaESA.com**.** Dozens of educational options easily affordable with an ESA already exist and more will be formed in response to the new demand that the ESA program will create.

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

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

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

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

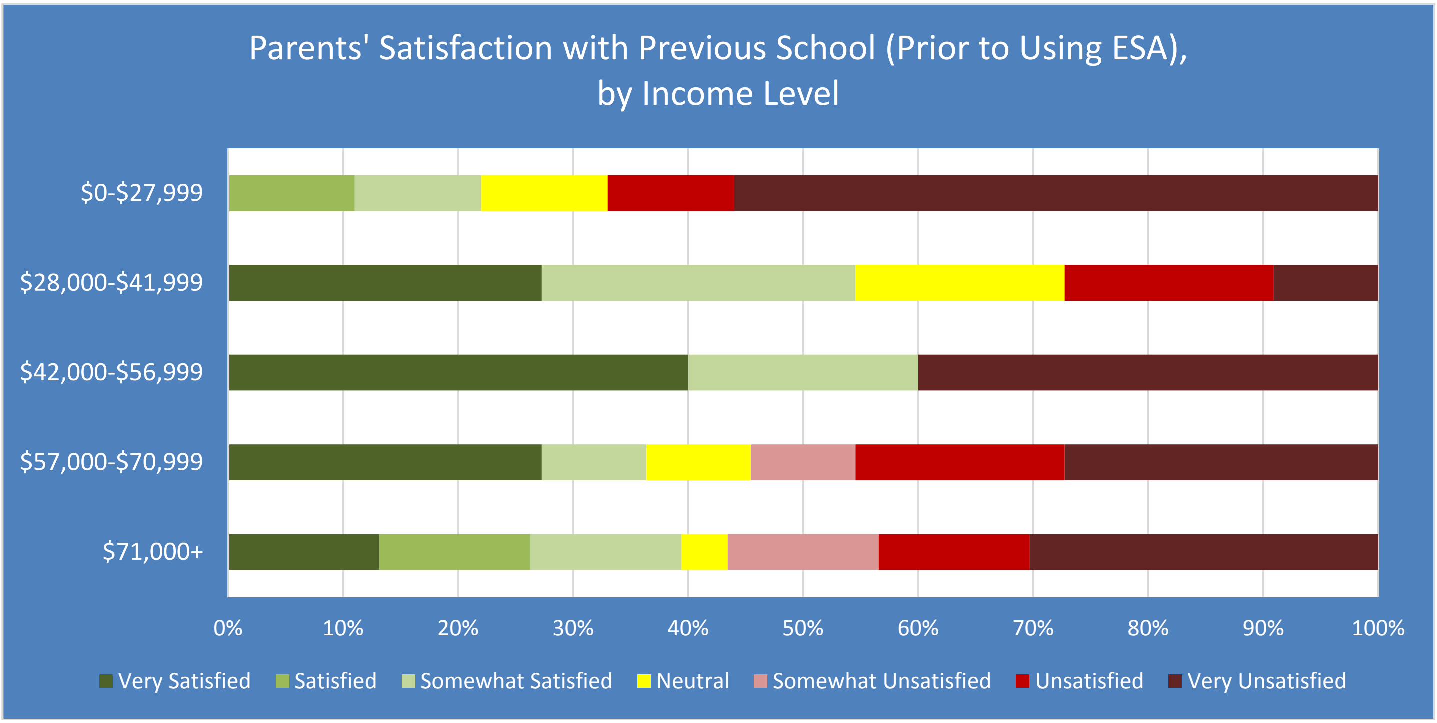
Recommendations

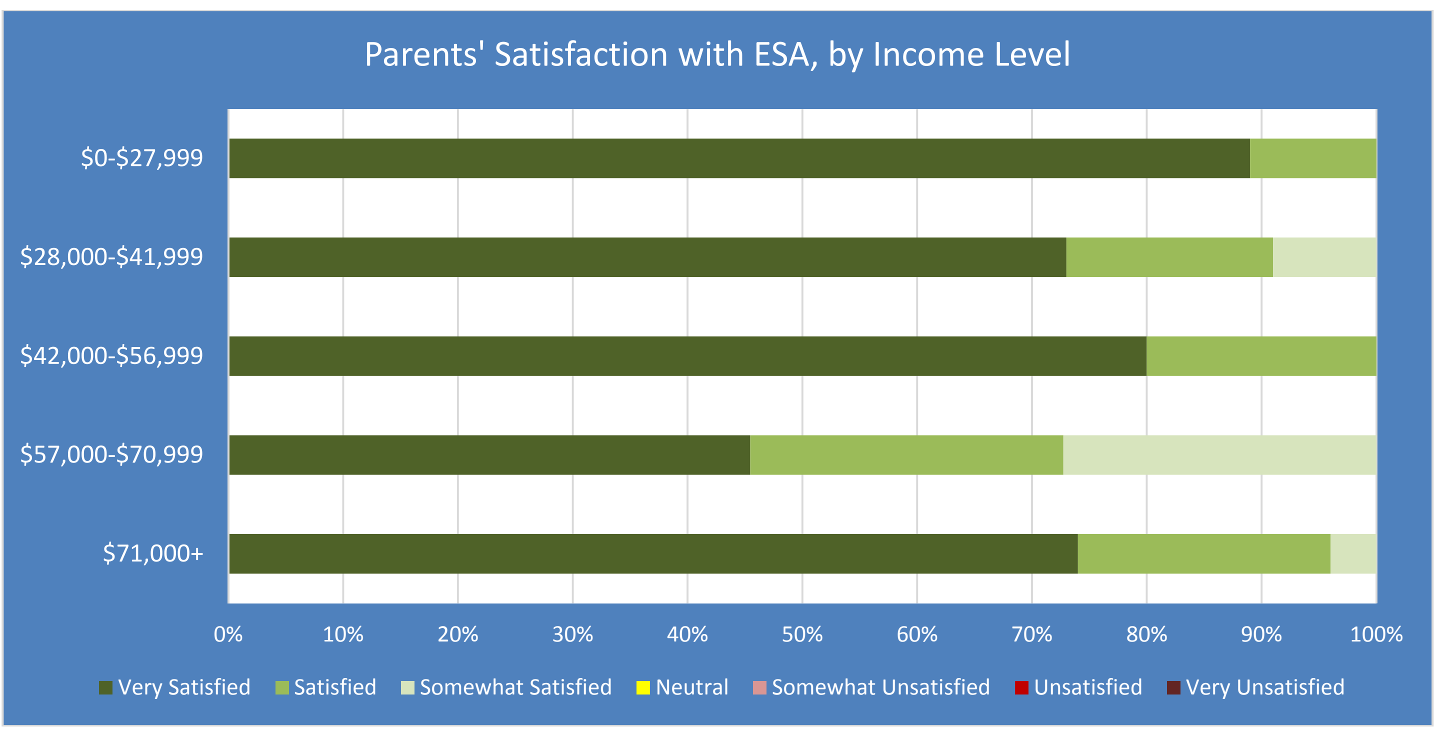
Maintain Education Savings Accounts. Never has one legislative accomplishment offered so much hope for a state's rising generation than creation of Nevada's Education Savings Accounts. However, unions and other special interests who want to preserve their traditional entitlement to tax dollars designated for education have filed lawsuits attempting to stop ESAs and prevent children from getting access to greater opportunities. These suits make spurious arguments about the secular use of public funds even though all ESA funds, by definition, are private. Regardless, lawmakers should do all they can to protect Nevada's children from these predatory special interests.

[1] Nevada Legislature, 78th Session, Senate Bill 302.
[2] See "Understanding Nevada's Budget"
[3] *Ibid.*
[4] *Ibid.*
[5] See, e.g., Greg Forster, Ph.D., "A Win-Win Solution: The Empirical Evidence on School Vouchers," The Foundation for Educational Choice, 2011.
[6] *Ibid.*

The nation's first ESA program was established in Arizona in 2011. Two years later, a survey of participants measured parents' satisfaction with the ESA program versus their satisfaction with the school their child had previously been assigned to. The results are reproduced here.
Two trends are notable:

1. Parents from all income classes were more satisfied with the ESA than with the public school their children had been assigned to previously.
2. The improvement in parental satisfaction was most pronounced among families in lower income classes.





Source: Jonathan Butcher and Jason Bedrick, "Schooling Satisfaction," The Friedman Foundation, October 2013.

Charter Schools

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

Minnesota achieved widespread success after becoming the first state to experiment with charter schools in 1991. Since then, 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 charters to first obtain the support of their would-be competitors — school-district boards.[1]

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

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

Key Points

Charter schools encourage innovation.
The concept of charter schools is that, by operating free of strict district-level policies, these schools can experiment with better approaches to education. Indeed, research shows that charter schools are more than five times likely to offer innovative merit-pay incentives.[5] Charters are also more likely to hire alternatively certified teachers.[6]

Charter schools serve high proportions of at-risk students. A national report on charter schools commissioned by the U.S. Department of Education shows that charter schools attract higher concentrations of low-income, minority, and low-performing students than traditional public schools and that these populations generally perform well in a charter environment.[7]

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.[8] In Chicago, for instance, lottery-winning students performed about five percentile points higher in both reading and math.[9]

Recommendations

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 Nevada's new "Achievement 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.[10]

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

[2] Ibid.

[3] Nevada Legislature, 78th Session, Assembly Bill 448.

[4] Nevada Legislature, 78th Session, Senate Bill 509.

[5] Julie Kowal et al., "Teacher Compensation in Charter and Private Schools," Center for American Progress, 2007.

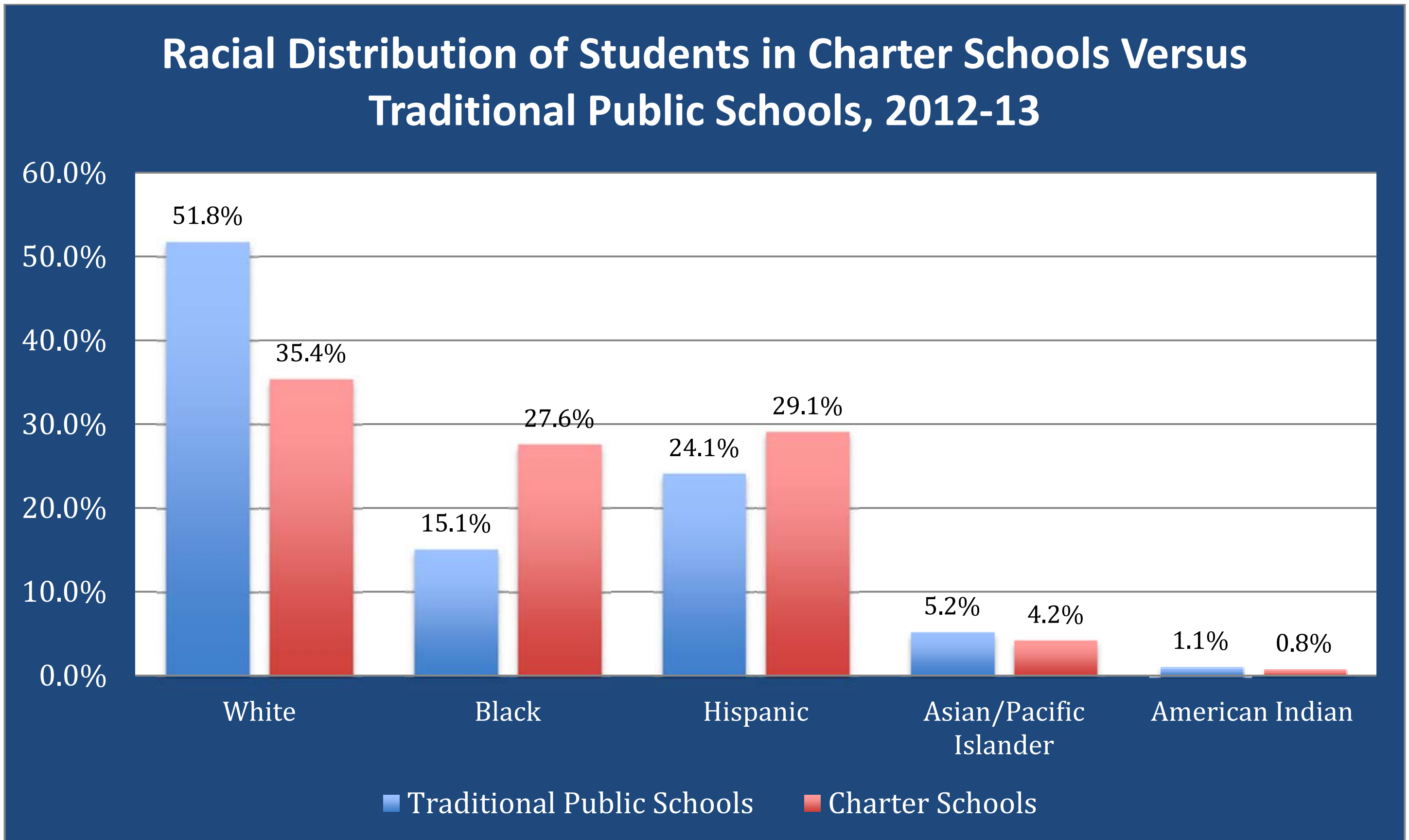
[6] U.S. Dept. of Education, "Evaluation of the Public Charter Schools Program, Final Report," 2004.

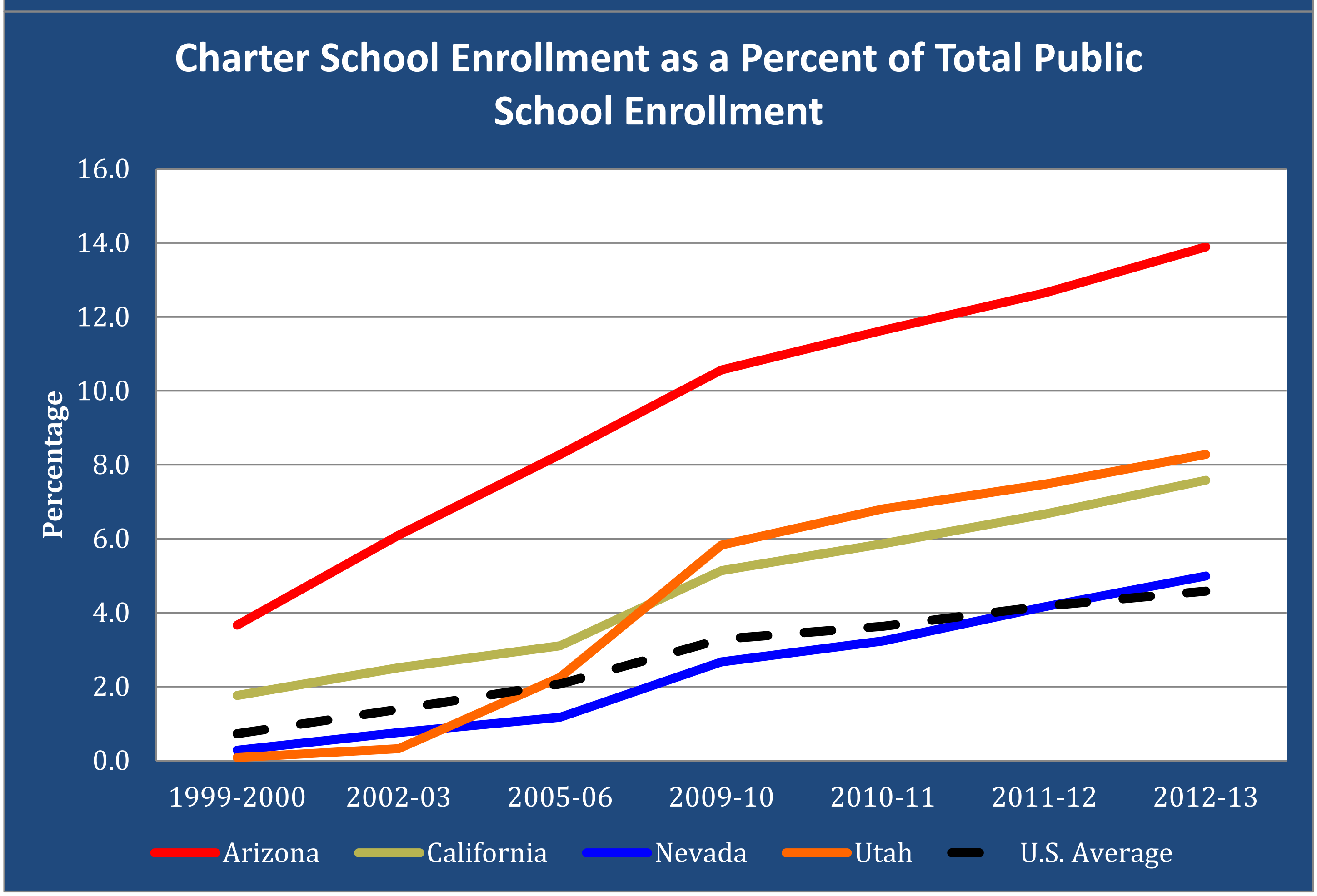
[7] Ibid.

[8] Lawrence, note 1.

[9] Caroline Hoxby and Jonah Rockoff, "Findings from the City of Big Shoulders," *Education Next*, 2005.

[10] 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 presumes that virtually all students must immediately advance into higher education and neglects students who'd prefer to directly enter the job market.

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

Key Points

Most employers are seeking skills, not degrees. According to statistics from the U.S. Department of Labor, only 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 22.4 percent of Nevadans age 25 and older hold a bachelor's degree or higher.[4] This falls directly in line with 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 renders the inclusion of vocational programs into the educational curriculum even more important.

It is better to prepare at-risk students for meaningful employment upon graduation than to allow their academic frustrations to result in higher dropout rates and reduced lifetime earning potentials.

Recommendations

Encourage systematic integration of vocational training into the educational curricula. To prepare many more students for success in the labor market, the Nevada Legislature should incentivize school districts to replicate 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, 2009-2013.

[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 had been 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, which 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 reasonable score on a subject-matter test.

Recognize teaching credentials gained in any other state. While Nevada has reciprocity agreements to recognize teaching credentials gained by individuals in certain other states, credentials gained in several states are not recognized by Nevada. A majority of states recognize licensure gained anywhere in the United States.[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 experimented with performance pay for teachers in 2005, when they implemented a small pilot program at $5 million per year. Funding for the modest program was eliminated during the 2007-2009 budget cycle.[1]

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

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

Key Points

No school-controlled factor has a greater impact on student achievement than teacher quality. As 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."[5] Volumes of research confirm that improving teacher quality is the best, most cost-effective method schools can use for elevating student performance.[6]

Few of the most talented professionals find current teacher compensation schemes attractive. Entry-level pay for teachers in Nevada, when annualized to a standard, 44-week work year, is comparable to entry pay in many other professions. However, inflexible teacher-pay schedules, however, prevent the most talented teachers from rising to the earning levels they would normally achieve in other fields.[7]

Teacher compensation is not aligned with the factors that influence student achievement. Pay schedules currently reward Nevada teachers for many activities that have little impact on student performance, such as the pursuit of advanced degrees in non-technical fields. Strong evidence suggests that an exclusive system of performance pay — awarded only to the top five or 10 percent of educators — can dramatically improve student performance.[8]

Recommendations

Implement longitudinal data tracking system. Legislation passed in 2011 instructed the Nevada Department of Education to design and implement a data-tracking system for the 2013-14 school year. Implementation of this system has been repeatedly delayed.

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 bring to our classrooms the world's best educators. In exchange for working in at-risk schools and spending part of the summer training other teachers, the top 10 percent of Nevada teachers would be acknowledged as "master teachers" and receive total compensation packages of $200,000. The revenue-neutral program is realized by diverting funding currently spent on less cost-effective programs, such as class-size reduction. Legislation heard in 2015 would have implemented this proposal.[9]

[1] Nevada Legislature, Legislative Counsel Bureau, "Research Brief on Teacher Pay-for –Performance Plans," September 2012.

[2] Ibid.

[3] See, e.g., Stephen Sawchuck, "Duncan Presses NEA on Merit Pay, Tenure," *Education Week*, July 2, 2009.

[4] Nevada Legislature, 78th Session, Assembly Bill 447.

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

[6] See, e.g., Eric Hanushek and Steve Rivkin, "Teacher Quality." In *Handbook of the Economics of Education* (2007), Vol. 2, Ch. 18., pp. 267-327.

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

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

[9] Nevada Legislature, 78th Session, Assembly Bill 378, As Introduced.

Teacher Salaries, by State (2011)

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

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

Online Learning

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

Online learning can be used to supplement the efforts of a traditional classroom teacher or can 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. Teachers now would be able to assist students with problems that parents in the low-income neighborhood were unable to help with.

Within the first year, failure rates plummeted: from 52 to 19 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 across the country and has been lauded by Harvard's Graduate School of Education as a means of helping students overcome parental disengagement.[2]

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

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

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

Recommendations

Experiment with "flipped classroom" model at low-performing schools. Lawmakers should encourage Nevada school districts to create a "flipped classroom" pilot program in low-performing schools.

Require students to take at least one online course for graduation. Nevada should join Florida, Idaho and other states to require online courses.

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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.

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

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

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

Student Incentives

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

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

The overwhelming success of the Harvard experiment should attract the attention of policymakers everywhere. It shows that K-12 students, like all individuals, respond to incentives. Especially for students who suffer from disadvantages such as parental disengagement, incentives can be very effective, 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 shows that the behaviors students adopted in pursuit of incentives tend to persist long after the incentives are removed. Surveys conducted of the participating students also indicated that students' intrinsic motivation for learning may have actually *improved* after participating in an incentive program.

Recommendations

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

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

[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 FY 1991, is now entering its 27th 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 $2.85 billion out of the state General Fund to hire and retain additional teachers under the program. This figure excludes the costs borne by local school districts for the construction of additional classroom space, heating and cooling that space, and other additional operating expenditures.

Key Points

Research on the national level shows that class-size reduction is not a cost-effective means for improving student performance. A growing library of empirical evidence indicates that, while reduced class sizes are associated with *slight* improvements in student performance, far more cost-effective approaches are available. Education scholars from across the political spectrum now agree that students would be better served by using education dollars in ways other than class-size reduction. As scholars from the left-leaning Center for American Progress, for instance, write: Large-scale CSR policies clearly fail any cost-benefit test because they entail steep costs and produce benefits that are modest at best. There are certainly many policies that might be proposed as cost-effective alternatives to CSR, but one set of policies that stand out are those aimed at improving teacher quality. Researchers agree that teacher quality is the single most important in-school determinant of how much students learn ... Investing less in CSR would free up resources that could be used to recruit and retain highly effective teachers.[1]

In Nevada, students in larger classes have outperformed students in smaller classes. Regardless of the observed national trend, Nevada's students in class sizes of one to 15 have dramatically *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 and that 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.

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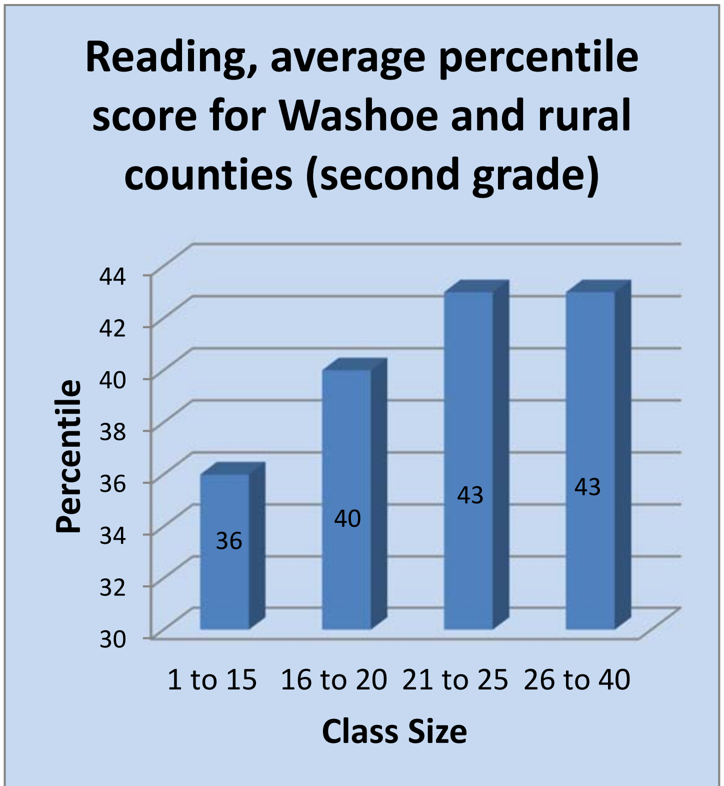
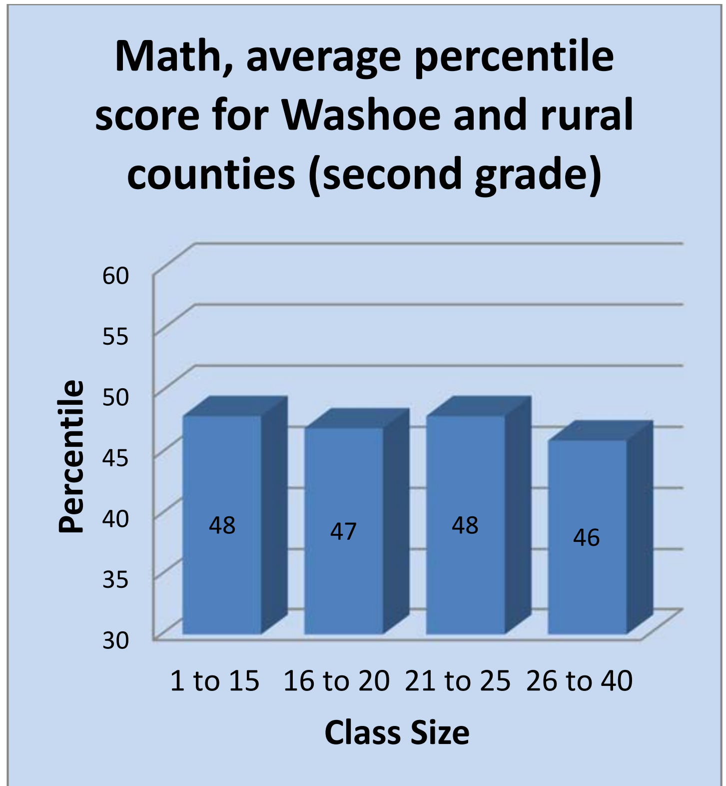
[1] Mathew M. Chingos, "The False Promise of Class-Size Reduction," Center for American Progress, April 2011.

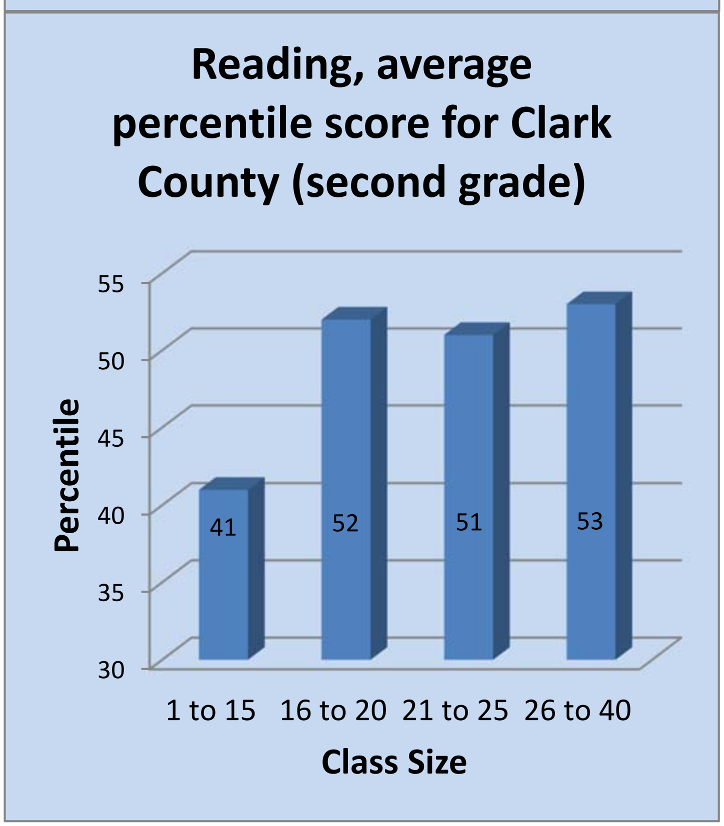
[2] Legislative Counsel Bureau, Senate Human Resources Committee, "Background Paper 01-2: Nevada's Class-Size Reduction Program: Program Data and Summary of Evaluation Reports," 2001.

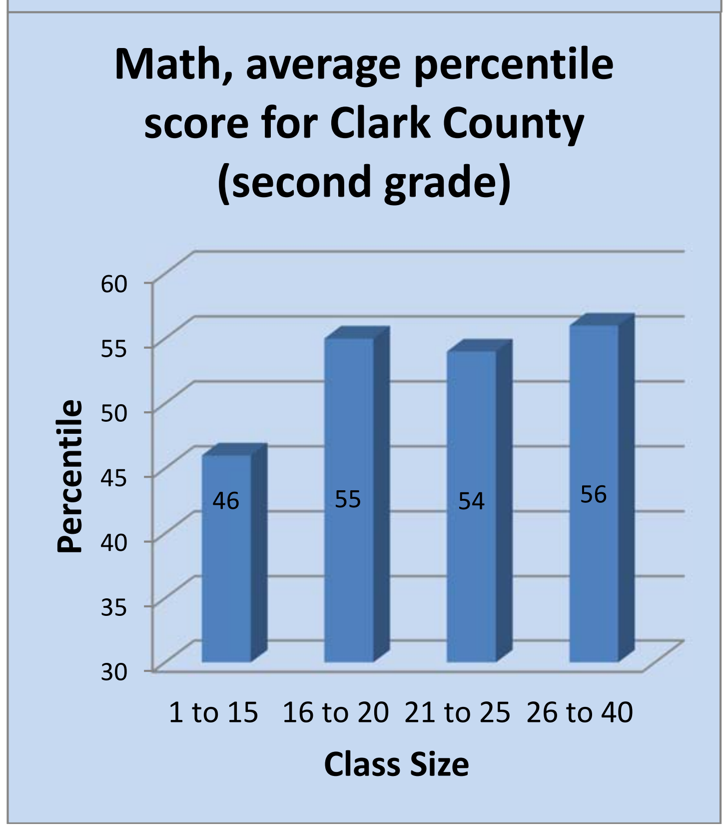
[3] Christopher Jepsen and Steven Rivkin, "Class Size Reduction and Student Achievement: The Potential Tradeoff between Teacher Quality and Class Size," *Journal of Human Resources*, Vol. 44, No. 1 (2009) pp. 223-250.

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]

This spending contracted slightly during the subsequent two budget cycles, but grew to $81 million for the 2013-2015 budget cycle after Gov. Brian Sandoval proposed to make full-day kindergarten available in 201 schools. Beginning with the 2015-2017 budget, Sandoval expanded it to every school at a cost of $173.5 million.[2]

Key Points

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

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

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

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

Full-day kindergarten is not a cost-effective use of education dollars. Full-day kindergarten entails substantial additional costs over half-day kindergarten without leading to any lasting gains in student achievement. 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 $173.5 million every two years.

Recommendations

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

[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 reveals a negative relationship between participation in full-day kindergarten and growth rates in math and reading skills over the first four years of schooling. Students participating in full-day kindergarten outperformed their peers in half-day kindergarten by the end of the kindergarten year, but these gains were more than offset by a slower rate of learning in ensuing years by students who participated in full-day kindergarten:

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

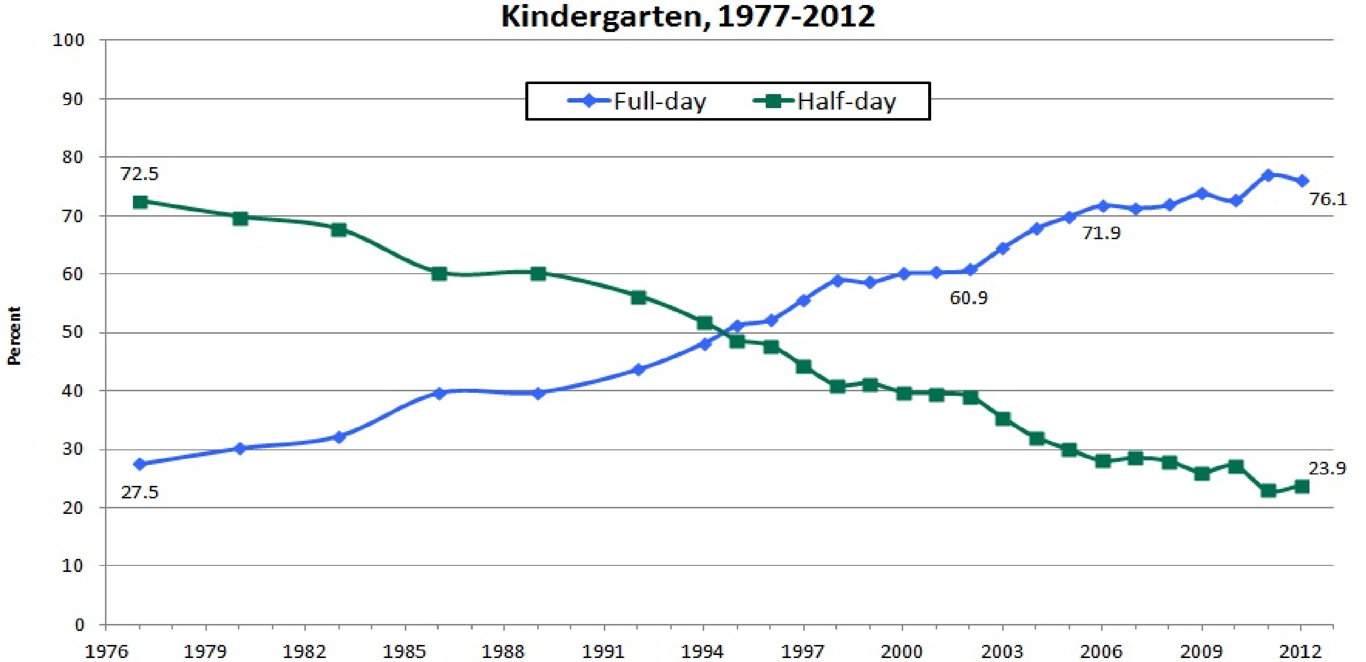
Effect	***Reading Coefficient***	***Std. Error***	***Math Coefficient***	***Std. Error***
Intercept	2.07*	.009	1.54*	.008
Primary home language non-English	0.06*	.247	0.00	.021
Living below federal poverty threshold	-0.12*	.022	-0.08*	.016
Mother's education less than high school	-0.17*	.024	-0.12*	.018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

* p<.05

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

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.

Although Florida, following a slate of 1998 reforms, has seen tremendous gains in academic achievement, as measured by the National Assessment of Educational Progress, universal early education gets none of the credit. It was not even implemented in the state until 2005, and participating students did not take the NAEP tests until 2010 — well after the remarkable rise in Florida's NAEP scores.[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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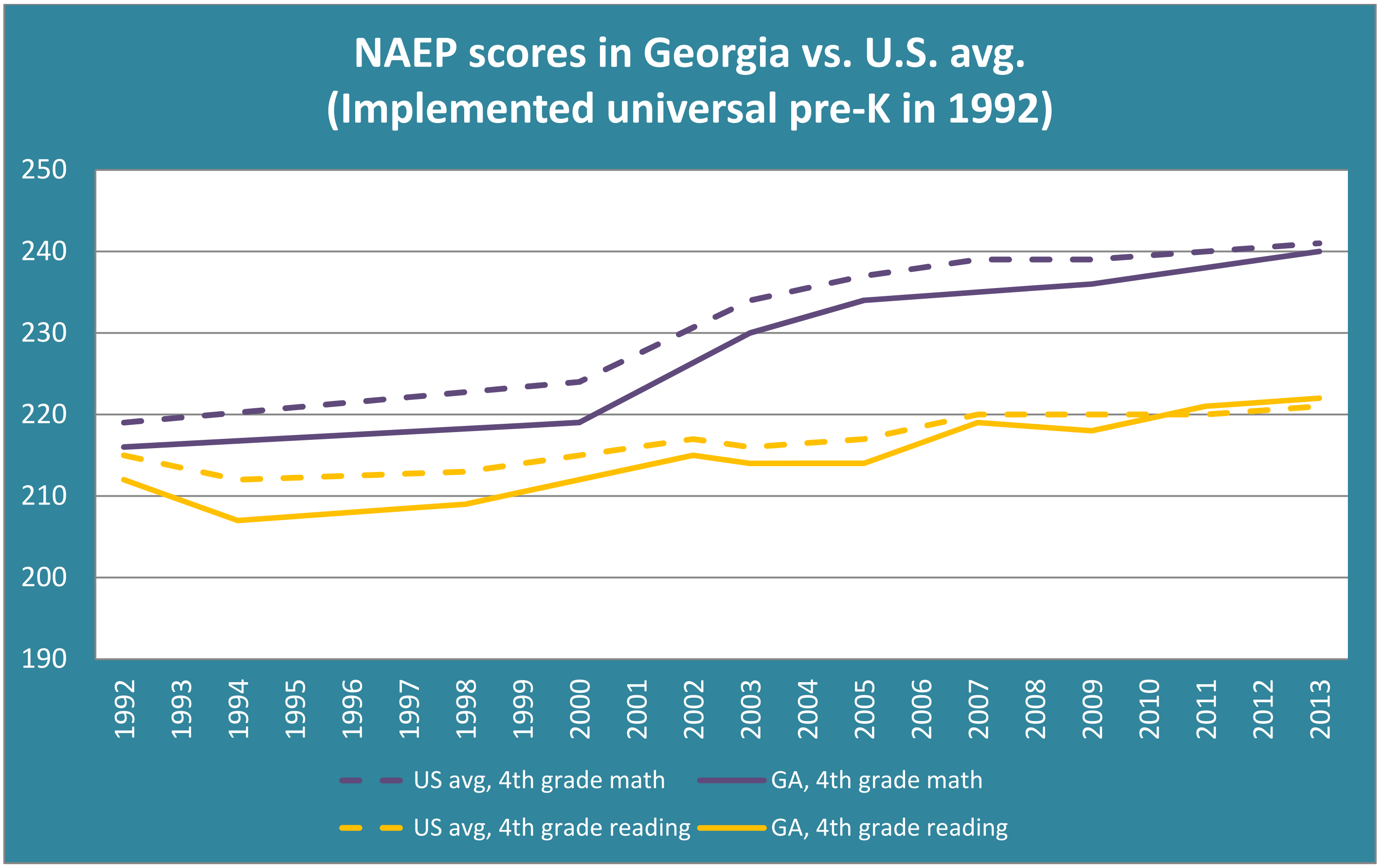
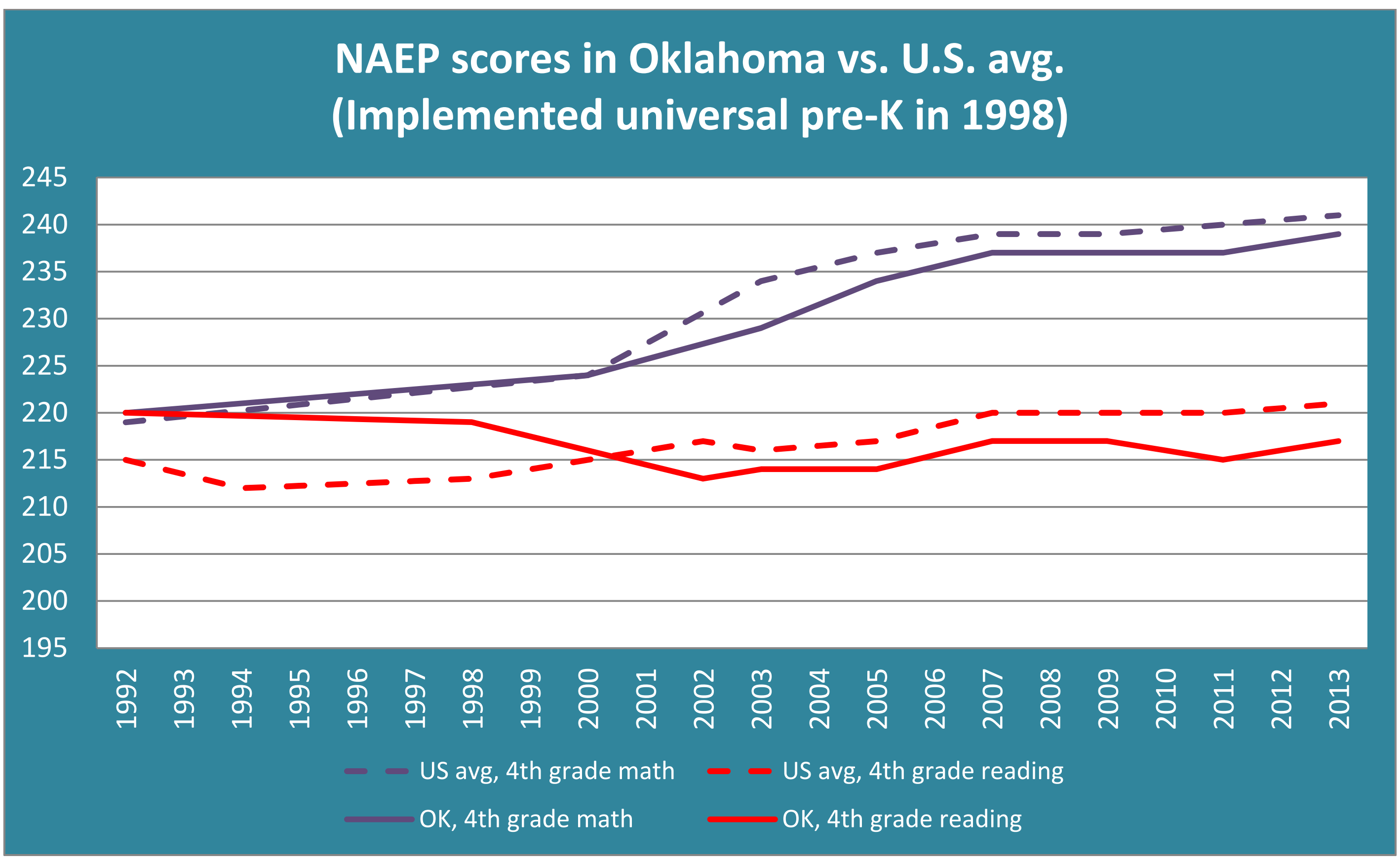
[1] Nevada Legislature, 75th Session, Interim Finance Committee, Nevada Vision Stakeholder Group, Consultant's Report, "Envisioning Nevada's Future," 2010.

[2] Ruth McKey et al., "The Impact of Head Start on Children, Families and Communities: Final Report of the Head Start Evaluation, Synthesis and Utilization Project," Prepared for US Department of Health and Human Services, 1985.

[3] Michael 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, 2014.

Premium Pay for Advanced Degrees

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

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

Key Points

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

Only a tiny minority of teachers' advanced degrees are in content fields such as math or science. Teachers have mostly responded to the availability of premium pay by pursuing degrees in less rigorous subjects that add no observable value for students. Nationwide, 90 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]

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[1] Raegen Miller and Marguerite Roza, "The Sheep-skin Effect and Student Achievement," Center for American Progress issue brief, July 2012.

[2] Dan Goldhaber et al., "A Three-Way Error Components Analysis of Educational Productivity," *Education Economics*, Vol. 7, No. 3 (1999).

[3] Op cit., Miller and Roza, note 1.

[4] Ibid.

[5] Ibid.

[6] Ibid.

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

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

Teacher Absenteeism

According to statistics compiled by the left-leaning Center for American Progress, 31.4 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 so full-time salaried workers, on average.[1]

This chronic absenteeism has extremely detrimental effects on the academic development of students. Research shows that on days when their regular teacher is absent from the classroom, students generally fail to learn new material. 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 resulting from additional administrative costs and the costs of retaining substitute teachers. Nationwide, these costs may reach as high as $25 billion annually, according to some estimates.[3]

Students fail to learn when the regular teacher is not in the classroom. Two separate longitudinal studies conducted at Harvard[4] and Duke[5] universities show that students' achievement significantly declines 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 districts nationwide. In Clark County, for instance, teachers receive 15 general leave days per year while school districts in Los Angeles, New York City, San Francisco and other large, urban areas limit general leave days to 10 per year[7] — an amount that 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 such bonuses were offered to teachers in Florida 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, FY2010

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.

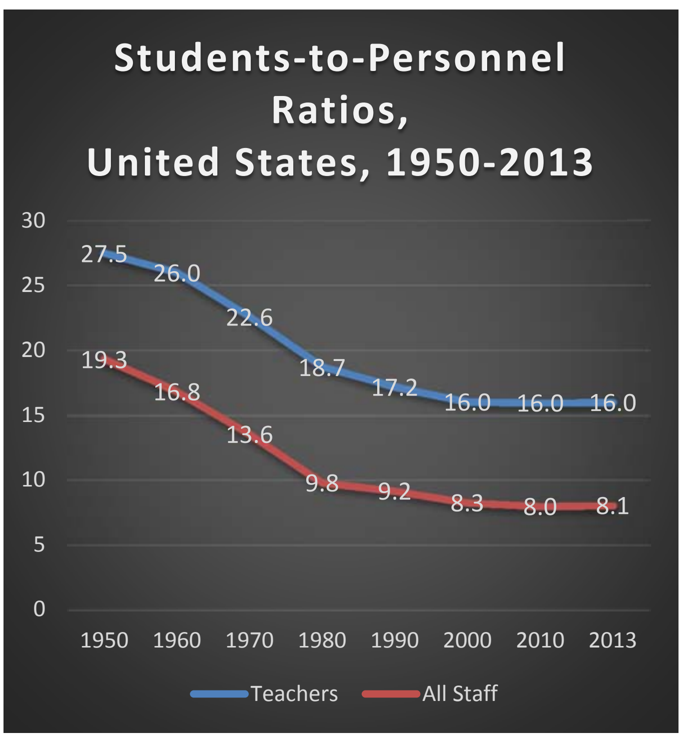
Cost of Administration

Between 1950 and 2013, the number of public school students nationwide increased 109 percent, while the number of public school employees grew 475 percent. Even these figures overlook important variations among personnel hiring for school districts: During that time period, the number of teachers increased 340 percent while the number of non-teaching staff increased a whopping 795 percent.[1]

As a result, public school across the nation have become increasingly top-heavy, with administrative and support personnel consuming a growing share of public education dollars.

Key Points

Although pupil-teacher ratios have fallen rapidly since 1950, pupil-administrator ratios have fallen much faster. In 1950, American public schools employed an average of one teacher for every 27.5 students. Enthusiasm for class-size reduction led to a gradual reduction in that figure to one teacher for every 16.0 students by 2013 — in other words, 42 percent fewer students for every teacher, on average.



When *all* school district employees are considered, however, the ratio fell from 19.3 to 8.1 — meaning 58 percent fewer students per employee by 2013.

Nevada is no exception to the national trend. In 2015, instructional staff accounted for just 59.7 percent of all full-time equivalent positions in Nevada public schools. Further, many of these non-teaching employees are paid significantly more than teachers. In 2015, the average licensed teacher in Nevada earned $51,188 while the average licensed administrator earned $97,616 — all before accounting for benefits. Even non-administrative support personnel were paid more than teachers, at $74,158.[2]

Recommendations

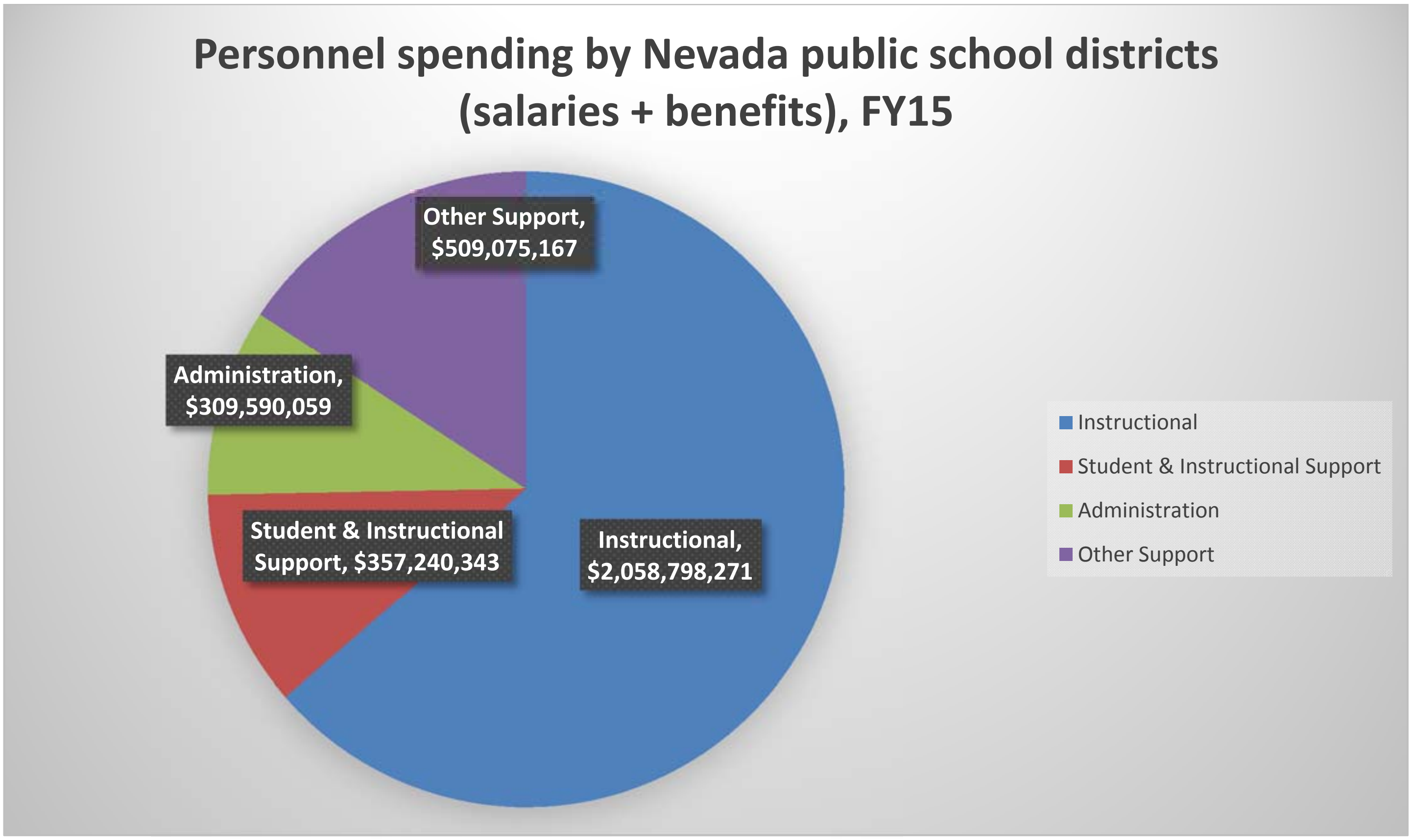
Restrict school districts' spending on administrators, private consultants, and other outside-the-classroom expenses. With good reason, parents expect their tax dollars to be spent inside the classroom, and for the structure of administration in public schools to remain lean. In 2011, Nevada lawmakers considered Senate Bill 316, which would have required public school districts to spend at least 65 cents of every dollar they receive inside the classroom.[3] At the time, the Fiscal Division of the Legislative Counsel Bureau estimated that Nevada school districts were spending only 57 cents out of every dollar inside the classroom.[4] As of 2015, state figures suggested that districts were much closer to the SB316 standard of 65 cents per dollar.

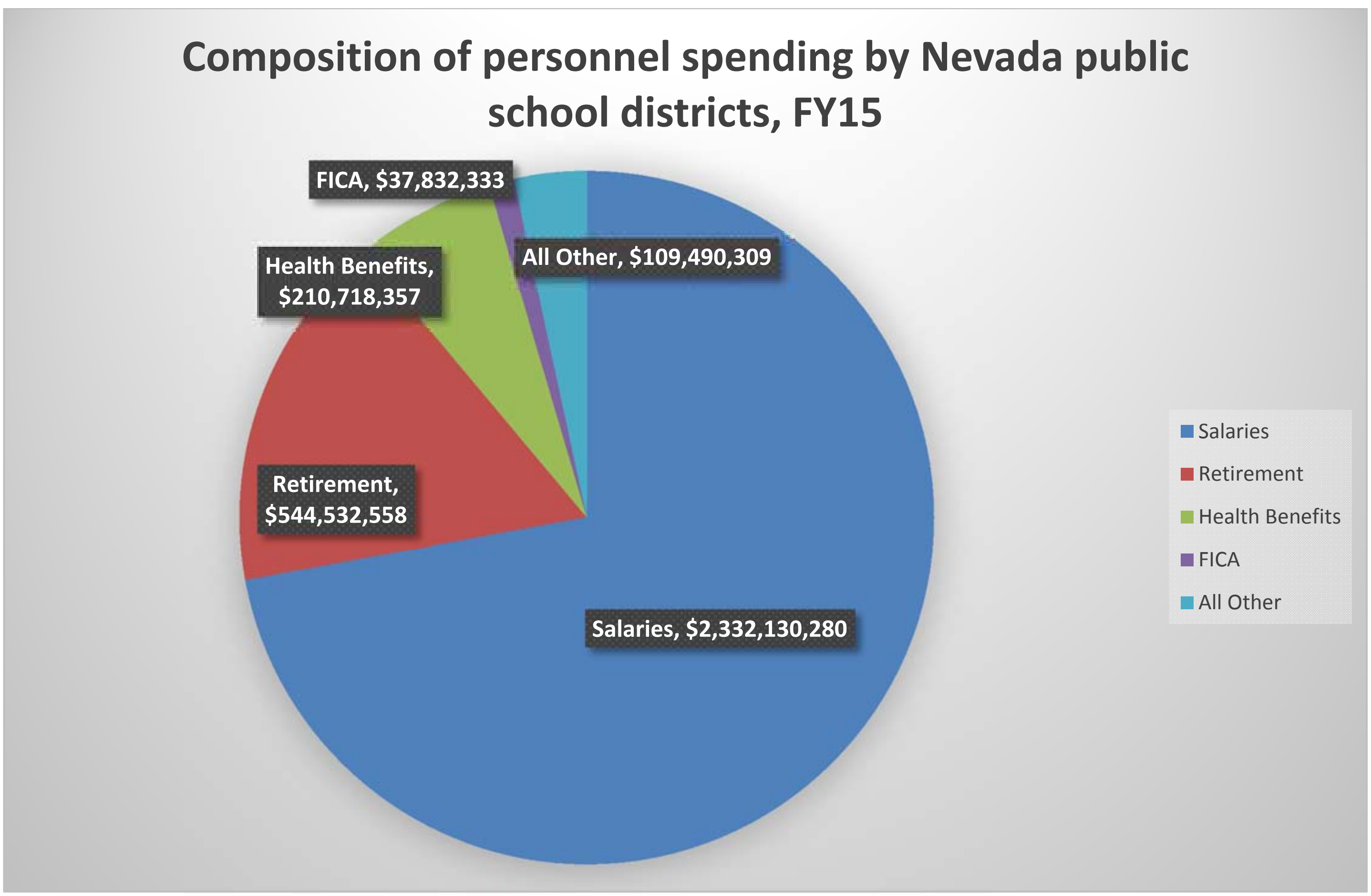
[1] U.S. Department of Education, National Center for Education Statistics, Digest of Education Statistics, 2014.

[2] Nevada Department of Education, FY15 NRS 387 Report.

[3] Nevada Legislature, 76th Session, Senate Bill 316.

[4] Nevada Legislature, 76th Session, Senate Committee on Finance Minutes, April 11, 2011.





Source: Nevada Department of Education, FY15 NRS 387 Report.

NSHE Finance

State general-fund support for the Nevada System of Higher Education (NSHE) amounts to $1.095 billion in the 2015-2017 budget. This is a slight increase from the $973 million in state appropriations for NSHE during the 2013-2015 budget.

In addition to state appropriations, NSHE receives student tuition and fees and other self-supported funds and grants. In FY 2015, student tuition and fees amounted to $371 million and other self-supported funds totaled to $626 million. Combined with $487 million in state general-fund support for that single year, total system revenues amounted to $1.484 billion.[1]

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

Key Points

Nevadans face some of the lowest in-state tuition rates in the nation. According to the U.S. Department of Education, the average cost of in-state tuition and fees to attend a four-year, public university in Nevada was $5,029 for the 2013-14 school year. That amount was the third lowest in the nation, $3,187 below the national median.[2]

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

NSHE fails far too many students. Among students who enroll as first-time college freshmen at the University of Nevada, Reno, only 51.4 percent graduate within six years. At the University of Nevada, Las Vegas, the rate is even lower — at 42.9 percent. The four-year graduation rate is a meager 15.7 percent at UNR and 14.6 percent at UNLV.[4]

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

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

Recommendations

Fund students, not institutions. Instead of subsidizing a failing state monopoly on higher education, lawmakers should harness the power of markets to raise the quality of Nevada's higher education marketplace. The legislature could determine a value of state support guaranteed each full-time student and then allocate the funds to institutions according to their in-state student enrollment.

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

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

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[1] Nevada System of Higher Education, 2015 Comprehensive Annual Financial Report.

[2] US Department of Education, National Center for Education Statistics, Digest of Education Statistics, 2014.

[3] See, e.g., Jacqueline E. King, "Improving the Odds: Factors that Increase the Likelihood of Four-Year College Attendance Among High School Seniors," College Entrance Examination Board, 1996.

[4] The Education Trust, College Results Online Databank, dataset for 2013.

Average undergraduate tuition and fees for full-time students at public universities

	Public, 4-year			Public, 2-year		
State	*In-state, 2012-2013*	*In-state, 2013-2014*	*Out-of-state, 2013-2014*	*In-state, 2012-2013*	*In-state, 2013-2014*	*Out-of-state, 2013-2014*
Alabama	$8,073	$8,503	$21,389	$4,048	$4,108	$7,855
Alaska	$6,317	$6,141	$18,458	$3,972	$4,652	$4,569
Arizona	$9,694	$9,906	$22,878	$1,842	$1,949	$7,994
Arkansas	$6,604	$6,894	$16,266	$2,633	$2,812	$4,905
California	$8,892	$8,903	$30,663	$1,225	$1,233	$6,593
Colorado	$7,656	$8,228	$26,233	$3,004	$3,160	$9,261
Connecticut	$9,517	$10,128	$28,337	$3,596	$3,824	$11,287
Delaware	$10,929	$11,278	$27,162	$3,242	$3,380	$7,910
District of Columbia	$7,244	$7,255	$14,535	-	-	-
Florida	$4,377	$4,423	$17,077	$2,486	$2,513	$9,362
Georgia	$6,325	$6,614	$23,730	$2,652	$2,926	$7,816
Hawaii	$7,731	$8,216	$25,021	$2,484	$2,608	$7,360
Idaho	$5,980	$6,315	$18,875	$2,915	$2,963	$7,355
Illinois	$11,882	$12,520	$27,623	$3,192	$3,306	$9,417
Indiana	$8,269	$8,443	$27,001	$3,455	$3,605	$7,632
Iowa	$7,832	$7,839	$23,568	$4,099	$4,253	$5,356
Kansas	$6,970	$7,387	$18,642	$2,621	$2,890	$4,116
Kentucky	$8,416	$8,715	$19,979	$3,391	$3,487	$12,125
Louisiana	$5,817	$6,585	$19,985	$2,837	$3,178	$6,463
Maine	$9,295	$9,368	$24,791	$3,409	$3,545	$6,254
Maryland	$8,051	$8,320	$20,772	$3,500	$3,550	$8,453
Massachusetts	$10,632	$10,702	$25,461	$4,186	$4,216	$9,561
Michigan	$11,027	$11,295	$32,042	$2,736	$2,922	$6,116
Minnesota	$10,291	$10,355	$16,915	$5,362	$5,387	$6,203
Mississippi	$6,147	$6,612	$15,980	$2,276	$2,409	$4,467
Missouri	$7,815	$7,998	$19,319	$2,716	$2,850	$5,470
Montana	$6,267	$6,323	$20,797	$3,151	$3,202	$8,417
Nebraska	$7,023	$7,081	$16,734	$2,594	$2,670	$3,612
Nevada	***$4,953***	***$5,029***	***$19,616***	***$2,700***	***$2,700***	***$9,345***
New Hampshire	$14,435	$14,469	$25,357	$7,218	$7,230	$15,717
New Jersey	$11,955	$12,266	$25,637	$3,782	$3,929	$6,868
New Mexico	$5,483	$5,973	$14,647	$1,399	$1,443	$4,642
New York	$6,556	$6,892	$17,082	$4,331	$4,507	$8,148
North Carolina	$6,223	$6,578	$20,410	$2,212	$2,304	$8,255
North Dakota	$6,572	$6,824	$16,753	$4,048	$3,978	$8,157
Ohio	$9,301	$9,443	$21,939	$3,480	$3,544	$7,313
Oklahoma	$5,882	$6,043	$17,009	$2,904	$3,062	$7,461
Oregon	$8,294	$8,616	$26,144	$3,752	$3,935	$8,038
Pennsylvania	$12,184	$12,607	$23,571	$4,133	$4,352	$11,424
Rhode Island	$10,817	$10,809	$26,763	$3,950	$3,944	$10,576
South Carolina	$10,691	$11,066	$27,040	$3,820	$3,928	$8,063
South Dakota	$7,413	$7,735	$10,201	$5,066	$4,800	$4,822
Tennessee	$7,472	$7,958	$23,290	$3,526	$3,637	$14,092
Texas	$7,402	$7,476	$20,420	$1,815	$1,898	$5,248
Utah	$5,375	$5,656	$17,441	$3,170	$3,342	$10,594
Vermont	$13,524	$13,952	$33,700	$5,452	$5,668	$11,236
Virginia	$9,866	$10,531	$28,578	$3,910	$4,095	$8,824
Washington	$8,856	$8,766	$27,714	$3,957	$4,026	$7,108
West Virginia	$5,599	$5,998	$17,270	$3,135	$3,403	$8,357
Wisconsin	$8,339	$8,406	$20,183	$4,073	$4,233	$6,945
Wyoming	$3,642	$3,756	$11,532	$2,420	$2,579	$6,353

Source: U.S. Department of Education, National Center for Education Statistics, Digest of Education Statistics, 2014.

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.

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

To bridge this funding gap, lawmakers in 2009 approved a $7.6 million dollar transfer from the unclaimed property fund and, in 2011, approved a $10 million allocation from the state general fund. In each of 2013 and 2015, an additional $15.2 million was transferred from the state general fund. Despite these taxpayer commitments, the scholarship fund is likely to become insolvent without continued general-fund support.

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

Key Points

Nevadans already face some of the lowest in-state tuition rates in the nation. According to the U.S. Department of Education, the average cost of in-state tuition and fees to attend a four-year, public university in Nevada during the 2013-14 school year was $5,029. That amount was the third lowest in the nation and $3,187 below the national median.[1] In other words, tuition for public universities in Nevada is already disproportionately subsidized.

The Millennium Scholarship's qualifying threshold is too low. As currently structured, Nevada high school students become eligible to receive up to $10,000 through the merit-based Millennium Scholarship program if they complete certain high school coursework and meet the threshold requirement of a 3.25 high school grade point average. Students need not compete for Millennium Scholarships — they are automatically granted to those who meet the threshold. Far more students meet these requirements than the program can support using its own finances. Indeed, the threshold requirements for obtaining a merit-based scholarship to the Nevada System of Higher Education (NSHE) are lower than the basic admission standards of many top-ranked public universities.

Nearly half of Millennium Scholars require remediation. More students qualify for the Millennium Scholarship than are actually capable of completing college-level coursework. According to NSHE data, 46.2 percent of Millennium Scholars were incapable of completing college-level coursework in 2013 and required remediation.[2]

Success metrics offered by NSHE are meaningless. NSHE administrators have testified that Millennium Scholars are slightly more likely to persist in college and graduate from NSHE than non-Millennium Scholars.[3] This, NSHE administrators say, demonstrates the program's effectiveness.

However, all these metrics actually say is that students who are relatively more prepared to complete college-level work tend to be more successful in college. They say nothing about the impact of the scholarship itself.

Recommendations

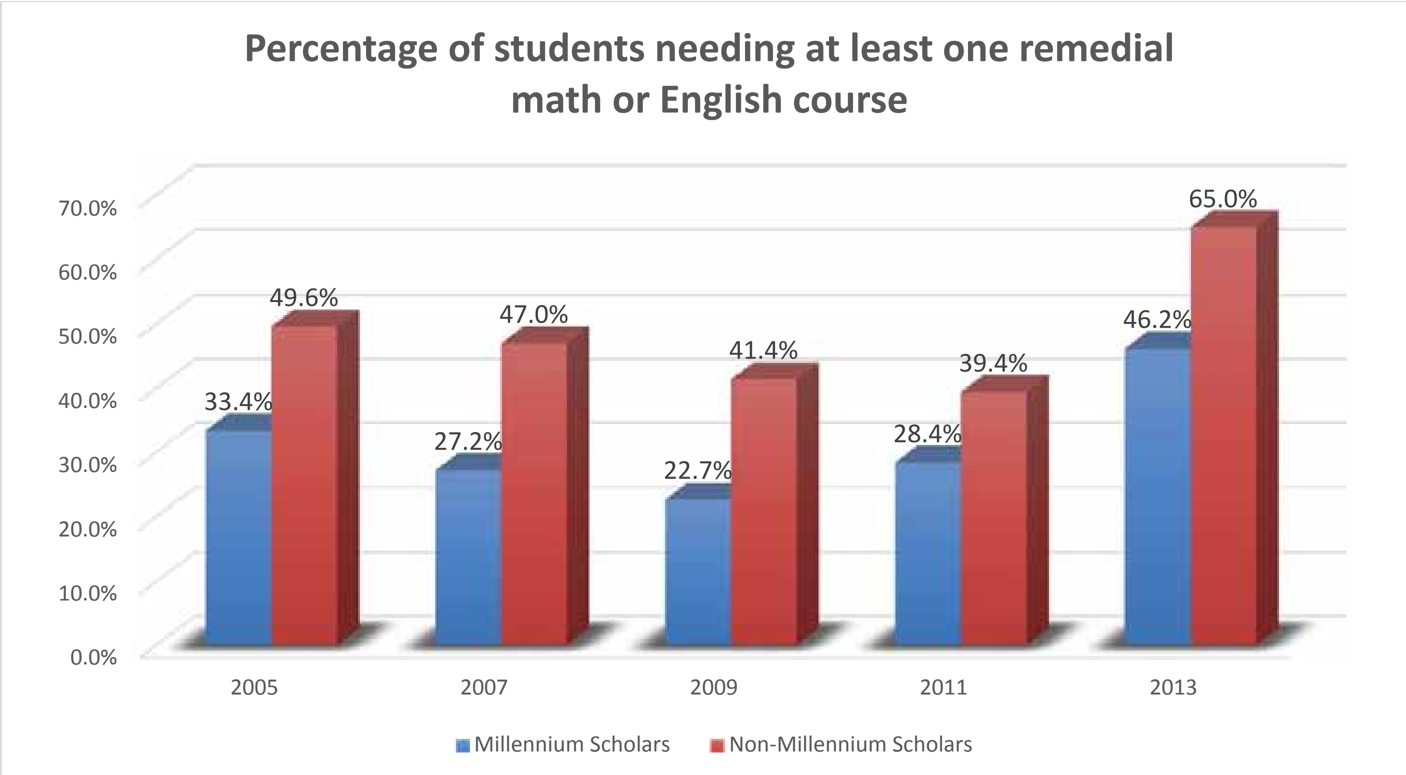
Eliminate general fund subsidies, eliminate the low eligibility threshold and instead require genuine competition for the originally available funds. If the Millennium Scholarship program is to be solvent in the long term, the total value of scholarships awarded must be restricted to the program's independent revenue sources. The current "threshold" approach will only increase the problems as Nevada's student body population increases. Moreover, the current threshold allows students who are minimally qualified to get the scholarships.

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.

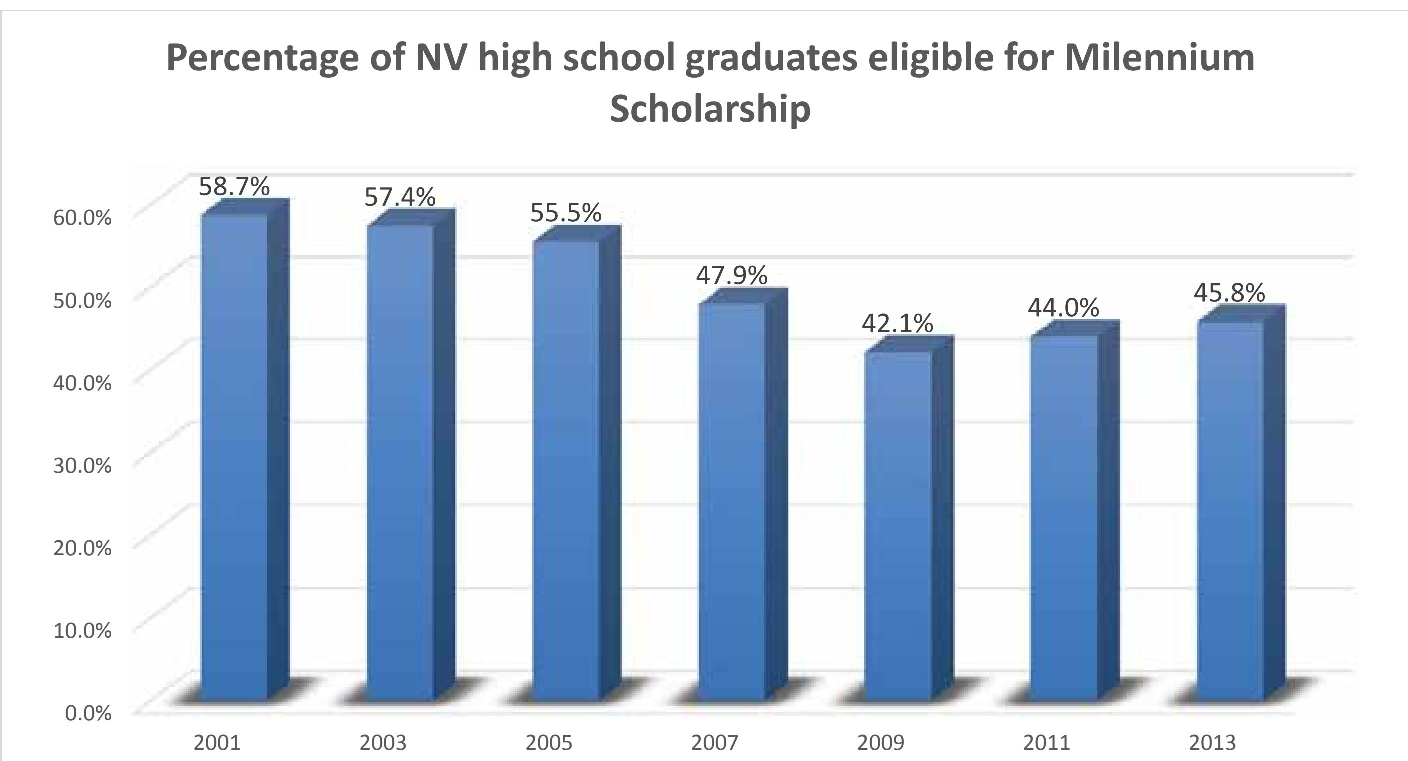
[1] U.S. Department of Education, National Center for Education Statistics, Digest of Education Statistics, 2014.

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

[3] *Ibid.*



	2001	2003	2005	2007	2010	2011	2012	2013
NV high school GPA requirement	3.00	3.00	3.10	3.25	3.25	3.25	3.25	3.25
MS-eligible graduates	7,909	8,702	8,631	8,174	9,124	9,306	9.754	10,534
Activated scholarships	6,028	6,554	6,179	5,677	6,047	5,808	6,049	5,828



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 2016, Nevada's FMAP is 64.93 percent. This means that Nevada taxpayers are *directly* liable for only 35 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 state budgets and accounts for 19.3 percent of state spending in FY 2015.[1]

Nevada will pay $1.13 billion out of the state general fund to support Medicaid during the 2015-2017 budget cycle, a 79 percent increase over the $630.4 million spent in the 2003-2005 budget.[2] However, eligibility rules were expanded in 2013 to include single, childless adults and all other individuals earning up to 138 of the federal poverty level. This means Nevada's Medicaid enrollment and costs will only continue rising.

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 would eventually crowd out all other government functions in Nevada, including public safety and schools.

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 for states to expand eligibility, bringing 239,000 additional enrollees into Nevada 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. Beginning FY 2017, however, federal contributions will to begin decline. By FY 2020, contributions will amount to 90 percent of the cost of care and will perhaps fall lower thereafter, given the fiscal challenges faced by Congress.

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

By 2023, the number of enrollees is projected to exceed 800,000. Also by that year, the ACA is expected to increase the cost of Medicaid to Nevada taxpayers by a cumulative $5.4 billion over and above the expected increase *without* the ACA. [3]

Recommendations

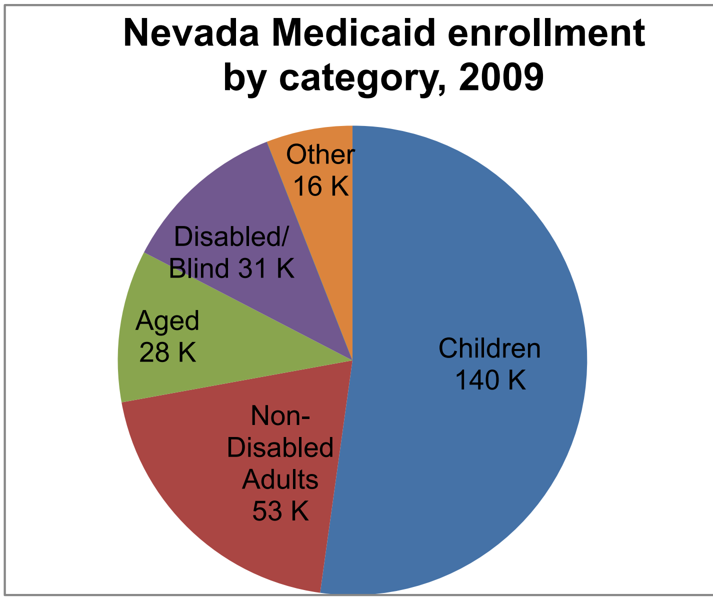
Implement a comprehensive re-design of Medicaid. If Nevada policymakers are intent on retaining the eligibility expansion they agreed to in 2013 pursuant to the ACA, then the imperative of a Medicaid redesign to improve the program's cost-effectiveness grows even more pronounced.

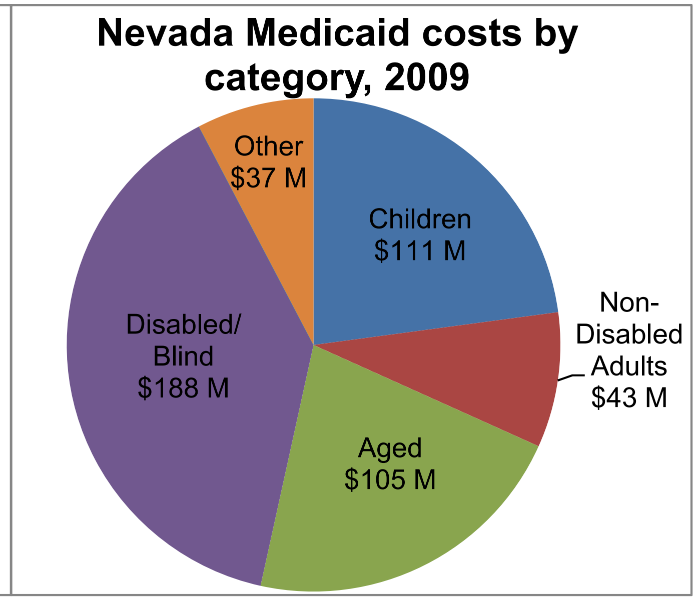
Enrollment growth over the next decade will pose an insurmountable challenge for Nevada's budget and force major spending reductions in other priorities, such as K-12 education while providing only sub-standard health care to thousands of Nevada citizens. Fundamental restructuring of the state's Medicaid delivery systems is imperative. Options for a Medicaid redesign are discussed in the Medicaid Reform sections.

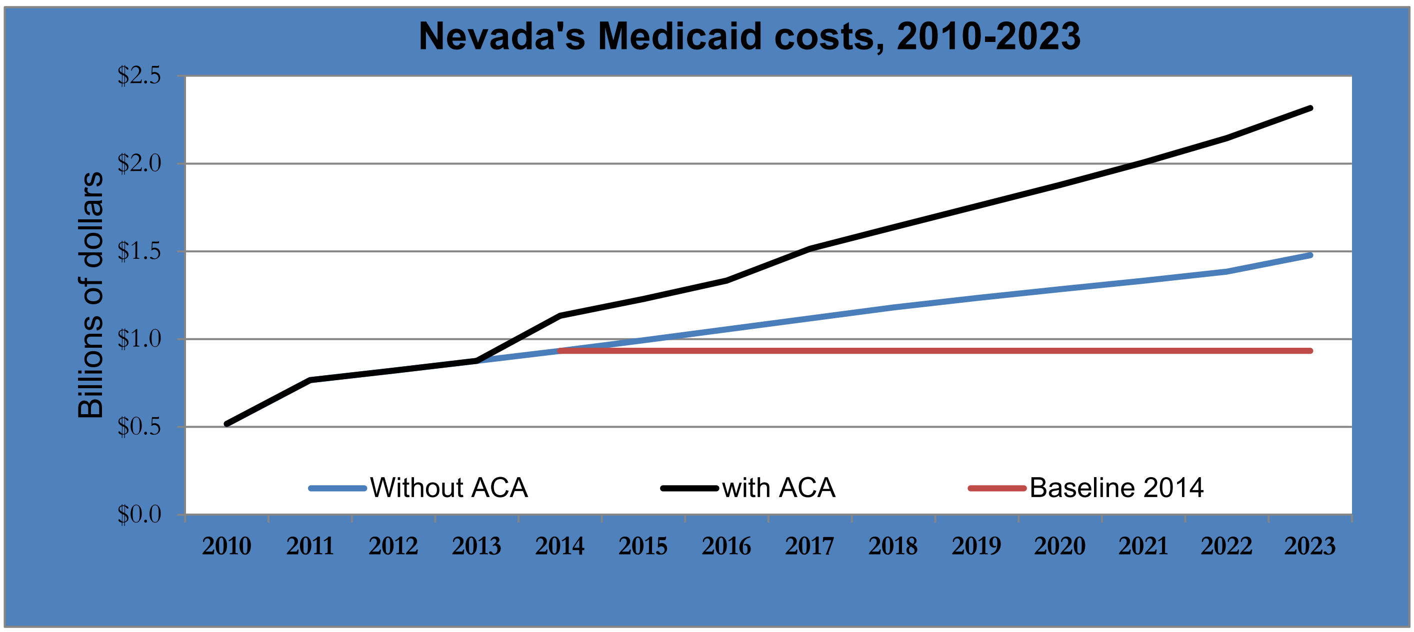
[1] National Association of State Budget Officers, "The Fiscal Survey of the States," 2015.

[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 PPACA	304,000		348,000		371,000	

Source: Projections developed by Jagadeesh Gokhale et al., "The Impact of ObamaCare on Nevada's Medicaid Spending," 2011.

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 from the Centers for Disease Control indicate that only 78.9 percent of Nevada doctors accept any new Medicaid patients, although a majority will not accept those with conditions costly to treat.[3]

As currently structured, Medicaid benefits may not be beneficial. Researchers at the University of Virginia have found that 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.

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.

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

[2] *Ibid.*

[3] Esther Hing et al., "Acceptance of New Patients with Public and Private Insurance by Office-Based Physicians, United States, 2013," NCHS Data Brief No. 195, March 2015.

[4] Damien LaPar et al., "Primary Payer Status Affects Mortality for Major Surgical Operations," University of Virginia, 2010.

Changes in Medicaid & CHIP Enrollment, 2013 - 2015

	Total Enrollment, October 2015	Average Enrollment, September 2013	Net Change in Enrollment, 9/13 – 10/15	Percentage Change in Enrollment, 9/13 – 10/15
States Expanding Medicaid				
Alaska	127,028	122,334	4,694	3.84%
Arizona	1,665,454	1,201,770	463,684	38.58%
Arkansas	-	556,851	-	-
California	12,647,724	9,157,000	3,490,724	38.12%
Colorado	1,286,318	783,420	502,898	64.19%
Connecticut	729,874	-	-	-
Delaware	241,638	223,324	18,314	8.20%
District of Columbia	257,521	235,786	21,735	9.22%
Hawaii	333,629	288,357	45,272	15.70%
Illinois	3,114,524	2,626,943	487,581	18.56%
Indiana	1,419,029	1,120,674	298,355	26.62%
Iowa	608,097	493,515	114,582	23.22%
Kentucky	1,161,342	606,805	554,537	91.39%
Maryland	1,148,568	856,297	292,271	34.13%
Massachusetts	1,677,249	1,296,359	380,890	29.38%
Michigan	2,289,337	1,912,009	377,328	19.73%
Minnesota	1,013,971	873,040	140,931	16.14%
Montana	179,952	148,974	30,978	20.79%
Nevada	***587,220***	***332,560***	***254,660***	***76.58%***
New Hampshire	182,233	127,082	55,151	43.40%
New Jersey	1,729,435	1,283,851	445,584	34.71%
New Mexico	735,391	457,678	277,713	60.68%
New York	6,554,908	5,678,417	876,491	15.44%
North Dakota	89,243	69,980	19,263	27.53%
Ohio	2,965,107	2,341,481	623,626	26.63%
Oregon	1,056,007	626,356	429,651	68.60%
Pennsylvania	2,696,254	2,386,046	310,208	13.00%
Rhode Island	272,988	190,833	82,155	43.05%
Vermont	188,602	161,081	27,521	17.09%
Washington	1,743,423	1,117,576	625,847	56.00%
West Virginia	547,365	354,544	192,821	54.39%
States Not Expanding Medicaid				
Alabama	878,405	799,176	79,229	9.91%
Florida	3,585,392	3,104,996	480,396	15.47%
Georgia	1,736,302	1,535,090	201,212	13.11%
Idaho	279,855	238,150	41,705	17.51%
Kansas	396,270	378,160	18,110	4.79%
Louisiana	1,085,461	1,019,787	65,674	6.44%
Maine	280,587	-	-	-
Mississippi	694,963	637,229	57,734	9.06%
Missouri	934,722	846,084	88,638	10.48%
Nebraska	233,410	244,600	-11,190	-4.57%
North Carolina	1,919,830	1,595,952	323,878	20.29%
Oklahoma	803,914	790,051	13,863	1.75%
South Carolina	951,988	889,744	62,244	7.00%
South Dakota	118,234	115,501	2,733	2.37%
Tennessee	1,540,536	1,244,516	296,020	23.79%
Texas	4,684,783	4,441,605	243,178	5.48%
Utah	310,097	294,029	16,068	5.46%
Virginia	959,790	935,434	24,356	2.60%
Wisconsin	1,045,475	985,531	59,944	6.08%
Wyoming	65,061	67,518	-2,457	-3.64%

Source: U.S. Dept. of Health and Human Services, Center for Medicaid Services, Medicaid & CHIP Application, Eligibility and Enrollment Data, October 2015 Release.

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 from public safety and other top priorities. If Nevada is to remain fiscally solvent long-term, state lawmakers have no higher priority than finding ways to contain Medicaid spending. Happily, other states, experimenting with approaches to structural reform, have seen high levels of success.

Florida's Medicaid reform program, in particular, merits closer examination. That's because the program has led to improvements in objective health measures for enrolled patients while also increasing their choices and satisfaction, while 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 choices.[1]

In order to lure 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 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 Health Opportunity Accountants,[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.

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[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

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

By freeing the marketplace for health insurance of needless and costly regulations, state lawmakers can dramatically improve the accessibility of health insurance to low-income households. This will lay the groundwork for a policy environment superior to that created by the federal Affordable Care Act, which, despite its name, 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. An unintended consequence was that state lawmakers, in crafting regulatory regimes unique to their individual states, precluded citizens from being able to purchase policies sold in other states that might better fit their needs. This scenario limits competition and reduces patients' control over their own health care.

Mandated benefits make health insurance less affordable. Coverage mandates require consumers to purchase more coverage than they may want or need, if they are to purchase coverage at all. This drives up the price of the insurance plans that remain available and discourages low- and middle-income earners from purchasing coverage at all. Nevada lawmakers have created 38 specific coverage mandates and precluded consumers from purchasing any plan that does not include each of those provisions.[2]

The impact of coverage mandates on premium rates cannot be understated. When comparing insurance costs across states, for example, scholars from the Cato Institute 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. Regulatory regimes that protect in-state oligopolies are functionally predatory, economically inefficient and unnecessarily risk the physical health of residents. Model legislation from the American Legislative Exchange Council would allow Nevadans to purchase health insurance offered anywhere in the United States.[4]

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

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

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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.

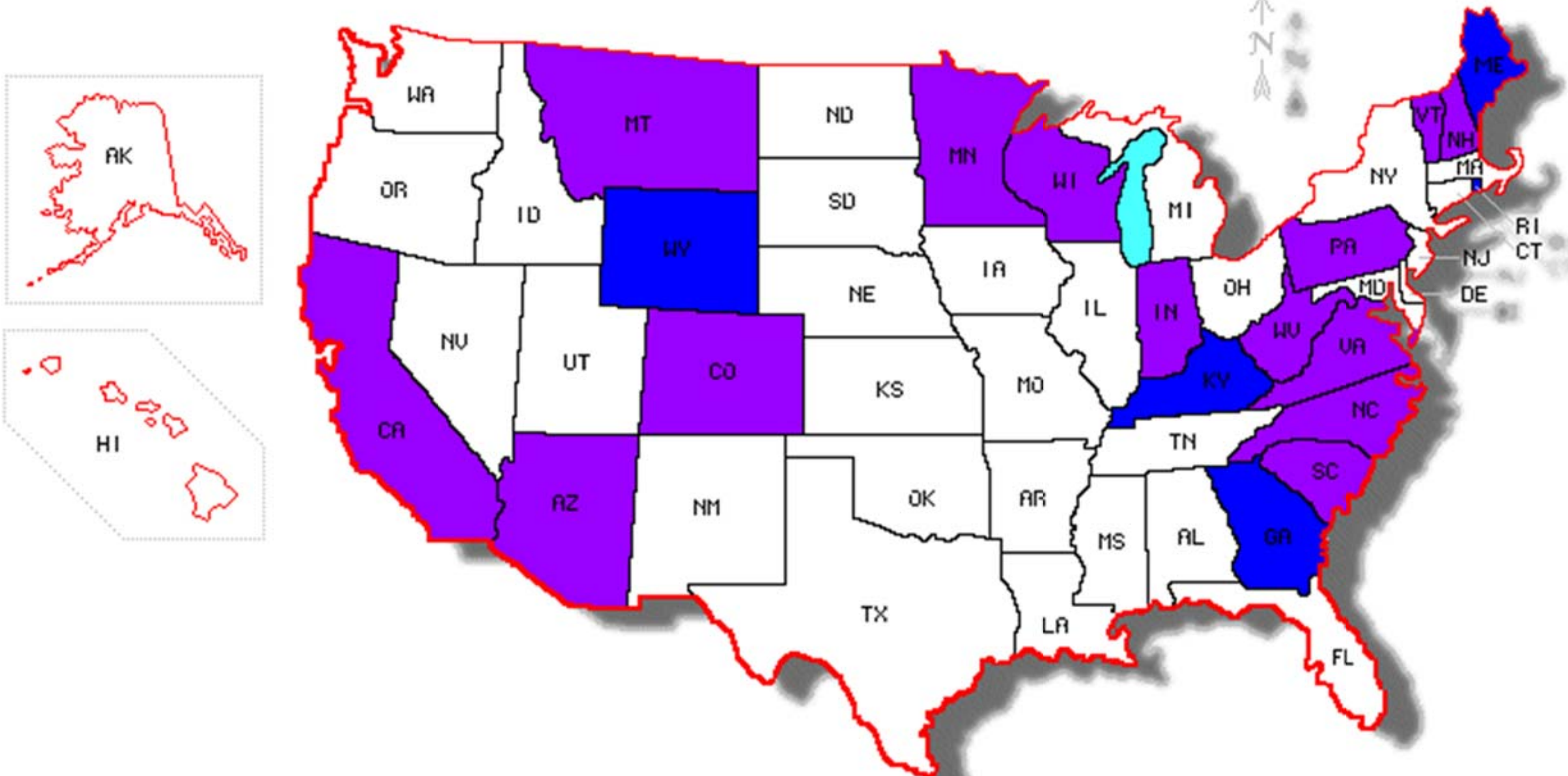
[3] Michael Tanner, "Obama Doesn't Have the Only Prescription for Healthcare Reform," Cato Institute, July 5, 2009.

[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

- Law Enacted
- Law Proposed



Source: diymaps.net (c)

High-Risk Pools

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

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

Key Points

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

Similarly, 58 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 guaranteed-issue and community-rating provisions that are central to the ACA will only further encourage this group to forego coverage by raising the price of available insurance.[3]

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

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

Only a tiny proportion of uninsured were "medically uninsurable." Individuals with chronic, pre-existing conditions are considered "uninsurable" because they technically are not seeking "insurance" against the possibility that such a condition might develop; they instead seek a third-party payer for treatment of a known condition. This doesn't mean that there is no public interest in helping such individuals, but the public dialogue has lost sight of the fact that this demographic accounted for less than 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 afford treatment. By 2008, high-risk pools through which states subsidize the care costs for specified conditions had spread to 34 states, 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]

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[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.

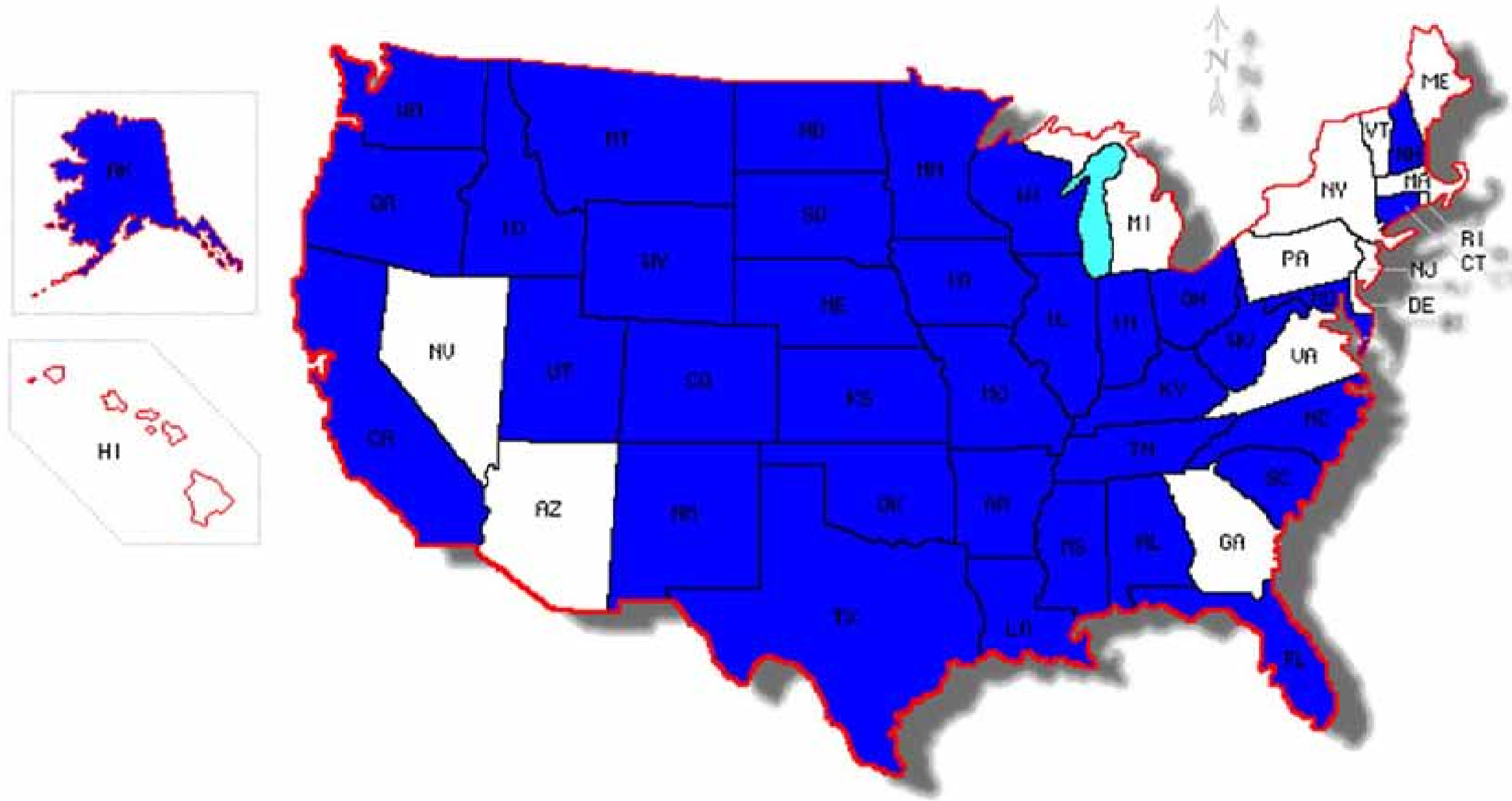
[4] Op cit, Wieske and Herrera, note 1.

[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 2015)



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 2016, 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] Petitioners recently circulated a ballot initiative that, had it qualified, would have placed on the 2016 ballot a question asking voters to increase the state's minimum wage to $13 per hour over several years.

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. 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. The nonpartisan Congressional Budget Office estimates that an increase in the federal minimum wage to $10.10 per hour would result in 500,000 fewer jobs.[2]

Most minimum-wage earners do not live in poverty. Advocates of a legal price floor for labor frequently indicate their motivation is to help those in poverty. However, statistics reveal that most minimum-wage earners are below the age of 25, unmarried, working part-time while enrolled in college[3] and are second- or third-income earners within their household.[4] Their average family income is over $53,000 annually.[5]

Minimum wage laws disproportionately harm minorities. Teenagers, minorities and women are the demographic groups 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.[6]

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 celebrated such unemployment of what they called "parasitic labor" as a primary virtue of the minimum wage.[7] 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.[8] 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.

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[1] State of Nevada, Office of the Labor Commissioner, "Minimum Wage 2015 Annual Bulletin."

[2] Congressional Budget Office, "The Effects of a Minimum-Wage Increase on Employment and Family Income," February 2014.

[3] U.S. Department of Labor, Bureau of Labor Statistics, "Characteristics of Minimum Wage Workers, 2014," BLS Report 1054, April 2015.

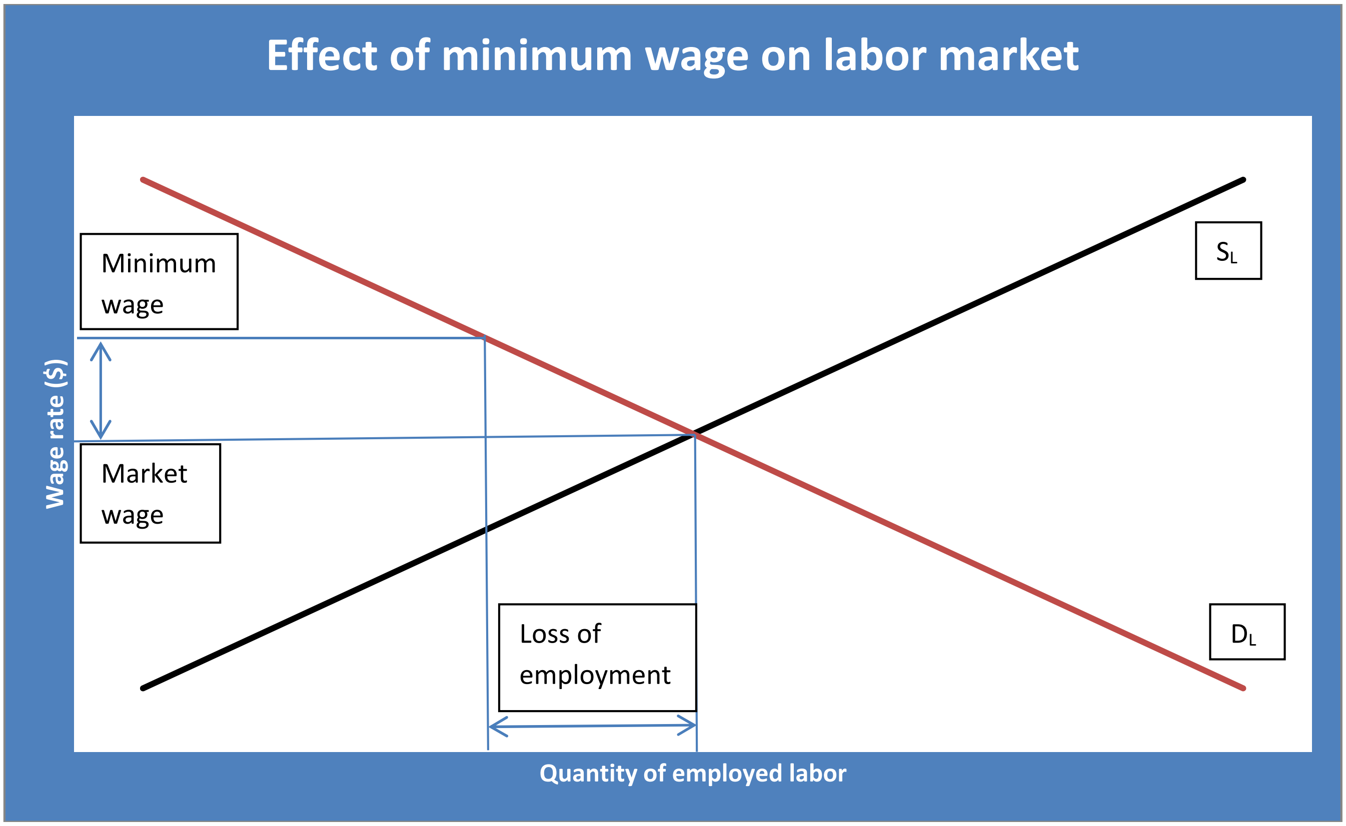
[4] Joseph Sabia and Richard Burkhauser, "Minimum Wages and Poverty: Will a $9.50 Federal Minimum Wage Really Help the Working Poor?" *Southern Economic Journal* 76(3), 2010.

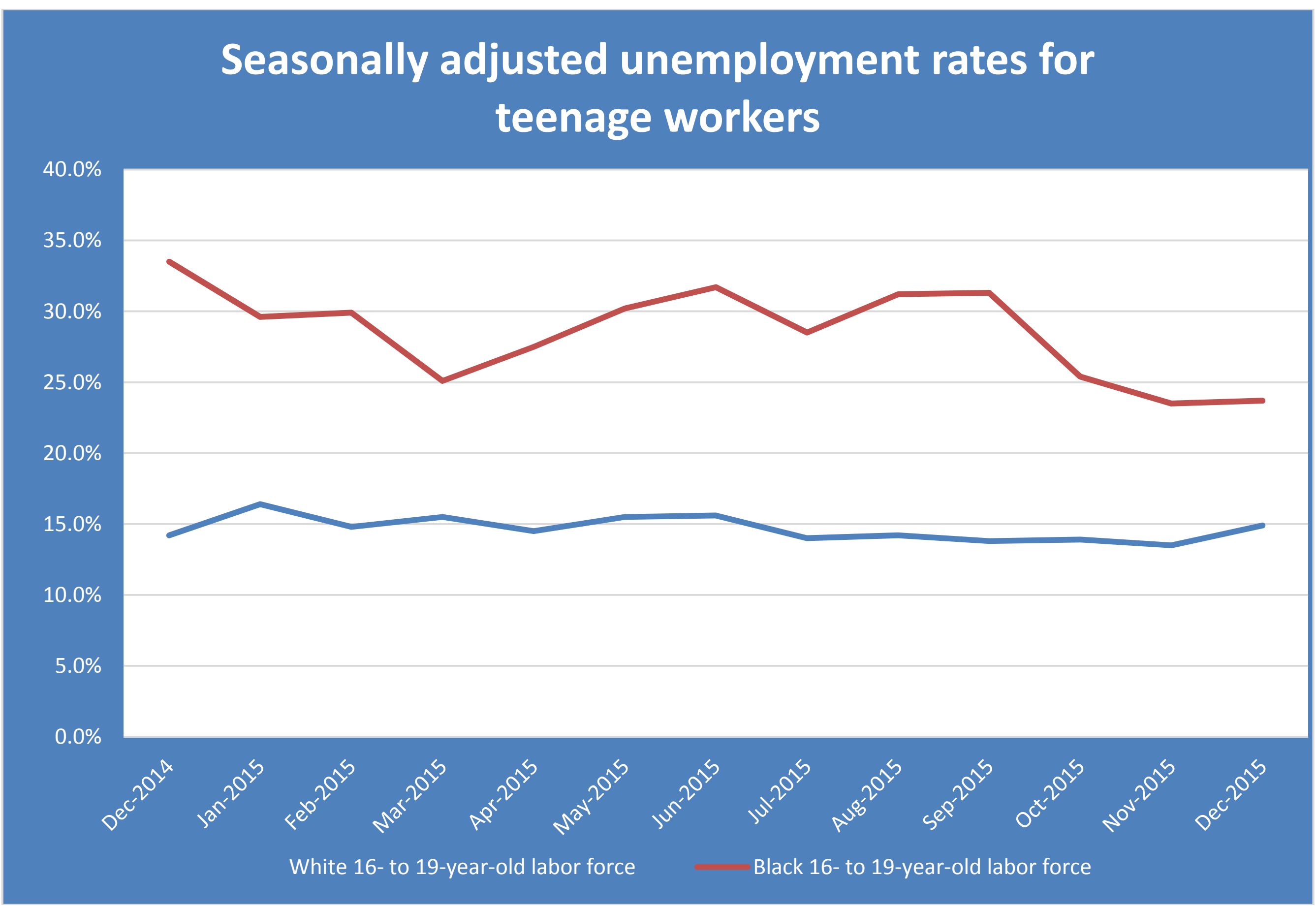
[5] James Sherk, "Who Earns the Minimum Wage?" Heritage Foundation Issue Brief #3866, February 2013.

[6] U.S. Department of Labor, Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey.

[7] See, e.g., Sidney Webb and Beatrice Potter Webb, 1897, Industrial Democracy, pp. 766-789.

[8] 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 building state-funded public works projects receive a special kind of minimum wage, called "prevailing wage."

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

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

Key Points

The survey methodology is flawed. State-mandated prevailing wage rates are determined through a survey administered by the Nevada Labor Commissioner. However, the survey is structured to induce "sampling error" — meaning that the representation of unions among the responses is far higher than among the actual population. For numerous reasons, nonunion contractors would incur far higher accounting costs to complete the survey than 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 stipulates 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 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 in just 2009 and 2010 an extra $1 billion. 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 laws are racially discriminatory. Prevailing wage laws in the states are modeled after the federal Davis-Bacon Act of 1931 which effectively required union wages on federally funded projects. The explicit intent of the Davis-Bacon Act was to prevent contractors who employed black labor from winning federal contracts. At the time, trade unions systematically excluded blacks from membership. The Davis-Bacon Act aimed to legally undermine the ability of black workers to compete and ensure that federal contracts went to unionized, white labor.

Today, black workers remain statistically less likely to belong to a trade union. Thus, repeal of prevailing wage laws is "associated with…a significant narrowing of the black/nonblack wage differential for construction workers."[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 outright since 1978.[3]

The Nevada legislature temporarily exempted school construction from prevailing wage requirements in 2015.[4] However, those requirements were reinstated later in the same session, albeit at wage levels equal to 90 percent of the standard prevailing wage.[5]

[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.

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

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

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

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

Subsequent legislation in 1977 created a binding arbitration procedure for police and fire unions that would guarantee union contracts. This power was extended to teacher unions in 1991.[1]

Key Points

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

1. Collective bargaining prohibited
2. No legal provision for collective bargaining
3. Collective bargaining permitted, but not required
4. Public employers are required to "meet and confer" with union leaders
5. Public employers have a duty to bargain collectively, express or implied
6. Compulsory bargaining with fact-finding or mediation required
7. Compulsory bargaining with strikes 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 add more than $1 billion annually to Nevada's cost of government. Using an update of the NBER database to compare changes in collective bargaining laws to changes in state and local government spending nationwide, economists can estimate the financial impact of a state's choice in collective-bargaining regime.

If Nevada had maintained its original prohibition on collective bargaining with all government unions, annual spending by state and local governments in the state would have been $0.8 to $1.7 billion lower in 2014. However, if unions for all employee groups gained the same powers as those now held by police, fire and teacher unions, annual spending is estimated to increase by $282 to $597 million.[3]

Recommendations

Remove the powers of compulsion enjoyed by union leaders. Nevada lawmakers could realize up to $1.7 billion in annual cost savings by returning to the state's original prohibition on government-sector collective bargaining. However, just making collective bargaining optional for local governments could save more than $1 billion annually. Without a mandate, local administrators would be free to choose whether to bargain collectively based upon the wishes of constituents. Constituents, in turn, would gain at least an indirect voice.

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[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 et al., "How Government Unions Affect State and Local Finances," Heritage Foundation Special Report/NPRI policy study, April 2016.

NBER Classified Collective Bargaining Regimes by Employee Group, 2014				
	State Workers	Police	Firefighters	Teachers
Alabama	1	1	4	4
Alaska	7	8	8	7
Arizona	3	3	3	3
Arkansas	3	3	3	3
California	6	6	6	6
Colorado	6	2	2	3
Connecticut	8	8	8	8
Delaware	8	8	8	8
Florida	6	6	6	6
Georgia	1	2	6	1
Hawaii	8	8	8	8
Idaho	2	3	7	6
Illinois	7	8	8	7
Indiana	1	3	3	6
Iowa	8	8	8	8
Kansas	4	3	3	8
Kentucky	4	6	6	3
Louisiana	3	3	3	3
Maine	8	8	8	8
Maryland	6	3	3	8
Massachusetts	8	8	8	8
Michigan	5	8	8	5
Minnesota	7	6	6	7
Mississippi	2	2	2	2
Missouri	4	2	4	2
Montana	7	8	6	7
Nebraska	8	8	8	8
Nevada	1	8	8	8
New Hampshire	6	6	6	6
New Jersey	5	8	8	5
New Mexico	8	8	8	8
New York	6	8	8	6
North Carolina	1	1	1	1
North Dakota	3	3	3	6
Ohio	7	8	8	7
Oklahoma	2	8	8	6
Oregon	7	8	8	7
Pennsylvania	7	8	8	8
Rhode Island	8	8	8	8
South Carolina	3	3	3	3
South Dakota	6	6	6	6
Tennessee	1	1	1	6
Texas	1	3	3	1
Utah	4	4	8	4
Vermont	6	8	8	7
Virginia	1	1	1	1
Washington	8	8	8	6
West Virginia	3	3	3	3
Wisconsin	6	8	8	8
Wyoming	2	2	8	2

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

Transparent Collective Bargaining

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

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

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

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

Key Points

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

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

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

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

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

Management incentives in collective bargaining differ in public and private sectors. Private-sector business leaders must exercise restraint with regard to labor contracts in order to remain competitive, offering goods or services at prices that customers are willing to pay. In the public sector, however, politicians recognize that government unions can support their election campaigns through donations, volunteers and other efforts. Politicians may seek such support by backing unionization of government workers and compensation packages they know will strain public finances.

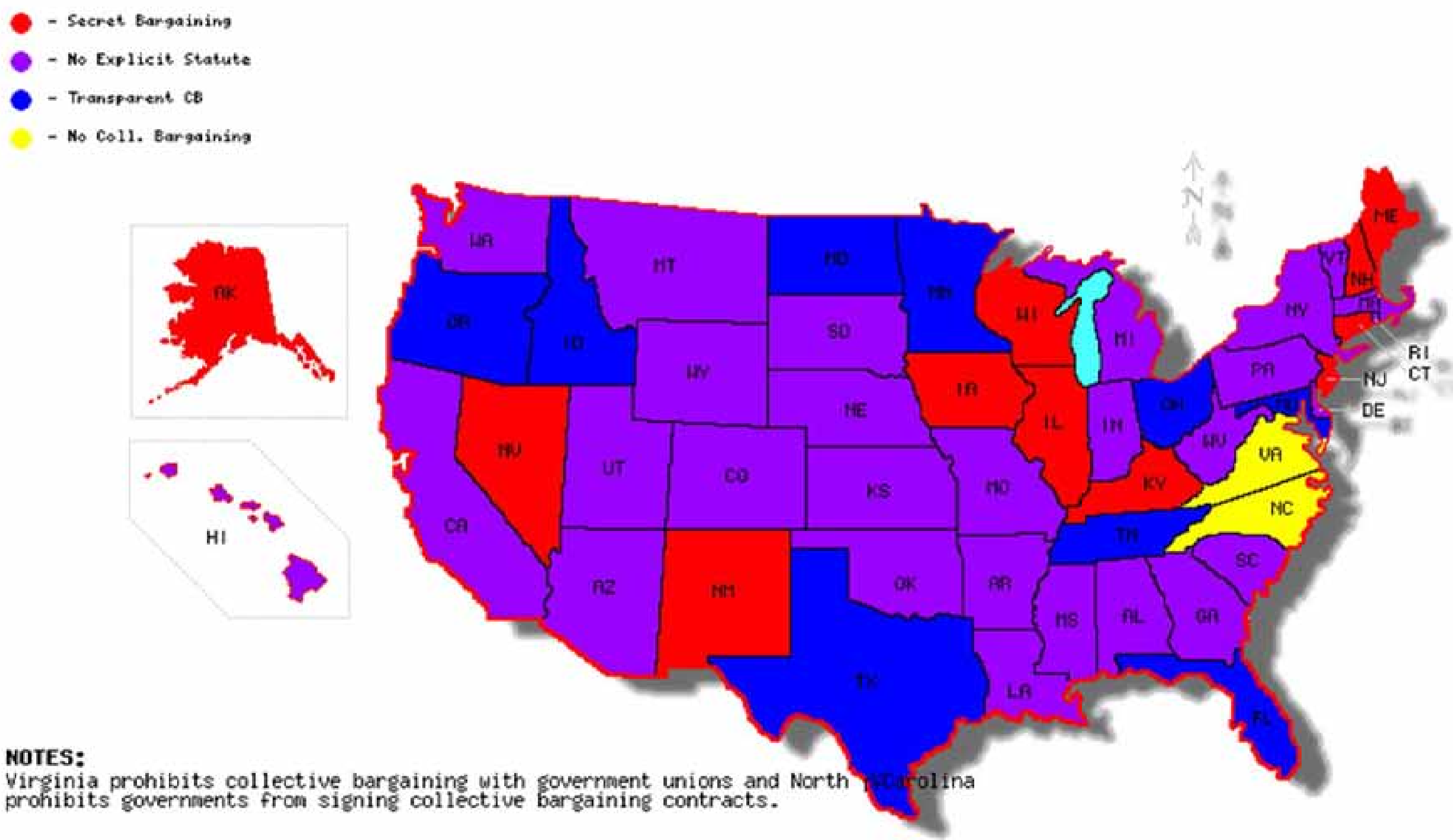
Transparency ensures that labor contracts reflect community values. Given the incentives of political employers to forego restraint at the bargaining table, public oversight is critical. If residents approve of collective bargaining agreements, they will continue to elect the political leaders who agree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

Recommendations

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

[1] Nevada Revised Statutes, 288.220.
[2] Nevada Legislature, 78th Session, Senate Bill 158.
[3] Minnesota Statutes, 179A.14(3).
[4] Idaho Statutes, 33-1273A(2).
[5] Texas Statutes, Title 5, Subtitle C, 174.108.
[6] American Legislative Exchange Council, "Public Employee Bargaining Transparency Act," 2011.

Collective Bargaining Transparency by State



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 7.9 percent more than state workers, on average, and 20.3 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.

Key Points

Nevada's local-government workers are among the highest paid in the nation. While state workers and private-sector workers are the 30th and 33rd 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] While state workers must contribute on a matching basis with taxpayers toward their pension, most local-government workers pay nothing for this benefit due to collective bargaining provisions.

High compensation costs mean fewer workers can be hired. Per 1,000 in population, Nevada state government employs 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 8,300 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, 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] This guide provides many options for changing collective bargaining requirements to result in better outcomes for taxpayers and government workers alike.

[1] US Department of Labor, Bureau of Labor Statistics, Quarterly Census of Employment and Wages, 2014.

[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, 2014								
State	State employees	Rank	State	Local government employees	Rank	State	Employees in private industry	Rank
CA	$69,810	1	DC	$86,611	1	DC	$79,139	1
DC	$69,599	2	NJ	$59,917	2	NY	$67,182	2
NJ	$67,460	3	HI	$59,712	3	CT	$64,813	3
IL	$66,681	4	CA	$57,954	4	MA	$64,732	4
CT	$65,894	5	NY	$56,778	5	NJ	$60,171	5
IA	$63,884	6	RI	$55,980	6	CA	$58,507	6
RI	$63,223	7	MA	$55,867	7	WA	$54,897	7
MA	$62,465	8	CT	$53,741	8	IL	$54,286	8
NY	$59,960	9	***NV***	***$52,373***	***9***	TX	$54,217	9
MN	$59,350	10	MD	$52,046	10	DE	$53,260	10
MI	$59,107	11	WA	$51,747	11	MD	$53,139	11
OH	$58,751	12	DE	$50,202	12	CO	$53,070	12
CO	$56,656	13	AK	$47,660	13	AK	$52,625	13
AK	$56,624	14	OR	$47,655	14	VA	$52,563	14
PA	$56,236	15	PA	$47,560	15	ND	$52,079	15
WI	$56,218	16	IL	$47,497	16	MN	$51,958	16
WA	$55,753	17	FL	$46,666	17	NH	$51,810	17
MD	$54,685	18	MI	$44,533	18	PA	$50,306	18
AZ	$53,853	19	MN	$44,250	19	GA	$48,841	19
WY	$52,928	20	CO	$43,756	20	MI	$48,090	20
TX	$52,900	21	AZ	$43,456	21	RI	$47,457	21
VT	$52,730	22	OH	$43,351	22	AZ	$46,541	22
DE	$52,503	23	NH	$42,894	23	WY	$46,411	23
ND	$51,050	24	WY	$42,862	24	OR	$45,910	24
NM	$50,684	25	TX	$42,584	25	LA	$45,792	25
KS	$49,786	26	VA	$42,379	26	OH	$45,482	26
AL	$49,728	27	NC	$40,722	27	TN	$45,330	27
UT	$48,755	28	SC	$40,228	28	NC	$45,028	28
NH	$48,716	29	WI	$40,089	29	MO	$44,700	29
NV	***$48,548***	***30***	NE	$39,415	30	OK	$44,089	30
NE	$48,435	31	VT	$39,047	31	FL	$44,057	31
LA	$47,960	32	IA	$38,784	32	WI	$43,646	32
OR	$47,470	33	AL	$38,371	33	***NV***	***$43,536***	***33***
HI	$47,314	34	GA	$38,254	34	KS	$43,530	34
VA	$47,174	35	TN	$38,237	35	UT	$42,996	35
NC	$46,518	36	MO	$37,780	36	IN	$42,719	36
FL	$46,272	37	KT	$37,696	37	HI	$42,583	37
TN	$46,127	38	LA	$37,622	38	AL	$42,359	38
SD	$45,412	39	ND	$37,188	39	VT	$42,165	39
IN	$45,409	40	MT	$36,973	40	IA	$41,972	40
OK	$44,648	41	ME	$36,937	41	KT	$41,783	41
MT	$44,572	42	WV	$36,898	42	NM	$40,748	42
KT	$44,466	43	IN	$36,649	43	NE	$40,642	43
SC	$44,466	44	NM	$36,605	44	WV	$40,496	44
MS	$43,832	45	OK	$36,298	45	SC	$40,165	45
GA	$42,972	46	AR	$36,055	46	ME	$39,967	46
AR	$42,591	47	MS	$33,407	47	AR	$39,720	47
ID	$42,143	48	KS	$33,124	48	SD	$38,628	48
WV	$42,009	49	UT	$32,964	49	ID	$37,962	49
ME	$41,810	50	ID	$32,593	50	MT	$37,866	50
MO	$40,683	51	SD	$31,894	51	MS	$36,501	51

Source: U.S. Department of Labor, Bureau of Labor Statistics, Quarterly Census of Employment and Wages, 2014.

Workers' Choice of Representation

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

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

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

Key Points

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

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

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

Many of Nevada's local government employees have never voted for their current representation. In many cases, elections for union representation occurred decades ago before current employees even entered the workforce. The bargaining group to which employees were assigned upon being hired could well have taken office decades ago — meaning that many of today's workers have never been able to vote on the group of representatives to which they've been assigned. In the Clark County School District, for instance, only 2 of nearly 20,000 current teachers voted in the original union organizing election.[3]

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. All bargaining groups should be able to vote every year or every few years on whether they wish to continue with their current representation. Similar changes have been enacted in Wisconsin and Ohio in recent years.[4] When given the choice, nearly 15,000 public employees chose not to support their existing union in Wisconsin in 2014.[5]

Remove "exclusive bargaining agent" language from Nevada law and allow workers to select representation of their choosing. A further step is to remove the union security provisions that guarantee current union leaders protected monopoly status and allow employees to acquire whatever representation they prefer.

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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] Ashley Johnson, "In the Workplace, Unions Ditch Democracy for Dictatorships," NPRI Commentary, February 2016.

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

[5] Nick Novak, "100 Fewer Wisconsin School District Unions Seek Recertification Under Act 10," MacIver Institute, December 2014.

Cumulative Savings from Wisconsin's Act 10 (Jan. 2011 to Jan. 2016)	
Retirement System Savings (WRS)	
State Government	$575,531,646
University of Wisconsin System	$527,177,316
Local Governments	$2,257,747,748
Additional Savings	
Milwaukee Public Schools Long-Term Pension Liability	$1,374,000,000
Neenah Long-Term Pension Liability	$104,000,000
Other Local Government (Non-Pension) Savings	$404,812,986
Total Savings Statewide	$5,243,269,696

Source: MacIver Institute, "Act 10 Saves Wisconsin Taxpayers More Than $5 Billion Over 5 Years," February 2016.

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.

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

Key Points

Heart and lung disease are among the most common causes of death nationwide. According to the Centers for Disease Control, heart and lung disease were the first and third most common causes of death in the United States for 20013, respectively.[2]

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

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

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

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

Recommendations

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

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

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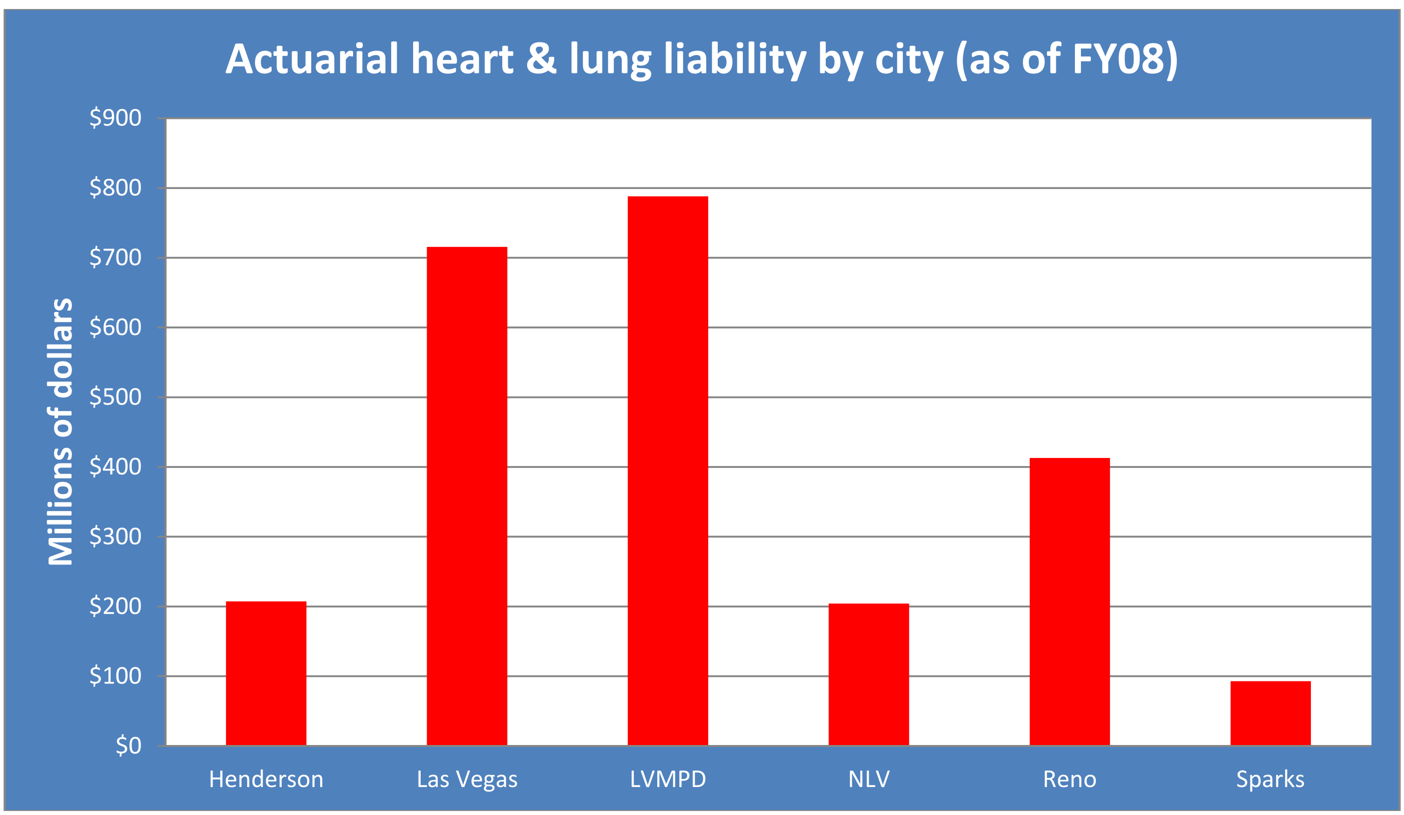
[1] Nevada Legislature, 78th Session, Senate Bill 153.

[2] U.S. Centers for Disease Control and Prevention, National Center for Health Statistics, National Vital Statistics Reports, 2013.

[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, 2013	
Cause of death	Number of mortalities
1. Heart disease	***611,105***
2. Cancer	584,881
3. Lung disease	***149,205***
4. Accidental injury	130,557
5. Stroke	128,978
6. Alzheimer's disease	84,767
7. Diabetes	75,578
8. Influenza and pneumonia	56,979
9. Kidney disease	47,112
10. Suicide	41,149
11. Blood Poisoning	38.156
12. Liver disease	36.427
13. Hypertensive renal disease	30.770
14. Parkinson's disease	25.196
15. Pneumonitis due to solids or liquids	18,579

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 around this prohibition — NRS 286.523 — allowing 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 reclassified, a worker can immediately declare retirement and start collecting pension benefits while remaining in the 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 concluded that the retirees who "immediately returned to their positions would not have otherwise retired if there was no opportunity to be rehired under critical labor shortage exemption."[2]

As a result, PERS made avoidable pension payments of $54 million to these workers between 2001 and 2008. PERS administrators have testified that these CLS-related payments exacerbate the PERS unfunded liability and resulted in higher contribution rates from state and local governments to keep the fund solvent. PERS actuaries have determined that the CLS exemption is directly responsible for raising contribution rates by 0.33 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 should have undermined the very concept of a "labor shortage" — lawmakers during the 2009 session reauthorized the CLS exemption.

Recommendations

Immediately discontinue the CLS exemption. The Silver State suffers from an effective unemployment rate of 13.6 percent.[5] Even if Nevada suffered from a labor shortage more than 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.

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

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

[3] *Ibid.*

[4] *Ibid.*

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

Sampling of retirees who were immediately rehired under CLS status

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

Source: Nevada Public Employees' Retirement System.

Economic Development

In 2011, lawmakers dramatically changed 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 declared purpose of the Catalyst Fund is to provide financial incentives to firms considering moving to, or expanding in, Nevada.[1]

This strategy of state-directed economic development relies on using public revenues — taxes — to pay 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 identify viable opportunities for successful investment 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 the best interests of politicians, not consumers. 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 firms promote cronyism and are unconstitutional. The availability of public subsidy through the Catalyst Fund deters productive, entrepreneurial activity in favor of rent-seeking. As a result, incestuous relationships develop between politicians and private industry that can devolve into outright cronyism. During the 19th Century, multiple states' experiences with such cronyism prompted them to pass constitutional amendments prohibiting the giving of public moneys to private corporations. In fact, Article 8, Section 9 of Nevada's constitution explicitly forbids the type of subsidy scheme used by the Catalyst Fund:

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

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

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

Recommendations

Clarify and restrict the mission of the Economic Development Board. Nevada does not need a cabinet-level agency to dole out patronage to cronies. 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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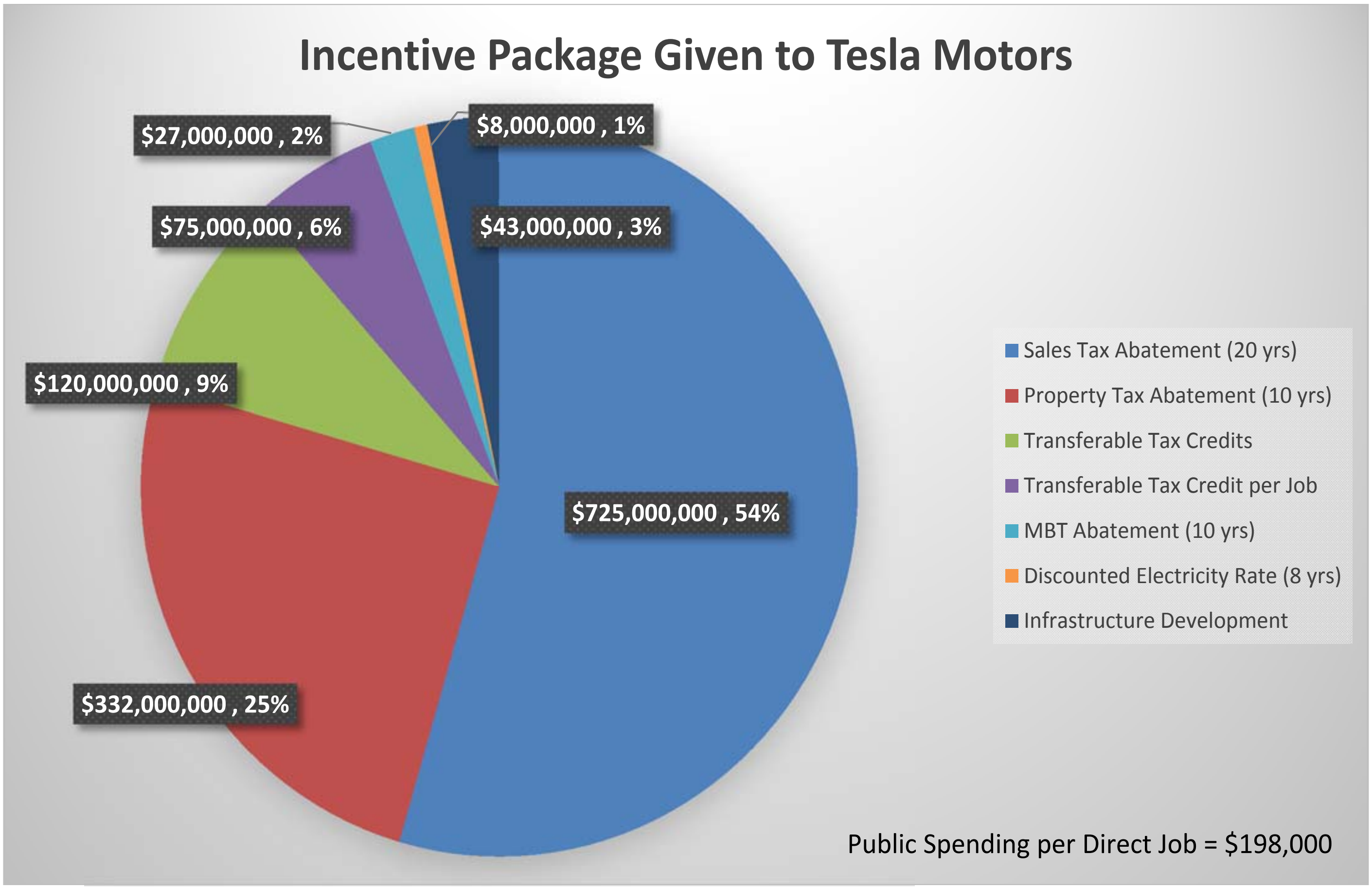
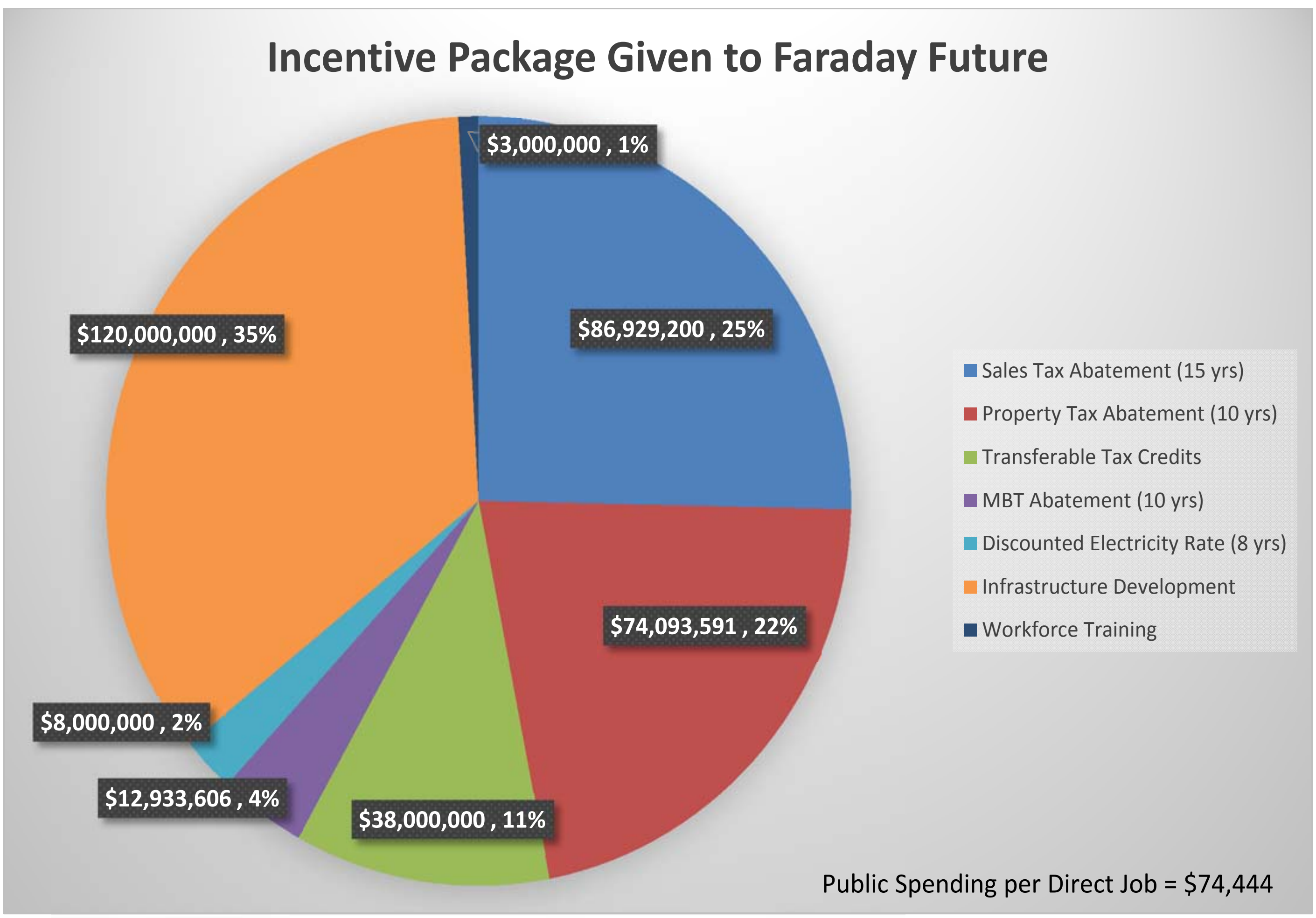
[1] Nevada Legislature, 76th Session, Assembly Bill 449.

[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.


Incentive Package Given to Tesla Motors
$27,000,000 , 2%
$8,000,000 , 1%
$75,000,000 , 6%
$43,000,000 , 3%
$120,000,000 , 9%
$725,000,000 , 54%
$332,000,000 , 25%
Sales Tax Abatement (20 yrs)
Property Tax Abatement (10 yrs)
Transferable Tax Credits
Transferable Tax Credit per Job
MBT Abatement (10 yrs)
Discounted Electricity Rate (8 yrs)
Infrastructure Development
Public Spending per Direct Job = $198,000


Incentive Package Given to Faraday Future
$3,000,000 , 1%
$120,000,000 , 35%
$86,929,200 , 25%
$74,093,591 , 22%
$8,000,000 , 2%
$12,933,606 , 4%
$38,000,000 , 11%
Sales Tax Abatement (15 yrs)
Property Tax Abatement (10 yrs)
Transferable Tax Credits
MBT Abatement (10 yrs)
Discounted Electricity Rate (8 yrs)
Infrastructure Development
Workforce Training
Public Spending per Direct Job = $74,444

Investment Capital

Nevada lawmakers in 2011 created the 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 likely to be 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. However, the corporation created by SB 75 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 lawmakers received from the AG to justify SB 75's constitutionality made no appeal to the "educational purpose" exemption. Instead, the opinion appealed to the notorious and 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 failures and public scandals. Within the corporation created by SB 75, political appointees will make up the board of directors empowered to make investment decisions. Thus, almost certainly the political interests of the appointees' masters will weigh heavily on the board members' decisions. Politically influenced investment decisions also regularly lead to a loss of wealth. That's because the public's capital resources are not allocated on the 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 is highly doubtful that this permission slip for crony corporatism would pass constitutional muster if reviewed by the Nevada Supreme Court. Moreover, the rationales offered as to why such corporatism is supposedly necessary do not stand up to close scrutiny. Lawmakers should immediately repeal the authority for this engraved invitation to graft.

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[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, 28 March 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]

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

Key Points

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

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

Legislation in 2015 enacted sweeping reforms. Assembly Bill 125 narrows the definition of what constitutes a construction defect to items that present "an unreasonable risk of injury to a person or property" or that are "not completed in a good or workmanlike manner and proximately causes physical damage to the residence." AB 125 further removed the guarantee of legal fees for attorneys and, in response to a series of exposed frauds and conspiracies, proscribed homeowners' associations from initiating a construction-defect lawsuit. Finally, the statute of limitations for filing a claim was reduced from up to 10 years after construction to six years.[6]

Recommendations

Monitor effectiveness of the reform legislation to ensure its goals are met. AB 125 enacted the reforms previously outlined in this volume and should help restore vitality to Nevada's housing market.

[1] Association of Bay Area Governments, "Service Matters: Issue No. 60," July/August 2002.

[2] Andrea Adelson, "Building is Booming and California Lawyers Are Massing on State Line," *New York Times, 4* December 1996.

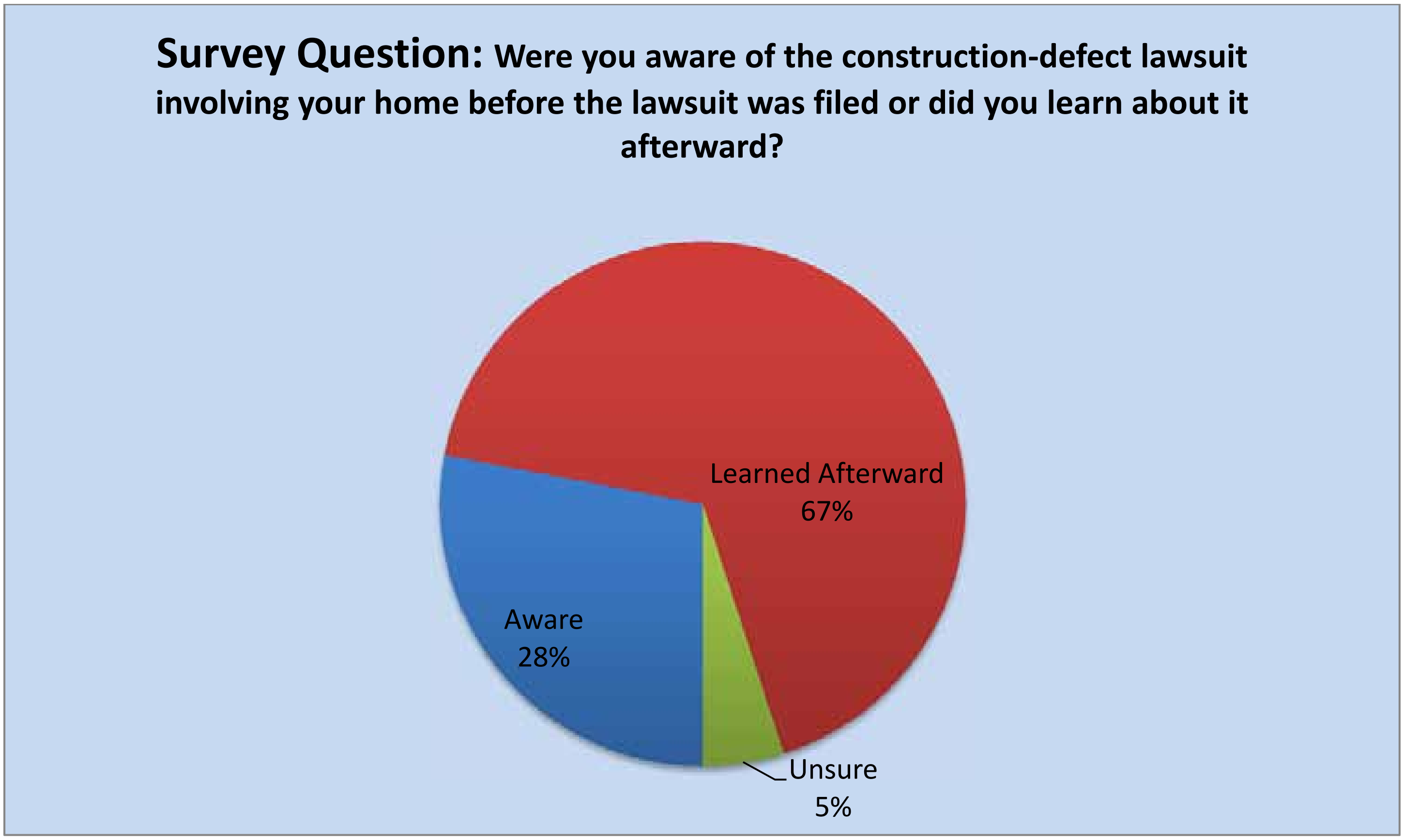
[3] Nevada Legislature, 68th Session, Senate Bill 395; also, Nevada Legislature, 68th Session, Minutes of the Senate Committee on Judiciary, 10 May 1995.

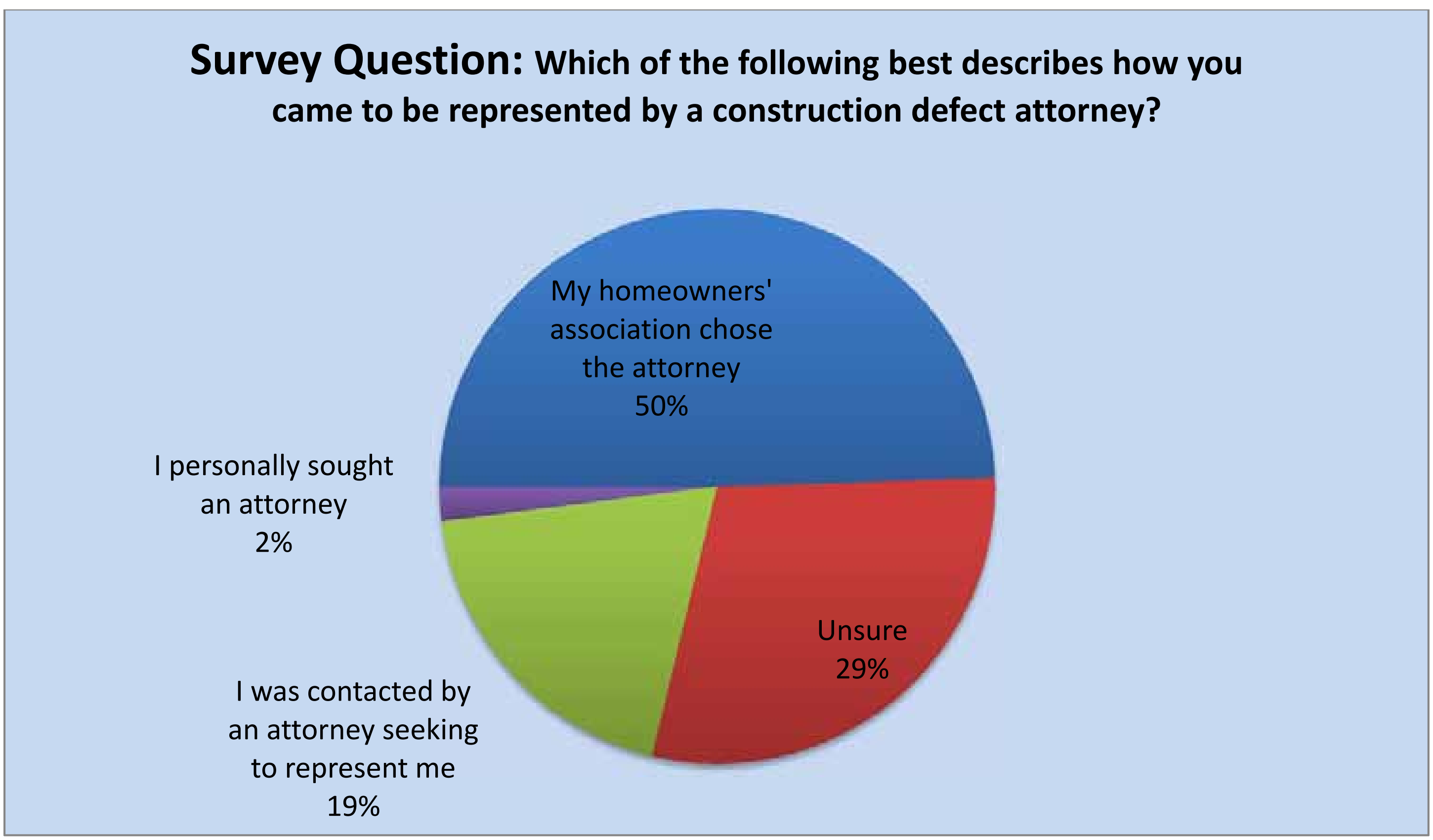
[4] California Legislature, California Research Bureau, "Construction Defect Litigation and the Condominium Market," CRB Note, Vol. 6, No. 7, 1999.

[5] Jeff German, "GOP Consultant Helped Rig HOA Elections in Plot," *Las Vegas Review-Journal*, 1 September 2011.

[6] Nevada Legislature, 78th Session, Assembly Bill 125.

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





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

Occupational Licensing

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

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

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

Indeed, for 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, it is clear such legislation is not in the public interest.

Key Points

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

> Nevada is among the top tier 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 with them.

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

Many occupations subject to licensing present no meaningful danger of physical harm. In Nevada, individuals 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. Assembly Bill 269 was introduced during the 2015 session to accomplish this task, but failed to receive a committee hearing.[3]

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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.

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

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

Welfare versus Work

Social wealth and prosperity result from the productivity of individuals. To the extent that people are free to contribute their labor, knowledge and ingenuity in productive ways, society grows richer.

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

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

Key Points

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

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

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

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

Recommendations

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

While most welfare programs are created by Congress and administered by states, state policymakers still have wide flexibility within several programs. Lawmakers in a number of states for instance, have reduced housing subsidies available to TANF recipients and encouraged them to use their cash benefits to finance their own housing.

[1] Michael Tanner and Charles Hughes, "The Welfare Versus Work Trade-Off: 2013," Cato Institute, October 2013.
[2] Ibid.
[3] U.S. Department of Health and Human Services, "National TANF Datafile."

Total Value of Welfare Benefits, By State (2013)									
Rank	**State**	**TANF ($)**	**SNAP ($)**	**Housing ($)**	**Medicaid ($)**	**WIC ($)**	**LIHEAP ($)**	**TEFAP ($)**	**Total ($)**
1	Hawaii	7,632	8,827	23,798	6,776	1,289	553	300	49,175
2	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 public safety. For the 2015-2017 biennium, lawmakers appropriated $521.1 million to the Department of Corrections for this purpose — 82.9 percent of the 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 the public's funds in the most cost-effective manner possible. While citizens expect to be protected from fraud and violence, it is not obvious that high levels of prison spending are the most cost-effective means of providing that safety.

Key Points

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 rank second and third at 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. Prisons being expensive, they 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 ended. 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.

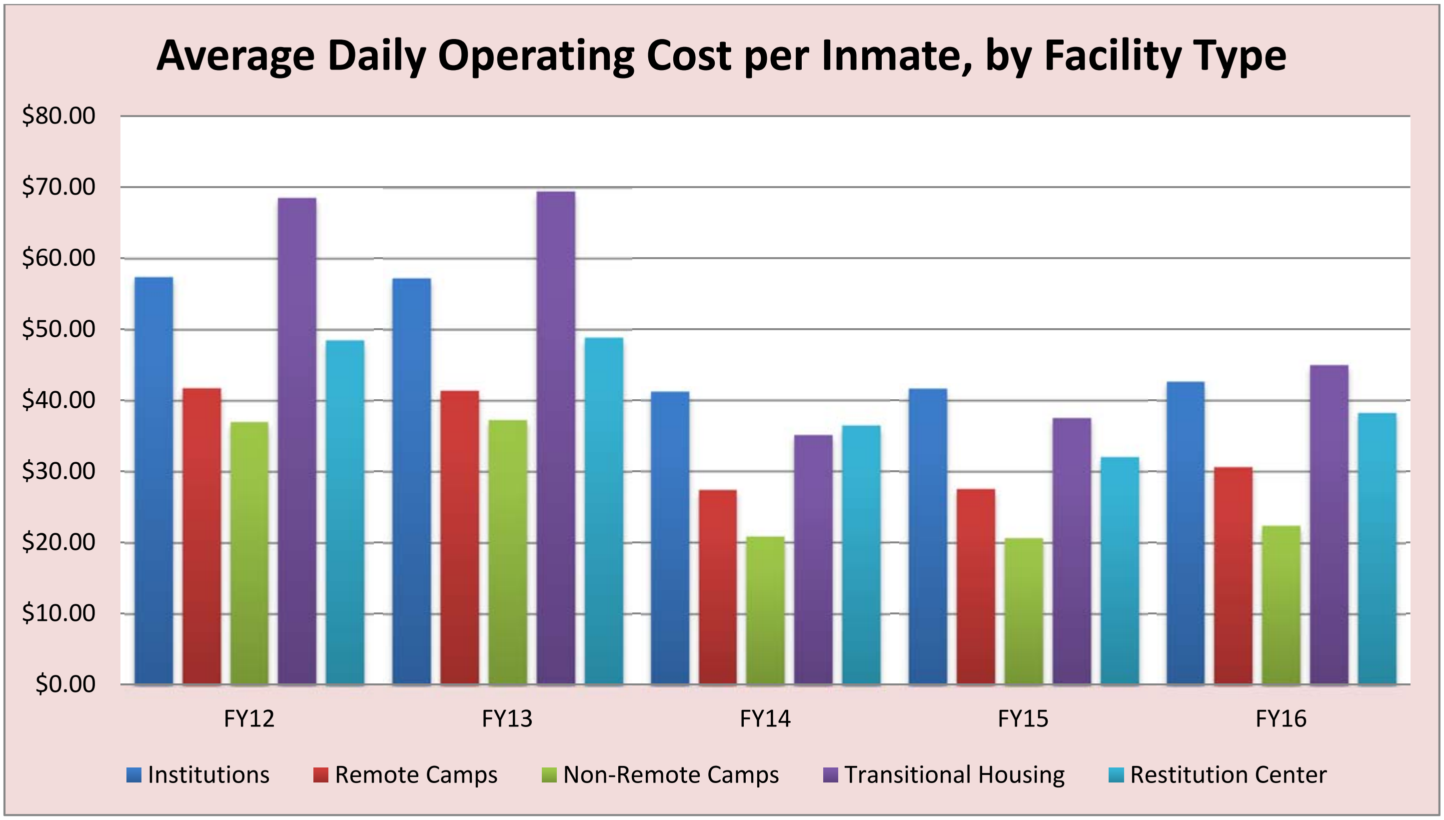
[3] *Ibid.*

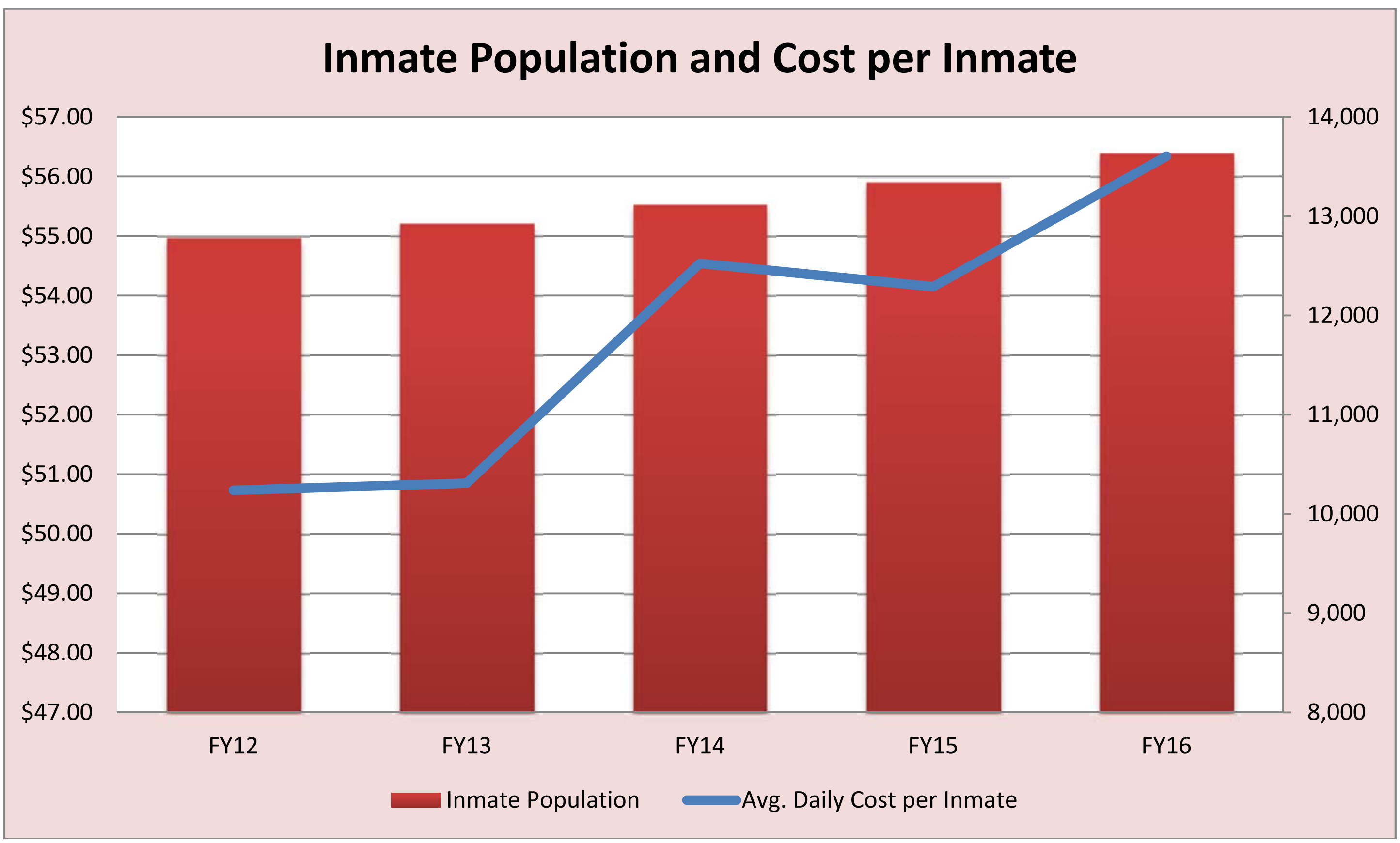
[4] International Centre for Prison Studies, University of Essex, World Prison Brief.

[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, Weekly Fact Sheets, 2012-2015.

Civil Asset Forfeiture

Civil forfeiture laws enable law enforcement officials to seize the private property of individual citizens on the mere suspicion that this property has some connection to criminal activity. The property of citizens can be seized under these laws without the citizens even being charged with a crime.

Civil forfeiture laws create incentives for law enforcement agencies to make as liberal use of these provisions as possible — auctioning off seized property and keeping the proceeds. In Nevada, agencies can keep 100 percent of forfeiture proceeds.

Key Points

Civil forfeiture flips due process on its head. Instead of being innocent until proven guilty, victims of civil forfeiture are presumed guilty by police, who have a vested financial interest in making that presumption. Victims, in order to reclaim their property, must bear the legal costs of proving their innocence in processes that may take a year or more.

Civil forfeiture operates differently under state and federal laws. States can set limiting standards for property seizures effected by state and local law enforcement. However, state and local law enforcement agencies often can circumvent those limitations by partnering with federal law enforcement.

Any joint task force or investigation with federal authorities allows for forfeiture to occur under federal law, which has few limitations and few protections for innocent property owners. Further, under the equitable sharing program operated by the U.S. Department of Justice, state and local law enforcement agencies can keep up to 80 percent of forfeiture proceeds.

State and local law enforcement can thus profit handsomely by seizing the property of innocent citizens under the federal "equitable sharing" program even when state laws provide more protection to innocent property owners. Indeed, empirical research confirms that state and local police agencies systematically participate more in the equitable sharing program when state laws include greater protection for property owners.[1]

Very few victims of asset forfeiture are found to be criminals. From 1997 to 2013, just 13 percent of forfeitures enacted by the U.S. Department of Justice were associated with a criminal conviction; 87 percent were civil forfeitures with no conviction.[2]

At the state level, this data is elusive, although Nevada lawmakers in 2015 reformed civil forfeiture to require a conviction in criminal court before civil property can be seized. Clear and convincing evidence must then tie the property in question to the crime.[3] However, innocent third-party owners of property still bear the burden of proving they had no involvement in or knowledge of the crime associated with their property.

Forfeiture is profitable for policing agencies, but the public knows little of sums collected or how they are used. Nevada legislation adopted in 2015 will require the attorney general to collect data on asset forfeitures under state law and make it available on a public website beginning in 2016.[4] However, no historical data is available for state-level forfeitures in Nevada. In states where this data has been reported, forfeiture proceeds are most commonly used to boost police salaries, purchase equipment or for "other" expenses.[5]

Recommendations

Protect innocent third-party property owners. Owners who obtained property in good faith without knowledge that the property was associated with any crime, or whose existing property was used in a crime without their knowledge should be exempt from civil forfeiture seizures and no longer bear the burden of proof.

End police agencies' profit incentive. Law enforcement personnel should not be able to expand their budgets or salaries through civil-asset forfeiture, a practice that incentivizes abuses. Legitimate seizures should be directed to the state or local government treasury.

1 Jefferson Holcomb et al., "Civil Asset Forfeiture, Equitable Sharing, and Policing for Profit in the United States," Journal of Criminal Justice, Vol. 39 No. 3.

2 Dick Carpenter et al., "Policing for Profit, 2nd Edition" Institute for Justice, November 2015.

3 Nevada Legislature, 78th Session, Senate Bill 138.

4 Ibid.

5 Op cit, Carpenter, note 2.

Civil Asset Forfeiture Laws, by State (2015)				
State	Law Enforcement Share of Proceeds	Lowest Allowable Standard of Proof	Burden of Proof for 3rd Parties	Data Transparency
Alabama	100%	Preponderance of the evidence	Depends on property	Not available
Alaska	75%	Preponderance of the evidence	Owner	Not available
Arizona	100%	Preponderance of the evidence	Owner	Online
Arkansas	100%	Preponderance of the evidence	Owner	Online
California	66.25%	Clear and convincing	Government	Online
Colorado	50%	Clear and convincing	Government	Not available
Connecticut	69.5%	Clear and convincing	Government	Not available
Delaware	100%	Preponderance of the evidence	Owner	Not available
District of Columbia	0%	Preponderance of the evidence	Government	Online in 2016
Florida	85%	Clear and convincing	Government	Not available
Georgia	100%	Preponderance of the evidence	Owner	Online
Hawaii	100%	Preponderance of the evidence	Owner	Online
Idaho	100%	Preponderance of the evidence	Owner	Not available
Illinois	90%	Preponderance of the evidence	Owner	Not available
Indiana	0%	Preponderance of the evidence	Depends on property	Not available
Iowa	100%	Preponderance of the evidence	Owner	Not available
Kansas	100%	Preponderance of the evidence	Owner	Not available
Kentucky	100%	Clear and convincing	Depends on property	Not available
Louisiana	80%	Preponderance of the evidence	Owner	Not available
Maine	0%	Preponderance of the evidence	Depends on property	Not available
Maryland	0%	Preponderance of the evidence	Owner	Not available
Massachusetts	100%	Probable cause	Owner	Not available
Michigan	100%	Clear and convincing	Owner	Online
Minnesota	90%	Clear and convincing	Owner	Online
Mississippi	80%	Preponderance of the evidence	Government	Not available
Missouri	0%	Preponderance of the evidence	Owner	Online
Montana	100%	Clear and convincing	Government	Not available
Nebraska	50%	Beyond a reasonable doubt	Owner	Not available
Nevada	100%	Clear and convincing	Owner	Online in 2016
New Hampshire	90%	Preponderance of the evidence	Owner	Online
New Jersey	100%	Preponderance of the evidence	Owner	Not available
New Mexico	0%	Clear and convincing	Government	Online in 2016
New York	60%	Clear and convincing	Government	Online
North Carolina	0%	Beyond a reasonable doubt	Owner	Not available
North Dakota	100%	Probable cause	Owner	Not available
Ohio	100%	Preponderance of the evidence	Owner	Not available
Oklahoma	100%	Preponderance of the evidence	Owner	Not available
Oregon	62.5%	Preponderance of the evidence	Government	Online
Pennsylvania	100%	Preponderance of the evidence	Owner	Not available
Rhode Island	90%	Preponderance of the evidence	Owner	Not available
South Carolina	95%	Preponderance of the evidence	Owner	Not available
South Dakota	100%	Preponderance of the evidence	Owner	Not available
Tennessee	100%	Preponderance of the evidence	Depends on property	Not available
Texas	70%	Preponderance of the evidence	Owner	Online in 2016
Utah	100%	Clear and convincing	Government	Not available
Vermont	45%	Clear and convincing	Owner	Not available
Virginia	100%	Preponderance of the evidence	Owner	Not available
Washington	90%	Preponderance of the evidence	Owner	Not available
West Virginia	100%	Preponderance of the evidence	Owner	Not available
Wisconsin	0%	Preponderance of the evidence	Owner	Not available
Wyoming	100%	Preponderance of the evidence	Owner	Not available

Source: Dick Carpenter et al., "Policing for Profit, 2nd Edition," Institute for Justice, November 2015.

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 prohibition of substances for which significant popular demand exists can be a costly proposal. This financial burden is further complicated by evidence suggesting 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 classified as illicit, but also 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 merely to counter private citizens' ability to possess small amounts of marijuana: Over 7,000 citizens were arrested for simple possession.[2]

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

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 and incentives for individuals to now pursue their profits 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's 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 actually led to *higher* rates of use and abuse.[4] Significantly, in Europe also, 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, a category of 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, they will have less dire externalities.

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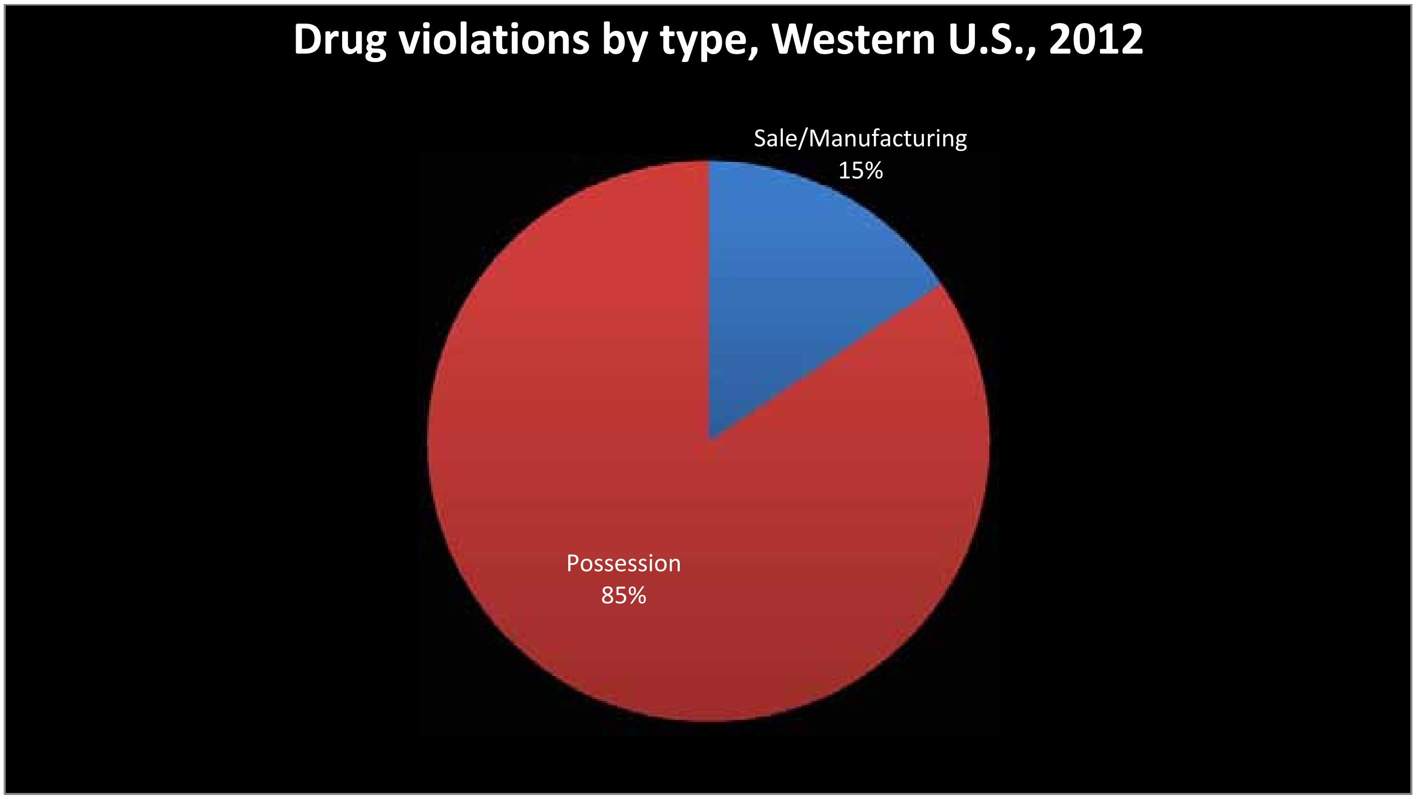
[1] Jeffrey Miron and Katherine Waldock, "The Budgetary Impact of Ending Drug Prohibition," Cato Institute, 2010.

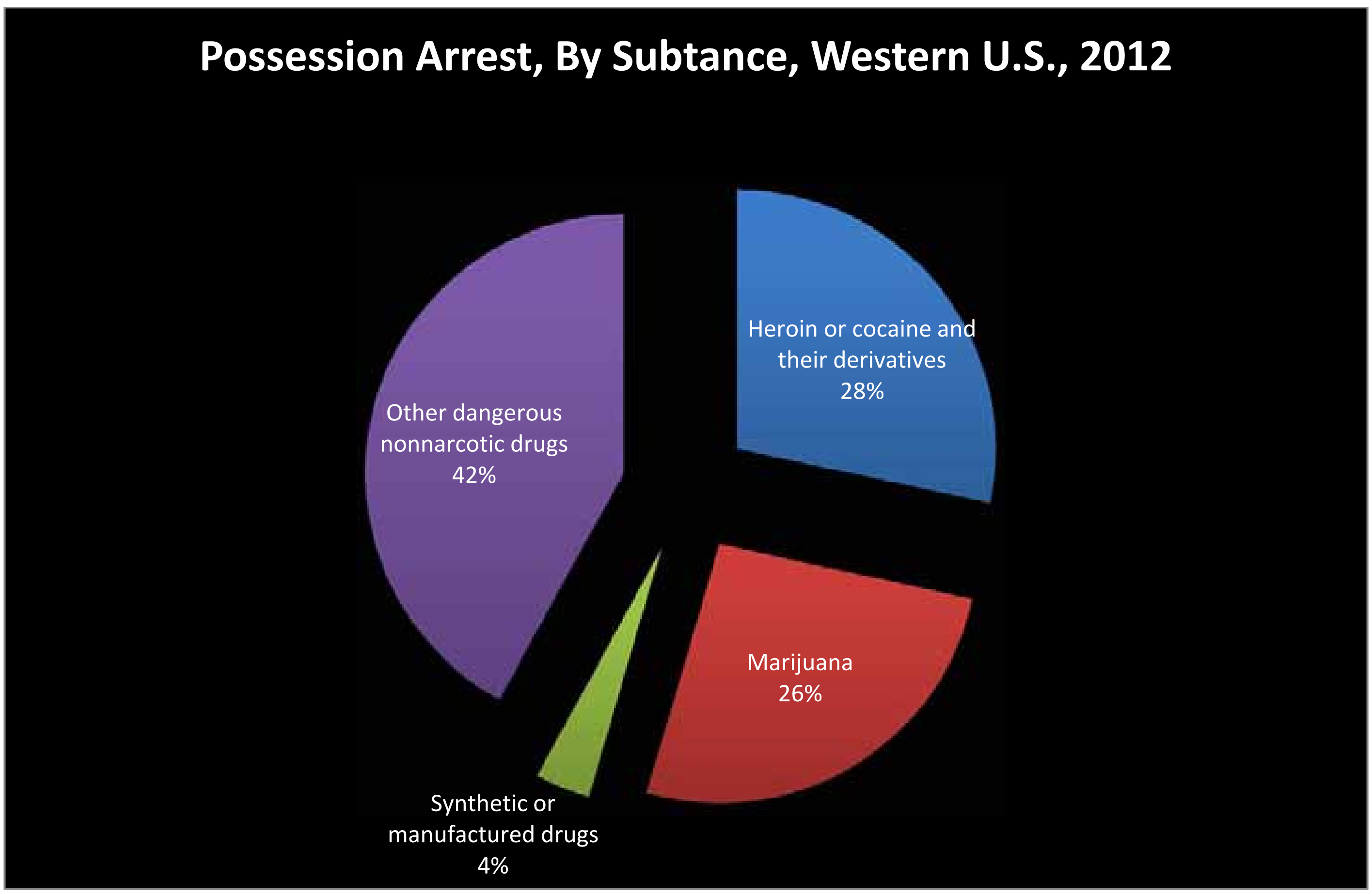
[2] *Ibid.*

[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 (RPS) 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. Under current law, renewable energy must 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 five percent of the RPS requirements until 2015 and six 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 all-in costs of new electricity production projected to come online in 2020: New solar photovoltaic energy would cost nearly twice as much as 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 by 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 reached an average of 12.99 cents per kilowatt-hour in 2015. That's the highest in the region and 26 percent higher than neighboring Idaho's rate of 10.32 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.

[1] Nevada Revised Statutes, 704.7801-704.7828, inclusive.

[2] Nevada Legislature, 77th Session, Senate Bill 252.

[3] US Department of Energy, Energy Information Administration, "Levelized Cost of New Generation Resources in the Annual Energy Outlook 2015."

[4] David Tuerck et al., "RPS: A Recipe for Economic Decline," Beacon Hill Institute at Suffolk University, Prepared for NPRI, April 2013.

[5] US Department of Energy, Energy Information Administration, "Electric Power Monthly: Average Retail Price of Electricity to Ultimate Customers," October 2015 data.

Cost of the 25 Percent RPS Mandate on Nevada (2010 $)			
Cost Estimates	**Low**	**Medium**	**High**
Total Net Cost in 2025 ($ million)	45	174	310
Total Net Cost 2013-2025 ($ million)	993	2,275	3,581
Electricity Price Increase in 2025 (cents/kWh)	0.16	0.60	1.08
Percentage Increase	1.6	0.60	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 $)			
Cost in 2025	**Low**	**Medium**	**High**
Residential Ratepayer ($)	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.

Estimated Levelized Cost of Electricity for New Generation Sources (¢/kWh), 2020						
Plant type	**Capacity factor**	**Levelized capital cost**	**Fixed O&M**	**Variable O&M (including fuel)**	**Transmission cost**	**Total system cost per kWh**
Dispatchable Technologies						
Conventional coal	85	6.04¢	0.42¢	2.94¢	0.12¢	9.51¢
Natural gas combined cycle	87	1.44¢	0.17¢	5.78¢	0.12¢	7.52¢
Advanced nuclear	90	7.01¢	1.18¢	1.22¢	0.11¢	9.52¢
Geothermal	92	3.41¢	1.23¢	0.0¢	0.14¢	4.78¢
Non-Dispatchable Technologies						
Wind	36	5.77¢	1.28¢	0.0¢	0.31¢	7.36¢
Wind – Offshore	38	16.86¢	2.25¢	0.0¢	0.58¢	19.69¢
Solar PV	25	10.98¢	1.14¢	0.0¢	0.41¢	12.53¢
Solar Thermal	20	19.16¢	4.21¢	0.0¢	0.60¢	23.97¢
Hydroelectric	54	7.07¢	0.39¢	3.9¢	0.20¢	8.35¢

Source: U.S. Department of Energy, Energy Information Administration, "Levelized Cost of New Generation Resources in the Annual Energy Outlook 2015."

Coal Divestment

During the 2013 legislative session, 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 construction or acquisition of new generation facilities. The legislation, Senate Bill 123, entitles NV Energy to increase rates to recover all costs associated with decommissioning, as well as any undepreciated value remaining in the existing plants and the value of existing coal stockpiles that would no longer be used.[1]

SB 123 essentially gutted the traditional regulatory authority of the Public Utilities Commission to approve or deny a utility's application to decommission existing capacity or construct new capacity. The regulatory agency's traditional role in this regard is to protect ratepayers from unnecessary costs in exchange for allowing the utility to operate a protected monopoly. Follow-on legislation in 2015 reinstated the PUC's review powers.[2]

To satisfy the mandates created by SB 123, NV Energy is seeking construction of a new 706 MW natural gas-fired power plant at an additional cost to ratepayers of $1 billion.

Key Points

NV Energy's estimate of the rate impact was misleading. During legislative hearings for SB 123, NV Energy told lawmakers it expected the plan to cause electric rates to rise 2.59 percent faster over a 10-year period.[3] 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.[4]

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]

A more recent independent economic analysis of SB 123, even as modified, reveals that electric rates should be expected to rise by at least 5.8 percent by 2020. The rate impact might be reduced to the 2.6 percent range, however, if the PUC does not approve construction of the new 706 MW power plant.[6]

NV Energy hopes to replace independent power providers with power it owns. The premise underlying NV Energy's support for SB 123 is that the company's shareholders are guaranteed a return on equity for plants they own, but not for power the company purchases on the wholesale market. NV Energy intends for its new, proposed, gas plant to replace the power now purchased from Star West Generation in Arizona — under a contract NV Energy is allowing to expire.

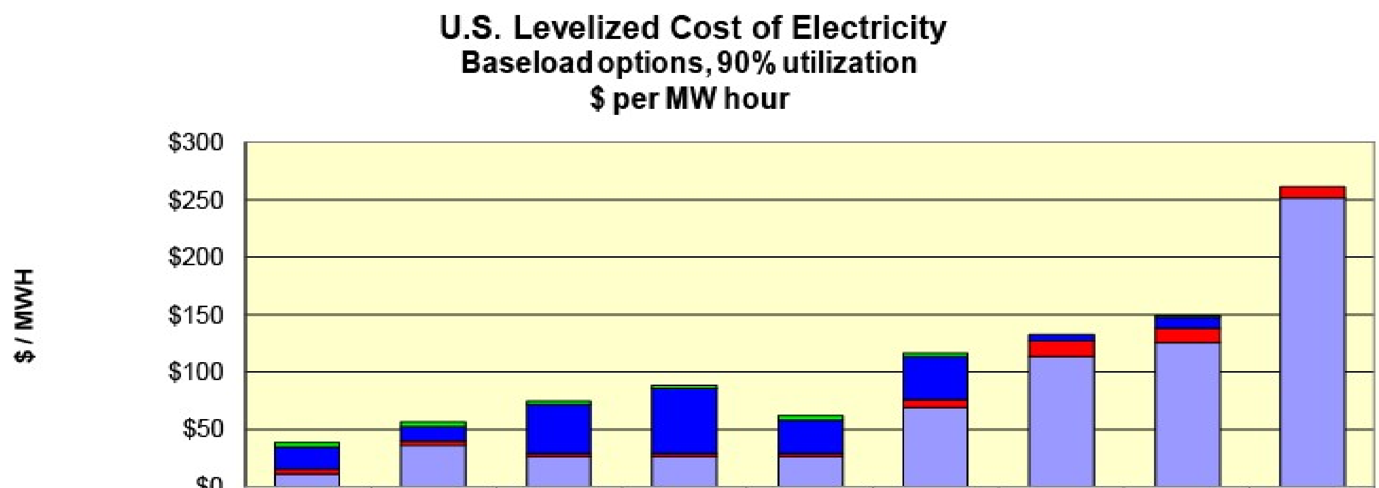
Ratepayer protection in SB 123 is illusory. Section 11 of SB 123 limits the allowable rate increase NV Energy can seek due to the bill's mandates to five percent in any general rate case hearing — *unless* the hearings are held *after* June 2018, when much of the costs associated with coal divestment will be realized. Also, the utility can seek additional rate hikes beyond the five percent limitation through quarterly fuel cost adjustment proceedings.[7]

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.

Disallow construction of new generating capacity unless NV Energy can demonstrate it is the most cost-effective means of acquiring power. The question of whether to buy or build is fundamental to business, but as a protected monopoly NV Energy has distorted incentives that encourage it to shift unnecessary costs onto ratepayers in order to receive greater profits.

[1] Nevada Legislature, 77th Session, Senate Bill 123.
[2] Nevada Legislature, 78th Session, Assembly Bill 498.
[3] Rate impact exhibit distributed by NV Energy at Nevada Legislature, May 9, 2013.
[4] Roger Bezdek and Robert Wendling, "Economic and Energy Impacts of Fuel Switching in Colorado," Management Information Services, August 2011.
[5] Nevada Legislature, 77th Session, Assembly Committee on Commerce and Labor, Meeting Minutes, May 27, 2013.
[6] David Tuerck and Paul Bachman, "Power Plant Proposal Would Hike Burden on Nevada Ratepayers," NPRI policy study, October 2015.
[7] Geoffrey Lawrence, "NV Energy Plan Would Impose Big, New Hidden Costs on Ratepayers," NPRI policy study, May 2013.



	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: Geoffrey Lawrence, "NV Energy Plan Would Impose Big, New Hidden Costs on Ratepayers," NPRI policy study, May 2013.

Rate Impact and Economic Analysis of SB 123 and AB 498 on Nevada (All Figures in 2013 dollars)			
Net Cost	**S.B. 123**	**S.B. 123 as modified by A.B. 498, including new plant**	**S.B. 123 as modified by A.B. 498, without new plant**
Total net cost to Nevada in 2020	$218 million	$206 million	$91 million
Total net cost 2020-2025	$1.15 billion	$1.086 billion	$438 million
Electricity Price (per kWh)	8.67¢	8.64¢	8.39¢
Electricity Price change (per kWh)	.50¢	.47¢	0.21¢
Percent change	6.1%	5.8%	2.6%
Total Employment (jobs)	(3,076)	(2,925)	(1,311)
Investment	($35 million)	($33 million)	($15 million)
Real Disposable Income	($259 million)	($247 million)	($111 million)
Annual Cost to Ratepayers in 2020			
Residential Ratepayer	$58	$55	$24
Commercial Ratepayer	$307	$289	$128
Industrial Ratepayer	$18,992	$17,906	$7,936

Source: David Tuerck and Paul Bachman, "Power Plant Proposal Would Hike Burden on Nevada Ratepayers," NPRI policy study, October 2015.

Electricity Deregulation

NRS Chapters 701-704, inclusive, govern energy policy in the State of Nevada and provide for the protection of regional monopoly providers from potential competitors. NRS Chapter 703 establishes a Public Utilities Commission (PUC) and charges this body with the task of fixing and regulating the prices charged by the state-protected monopoly provider.

Key Points

Central planning is inherently inefficient. Yet the PUC centrally plans for one of the most critical inputs into every productive process in Nevada: energy. The PUC decides how much electric capacity shall be constructed, through which means electricity shall be produced, and at what price electricity must be sold. The PUC operates at the direction of the Legislature, meaning that these critical economic decisions about price and supply are constantly subjected to political manipulation and not market forces.

For reasons articulated by Ludwig von Mises and other famed economists, it is, at all times, impossible for central planners to efficiently coordinate the use of society's resources. The reason is the impossibility of gathering timely and reliable data about individuals' subjective and ever-changing valuations.[1]

State regulation creates incentives for monopoly providers to produce through the most expensive means possible. Nevada's regulatory structure guarantees the protected monopoly provider of electricity a "rate of return" of between 8.5 and 11 percent of its costs. This means that the monopoly's shareholders can *earn higher profits by operating less efficiently*. This perverse incentive encourages the monopoly to support increasingly onerous mandates and regulations that increase the cost of electricity production. While the electric monopoly's shareholders make more money, the inefficiency is pushed onto ratepayers in the form of higher electricity prices.

Choice imposes accountability. In any marketplace, consumers allowed to choose generally bypass the least efficient providers and purchase instead the product offering the qualities they most want for the best price.

Electricity is not a 'natural monopoly.' The traditional argument for electricity regulation was that the industry was subject to conditions of "market failure" and that electricity production was a "natural monopoly" that should be protected and regulated by the state. However academic economists — including some on the political Left — have recognized for at least 35 years that these theories were misguided and that electricity production is not subject to market failure.[2] As a result, no tenable argument for regulated monopolies exists.

Recommendations

Deregulate Nevada's electricity market. Lawmakers should facilitate open competition in the production, transmission and retail distribution of electricity. Generation facilities should be required to meet safety and environmental standards, but otherwise, choices about how electricity is produced should ultimately be made by consumers — as their preferences about price, quality and reliability flow through the market.

Deregulation does not mean an end to renewable energy. Rather, it can hasten the day of its genuine sustainability. Even now, retailers pursue customers by advertising that they procure electricity from renewable facilities on the wholesale market. Consumers are then left to make the choice among retail providers based on their own 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 2015 report to lawmakers, the Texas PUC reported that Texans have access to the lowest-cost electricity in the nation and that consumers in every part of Texas face retail electric rates lower today than in 2001 and lower than the national average by nearly four cents per kWh. Meanwhile, Nevada's monopolistic energy market has produced electric rates that are among the highest in the West.[4]

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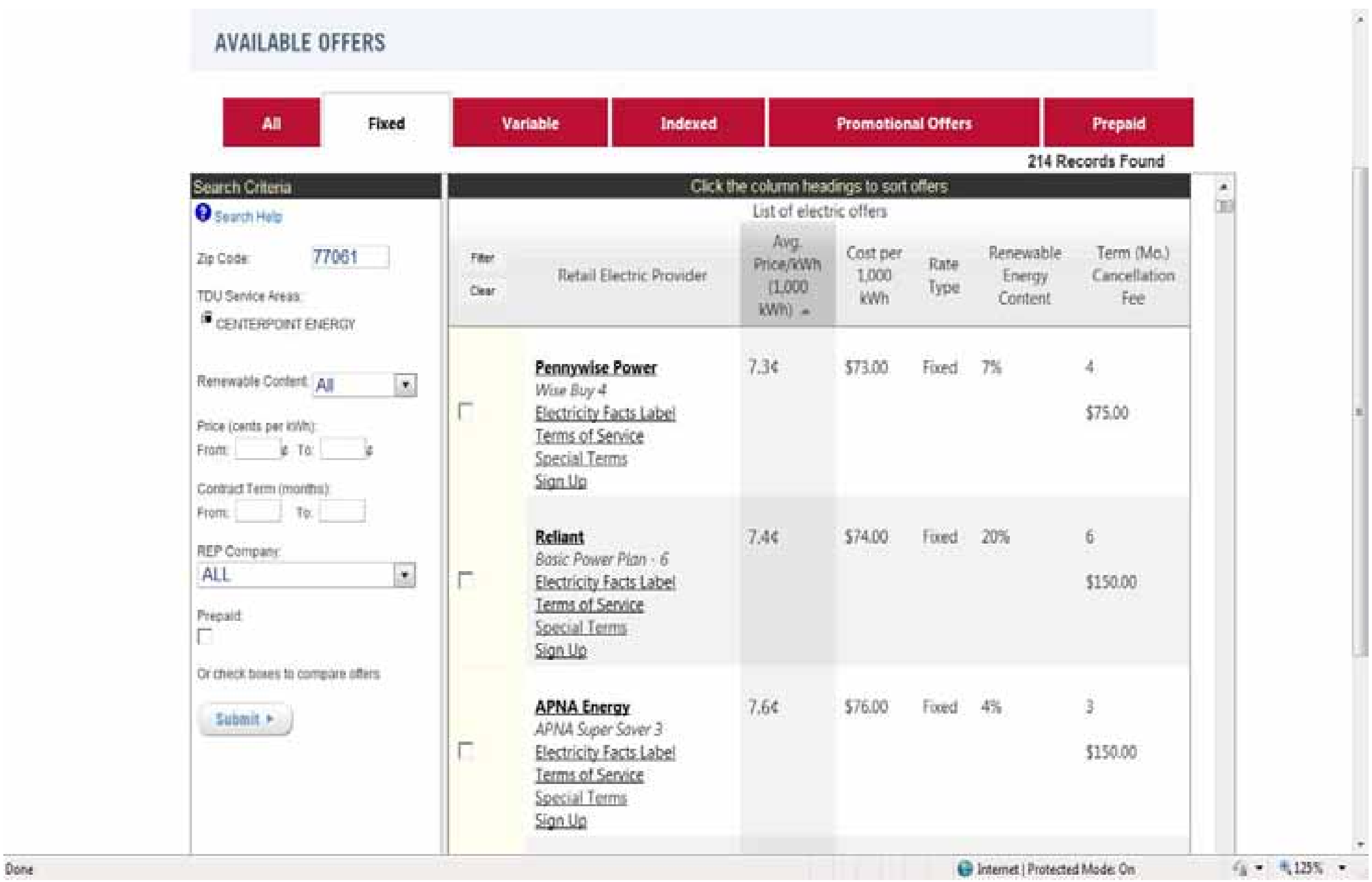
[1] Ludwig von Mises, Economic Calculation in the Socialist Commonwealth, 1920; see also, Jesus Huerta de Soto, Socialism, Economic Calculation and Entrepreneurship, 2010.

[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 Utility Commission, "Report to the 84th Texas Legislature: Scope of Competition in Electric Markets in Texas," 2015.

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 and oversees about 13,388 lane miles.

To accomplish this mission, NDOT receives funding from federal grants and state highway user funds that are generated primarily from taxes on motor fuels. For the 2015-2017 biennium, lawmakers approved a total of $1.546 billion in funding for NDOT, including $640 million from federal sources and $644 million out of the state highway fund. This total is a 30.7 percent increase over the 2013-2015 biennium.

Key Points

The condition of Nevada's rural highways is among the best in the nation. Nevada boasts the third-highest ranked rural highway quality in the nation with just 0.01 percent of pavement in poor condition. Nevada also boasts the third-lowest percentage of deficient bridges nationwide, at 11.15 percent — nearly half the national average of 21.52 percent.

Nevada ranks significantly lower in the quality of urban interstate pavement — at 26th overall with 3.26 percent of urban interstate in poor condition as of 2014.[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 54.5 percent of Nevada's urban interstate miles. This means that urban residents in the Silver State face the 6th most congested urban highways in the nation, behind those of Florida (64.50 percent), Hawaii (61.48 percent), Maryland (55.94 percent), Illinois (55.25 percent) and California (54.92 percent).[2]

Nevadans face relatively high costs per state-controlled highway mile. Nevada taxpayers spent $219,535 per state-controlled highway mile in 2012 including all administrative and maintenance costs — 16th highest in the nation. This amount is 35 percent above the national average of $162,202. This relatively high cost was underscored by high administrative costs.

1 David Hartgen et al., "21st Annual Highway Report: The Performance of State Highway Systems," Reason Foundation, 2014.

2 Ibid.

At more than $23,000 per state-controlled mile, *administrative costs were more than twice the national average of $10,579*. 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.

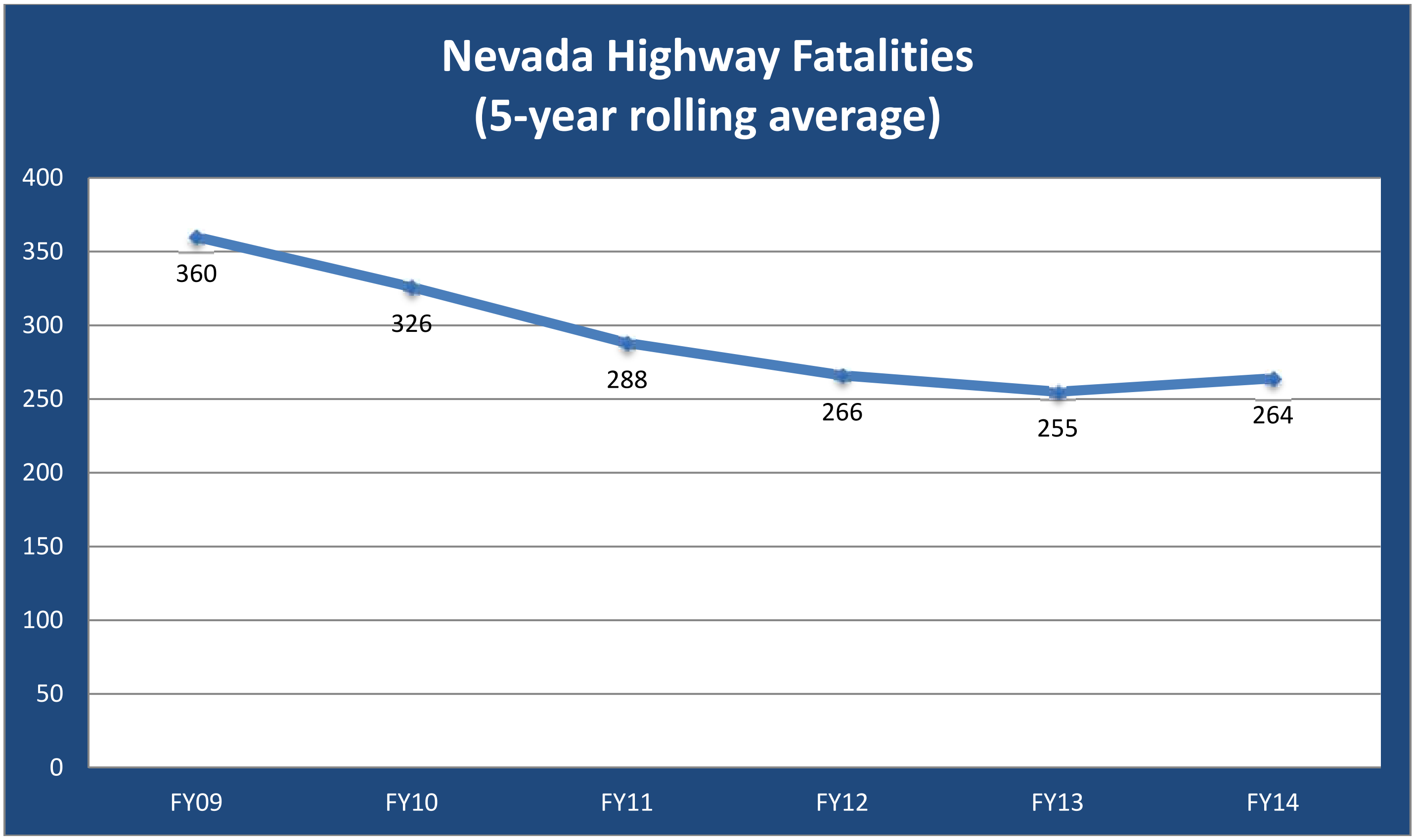
Pass a Community Transportation Corporation Act. Lawmakers can address the state's urgent need for urban highway development even during periods of stagnant revenue growth by allowing the private sector to develop additional highway capacity. Model legislation from the American Legislative Exchange Council 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]

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."



Source: Nevada Department of Transportation, "2015 Performance Management Report."

Federal Law Review

The U.S. Constitution is a compact among the states that divides authority between the federal and state governments. As James Madison wrote in Federalist Paper #45:

> The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State.

But who should be the final arbiter of this division of powers, and when or whether federal entities overstep the "few and defined" powers they are delegated?

Key Points

The states must review the constitutionality of federal action. Said Thomas Jefferson:

> The several states composing the United States of America are not united on the principle of unlimited submission to their general government; but by a compact under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a general government for special purposes [and] delegated to that government certain definite powers and whensoever the general government assumes undelegated powers, its acts are unauthoritative, void, and of no force. To this compact each state acceded as a state, and is an integral party, its co-states forming, as to itself, the other party. *The government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the Constitution the measure of its powers*." (Emphasis added.)

It is thus the states' responsibility to guard the powers reserved to them and to constantly monitor federal acts to ensure the federal government does not act beyond its constitutional authority.

Utah 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."[1]

If the subcommittee determines a federal action exceeds the constitutional authority granted by the states, the subcommittee may pursue information regarding the action from a federal agency or a member of the state's congressional delegation. Additionally, the Subcommittee may:

> Give written notice of the evaluation to the federal governmental entity responsible for adopting or administering the federal law; and request a response by a specific date to the evaluation from the federal governmental entity; and request a meeting, conducted in person or by electronic means, with the federal governmental entity and a council member, a representative from another state, or a United States Senator or Representative elected from the state to discuss the evaluation of federal law and any possible remedy.
>
> The Federalism Subcommittee may recommend to the governor that the governor call a special session of the Legislature to give the Legislature an opportunity to respond to the subcommittee's evaluation of a federal law.
>
> The Federalism Subcommittee chair may coordinate the evaluation of and response to federal law with another state.[2]

Recommendations

Pass legislation to systematically evaluate and respond to federal actions. Nevada lawmakers should follow the lead of their Utah counterparts and act in concert with policymakers from other states to evaluate the constitutionality of all meaningful federal action.

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

[2] *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, Nevada's then-governor, Bob List, signed into law AB 413[1] — encoded today as NRS 321.596-321.599, inclusive. AB 413 laid out clearly the unconstitutionality of federal control over 87 percent of the lands in Nevada. The charges raised by List and Silver State lawmakers lit a spark in states across the American West, illuminating the increasing burdens of federal land control.

Today that movement — known as the "Sagebrush Rebellion" — continues to gain strength. In 2011, Utah Governor Gary Herbert signed HJR 39, calling on the U.S. Congress to transfer control of many public lands to that state. In 2015, Nevada lawmakers followed suit, passing SJR 1 which requests a transfer of lands to state control according to a planning schedule developed by the Nevada Land Management Task Force.[2]

Key Points

Federal land control runs afoul of the "equal footing" clause and doctrine. The 1864 enabling act by which Congress granted Nevada statehood declared that Nevada "shall be admitted into the Union upon an equal footing with the original states, in all respects whatsoever."

However, the act then attached conditions to Nevada's statehood to which the original states were never subject, including the reservation of most land within the state's boundaries for federal ownership. In 1845 the U.S. Supreme Court had declared an almost identical provision contained in the enabling act for the State of Alabama unconstitutional, because it ran afoul of the equal footing doctrine. Said the Court, "the United States never held any municipal sovereignty, jurisdiction, or right of soil in and to the territory of which Alabama or any of the new states were formed; except for temporary purposes."[3] As soon as new states were formed, said the Court, "the power of the United States over these lands as property was to cease."[4]

List and Nevada lawmakers concluded that, "the attempted imposition upon the State of Nevada by the Congress of the United States of a requirement in the enabling act that Nevada 'disclaim all right and title to the unappropriated public lands lying within said territory,' as a condition precedent to acceptance of Nevada into the Union, was an act beyond the power of the Congress of the United States and is thus void."[5]

Nevadans overwhelmingly oppose federal land control. In the mid-1990s, Nevada lawmakers went further, with a proposal to amend the state constitution and remove the disclaimer of interest in public lands. After securing unanimous support in both chambers of the legislature, the measure went to the ballot in 1996, where it garnered 56.3 percent of the popular vote. Despite this action, however, and due to the requirement in the state's enabling act, the amendment cannot become effective without congressional consent or a judicial determination that consent is unnecessary.

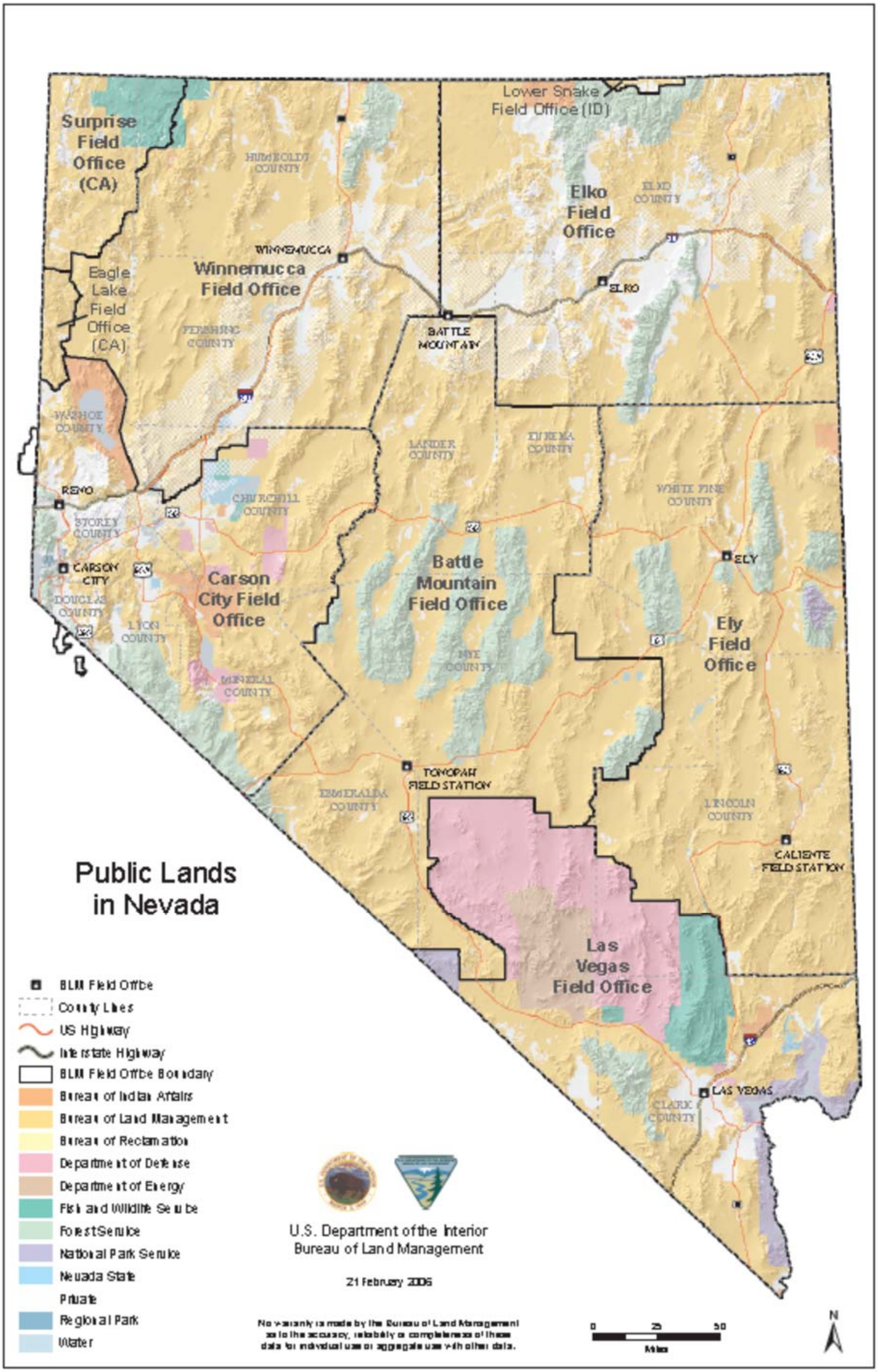
The disclaimer of interest originally held a different meaning. At the time Nevada entered the Union, it was widely understood that the reason for requiring a disclaimer of interest in public lands was so that federal authorities could clear title to all lands within the state and more quickly dispose of those lands via private auction. Congress, however, later reneged on this obligation.[6]

Sale or lease of federal lands could 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.[7] In addition, the new availability of land would ease congestion in Nevada's urban areas and prompt new development and job creation.

Recommendations

If Congress fails to comply with SJR 1, Nevada should pursue its legal remedy. Utah's bill sets a hard deadline for Congress to transfer public lands, so the state will have standing to sue once the deadline has passed. Nevada, like other states, should similarly sue.

[1] Nevada Legislature, 60th Session, Assembly Bill 413.
[2] Nevada Legislature, 78th Session, Senate Joint Resolution 1.
[3] *Pollard v. Hagan*, 44 U.S. (3 How.) 212 (1845).
[4] *Ibid.*
[5] NRS 321.596(5).
[6] Steven Miller, "Broken Compact: The Hollowing Out of Nevada Statehood," NPRI Policy Study, August 2013.
[7] Nevada Legislature, Interim Legislative Committee on Public Lands, Land Management Task Force, "Congressional Transfer of Public Lands to the State of Nevada," July 2014.



Public Lands in Nevada
Surprise Field Office (CA)
Lower Snake Field Office (ID)
Eagle Lake Field Office (CA)
Winnemucca Field Office
Elko Field Office
Carson City Field Office
Battle Mountain Field Office
Ely Field Office
Las Vegas Field Office
WINNEMUCCA
ELKO
BATTLE MOUNTAIN
RENO
CARSON CITY
ELY
TONOPAH FIELD STATION
CALIENTE FIELD STATION
LAS VEGAS
HUMBOLDT COUNTY
ELKO COUNTY
PERSHING COUNTY
WASHOE COUNTY
LANDER COUNTY
EUREKA COUNTY
WHITE PINE COUNTY
CHURCHILL COUNTY
STOREY COUNTY
DOUGLAS COUNTY
LYON COUNTY
MINERAL COUNTY
NYE COUNTY
ESMERALDA COUNTY
LINCOLN COUNTY
CLARK COUNTY
BLM Field Office
County Lines
US Highway
Interstate Highway
BLM Field Office Boundary
Bureau of Indian Affairs
Bureau of Land Management
Bureau of Reclamation
Department of Defense
Department of Energy
Fish and Wildlife Service
Forest Service
National Park Service
Nevada State
Private
Regional Park
Water
U.S. Department of the Interior
Bureau of Land Management
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