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# Nevada
# Change and the Political Tipping Point

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## Introduction

Nevada is experiencing structural change and a political tipping point. The 2010 Census and subsequent reapportionment of the Nevada Legislature constitute the significant factors producing permanent political change. Nevada set the wheels in motion for the political tipping point with the 2012 General Election. The tipping point has now arrived, resulting in a permanent shift in political power from the North to the South, rural to urban, and Republican to Democrat.

Redistricting produced a 2013 Nevada Legislature where 75 percent of the members of the state Senate and Assembly are from Clark County. The political shift may well result in structural changes in the exercise of political power, party dominance, budgeting practices, revenue structure, and public policy. The 2013 Nevada Legislature faced a state economy that had hit bottom, was flat during 2010 and 2011, and is now experiencing slow growth.

Republican Governor Brian Sandoval was committed to the formulation of a balanced 2013–2015 biennial budget based on modest increases in state spending, no tax increases, and no new taxes. Republicans in the legislature, along with Governor Sandoval, were unified in their commitment to enactment of a balanced 2013–2015 biennial budget without significant tax increases or new taxes. In contrast, many Democrats in the legislature think Nevada needs to increase taxes and consider enacting new taxes.

Nevada's budgetary politics have generally provided low levels of service and relied heavily on two primary sources of revenue, sales and gaming taxes (Herzik 1991; Herzik 1992; Herzik and Statham 1993; Morin 1994; Herzik and Morin 1995; Morin 1996; Morin 1997; Morin 1998). This article will examine the political environment, the state biennial budget process, the fiscal environment, and the impact of the 2012 General Election on the 2013 Nevada Legislature.

## The Nevada Political Environment

The 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 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).

### Political Culture

Nevada has an individualistic political culture, and its political environment resembles an open market where individuals and interest groups pursue their social and economic goals (Elazar 1984; Dye 1994; Bowman and Kearney 1996). Nevada's political culture emphasizes limited government, fiscal conservatism, fragmentation of state governmental, and citizen control via the ballot box. In terms of partisan politics, Nevada is becoming more Democrat than Republican.

In the 1970s, Nevada's was a two-party state with a dominant Democratic party. In the '80s it changed to a two-party state that leaned Republican (Hrebenar and Benedict 1991). In terms of party identification, a 1996 poll revealed that southern Nevada leaned Democrat while northern and rural Nevada leaned Republican (Beal et al. 1997). More recently, a political tipping point occurred in terms of party registration. As of February 2013, there were 540,684 registered Democrats, 441,378 registered Republicans and 225,515 registered as nonpartisan. Southern Nevada has become more Democrat while northern and rural Nevada continue to lean Republican (Secretary of State 2013).

Nevada's political environment is conservative in budgeting and fiscal matters. In the state legislature, both Republican and Democrat legislators are fiscal conservatives (Morin 1996; Herzik and Morin 1995; Morin 1994; Herzik and Statham 1993). Nevada historically has provided a relatively low level of state services resulting in a low tax burden (Morin 1996; Herzik and Morin 1995; Morin 1994; Herzik and Statham 1993). In the past, Nevadans were not necessarily opposed to spending on state programs, but they wanted others–visitors, tourists, gamblers and corporations–to bear most of the tax burden (Winter, Calder, and Carns 1993).

## Government Structure

The Nevada Constitution apportions power to the legislative, executive and judicial branches (Driggs and Goodall 1996). It 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 1997a; Driggs and Goodall 1996). The constitution provides for a bicameral legislature with a senate comprised of 20 members serving 4-year terms and an assembly with 42 members serving 2-year terms (Titus 1997; Driggs and Goodall 1996).

The citizen/amateur legislature meets biennially and is one of a small number of state legislatures to employ a biennial budget system (Morin 1996; Herzik and Morin 1995; Morin 1994; Herzik 1992, Thomas 1991). The legislature's part-time status, low level of staff support, and crowded agenda during a 120-day biennial session are inadequate to address long-term budgeting and policy issues in any significant manner (Morin 1996; Herzik and Morin 1995; Morin 1994; Herzik 1992).

The judicial branch consists of a seven-member Supreme Court and district, family, justice, and municipal courts. Voters have repeatedly rejected proposed constitutional amendments to create an intermediate appellate court (Driggs and Goodall 1996; Neilander 1997). Although the constitution specifically provides for the various types of courts, it grants considerable authority to the legislature to determine the structure and operation of the judicial system. Although candidates for the legislature and executive office run on a partisan ballot, state and local judges are elected on a nonpartisan ballot (Bushnell and Driggs 1984).

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 constitution provides for the recall of public officials, the initiative, and the referendum (Driggs and Goodall

1996; Bushnell and Driggs 1984). At the same time, the governmental structure lacks the 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 the legislature needs to addresses more than once every two years (Morin 1996; Herzik and Morin 1995; Morin 1994). The legislature relies on an Interim Finance Committee 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 1997).

**Tax and Fiscal Structure**

Beginning in the late 1970s, Nevada moved from having a decentralized state and local revenue system to one that is more centralized. Nevada presently has one of the most centralized fiscal systems in the United States. In 1979, the legislature enacted a tax relief package and voters defeated a constitutional initiative to limit local property taxes that 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's Interim Finance Committee and the Nevada Tax Commission (Ebel 1990).

Fiscal centralization reflects the degree to which the state restricts local governmental autonomy to determine the level and mix of revenues and expenditures (Gold 1989). Prior to the 1979 reduction in local property taxes and a tax shift in 1981, only school district revenue was highly centralized and local government survived on its own tax base (Ebel 1990). Today, the state controls, in one way or another, approximately 80 percent of local government revenues (Atkinson and Oleson 1993).

Nevada's constitution requires a balanced state budget (Driggs and Goodall 1996). Although the constitution previously limited the level of state general obligation debt to 1% of the state's assessed property value, 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 state property or natural resources is exempted from the 2% constitutional limit (Ebel 1990).

Nevada relies on seven main types of taxes as sources of revenue for the state General Fund. The seven types of taxes include sales, gaming, casino entertainment, business license, mining, cigarette, and insurance premiums. Gaming and sales taxes constituted approximately 50% of the General Fund revenue for the 2009–2011 biennium (Legislative Counsel Bureau 2010). Gaming and sales taxes are projected to constitute approximately 54% of the General Fund revenue for the 2013–2015 biennium (Legislative Counsel Bureau 2013). Nevada continues to rely heavily on sales and gaming taxes to generate revenue for the General Fund.

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 nation (Ebel 1990), ranking fifth with 52% of total state tax revenues earmarked, almost two and a half times the earmarking rate of 21% for the average state (Gold, Erickson, and Kissell 1987).

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 for a specific program, legislators may feel that they are absolved from further responsibility to appropriate additional General Fund revenues to the program (Winter 1993; Thomas 1991; Ebel 1990).

Nevada does not have a personal income tax, and the legislature lacks any real ability to enact one because voters passed a constitutional prohibition on personal income taxation (Herzik 1991). State law also requires a 5% minimum balance of the General Fund at the end of each fiscal year that cannot be touched (O'Driscoll 1994). Nevada's lack of a unified budgeting and accounting system makes it difficult to examine state's finances in a comprehensive manner (Dobra 1993).

Gaming and sales taxes have historically provided 50–75% of all state revenue (Legislative Counsel Bureau 2005; Legislative Counsel Bureau 2010, Morin 1998; Morin 1997; Morin 1996; Herzik and Morin 1995; Morin 1994; Herzik 1992). The only viable tax policy options available to the legislature entail increasing the tax burden on business, sales, and property (Advisory Commission on Intergovernmental Relations 1994; Dobra 1993). The legislature does have the option to increase nontax revenues, such as charges for services, licenses, fees and fines (Legislative Counsel Bureau 1997a).

## The Nevada Budgeting Process

Conditions in the national and state economy drive Nevada's budgeting process, and its reliance on gaming and sales taxes for state revenue makes it quite vulnerable to economic fluctuations. The 1981–1982 national recession resulted in a state budget crisis during the 1981–1983 biennium (State of Nevada Economic Forum 1994; Herzik and Statham 1993). The 1990–1991 national recession resulted in a budget crisis in the 1991–3 biennium (State of Nevada Economic Forum 1994; Morin 1994). Most recently, Nevada confronted the effects of the great recession of 2008. Nevada's economy in the 1990s, 2000s and 2010s has paralleled the fortunes of the national economy.

### State Budgeting Process

Nevada's budget process has 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). Executive preparation and presentation, begins in the spring of even-numbered years; which was the spring of 2012 for the 2013–2015 biennial budget. The state budget director, a gubernatorial appointee, requests state agency budget requests. Agencies are required to estimate their needs three and one-half years ahead of the end of the biennial budget.

The budget director may 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 a maximum increase of 4% over the existing biennial budget of the agency, and can incorporate the governor's priorities for the upcoming biennium. The budget director may convey 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 budget director by September 1st 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 appeal to the governor.

Agency budget requests are submitted to the legislature by December 10 (Driggs and Goodall 1996; Reno Gazette-Journal 1996). Agency budgets are outside of the budget for the state building program. The public works manager receives state construction requests and presents a list of 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 legislature containing his estimated forecast of future state general fund revenues and proposed expenditures (Morin 1997a). The 1991–1993 budget broke ranks with past budgets and adopted an aggressive 30% increase in state spending based on an optimistic revenue estimate accepted by the 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 revertments" (Herzik and Statham 1993, 59).

In response to the 1991–1993 biennial budget crisis, the legislature enacted legislation in 1993 that provided for the creation of 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 state agencies, including the governor and legislature, are required to use the forum forecast (State of Nevada Economic Forum 1994). The forum must provide its first forecast no later than December 1 of even numbered years, shortly before the beginning of a new legislative session (State of Nevada Economic Forum 1996). This 1993 enactment effectively serves to reduce the scope of 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 legislature with an outline of priorities and the proposed executive budget in the State of the State address the first week of the biennial legislative session. The proposed executive budget is delivered to the legislature shortly after the state of the state address (Driggs and Goodall 1996). The 1995 legislature attempted to directly challenge the executive branch's institutional powers by proposing to establish a state legislative budget office, similar to the Congressional Budget Office, which would be responsible for drafting its own version of the state budget for review by the money committees of the assembly and senate (Morin 1997a).

The legislature and Governor Miller ultimately reached a compromise when Governor Miller threatened to veto the proposed legislative budget office. The compromise gave 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 two years (Morin 1997a). In accordance with this 1995 act, the Fiscal Analysis Division of the Legislative Counsel Bureau provided the 1997 legislature with its first report that gave legislators a summary of the financial status of the state and Governor Miller's budget recommendations for the 1997–1999 biennium (Legislative Counsel Bureau 1997a).

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 the committees in 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 1st of even numbered years, the forum is required to revise its forecast, if necessary, by May 1st during the legislative session.

If either the governor or the legislature wants 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 1997a). A reconciliation process takes place between the two money committees prior to the budget going to the floor 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 budget process concludes with passage of the biennial budget and presentation to the governor for signature. The governor lacks effective power to resist legislative changes in the budget he prepares and presents to the legislature. Nevada's governor is the only governor in the thirteen western states who lacks line-item veto power, so he must sign or veto the budget passed by the legislature as a package. Unlike the president, he lacks pocket veto power. Any bills vetoed by the governor after the legislature has adjourned are subject to veto override attempts two years later when the legislature meets again for its next regular session. A vetoed bill must receive a two-thirds vote of all members elected to each house to override a veto and become law (Morin 1997a; Driggs and Goodall 1996).

The third stage of Nevada's budgeting process, implementation, is the responsibility of the executive branch. The 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 1997).

The fourth stage of the budgeting process is review, which entails reviewing past budget activities of state government. The state Controller audits claims against the state and the Legislative Auditor's office conducts periodic audits of financial records of 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 are considering and formulating the next, new biennial budget (Driggs and Goodall 1996).

In 1991, the legislature created a "rainy day" fund to help stabilize the budget. This act created a state trust fund that would be built up during good times and be accessed in the case of a fiscal emergency. When the state 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 (Herzik and Morin 1995; Morin 1996; Legislative Counsel Bureau 1997a). The 1995 legislature indexed the maximum limit on the rainy day fund to 10 percent of annual appropriations (Legislative Counsel Bureau 1997a).

## The Nevada Fiscal Environment

Nevada's heavy reliance on gaming and sales taxes for state revenue makes Nevada vulnerable to economic fluctuations. The fate of Nevada's economy is contingent on the national economy (Morin 2001). The nation's economy began its tenth year of economic expansion in the spring of 2000 and through November 2000 the nation's economy had continued to grow. The nation's economy had been growing for 116 consecutive months, the longest economic expansion in the nation's history (State of Nevada Economic Forum 2000).

Entering early 2007, the Nevada economy remained strong and it was anticipated that the current decade would be characterized by impressive growth (Nevada Department of Employment, Training and Rehabilitation 2007). Nevada's economy, although strong, was beginning to cool down as the legislature began to debate the final components of the 2007–2009 biennial budget. The economic forum's forecast was for a slower rate of growth than the economic forum originally forecast in December of 2006 (State of Nevada Economic Forum 2007).

The economy slowed down throughout 2007 and 2008. The poor economy was attributed to a housing slowdown, stagnant retail sales and gaming revenue, and slowing job growth. The weak economy resulted in a state budget shortfall (Nevada Department of Employment, Training and Rehabilitation 2007a). By the end of 2008, Nevada's economy was officially in recession (Nevada Department of Employment, Training and Rehabilitation 2008d).

Nevada's economy continued to weaken and decline during 2009. Unemployment increased to 13% in December 2009, the second highest unemployment rate in the United States. Taxable sales were down and gaming revenue slipped in December 2009 (Department of Employment, Training and Rehabilitation 2009b; Department of Employment, Training and Rehabilitation 2010). Nevada's economy continued to be in recession through 2010 and the beginning of 2011; the unemployment rate in January of 2011 was 13.6% among the highest in the country. Gaming revenue and sales tax revenue were essentially flat. Nevada suffered the effects of a long-term housing slowdown, foreclosures, increasing fuel prices, reduced tourist traffic, lack of credit for commercial construction projects, high levels of unemployment, reduced consumer confidence and increased consumer prices (Nevada Department of Employment, Training and Rehabilitation 2008a; Nevada Department of Employment, Training and Rehabilitation 2008b; Nevada Department of Employment, Training and Rehabilitation 2008c; O'Driscoll 2008; Department of Employment, Training and Rehabilitation 2009a; Nevada Department of Employment, Training and Rehabilitation 2011).

Nevada's economy hit bottom and was essentially flat during 2010 and 2011, though it began to slowly recover and grow in 2012. In 2012, the number of visitors to the Las Vegas area returned to approximately the prerecession peak established in 2007 and the number of Nevada businesses grew each quarter during 2012. The economy experienced growth in employment and the unemployment rate fell to 10.8% in November of 2012. Sales and use tax revenues grew every month during 2012 and it was estimated that sales and use tax revenues would grow each year for the next three years. There has been growth in gaming tax revenues, although they have grown at a slower rate than sales and use tax revenues. Gaming tax revenues were expected to grow modestly over the 2013–2015 biennium. The economic recovery in Nevada has been slow and many continue to see the state economy as fragile (Department of Administration 2013).

## The 2012 General Election

2012 was a year of electoral success for Nevada Democrats. President Barack Obama defeated Republican Mitt Romney by almost 7% in Nevada. Republican U.S. Senator Dean Heller, who was appointed by Governor Sandoval to complete the term of Senator John Ensign, narrowly defeated Democrat Congresswoman Shelley Berkley in the race for the senate seat. Reapportionment increased the Nevada delegation in the House of Representative by one seat. Democrat Dina Titus was elected in District 1, Republican Mark Amodei was reelected in District 2, Republican Joe Heck was reelected in District 3, and Democrat Steven Horford was elected in District 4. None of the statewide constitutional offices were on the ballot in 2012, however, these offices will be on the ballot in 2014 (Nevada Secretary of State 2012).

Democrats enjoyed more success in the 2013 Nevada Legislative elections. All 42 State Assembly seats and half of the 21 State Senate seats were up in 2012. The Clark County delegation controls 75% of both houses. The 2012 General Election produced a divided state government; Republican Governor Brian Sandoval faced an Assembly controlled by Democrats 27 to 15 and a 2013 State Senate narrowly controlled by Democrats 11 to 10 (Legislative Counsel Bureau 2013a).

## The 2013 Nevada Legislature

The state economy and biennial budget were the dominant issue areas confronting the 2013 Nevada Legislature. Governor Brian Sandoval presented the 2013 legislature with his 2013–2015 Executive Budget in January of 2013. Sandoval's proposed 2013–2015 biennial budget contained an increase of 11% in overall spending in the 2011–2013 biennial budget. Sandoval used the revenue projections of the economic forum in its December 2012 report in the formulation of the proposed biennial budget. Expenditures for 2013–2015 totaled $7.546 billion, an increase of approximately $1.8 billion over 2011–2013.

Gaming taxes were projected to constitute 23% of the total General Fund revenue for the 2013–2015 biennium and sales and use taxes were projected to constitute another 31% of total revenue for the 2013–2015 biennium. Sandoval's proposed executive budget recommended spending for the 2013–2015 biennial budget that on an expenditure category basis, was unchanged from 2011–2013. The governor proposed increases in spending for K-12 education and Human Services to handle expected increases in Nevada's spending for the growth in Medicaid. (Department of Administration 2013). Sandoval's proposed executive budget continued revenue enhancements that were scheduled to expire in, 2013. The Nevada Economic Forum submitted its revised May 2013 report and the biennial revenue forecast was adjusted upward by $608 million (Legislative Counsel Bureau 2013).

The 2013 legislature approved a $6.709 billion general fund operating budget for 2013–2015, $72.5 million more than the amount recommended by Governor Sandoval in his executive budget. (Legislative Counsel Bureau 2013). For FY2014, the General Fund appropriation was $3.278 billion, a 3% increase over the Fiscal Year 2013 appropriation of $3.278 billion. For FY2015, the General Fund appropriation was $3.318 billion, a 1.2% increase over FY2014 (Legislative Counsel Bureau 2013). The General Fund functional areas of state government in terms of operating appropriations for the 2013–2015 biennial budget were similar to the functional areas in terms of the operating appropriations for the 2011–2013 biennial budget.

The K-12 education appropriation represented 38.6% of the 2013–2015 biennial budget, compared to 37.3% of the 2011–2013 biennial budget. The higher education appropriation represented 14.7% of the 2013–2015 biennial budget, compared to 15.2% of the 2011–2013 biennial budget. The human services appropriation represented 31.1% of the 2013–2015 biennial budget, compared to 31.4% of the 2011–2013 biennial budget. Public safety represented 8.8% of the 2013–2015 biennial budget, compared to 9.3 percent of the 2011–2013 budget. In short, the K-12 education appropriation increased at the expense of the higher education appropriation in the 2013–2015 biennial budget. There was really nothing remarkable about the 2013–2015 General Fund appropriations compared to previous biennial budgets (Legislative Counsel Bureau 2013).

## Conclusion

At the midpoint of the session, the 2013 Nevada legislature had accomplished very little. Many bills were introduced and discussed in committees. Most legislative activity had been positioning for the substantive legislating that usually transpires near the end of a session from May 1, 2013 through June 3, 2013. The May 2013 revised revenue projections of the Nevada Economic Forum provided little additional projected revenue for the 2013–2015 biennium, leaving little to be accomplished other than the routine formulation and adoption of the 2013–2015 biennial budget. Most legislators, as well as Governor Sandoval, seem pleased that the Nevada economy was slowly growing and recovering from the recession. The adjournment of the 2013 Nevada Legislature was routine and nothing exceptional transpired, but the foundation was established for significant political structural change and Nevada will experience a political tipping point. The future look of Nevada will be very different from the current look of Nevada. In short, the south, urban and Democrat factions will control the future look of Nevada.

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