

Nevadans have a record of shooting down anti-tax measures. They did it in 1956, 1980 and 1984. But in the case of the Gibbons initiative, no one opposed it. In the 1984 case, which would also have required supermajorities to raise taxes, the then-Democratic governor and the state teachers' association put together a campaign against the measure, and it failed. But in the case of the Gibbons tax initiative, the teachers and the new Democratic governor didn't bother opposing it or campaigning against it, and it was approved. It lost 8 percentage points between first- and second-round voting, but that was not enough, and so, in 2019, it was hanging over the legislature.

A payroll tax set to expire was raised again by the 2019 legislature, but without the required supermajority. Democrats claimed that no such supermajority was required. This is how the Gibbons portion of the Nevada Constitution reads: "Except as otherwise provided in subsection 3, an affirmative vote of not fewer than two-thirds of the members elected to each house is necessary to pass a bill or joint resolution which creates, generates

or increases any public revenue in any form, including but not limited to taxes, fees, assessments and rates, or changes in the computation bases for taxes, fees, assessments and rates."

After this language went into the state constitution, the first time it came up in the Nevada Legislature was when Las Vegas leaders wanted a new pipeline from the Colorado River to feed growth. Unfortunately, representatives of other parts of the state were not interested in raising taxes to help Las Vegas grow, so the measure was amended to pay for the lowering of the railroad tracks and flood control in Reno.

There still was no certainty that the number of required votes were there, so they came up with another arrangement. Instead of the legislature raising taxes, it "enabled" local county commissions in Clark and Washoe counties to raise the taxes—and they would produce the supermajorities. It worked like a dream except that Gibbons' tax-cutting initiative had produced the unforeseen result of higher spending.

Anyway, the legislative staff lawyers, then and later, issued opinions saying

that such bills must always be voted on by a supermajority. But those lawyers can be flexible.

In 1975, after the legislative lawyer offended leading senators by ruling that the lieutenant governor could vote on any ties in the Senate, he was fired. His replacement then produced an opinion saying that lieutenant governors can vote only on lesser matters like ceremonial resolutions.

In 2019, the legislature's lawyer produced an opinion saying that fewer than two-thirds of the members of a house can raise revenues.

So the legislators voted for a higher payroll tax without the two-thirds vote. And Republicans have now gone to court to overturn the increase. As it happens, the additional funding is for schools and Sisolak says even if the courts rule against the Democrats, the funding will still be there. He has not explained how.

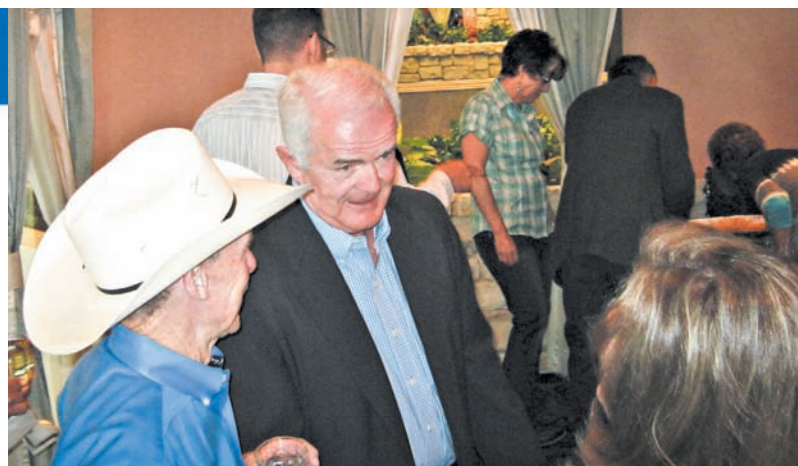
The Democrats never offered an explanation to the public of why it was

necessary to raise taxes in 2019 when taxes had been raised in 2003 and 2017, both times in the name of education—or why it was necessary to do it through the mechanism of raising an expired tax.

As Nevada Current noted, nine members of the 2019 Senate and eight members of the Assembly voted without major scrutiny in 2016 to raise room taxes to pay for \$700 million-plus in corporate welfare for the Oakland Raiders, and that Steve Sisolak—then a Clark County commissioner—supported that move.

Not everything has changed in government. □

Former governor Jim Gibbons may have dropped off the radar, but he dominated this year's legislature.



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