

The 2015 Nevada Legislative Session

Review & Report Card



by Victor Joecks

Nevada Policy Research Institute

Preface

Following NPRI's publication of *The 2013 Legislative Session Review and Report Card*, certain lawmakers, who campaigned as conservatives to get elected, complained of their relatively low report-card scores. NPRI objectively calculated those scores, however, from voting records on legislation that impacted, for good or ill, economic freedom, education reform and limited, accountable government. The grading system is a version of the one long used by the National Taxpayers Union to grade Congress.

Today, in the wake of the 2015 Legislature, it is clear that the *2013 Report Card* had significant predictive power.

Introduction

The hottest issue on Nevada's 2014 general election ballot was Question 3. Placed there by the Nevada State Education Association and backed almost exclusively by teacher-union money, Question 3 would have imposed a margin tax on all Nevada businesses grossing revenue of over \$1 million a year.¹

The tax would have taken 2 percent of gross revenues after a company selected one of three deductions. A Nevada Policy Research Institute study showed that in 2015 the margin tax would have killed 3,610 jobs and reduced real disposable income by \$240 million.² A study conducted by Applied Analysis and paid for by the Coalition to Defeat the Margin Tax predicted just under 9,000 jobs lost.³

Based on the Texas franchise tax, the margin tax would have been so destructive that even the Nevada AFL-CIO voted to oppose it.⁴ Democrats followed the AFL-CIO's lead. Out of 32 elected Democrats in the Senate and Assembly, political pundit Jon Ralston could get only a handful to go on record supporting it. The rest he labeled members of "The Weasel Caucus."⁵

In an election campaign that was also shaped by Gov. Brian Sandoval's lack of a credible Democrat challenger, even the Democratic candidate for Lt. Governor, then-Assemblywoman Lucy Flores, came out in opposition to the margin tax.⁶ While most Democrats opposed the margin tax, Republicans ran touting their support of low taxes, including ending the "sunset" taxes, which were enacted in 2009 and extended by the 2011 and 2013 Legislatures.

During the 2014 campaign, Sandoval was featured on a mail piece sent out in support of Sen. Michael Roberson. Sandoval urged support of Roberson, saying, "We need Michael's leadership in the Nevada State Senate to keep taxes low and reform public education."⁷

Because of Roberson's past support for tax increases, he

faced a spirited primary fight from Republican Carl Bunce. Nevertheless, Roberson sent out a mail piece claiming, “Only one Republican candidate for State Senate ... Fights for New Jobs, Fights for Tax Cuts.”⁸

Similar promises to let the “sunset” taxes finally sunset or to oppose tax increases filled the campaigns and campaign literature of candidates such as Erv Nelson, P.K. O’Neill, Derek Armstrong, Stephen Silberkraus and Assemblywoman Melissa Woodbury.⁹

Margin tax crushed; GOP swept to power

On November 5, 2014, Nevada woke up to a vastly different state politically. Voters had thoroughly rejected the margin tax, which went down by a stunning 78.74 percent to 21.26 percent margin. Even in liberal Clark County, the tax proposal won just 23.46 percent of the vote.¹⁰

Republicans had also been swept to power, controlling both branches of the legislature and the governor’s mansion for the first time since 1929.¹¹ Before the election, Democrats controlled the Assembly 27 to 15 and the Senate 11 to 10. After the election, Republicans controlled the Assembly 25 to 17 and the Senate 11 to 10.

Fresh off a decisive popular rejection of a massive tax increase and with candidates who pledged their support for low taxes throughout the campaigns, Republicans had earned a chance to lead.

Economic Forum brings good news

Nevada’s Economic Forum issued its projections on December 3, 2014, . Charged by law with setting the binding tax-revenue projections that lawmakers must use during the 2015 session, the Forum saw Nevada collecting \$6.3 billion in general fund revenues during the 2015-17 biennium.¹²

It was a significant jump from the \$5.9 billion that, in

May 2013, the Economic Forum had projected Nevada would collect during the 2014-15 biennium, assuming no tax increases.¹³

During the 2013 session, however, lawmakers approved a general fund budget of \$6.6 billion, relying on some \$700 million in new taxes and hundreds of millions in tax transfers. A significant portion of the tax increases went directly into the Distributive School Account.¹⁴

Economic growth had produced a \$400 million increase in state tax revenue. Sandoval, however, issued a statement bemoaning the Economic Forum's findings:

Today's Economic Forum report reminds us yet again that our revenue structure is not built to meet the demands of our changing economy nor our continued increase in statewide population. Before I finalize and submit the state budget, I will ask my Cabinet to further scale back agency budget requests so that we can factor into account today's projections.¹⁵

Sandoval's reference to agency requests was a clear signal that – now safely reelected – he intended to raise taxes. "Agency requests" are an artifact of the obsolete, but bureaucrat-beloved, practice of baseline budgeting. Under that model, agencies assume their current levels of spending simply continue, seek increases and call anything less than their desired increases "cuts."

To reform that process, Sandoval and lawmakers in 2011 had passed Assembly Bill 248, which mandated crafting the Executive Budget based on performance criteria.¹⁶ In the 2013 session, however, when legislative Democrats rebelled at actually implementing performance-based budgeting and demanded the release of agency budget requests, Sandoval had acquiesced.

So when Sandoval signaled in late 2014 that he would be using agency requests as his baseline, it suggested he was planning another special-interest-pleasing government expansion – framed, as tax-and-spend politicians routinely do, as a "reduction" from agency wish lists.

Conservatives forced from leadership

Decisions around Assembly leadership elicited further concerns about Sandoval's intentions. Days after the election, the Assembly Republican caucus selected Assemblyman Ira Hansen as its leader.¹⁷

Hansen, a small business owner in Northern Nevada, is a generally conservative lawmaker, despite voting for the sunset taxes in 2011¹⁸ and 2013.¹⁹

The *Reno News & Review* then published provocative excerpts from columns Hansen had written back in the 1990s for the *Spark Daily Tribune*.²⁰ Hansen's old account of Democrats systematically patronizing African-Americans was ballyhooed as an account of Hansen's own views, which were then loudly condemned.²¹

After several days of controversy, Hansen resigned.²² But he saw Sandoval's hand behind the force-out, removing an obstacle to a huge, surreptitiously prepared tax increase.²³

"Ultimately, this whole attack has very little to do with my views," Hansen told the *Las Vegas Review-Journal*. "The powers that be are planning a massive, more than one billion dollar tax increase, and I stood in the way as speaker."²⁴

From multiple sources NPRI learned that Assemblyman Wes Duncan, a conservative lawmaker from Southern Nevada, had the votes to become speaker. At the end of November, however, he resigned his office to accept a position with the new Attorney General, Adam Laxalt.²⁵ Named to fill his legislative seat by the Clark County Commission was Glenn Trowbridge, a retired government employee.²⁶

When Assembly Republicans next met, they selected John Hambrick as Speaker and Michele Fiore as both Majority Leader and chair of Assembly Taxation.²⁷ Although Hambrick, like Fiore, was a tax-pledge signer, the day after his selection as Speaker he told Ralston he would break his tax pledge to vote for the Governor's tax plan.²⁸

Within a week, Ralston – who would constantly harp for higher taxes during the legislative session and was the preferred channel for leaks from Sandoval’s office – was attacking Fiore for tax liens filed against her businesses.²⁹

On Dec. 11, Hambrick removed Fiore as Majority Leader and Taxation chair, only to reverse course within 24 hours after receiving pressure from the conservative wing of his caucus. At the same time, rumors were swirling that five Assembly Republicans were meeting with the Democratic caucus to install a different speaker.³⁰

On Dec. 18, Hambrick reversed course again and replaced Fiore as Majority Leader with Assemblyman Paul Anderson, generally considered a left-leaning Republican. First-term Assemblyman Derek Armstrong took over as chair of Assembly Taxation.³¹

Behind the drama was a simple reality identified by *Review-Journal* senior editorial writer Glenn Cook, “Let’s get real: Although Fiore’s tax problems are a legitimate issue, they’re merely cover for the party officials and operatives who wanted her ousted from leadership because of her conservative views.”³²

It turned out the most significant vote cast by any elected official during the 2015 Legislative Session came before the Legislative Session began. The placement of liberal Republicans in key leadership positions would shape and define the months that followed.

State of the State stunner

Given the ample reporting of the administration’s role in the Assembly leadership drama, it was widely expected that Sandoval would call for a large tax increase to fund a substantial expansion of government.

What so surprised observers when Sandoval delivered his State of the State address, however, wasn’t that he proposed making the sunset taxes permanent, but that he also called for a modified version of the gross-receipts margin tax that

voters had just overwhelmingly defeated. Sandoval proposed transforming the existing flat business-license fee – then at \$200 a year and set to decrease to \$100 annually – into a new tax ranging from a minimum of \$400 a year to as high as \$4.3 million annually.³³

The Business License Tax would have generated \$437 million during the 2016-17 biennium, a major chunk of funding for Sandoval’s proposed \$7.3 billion budget. That budget included over \$700 million in new K-12 education spending, over \$100 million for higher education and more spending in almost every area of government.³⁴

In making the sunsets permanent, creating a BLT and raising the cigarette tax, Sandoval was calling for a \$1.3 billion tax increase.³⁵ Most reporters at the session, misinterpreting transfers going to the general fund and missing tax increases going directly into the Distributive School Account, called it a \$1.1 billion tax increase.³⁶ It would not be the only time that media elements would promote widely accepted, but untrue, narratives during the session.

Some reporters, for instance, dutifully repeated Sandoval’s claim that not passing his massive tax increase would cut state spending by 20 percent.³⁷ That claim, however, assumed that Sandoval’s proposed spending increases were already part of the existing budget, rather than wholly new spending.

What could have been

Within four weeks of the start of the Legislative Session, the Legislature had already passed AB125, which significantly reformed Nevada’s construction-defect law. Previously, Nevada’s construction-defect law had been written by trial-lawyer lobbyists and guaranteed lawyers unlimited “prelitigation” fees, whether a case ever went to trial or not.³⁸

Signed on Feb. 24 by Sandoval, AB125 revised the

state's definition of "constructional defect" and rolled back attorney fee provisions.³⁹

The passage so early in the legislative session of that commonsense conservative reform showed the kind of progress that could have occurred, had Sandoval and Sen. Majority Leader Michael Roberson actually wanted conservative reforms. Instead, priorities for the two focused primarily on increasing taxes and government spending.

Defining fight: Assembly leaders wilt on property tax increase

On Feb. 4, 2015, Sens. Ben Kieckhefer and Becky Harris went before the Sen. Government Affairs Committee to present SB119, one of the most controversial bills of the session. In what was to become a session theme, the bill combined a massive tax increase with assurances that money would now be spent more efficiently.

Under state law, Nevada school districts, in order to issue bond debt, must first get voters' approval. That approval can authorize a school district to issue debt for up to 10 years. As that bond debt is then paid off over a 20-year term, voters' approval of new bonding determines property tax rates for 30 years.

Because the 2008 economic downturn reduced property tax values throughout Nevada, school districts have faced limits on their ability to issue new bonds. Clark County School District, for example, lacked authority, having last received voter approval for bonds in 1998, which expired in 2008. The district's attempt in 2012 to raise property tax rates for new school construction had been crushed at the ballot box by a 2-to-1 ratio.⁴⁰

SB119, however, proposed to "deem" past bonding approvals by voters as also authorizing yet another 10 years of bonding authority, if school trustees so voted.

Passage of the bill would thus extend existing property tax rates to 2045, without a popular vote. In total, the

property tax increase authorized by the bill was over \$4 billion in new debt, plus interest.⁴¹

To get conservatives to support that massive tax increase, Kieckhefer and Harris included a provision to eliminate prevailing wage requirements for all K-12, higher education and charter-school construction projects.

The prevailing wage is a government-imposed mandate that construction workers on public works projects receive inflated wages. While prevailing wage laws are supposed to reflect local market rates, they are calculated almost always to reflect nominal union wage rates, which exceed Nevada market wage rates by some 45 percent.⁴²

Prevailing wage laws added almost \$1 billion to the cost of Nevada government construction projects just in 2009 and 2010.⁴³ Researchers in Michigan found prevailing wage laws increased construction costs 10 to 15 percent.⁴⁴

Whether the cost savings were 5 percent or 30 percent, argued Kieckhefer, the tax money should be spent as efficiently as possible to build more school buildings.⁴⁵ Union workers filled the meeting room to protest the loss of inflated wages on these construction projects.

Despite the protests, SB119 moved quickly through the Senate, passing on a party-line vote on Feb. 16.⁴⁶

Though interested in rolling back prevailing-wage mandates, Assembly conservatives expressed concern about increasing property taxes by billions of dollars without the people voting.

Thus, when SB119 came up for a committee vote in Assembly Government Affairs on March 3, it failed. Two Republicans, John Moore and Glenn Trowbridge, joined six Democrats to kill the bill. The unlikely coalition combined the Republicans' stated desire to stop the tax increase with the Democrats' desire to preserve the prevailing wage.⁴⁷

After the vote was taken, Anderson pulled Moore out of the hearing, and according to a police report later filed by Moore, Anderson verbally assaulted and threatened him.

The *Las Vegas Sun* reported:

According to the complaint, the two went into a stairwell after the vote. Anderson was 6 inches from Moore's face when he told the freshman legislator that "nobody is going to support you, you are done, dead, you're finished."

Moore asked him: "Are you trying to intimidate me, threaten me?" Anderson said yes, according to the complaint.

Moore pushed him aside and told him to never "try to threaten or try to intimidate me ever again." Anderson chuckled, according to the complaint, and said "or else?"

Moore then pinned Anderson against a wall in the stairwell with a door, his complaint said.⁴⁸

After the altercation between Moore and Anderson, the Government Affairs Committee reconsidered SB119 and sent the bill to the Assembly floor without recommendation.

Roberson refuses to compromise

Behind the scenes, Assembly conservatives were looking for a compromise. Some members, including Fiore, were discussing giving school districts two years of bonding authority while repealing prevailing wage laws for school construction.

The compromise would have given each side its stated highest priority. School districts could have issued bonds and immediately begun construction, while prevailing wage requirements on such construction would have been eliminated. Districts could then have gone back to voters in 2016 and asked for an extension of bonding authority.

This idea, however, faced significant opposition from Roberson, who refused the compromise.

Rather than standing up to Roberson and, by extension, Sandoval, Assembly leadership and staff wilted. Their attitude, as seen by conservatives in the GOP caucus, was

that if Roberson and Sandoval opposed an idea, that fact settled it. Assembly leaders acted as if they were only observers in a pre-scripted play, rather than leading a co-equal legislative chamber that Sandoval and Roberson needed for their desired legislation to pass.

It was unclear, even by the end of session, whether Assembly leaders were actually intimidated – or just acted that way as an excuse to pass liberal legislative priorities they also wanted.

The tone of the session, however, was set. Hambrick and Anderson – who even by this early juncture was widely considered the driving force in Assembly leadership – would serve as little more than Sandoval’s foot soldiers. Rather than grasp their once-in-a-generation chance to enact needed free-market reforms in labor, pension and spending policy, Hambrick and Anderson essentially ceded their authority to Sandoval and Roberson.

Hambrick, Anderson fold, undercut any potential for compromise

On March 3, minutes after SB119 failed in Assembly Government Affairs, Roberson brought SB207 to the floor of the Senate as an emergency measure. SB207 allowed school districts to issue 10 years of bonding, which would increase property taxes by extending rates through 2045, with no repeal of prevailing wage requirements.⁴⁹

As an emergency bill, SB207 received an immediate floor vote and passed 15-4.

Although Republicans also pushed SB119 out of Assembly Government Affairs that same day, on March 4, Hambrick and Anderson brought SB207 up for a vote.

Most of the Republican Assembly caucus opposed the bill, so Hambrick and Anderson relied on Democrats to pass SB207 out of the chamber.⁵⁰

However, the vote margin was 27 to 14, not enough to meet Nevada’s Constitutional requirement that tax increases

either be approved by a two-thirds majority of each chamber or by the people at the polls.

The Legislative Counsel Bureau, which frequently issues legal opinions of dubious merit, claimed that neither SB119 nor SB207 required a two-thirds majority because the bills “authorized” school trustees to impose the tax increase, rather than lawmakers directly implementing it. This transparent scheme of skirting the state constitution through “authorization” bills also occurred during the 2013 session, with AB46 and other bills – and will not end until challenged in court.

While liberals celebrated passing a multi-billion property tax increase without voter approval or affecting prevailing-wage laws, the Assembly, nevertheless later that week voted out SB119.

Now because the property tax increase had already passed and Assembly conservatives, undercut by chamber leadership, had been unable to force a compromise, the only issue at stake in this AB119 vote was removing prevailing wage requirements from school construction projects.

On March 5, the Assembly rolled back prevailing wage requirements 23 to 19, and Sandoval signed the bill on March 6.

However, unbeknownst to conservatives, their prevailing-wage reforms were also going to be scaled back.

Dog-and-pony show for the Business License Tax

Though undercut by their leadership on the property tax increase, Assembly Republicans both publicly and privately assured taxpayers that they wouldn’t budge on supporting a gross-receipts tax.

To build political pressure, Sandoval and Roberson concocted a show hearing on March 18 for SB252, which contained the BLT. The hearing featured testimony from

Sandoval and three former governors, Robert List, Richard Bryan and Bob Miller. Leadership from both houses required every lawmaker to attend.⁵¹

While the former governors praised Sandoval for raising taxes to increase education spending, none of them shared why the spending increases for education they had championed as governors had failed to increase student achievement.

The hearing also featured testimony from companies SWITCH and Solar City pledging their support for higher taxes while simultaneously seeking, or benefiting from, massive Sandoval-granted tax breaks.

SWITCH was seeking passage of SB170, abating its property and sales taxes for new facilities for 20 years,⁵² while Solar City in 2013 had already received a \$10 million subsidy from the Governor's Office of Economic Development before expanding in Nevada.⁵³

Additional revealing testimony came from Sandoval's deputy chief of staff, Chris Neilson: It was an admission that the governor's policy team had been working on Sandoval's tax plan for almost a year.⁵⁴

So while Sandoval was telling voters to support Michael Roberson to "keep taxes low," he had actually been plotting the largest tax increase in state history.

On April 21, the Senate approved SB252 on a 17 to 4 vote.

Alternative proposals floated

While the gross-receipts tax was being discussed in the Senate, Anderson and Armstrong came up with their own tax plan. Rather than seek to limit the growth of government, AB464 proposed an even larger tax increase by raising the Modified Business Tax and expanding the number of businesses paying it.⁵⁵

NPRI offered lawmakers another alternative: a line-by-line Freedom Budget. Based on eliminating ineffective

spending and growing government modestly from Sandoval's 2011 Governor's Recommended Budget, the Freedom Budget required no tax increases and would have put \$200 million into the state's Rainy Day Fund.⁵⁶

NPRI's efforts also informed a second alternative budget produced by State Controller Ron Knecht, Assemblyman Jim Wheeler and Assistant Controller Geoffrey Lawrence. That budget didn't contain tax increases. While it proposed spending more than the Freedom Budget, it found additional revenue by requiring local government employees to contribute to their own pensions.⁵⁷

On May 15, Assemblyman Chris Edwards even released a proposal to cut \$1.5 billion from Sandoval's bloated education budget.⁵⁸

These alternative budgets more than answered Sandoval's challenge to critics of his tax-heavy budget, but Sandoval wasn't interested in plans to restrain government growth.⁵⁹

Labor, pension reform efforts stalled

While their campaign for higher taxes preoccupied Sandoval and Roberson, other Republicans pursued substantive reforms. Assemblyman Randy Kirner led efforts to improve Nevada's labor laws with AB182 and state pensions with AB190.

Although union bosses defined AB182 as "union Armageddon," its reforms were commonsense – eliminating governments paying union employees to work for their unions, stopping governments serving as union-dues collectors, and ending evergreen clauses and binding arbitration.⁶⁰

By their protests, government-union officials revealed both their dependence on state-granted legal privileges and their fear of relying on members' assessments of union value.

On the pension front, Nevada's system has an unfunded

liability of around \$40 billion, according to accounting methods required in the private sector.⁶¹ Essentially, it's broke. AB190 would have introduced a hybrid pension system for new government employees, providing a small defined-contribution benefit and allowing employees to invest in private retirement accounts.⁶²

Officials with Nevada's Public Employees' Retirement System vigorously opposed the plan and, rather than addressing the massive unfunded liability, simply assured lawmakers all will work out.

Eventually, both bills were sent to Assembly Ways and Means, chaired by Anderson, where they died without receiving a vote.

Instead, Roberson pushed through minor collective bargaining reforms in SB241⁶³ and small reductions in the retirement benefits of future government employees in SB406.⁶⁴

While steps in the right direction, they're equivalent to the first 100 meters of a marathon.

Largest tax hike in Nevada history called a 'compromise'

On May 14, Sandoval unveiled a new tax proposal. It still included a gross-receipts tax – now called a “commerce” tax – while incorporating AB464's increase in the modified business tax. Media reports called the new proposal for the largest tax hike in Nevada history a “compromise,” although Sandoval still rejected any plan not taxing gross receipts.⁶⁵

On May 19, NPRI identified five Assemblyman – Erv Nelson, P.K. O'Neill, Glenn Trowbridge, Chris Edwards and Stephen Silberkraus – as the key swing votes on any tax package.⁶⁶ That the largest tax increase in Nevada history would depend on five lawmakers who refused to publicly oppose it did not bode well for taxpayers.

Bright spot: School choice

In his State of the State address, Sandoval called on the Legislature to enact Nevada's first school choice program – an opportunity scholarship program funded through tuition tax credits. AB165 contained Sandoval's plan, and called for \$10 million in tax credits annually, growing by 10 percent a year. Despite Sandoval's simultaneous push for the largest tax increase in state history, Assembly Education reduced the amount of tax credits to \$5 million annually.

AB165 was a well-designed bill, but with a \$5 million cap it will serve less than 1,000 children. The bill passed the Assembly and Senate on party-line votes and was signed on April 13.⁶⁷

While the Assembly pondered AB165, Sen. Scott Hammond proposed SB302, to establish universal education savings accounts. ESAs provide parents with funds in an individual account they can use for private school tuition, online classes, tutoring and even a specific curriculum.⁶⁸

While an amendment removed eligibility for children not currently in public schools, in order to avoid a fiscal note, SB302 contained the nation's most expansive and best school choice program.

On April 21, the deadline for non-exempt bills to pass their house of origin, SB302 was given an exemption and sent to the Sen. Finance Committee, which is where leadership sends bills they want to kill without taking a vote.

Several informed legislators believed that Roberson, with some Sandoval backing, had sent SB302 to Finance in retaliation for Hammond's vote against SB252. Notably, Sandoval was refusing to back SB302 either publicly or privately.

The untold story: How Nevada got the nation's best school choice bill

Behind the scenes, however, pressure was building on Sandoval, Roberson and Kieckhefer, chair of Senate Finance, to move SB302.

Significant Republican donors and influencers privately expressed their support for the bill. A billboard on the drive from Carson City to the Reno airport urged Kieckhefer and Sandoval, by name, to move SB302.

Around the capitol, the buzz was that Republican Assemblyman Pat Hickey, widely assumed to be a yes vote on Sandoval's tax package, had told Sandoval that he wouldn't support the governor's tax plan unless SB302 passed.

While there's no knowing just what tipped the scales, SB302 started moving, beginning with a hearing in Sen. Finance on May 14. Hammond was approached about amending SB302 to make it little more than a pilot program, but he had the courage to refuse and insist on a near-universal program. From May 26 to 29, the bill passed Sen. Finance, the Senate, the Assembly Education Committee and the Assembly.⁶⁹

The day the bill passed the Assembly, Sandoval and Legislature started receiving national attention, including a congratulatory tweet from former Florida governor and presidential candidate Jeb Bush.⁷⁰

Sandoval signed the bill a day after session's end, giving Nevada the best school choice program in America.

Tax vote looms

There was little time for excitement, however: The vote on the largest tax increase in Nevada history was imminent.

The most hopeful time for taxpayers was on May 22, when an internal Assembly Republican caucus survey leaked, showing that at least 16 members wanted a budget below \$7 billion, which could have been achieved by only

temporarily extending the sunset taxes.⁷¹

That same day Hambrick unexpectedly declared SB504, Sandoval's supposed anti-bullying bill, an emergency measure and forced legislators to vote on a bill they hadn't read.⁷² Although Hansen and Nelson pleaded with Hambrick and Anderson to delay the vote for a few hours or even 30 minutes to give lawmakers a chance to read the bill, Assembly leadership refused.

As the floor debate went on, Hansen and Nelson discovered a provision buried in the bill that made it illegal for school officials to keep a high school boy from using a girl's locker room and shower. Their discovery came too late, as the bill passed 35 to 7. That afternoon, when Republican lawmakers, especially socially conservative ones, learned what was in the bill, they were furious.

Before the vote, according to multiple caucus members, Anderson had lost a caucus vote on whether the Assembly should vote on SB504 that day. This was despite his guarantee that such an immediate vote would save the state over \$10 million. Anderson then got caucus approval for the chamber vote that day by giving the entire caucus his personal promise that nothing in SB504 would upset members.

Within hours, however, lawmakers concluded that Anderson had doubly deceived the caucus – not only concerning the controversial material in the bill, but also on the promised cost savings, which were only a fraction of the amount promised.

Given the Assembly leadership's loss of credibility, small-government proponents saw reason for optimism ahead of the tax showdown.

Wavering Republicans fold

Over the next two weeks, however, Sandoval, his staff, legislative leaders and big-government lobbyists visited swing lawmakers, urging them to back the tax increase.

Politicians who had previously not wanted a budget above \$7 billion started hinting that the business owners they talked to didn't think the tax would be so bad. Others seemed hypnotized by Sandoval's promises that this time the new education spending would be paired with alleged accountability measures.

Despite Anderson's deceptions and Sandoval's looming exit from Nevada politics – given term limits and rumors of vice-presidential chances – some Republicans insisted on believing Sandoval's assurances that this instance of dumping more money into public education would work where similar efforts over the last 50 years had not.

Assembly members had been unified against implementing a gross receipts tax for three and a half months, but the governor soon got Hambrick and Anderson to buckle and support his new tax increase.⁷³

Then word got out that Assemblyman James Oscarson, a Republican from Pahrump – one of the most conservative districts in Nevada – was going back on assurances he'd made to constituents and would now support the governor's tax plan.⁷⁴

As the vote-counting continued, it became clear that opposition from Taxation Chair Assemblyman Armstrong, would be lethal for the Governor's proposed gross-receipts tax. Although Armstrong supported alternative ways of raising tax revenue, he had consistently pointed out the structural problems with gross receipts taxes. He'd even voted against the Commerce Tax on May 28 in Assembly Ways and Means.⁷⁵

It should have been a slam dunk for taxpayers. When running for office, Armstrong told voters he opposed tax increases and that "The way to increase revenues is by increasing economic growth and making all of our citizens wealthier, not by raising taxes."⁷⁶

Armstrong, however, did not hold to his word. On the day after voting against the Commerce Tax in committee, he

joined the flip-flopers, announcing his support of the bill.⁷⁷

That left Nelson, Trowbridge and O'Neill – none of whom eventually stood with taxpayers.

Capitulation: Tax-hiking Assembly Republicans get played like a fiddle

For advocates of limited, accountable government, what happened next was a double whammy – higher taxes with few of the critically needed reforms. Despite all the rhetoric both during and after the session, it was *deals cut behind the scenes* that drove legislation – not what lobbyists said during testimony.

SWITCH wanted most of its taxes abated for 20 years. Sandoval wanted a gross receipts tax. Was SWITCH's testimony for a gross receipts tax motivated by its support for higher taxes? Or was it a recognition that the political price of getting an exemption from most property and sales taxes over 20 years was supporting Sandoval's top priority?

Within the capitol, it was understood that such deals got bills moving. Once an Assembly Republican decided that he or she was willing to vote for the largest tax increase in Nevada history, that lawmaker had enormous leverage with which to get any desired piece of legislation moving.

Hickey reportedly had the backbone to tell to the governor he wanted SB302 or the governor wouldn't get his tax vote. Nevada now has the best school choice program in the country.

Kirner worked tirelessly for labor and pension reforms that would have benefitted Nevadans for decades to come, yet without even requiring AB182 or AB190 to get an Assembly floor vote, he voted for the tax increase.

Nelson proposed making collective bargaining optional for local governments in AB280.⁷⁸ It died in Ways and Means without a floor vote. Nelson also was the driving force behind a bill requiring parental notification before a minor got an abortion, AB405 – a priority for social

conservatives like Nelson. It died in the Senate without a floor vote.⁷⁹

In the end, on May 31, the Assembly passed Sandoval's new proposal for the largest tax increase in state history, plus a gross receipts tax, by 30 to 10, with two excused for personal/family illnesses.⁸⁰ The Senate concurred with an amended bill the next day by an 18 to 3 vote.

The only two lawmakers widely seen as getting a bill passed in exchange for their tax votes were Hickey and Assemblyman David Gardner.

NPRI confirmed with multiple sources that Gardner had opposed the tax increase and was willing to vote against the tax increase if his vote would have killed the bill. Once the bill had reached 28 votes, however, Gardner decided to vote for the bill in exchange for the governor's commitment to push through AB394, which mandates the breakup of the Clark County School District into smaller districts.⁸¹

AB394 would pass both the Assembly and Senate on June 1, the last day of session.

Its rapid passage drew the ire of Sen. Minority Leader Aaron Ford who said, "I understand we're up against the clock, but at this hour, you don't put forth legislation that's going to affect our communities negatively, without giving us the chance to address the issues."⁸²

While AB394 has merit, its fast-tracked approval is best understood by looking at the behind-the-scenes considerations.

Final insult: Prevailing wage reform rolled back

On the last day of session the Senate considered AB172, sponsored by O'Neill, who had just voted for Sandoval's tax increase. Originally, AB172 made some positive changes to prevailing wage laws, and on June 1, an amended version would have set the prevailing wage threshold at projects over \$500,000, adjusting that amount

for inflation.⁸³

Kieckhefer then proposed Amendment 1056 to the bill.⁸⁴ It required school districts and the Nevada System of Higher Education to pay 90 percent of the prevailing wage on construction projects, lowered the prevailing wage threshold from \$500,000 to \$250,000, removed the requirement to adjust for inflation and made some potentially helpful technical changes to how the rate is calculated.

The Senate then passed Kieckhefer's version of AB172, and the Assembly concurred on a voice vote. With that, Kieckhefer returned prevailing wage requirements to school construction projects. So, on top of the largest tax increase in state history, taxpayers will now be paying higher property taxes, while seeing fewer classrooms built, which tax-hike supporters contended are so desperately needed.

Legislative rankings

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

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

It should be noted that some legislative proposals can

reduce the tax burden – either by lowering tax rates directly or by curtailing spending. Lawmakers can gain points by voting for such proposals. Lawmakers can also gain points by voting for bills that improve education through structural reform, increase government transparency and protect property rights. Where substantial disagreement exists on how best to curtail spending, bills are not considered. When a legislator has been excused from or did not vote on a bill, its corresponding points are subtracted from the denominator to reflect his or her absence.

All scores are expressed as a percentage of the maximum possible number of points. No congressman has ever received a perfect score using the NTU model and so perfect scores should not be expected. Generally, a legislator with a score above 50 is considered to be an ally of economic liberty.

Since floor votes are the only objective criteria for evaluating lawmakers' performance, it is the only factor considered by NPRI's report card. For the 2015 session, NPRI identified 81 bills and floor amendments with a substantial impact on economic liberty that received floor votes.

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

Grading the governor

Of the 81 floor votes that were cataloged in NPRI's legislative report card, 67 were bills that made it to the governor's desk. Each bill before him then demanded a decision: to approve or to veto.

These 67 Sandoval decisions yield a significant

and revealing metric for his performance within this responsibility. It should be noted, of course, that a governor’s influence goes far beyond signing or vetoing legislation. The largest tax increase in Nevada history was publicly championed and privately imposed on bendable lawmakers by the relentless efforts of the governor and his staff.

Based upon Sandoval’s decision to sign many new taxes, wasteful spending and costly regulations into law, while also approving some needed education and other reforms – while vetoing only one of the bills NPRI identified as hostile to economic liberty – his performance rating calculated out to 43.48 percent.

Composite Scores	
Nevada Legislature	40.78%
Assembly	44.60%
Senate	33.14%
Democrats	14.35%
Republicans	60.60%
Assembly Democrats	14.06%
Assembly Republicans	65.37%
Senate Democrats	14.85%
Senate Republicans	49.77%

Rank	Name	Party	Chamber	Score
1	Robin Titus	R	Assembly	93.17%
2	Shelly Shelton	R	Assembly	92.86%
3	Michele Fiore	R	Assembly	92.78%
4	Jill Dickman	R	Assembly	90.68%
5	Brent Jones	R	Assembly	89.75%
6	John Ellison	R	Assembly	89.42%
7	John Moore*	R	Assembly	86.73%
8	Donald Gustavson	R	Senate	86.20%
9	Jim Wheeler	R	Assembly	86.16%
10	Vicki Dooling*	R	Assembly	84.04%
11	Ira Hansen	R	Assembly	80.75%
12	Pete Goicoechea	R	Senate	74.75%
13	Victoria Seaman	R	Assembly	72.05%
14	Chris Edwards	R	Assembly	62.11%
15	David Gardner	R	Assembly	58.88%
16	James Settelmeyer	R	Senate	56.57%
17	Philip "P.K." O'Neill	R	Assembly	55.66%
18	Mark Lipparelli	R	Senate	52.19%
19	James Oscarson	R	Assembly	50.00%
19	Glenn Trowbridge	R	Assembly	50.00%
21	Stephen Silberkraus	R	Assembly	49.38%
22	Erven Nelson	R	Assembly	46.58%
23	Scott Hammond	R	Senate	45.45%
24	Derek Armstrong	R	Assembly	44.72%
25	Paul Anderson	R	Assembly	43.79%
25	John Hambrick	R	Assembly	43.79%
27	Pat Hickey	R	Assembly	43.48%
28	Randy Kirner	R	Assembly	42.99%
29	Lynn Stewart	R	Assembly	42.24%
30	Melissa Woodbury	R	Assembly	42.12%
31	Greg Brower	R	Senate	38.72%

31	Patricia Farley	R	Senate	38.72%
31	Joseph Hardy	R	Senate	38.72%
31	Becky Harris	R	Senate	38.72%
31	Ben Kieckhefer	R	Senate	38.72%
31	Michael Roberson	R	Senate	38.72%
37	Tick Segerblom*	D	Senate	17.03%
38	Mark Manendo	D	Senate	16.50%
39	Debbie Smith*	D	Senate	16.39%
40	Joyce Woodhouse	D	Senate	15.82%
41	Richard Carrillo	D	Assembly	15.22%
41	Edgar Flores	D	Assembly	15.22%
41	Marilyn Kirkpatrick	D	Assembly	15.22%
41	Dina Neal	D	Assembly	15.22%
45	Ellen Spiegel	D	Assembly	15.22%
46	Moises "Mo" Denis	D	Senate	14.86%
47	Elliot Anderson	D	Assembly	14.60%
48	James Ohrenschall	D	Assembly	14.33%
49	Irene Bustamante Adams	D	Assembly	14.29%
49	Michael Sprinkle	D	Assembly	14.29%
51	Heidi Swank	D	Assembly	14.29%
52	Teresa Benitez-Thompson	D	Assembly	14.11%
53	Kelvin Atkinson	D	Senate	13.80%
53	David Parks	D	Senate	13.80%
55	Olivia Diaz	D	Assembly	13.66%
56	Aaron Ford	D	Senate	13.47%
57	Pat Spearman	D	Senate	13.40%
58	Ruben Kihuen	D	Senate	13.36%
59	Harvey Munford	D	Assembly	13.13%
60	Nelson Araujo	D	Assembly	13.04%
60	Amber Joiner	D	Assembly	13.04%
62	Tyrone Thompson	D	Assembly	12.42%
63	Maggie Carlton	D	Assembly	11.80%

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

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Victor Joecks

is executive vice president at the Nevada Policy Research Institute and oversees the execution of NPRI's strategic plan and policy initiatives.

The Nevada Policy Research Institute

is an independent research and educational organization dedicated to improving the quality of life for all residents of the Silver State through sound, free-market solutions to state and local policy questions. The Institute assists policymakers, scholars, business people, the media and the public by providing non-partisan analysis of Nevada issues and by broadening the debate on questions that for many years have been dominated by the belief that government intervention should be the default solution.

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*The Nevada Policy Research Institute
Las Vegas: (702) 222-0642 ♦ Reno: (775) 376-5947
Fax (702) 227-0927
www.npri.org ♦ office@npri.org*



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