Getting Plucked in Nevada

How Government Covertly Increases Your Tax Burden

by Steven B. Miller

"[A] wise and frugal Government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned.

This is the sum of good government, and this is necessary to close the circle of our felicities."

—Thomas Jefferson
First Inaugural address.

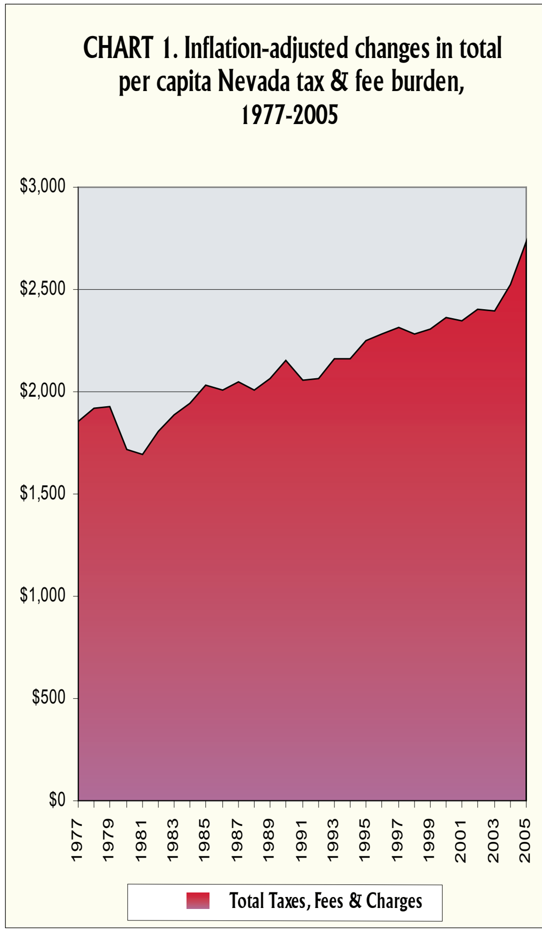
Introduction

You'd never know it from the incessant calls for new taxes on Nevadans, but Silver State residents already pay some of the highest taxes in the nation.

Recently the Tax Foundation in Washington, D.C., reported the percentage of income taken by local, state and federal taxes from individuals in different states.[1] Nevadans bore the fifth-highest burden in the nation, with only residents of Connecticut, New York, New Jersey and the District of Columbia paying more.[2]

Some of the explanation is relatively benign. When an economy does well, as Nevada's has, it produces a larger proportion of successful people who end up paying federal income taxes at the higher rates. In such a healthy economy, even average-income people pay more income taxes, because many more of them are working and earning. So all this helps skew Nevadans' federal share upward, raising the total reported burden.[3]

But that's only part of the story. Nevadans also carry substantially bigger tax burdens at *state and local* levels than the state's official figures – or the state's zealots for ever higher taxes – would have you believe.[4]



Data: U.S. Census Bureau

In the last generation, stealth tactics by Nevada's politicians and its government employee unions quietly drove up Nevada's state and local taxes by over 17 percent. In 1980, Nevadans' state and local tax burden as a percentage of income was 8.6 percent. By this year it had risen to 10.1 percent – an increase overall of 17.44 percent.[5]

The assault on Nevada taxpayers is unrelenting. In the 1980s and 1990s Nevada taxes – including the taxes called "fees" – grew at rates exceeding those in all other states. Then, in the first years of this new century, the increase of Nevada's per capita tax burden exceeded that of every state but one – New Jersey.[6]

So how does this data square with the conventional wisdom – that Nevada is one of the lowest-tax states in the entire country?[7]

First, it is true that Nevada remains one of the better states in terms of state and local taxes. Although the situation of taxpayers across the nation continues to deteriorate, Nevada's situation, though deteriorating, has not yet caught up to some of the worst states.

Second, the conventional wisdom, in many respects, is simply not accurate. Evaluating organizations (business magazines, for example) often believe they must defer to the self-protective labels that state and local politicians choose to place on revenue measures.[8] In virtually every state, for example, politicians prefer to designate revenue-raising measures as "fees," rather than taxes – when even traditional definitions would say those "fees" indeed *are* taxes. "Taxes" get voters' hackles up and cause re-election problems for politicians. "Fees," on the other hand, usually still get the benefit of the doubt from most voters. This particular ambiguity is one that Nevada politicians were some of the first to exploit and have continued to exploit for over a generation.

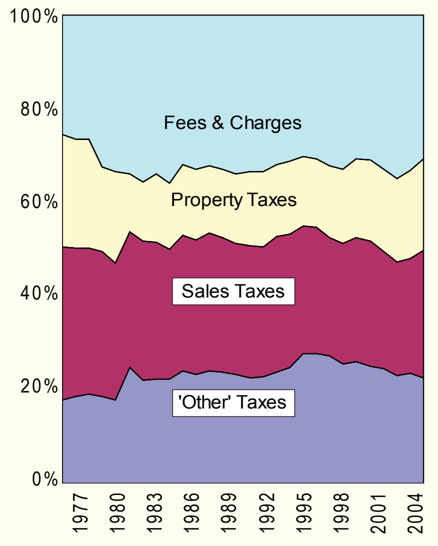
A third answer to the question lies with economic myths that Nevada politicians harness and encourage. These misconceptions – facilitated by the minimal economic knowledge of media professionals and the electorate at large – have great utility in the pursuit of bad public policy. They allow politicians to dodge voter retribution for law that advantages politicians' special-interest allies but otherwise *dis*advantages citizens in general. Certain government agencies also have a vested interest in these myths and also use taxpayer resources to foster them.

One such myth rampant in Nevada presumes that taxes on "business" somehow fall only on business owners – not on employees and their families, and not on individuals employed out in the wider state economy. The fact is, however, that a major difference exists between who *legally* bears responsibility for paying a tax and who ends up bearing its cumulative economic burden. And almost always the latter extends incalculably further out into the economy than merely the supposedly targeted businesses.

Because the extent of this latter impact – what certain schools of economists call the "incidence" of a tax – is ultimately infinite, organizations attempting to "quantify" state business climates usually end up taking the path of least resistance and adopting the bare-bones criteria inherent in statutory labels.

This issue of tax incidence highlights another myth that Nevada politicians have long cultivated. Time and again over the years they've assured voters that those latest tax increases imposed by the Legislature won't really be paid by Nevadans but instead primarily by out-of-state tourists. The implication is that this is "free money" for the state, there for the taking. The truth, of course, is that nothing is free.

CHART 2. Proportion of major taxes in total Nevada taxpayer burden, 1977-2004



Data: U.S. Census Bureau

First, all states play this tax-shifting game. Yes, some of the Silver State's hotel taxes, rental car taxes and other tourism-related taxes – after roughing-up those particular industries and their local trading partners here in Nevada – get "exported" back to the home states of tourists. However, the same ploy is being practiced in those other states. Alaska's hefty severance tax on local oil production, for example, means, in the view of the Tax Foundation, that, "the economic incidence of these taxes falls on individuals across the country when they fill up their gas tanks or heat their homes, not to mention employees of the companies and the companies' shareholders."[9]

Second, although conventional opinion has long asserted that Nevada taxpayers get to offload most of their taxes onto residents of other states, recent research disputes that opinion. Rather, it argues, the state is a net tax *importer* and in the normal course of events, we Nevadans actually end up shouldering a marginally *greater* sum of taxes payable to other states than we receive from them.[10]

What is the net result of all this tax-exporting artful dodgery? Simply that *everyone's* taxes, all around the country, keep going up, and the net deadweight loss to the larger community and economy grows ever larger. In essence, the "tax the out-of-state folks" ploy functions as a de facto conspiracy between different states' politicians: "We'll tax your folks and you tax ours and all of us in the political class will make out like bandits, gathering ever-greater tax loot with its commensurately greater personal power for us."

Though no such organized conspiracy exists (at least, as of last report), most people in government today share assumptions that produce the same effect. Central among those assumptions – and most problematic in the long run for American society at large – is one widespread premise: that virtually all human problems can be solved, or at least ameliorated, by new and improved applications of the state's legal monopoly on lethal force.[11]

I. The Tendency to See Taxpayers as Farm Animals

"The art of taxation," said Jean-Baptiste Colbert, the 17th Century French minister of finance, "consists in so plucking the goose as to get the most feathers with the least hissing."

It is an image intended to amuse, with its caricature of the angry taxpayer as a furiously protesting barnyard fowl, trapped under a farmer's arm.

Yet the image also speaks loudly in another respect. Like all art, this picture reveals something of those who first painted it and also those who, over the centuries, have most enjoyed it.

Note that, within this *bon mot*, only the tax-collector is seen as human, while those taxed are seen as mere farmyard waterfowl – creatures existing solely for the benefit of the farmer.

This expresses well the mindset of Colbert's time – one when most people were mere serfs, here on this planet, it was widely agreed, to be ruled by their divinely appointed local dukes and absolutist monarchs. This attitude, however, has always been intrinsic to ruling classes. It is part of the phenomena of the state itself, dating far back into the mists of history, when countries first arose out of conquest and plunder.[12] Evidence strongly suggests the first taxes were just the regularized tribute extorted by well-armed pillagers on horseback. Even today, the arrogance of the conqueror easily re-surfaces whenever political elites believe their power is secure and, so, can be indulged. It also shows up whenever government functionaries routinely perform monopoly "services" that citizens are effectively prevented by law from procuring in the voluntary, market sector. Classic examples are the DMV and state and local inspectors. Once again, we are all merely their vassals.[13]

The relevance of all this for Nevada is that Colbert's attitude that you are a goose is alive and well today in the Silver State – as is his solution regarding how to "pluck" the most "feathers." Although neither is appropriate to government of, by and for the people, Nevada's would-be ruling class shows its hand more and more, every year.

Its arrogance was perhaps most clearly exemplified recently during the 2003 Legislature by one of the state's reputedly highest-priced lobbyists. He was discovered outside the legislative building in Carson City, pummeling a young lawmaker in the chest forcefully with his forefinger. Furious that the lawmaker was not supporting the establishment's higher-taxes agenda, the red-faced, elegantly attired lobbyist was shouting, "We OWN you! We OWN you!"[14]

Le grand Colbert, marquis de Torcy, would have found such a déclassé confrontation much too unsavory. Instead, his strategy for reaping massively greater tax revenues to feed royal appetites was much more ingenious: Colbert shifted the French state's focus from *direct* taxation – where nobles, towns, corporations and provincial parliaments, by tradition, held longstanding exemptions – to new models of *indirect* taxation, from which few could escape.

Today, over four centuries later, Colbert's strategy of concealment penetrates deeper and deeper into the Silver State every year.

II. Nevada's accelerating tax burden

Tax Freedom Day is the day when Americans finally have earned enough money to pay off their total tax bill for the year. In Nevada, in 2007, it arrived on May 8th – a month later than for most Americans.[15]

Two years ago, the Tax Foundation estimated the state and local tax burden in Nevada at 9.5 percent, "well below the national average of 10.1 percent." Today, however, just two years later, a new Tax Foundation report on the same subject places Nevada precisely at 10.1 percent.[16] And, as noted earlier, in the last six years Nevada's state and local taxes have grown at a rate faster than those of any other state, save New Jersey.[17] Tax-consuming special interests in the Silver State have successfully stripped away much of the state's unique taxpayer-friendly heritage.

To understand *why* this is occurring, it may be instructive to examine what might be called the Michigan Precedent. Superficially, it would be difficult to find a state that seems more dissimilar to Nevada than Michigan. While the Silver State has long been growing at a breakneck pace, the Wolverine State regularly makes news for its shrinking economy and its faltering growth in income, population or employment.[18] While Nevada still clings to a national reputation for business-friendliness, Michigan is known in business circles for a hostile regulatory and labor-law climate, plus the highest effective business tax rate in the country[19] – which the current governor wants to make even higher.[20]

Despite these surface differences, however, just beneath the surface there are disturbing similarities. Most important is the dominating political power in each state of powerful coalitions of government-employee unions that are expert at using state government as a means for expanding their personal income and benefits at the expense of their fellow citizens.[21]

Michigan is farther down this destructive road than Nevada. But thanks to the artfulness of Nevada politicians, the Silver State is much farther down it than most Nevadans realize.

To examine this assertion, let's explore some particulars of the Silver State's hidden tax burdens.

III. Nevada's Subterranean Tax Universe

Lawmakers live their lives in a political nutcracker. On the one side are the powerful interest groups that always want more and thus secretly always want taxpayers forced to pay more.

On the other side are the taxpayers themselves, who usually resent being guests of honor at a permanent cannibal feast.

At election time, the interest groups can provide powerful assistance to a politician who furthers their agenda. But also at election time, a mass of angry taxpayers can quickly end the career of any pol who has become known as a reliable tool of the higher-tax crowd.

It's this dilemma facing re-election-seeking lawmakers that has made the Colbertian arts of tax concealment, over the years, their option of choice.

This report looks at three important areas where Colbert-style stealth strategies have been used to conceal significant increases in average Nevadans' tax burdens.[22] They are:

- The state's early-1980s "tax shift,"
- The state's "hidden income tax," and
- The state and local taxes called "fees."

The Tax Shaft

The "tax shift" passed by the 1981 Nevada Legislature and tinkered with by every subsequent legislative session is a classic case of politicians in flight from a highly unpopular and visible tax who take refuge in less visible taxes.

In the 1980 general election, as Nevadans voted for Ronald Reagan for president, they had also voted by over a 3-to-1 margin to add Proposition 6 – similar to California's Prop 13 – to the state constitution.

The background was increasingly ruinous property taxes throughout Nevada on real estate that had appreciated rapidly during the hyper-inflation of the 1970s.[23] Suddenly the state's political class was in panic mode and newly solicitous of Nevada's overburdened property-tax payers.[24] With the threat of a Nevada Prop 13 looming large, the establishment rushed forward to pledge, at last, real relief.

Of course, systemic reform to reduce taxes overall was never on the table. Instead, what was offered was a "tax shift," in the form of a reduction of Nevada property taxes, coupled with higher taxes in other quarters (presumably on tourists). This, voters were assured, would negate the need for anything as anathema as a Prop 13 in Nevada.

Thus, with much fanfare, the 1981 Nevada Legislature proceeded to cut property taxes around the state by an average of 47 percent – while increasing sales taxes 64 percent, gasoline taxes 90 percent and drivers' license fees 80 percent. It was, at the time, the largest collection of tax and fee increases ever enacted by a single session of a Nevada legislature. Yet, because the "tax shift" had brought immediate relief to property owners, an energized establishment was able to successfully defeat Proposition 6 at the 1982 November polls.

With the threat of a fundamental popular tax revolt now off the table, over the next 16 years Nevada state lawmakers and governors proceeded to continue raising taxes and fees, regularly justifying them by reference to the 1981 cut in property taxes. By 1998 sales taxes had been increased 85 percent, driver-license fees hiked 250 percent and gas taxes raised 290 percent.

In those years, "Nevada governors signed into law more tax and fee increases than the governors of any other state," noted Ralph Heller, the late Reno economist. That was not an easy record to set, he pointed out, because average state spending around the U.S. during the period was already increasing *four times faster than population growth*.[25]

Significantly, by the end of the 18-year period the state's entire justification for the tax increases had totally collapsed: Nevada property owners at the end of the period were paying higher property taxes than at the beginning.[26] However, now their burden also included all those *other* new taxes. Indeed, the tax "shift" had turned out to be – in a phrase nowadays regularly heard around the state – a tax "shaft."

The accelerating tax burden on Nevadans in the last six years is no anomaly – it is precisely in line with the less-visible accelerating tax and spending dynamic of the previous two decades.

Nevada's Hidden Income Tax

One of the primary ways that higher tax burdens on Nevadans get imposed is by calling them taxes on someone else. Thus higher sales taxes, room taxes and even gaming taxes are regularly, misleadingly, presented to Nevada voters as not really taxes on them but on out-of-state tourists.[27]

The dynamic here has many similarities to the well-known "Nigerian Letter Con." In that ruse, as most people know, scam artists prey on the greed of the gullible by promising them windfalls of free money in exchange for a bit of financial assistance getting the windfall to them – the cost of which grows and grows until the sadder but wiser mark is bankrupt or even dead.[28] In the version of the ruse practiced by Nevada politicians, voters are told they can enjoy lots of free goods and services by approving taxes on "*other* people,"[29] those tourists over there "behind the tree."[30]

The real targets of this ploy, however, are Nevada businesses – which means that virtually everyone employed in Nevada's private sector is also regularly, if covertly, targeted. Although even some business people believe that they simply can "pass the tax on" to customers, this is never true, correctly speaking.[31]

Instead, what actually happens is that the additional costs that the new tax constitutes for the business will come out of the elements that go into producing the firm's goods or services. Those elements are staff, office space and materials (including equipment) – or, in the dry language of economics, labor, land and capital equipment. Thus the business will remain afloat, if it does, by letting go some employees or not hiring others, the firm will move into smaller quarters or forego the planned move into larger offices, and the purchase of new equipment needed for business expansion will be postponed or foregone altogether. Thus, implicit in each tax "on business," are negative ripples that always spread silently throughout the economy, invisible to all but the entrepreneurs trying to keep their businesses – and the jobs of their employees – afloat.

The payroll tax passed by the Nevada Legislature in 2003 is a classic case of such a tax. Nominally it was imposed on businesses, but in actual, literal fact it was imposed on a single factor of production – employee wages – driving those costs significantly higher.

According to the plain language of the Nevada constitution, the tax is illegal. A constitutional amendment passed by Nevada voters in the mid-1980s clearly says, "No income tax shall be levied upon the wages or personal income of natural persons."[32] Notwithstanding those plain words, however, state lawmakers eager to get out of the second of two fractious mid-summer special sessions in Carson City proceeded to levy a direct tax on Nevadans' personal wages, as paid by their employers.

To conceal and confuse public understanding of its actions, Nevada's political class has regularly resorted to various varieties of misrepresentation: First, there has been studious, widespread evasion of the plain fact that the law did, indeed, impose a tax on Nevadans' incomes. Second, the tax on wages was officially christened an "excise tax on business," although in strict fact it is an excise tax on one business factor, namely employee wages.

Third, an official euphemism was quickly adopted throughout state government: "the modified business tax." In actuality, however, that term can be found nowhere in Nevada law.[33] Rather, in both statutory versions[34] of the tax it is correctly identified as "an excise tax" imposed on the wages paid to employees by employers. In one version, the name "payroll tax" is even used. Technically, of course, income taxes are classified as both excise[35] and payroll taxes.[36]

Impartial observers recognized what Nevada politicians had done. The year after the Nevada Legislature's 2003 tax-raising binge, the non-profit Washington, D.C., Tax Foundation's annual report on business tax climates in the states, noted that by adopting the payroll tax, Nevada had forfeited its top-level ranking.[37]

"While this tax is paid by businesses on their total payrolls," concluded Tax Foundation economists, "the tax effectively acts as an individual income tax."[38]

When an excise tax like the 2003 payroll tax is levied on wages within a state, everyone working in the state bears the burden. The tax exerts a pressure on them – and on job-creating entrepreneurs – to get out of personnel-heavy industries within that state, and the state itself, and enter other, nontaxed industries elsewhere. One could hardly conceive of a tax better designed to keep good, high-paying jobs – and the companies that offer them – out of the Silver State.

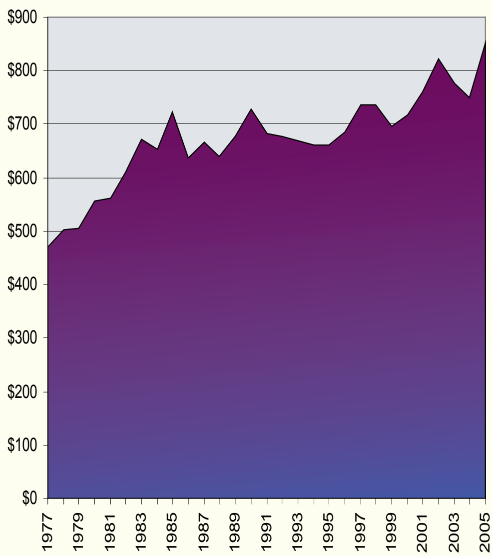
The Mystification of Fees

Members of the political class recognize that their ability to tax the rest of us, though empowering them, is prone to trigger voter backlash. Generally, therefore, discussion of the inherently predatory details of taxation is something they prefer to discourage.[39] A result is that, in matters of taxation, mystification and concealment habitually accompany the institution of government – and strongly tend to assimilate its functionaries.

Here in the Silver State, a cultural factor amplifies this tendency even further. Nevadans whose families have lived in the state for generations still see the state's original low-tax heritage as their birthright. New residents, for their part, generally believe that moving to Nevada will mean lower personal tax burdens. This produces a strong anti-tax consensus within the electorate – even though Nevada, in many respects, is far from the tax haven it once was.

State politicians and bureaucrats have been aware of this discrepancy – and sensitive to the populist anger latent within it. So even while still relentlessly expanding state and local spending at the behest of newly powerful government-employee unions, for at least a generation Nevada's government establishment

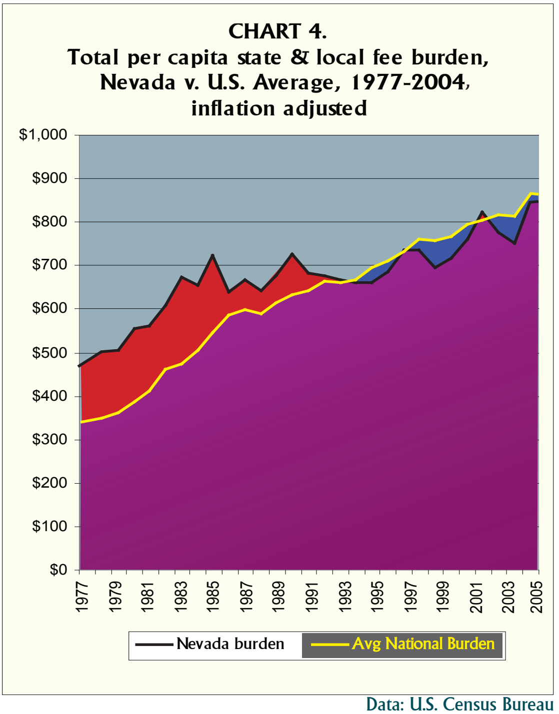
CHART 3. Nevada fees & charges per capita, inflation-adjusted, 1977-2005



Data: U.S. Census Bureau

danced carefully around the subject. Before abandoning its piecemeal and indirect approach in 2003, that establishment had, in the previous 20 years, produced a 42 percent increase in Nevadans' real-dollar state and local government tax burden.[40] It was a remarkable success for an agenda of concealed tax increases.

The trick lay with "fees."



Data: U.S. Census Bureau

Chart 4 compares 27 years of combined state and local tax and fee[41] burdens on Nevadans with those of other Americans. Note that the total burden on Nevadans for the first 10 years of this period substantially exceeded that on non-Nevadans.

Years 1977 through 1981 were the years when a Nevada version of California's Proposition 13 gathered steam and was almost passed. The chart tells why: Nevadans were, indeed, paying higher state and local government taxes than most Americans.

The 'Fee' Subterfuge

In government, it is conventional to distinguish *fees* from *taxes*. The former are said to finance specific government services, while the latter are said to fund "general" government.

Although widely familiar, this distinction is hollow. As proponents of government fees always emphasize, given the chance, the "services" funded by those fees are instituted by lawmakers in hopes of advancing the *general* good. The attempted distinction also fails on its other side: *All* taxes fund what are ultimately entirely *specific* government activities or "services." So the reality is that all the government "services" financed by either taxes or fees are both specific *and* general.[42]

Candor would admit what fees basically are – excise taxes that have been particularized down to the level of individual behavior. Although America's Declaration of Independence proclaims our rights to liberty and the pursuit of happiness are unalienable, American politicians increasingly over the last two centuries have made the exercise of many of those rights entirely conditional – the primary conditions being acquiescence to their rules and payments of more and more of the taxes called fees.

From a politician's viewpoint, fees are an ideal way to get money out of taxpayers. First, fees are levied in an over-the-counter fashion that keeps them out of the direct personal experience of most voters. Second, fees, in an almost devilishly indirect way, tax many more people than those who officially pay the fee and tax them without them even knowing.

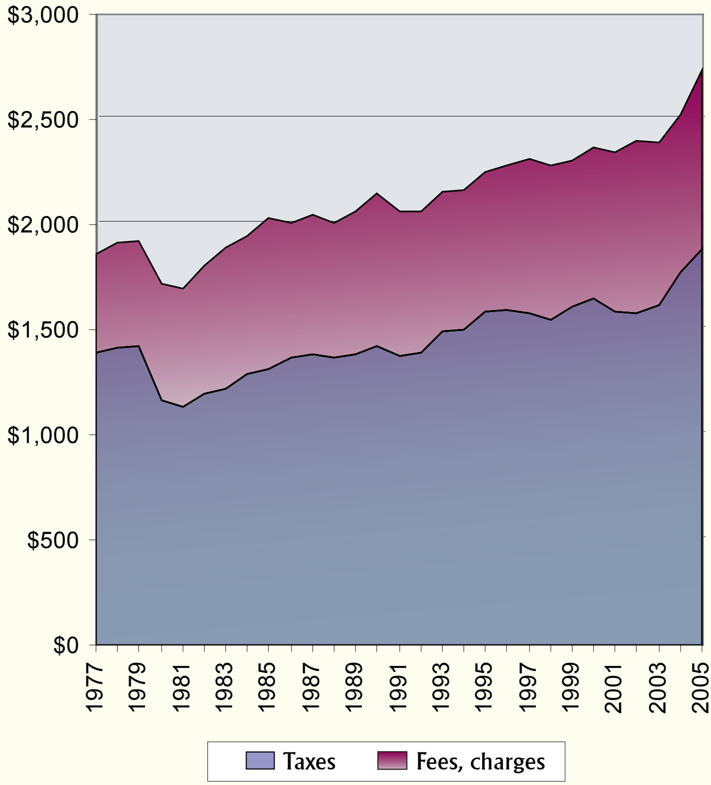
When a supermarket is built on the fast-growing periphery of Las Vegas, for example, the building and other fees charged to the commercial developer who builds it are ultimately paid by the market's customers. And those fees are not modest, as a look at the box on page 19 reveals. Whether it's a day-care school or a car wash or any other business, the story is the same: All become automatic vehicles for not only the transmission of the taxes that everyone knows about – property taxes, sales taxes, taxes on employees – but they also operate as hidden conveyor belts for hefty levies that escape the public view.

The amount of fees that go to support state and local government usually remains conveniently unreported and effectively invisible to Silver State voters. When we plumb data collected by the U.S. Census Bureau, however, Nevadans can be seen to have been paying significantly more on a per capita basis during the last generation than were most Americans.

This is where the wiliness of Nevada politicians is revealed. Over the 27 years following 1977, Nevadans not only paid their officially acknowledged tax burden, but also paid out, on average, ***another full 46.4 percent*** of that sum in additional fees and charges. (See, for example, Chart 2, page 5.)

By hiding such a huge proportion of government revenue under the heading of fees for so many years, the Silver State's political establishment was able to effectively mislead Nevadans about the true burden of state and local government.

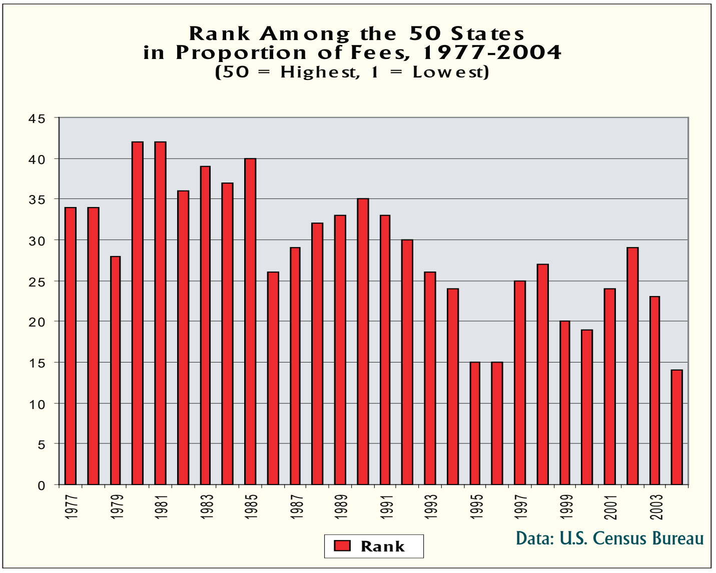
CHART 5. Inflation-adjusted changes in total per capita Nevada tax & fee burden, 1977-2005



Data: U.S. Census Bureau

CHART 6. Rank Among the 50 States

For years Nevada took a significantly higher proportion of revenue from taxpayers in the form of supposed "non-tax" charges and fees. Only in 1994 did Nevada drop below the average of all states (and then bounce above again).



One might expect that, during the late 1970s and early 1980s when this proportion was at the highest in the Silver State, it was because the total burden of fees and taxes on Nevadans was lower, and thus a "normal" increment of fees naturally made up a larger proportion. However, that was not the case. As Chart 4, page 16, reveals, the total burden at the time on Nevadans was, in fact, higher than the national average.

Exploiting public ignorance about fees and government's conventional distinction between fees and taxes, politicians could assure Nevadans that, "Yes, your 'taxes' are going to remain low," and "I, your elected representative, am not about to endanger Nevada's hallowed and long-standing low-tax heritage." All the most recent legislature had done, he or she could assure constituents, "was increase a few 'user fees,' for 'special services.'"

With this elegant dodge, Nevada politicians helped blaze a trail that spendaholic states around the country were soon traveling. But not until 1995 did the other states' citizens, on average, pay fees and charges in a proportion equal to or exceeding that of Silver State residents.

Today, at every level of government and in every state, politicians still cultivate a strange kind of voluntary schizophrenia and foster the notion that fees are something other than taxes.

The reason, clearly, has to do with the advantage, for

Schedule of Permits Fees, Charges and Exactions[43]
For a Single Family Home, Clark County, Nevada[44]

Taxes before development:

Real Property Transfer Taxes (paid before development and again at close of escrow). Revenues go to the state Low Income Housing Trust Fund, the Clark County School District, city and county governments and the State of Nevada general fund.

State of Nevada fees:

Subdivisions Review Tentative Map Fees, [45] Final Map Review Fees, [46] Stormwater General Permit Fees, [47] Water Quantity Permit Fees.[48]

Clark County fees:

Tax Certificate Fees,[49] Parcel Map Determination Fees,[50] Parcel Map Fees,[51] Parcel Map Submission Fees,[52] Subdivision Plan Check Fees,[53] System Development Charges,[54] Oversizing Charges and Inspection Fees,[55] Construction Water Permit Fees,[56] Water Charge fees,[57] Application Fees,[58] Meter Charges,[59] Facility Connection Fees,[60] Regional Connection Charges,[61] Oversizing Charges,[62] Automatic Meter Reader fees,[63] Inspection fees,[64] Building Permit Fees,[65] Building Plan-Review Fees,[66] Electrical Permit fees,[67] Electrical Plan-Review Fees,[68] Mechanical Permit fees,[69] Mechanical Plan-Review Fees,[70] Plumbing Permit fees,[71] Plumbing Plan-Review Fees,[72] Grading Permit fees.[73]

Notably, the "development services" websites of Clark and Washoe counties, the cities of Las Vegas, Henderson and Reno all explain in painstaking detail that virtually all fees are based on "construction valuation," or some other measure of the developer's or homeowner's capital expenditure – and not any itemized costs of the given "service" in question.[74] Nevada governments exploit their monopoly over compulsory and legally mandated "services," turning them into a direct, if covert, source of additional tax revenue.

politicians, of camouflaging the full burden they impose on taxpayers.

IV. The Engine Driving All This

All three cases this report has examined – the "tax shaft," Nevada's hidden income tax and the fakery around the taxes called "fees" – are symptoms of a single disorder: a significant imbalance in political power between those who wish to live off government and those who are required to pay the freight.

This phenomenon, being neither new nor restricted to the Silver State, has received much attention from economists.[75] The engine driving it is this simple fact: While a new government spending program will make an important financial difference to the relatively few individuals who will receive its largesse, the taxes for that particular program will usually be spread over a large population, so that to each individual taxpayer the additional increment of taxes is virtually invisible. Only in the aggregate and in the wake of *many* such programs do taxpayers begin to notice their cumulative burden. By then, however, the political constituencies at the trough will nearly always have a stranglehold on the political process.

Concentrated Benefits, Diffused Costs

Legislation that presumes the omnicompetence of government – despite the massive evidence and the personal experience of so many citizens to the contrary – regularly gains traction among politicians. The reason is the extra income the measure means for some faction of government rent-seekers and/or some group of government employees. Those concentrated benefits produce similarly concentrated lobbying operations making clear to lawmakers that "cooperation" will be rewarded, while opposition will be punished.

On the taxpayers' side of the issue, however, there rarely will be any comparable level of activity. Since costs of the legislation will be diffused across the entire spectrum of taxpayers, few citizens will find it cost-effective to invest time or energy in such a fight – or even pay much attention to the issue. Indeed, the disproportionate political power today of the higher-spending, higher-taxes crowd regularly leads some portion of Nevada's business community to *join* the higher-taxes campaign. "If we can feed some other industry to the government alligator first," goes the thinking, "maybe we can be the last ones eaten."

This, of course, only increases momentum for ever-expanding and inherently wasteful government. Because this pattern of incentives also operates all across the country, spending and taxation have accelerated far past the point that the country's Founders[76] would have ever considered prudent.[77]

Is Help on the Way?

Most Americans recognize that our current constitutionally ruptured political system increasingly spawns politicians who are entirely comfortable with a particular form of duplicity. While making a great public pretense of "looking out for the people" and "fighting the big special interests," they shovel taxpayer funds into the maw of the big special-interest groups that – in exchange for that plunder – virtually ensure the politician's re-election.

What allows this ruse is an institutionalized fog that has come to envelop virtually all measures of accountability at state and local levels and keeps voters essentially unaware of how their taxes are being used by those in government. This lack of transparency has become an art form for modern government in general and, specifically, here in Nevada.

From the standpoint of our republican form of government, this lack of transparency is quite destructive. As governmental transparency declines, voters – the nominal sovereigns in America – are denied their rightful opportunity to make informed decisions. Step by step, government of, by and for the people is quietly hijacked.

All is not dark, however. To the extent that this diagnosis is correct, it offers a highly promising avenue for reform. Although many public officials have a vested interest in the institutionalized fog that covers the critical details of the people's business, none can afford to publicly oppose the concept of a fully informed citizenry. And as the situation has grown more dire, with government increasingly out of control, so also has the recognition spread that citizens of both our federal republic and the states must have convenient access to the line-item spending details of our governments. Only then can the people themselves conduct oversight of their federal and state governments, independently of what the politicians and the bureaucrats prefer.

Passage last year of the bipartisan Coburn-Obama federal transparency legislation – officially, the Federal Funding Accountability and Transparency Act of 2006 – was a key harbinger of this new public priority. The bill simply directed that the federal government establish, in early 2009, a searchable, user-friendly website where citizens can come and learn specifically how their tax dollars are being spent. Although covertly fought by senior U.S. Senate pork-barons, public pressure forced them to back down. As a result, for the first time, detailed data on federal government grants and contracts will be open to the scrutiny of the citizens who pay for them.[78]

Subsequently, similar legislation has been enacted in multiple states, giving citizens access to line-item spending at the state's checkbook level. Lawmakers in Oklahoma, Texas, Missouri and Kansas, so far, have voted in favor of transparency and openness in government and to end the disempowerment of their own citizens.

The State of Nevada, too, should take steps to bring transparency and openness to the details of spending and taxation. This will entail not only spending transparency at the checkbook-level for the state executive, legislative and judicial branches, but also, ultimately, for all agencies and local governments that spend public money.

Elected officials often bemoan average citizens' lack of engagement vis-à-vis state governance, but the real source of this disengagement frequently lies within the behavior of government itself. State and local budgets that should answer citizens' questions too often appear written only to serve agency bureaucrats and political insiders – or, indeed, to actively discourage citizen understanding. It is imperative that Nevada embrace a new, citizen-friendly approach to government budget documentation.

Ultimately, authentic transparency in Nevada government will also require the state to move to priority- and performance-based budgeting. Representative government will not regain credibility until legislative and executive-branch priorities are explicitly defined, in a clear process, rather than being left, as at present, to the back-room machinations of a handful of crafty lawmakers. Similarly, government agencies – and the elected officials responsible to voters for them – must be made accountable for actually performing their missions and meeting explicit, tightly defined benchmarks.

"A popular Government, without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy; or, perhaps both. Knowledge will forever govern ignorance; and a people who mean to be their own governors must arm themselves with the power which knowledge gives."

—James Madison
1822

Endnotes

1 *Wall Street Journal*, June 11 2007, "Vital Signs", http://online.wsj.com/public/resources/documents/ER-AA015_STATPKG.pdf.

2 "Six out of the ten states with the heaviest tax burdens and the latest Tax Freedom Days are in the Northeast: Connecticut (May 20), New York (May 16), New Jersey (May 10), Vermont (May 09), Rhode Island (May 09), and Massachusetts (May 06). The other four are Nevada (May 08), California (May 07), Washington (May 06), and Minnesota (May 04). "America Celebrates Tax Freedom Day", http://www.taxfoundation.org/taxfreedomday/.

3 "Many of these states are taxed the heaviest and celebrate Tax Freedom Day later because of the progressive federal income tax. States with large metropolitan areas offer higher-paying jobs, and as a result, many of the citizens earn enough to pay income tax at the highest rates — currently 25%, 28%, 33% and 35%. As a result, they must work longer to pay their disproportionate share of the tax burden." "America Celebrates Tax Freedom Day". Ibid.

4 Given that the socialistic model has failed everywhere in the world, whenever attempted, it remains fundamentally remarkable that Nevada politicians and others so often reflexively presume that ever greater transfers of private earnings into the control of the state is the optimal method of "dealing" with any issue that attracts news media attention or elicits widespread compassion.

5 Tax Foundation Special Report, April 2007, No. 153, "State and Local Tax Burdens Hit 25-Year High", by Curtis S. Dubay, Page 4, http://www.taxfoundation.org/publications/show/22320.html

6 ATR Cost of Government Day Report for 2006, at http://www.atr.org/national/cogd/2006/cogdr2006pg1.htm.

7 According to the 2007 State Business Tax Climate Index prepared by the Tax Foundation in Washington, D.C., Nevada ranks number four in the nation for positive business climate. The primary reason for the high ranking, say Index authors Curtis Dubay and Chris Atkins, is that Nevada, like Wyoming and South Dakota, has not to this point imposed an explicit corporation tax or an individual income tax. See p. 5, http://www.taxfoundation.org/files/bp52.pdf. It should be noted, however, that the Tax Foundation has more than once noted that the 2003 payroll tax passed by the Nevada Legislature functions as a hidden income tax, and that the burden of state and local taxes on Nevadans is increasing significantly faster than those on other states' residents. According to an April 4, 2007 Tax Foundation report on Nevada, residents in 1999 faced a 9.3 percent burden on their income from state

and local taxes, but now, in 2007, confront a 10.1 percent burden — a burden increase over those eight years of 8.6 percent. In the same period, the average state and local burden across the country went from 10.5 percent of income to 11 percent — a burden increase of 4.8 percent. See “Nevada’s State and Local Tax Burden, 1970-2007”, at http://www.taxfoundation.org/taxdata/show/467.html.

8 The Tax Foundation itself operates under such a convention. However, because such government categories reflect neither the common understanding of the word *tax* or the economic impact of government’s taxing power, this paper follows the common understanding. See endnote 44, below.

9 Dubay, op. cit.

10 The Tax Foundation acknowledges that “Nevada, California and Florida collect the most from non-residents in hotel taxes, rental car taxes and other tourism-related taxes. Those tax payments are shifted back from these tourist destinations to the home states of the tourists.” But it goes on to list “how much of [its] tax burden each state either imports or exports based on the economic incidence analysis. A negative number means it exports its tax burden, like Alaska, and a positive number means it imports other states’ taxes, like Alabama.” Shown for Alaska is -61.17 percent, for Alabama 2.53 percent, and for Nevada 1.74 percent. Similarly, in 2004, the legal incidence of state and local taxes, per capita, was reported by the U.S. Census Bureau at $3,416.89 in Nevada. The economic incidence of such taxes in the state, however, was reported by the Tax Foundation at $3,453.57. http://www.taxfoundation.org/files/sr153.pdf.

11 Because the distinguishing attribute of government is its ability to compel citizens to obey its edicts on the threat of imprisonment enforced by police with the authority to use lethal force, any appeal to use government to “solve” or change a societal situation is, by necessity, an implicit call for state coercion.

12 “The Danes who regularly invited themselves into England, and remained as unwanted guests until paid off, called it Danegeld; for a long time that remained the basis of English property taxes. The conquering Romans introduced the idea that what they collected from subject peoples was merely just payment for maintaining ‘law and order.’ For a long time the Norman conquerors collected catch-as-catch-can tribute from the English, but when by natural processes an amalgam of the two peoples resulted in a nation, the collections were regularized in custom and law and were called taxes. It took centuries to obliterate the idea that these exactions served but to keep a privileged class in comfort and to finance their internecine wars; in fact, that purpose was never denied or obscured until constitutionalism diffused politi-

cal power." Frank Chodorov, "Taxation is Robbery", *Out of Step*, 1962, chapter 22. See excerpt at http://www.mises.org/story/2500. Sociologist Franz Oppenheimer made similar points: "The State, completely in its genesis, essentially and almost completely during the first stages of its existence, is a social institution, forced by a victorious group of men on a defeated group, with the sole purpose of regulating the dominion of the victorious group over the vanquished, and securing itself against revolt from within and attacks from abroad. Teleologically, this dominion had no other purpose than the economic exploitation of the vanquished by the victors." And, "No primitive state known to history originated in any other manner…. Wherever a reliable tradition reports otherwise, either it concerns the amalgamation of two fully developed primitive states into one body of more complete organisation; or else it is an adaptation to men of the fable of the sheep which made a bear their king in order to be protected against the wolf. But even in this latter case, the form and content of the State became precisely the same as in those states where nothing intervened, and which became immediately 'wolf states'." Franz Oppenheimer, *The State*, 1908, Germany; New York, 1975.

13 In his classic *Disquisition on Government*, the two-time Vice President of the United States, Secretary of War, Secretary of State and U.S. Senator from South Carolina John C. Calhoun argued cogently that the state's power of taxation, if not limited, leads inexorably to the establishment of two socio-political classes, namely, those who pay the taxes, and are progressively exploited, and those who get to levy and spend the taxes, and tend, from the very nature of man, and from "the violent party warfare which must ever precede a change of parties under such governments," toward ever-greater and more violent oppression and abuse of power. See *Disquisition on Government*, http://www.constitution.org/jcc/disq_gov.htm.

14 Personal eyewitness account from another lawmaker, relayed to the author.

15 The Tax Freedom Days of Nevada's neighboring states were: California, May 7th (ranked 7th); Oregon, April 24th (ranked 27th); Idaho, April 19th (ranked 41st); Utah, April 22nd (ranked 34th) and Arizona, April 24th (ranked 26th). See http://www.taxfoundation.org/taxfreedomday/.

16 The U.S. average state and local burden had, in those same two years, jumped to a 25-year high, of 11 percent. See "Nevada's State and Local Tax Burden, 1970-2007", http://www.taxfoundation.org/taxdata/show/467.html, and "State and Local Tax Burdens Hit 25-Year High", http://www.taxfoundation.org/publications/show/22320.html.

17 In 2001, the Nevada Legislature added $22 million in annual taxes that began in 2002. In the 2003 session, state lawmakers approved $386.8

million more in annual taxes beginning with the 2004 fiscal year, and another $386.8 million beginning with the 2005 fiscal year. In the 2005 session, the Legislature approved a temporary $7 million reduction in the state's new tax on employee wages. In total, therefore, from FY 2002 through FY 2007, new Nevada taxes — not counting fees and not counting the state's extra-legal imposition of a split-roll property tax on business — totaled $2.83 billion. Using a U.S. Census Bureau estimate of Nevada population at 2,414,807, the increase in the per capita Nevada state tax burden from 2002 to 2007, then, was $1,170 — exceeded only by New Jersey, which saw a per capita tax increase of $1,951.14. For the latter, and slightly different figures from the U.S. Census Bureau, see: ATR Cost of Government Day Report for 2006, at http://www.atr.org/national/cogd/2006/cogdr2006pg1.htm.

18 In 1950, Detroit's population was around 1,850,000. Today the latest census estimate for Detroit is 886,000, less than half as many.

19 Michigan's Single Business Tax, or SBT, gives the state an effective business tax rate of 15.08 percent, according to the Tax Foundation. See "2007 State Business Tax Climate Index", http://www.taxfoundation.org/files/bp52.pdf, footnote 13.

20 "MoveOnOutofMichigan.org", editorial, *Wall Street Journal*, March 9, 2007, at http://www.opinionjournal.com/editorial/feature.html?id=110009763.

21 The key insight here comes from the French economist Frederic Bastiat. "Government," he wrote, "is the great fiction through which everybody endeavors to live at the expense of everybody else." See his *Essay on Government*, 1848. http://bastiat.org/en/government.html.

22 Much could also be written about the many fictions that were used to facilitate the huge 2003 tax increases sought by then-Gov. Kenny Guinn and passed by the Nevada Legislature. However, 2003 was the culmination of an increasingly aggressive drive that had long been gathering steam below the surface of media and voter awareness. For more, see Steven B. Miller, "Nevada's Chronic Overspending and How to Deal With It", Nevada Policy Research Institute, January 2003, http://www.npri.org/taxstudies2003/index.html; Robert Schmidt and Charles F. Barr, "Nevada's Proposed 2003-2005 Budget: Review & Analysis," Citizens for Prosperity and Responsibility, http://www.npri.org/mgraphs/cpr.pdf; and Schmidt and Barr, "Nevada's 2003 Tax Increases: Underlying Assumptions and Resulting Impact," at http://www.npri.org/mgraphs/2003_Tax_Increase.pdf.

23 Real estate is widely recognized as a superior inflation hedge during periods of runaway inflation such as the late 1970s. Demand for real estate is also, however, regularly overstimulated by cheap interest rates reflecting excess liquidity from the U.S. Federal Reserve. While

both inflation itself and inflation-induced increases in property tax revenues constitute vast hidden and indirect government taxes on Nevadans and other Americans, they are beyond the scope of this paper.

24 A major source of the panic was no doubt a 1979 companion measure to Proposition 13 that California voters had added to that state's constitution in a 1979 special election — namely, Proposition 4* (Article XIII B of the California Constitution), also called the Gann Initiative, which installed a Taxpayer Bill of Rights-style ceiling on most spending from tax proceeds. See http://www.igs.berkeley.edu/library/htTaxSpendLimits2003.html#Topic3.

25 Ralph Heller, "The Bryan-Miller Legacy They'd Prefer You Forget," *Nevada Journal,* February 1999. At http://nj.npri.org/nj99/02/cover_story.htm.

26 Nevada's First District Court and the state Supreme Court in 2006 both found that for over two decades systemic and pronounced indifference to existing Nevada appraisal law had been the rule within the state's county assessor offices, the State Board of Equalization and the State Department of Taxation. For the District Court findings, see http://www.nevadapropertytaxrevolt.org/06/NV-DistCourt-060113.pdf; for the Supreme Court decision, see http://www.nevadapropertytaxrevolt.org/06/NV-SuprCourt-061228.pdf.

27 The issue here is one of *tax incidence*, which refers to the actual burden of taxation, as opposed to its immediate legal target. "Contrary to popular and even mainstream economics belief, no tax can be shifted forward. Even in the 'obvious' case of a general sales tax, it is not true that the retailers can 'pass on' the tax in the form of higher prices. (If they had this power, why wait for the tax?) They stay in business by shifting the tax backward to the [economic] factor owners. Thus all sales taxes are ultimately income taxes." Robert P. Murphy, Study Guide to Rothbard's *Power and Market*, http://www.mises.org/rothbard/pm/PM_4.PDF.

28 "If a victim agrees to send the money, the scam typically doesn't stop there. The official invites the victim to meet him or his associates, usually either in Nigeria or Europe, to complete the transaction. That's when the racket can turn ugly. The State Department links 15 killings or disappearances of Americans abroad to 419 fraud. Since 1995, at least eight other Americans who were lured to Nigeria have wound up being kidnapped or held against their will, according to the U.S. Embassy in Lagos, Nigeria." Mike Wendland, "Big money, big rip-off", *Detroit Free Press*, January 18, 2007. On the Web at http://www.freep.com/apps/pbcs.dll/article?AID=/20070118/NEWS09/70117049/1008.

29 See "Fiction: Most of Nevada's tax burden is paid by tourists", http://www.npri.org/issues/issues02/tourists_pay.htm.

30 “Don’t tax me, don’t tax thee, tax that guy behind the tree.” Attributed to Senator Everett Dirksen of Illinois, Republican leader in the U.S. Senate in the 1960s.

31 If the firm “Joe, Inc.” is able to raise its prices by the amount of the tax and sell exactly the same quantity of goods and/or services as before, everything else equal, it only means that Joe, Inc. was leaving significant profits on the table earlier by not raising the prices of those goods and/or services to the actual level of market demand. Even this case, however, is not one of “passing the tax on” to customers, but one of business error in the form of erroneous pricing. Only under totalitarian law when “customers” are legally compelled to buy a good or service can taxes truly be passed forward. Yet even here it is not business that is “passing the tax forward” but government, by abrogating market freedom. See the superior Austrian School discussion of tax incidence in Murray Rothbard’s *Power and Market: Government and the Economy*, Sheed Andrews and McMeel, Inc., and the Institute for Humane Studies, second edition, 1977, chapter four.

32 Article 10, Section 1, Subsection 9. The subsection continues, “Notwithstanding the foregoing provision, and except as otherwise provided in subsection 1 of this Section, taxes may be levied upon the income or revenue of any business in whatever form it may be conducted for profit in the State.”

33 Judging by the Nevada Legislature’s online law library of the Nevada Revised Statutes at http://www.leg.state.nv.us/.

34 NRS 363A.130, which imposed a 2 percent tax on bank employees’ wages and NRS 363B.110, which imposed a .63 percent tax on all other employee wages.

35 An anonymous author on Wikipedia writes that, “In the U.S. constitutional law sense, an excise is essentially an event tax (as opposed to a state of being tax). An example of a state of being tax is an ad valorem property tax… By contrast, excises are taxes on events. A realization of income (such as a receipt of wages) is an event. A sale is an event. A transfer of title by gift is an event. A transfer of title because of death is an event. Income taxes, sales taxes, and transfer taxes are all examples of event taxes.” Wikipedia, at http://en.wikipedia.org/wiki/Excise_tax.

36 “Payroll taxes are the state and federal taxes that you, as an employer, are required to withhold and/or to pay on behalf of your employees. You are required to withhold state and federal income taxes as well as social security and Medicare taxes from your employees’ wages. You are also required to pay a matching amount of social security and Medicare taxes for your employees and to pay State and Federal unemployment tax.” “What are Payroll Taxes?” Alllaw.com, http://www.

alllaw.com/articles/tax/article5.asp.

37 "The seven states without an individual income tax are, naturally, the highest scoring states on this sub-index. However, only South Dakota, Washington and Wyoming score a perfect 10.The other four states — Alaska, Florida, Texas and Nevada — each have small deviations that prevent them from achieving a perfect score. For example, Alaska, Florida and Texas all tax LLCs and S-corporations as traditional corporate entities rather than as individually owned businesses."

38 *State Business Tax Climate Index*, Number 45, Tax Foundation, October 2004.

39 The sore point that politicians are most anxious to avoid is their institutionalized ability to advance their own careers (i.e., political power and personal wealth) by collaborating with special interests that receive the moneys taken from taxpayers. See especially the discussion, "Concentrated Benefits, Diffused Costs," on page 20.

40 In real, or inflation-adjusted, dollars in 1981, the average per capita state and local burden of taxes and "fees" or charges in Nevada was $1,696. In 2002, in inflation-adjusted dollars, it was $2,401 — an increase of over 41 percent.

41 In the ensuing discussion, the word *fees* will usually be a short-hand term for all user fees, charges and exactions.

42 The first definition in the American Heritage Dictionary for the word *tax* is: "A contribution for the support of a government required of persons, groups, or businesses within the domain of that government." This definition covers the two most pertinent characteristics of fees, that they are 1) compulsory transfers of wealth, that 2) go for the support of government. Also, note that the analysis of excise taxes *supra*, at 35, necessarily classifies government-levied fees as excise taxes, since government routinely levies them on all manner of human *events* — such as marriage, remodeling one's home or opening or conducting a business.

43 According to *Webster's New Universal Unabridged Dictionary,* 1983 edition, "exaction" comes from the Latin root *exactio*, for tax or tribute.

44 Information in the table comes from the Southern Nevada Homebuilders Association, as of 2006, and from an author-conducted survey of Southern Nevada government websites.

45-47 Nevada Division of Environmental Protection

48 Nevada Division of Water Resources

49 Clark County Treasurer's Office

50-52 Clark County Recorder's Office

53 Clark County Health District

54-55 Clark County Sanitation Department

56-64 Las Vegas Valley Water District

65-73 Clark County Department of Development Services

74 For example, as of January 2007, for anyone seeking to build a single family dwelling within the Las Vegas city limits, "the building permit fee for the first $100,000.00 of valuation is $561.00 plus $3.10 for each additional $1,000.00 valuation or fraction thereof." (City of Las Vegas "Development Services Center" website).

75 See especially Mancur Olson, *The Rise and Decline of Nations*, 1982. Olson observed that in any human society parochial cartels and lobbies tend to accumulate over time until they sap their nation's economic vitality. In his 1982 book *The Rise and Decline of Nations*, he outlined the problem. Interest groups promote monopolies, special protections and subsidies that directly benefit their members. As these economic distortions accumulate, resources increasingly flow to a specialized provider class that knows how to work the system and extend it. Wealth redistribution pushes aside wealth creation and economic decline sets in.

76 The authors of the original federal constitution were well acquainted with this chronic problem of human government from their knowledge of European and classic history. They chiefly sought to deal with it by strictly defining and limiting the powers of Congress. However, as constitutional scholar Randy Barnett has written, since the New Deal, courts no longer are faithful to the Constitution that resides under glass in Washington, a Constitution that created islands of government powers in a sea of liberty. Instead, they follow one so "judicially redacted" that it creates islands or liberty rights in a sea of governmental powers. See Barnett, *Restoring the Lost Constitution: The Presumption of Liberty*, Princeton University Press, Princeton and Oxford, 2004, p. 1.

77 According to Nobel Prize economist James M. Buchanan, multiple economists have sought to produce estimates of the optimal size of government and "they come out with figures like government spending at 15% of GDP. In the modern world it has gone to 40% or above. So we are way beyond the optimal…" See "Interview with James Buchanan, 1986 Nobel prize winner in economics," the Frontier Centre for Public Policy, http://www.fcpp.org/main/publication_detail.php?PubID=236

78 See "A Little Sunshine for Nevada," Nevada Policy Research Institute, Steven Miller, http://www.npri.org/issues/issues07/ib_071307.htm.

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