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Title

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Permalink

<https://escholarship.org/uc/item/3589m9v5>

Journal

California Journal of Politics and Policy, 5(3)

Author

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Publication Date

2013-07-01

DOI

10.5070/P2GP4S

Peer reviewed

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Nevada 2012: Budget Stability and Hope for Improvement

Keywords: budget; FY 2012-13; governor; legislature; Nevada; West

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1 Introduction

As was the case in 2009, the 2011 Nevada Legislature faced an environment characterized by recession, a budget crisis and a political budget fight. It appears as though the economy in Nevada has hit bottom and there will be no further decline during 2012. Accordingly, the budget in Nevada is currently stable and there is hope for economic improvement during 2012. Improvement will be slow and will probably take a considerable amount of time before Nevada experiences significant recovery from the recession.

Governor Sandoval and the Legislature enacted a balanced 2011–2013 biennial budget by cutting spending by \$500 million and extending tax measures scheduled to sunset on June 30, 2011, for an additional 2 years. The Nevada political environment is characterized by fiscal conservatism as Nevada approaches the 2012 election. The 2013 Nevada Legislature will probably enact a 2013–2015 biennial budget very similar to the 2011–2013 biennial budget.

Nevada's budgetary politics have generally been highlighted by low levels of service provision and over reliance on two primary sources of revenue, sales and gaming taxes (Herzik 1991; Herzik 1992; Herzik and Statham 1993; Morin 1994, 1996, 1997a, 1998; Herzik and Morin 1995). This article shall examine the Nevada political environment, the state biennial process, and the fiscal environment and preview the 2012 General Election and the 2013 Nevada Legislature.

2 The Nevada Political Environment

The Nevada political environment is a composite of Nevada's political culture, government structure, and tax structure. The health of the national and state economies directly impacts the operation of state government. The Nevada Legislature and government are sensitive to public opinion, and Nevada's biennial budget usually conforms to public opinion and the results of the preceding general election (Herzik and Morin 1995; Morin 2000).

2.1 Political Culture

Nevada's political culture is individualistic and its politics resemble an open market where individuals and interest groups pursue social and economic goals (Elazar 1984; Dye 1994; Bowman and Kearney 1996). The political culture emphasizes limited government, fiscal conservatism, fragmentation of state governmental power and citizen control over government at the ballot box. In terms of partisan politics, Nevada is becoming more Democrat than Republican. A 1996 poll revealed that southern Nevada leaned Democrat while northern and rural Nevada leaned Republican (Beal et al. 1997). Whether Republican or Democrat, Nevadans are politically conservative. As of March 2011, there were 563,069 registered Democrats, 461,277 registered Republicans and 214,409 registered as non-partisan. In recent years, southern Nevada has become increasingly Democratic while northern and rural Nevada continues to lean Republican (Secretary of State 2011).

Nevada's is conservative in budgeting and fiscal matters. Republican and Democrat legislators display fiscal conservatism in both the state Senate and the state Assembly (Herzik and Statham 1993; Morin 1994; Herzik and Morin 1995; Morin 1996). Nevada historically has provided a relatively low level of state services resulting in a low tax burden (Herzik and Statham 1993; Morin 1994, 1996; Herzik and Morin 1995). In the past, Nevadans were not necessarily opposed to spending on state programs; however, Nevadans want others – visitors, tourists, gamblers and corporations – to bear much of the tax burden (Winter et al. 1993).

2.2 Government Structure

Nevada's constitution provides for a weak, fragmented, and decentralized executive branch. The Governor, who possesses package veto power, shares

executive power and authority with other elected executive officials, boards, commissions, and councils (Morin 1997b; Driggs and Goodall 1996). The state Senate is comprised of 21 members serving 4-year terms. The state Assembly is comprised of 42 members serving 2-year terms (Driggs and Goodall 1996; Titus 1997). The Legislature which meets on a biennial basis, is a citizen or amateur Legislature, and employs a biennial budget system (Thomas 1991; Herzik 1992; Morin 1994, 1996; Herzik and Morin 1995). The Legislature's part-time status, low level of staff support, and crowded agenda during a 120-day biennial session inadequately equips the Legislature to address long-term budgeting and policy issues in any significant manner (Herzik 1992; Morin 1994, 1996; Herzik and Morin 1995).

Nevadans have a long tradition of taking matters into their own hands at the polls and have shaped the structure, operation and direction of state and local government. The Nevada Constitution provides for the recall of public officers, the initiative, and the referendum (Bushnell and Driggs 1984; Driggs and Goodall 1996).

Nevada's governmental structure necessarily entails a lack of capacity to adequately respond to economic and budget problems. Heavy reliance on gaming and sales tax revenue renders Nevada highly vulnerable to economic trends, which must be addressed by the Legislature more than once every 2 years (Morin 1994, 1996; Herzik and Morin 1995). Presently, the Legislature employs an Interim Finance Committee in order to address fiscal and budget matters that arise between regular sessions. The Interim Finance Committee is comprised of members of the Senate Committee on Finance and the Assembly Committee on Ways and Means from the preceding legislative session (Legislative Counsel Bureau 1997a).

2.3 Tax and Fiscal Structure

Beginning in the late 1970s, Nevada moved from having a decentralized state and local revenue system to one more centralized than the average state and local revenue system in the US (Ebel 1990). In 1979, the Legislature enacted a tax relief package and, in response, Nevada voters defeated a constitutional initiative to limit local property taxes, which was similar to California's Proposition 13 (Ebel 1990). As a result, control of local revenues shifted from local elected officials to the Nevada Legislature and its Interim Finance Committee, and to the Nevada Tax Commission (Ebel 1990). Nevada presently possesses one of the most centralized fiscal systems in the US. The state controls, in one way or another, approximately 80% of the total revenues of local governments (Atkinson and Oleson 1993). Prior

to the reduction in local property taxes in 1979 and a tax shift in 1981, only school district revenue was highly centralized, and local governments primarily survived on their own tax base (Ebel 1990).

The Nevada Constitution requires a balanced budget for the state (Driggs and Goodall 1996). Although the Nevada Constitution previously limited the level of state general obligation debt to 1% of the state's assessed property value, Nevada voters approved a ballot question in 1996 that amended the constitution to increase the limit to 2% (Ebel 1990; Driggs and Goodall 1996). Debt issued to protect or preserve the state's property or natural resources is not subject to the 2% limit (Ebel 1990).

Nevada relies on seven main types of taxes as sources of revenue for the state's General Fund. The seven types of taxes include sales, gaming, casino entertainment, business license, mining, cigarette, and insurance premiums. Earmarking, the dedication of certain tax revenues to specific programs, is popular in Nevada with both politicians and the public. Nevada is one of the most earmarked states in the US (Ebel 1990). Nevada ranks 5th among the 50 states, earmarking 52% of its total state tax revenues.

Earmarking presents three main disadvantages for state government. First, the Legislature lacks systematic review in the regular appropriation process. Second, earmarking reduces legislative flexibility in tailoring the budget to address economic changes. Third, once a revenue source has been earmarked, legislators may feel that they are absolved from further responsibility to appropriate additional General Fund revenues to the program (Ebel 1990; Thomas 1991; Winter 1993).

Nevada does not have a personal income tax, and the Legislature cannot enact a personal income tax because Nevada voters passed a state constitutional prohibition on personal income taxation (Herzik 1991). Nevada state law requires a 5% minimum balance of the General Fund at the end of each fiscal year that cannot be touched (O'Driscoll 1994). Nevada lacks a unified budgeting and accounting system, which renders it difficult to examine the state's finances in a comprehensive manner (Dobra 1993). Over the course of many years, gaming and sales taxes have represented approximately 75–50% of all state revenue (Herzik 1992; Morin 1994, 1996, 1997a, 1998; Herzik and Morin 1995; Legislative Counsel Bureau 2005; Legislative Counsel Bureau 2010). The only viable tax policy options available to the Legislature entail increased tax burdens on business, increasing the sales tax rate and increasing property taxes (Dobra 1993; Advisory Commission on Intergovernmental Relations 1994). The Legislature does have the option of increasing nontax revenues, such as charges for services, licenses, fees and fines (Legislative Counsel Bureau 1997b).

3 The Nevada Budgeting Process

The fate of Nevada's economy is contingent on the state of the national economy and its budgeting process is driven as much by the condition of the national economy as the Nevada state economy. (State of Nevada Economic Forum 1994; Morin 1996) Nevada's heavy reliance on gaming and sales taxes for state revenue makes it extremely vulnerable to economic fluctuations. The 1981–1982 national recession, for example, led to Nevada's budget crisis during the 1981–1983 biennium (Herzik and Statham 1993; State of Nevada Economic Forum 1994). The 1990–1991 national recession resulted in a budget crisis during the 1991–1993 biennium (Morin 1994; State of Nevada Economic Forum 1994), and the fortunes of Nevada's economy in the 1990s, 2000s and 2010s have closely paralleled the fortunes of the national economy.

3.1 State Budgeting Process

The budget process in Nevada consists of four stages: (1) executive preparation and presentation, (2) legislative review and adoption, (3) implementation, and (4) review. The four stages are not discrete; they overlap with some activities occurring simultaneously (Driggs and Goodall 1996). Stage one, executive preparation and presentation, begins in the spring of even-numbered years, which was the spring of 2010 for the 2011–2013 biennial budget.

The state Budget Director, a gubernatorial appointee, requests that state agencies prepare their budget requests. Agencies are required to estimate their needs three and one-half years ahead of the end of the biennial budget. The state Budget Director may also provide guidelines for agencies to follow in the agency budget request formulation process (Driggs and Goodall 1996; Reno Gazette-Journal 1996). The guidelines may limit agency requests, such as to a maximum increase of 4% over the existing biennial budget of the agency, and can also incorporate the Governor's priorities for the upcoming biennium. The state Budget Director may convey to state agencies a governor's directive that agencies are to hold the line or that there will be no new taxes (Driggs and Goodall 1996).

All state agencies must submit their biennial budget requests to the state Budget Director by September 1 of even-numbered years. The Budget Director spends September through December examining the agency budget requests, meeting with each agency head, estimating how much revenue will be available for the biennium, and trying to put together a set of budget recommendations that will be acceptable to the governor. The Budget Director informs each agency head in December of the office's preliminary budget for the agency. In the event

an agency is unsatisfied with its preliminary budget, the agency has the right to make an appeal to the Governor.

Agency budget requests are submitted to the Nevada Legislature by December 10 (Driggs and Goodall 1996; Reno Gazette-Journal 1996). These agency budgets are separate from the budget for state building program. The State Public Works Manager receives state construction requests and must present a list of requested projects to the Governor by October 1 for ultimate inclusion in the Governor's proposed executive budget (*Reno Gazette-Journal* 1996).

Prior to 1993, the Governor was responsible for submitting a budget proposal to the Nevada Legislature containing his estimated forecast of future state General Fund revenues and proposed expenditures (Morin 1997b). The 1991–1993 budget broke ranks with past budgets and adopted an aggressive 30% increase in state spending based on a quite optimistic revenue estimate accepted by the Nevada Legislature and the Governor. Nevada's break with conservative budget practices could not have been more poorly timed (Herzik and Morin 1995). "Almost immediately after the fiscal year commenced, the effect of the National recession began to show up in Nevada. State revenue collections plunged and a hiring freeze was invoked. Over the next 18 months, state agencies suffered through three budget revertsments" (Herzik and Statham 1993: p. 59).

In response to the 1991–1993 biennial budget crisis, the Nevada Legislature enacted legislation in 1993 that created an Economic Forum to estimate and forecast future state General Fund revenues. The Forum, a panel of five economic and taxation experts from the private sector, is required to adopt an official forecast of future state General Fund revenues for the biennial budget cycle. All agencies, including the Governor and Nevada Legislature, are required to use the Forum's forecast (State of Nevada Economic Forum 1994). The Forum must provide its first forecast no later than December 1 of the even numbered years, shortly before the beginning of a new legislative session (State of Nevada Economic Forum 1996). This 1993 enactment effectively reduces the Governor's formal powers in preparing the budget.

The second stage of the budget process is legislative review and adoption, which begins with the Governor providing the Nevada Legislature with a general outline of priorities and the proposed executive budget in the State of the State address during the 1st week of the biennial legislative session. The proposed executive budget is delivered to the Nevada Legislature shortly after the Governor's State of the State address (Driggs and Goodall 1996). The 1995 Nevada Legislature attempted to directly challenge the executive branch's institutional powers by proposing the establishment of a state legislative budget office, similar to the Congressional Budget Office, that would be responsible for drafting its own

version of the state budget for review by the money committees of the Assembly and Senate (Morin 1997b).

The Legislature and Governor Miller ultimately reached a compromise when the governor threatened to veto the proposed legislative budget office. The compromise entailed giving legislative budget analysts more say in the preparation of the executive budget drafted by the Governor's office; however, the compromise legislation contained a sunset clause providing that the legislation would be void after 2 years (Morin 1997b). In accordance with this 1995 legislative enactment, the Fiscal Analysis Division of the Legislative Counsel Bureau provided the 1997 Nevada Legislature with its first report that provided legislators a summary of the financial status of the State and Governor Miller's budget recommendations for the 1997–1999 biennium. (Legislative Counsel Bureau 1997b).

The legislative review process is centered almost entirely in the Senate Finance Committee and the Assembly Ways and Means Committee. State budget issues and the Governor's budget recommendations are considered by these committees in the context of public hearings and are the subject of interest group and lobbying activities and discussion and compromises by state legislators (Driggs and Goodall 1996). The Taxation Committee in each house considers tax bills and must act before the Assembly Ways and Means and Senate Finance Committees can finalize the biennial budget.

Although the Economic Forum must provide its first forecast no later than December 1 of the even numbered years, the Forum is required to revise its forecast, if necessary, by May 1 during the legislative session. If either the Governor or the Nevada Legislature want to appropriate more than what is available pursuant to the Forum's official forecast, a revenue enhancement proposal must be made (State of Nevada Economic Forum 1996; Legislative Counsel Bureau 1997b). A reconciliation process takes place between the two money committees prior to the budget going to the floors of the two houses for approval.

Consideration of the budget by the full houses is almost always perfunctory (Driggs and Goodall 1996). The second stage of the process concludes with legislative passage of the biennial budget and presentation to the Governor for signature. The Governor lacks effective power to resist legislative changes in the budget that he prepares and presents to the legislature. Nevada's Governor is the only governor in the 13 western states to lack line-item veto power; he must sign or veto the budget passed by the Nevada Legislature as an entire package. Unlike the President, he lacks pocket veto power. Any bills vetoed by the Governor after the Nevada Legislature has adjourned its biennial session are subject to veto override attempts 2 years later when the Nevada Legislature meets again for its next regular session. A vetoed bill must receive a two-thirds vote of all members

elected to each house in order to override a Governor's veto and become law (Morin 1997b; Driggs and Goodall 1996).

The third stage of the budgeting process is implementation by the executive branch. The Nevada Legislature employs an Interim Finance Committee to address budget and fiscal matters that may arise between regular sessions. The Interim Finance Committee is comprised of members of the Senate Finance Committee and the Assembly Ways and Means Committee from the preceding legislative session (Driggs and Goodall 1996; Legislative Counsel Bureau 1997a).

The 4th stage of Nevada's budgeting process is review, which entails reviewing the past budget activities of state government. The state Controller audits claims against the state and the Legislative Auditor's office conducts periodic audits of the financial records of the various agencies. The state Budget Director and the Legislative Fiscal Analysts review past budgets when they prepare recommendations for the future. Lastly, the legislative money committees review past budget actions as they consider and formulate the next biennial budget (Driggs and Goodall 1996).

In 1991, the Nevada Legislature created a "rainy day" fund to help stabilize the state budget. This act created a state trust fund that would be built up during good times and accessed in the case of a fiscal emergency. When the General Fund surplus reaches a certain threshold at the end of a fiscal year, a portion of the excess is held in the "rainy day" trust fund to help the state through fiscal emergencies (Herzik and Morin 1995; Morin 1996; Legislative Counsel Bureau 1997b). The 1995 Nevada Legislature indexed the maximum limit on the rainy day fund to 10% of annual appropriations (Legislative Counsel Bureau 1997b).

4 The Nevada Fiscal Environment

Nevada's heavy reliance on gaming and sales taxes for state revenue makes Nevada quite vulnerable to economic fluctuations. The nation's economy began its 10th year of economic expansion in the spring of 2000 and through November 2000 the economy continued to grow. It had been growing for 116 consecutive months, the longest expansion of the nation's economy in history (State of Nevada Economic Forum 2000). As we entered early 2007, the Nevada economy remained strong, and it was anticipated that the current decade would be charac-

terized by impressive growth (Nevada Department of Employment, Training and Rehabilitation 2007). The Nevada economy, although strong, was beginning to cool as the Legislature began to debate the final components of the 2007–2009 biennial budget.

The Economic Forum forecast a slower rate of growth in the Nevada economy than it had projected in December of 2006 (State of Nevada Economic Forum 2007). There was an economic slowdown throughout 2007, and the slowdown continued during 2008. The poor Nevada economy was attributable to a housing slowdown, stagnant retail sales, stagnant gaming revenue, and slowing job growth, and the poor economy resulted in a budget shortfall (Nevada Department of Employment, Training and Rehabilitation 2007b). By the end of 2008, Nevada's economy was officially in recession (Nevada Department of Employment, Training and Rehabilitation 2008d).

The Nevada economy continued to weaken and decline during 2009. The unemployment rate increased to 13.0% in December 2009, and Nevada ended 2009 with the second highest unemployment rate in the US. Taxable sales were down and Nevada gaming revenue slipped in December 2009. (Nevada Department of Employment, Training and Rehabilitation 2009b, 2010) Nevada's economy continued to be in recession through 2011. The unemployment rate in January of 2011 was 13.6% and improved slightly to 12.4% in June of 2011. The unemployment rate in December of 2011 was 12.6%. The unemployment rate increased to 12.7% in January of 2012, and improved to 11.6% in June of 2012.

Gaming win and the corresponding gaming tax revenue were essentially flat during 2011. For the fiscal year to date, the gaming win increased 1.1% in 2011 compared to the same period in 2010. Gaming win and gaming tax revenue were up and down during the first half of 2012 and continued to be essentially flat in 2012, with an increase of 1.3% in June 2012.

Nevada experienced an increase in taxable sales and the corresponding sales tax revenue in 2012. For the fiscal year to date, the taxable sales increased 8.5% in 2011 compared to the same period in 2010. Taxable sales were up 7.2% compared to the same period in 2011.

In 2012, Nevada continued to suffer from the overall effects of the recession feeling the effects of a long-term housing slowdown, foreclosures, increasing fuel prices, reduced tourist traffic, lack of available credit for commercial construction projects, high levels of unemployment, uncertain consumer confidence and increasing consumer prices (Nevada Department of Employment, Training and Rehabilitation 2008a,b,c, 2009a, 2011a,b,c, 2012a,b, O'Driscoll 2008).

5 The 2012 General Election Preview

According to the Nevada Constitution, the 2011 State Legislature had to reapportion the Nevada Legislature and districts for the US House of Representatives. Two lawsuits were filed during the course of the 2011 session regarding reapportionment, evidencing political fighting and deadlock over reapportionment. The 2011 Nevada Legislature adjourned without satisfying its reapportionment obligation.

Governor Sandoval took the position that he would not call a special session of the Nevada Legislature to enact a reapportionment plan and would leave reapportionment to Nevada's judiciary (Hager 2011a). The Nevada Democratic Party and the Nevada Republican Party were satisfied with the reapportionment plan developed by District Court Judge Russell, and no appeal was taken to the Nevada State Supreme Court. All of the 42 State Assembly seats and half of the State Senate seats would be up for election in the 2012 General Election.

Based on the 2010 census and the reapportionment plan, Clark County increased its control of the Nevada State Legislature from almost 70% of both houses to 75% of both houses. Nevada gained an additional seat in the US House of Representatives, and the 2012 General Election resulted in four members being elected to the US House of Representatives. US Senator John Ensign resigned from the US Senate in April of 2011 and Republican Governor Brian Sandoval appointed Republican Congressman Dean Heller to fill his that US Senate seat. Former State Senator Mark Amodai was elected in a special election in September of 2011 to replace Dean Heller in US House District 2. Democrat Congresswoman Shelley Berkley and Republican Senator Dean Heller will square off in the election for the US Senate seat currently occupied by Senator Dean Heller. Nevada would once again be a battleground, swing state in the presidential election with six electoral votes for the first time in history.

6 The 2013 Nevada Legislature Preview

Governor Brian Sandoval presented the 2013 Nevada Legislature with his 2013–2015 Executive Budget in January of 2013. Sandoval's proposed 2013–2015 biennial budget looked very similar to the 2011–2013 biennial budget. The 2011 Nevada Legislature faced, once again, an environment characterized by recession, a budget crisis and political deadlock until the end of May of 2011. Republican members of the Legislature were unified in their support of Governor Sandoval's proposed budget and no tax position. The Democrat members of the

Nevada Legislature generally preferred to enact tax increases, but they lacked the requisite two thirds supermajority to enact tax increases and new taxes.

The Nevada State Supreme Court ended the political deadlock on the budget near the end of May of 2011, ruling that the State of Nevada had violated the State Constitution by taking local government tax money to fill a gap in the state budget during the 2010 Special Session of the Nevada Legislature. It was estimated Nevada could experience a liability to local governments totaling more than \$600 million based on the decision. (Clifton 2011) The action of the Supreme Court prompted Governor Sandoval and leaders in the Nevada Legislature to reexamine the proposed budget and the political deadlock associated with the biennial budget proceedings.

Governor Sandoval backed away from the no taxes position he had maintained throughout the course of the 2011 Nevada Legislature. Leaders from the Nevada Assembly, Nevada Senate and Governor Sandoval achieved a budget deal. It was agreed that taxes enacted during the 2009 Legislature and scheduled to sunset in 2011 would be extended for 2 years. Extending the sunset taxes would produce approximately \$600 million over the 2011–2013 biennium.

The Nevada Legislature and Governor Sandoval enacted a 2011–2013 biennial budget calling for \$6.2 billion in general fund spending (Legislative Counsel Bureau 2011). In essence, the budget enacted by the 2009 Nevada Legislature was similar to the budget enacted by the 2011 Nevada Legislature (Clifton 2011; Hager 2011b; Rindels 2011). Governor Sandoval's administration is in the process of formulating the proposed 2013–2015 biennial budget.

In March of 2012, Governor Sandoval outlined his approach to formulating his budget that will be submitted to the 2013 Nevada Legislature. Governor Sandoval believes Nevada will have a flat budget for the 2013–2015 biennium. Accordingly, he has taken the position that there will be no proposed budget cuts, and he proposes the extension of the sunset taxes, once again, for the 2013–2015 biennium (Chereb 2012).

7 Conclusion

The approach of the 2013 Nevada Legislature will be essentially the same as that of the 2009 Nevada Legislature and the 2011 Nevada Legislature. It looks as though the 2013 Nevada Legislature will enact a 2013–2015 biennial budget that is very similar to the 2011–2013 biennial budget. Although some Democrats in the 2013 Nevada Legislature may want to enact tax reforms, it is unlikely the 2012 General Election will provide the Democrats with a two thirds supermajority in both houses of the 2013 Nevada Legislature. Economic recovery, economic

growth and incremental tax revenue growth over the years to come seems to be the approach that will continue to be taken to budgeting in Nevada.

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