

TAXTOPICS

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ELECTION AFTERMATH

What started out to be a ho-hum election in Nevada suddenly changed with the start of early voting. The change in the tenor of the election began with the surprise of Republicans making an unprecedented showing at the polls, particularly in Clark County during the first couple of days of early voting. That showing unleashed a flood of money from groups on both sides of the political spectrum. And when the final votes were tallied, Nevada turned from purple to red, and for the first time since 1929, Republicans held all constitutional offices and the Nevada Senate and Assembly. Overall the turnout was abysmal, with only 45.2 percent of voters casting ballots statewide.

The Executive Branch

Governor Sandoval won big with over 70 percent of the vote. The Lieutenant Governor's race had Senator Mark Hutchison, hand-picked by Governor Sandoval taking on first-term assemblywoman Lucy Flores. Hutchison won handily. Prior to early voting it was expected that the races for Attorney General, State Treasurer, State Controller and Secretary of State would stay Democratic. In those four races it was musical chairs as the current office holders, all Democrats and all termed-out, were the favorites in most polling prior to early voting. What happened, however, is those office holders are now all Republican. The Attorney General's race prior to early voting had the most interest, with Ross Miller, the current Secretary of State and whose father is former Governor Miller was up against Adam Laxalt, whose grandfather is former U.S. Senator Paul Laxalt. Laxalt won. State Treasurer Kate Marshall and State Controller Kim Wallin filed for the offices of Secretary of State and State Treasurer respectively. Their opponents, current University Regent Ron Knecht won the office of State Controller, termed-out State Senator Barbara Cegvaske won the Secretary of State seat and Dan Schwartz, a newcomer to Nevada politics, won his bid for State Treasurer.

The Legislature

The State Senate turned from Democrats 11 to 10 to Republicans 11 to 10. The biggest surprise however, came when Republicans picked up 10 seats to take the majority in the Assembly. The Democrats had a majority of 27 to 15, but by the time the final votes were tallied, the majority was Republicans, 25 to 17.

The Ballot Questions

Of the three statewide ballot questions, the two tax questions, the education initiative to impose a margin tax and the removal of the net proceeds tax on minerals from the Constitutions, both lost. The third question to establish an appeal court won.

The overwhelming defeat of Question 3 was a major victory for Nevada's business community. If the question had passed with all its flaws, it would have had a chilling impact on job creation and economic diversification efforts, to say nothing of trying to comply with provisions that were problematic.

Locally, there were six tax ballot questions. Five of the questions failed, with one, Churchill County's property tax for the fire department squeaking through with 50.6 percent of the vote vs. 49.4 percent.

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BY The Numbers: Ballot Question Results

Voter Information	Statewide Questions	Yes	%	No	%
Registered Voters: 1,212,327 Total Turnout: 548,218 - 45.2%	#1. Constitutional Amendment: Create an Appellate Court	287,183	53.8	246,836	46.2
	#2. Constitutional Amendment: Remove the reference to the net proceeds of minerals tax	265,821	49.7	269,030	50.3
	# 3. The Education Initiative (margin tax)	115,891	21.3	429,324	78.7

County	Local Ballot Questions	Yes	%	No	%
CARSON CITY	<u>Countywide</u>				
Registered Voters: 25,222	#1- Ward only voting	5,443	36.1	9,634	63.9
Votes Cast: 62.3% 15,719					
CHURCHILL COUNTY	<u>Countywide</u>				
Registered Voters: 12,236	#1 -Property tax for fire department	3,750	50.6	3,662	49.4
Votes Cast: 61.2% 7,484					
CLARK COUNTY	No countywide questions.				
Registered Voters: 822,922	<u>Boulder City</u>				
Votes Cast: 41.3% 340,377	#1 Capital Improvement Fund	4,102	77.7	1,177	22.3
	#2 Sale of City-owned Land	3,737	70.6	1,554	20.4
ESMERALDA COUNTY	<u>Countywide</u>				
Registered Voters: 545	#1 Sales Tax for Senior Citizen programs.	99	28.1	254	71.9
Votes Cast: 56.1% 306					
HUMBOLDT COUNTY	<u>Countywide</u>				
Registered Voters: 6,340	#1 Size of Hospital Board - Advisory	1,471	34.4	2,802	65.6
Votes Cast: 62.7% 3,973	#2 Sales Tax for parks.	1,550	35.9	2,771	64.1
LYON COUNTY	<u>Countywide</u>				
Registered Voters: 30,019	#1- School District bonds.	5,623	40.4	8,293	59.6
Votes Cast: 47.5% 14,254	#2- property tax for fire district.	1,465	33.8	2,874	66.2
MINERAL COUNTY	<u>Countywide</u>				
Registered Voters: 2,738	#1 School District bonds.	521	37.9	854	62.1
Votes Cast: 51.0% 1,396	#2 Nuisance Ordinance revision.	743	54.0	632	46.0
NYE COUNTY	<u>Countywide</u>				
Registered Voters: 23,805	#1 - School District bonds.	5,229	43.7	6,734	56.3
Votes Cast: 50.4% 11,993					

2015 Legislature: Taxing Times

The over whelming failure of Question 3 (a 2 percent margin tax on business) will not change the need/want for additional revenue, particularly for education. The extent of the discussion on revenue issues will be largely determined by:

- How current fiscal year expenditures match up with available revenues;
- Increases in expenditures in the next biennium (roll-ups for increased caseloads, inflation, etc.);
- The state of the economy;
- Whether any cuts can or will be made in expenditures; and
- If the sunsets (following) will actually expire.

Modified Business Tax

The increased rate of 1.17 percent on wages paid over \$85,000 in a quarter, is scheduled to end on June 30, 2015. On July 1, 2015, that rate is scheduled to revert to 0.63 percent and apply to all businesses.

Sales and Use Tax (Local School Support - LSST, Portion)

The rate of the LSST was increased 0.35 percent for a new rate of 2.60 percent. The increase is due to sunset on July 1, 2015 and the rate is scheduled to revert to 2.25 percent.

Room Tax

What is known as the 3 percent initiative portion of the tax (collected only in Clark and Washoe counties) is currently deposited to the DSA. That distribution expires on June 30, 2015. As of July 1, 2015, it is scheduled to be deposited into a special account for the purpose of improving K-12 student achievement and increasing teachers' salaries.

Motor Vehicle Registration Tax

Effective in September of 2009, the depreciation schedule of the Governmental Services Tax was increased by 10 percent each year. It has been deposited to the state's general fund. On July 1, 2015, the revenue from the 10 percent increase is to be deposited to the Nevada Highway Trust Fund.

Net Proceeds of Minerals Tax

Effective on July 1, 2015, the currently required prepayment of the tax will end.

The Governor's budget for the next biennium will provide the first indication of how the revenue issues will be addressed. However, any desire to look for a new revenue source first requires a review of the existing tax structure. This review needs to consider whether the existing structure reflects the economy of the state and the way business is done to insure maximum revenue is being received at the lowest rate possible. Additionally, the basis of the tax and calculation of the tax liability should be easy to understand for better compliance as well as being easy to administer so as not to cost an unreasonable amount to collect. To propose a new tax without undertaking such a review will only result in any new tax having a higher rate than necessary to generate the revenue wanted.

A few examples of the need for review within our existing tax structure are:

MODIFIED BUSINESS TAX (MBT)

The MBT was originally instituted for all businesses, except financial institutions in 2003, with a rate of 0.65 percent on taxable wages. That rate was reduced to 0.63 percent in 2005. In 2009 the rate was tiered to 0.05 percent on the first \$65,000 of wages per quarter and 1.17 percent on wages above \$65,000 per quarter. In 2011 the first \$65,000 of wages paid was exempted from the tax and in 2013 the exemption increased to \$85,000 of wages. A rate of 2 percent was imposed on financial institutions with the original enactment of the tax. Because the MBT for general business is scheduled to sunset on June 30, 2015, it will revert to 0.63 percent on all wages July 1, 2015 unless the sunset is renewed. The change of the rate will reduce the amount of revenue generated by the tax.

❖ *The tax should be expanded to all businesses, but consideration should be given to a tiered rate structure. Additionally, the financial institution rate should be reduced to the same rate as all other businesses.*

PROPERTY TAX

Nevada's property tax structure is one of the country's most convoluted and difficult to explain. The primary causes for the difficulty of the average taxpayer in understanding how their property value

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and their tax bill is calculated is due to (1) the use of depreciation for buildings and market value for land, which creates an artificial value called taxable value, and (2) the use of a partial abatement to determine the property tax bill. The partial abatement is also known as the 3 percent and 8 percent cap.

The Partial Property Tax Abatement Cap

There is no question that some form of property tax relief, as approved during the 2005 legislative session, was needed with the extreme double digit increases in value and corresponding increases in property tax bills. However, with the downturn in the economy and housing market a number of unintended consequences have been identified.

❖ *Any attempt at simplification and restoring the stability of property tax as a revenue source requires this cap to be modified. In fact, any other changes to property tax, such as changes to depreciation, require the partial abatement to be modified, or other changes will potentially be meaningless. As with most tax changes, there will be winners and losers. To mitigate the impact of changes to residential property owners, a circuit breaker mechanism based on income should be developed.*

SALES AND USE TAX

When Nevada's sales and use tax was originally enacted in 1955, it was collected on the purchase of all tangible goods sold to Nevadans. At that time, the economy of the United States was manufacturing (tangible goods) not service-based. Nevada's sales and use tax no longer reflects the economy or the way business is done or the way consumers shop. As a major revenue source for state and local governments in Nevada, we have seen a constant increase in sales and use tax rates. At some point the continued increases will lead to the law of diminishing returns.

Internet Sales: Tax Collection

In 1968 the U.S. Supreme Court opined that sales tax could only be collected if a retailer had a physical presence (nexus) in a state. The advent of the internet and the fact that more and more consumers purchase items over the internet, has led to a reduction in revenue that might be otherwise received, unless the retailer is located within the state they are shipping goods to, or there has been an agreement entered into, such as with Amazon in Nevada. Estimates of lost

revenue for Nevada, by Dr. Fox of the University of Tennessee, are in the range of \$200 to \$300 million that would otherwise be available to all Nevada governments, including for schools. Unfortunately, gridlock in Congress has precluded a national solution.

Note: This is a collection issue, not a tax issue. Existing Nevada law requires individuals to remit the tax, but in reality there is no way to ensure that is happening.

❖ *Nevada needs to enact a state solution to deal with the collection of the tax from remote sellers, as has been done in other states.*

Base Expansion

Since 1985, according to a 1988 study of Nevada taxes by Price Waterhouse and the Urban Institute, Nevada was the first state where the Gross State Product was more than 50 percent in services; yet we have one of the narrowest tax bases in the United States, relying primarily on the purchase of tangible goods.

❖ *The tax base should be expanded to reflect the economy of the state and allow consideration of a rate reduction. Note: Because the sales tax was approved by referendum, any attempt to expand the base to services will probably be done as a separate tax - - - a transaction tax.*

Caveat: For any base expansion, there should be a rate reduction in the sales and use tax. Expanding the base would involve the following.

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IN MEMORIAM

Condolences to the families of Assemblyman Pete Livermore (R, A.D. 40) who served during the 2011 and 2013 sessions; and Assemblyman Joseph Hogan (D, A.D. 10) who served from the 2005 through 2013 sessions; neither had filed for reelection.

Condolences also to the families of John "Jack" Jeffery former Assemblyman from Henderson who served 16 years and Virgil Getto of Fallon whose legislative career spanned 24 years of service in both the Assembly and Senate.

They all died in the months of October and November 2014.

2015 Legislative Leadership

Both parties in both houses have announced their leadership picks. No committee chairman has previous service as a chair and two Senate committee chairs, Becky Harris and Patricia Farley are newly elected. As of this writing not all committee members have been named.

ASSEMBLY LEADERSHIP

Speaker designee. To be announced*

Majority Leader. Paul Anderson

Minority Leader. Marilyn Kirkpatrick

ASSEMBLY COMMITTEE CHAIRS

Commerce & Labor. Randy Kirner

Education. Melissa Woodbury

Government Affairs. John Hambrick

Health & Human Services. James Oscarson

Judiciary. Wes Duncan

Legislative Operations & Elections. Lynn Stewart

Natural Resources, Agriculture &
Mining. John Ellison

Taxation. Michele Fiore

Transportation. Jim Wheeler

Ways and Means. Paul Anderson

Note: Ira Hansen, has stepped down. A new speaker is expected to be picked the first week of December.

Base expansion continued from page 4

LIVE ENTERTAINMENT TAX (LET)

The LET was adopted by the 2003 legislature in the special session that also changed the state business tax (a.k.a. the head tax) into the Modified Business Tax. The LET morphed from a proposal put forth by NTA and approved by the Board for an amusement and admissions tax to replace the casino entertainment tax. Since its inception the LET has been fraught with unintended consequences, some of which have led to lawsuits. Its bifurcated rate structure and bifurcated administration have led to many of the problems.

❖ *The LET needs to be restructured to simplify the administration and rate structure, the base should be broadened and existing exemptions eliminated. As*

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SENATE LEADERSHIP

Majority Leader. Michael Roberson

Assistant Majority Leader. Ben Kieckhefer

Co- Whips. James Settelmeyer & Scott Hammond

President Pro Tem. Joe Hardy (nominee)

Minority Leader. Aaron Ford

SENATE COMMITTEE CHAIRS

Commerce Labor & Energy. James Settelmeyer

Education. Becky Harris

Finance. Ben Kieckhefer

Government Affairs. Pete Goicoechea

Health & Human Services. Joe Hardy

Legislative Ops & Elections. Patricia Farley

Natural Resources. Don Gustavson

Judiciary. Greg Brower

Revenue & Econ. Devel.. Michael Roberson

Transportation. Scott Hammond

an alternative, the tax could be transitioned to an amusement admission services tax. Note: The definition of admission would have to be carefully crafted to avoid confusion and simplify administration and compliance.

NET PROCEEDS OF MINERALS TAX

During the 2008 special session, the payment of the tax was accelerated by having the tax prepaid. The issue with the prepayment is that overpayments result in credits or refunds, causing a potential impact to the budgets of both state and local governments.

❖ *The prepayment provision should be allowed to sunset. Whether this can occur this session will depend on the revenue forecasts. The change from prepayment would result in one year with no net proceeds revenue being received.*

ICYMI...

Chris Nielsen, the Executive Director of the Department of Taxation has been named by Governor Sandoval as his Deputy Chief of Staff. Deonne Continue, Deputy Director of the Department has been appointed by the Governor to serve as Executive Director of the Department. Congratulations to both in their new posts.

Both the recreational marijuana and the gun background check initiatives have qualified and will be delivered to the legislature the first day of session, February 2, 2015. If the legislature does not pass the initiatives, they will appear on the November 2016 general election ballot.

The actuaries for Public Employees Retirement System (PERS) recommended and the PERS board approved, an increase of 2.25 percent for all non police and fire fighter public employees (state and local). That will bring the total contribution rate for these employees to 28 percent. Police and fire employees will remain at 40.5 percent.

The Tax Expenditure Report for 2013-2014 is now available on the Department of Taxation Website. Additionally, there is a "Notification of Automated Program to Assess Deficiency." Both reports can be found on the home page, www.tax.nv.gov under "Hot Topics."

If you are planning on registering as a lobbyist for the 2015 legislative session and were registered for the September 2014 special session you will need to re-register, but the fee will only be \$20.00.

To you, your staff and your families the warmest of Thanksgiving greetings.



TAX TOPICS

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