

The 2017 Nevada Legislative Session

Review & Report Card



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Preface

In several respects, the 2017 Nevada Legislature was the natural result of its 2015 predecessor. That year, politicians who'd campaigned as "conservatives" won control of both chambers as well as the governor's mansion. Yet they then proceeded, forthwith, to explicitly ignore a powerful anti-tax message voters had sent just the previous fall.

Siding with an ostensibly popular governor who will never run for reelection again, they imposed upon Nevadans a largely un-conservative and economically destructive agenda, the keystone of which was an ill-advised gross-receipts tax.¹

Today labeled the state "commerce" tax, the measure demolished any remaining claims made by either major political party to defend small business,² free markets or Nevada taxpayers.

Though Nevada voters had overwhelmingly rejected a similar ballot measure by a 79-to-21 percent margin,³ Gov. Brian Sandoval, once reelected, exerted maximum political muscle to drive the ill-conceived tax into law. The broad consensus among tax economists that gross receipts taxes are more destructive than alternatives, and largely serve already-powerful lobbying interests, was ignored.

After the debacle, ordinary Nevada taxpayers had little reason to trust Republicans to represent their fiscal interests. Such demoralization likely contributed to Democrats' recapture of both chambers of the 2017 Legislature.

It is to ensure that Nevada's elected officials are held to account for the votes they cast that NPRI publishes this legislative report card after every session.

Regularly, NPRI's Review and Report Card has proven to hold exceptional predictive power in subsequent elections. We expect the 2018 election cycle will be no different.

–Nevada Policy Research Institute, September 2017

Introduction

The year 2016 had been a remarkable one in both national and state politics.

Americans awoke on November 9 to realize that Democrats had failed in their attempts to regain majorities in the U.S. House of Representatives and the U.S. Senate. Contrary to pundit expectations and conventional political wisdom, Republicans kept firm control of both national legislative chambers.

What was even more surprising, Donald J. Trump – pet bugaboo for much of the U.S. political establishment – was elected the 45th President of the United States.

Yet, while much of the country in 2016 moved to the political right, Nevada was an outlier to this pattern, going “blue” for Hillary Clinton in her (second) failed presidential run. More importantly, state Democrats seized control of both legislative chambers with solid majorities – meaning that state Republicans would likely spend the entire 2017 session playing defense.

Indeed, this is precisely what happened.

Democrats unleashed a variety of bills seeking to undo many of the compromises they had agreed to just two years prior. Reforms that had been negotiated in 2015 – in areas like collective bargaining, prevailing wage mandates and construction-defect regulations⁴ – were suddenly at risk.

Notwithstanding loud, often divisive rhetoric from the Democrats’ more “progressive” voices, Republicans generally held firm against attempts to undo past compromises. They trusted that Gov. Sandoval would, most likely, fight to preserve the modest reforms of 2015.

This largely proved true, as Sandoval ultimately unleashed his veto pen 41 times during the session.⁵

Sandoval's 2017 Legislative Priorities

The Governor was less ambitious for the 2017 legislative session compared to those prior, the likely result of the Democrats having seized control of both legislative chambers.

Heading into the session, a key priority shared by Sandoval and GOP lawmakers was protecting the aforementioned legislative compromises achieved in 2015, as well as blocking any new attempts to increase taxes. Although Republicans had passed the Commerce Tax just two years before, as part of the largest tax increase in state history, Democrats were already salivating at the thought of pushing rates even higher. As a result, Sandoval's veto pen, combined with a unified Senate GOP minority, became Nevada's main defense against higher taxes in 2017.

Fortunately for Nevada taxpayers, the Democrats' majority wasn't so large that it could unilaterally override a gubernatorial veto without Republican support. A two-thirds majority is required to override a veto, and Democrat membership fell short in both the Senate (11-9) and the Assembly (27-15).⁶

Notwithstanding a relatively weak legislative position, Sandoval still used his 2017 "State of the State" address to highlight some of his legislative priorities that offered a potential for bipartisan agreement.

Notably, Sandoval pledged "a biennial budget of \$8.1 billion that [did] not call for any new revenue, other than an excise tax"⁷ upon the state's newly legalized recreational marijuana sales.

This represented an increase of 11 percent over the \$7.3 billion he had proposed in general funding for the 2015-2017 biennium.⁸

Generally, Gov. Sandoval was successful in achieving his stated policy goals, with one important exception: the funding

of the state’s groundbreaking educational choice program, Education Savings Accounts. ESAs, of course, completely unraveled as the session closed. Later in this book they will be the subject of an extended discussion.

Among Sandoval’s priorities for the 2017 legislative session were the following budget items and policy issues:

Marijuana excise tax

In 2016, voters approved via indirect initiative (Question 2) the legalization of recreational marijuana.⁹ Immediately, the Governor saw a chance to seize new revenues for his budget.

“While I did not support [marijuana legalization],” said Sandoval during his “State of the State” speech, “I respect the will of the voters who did.”¹⁰

Accordingly, he proposed taxing all retail sales of marijuana at 10 percent, the proceeds of which “will be invested exclusively in education.”¹¹ This tax would be on top of the existing 15-percent excise tax already being levied upon wholesale transactions.

Senate Bill 487, sponsored by the Senate Committee on Revenue and Economic Development, was written to accomplish just that. It ultimately passed both houses – but not before some partisan political maneuvering involving ESAs. Lawmakers now predict the revenues from the excise tax will surpass \$60 million annually.¹²

For the time being, these revenues will be allocated into the state’s “rainy day” fund due to a procedural technicality which disallowed the funds from being appropriated for education in the current legislative biennium.¹³ Presumably, they will be steered towards education in the 2019-2021 budget, as originally promised.

This relatively minor tax was the only new source of revenue passed during the session. Given recent legislative history, this constitutes a taxpayer victory of sorts.

Recreational marijuana went on sale in Nevada on July 1, 2017.

Increased salaries for state workers

Sandoval, in his “State of the State” address, announced his intentions to legislatively raise pay for state workers.

“From 2010 through 2015, state employees endured furloughs, pay cuts, benefit reductions and loss of merit and longevity pay” following the Great Recession, explained the Governor.¹⁴

“For some, these reductions have been the equivalent of a 30 percent loss of wages and benefits.”¹⁵

To remedy this, Sandoval’s proposed budget included a 4 percent cost-of-living adjustment (“COLA”) for all state workers, as well as increased funding for health benefits.

Senate Bill 368 – which originally contemplated criminal procedure rules – was amended late in the session to implement this pay raise.

Although Sandoval’s initial proposal of a 4 percent raise over two years had become 5 percent by the time he signed the final version, the bill was still seen as a less costly compromise to an earlier proposal – Senate Bill 486 – which sought to authorize collective bargaining for state workers.¹⁶

Care for military members and veterans

Sandoval also used his “State of the State” speech to reaffirm his commitment to Nevada’s armed forces – including active military members, veterans and their families.

“I am determined to making Nevada the most veteran- and military-friendly state in the nation,” the Governor proclaimed.¹⁷

Toward that end, Sandoval actively supported bills to improve the lives of veterans and their families.

Senate Bill 33, for example, provides foreclosure

protection for Nevada’s military members while they are deployed and during a grace period after they’ve returned. The bill passed both legislative chambers with unanimous votes, and Sandoval quickly signed it into law.¹⁸

Similarly, Assembly Bill 24 prohibits state colleges and universities from charging out-of-state tuition levels for certain active military members, veterans and family members.¹⁹ This bill also flew through the Legislature and was soon approved by the Governor – as was \$36 million in general funding “to build and open a veterans’ home in Northern Nevada.”²⁰

Currently, about 100,000 Nevada veterans are aged 65 or older, while the Veterans Administration estimates some 650 fewer beds than needed exist to adequately care for these vets.²¹

Cyber Defense Center

“In our country,” opined Sandoval during his “State of the State” address, “there are now five battlefields in our never-ending fight for safety and security – land, sea, air, space and *cyberspace*.”²² (Emphasis added.)

To deter modern cyber threats, Sandoval’s biennial budget allocated \$3.5 million to establish Nevada’s first “cyber-defense center,” which, it was stated, “will help Nevada detect, prevent, and respond to cyber-attacks and stand ready to partner with local governments and the private sector to minimize cyber risks.”²³

Assembly Bill 471, introduced in the Assembly Committee on Judiciary, authorized the new center to:

- 1) Periodically review the information systems of state agencies;
- 2) Identify risks to the security of those systems; and
- 3) Develop strategies, standards and guidelines for preparing for and mitigating risks to, and otherwise protecting, the security of those systems.²⁴

AB471 quickly made its way through the Legislature with unanimous support in both chambers,²⁵ and Sandoval then signed the bill on June 2.

Education savings accounts ('ESAs')

Sandoval promised much regarding ESAs and then delivered very little. In the final hours of the legislative session, negotiations between the two parties unraveled as Sandoval's commitment wavered.

The ESA struggle will be looked at more closely later in this review.

Nevada Has its Own Swamp to Drain

While Donald Trump's 2016 presidential campaign often saw choreographed chants of "drain the swamp" – referring to the groups of entrenched interests, career politicians and bureaucracies that together are seen as the political class in Washington, D.C. – the 2017 Nevada Legislature proved to occupy a swamp of its very own.

Repeatedly, throughout the session, explicit conflicts of interest could be seen in the relationships between various lawmakers and the legislation they either supported or opposed. Frequently, the conflicts arose from lawmakers retaining their employment within the state's executive branch of government, or its political subdivisions, after having been elected to serve in the legislative branch.

Clearly, the concentration of power that results in those legally dubious positions expands government insiders' clout vis-à-vis everyone else – while explicitly violating America's and Nevada's constitutional separation-of-powers doctrine, whereby the executive branch checks the legislative branch, and vice-versa.

Although Nevada's constitution expressly prohibits executive-branch employees from concurrently serving in the Legislature, such behavior is a depressingly common

occurrence. In fact, that exact practice has long been an explicit goal for many denizens of Nevada’s political class.

Article 3, Section 1 of the *Constitution of the State of Nevada* reads:

“The powers of the Government of the State of Nevada shall be divided into three separate departments,—the Legislative,—the Executive and the Judicial; and *no persons charged with the exercise of powers properly belonging to one of these departments shall exercise any functions, appertaining to either of the others*, except in the cases expressly directed or permitted in this constitution.”²⁶ (Emphasis added.)

It should be noted that, at the time of writing this 2017 Report Card, NPRI is involved in active litigation against a member of the state Senate – Heidi Gansert, a Washoe County Republican – based on this precise issue.

As the *Las Vegas Review-Journal* explained, “In addition to her service as a lawmaker in the legislative branch, Ms. Gansert also moonlights as a special assistant to the president of UNR, an executive branch position. That puts her in conflict with any fair reading of the state constitution.”²⁷ Litigation in this matter is ongoing.

The paragraphs below document a handful of the other obvious conflicts witnessed during the 2017 session.

Sen. Nicole Cannizzaro and Senate Bill 358

Early in 2017 many Nevadans were bullish on the prospect for reform in the area of civil asset forfeiture. Early indications suggested there was broad bipartisan support to reform this shady and constitutionally suspect practice, including the fact that Senate Majority Leader Aaron Ford, a Democrat, was a primary sponsor of the legislation, Senate Bill 358.²⁸

Civil asset forfeiture refers to the law-enforcement practice of seizing a person’s property based on a “reasonable suspicion” that such property was instrumental in, or resulted

from, the commission of a crime. Frequently, such forfeitures occur absent a criminal conviction, and in some cases without charges ever even being filed against the person from whom the assets were seized.

What's more, the proceeds from forfeitures go directly to the seizing law enforcement entity – typically, local police departments and district attorney offices. This means these entities – financially incentivized to initiate forfeiture proceedings²⁹ – effectively lose their neutral status as law-enforcement authorities.

In addition to serving as a legislator, Sen. Cannizzaro is a sitting Clark County deputy district attorney.

The numbers don't lie. In fiscal year 2016, statewide forfeitures produced an additional \$3.3 million collected by Nevada law enforcement, including \$1.9 million collected by the Las Vegas Metropolitan Police Department alone, according to the Nevada attorney general's aggregate report.³⁰

SB358 promised to free Nevada law enforcement from this taint by implementing two key reforms. First, a conviction would become a prerequisite for initiating forfeiture proceedings. *If a citizen hasn't been convicted of a crime, police agencies can't take that citizen's stuff.* Secondly, any proceeds would be steered towards the state's education fund, rather than law enforcement, thereby removing the institutional incentive for abuse of the practice under color of law.

However, when the much-anticipated bill got into committee, it ultimately died without a single vote.

Why did the bill fail, given the supposed bipartisan support for reform? The answer appears to involve freshman state Senator Nicole Cannizzaro, a Democrat from Las Vegas.

In addition to serving as a legislator, Sen. Cannizzaro

is a sitting Clark County deputy district attorney.³¹ Notwithstanding that ethical conflict, however, she also acted as Vice Chair for the Senate Judiciary Committee, before which SB358 was heard.

Knowing this, it's easy to surmise why the bill failed to advance out of committee. Reform would've meant less money not only for police but also for Nevada DAs.³² Thus, SB358 was killed quietly and without explanation, as Cannizzaro controlled the committee.

As an April 2017 op-ed by NPRI said in the *Las Vegas Review-Journal*, "Senator Cannizzaro's presence on the Senate Judiciary Committee, as it pertains to forfeiture legislation, begs for a lesson on separation of powers, supposedly a key tenet of American civics."³³

Although this defeat was bruising for reform proponents, expect them to try anew in 2019. Perhaps next time they'll start in the Nevada Assembly, not Senate, if Sen. Cannizzaro retains her prominent committee role.

Steve Yeager and Assembly Bill 121

Then there's Assemblyman Steve Yeager, chief deputy public defender for Clark County, who attempted to legislate a pay raise for himself!

On February 9, Yeager introduced Assembly Bill 121, which the *Las Vegas Review-Journal* immediately branded "a swift kick in the groin to the state taxpayer."³⁴

Specifically, AB121 proposed to reinstate so-called "evergreen clauses," under which schedules of pay raises agreed to in government-union labor agreements continue in effect beyond the expiration of that contract, until such a time when new agreements are brokered.

Senate Minority Leader Michael Roberson's analysis of the freshman lawmaker's proposal was very to the point:

"[Mr.] Yeager's bill would allow public sector unions to

stonewall local governments by refusing to bargain in good faith just so they can continue to collect raises on contracts that are expired, all of which will cost taxpayers millions of dollars annually,” Roberson opined.³⁵

Of course, Yeager’s personal interest in his legislation was soon evident: He belongs to the Clark County Defenders Union whose labor agreement, coincidentally, was set to expire on June 30, 2017.³⁶

AB121 would’ve given his bargaining unit additional leverage for rejecting the county’s best offer, knowing that its members would receive raises even during periods of impasse.

In addition to coercing taxpayers to dish out more union money for salaries, AB121 also sought to roll back negotiated collective-bargaining compromises regarding “union leave time,” the arrangement where union officers are paid by taxpayer dollars to work for their union full-time.

Following the *R-J* and Roberson blasts, AB121 was shelved without ever being granted a committee hearing. Apparently, even the Democrat committee chairs initially in support of the proposal were ultimately embarrassed by the spotlight on personal nest-feathering.

Lawmakers vote to make their own pension information private: Senate Bill 384

It was “an arrogant attempt to keep taxpayers in the dark about the state’s pension system,” in the words of the *Las Vegas Review-Journal*. The legislation was Senate Bill 384, and Democrats, influenced by public-sector unions, pushed hard for it.³⁷

Under current law, the names of all Nevada PERS retirees are public, and thus can be published by websites like TransparentNevada.com for purposes of government transparency and accountability.³⁸ The practice is instrumental in identifying fraud and abuse, and is common-practice in the majority of other states.

SB384 introduced by Sparks freshman State Senator Julia Ratti, sought to make secret the names of retired public employees, as well as the pension sums they currently receive and other information.

Over time it became apparent that SB384's main objective was simply to "make Nevada's government less transparent and less accountable" to its citizens.

Senate Democrats alleged they supported the measure based on a shared fear that identity thieves might potentially target these PERS retirees, a view that several lobbyists also professed.

However, the claim, as NPRI's Robert Fellner quickly pointed out, "is simply not true." He noted that had been the conclusion of three separate Nevada court rulings – including a unanimous Nevada Supreme Court opinion issued

in 2013 – "as well as the legislatures and courts in the 34 other states that also make this information public."³⁹

Indeed, when pressed, none of SB384's advocates could identify a single instance of identity theft of retirees under comparable circumstances. Over time it became apparent that SB384's main objective was simply to "make Nevada's government less transparent and less accountable" to its citizens.⁴⁰

It also became clear that a majority of those who voted "yea" on SB384 were voting to exempt *themselves* from Nevada's transparency laws, as they themselves were active or future PERS beneficiaries.⁴¹

Thus, Sen. David Parks, who moderated the debate over SB384 as the chairman of the Senate Government Affairs Committee, proclaimed, "As a retired public employee myself, I share the same [identify theft] concerns..."⁴²

The coordinated Democrat campaign would have gutted Nevada's transparency laws and elevated government

employees into a special, increasingly secret and unaccountable class, over which the general public would have little or no oversight.

The bill passed both legislative chambers on party lines, but was vetoed by the Governor. Said Gov. Sandoval: “SB 384 seeks to achieve its goals by limiting the public’s right to access public information, upsetting the established balance between privacy and transparency.”⁴³

Nevada government transparency, thus, once more survived a partisan campaign of intentional misinformation.

The Californication of Nevada

In recent years, Nevada has increasingly resembled its progressive, dystopian neighbor to the West – otherwise known as California.

Accordingly, several legislative proposals in 2017 captured NPRI’s attention because they closely mimic the types of proposals adopted by California liberals in recent years. The State of Nevada continues to endure the “Californication” process, and with each passing legislative session, the pace appears to accelerate.

The following legislative proposals, though not adopted, provide a glimpse of what Democrat lawmakers are signaling they hope to impose.

\$15 minimum wage

Early in the session Assembly Bill 175, proposed by seven members of the Assembly Democratic Caucus, sought to increase the statewide minimum wage to \$15 per hour – more than doubling the current minimum rate in Nevada.⁴⁴

In populist fashion, and against fundamental supply-and-demand principles, Democrats claimed the increased wage was necessary to bolster low-income workers, adding that subsequent job losses would be proven a myth.

Fortunately, cooler minds prevailed, and the bill was

ultimately scrapped. Later in the session, a \$12-per-hour proposal passed through the Legislature but was met with the Governor's veto.⁴⁵

In justifying his veto, Sandoval noted the "significant burden" that increased wage mandates place on Nevada's small businesses.⁴⁶

Tellingly, days after the session concluded, a comprehensive, government-commissioned study was published, analyzing the effects of Seattle's recent minimum-wage hike. It wholly affirmed Gov. Sandoval's decision to veto the job-killing proposal.

The Seattle study found that an increase in the minimum wage (from \$11 to \$13) actually led to *decreased* take-home pay for the city's average low-wage workers, as employers attempting to stay afloat cut worker hours. To offset costs, an estimated 6,000+ jobs, altogether, were also eliminated.⁴⁷

Plastic bag ban

In an obvious attempt to appease the environmentalist movement, Nevada Democrats made a big deal of the need to discourage, and ultimately eliminate, the use of plastic bags at retail establishments. *Saving the earth, one bag at a time!*

Assembly Bill 344, introduced by Assemblywoman Sandra Jauregui, proposed to enact a 10-cent fee on retail plastic bags through December 2021, at which point plastic bags would be banned entirely.

Supportive lawmakers were apparently unaware of the current, national trend to reverse existing plastic-bag bans. *Reason* has noted this trend, writing that "state legislatures across the country are taking aggressive steps to roll back local [plastic bag] bans."⁴⁸

Why? Two simple reasons: Plastic bag bans haven't produced measurable reductions in litter (a primary goal of such bans), and yet the bans have, in fact, weakened job growth at the local level (not to mention plastic bags are

quite convenient for everyday shopping).⁴⁹ In short, the virtue-signaling policy had backfired on local communities.

AB344 failed to even generate a committee hearing. The bill died halfway through the session.⁵⁰

Renewables portfolio standard

Nevadans dodged a bullet when Gov. Sandoval vetoed Assembly Bill 206, which would've required energy providers to procure at least 40 percent of their output from eligible renewable energy resources by 2030.⁵¹

Currently, Nevada's portfolio standard requires 25 percent renewable energy procurement by 2025.⁵² Thus AB206 presented a measurable increase to this standard, albeit over a slightly longer timeline.

For comparison, California's current portfolio standard requires 50 percent from renewables by 2030.⁵³

Renewable energy is still nowhere close to being price-competitive with traditional energy sources. Many solar companies, for example, only exist due to the high levels of government subsidies provided to them annually.

These subsidies, borne by ratepayers and taxpayers, make energy even more expensive across the board. Yet the ideologues entranced by "renewables" continue to justify such subsidies based on their climate-change credo. Of course, the cost-benefit analysis doesn't pan out.

Other than fiscal concerns, there are also environmental ones. According to James Taylor, founder and president of the *Spark of Freedom Foundation*, "a full-spectrum environmental impact analysis shows Nevada's existing renewable power mandate promotes some environmentally destructive energy sources at the expense of much greener options."⁵⁴ It turns out that many so-called "green" energy sources actually do significant harm to the environment. The irony is rich.

Victor Joecks of the *Las Vegas Review-Journal* summed

it up best: “If you have a superior product, you don’t need a government mandate.”⁵⁵

In that respect, renewables still have a long way to go. Thus, instead of increasing the renewable portfolio standard, Nevada would be better off to eliminate it entirely, just as Kansas and West Virginia have done in recent years. Rather than subjecting everyone to self-interested bureaucrats, and the crony environmental lobby, the free market should be allowed to govern energy production.

An on-ramp to Single Payer

The gubernatorial veto also saved Nevadans from Assembly Bill 374 – eponymously called “Sprinklecare,” for its sponsoring lawmaker, Assemblyman Michael Sprinkle.

AB374 would’ve allowed every state resident to purchase entrée into Medicaid, joining the thousands on the lower end of the income scale who already find service providers swamped and care subpar.

Free market proponents – correctly recognizing the proposal as being only a few steps shy of a statewide single-payer government healthcare structure – opposed the measure vigorously.

“Until the political discussion about healthcare goes beyond a promise to simply make someone else pay for everyone else’s healthcare, real progress cannot be made,” explained NPRI’s Communications Director Michael Schaus.

Still, Democrat leaders rammed it through amidst the chaos in both chambers during the final days of the session.

Initially, it was unclear if Sandoval would show support for the Medicaid-for-all proposal. Experts say that his final decision to veto the proposal likely “prevented a massive failure” within the healthcare industry.⁵⁶

“I applaud the sponsor for his creativity,” wrote Sandoval in his veto message, “and I believe that the concepts in this bill

may play a critical role in future healthcare policy. However, AB 374 raises more questions than it answers, while adding more uncertainty to an industry that needs less.”⁵⁷

ESAs Unravel

The road leading to the demise of ESAs was a long one. And while it is fair to say that it was largely paved by Sandoval’s unwillingness to vigorously defend the reform, the blame must ultimately be placed squarely upon the entrenched public-school establishment, which sees such a reform as a serious threat to its political clout and money stream.

In 2016, ESAs were declared constitutional by the Nevada Supreme Court – however that was not true for the manner in which the groundbreaking reform had been funded. What this means, is that the nation’s most inclusive and sweeping educational choice program would remain law in Nevada, but must be funded separately in order to be implemented.

The fix, however, would be easier said than done.

The first sign that Sandoval was less than serious about rescuing the embattled program came late in 2016 when, during a special session, he so prioritized the “Raiders Stadium” over ESAs that he refused to place the groundbreaking educational reform before the same legislature that had passed it in the first place.

The second sign came in 2017, when Sandoval unveiled his supposed “fix” before a Democrat-controlled legislature that – under pressure by public-sector unions – he knew was sure to resist any attempt to fund ESAs. The “fix” he put

However, for the anti-ESA faction, [no] concessions were enough. Only complete defunding of the ESA program would, apparently, satisfy partisans of the government-school monopoly.

forward so watered down the original program as to verge on comedy – but he continued promising that some compromise would, before the end of the session, keep the program alive. It was a promise that the minority leadership echoed.

Sandoval’s Senate Bill 506 proposed \$60 million over two years for the program – an amount that wouldn’t even fund half of the 8,500-plus Nevada family applications. Then, as “negotiations” progressed, Republicans agreed to even more cuts, then to further restrictions to the program’s future growth and even offered altering the overall structure of the program.

However, for the anti-ESA faction, none of these concessions were enough. Only complete defunding of the ESA program would, apparently, satisfy partisans of the government-school monopoly.

Republicans supportive of funding ESAs, however, still had substantial leverage. Senator Michael Roberson vowed that without ESA funding, Republicans would oppose, in full force, *any* budget put forward by Democrats. The threat of obstruction looked like a promising tactic. By the last week of the session, it appeared as if Republicans might finally have devised a compromise with some key Democrats regarding ESA funding.

Then, on Monday, May 29th, Democrats called a last-minute, unscheduled hearing. It was a partisan attempt to amend SB506 and kill the “universal” nature of the program.

That’s when negotiations deteriorated beyond repair.

Upset at union activists and Senate leadership moving the goalposts, Republicans kept their promise to vote against majority tax-increasing bills that, constitutionally, needed GOP support. Thus the entire GOP caucus voted against the marijuana tax in Senate Bill 487.

Twice.

Democrat leadership quickly hit back – moving \$60 million, ostensibly earmarked for funding a compromise ESA

agreement, into the Distributive School Account, an account exclusively for public school spending.

Democrats then passed the DSA funding bill, Senate Bill 544, without any Republican support. In fact, Republicans weren't even in the building at the time of the vote. The marijuana tax ended up passing, but damage done to any good-faith negotiations was irreparable. By the last weekend of the session, Republicans' only remaining leverage was a budget bill, Senate Bill 546, which required a two-thirds vote to pass: the 2017-2019 Capital Improvement Projects (CIP) measure.

In both the Senate and the Assembly, Republicans voted down the CIP. They demanded a compromise on ESAs before any GOP lawmaker would support SB546.

Sandoval, too, had a remaining chess move he could use to force ESAs back into play: He could vow to use his veto pen until a compromise was reached.

But doing so would run the risk of extending the session beyond sine die, the normal adjournment date.

And – signaling clearly to ESA foes that Sandoval wouldn't really fight for the groundbreaking education reform – on the last Friday of the session he needlessly declared that there “would be no threat of a special session.”⁵⁸

Thus, without a special session, it appeared impossible that an ESA agreement could be reached by session's end. And a handful of Republicans made an ostensibly face-saving deal with Democrat leadership.

Under it, Democrat lawmakers would allow a *one-time* \$20 million increase in the cap on the state's tax-credit-funded

Three Republican senators – Heidi Gansert, Becky Harris and Ben Kieckhefer – agreed to vote for the CIP, effectively removing any remaining leverage from the Senate's pro-ESA lawmakers.

Opportunity Scholarship program – originally capped at \$6 million. The state program allows businesses one-for-one state tax credits for donations to certified scholarship-granting organizations

In exchange, ESAs would remain unfunded.

Not all Republicans agreed to the deal, but it didn't matter. Three Republican senators – Heidi Gansert, Becky Harris and Ben Kieckhefer – agreed to vote for the CIP, effectively removing any remaining leverage from the Senate's pro-ESA lawmakers.

The budget passed both houses, Sandoval signed it, and SB506, the only bill that would fund ESAs in any capacity, died in the final hours of the session.

Many lawmakers have since suggested that the one-time increase to the state's alternative educational choice program was at least a nominal win.

But it's not likely to be an easy win to maintain. Just one week after the surrender on ESAs, the chief lobbyist for the state's main teachers union, Chris Daly with the Nevada State Education Association, told the media that the union would be setting its sights on the scholarship program – fighting to kick off it as many low-income kids as possible in 2019.

“We don't like [the one time increase]. We're going to hold the makers of this deal to their commitment that this was a *one-time* appropriation... and cut it to the \$6 million or eliminate the program,” he told the Independent. (Emphasis added.)⁵⁹

The message from Daly was quite clear: The public-education establishment is opposed to absolutely *any* reform that doesn't involve funneling more tax dollars into its flailing monopoly system. For the unions and education-establishment, even a mere \$20 million in scholarships is too much of a threat to allow.

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 throughout the session. 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 increase government transparency, protect property rights and improve education through structural reform. 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, they are the only factor

considered by NPRI's report card. Certain priorities, such as ESAs, lacking floor votes, are not amenable to the metric.

For the 2017 session, NPRI identified 54 bills significantly impacting 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, energy, transparency, 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 54 bills whose floor votes were cataloged in NPRI's legislative report card, 41 were bills that made it to the Governor's desk. Each bill before him then demanded a decision: to approve or to veto.

These 41 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. Many Nevadans, for example, believe that Sandoval could have exerted more political leverage as the session was closing to guarantee funding for ESAs. Alas, he refused to do so. However, because a bill containing ESA funding never actually made it to his desk, his overall score won't reflect what many saw as an embarrassing failure of leadership.

Based upon Sandoval's willingness to veto many of the worst bills rammed through the Legislature – the \$12 minimum wage, optional buy-in for Medicaid insurance, increased renewable energy mandates, and others – his performance rating was calculated to be 74.92 percent.

In total, Sandoval vetoed 41 bills during the 2017 legislative session, falling just shy of former Gov. Gibbons' record of 49 vetoes in 2009.⁶⁰

Composite Scores	
Nevada Legislature	40.66%
Assembly	38.78%
Senate	44.06%
Democrats	15.37%
Republicans	82.34%
Assembly Democrats	14.89%
Assembly Republicans	83.30%
Senate Democrats	16.44%
Senate Republicans	80.90%
Gov. Sandoval***	74.92%

Individual Legislative Scores				
Rank	Legislator	Party	Chamber	Score
1	Robin Titus	R	Assembly	92.96%
2	Jim Marchant	R	Assembly	90.28%
3	Donald Gustavson	R	Senate	90.18%
4	Ira Hansen	R	Assembly	88.17%
5	Lisa Krasner	R	Assembly	86.39%
6	John Ellison	R	Assembly	86.38%
7	Richard McArthur	R	Assembly	85.83%
8	John Hambrick	R	Assembly	85.45%
9	Michael Roberson	R	Senate	82.69%
10	Jim Wheeler	R	Assembly	82.56%
11	Ben Kieckhefer***	R	Senate	82.43%
12	Keith Pickard	R	Assembly	81.97%
13	Al Kramer	R	Assembly	81.66%
14	Chris Edwards	R	Assembly	81.39%
15	James Settelmeyer	R	Senate	80.62%

16	Pete Goicoechea	R	Senate	80.47%
17	Joseph Hardy	R	Senate	79.84%
18	Paul Anderson	R	Assembly	79.53%
19	Scott Hammond	R	Senate	79.36%
20	Heidi Gansert***	R	Senate	77.95%
21	Jill Tolles	R	Assembly	77.50%
22	James Oscarson	R	Assembly	75.83%
23	Melissa Woodbury	R	Assembly	75.29%
24	Becky Harris***	R	Senate	74.42%
25	Nicole Cannizzaro	D	Senate	20.67%
26	Skip Daly	D	Assembly	20.00%
27	Maggie Carlton	D	Assembly	18.89%
28	Patricia Farley	I	Senate	18.60%
29	Sandra Jauregui	D	Assembly	16.39%
29	William McCurdy II	D	Assembly	16.39%
29	Daniele Monroe-Moreno	D	Assembly	16.39%
29	Justin Watkins	D	Assembly	16.39%
33	Steve Yeager	D	Assembly	16.25%
34	James Ohrenschall	D	Assembly	16.08%
35	Kelvin Atkinson	D	Senate	16.02%
35	Yvanna Cancela	D	Senate	16.02%
35	Moises "Mo" Denis	D	Senate	16.02%
35	Aaron Ford	D	Senate	16.02%
35	Mark Manendo	D	Senate	16.02%
35	David Parks	D	Senate	16.02%
35	Julia Ratti	D	Senate	16.02%
35	Tick Segerblom	D	Senate	16.02%
35	Pat Spearman	D	Senate	16.02%
35	Joyce Woodhouse	D	Senate	16.02%
45	Teresa Benitez-Thompson	D	Assembly	15.00%
45	Shannon Bilbray-Axelrod	D	Assembly	15.00%
45	Jason Frierson	D	Assembly	15.00%

48	Lesley Cohen	D	Assembly	14.94%
49	Ozzie Fumo	D	Assembly	14.44%
49	Ellen Spiegel	D	Assembly	14.44%
49	Michael Sprinkle	D	Assembly	14.44%
49	Heidi Swank	D	Assembly	14.44%
49	Tyrone Thompson	D	Assembly	14.44%
54	Elliot Anderson	D	Assembly	13.97%
54	Nelson Araujo	D	Assembly	13.97%
54	Chris Brooks	D	Assembly	13.97%
57	Dina Neal	D	Assembly	13.89%
58	Irene Bustamante Adams	D	Assembly	13.61%
58	Edgar Flores	D	Assembly	13.61%
58	Amber Joiner	D	Assembly	13.61%
58	Brittney Miller	D	Assembly	13.61%
62	Richard Carrillo	D	Assembly	11.67%
62	Olivia Diaz	D	Assembly	11.67%

***As explained earlier, these lawmakers' actions in the final days of the session resulted in keeping the state's ESA program unfunded. As there was no floor vote on ESAs, and no bill sent to Gov. Sandoval, these actions could not be factored into the lawmakers' score.

To see each lawmaker's voting history on key bills, as well as the underlying calculations that produced the scores, go to NPRI's website, www.npri.org.

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