DEDICATED FUNDING STREAMS TO K-12 EDUCATION: THE STATE EDUCATION FUND

Guinn
CENTER

Dedicated Funding Streams to K-12 Education: The State Education Fund

The Nevada Plan, the Silver State's mechanism for funding education since 1967, was replaced during the 80th (2019) Legislative Session by Senate Bill (SB) 543 with the Pupil-Centered Funding Plan. It will be implemented beginning with the 2021-2023 biennium. While one purpose of the new funding plan is to differentiate per-pupil funding based on the needs of individual students, another purpose is to make the amount of funding dedicated to K-12 education more transparent. This report addresses the second purpose of the Pupil-Centered Funding Plan – specifically the State/local taxes and fees that will be dedicated to public elementary and secondary education.[a]

Unchanged by SB 543, K-12 education funding in Nevada will remain composed of the General Fund contribution and revenues from specific taxes/revenue streams, or "dedicated revenue." Under the Nevada Plan, many of the dedicated revenue streams were remitted to the Distributive School Account (DSA) for distribution to individual school districts while other revenue streams went directly to the school districts and were not distributed by the State.[1] These were called "outside revenues" because they were not included in the funding formula and, as such, were not guaranteed through the formula. This patchwork configuration of revenue sources, and, by extension, the determination of revenue streams for statewide use versus those only for individual districts, led to significant disagreement over the specific revenues funding K-12 education.

To remedy this, SB 543 replaced the Distributive School Account with the "State Education Fund" and eliminated the "inside/outside" distinction. This means that the State Education Fund will contain both the inside/outside revenue and several additional revenue sources that were allocated to districts directly. To date, no studies have been conducted that examine each of the funding sources delineated in SB 543 (specifically Sec. 2(2)(a)-(t) – the section that identifies the revenue sources for deposit in the State Education Fund). This report seeks to close this gap in understanding through analysis of the specific revenue streams itemized in SB 543:

- State Permanent School Fund
- Room Tax (IP 1)
- Property Tax (75 cents on each $100 of assessed valuation)
- Net Proceeds of Minerals
- Proceeds from the Forfeiture Account
- Excess in Account for Revenue from Lease of Federal Lands
- Apportionment of Money in the Account for Revenue from the Lease of Federal Lands (25 percent)
- Local School Support Tax (LSST)
- Out-of-State Local School Support Tax (including all fees, taxes, interest, and penalties)
- Wholesale Tax on Medical Marijuana (15 percent)
- Wholesale Tax on Retail Marijuana (15 percent)
- Excise Tax on Retail Marijuana (10 percent)
- Excess Revenue on Medical Marijuana Registration Application Fees
- Annual Slot Tax
- Governmental Services Tax (county portion)
- Franchise Fees

[a] Following its standard protocol, the Guinn Center distributed drafts of this report to subject matter experts for review. These subject matter experts review reports for accuracy and to evaluate the balanced treatment of the subject.

Throughout the report, it is noted that these revenue streams will be placed in the State Education Fund beginning July 1, 2021, which marks the start of the State fiscal year (FY) 2022 following the 81st (2021) Session of the Nevada Legislature.

In addition to the funding streams outlined above that are now dedicated to the State Education Fund, the State also appropriates money from the General Fund for K-12 public education. Historically, it appears the General Fund contribution has been the "final dollar" contributed to K-12 funding: after all other funding streams are determined, the General Fund contribution is calculated last in order to achieve the desired per-pupil funding amount. This report does not provide detail on the General Fund contribution because it is not derived from a single source, instead consisting of numerous unrestricted revenue streams. However, it is important to note that SB 543 specifies how the General Fund contribution should be calculated in the future. According to the legislation, it should be calculated based on the prior year allocation, with an increase or decrease based on economic conditions in the State.

In addition to the General Fund contribution, this report does not explore funding streams that are unique to each district. Examples include special taxes or collections that benefit only one school district and may help offset capital construction or debt service. It also does not include categorical funding for programs like Zoom or Victory. Finally, it does not consider grant funding from State or federal sources. While these are all vital components of the K-12 education funding ecosystem, this report's primary focus is the dollars that will likely fund the base per-pupil allocation in the Pupil-Centered Funding Plan.

The remainder of this report provides an explanation of the taxes and fees itemized in SB 543 as dedicated funding streams, the rates or fees assessed, and any pertinent background information. It also documents – where possible – total revenue collected from each source in fiscal year 2018 (the most recent year data is available). The concluding section synthesizes the foregoing information, along with the General Fund contribution, to form a hypothetical composite of the State Education Fund based on FY 2018 amounts.

The report finds that public K-12 education funding depends heavily on three revenue sources: the State's General Fund contribution, the proceeds from a portion of the sales tax (the Local School Support Tax), and monies dedicated from the property tax. However, we also note that several of the funding streams for education were recently enacted (e.g., IP 1, marijuana taxes/fees), but some have been in regulations for many years with no recent substantial change in fees/rates.

Interest from the State Permanent School Fund

The Nevada Constitution (Article 11, Section 3) created a State Permanent School Fund which pledges specific money to benefit K-12 education in the State. The assets to be placed in the State Permanent School Fund include:

- All lands granted by the United States Congress to Nevada for educational purposes,
- All estates that revert assets to the State,

- All property given or bequeathed to Nevada for educational purposes – including the proceeds derived from these sources, and
- All fines collected under the penal laws.[2]

The monetary interest from the State Permanent School Fund must be placed in the State's Distributive School Account to be allocated amongst the State's school districts.[3] In FY 2022, the interest will be directed to the State Education Fund.

As of June 30, 2018, the value of the State Permanent School Fund portfolio was $344,761,793.[4] The interest from this fund that was provided to K-12 education totaled $5,981,905.[5] Changing the assets diverted to the State Permanent School Fund or accessing the value of the portfolio would require a constitutional change. Additionally, because the amount of funding provided by the State Permanent School Fund is dependent on the prevailing economic conditions and interest rates, little can be done to change this funding source.

Room Tax (IP 1)

In 2008, education advocates, along with several casinos, proposed an additional 3 percent tax on transient lodging. This recommendation originated as an initiative petition that received approximately 130,000 voter signatures in support of the plan.[6] Due to the support from both casinos and citizens, the 75th (2009) Legislature approved the 3 percent tax on gross receipts of transient lodging in counties with populations greater than 300,000.[7] Colloquially, this is referred to as IP 1 (Initiative Petition 1); it comprises a portion of the total Room Tax. Because of the population stipulation, this tax is only collected in Clark and Washoe Counties. Counties can define what constitutes "transient lodging," but both Clark and Washoe Counties have defined it similarly. The premise is that an additional 3 percent tax is collected on any structure, facility, or room that is intended to be used by transient individuals for temporary dwelling, lodging, and/or sleeping purposes. See the Clark County[8] or Washoe County Code[9] for specific dwelling categories that are included/excluded from the definition.

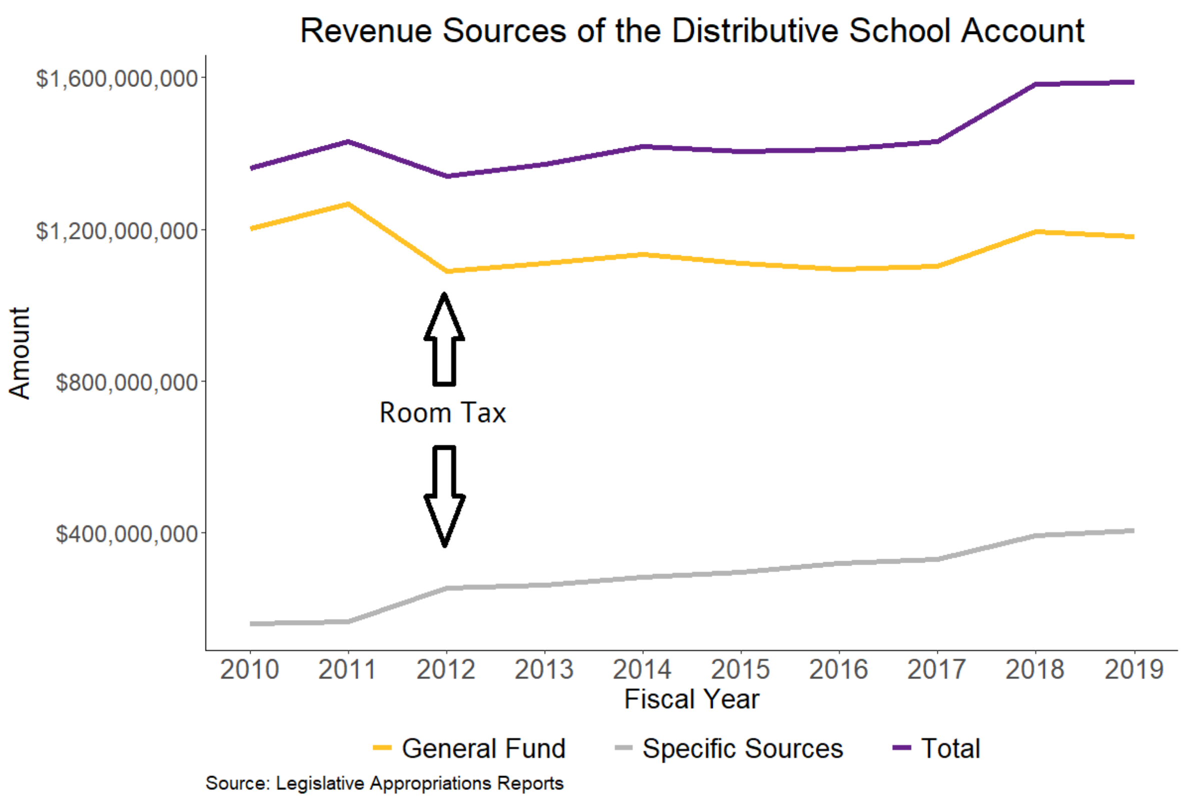
The counties that levy this tax collect the proceeds and can retain a portion to offset the cost of collecting and administering the tax. The remaining portion must be remitted to the State Treasurer's Office to be placed in the Supplemental School Support Account.[10] The proceeds of this account are transferred each legislative session to the Distributive School Account, where they are combined with other State revenue sources and distributed across all school districts. In FY 2022, the proceeds of the room tax will be placed in the State Education Fund.

The consensus among many Nevada education advocates was that the proceeds from IP 1 would increase education funding, as implied by the deposit of the proceeds in the State Supplemental School Support Account.[11] However, because the funds routinely have been transferred to the DSA and combined with all other State funding sources for education, IP 1 proceeds have been used to "free up" unrestricted State revenue to fund other programs (this freeing up of unrestricted monies for other uses is often referred to as "supplanting"). For example, in FY 2012 – the first year the room tax was distributed to education – the State of Nevada's General Fund contribution to education dropped from 88.6 percent of total State funding to 81.2 percent. To illustrate the potential supplanting of General Fund dollars to education, Figure 1 illustrates the breakdown of State guaranteed funding sources and compares it to the State's General Fund contribution from 2010 to 2019. It is worth reiterating that the provisions within SB 543 that create the State Education Fund were designed to provide more transparency and accountability with respect to those revenue streams that have been dedicated to education. As the figure shows, there is a large decrease in General Fund contribution to the Distributive School Account in 2012 and a large corresponding increase in the "Specific Sources" line.

While it is possible to revise the room tax, it was most recently increased in Clark County in 2017:

- A 1.38 percent increase for properties in the primary gaming corridor (the Las Vegas Strip properties and those in the immediate vicinity), [12]
- A 1.00 percent increase for properties inside the Stadium District (any property within 25 miles of the Clark County Commission Chambers but outside of the primary gaming corridor)[13]
- A 0.50 percent increase for properties in Clark County but outside of the Stadium District.

Figure 1. Revenue Sources in the Distributive School Account



This increase was to pay for an expansion of the Las Vegas Convention and Visitors Authority (0.50 percent) and for the construction of the new football stadium (0 – 0.88 percent). The result of this increase is that several properties are currently charging a total room tax of 13.38 percent along the Las Vegas Strip and the immediate surrounding areas.[14]

In Washoe County, room taxes are currently between 13.0 and 13.5 percent depending on the location of the property.[15]

In FY 2018, proceeds from the room tax dedicated to education were $180,468,823. A comparison of Las Vegas and Reno's room tax rates to other large cities, Table 1 displays selected urban centers and their related room tax rates as of 2017.

Table 1. Selected Urban Centers Total Lodging Tax Rate Ranking, 2017

Selected Urban Centers Total Lodging Tax Rate Ranking, 2017		
Place	**Total**	**Rank**
St. Louis, MO	17.93%	1
Chicago, IL	17.22%	12
Los Angeles, CA	15.50%	27
Nashville, TN	15.25%	32
New Orleans, LA	15.20%	35
Washington, DC	14.80%	49
New York, NY	14.75%	50
Reno, NV	13.50%	80
Las Vegas, NV	13.39%	84
Orlando, FL	12.50%	113
Note: The full table ranks the top 150 urban centers' lodging tax rates as of 2017. The current rate for Las Vegas and Reno is 13.38 and 13.5 percent, respectively.		

The information in Table 1 suggests that neither Las Vegas nor Reno's room tax rates are exceptionally high compared to other urban centers. Room taxes in Reno and Las Vegas rank 80th and 84th out of 150 urban areas, respectively, based on data obtained from HVS Convention, Sports, & Entertainment Facilities Consulting.[16]

Property Tax and Net Proceeds of Minerals

Property Tax

Property tax is defined generally as, "[a] compulsory charge levied by a governmental unit against the property of a person, natural or corporate."[17] The Nevada Department of Taxation supplies an operational definition for the State that attaches a purpose to the tax, which is budgetary support for local governments, such as school districts.[18] Put simply, it is the amount levied on the property's value. Constitutional and statutory requirements place certain limits on the establishment of property tax rates in Nevada. Property tax rates are "combined," which means that several funds comprise the total property tax rate in a given entity/tax district.[19] While local jurisdictions have some discretion in setting these rates, school districts' authority over rates is relatively circumscribed.

Pursuant to Nevada Revised Statutes (NRS) 387.195, 75 cents per $100 of assessed valuation of the combined property tax rate must be levied for school operating costs – this is referred to as the school tax operating rate.[20] School operating costs include salaries, benefits, professional/technical services, property services, and supplies.[21] The dedicated amount for the support of local public schools in the combined property tax rate is unvarying across tax districts within counties, the latter of which are coterminous with school districts. In other words, the school tax operating rate of 75 cents per $100 of assessed valuation is the same for every school district in Nevada, and it is levied on all property owners in the State.

One-third of the proceeds of the school tax operating rate, or 25 cents per $100 of assessed valuation, is "inside" the Nevada Plan, meaning that is a locally-generated revenue guaranteed by the State.[22] The remaining two-thirds, or 50 cents per $100 of assessed valuation, is "outside" local funding, the proceeds of which are not guaranteed by the State.[23]

Since the establishment of the Nevada Plan in 1967, there have been two major legislative changes to the property tax rate for the support of schools:

- In 1979, the property tax rate for the support of schools was reduced from $1.50 (70 cents mandatory; 80 cents optional) per $100 of assessed valuation to $0.50 per $100 of assessed valuation.[24]
- The "Tax Shift" of 1981 "changed the primary revenue source of local governments from the property tax to the sales and use tax."[25] In 1983, "the Legislature increase[d] the property tax rate by 25 cents (from 50 cents to 75 cents) and place[d] the extra 25 cents inside the Nevada Plan formula to offset State General Fund appropriations for K-12 public education."[26]

While other pieces of legislation have altered the structure of the property tax system over time, the school operating tax rate thus has remained static since 1983.

The county is the fiscal agent for property taxes in Nevada. Under the Nevada Plan, school districts receive the proceeds from the school tax operating rate of 75 cents per $100 of assessed valuation, which are distributed by the counties in which they are situated. In FY 2018, local (guaranteed) funding from the one-third portion of the proceeds from the 75-cent property tax rate amounted to $224,713,395.[27] Non-guaranteed local property tax revenue, or the two-thirds portion, totaled $453,047,451.[28]

When the Nevada Plan expires at the beginning of FY 2022, the "inside"/ "outside" distinction will be eliminated, and the distribution of property taxes will be affected. The proceeds from the entire school tax operating rate in each county will be remitted to the State Education Fund.[29] Were the State Education Fund established in FY 2018, property tax proceeds would have been deposited as a single revenue stream equal to the sum of "inside" and "outside" portions, or $677,760,846.

Net Proceeds of Minerals

The net proceeds of minerals tax is a tax on mining operations in which the minimum tax rate is two percent or the combined property tax rate where the operation is located.[30] The rate cannot exceed 5 percent, per the *Nevada Constitution*.[31] The tax rate is the ratio of net proceeds to gross yield, and it varies in accordance with net proceeds as a percentage of gross.[32]

In the current biennium, proceeds are distributed to local governments (principally counties, though school districts, as well), the State Bond Fund, and the General Fund, which "receive revenue equal to the amount derived from the application of the respective property tax rate where the mine is located."[33] County treasurers determine the apportionment to local governments based on a formula codified at NRS 362.170.[34] Senate Bill 543 adds a new subsection to NRS 362.170 to require that county treasurers remit the portion of the net proceeds of minerals tax that would have been allocated to their respective school districts, based on apportionment, to the State Treasurer for deposit in the State Education Fund.[35] This will be in effect in the upcoming biennium.

Net proceeds of minerals typically are included as part of property tax revenue in official State revenue and appropriations reports. While it is reported as a distinct tax revenue in the *Revenue Reference Manual* — which, in its most recent iteration (2019), specifies that the recipients are local governments (principally counties), school districts, the State Bond Interest and Redemption Fund, and the General Fund — amounts are not provided for school districts, specifically.[36] Total net proceeds of minerals statewide for FY 2018 amounted to $155,938,531.[37]

Proceeds from Forfeiture Account

The governing body of each law enforcement agency may sell forfeited property. Per NRS 179.1187, the proceeds of these sales can be used at the discretion of each agency with a few exceptions.

- The money must not be used to pay for the ordinary operations of the agency,
- Proceeds from property forfeited/obtained from controlled substance seizures must be used to support the enforcement of controlled substance statutes (activities under NRS 453),
- Proceeds from any property obtained that was intended to be used to unlawfully and intentionally hunt any big game animals must be used to enforce wildlife provisions (under title 45 of the NRS),
- Of the amount in the account holding proceeds of forfeited property, 70 percent in excess of $100,000 must be remitted to the State of Nevada to be placed in the State Education Fund

  - Formerly, these proceeds would be given to the local jurisdiction where the forfeiture occurred and would be considered a local revenue source that was "outside" the Nevada Plan.

Annually, each law enforcement agency must provide a report to the Nevada Office of the Attorney General documenting the amount of property forfeited, as well as the use of the proceeds. For the fiscal year ending June 30, 2018, law enforcement agencies reported $4,910,593 in forfeited property. In the same year, $1,004,450 was remitted to local school districts – all of which was received from law enforcement agencies in Clark County and thus accrued to the benefit Clark County School District.[38]

Because of the nature of this funding source, and the volatility expected from it (i.e., there is no way to predict the amount of forfeited property during a given year), it would be very difficult to predict future funding from this source, as well as estimate what a change in legislation would do to funding amounts.

Revenue from Lease of Federal Lands

Title 30 of the United States Code mandates that 50 percent of all federal land leased for mineral exploration and royalties shall be paid back to the state where the leased land is located.[39] In Nevada, NRS 328.450 specifies that an amount not to exceed $7 million must be provided to fund K-12 education and any excess funds must be placed in the "Account for Revenue from the Lease of Federal Lands."[40] This account, which is held by the Office of the Nevada State Treasurer, is then distributed as follows (based on NRS 328.460):

- 25 percent to the Distributive School Account
- 75 percent to the counties where minerals are extracted
  - 25 percent of this 75 percent must then be given to the local school districts in these counties.[41]

Beginning FY 2022, this will change. SB 543 continues to mandate an amount not to exceed $7 million to fund K-12 education and any excess placed in the "Account for Revenue from the Lease of Federal Lands." However, the allocation of this account is altered because the concept of "outside" local funding is being eliminated. Beginning July 1, 2021, the Account for Revenue from the Lease of Federal Lands will be distributed as follows:

- 43.75 percent to the State Education Fund
- 56.25 percent to the counties where minerals are extracted.

In the fiscal year ending June 30, 2018, $3,820,943 from federal mineral lease revenue was distributed to the DSA,[42] though the total amount received from the federal government was $5,352,679.[43] Ultimately, $1,531,736 was allocated to counties – resulting in approximately $382,900 qualifying to be given to individual school districts.

Because the underlying funding is calculated and provided by the federal government, changing the amount of federal receipts and remittances would require action at the federal level. The State of Nevada is able to reconsider the allocation of the total revenues received. Currently, Nevada does not receive the initial $7 million that is eligible to fund K-12 education. As a result, Nevada has split the funding that is received between K-12 education and the counties.

Local School Support Tax

The Local School Support Tax (LSST) is a retail sales tax imposed at a rate of 2.6 percent to provide revenue for K-12 education per Chapter 374 of the NRS.[44] It is one component of the minimum statewide sales (and use) tax rate that is imposed in all counties. Four separate tax rates comprise the statewide combined minimum sales tax rate of 6.85 percent. Table 2 itemizes these four taxes, their rates, and their recipients.[45]

Table 2. Components of the Statewide Combined Minimum Sales Tax Rate Required to Be Imposed in Each County

Components of the Statewide Combined Minimum Sales Tax Rate Required to Be Imposed in Each County		
Combined Statewide Sales and Use Tax Rate Component	**Tax Rate**	**Recipient of Revenue**
State Sales Tax	2.00 percent	State General Fund
Local School Support Tax (LSST)	2.60 percent	School Districts, State Distributive School Account
Basic City-County Relief Tax (BCCRT)	0.50 percent	Counties, cities, towns, and other local governmental entities
Supplemental City-County Relief Tax (SCCRT)	1.75 percent	Counties, cities, towns, and other local governmental entities
TOTAL	**6.85 percent**	**–**
Note: Distribution is for the current (2019-2021) biennium, and with respect to the LSST, refers to the Nevada Plan. Does not include any local optional sales tax rates that may also be imposed under NRS or special local acts.		

Pursuant to several statutory authorities, some counties impose optional sales taxes (i.e., local option sales and use taxes). This means that there is some county-wide variation in the combined sales tax rate. The rates, by county, range from those in which the statewide combined minimum sales tax rate of 6.85 percent is in effect (Esmeralda, Eureka, Humboldt, and Mineral Counties) to the statewide high of 8.375 percent, which is imposed in Clark County.[46]

In addition, out-of-state businesses with retail sales in Nevada are subject to the LSST at the same 2.6 percent rate.[47] However, this revenue is not attributed to a particular county, and its distribution under the Nevada Plan differs, which is discussed later in this sub-section.[48]

The LSST has been integral to K-12 funding in the State since the establishment of the Nevada Plan in 1967: the LSST was added to the sales and use tax at a rate of one percent to support districts and schools at that time.[49] The legislative finding and declaration, which remains in statute today, states that "…there is no other object of taxation, except retail sales, which is so generally distributed among the several school districts in proportion to their respective population and wealth as to be suitable for the imposition of a tax in each school district for the support of its local schools."[50]

The LSST's significance to K-12 funding was reinforced by a series of tax changes in the late 1970s and early 1980s:

- In 1979, the property tax rate for the support of schools was reduced from $1.50 per $100 of assessed valuation to $0.50 per $100 of assessed valuation, requiring an increase of General Fund appropriations to the DSA to offset the foregone property tax revenue, as well as the exemption of food for home consumption from the sales and use tax, which was approved by voters.[51]
- The LSST was increased from one percent to one point five (1.5) percent in 1981 to reduce the cost of K-12 public education to the General Fund.[52]
- The "Tax Shift" of 1981 "changed the primary revenue source of local governments from the property tax to the sales and use tax." To ensure that local governments–including school districts–were insulated from revenue instability that may accompany more variable taxes (such as sales and use) during downturns, in 1983, "the Legislature increase[d] the property tax rate by 25 cents (from 50 cents to 75 cents) and place[d] the extra 25 cents inside the Nevada Plan formula to offset State General Fund appropriations for K-12 public education."[53]

The LSST rate has increased three times since its implementation: the abovementioned 0.5 percentage-point increase in 1981; a 0.75 percentage-point increase from 1.5 percent to 2.25 percent in 1991; and a temporary increase from 2.25 percent to 2.6 percent in 2009–i.e., beginning in FY 2010–that was continued through the 77th (2013) Legislative Session before being made permanent during the 78th (2015) Legislative Session.[54]

Under the Nevada Plan, the in-state LSST is a locally-collected revenue that is guaranteed by the State (i.e., "inside" the Plan).[55] It is assessed on taxable in-state retail sales, where taxable may be understood as unless otherwise exempt.[56] (Exemptions include, but are not limited to, farm machinery and equipment, durable medical equipment, and food for human consumption.)[57] This portion of the LSST is computed as: taxable in-state retail sales multiplied by 2.6 percent (0.026). An additional 0.75 percent is imposed on the resulting amount for remittance to the General Fund as a collection charge.[58] The current distribution is as follows:

- The proceeds of the in-state LSST, net of the 0.75 percent collection charge, are "returned to the school district in the county where collected."[59] This means that 99.25 percent of in-state LSST proceeds is distributed to school districts, while the remainder is deposited in the State General Fund, unless—
- Pursuant to NRS 271A, the in-state LSST is collected in a Tourism Improvement District (TID), which generally may be understood as a specially designated district to support economic development and tourism.[60] When the LSST is imposed in a TID, an

additional 0.75 percent collection charge is levied on the proceeds detailed in the previous bullet for General Fund remittance.[61] The remaining proceeds are split, with 75 percent pledged to the TID and the rest returned to the district.[62] There are five existing TIDs for which these provisions are applicable.[63]

The out-of-state LSST is non-guaranteed revenue under the Nevada Plan, and, by definition, is not considered a local revenue source.[64] As it cannot be attributed to any specific county, given that it applies to out-of-state businesses with retail sales in the State, its distribution differs. The out-of-state LSST is deposited in the Distributive School Account, less the 0.75 collection commission that is remitted to the General Fund.[65] Note that its computation is the same as for the in-state LSST and that TIDs are not a factor.

When the Nevada Plan expires at the beginning of FY 2022, the "inside"/ "outside" distinction will be eliminated, and the distribution of the LSST will change. Proceeds from taxable in-state and out-of-state retail sales, net of their respective 0.75 General Fund collection charges, will be deposited in the State Education Fund.[66] For the LSST collected in a TID, the remaining amount after collection fees and allocation to the TID will be distributed to the State Education Fund.[b, 67]

In FY 2018, the in-state LSST amounted to about $1.3 billion ($1,313,956,683), net of the General F und collection charge and any distributions to TIDs; the revenue was allocated to the school districts in the counties in which it was collected.[68] The out-of-state LSST, less the collection commission, totaled $148,703,236, and was deposited in the Distributive School Account.[69] Were the State Education Fund established at that time, the LSST amount would have been deposited as a single revenue stream equal to the sum of the in-state LSST and out-of-state LSST, or approximately $1.5 billion ($1,462,659,919).

Recently, the Clark County Education Association (CCEA) filed an initiative petition[c] to increase the LSST from 2.6 percent to 4.1 percent in an effort to augment dedicated K-12 education revenue.[70] According to the Financial Impact statement prepared by the Fiscal Analysis Division of the Legislative Counsel Bureau, the 1.5 percentage-point increase would yield roughly $999.6 million in estimated additional revenue for school districts and the DSA in FY 2022.[71]

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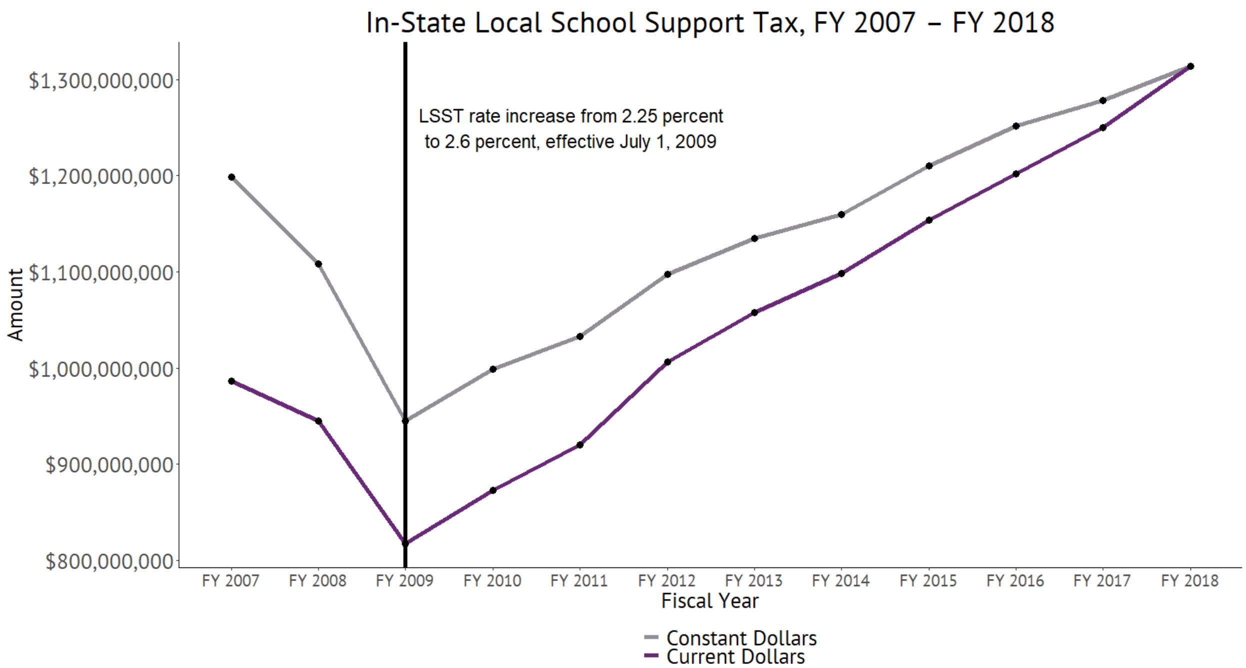
[b] NRS 360.850 and NRS 360.855 require that any amounts in excess of those pledged must be received by the State Controller for distribution in an order of priority. Under the Nevada Plan, the excess amounts first would be distributed to school districts, followed by the General Fund, and then other relevant funds. In the upcoming biennium, the excess money will be allocated first to State Education Fund and then the General Fund and other relevant funds. See: Nevada Revised Statutes. § 360.850. Available: https://www.leg.state.nv.us/NRS/NRS-360.html#NRS360Sec850; and Nevada Revised Statutes. § 360.855.
Available: https://www.leg.state.nv.us/NRS/NRS-360.html#NRS360Sec855.

[c] CCEA actually filed two initiative petitions – an increase to the LSST and an increase to the Gaming Percentage Fee. The LSST is included here because it is a dedicated revenue stream for education. The initiative petition for the Gaming Percentage Fee was not directed to increase education funding and is therefore not discussed here. For more information, see: https://new.ccea-nv.org/strategic-horizon-launch/.

To put the effects of a statutory adjustment to the LSST into perspective, Figure 2 displays the in-state portion over time, with the most recent legislative change–the FY 2010 increase from 2.25 percent to 2.6 percent–marked by the dotted line.[72]

The purple line shows actual dollar amounts, while the gray line are those dollar amounts adjusted for inflation. The graph indicates that actual in-state LSST (i.e., current dollars) has increased over time, with the dip in FY 2009 likely a function of the Great Recession. In inflation-adjusted terms (i.e., constant dollars), in-state LSST has outpaced inflation over time, which is at least partially attributable to the 0.35 percentage-point rate increase beginning in FY 2010. In real dollars, the FY 2018 in-state LSST is 9.6 percent higher than that in FY 2007.

Figure 2. In-State Local School Support Tax, FY 2007 – FY 2018



Marijuana Taxes and Fees

Medical marijuana was legalized in Nevada in 2001[73] and a ballot measure was approved in the November 8, 2016 General Election to legalize recreational marijuana – with legalization occurring on January 1, 2017.[74] With the legalization of both medical and recreational marijuana, several taxes and fees have been imposed with the general objective to benefit education.

Wholesale and Retail Taxes

Nevada taxes both the wholesale and retail sales of marijuana. While the wholesale tax applies to both medical and recreational marijuana, the retail tax applies only to the sale of recreational marijuana.

- 15 percent wholesale tax on the sale of marijuana from a cultivation facility to a medical or recreational marijuana establishment.[75]
- 10 percent retail tax on the sale of recreational marijuana from a marijuana retailer to a customer.[76]

The proceeds of the 15 percent wholesale tax are distributed so that $5 million is retained to pay for the regulation and taxation of marijuana, and the remainder is allocated to the Distributive School Account.

The proceeds of the 10 percent tax on retail sales of marijuana were previously assigned to the State of Nevada's Account to Stabilize the Operation of the State Government (e.g., the Rainy Day Fund), but beginning July 1, 2019, these proceeds were provided to the Distributive School Account to be allocated to school districts.

In fiscal year 2018, the wholesale taxes from the sale of marijuana was $32,518,741, with $27,518,741 going to the Distributive School Account. The retail tax proceeds on the sale of marijuana in FY 2018 were $42,489,202 – of which none went to education (they were placed in the State's Rainy Day fund). However, as noted previously, beginning on July 1, 2019, the retail tax on the sale of recreational marijuana is provided to fund education.[77]

Eleven states, plus the District of Columbia, have legalized the use of marijuana for recreational purposes.[78] Table 3 provides a summary of the taxes imposed on recreational marijuana in these 12 jurisdictions.[79] Comparing Nevada's tax rates to other states, the Silver State's wholesale marijuana tax rate places it near the top of all states levying such a tax, while the retail tax rate is on par with other s tates – if not slightly below average.

Similar to IP 1, whereby marijuana taxes are deposited in the State's Distributive School Account and combined with all guaranteed State sources for K-12 education, some believe that while the marijuana tax proceeds from wholesale taxes are distributed to education, they actually supplant General Fund dollars (i.e., they are "freed up" to be allocated elsewhere).[80] However, because the funding from the marijuana taxes is relatively minor compared to other sources, the change in General Fund contribution is less pronounced than the effect of IP 1 (refer to Figure 1 on page 4).

Table 3. Taxes on Recreational Marijuana

Taxes on Recreational Marijuana				
State	**Cultivator Tax**	**Wholesale Tax**	**Retail Tax**	**Other Taxes**
Alaska	• $50/ounce for flowers • $15/ounce for stems and leaves • $25/ounce for immature flowers/buds	–	–	–
California	• $9.65/ounce for flowers • $2.87/ounce for leaves • $1.35/ounce for fresh plant materials	–	15%	State retail sales tax applies (7.25% plus local taxes)
Colorado	–	15% of average market rate, sales to retail stores	15%	Local option retail tax up to 8%
District of Columbia	–	–	–	–
Illinois	–	7%	• 10% on marijuana with THC level of 35% or less • 20% on cannabis-infused products • 25% for marijuana with THC level above 35%	Local option tax up to 3%
Maine	• $335 per pound – flower • $94 per pound – trim • $1.50 per seedling • $0.35 per seed	–	10%	–
Massachusetts	–	–	10.75%	6.25% retail sales tax applies Local option excise tax of up to 3% is permitted
Michigan	–	–	10%	–
Nevada	–	15%	10%	Sales tax imposed 6.85% (plus local)
Oregon	–	–	17%	Local option sales tax up to 3%
Vermont	–	–	–	–
Washington	–	–	37%	6.5% retail sales tax (plus local tax)

Note: Per the Tax Foundation, "Vermont legalized the possession of marijuana in 2018 but did not create a legal market. D.C. also allows for possessing and growing of marijuana but does not allow for sales in a legal market." See: Janelle Cammenga. "How High Are Tax es on Recreational Marijuana in Your State?" Tax Foundation. April 24, 2019. Available: https://taxfoundation.org/2019-recreational-marijuana-taxes/.

Excess Revenue on Medical Marijuana Registration & Application Fees

In addition to the taxes on both wholesale and retail sales of marijuana, the State of Nevada collects medical marijuana application and registration fees. Those fees are detailed in Table 4.

Table 4. Medical Marijuana Registration & Application Fees

Activity	Fee
One-time, nonrefundable application fee	$ 5,000
For the initial issuance of a medical marijuana establishment registration certificate for a medical marijuana dispensary	30,000
For the renewal of a medical marijuana establishment registration certificate for a medical marijuana dispensary	5,000
For the initial issuance of a medical marijuana establishment registration certificate for a cultivation facility	3,000
For the renewal of a medical marijuana establishment registration certificate for a cultivation facility	1,000
For the initial issuance of a medical marijuana establishment registration certificate for a facility for the production of edible marijuana products or marijuana-infused	3,000
For the renewal of a medical marijuana establishment registration certificate for a facility for the production of edible marijuana products or marijuana-infused	1,000
For each person identified in an application for the initial issuance of a medical marijuana establishment agent registration card	75
For each person identified in an application for the renewal of a medical marijuana establishment agent registration card	75
For the initial issuance of a medical marijuana establishment registration certificate for an independent testing laboratory	5,000
For the renewal of a medical marijuana establishment registration certificate for an independent testing laboratory	3,000
Source: NRS 453A.344	

The proceeds from these fees are to be used to recover the costs incurred to regulate medical marijuana. Any excess proceeds above what is necessary to cover the costs of regulation are to be placed in the Distributive School Account (or, beginning July 1, 2021, the State Education Fund).

Total collections from medical marijuana application and registration fees in fiscal year 2018 were $11,671,035.[81] Unfortunately, it is unclear what amount was transferred (if any) to fund education. Based on the most recent Legislative Appropriations Report, only $27,518,741 was provided to education from marijuana sources (and this amount agrees to the wholesale marijuana taxes). This would suggest there were no excess proceeds from the application or registration of medical marijuana establishments.

Annual Slot Machine Tax

NRS 463.385 imposes an annual slot machine tax of $250 per machine. Only a portion of this tax is distributed to K-12 education, with the total collections allocated as follows:

- $5,000,000 of the tax in the Capital Construction Fund for Higher Education,
- 20 percent of the tax in the Special Capital Construction Fund for Higher Education, and
- The remainder of the tax in the State's Distributive School Account in the State's General Fund.[82]

The Annual Slot Machine Tax was created in 1967 through the adoption of Assembly Bill (AB) 174. At that time, all collections were provided to the Distributive School Account – meaning the entirety went to K-12 education. In 1971, AB 601 diverted $5 million to the Capital Construction Fund for higher education. Finally, in 1979, AB 63 enacted the current tax rate of $250 per slot machine and diverted another 20 percent of the total collections to the Special Capital Construction Fund for higher education. Minor revisions to the law have been made since 1979, but none of those altered the actual tax amount on slot machines or allocation of the tax collections.[d]

In FY 2018, the annual slot machine tax provided revenues of $41,662,619, of which $28,330,095, or roughly 68.0 percent, was remitted to the Distributive School Account.[83]

Governmental Services Tax

The Governmental Services Tax (GST) is paid annually by owners of motor vehicles as part of their vehicle registration. The tax is calculated on 35 percent of the manufacturer's suggested retail price (the taxable price of the vehicle). This taxable price is then multiplied by a depreciation factor, which is between 0.15 and 1.0 (depending on the age and type of vehicle). This provides the taxable value of the vehicle. The basic GST rate is applied to the taxable value at a rate of 4 cents on every dollar.

For vehicles that are one year old or older, the tax generated from 10 percent of the taxable value is to be distributed 75 percent to the State Highway Fund and 25 percent to the State's General Fund.[84] With few exceptions, the remaining revenues received from the GST are returned to the county where the vehicles are registered. A portion of the revenue is provided to school districts in the county of receipt, and the remaining funding is distributed to governments within the same county. The school district portion is based upon its FY 1981 operating tax rate and the higher of its

[d] While taxes are not generally increased based on inflation, it is interesting to note that $250 in 1979 is equivalent to $921 in 2019. For comparative purposes, we note that Nevada's levy is neither the highest, nor the lowest, of the taxes levied by the selected states. For example, as of 2017, Indiana's tax is $100 per gaming machine (racinos); Maryland's is $3 million for every 500 gaming machines; Massachusetts' is $600 per gaming machine; New Jersey's is $500 per gaming machine, New Mexico's is $25 per gaming machine, and New York's is $500 per gaming machine (racinos excluded. Source: American Gaming Association. 2018. "State of the States 2018: The AGA Survey of the Commercial Casino Industry." Available: https://www.americangaming.org/wp-content/uploads/2018/08/AGA-2018-State-of-the-States-Report_FINAL.pdf

FY 1979 debt rate or its current debt rate plus any rate for capital projects and its current assessed valuation.[85]

Effective beginning FY 2022, the portion of revenue that would be provided to local school districts will be placed in the State Education Fund to be allocated based on the new funding formula. However, the method to determine the amount to be placed in the State Education Fund will be the same as noted in the previous paragraph. Further analysis of what impact updating the legislation to a more recent operating tax or debt rate to determine the allocation of GST revenues would be beneficial, but outside the scope of this report due to the unavailability of data necessary to do such an analysis.

In FY 2018, school districts in Nevada received a total of $140,389,846 from the GST.[86] Data is not available to recalculate the GST in such a manner as to estimate the effect of a potential change in depreciation factors and/or changing the rate would have on education funding.

Franchise Fees

In Nevada, Boards of County Commissioners can grant a franchise to construct, maintain, and operate "street railways, electric light, heat and power lines, gas and water mains, telephone lines, and all necessary or proper appliances used in connection therewith."[87] Franchisees are required to make annual payments to the county in which they received the franchise, with a portion of these payments provided to local school districts. These payments trace their origin back to Section 7, chapter 168 from the Nevada Statutes, 1909.

Note that these are not franchises in the common business vernacular of a franchised restaurant, convenience store, hotel, etc. These business types are not included in this law and are not required to make the payments described in the preceding paragraph.

NRS 709.110, NRS 709.230, and NRS 709.270 require an annual payment by the franchisee of 2 percent of net profits to the county treasurer in the county of operation.[88] This 2 percent is then provided by the county to the local school district. Beginning July 1, 2021, this 2 percent payment will be paid to the State Treasurer and will be deposited in the State Education Fund. NRS 709.110 originated in the Nevada Statutes, 1909, with NRS 709.230 and 709.270 introduced in 1919. No significant changes have occurred since this time, meaning that this percentage has not been updated since the fees' inception in 1909 or 1919 (depending on the type and location of service).

In FY 2018, all school districts in Nevada received $5,572,025 from the 2 percent franchise fee payments.[89] A search of net profit calculations and county collections did not yield any data, making it difficult to project the impact a change in the 2 percent net profit franchise fee would have on K-12 education funding.

Conclusion

The State Education Fund and the Path Forward for K-12 Education Funding

Our analysis reveals that most of the dedicated K-12 funding sources are nominal in comparison to the General Fund contribution, the proceeds of the local school support tax (LSST), or property taxes. For example, the annual slot machine tax would be the 6th-largest dedicated K-12 education revenue stream placed in the State Education Fund, but when the General Fund contribution is included, it accounts for less than 1 percent of the total funding. The IP 1 portion of the room tax is the 3rd-largest dedicated revenue stream, but it is less than 5 percent of total K-12 education funding.

To summarize all the revenue streams explored in this report, as well as to contextualize how much money each contributes to the State Education Fund (replacing the Distributive School Account beginning on July 1, 2021), Figure 3 displays the FY 2018 proceeds from each of the distinct taxes and fees. While the State Education Fund is not yet in existence, the figure attempts to understand what amount would have been included for the most recent year data is available.

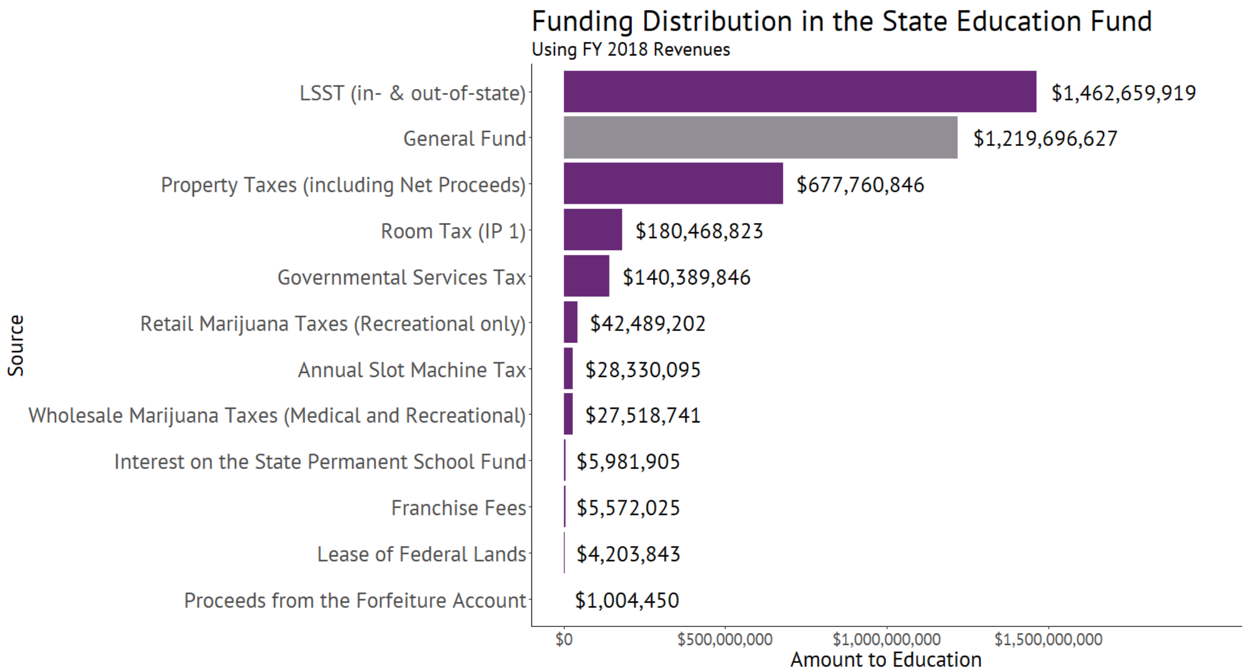
Excluding the General Fund contribution, the dedicated funding sources identified in SB 543, Sec. 2(2)(a)-(t), total $2,576,379,695. Including the General Fund contribution, the State Education Fund totals $3,796,076,322. LSST is the largest contributor to the State Education Fund, contributing approximately 39 percent of the total revenue. The General Fund contribution and property taxes are approximately 32 and 18 percent of the State Education Fund, respectively. All other dedicated revenue sources (from nine different streams) amount to approximately 11 percent of the total. Clearly, the State Education Fund will be reliant on three sources of revenue – LSST, the General Fund contribution, and property taxes.

This reliance on sales taxes (of which the LSST is part) and property taxes raises an even bigger issue in Nevada – how much reliance should the State place on either of these funding streams since both are significant contributors to total State funding as well?

When the State Education Fund is created as a special revenue fund in FY 2022, it will contain proceeds from both State and local revenue sources. But that will not diminish the significance of local funding to K-12 education in Nevada. Local revenue will remain the cornerstone of public elementary and secondary financing in the State, as Figure 3 indicates.

The LSST, which is the portion of the State sales tax reserved for the support of schools, typically supplies the largest dedicated share of total operating revenues, while property taxes are the second-largest contributor (this excludes the General Fund contribution, which is not a dedicated revenue source or single stream). Under the Nevada Plan, "the local share of public K-12 education revenue…has historically been one of the highest in the nation."[90] This is a consequence of the shift from property taxes to sales taxes as the primary source of revenue for K-12 education in the early 1980s (the "Tax Shift" of 1981). To examine this empirically, the Guinn Center ranked all states on two metrics, from highest to lowest: (1) local revenue as a share of total public education revenue; and (2) property tax revenue as a share of local revenue for education.[91]

Figure 3. Funding Sources and Amounts in the State Education Fund



Comparatively, Nevada is more dependent on local revenue sources to fund education than most other states. Nevada ranks ninth in the nation, meaning that the Silver State is one of the most dependent of all states on local revenues to finance elementary and secondary school education. Conversely, in terms of property tax revenue as a percentage of local revenue, Nevada's share was but 44.8 percent, for a ranking of 47th in the nation. Connecticut, which is ranked first, had a share of 97.6 percent. Thus, nationwide, Nevada is one of the least dependent states on property taxes as a source of local revenue. Taken together, this suggests that there is a disconnect between Nevada's reliance on local revenues to support K-12 education, and its dependence on the property tax as a source of that revenue. This is because Nevada relies heavily on the sales tax, which is a generally considered to be a regressive tax and is more prone to volatility based on economic conditions at the time.

Policy choices regarding dependence on particular sources of financing produce trade-offs that can be consequential in the long term. Property tax is viewed generally as the most stable of the revenue sources used to finance state and local governments, due to the immovable nature of property and the fixed supply of land.[92] Yet the property tax's asymmetrical nature can concentrate wealth and poverty that often translates into resource-rich versus resource-poor schools and districts. The sales tax is more volatile than the property tax, given its tendency to fluctuate with short- and long-term local and national economic conditions.[93] However, the sales tax, albeit not shielded from economic downturns, may produce more distributionally equitable outcomes, as Nevada legislators observed in 1967.

The Guinn Center is a 501(c)(3), nonpartisan, independent policy center that advances evidence-based policy solutions for Nevada through research, public engagement, and partnerships.

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