Nevada Policy Research Institute
analysis

The Path to Sustainable Prosperity

Removing the obstacles facing Nevada's entrepreneurs

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Foreword by William P. Weidner

Executive Summary

Nevadans crave economic recovery. The Great Recession has affected no state worse than Nevada. For nearly five years its unemployment rates have been in double digits, while it has consistently suffered from the nation's highest rates of home foreclosure and personal bankruptcy. The state's historically rapid population growth has ground to a near-halt as fewer people today see Nevada as their land of opportunity.

Evidence of recession is pervasive. Tarps on the Las Vegas Strip today cover what were once symbols of Nevada's seemingly endless prosperity. Now they no longer symbolize success, but failure.

Few observers have correctly diagnosed the causes of this failure. Too many have assumed that the suffering of Nevada's citizens resulted from an unregulated market run amuck with too little oversight or control from government officials. This narrative has prompted Nevada's leaders to call for *more* government control over the marketplace. Now, Nevadans are told that *politicians* will take responsibility for creating tens of thousands of new jobs and that the industrial path of the future will be meticulously planned out by studious government bureaucrats.

This prescription springs from a misdiagnosis of Nevada's ills and will only exacerbate the troubles of its citizens. The true causes of the Great Recession are a series of government policy failings in the monetary and regulatory spheres that created perverse incentives within the marketplace and biased investment and purchasing decisions in detrimental ways.

The path to economic recovery, then, lies not in granting even more control to political entities. Economic progress has always resulted from the free exercise of individual initiative and private enterprise.

Despite a public meme that Nevada is a business-friendly state, this report demonstrates how Nevada is actually among the states most hostile to entrepreneurship. While per-capita tax levels are near the national median, the state suffers from some of the nation's harshest licensing and filing requirements, labor-market strictures and regulatory frameworks.

This report details each of the steps through which entrepreneurs must pass when attempting to establish a new business — and how these artificial barriers to entrepreneurship accumulate to discourage small-business growth.

Nevada could become more business-friendly by eliminating state business subsidies, reducing or eliminating state and local licensing fees and filing requirements, easing restrictions on labor and streamlining the state's regulatory structure.

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Foreword

Entrepreneurship is a quintessentially human trait. In a broad sense, all humans behave entrepreneurially. It is an instinctive characteristic, imprinted upon our DNA.

We all are constrained by limited resources. We all face an uncertain future. And we all seek to produce for ourselves the greatest possible happiness given the limited resources at our disposal. We experiment and we learn by trial and error. When we see that our efforts have produced a desired result, we continue those efforts; when they do not, we change our approach.

Whether mankind evolved from the primordial ooze or was placed on Earth by a purposeful Creator, man's survival has always depended on his ability to apply his intellect and physical labor to the materials around him in order to produce the things he needs.

But, being constrained by a finite supply of materials and limited time, man has always needed to structure his efforts in ways that would maximize his return on those efforts. It wasn't long before individual humans realized they could each experience a much fuller life through social cooperation.

We learned that we could optimize our efforts by specializing in particular trades and these innovations led to surpluses that could be traded with others who created their own specialized surpluses. We learned that a price system would coordinate these dispersed, specialized actions of autonomous individuals and convey information to everyone about the hierarchy of human needs.

The human trait of acting entrepreneurially is not limited to the extraordinarily successful few. It is ubiquitous in human society.

Too often, today's popular culture overlooks the quintessentially human nature of entrepreneurship. Instead, it teaches us to think about business as something operating within a complex algorithm, built upon data and spreadsheets and cold calculations all pointing toward a profit-maximizing array of investment decisions and employment practices.

We're taught to imagine that business is the design of dispassionate corporate executives, disconnected from the experience of the common man, deploying the latest supercomputer technology to arrive at computational constructs that, all together, constitute a machine we call "the economy." We are implicitly taught that we are all cogs in this massive machine and that our place in life will largely be determined by the latest shift in some macro indicator.

But this isn't really how the world works. What we call "the economy" is really just an abstraction: a mathematical aggregation of the transactional interrelationships that we all have as individuals. That simple abstraction represents literally billions of activities of millions of people that cannot possibly be managed by any central authority. Almost all of these transactions are the purposeful decisions of humans making rational judgments about actions taken today that relate to an uncertain outcome in an unknowable future.

Everyone acts in his own interest and also cooperates with others to get the things he wants. Some produce their own goods or launch their own firms to trade directly on the market. Others work within a structured organization to boost their status and income to a desired level — Gifford Pinchot referred to these actors as "intrapreneurs." Still others pursue their interests through political means, seeking to wield the power of government to their own benefit. Whether any of these actors are motivated to financially enrich themselves or by an altruistic desire to benefit others, they all work to fulfill individually conceived personal goals.

Policymakers looking to promote sustainable economic prosperity must learn to distinguish from

among these groups and differentiate between positive, productive entrepreneurial activity and negative, potentially counter-productive activity. When actors in the public sector attempt to use government's power to bring about what they consider to be an optimal result — whether on behalf of a voting constituency or their own sense of fairness — they create money streams for various redistribution-oriented factions. Special-interest groups and rent-seeking corporatists line up to benefit from this largesse as their entrepreneurial thinking turns from productive, external activities to internal optimization seeking. When necessary, these groups form coalitions and finance political operations intended to build support for their redistributionist schemes.

Our nation's founders devoted a great deal of thought to the dangers of "factions" and how to protect individual rights from being eroded by democratic political activities. Big business is reasonably well prepared to defend against regulatory pressures and other schemes propagated by government actors. In fact, big businesses are often able to manipulate the political system in order to procure regulatory regimes that strengthen their competitive position, to receive guaranteed revenues through government contracting or to otherwise benefit from special privilege.

Centralized actions designed to produce a bureaucratic conception of "economic diversification" will never build a solid foundation for sustainable economic growth.

Small-to-medium sized or start-up firms, however, generally lack the resources to defend against intrusive regulations, promote regulations favorable to them, or qualify for the same subsidies and special treatment as their larger competitors. But these embryonic firms are often the most innovative and dynamic when it comes to providing value within the marketplace — even if they carry less influence in government corridors.

I doubt that Bill Gates or Steven Jobs, while in their teens and early twenties, running around COMDEX in T-shirts and jeans with soldering guns in their pockets, knew they were destined to become great entrepreneurs. Nor did James Monroe Smucker selling his homemade apple butter off the back of his wagon. Nor did Ray Krock selling multi-mixers to the McDonald brothers. Yet, each of these leaders offered innovative ideas that others valued. It would have been tragic if some regulatory framework or licensing requirement had deterred one of these men from pursuing his entrepreneurial ambitions. Tragically, though, I've witnessed the frustrations of aspiring entrepreneurs — discouraged by some well-intentioned government regulation — hesitate or decide not to bring to market some innovative new solution for society's many challenges.

These are the observations I have made in my 40-plus years in business and, for the past 15 years, as a Nevada entrepreneur. The overriding lesson I have gleaned from these observations is that a thriving economy depends on successful private entrepreneurship.

Any viable plan for improvement in our society's economic condition must hinge on the exercise of entrepreneurship. It must illuminate how productive private entrepreneurship can be encouraged and it must identify policies that impede entrepreneurship and discourage its practitioners — particularly at the entry level. Barriers to entrepreneurship must be mitigated, and government attempts to encourage entrepreneurship must not supplant private individual initiative, as chaotic as it may seem, with the top-down judgments of bureaucratic planners.

That's why I'm so pleased to present Nevadans with this vision for economic development in our state. Geoffrey Lawrence clearly outlines the unintended consequences of the acts of those outside of Nevada that caused the economic collapse and then articulates the various factors that influence the exercise of entrepreneurship and how that exercise might be improved in the Silver State to assure a more sustainable economic future. This vision highlights policies put in place at the state and local government levels that unnecessarily complicate the task of entrepreneurship, especially for those budding entrepreneurs with modest means at their disposal. It lays out a plan to help policymakers understand how their actions impact private entrepreneurs and outlines a strategy to place Nevada on a solid path to prosperity.

As a member of Nevada's recently created Board of Economic Development, it was my hope that we could produce a vision similar to the one presented here. The plan that was ultimately adopted by the Board, however, did not adequately emphasize the critical role of private entrepreneurship and outline a clear vision for how to facilitate its free exercise. It was my belief that we needed an objective analysis of what really caused Nevada's economic collapse and a roadmap for building a sustainable economic future — exactly what has been produced here.

We must recognize that centralized actions designed to produce a bureaucratic conception of "economic diversification" will never build a solid foundation for sustainable economic growth. Nevada has recently witnessed the illusory boom and subsequent bust that resulted from the top-down efforts of government actors to stimulate their desired results. Only an economy that is organically constructed from the bottom-up actions of private entrepreneurs, responding to the price signals in the marketplace, is capable of delivering sustainable growth. True "economic diversification" will only be achieved by encouraging entrepreneurial activity to flourish vertically, horizontally and ubiquitously.

We all want Nevada to return to the prosperity that it once knew. It is my sincere hope that Nevada's leaders will be successful in spurring economic growth and new job creation regardless of which vision for economic development they put into action. My experience as a Nevada entrepreneur and job-creator, however, has convinced me that the vision presented here is a more flexible, sustainable alternative to assure Nevada's economic future.

William P. Weidner
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Former President and COO, Las Vegas Sands Corp.

Anatomy of a Crisis

Not a day goes by in Nevada that its citizens aren't reminded of the impact of economic recession.

Nevadans today speak wistfully about the days of plenty. Between 1997 and 2006 the state experienced tremendous growth. Over those 10 years, the state's economic output — as measured by its private-sector gross domestic product — more than doubled, growing from $52.5 billion to $112.6 billion. In the decade prior to that, the state's private-sector GDP more than doubled as well, growing from $19.2 billion in 1987 to $48.7 billion by 1996. The same could be said for the decade between 1977 and 1986, when the figure grew from $6.4 billion to $17.2 billion, or the decade between 1967 and 1976, when it grew from $1.9 billion to $5.3 billion. Indeed, for more than 40 years, Nevadans had grown used to seeing the size of their economy double or nearly triple with each passing decade.[1]

Federal authorities were continually manipulating capital markets with an eye toward promoting both home ownership and commercial development nationwide.

At the center of this boom was a highly profitable tourism industry. Nevada's hotels and casinos became so profitable that they began not only to build additional hotel and gaming capacity, but they also expanded into related industries, including luxury restaurants, night clubs and retail trade. With every new expansion came the need for additional workers to staff these establishments.

This rising demand for labor quickly outpaced Nevada's native labor pool, driving up wages. Seeking out these higher wages, workers began relocating to Nevada from other states. Population growth exploded, particularly in the Las Vegas Valley.

But population growth brought additional needs. The new residents would need housing, grocery stores, schools, gas stations, pharmacies, movie theaters and every other amenity to which Americans are accustomed.

So Nevada continued to build. As more workers were drawn into the state to staff its lucrative and growing tourism industry and as the demand for additional infrastructure rose, skilled tradesmen were lured out of other trades and other states to work in Nevada's booming construction industry. This influx of construction workers created even more demand for new development — growth began to fuel itself.

Soon, Nevada's new, *de facto* economic growth model had become dependent on ever-new growth. It implied a perpetual need for new construction and an increasing need for new construction workers.

In 1970, total annual earnings for the Las Vegas construction industry topped $100 million for the first time. A decade later, that figure was pushing $500 million. By 1990, total earnings for Las Vegas construction were $1.4 billion. That figure grew to $3.9 billion by 2000. For the years 2006, 2007 and 2008, the industry topped $7 billion annually.[2]

The significance of this industry as an employer grew proportionately. By 2006, more than one in 10 Las Vegas jobs was in construction. Two decades earlier, only one in 16 Las Vegas jobs had been in construction. Contrast this boom with the historic trend nationwide: Construction jobs have remained basically steady in recent decades, accounting for about one in 20 employed workers.[3]

Nevada was building and building fast.

Land constraints

This development boom was not only driven by population growth, however. Market distortions created by federal authorities were exerting a powerful impact on both the supply and demand sides of the real estate market.

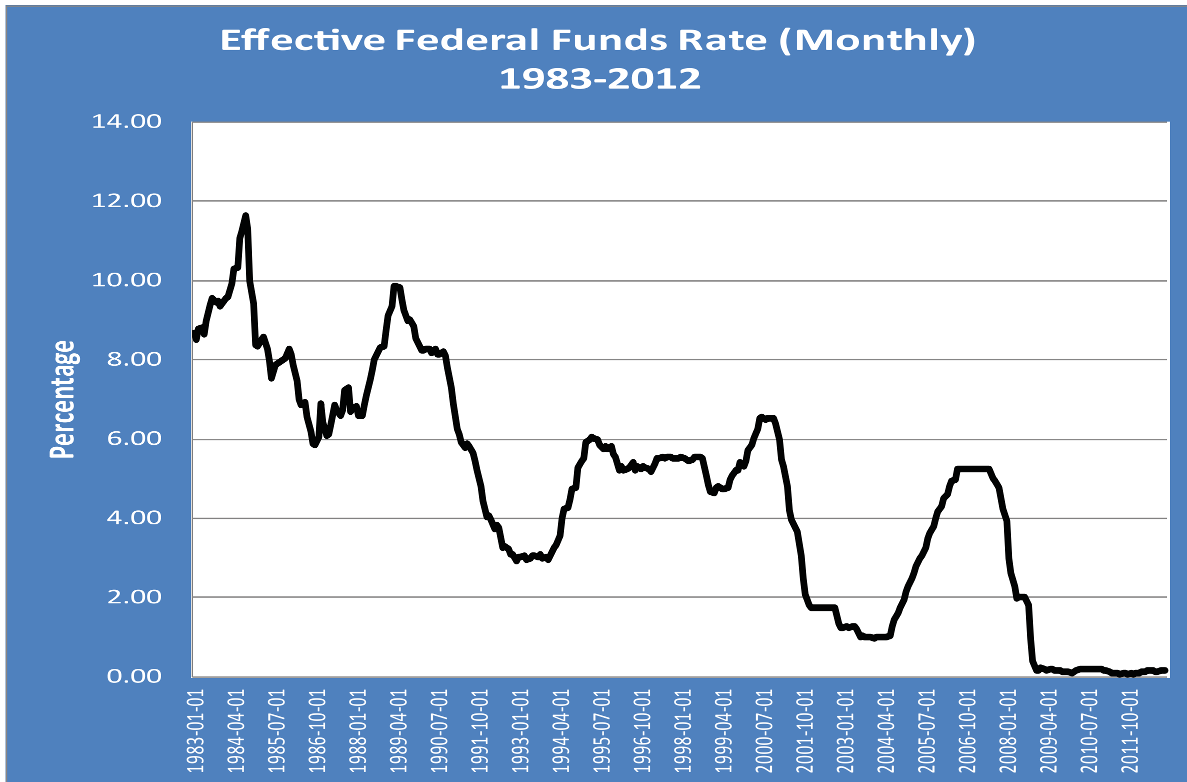
The supply of land available for private development was artificially constricted due to federal control of most of the state's land assets. Nevada is a large state that encompasses more than 70 million acres. About 86 percent of this land, however, is controlled by one federal agency or another and is thus unavailable for private development.[4]

Thus, as hundreds of thousands of new residents moved into the Silver State over the years, they quickly began to bump up against the outer limits of the relatively small pieces of land available for private development. As a result, land prices escalated sharply, and, over the years, lot sizes for private homes shrank.

Artificial credit and the business cycle

At the same time, federal authorities were continually manipulating capital markets with an eye toward promoting both home ownership and commercial development nationwide. In the early 2000s, policymakers at the Federal Reserve began aggressively pushing down interest rates and expanding the nation's money supply. Between July 2000 and July 2003, the Effective Federal Funds Rate (the interest rate on inter-bank loans for Federal Reserve member institutions) dropped from 6.54 percent to 1.01 percent.[5] In other words, the Fed was buying bank securities in order to push interest rates down toward a targeted rate of 1 percent and, consequently, injecting large sums of newly created money into the marketplace.

This injection of cheap credit into the nation's capital markets instantly made borrowing more attractive and, prompted by the Federal Reserve's interest-rate manipulations, Americans began to borrow *en masse*.



Source: Federal Reserve Bank of St. Louis

Kicking off a classic credit boom,[6] the low interest rates offered by the Fed prompted businessmen to borrow and invest heavily in their firms, purchasing new machinery or technology. The total of outstanding debt held by nonfinancial American businesses grew from $6.68 trillion in January 2001 to $9.74 trillion by January 2007 — a growth of 45.7 percent in just six years.[7]

The inflation that the Fed engineered through these credit-market manipulations, however, did not have a uniform impact on the economy. The new credit was first extended to Federal Reserve member banks from which it circulated to the financial industry more broadly. From there, this credit was extended to investors and entrepreneurs, whose new purchasing power quickly drove up the demand for, and prices of, capital goods like steel, concrete, and heavy machinery. Between January 2002 and July 2008, the Producer Price Index — an index of the prices for higher-order capital goods — increased by 60 percent as businesses' new credit-driven purchasing power drove up the demand for capital goods.[8]

At the same time that authorities at the Fed were holding down interest rates, Congress was working to loosen mortgage-lending standards.

Yet, this newly injected credit was not supported by an increased savings rate. American households were saving less than ever — the personal savings rate had gradually declined from 10.5 percent in July 1984 to 3.5 percent by July 2004 and would fall to 1.5 percent by July 2005.[9] In other words, American households were demonstrating a higher preference for immediate consumption and less willingness to save and invest. Yet, because the Fed was artificially suppressing interest rates, American businessmen were led into taking more scarce resources out of the real economy and using them for investment.

This meant that Americans were attempting to both consume more and invest more of the nation's output at the same time — a paradox that could not sustain itself. While this paradox may have given rise to a temporary economic boom, it was clear to many economists that the over-investment in capital goods would produce a massive, economy-wide correction and liquidation of assets. In other words, the unwitting attempt to consume and invest more wealth than was actually created each year was bound to lead to a serious economic recession.[10]

The housing market

Cheap credit made borrowing more attractive not only for investors and business owners, but also for private families who seized upon low interest rates to finance major new purchases — especially for homes. Between January 2001 and January 2007, the amount of mortgage debt held by American families more than doubled, growing from $4.91 trillion to $10.07 trillion.[11]

As artificially cheap credit induced more Americans to purchase homes, the increased demand for housing quickly drove up selling prices. Between 2000 and 2006, the median sales price of new homes nationwide increased from $169,000 to $246,500.[12] In Southern Nevada, rapidly growing demand from the increasing population — individuals were flocking to Nevada during this period to seek out employment in the highly profitable tourism and construction industries — combined with federal restrictions on the supply of land to force home prices even higher. By late 2006, the median home price in the Las Vegas Valley was more than double its level of just six years earlier, having climbed from $135,000 to $306,000.[13]

At the same time that authorities at the Fed were holding down interest rates, Congress was working to loosen mortgage-lending standards. Beginning in the early 1990s, Congress began

requiring private banks, through the Community Reinvestment Act, to use "innovative and flexible" lending practices to reach a federally determined minimum number of home loans to low- and moderate-income borrowers. Practically, this meant that banks were required to make loans to borrowers who posed greater credit risks.

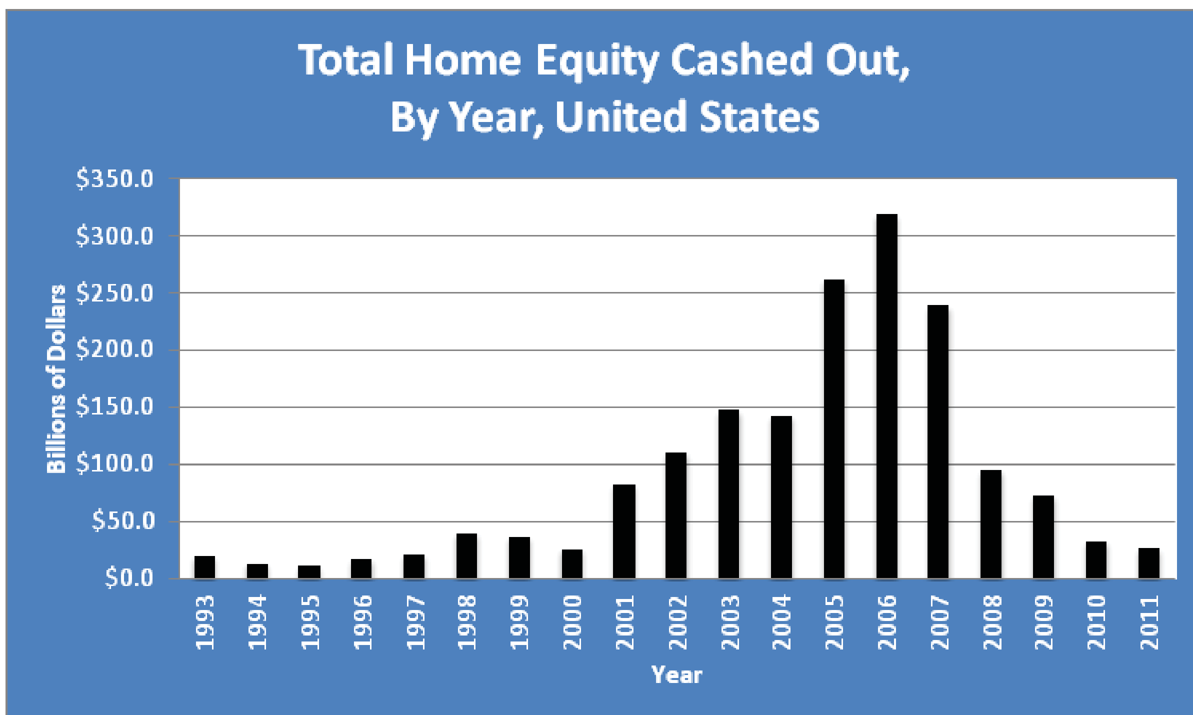
Congress also created an affordable-housing mission for government-sponsored enterprises (GSEs) Fannie Mae and Freddie Mac to fulfill. Thus, by 2001, Fannie Mae was offering home loans with no down payment required. By 2007, the GSEs were required to show that 55 percent of their mortgage purchases were for low- and moderate-income borrowers. The mandate further required that 25 percent of the mortgages held by the GSEs be loans to low-income or very-low-income borrowers.

Because Congress required the GSEs to maintain such a large portfolio of high-credit-risk home loans, the GSEs began to purchase these loans second-hand from private lenders. As a result, private lenders were encouraged to make even more high-risk loans, knowing that those loans could then be sold to Fannie and Freddie, which were required to purchase them. Between 2005 and 2007, the GSEs purchased approximately $1 trillion in sub-prime loans — i.e., loans made to borrowers with blemished credit.[14]

The consequences of these mortgage-lending regulations quickly became evident in national statistics. Between 2001 and 2006, subprime loans grew from 7.2 percent of the home loan market to 18.8 percent.[15]

As cheap credit and congressionally endorsed easy lending standards drew more and more buyers into the housing market, existing homeowners saw the market valuation of their homes skyrocket.[16] Many of these existing homeowners examined the now-inflated selling prices of their homes and judged it to mean that they now possessed large amounts of unexpected new home equity.

What most did not imagine was that this new equity was largely illusory, a result of expansive monetary policy and congressionally mandated easy-lending standards. So, many



Source: Freddie Mac

homeowners withdrew what they believed to be genuine home equity and began financing the purchase of new vehicles, home improvements, vacations and all other manners of consumerism. In 2006 alone, American homeowners cashed out $320.0 billion in home equity through refinancing. Ten years earlier, home-equity cash-outs had amounted to only $17.4 billion.[17]

As homeowners began to withdraw this illusory home equity, they used it, in part, to follow the post-9/11 advice of President George W. Bush, who counseled them to "Get down to Disneyland in Florida" and to "Take your families and enjoy life, the way we want it to be enjoyed."[18] Many enjoyed life by visiting Las Vegas, which saw record visitor volumes from 2000 to 2007[19] — further driving the profitability of the region's tourism and construction industries, and, consequently, employee wage-earnings and the regional demand for housing.

In short, federal interventions in the monetary and housing spheres skewed the investment and purchase decisions of both private businesses and private families. Both were encouraged to assume greater amounts of debt and, together, they were trying to invest and consume more wealth than the economy created each year. While this imbalance vexed markets nationwide, its effects were particularly pronounced in Southern Nevada. Not only was the region a primary recipient of these biased consumer expenditures and business investments, but it was also subject to stringent federal land-use constraints that drove land-value inflation even higher than elsewhere.

The Crash

For the trained economist, it may have been easy to examine the simultaneous increase in consumption and investment — beyond the level of real economic production — and foresee a major recession and liquidation of debt.[20] For the average Nevadan, however — often unaware of how he, personally, is affected by large-scale government interventions in monetary and financial markets — this conclusion was never obvious.

And, yet, it was average Nevadans who would suffer most of all. Even as Nevadans believed themselves growing richer — misled by federally engineered asset-value inflation and the consumption binge that it inspired — they were destined to face a major recession as the market eventually corrected for the distortions wrought by ill-advised government interventions.

By late 2008, businessmen worldwide recognized that they had made investment decisions based on faulty information about the availability of real capital and underlying savings rates. As a result, businesses began to liquidate many investments that had initially appeared feasible, due to artificially suppressed interest rates. Nearly overnight, construction stopped on the Las Vegas Strip. Major Strip projects, such as the $4 billion Echelon hotel/casino resort and the $3 billion Fontainebleau, were suspended indefinitely. Structures under development that once offered the promise of an ever-growing and expanding Nevada economy instead were covered in tarps, destined to become the decaying symbols of what would later be called the Great Recession.

As the executives of Nevada's major industries — tourism and construction — began to realize that they had over-invested in new development, they simultaneously recognized the immediate imperative of corporate restructuring. Operations were streamlined and workers were laid off. In July 2006, more than 144,000 construction workers were employed in Nevada. By July 2008, that figure had dwindled to 118,800 and, one year later, it fell to 77,200. In July 2010, it was 58,000.[21]

But industry executives were not alone. Homeowners across Nevada and the nation who, during the period of inflated asset values had over-extended themselves with debt — errantly believing themselves to possess more wealth than was really the case — also discovered that their personal liabilities far outweighed the true value of their assets. To make matters worse, many were simultaneously losing their source of income due to layoffs. Bankruptcies began to spread. Families began losing their homes to foreclosure.

Due to its unique circumstances in this drama, Southern Nevada would become the geographic epicenter of the Great Recession, just as it had previously been the epicenter of inflationary over-investment. The region had been a primary recipient of consumerism driven by asset-value inflation from tourists and vacationers the world over. Now that the asset bubble had burst, this tourist volume also dried up. For the first time in history, Las Vegas began to experience a decline in its annual number of visitors.[22] As a result, revenues for the region's tourism industry fell dramatically. Between July 2007 and July 2009, total monthly gaming win on the Las Vegas Strip fell from $606,797,000 to $461,336,000.[23]

By 2011, Nevada lawmakers had become even more aggressive in their attempts to use political machinations to cure economic woes.

At the same time, Nevada's artificial land constraints had caused the region's real estate values to inflate more sharply during the inflationary boom than elsewhere — meaning that now a steeper-than-elsewhere correction would result in more homeowners with negative equity.

Between July 2006 and July 2009, the region's median housing price dropped 56.7 percent — falling from $306,000 to $130,000.[24] By November 2010, reports showed that more than 80 percent of Las Vegas-area homeowners had negative equity — or were "underwater" on their mortgages.[25] Soon, the region faced the nation's highest rates of foreclosure and personal bankruptcy.[26]

For tens of thousands of Nevada families, their dreams of prosperity — propped up by short-sighted government interventions — had been smashed. Understandably, Nevadans became exasperated and were left to wonder, "Why did this happen?"

Policymakers Respond

Nevada's elected officials viewed the state's rapidly deteriorating economic condition with alarm. Their resolve quickened to do something — anything — to help the distressed Nevada families who now found themselves facing unemployment, home foreclosure and even bankruptcy.

During the first regular legislative session after the onset of the Great Recession, Silver State lawmakers — notwithstanding their oaths to protect the Nevada Constitution — created a new foreclosure mediation program that blurred the constitutional separation-of-powers principle by giving executive-branch authority and functions to the judicial branch. Politicians intended the program to help Nevada families remain in their homes by requiring mortgage lenders to submit to negotiations with homeowners on possible interest-rate or principle reductions before they could foreclose.[27] Despite warnings from some,[28] lawmakers failed to anticipate the adverse effects that would result from their attempt to block the orderly liquidation of inflated assets — including homes — that would be necessary for long-term recovery.

By 2011, Nevada lawmakers had become even more aggressive in their attempts to use political machinations to cure economic woes. Lawmakers enacted Assembly Bill 284 to slow down the foreclosure process by making it a criminal offense for lenders to initiate

foreclosure if they had filled out their paperwork incorrectly.[29] Fearing the possibility of criminal liability, most lenders, once the law went into effect, immediately ceased issuing new notices of foreclosure — halting the necessary process of liquidating inflated assets and bad debt.

In that same session, lawmakers also created new plans for the state itself to take the lead in directing investment and job creation within state borders. They passed new legislation — Assembly Bill 449 — that established a cabinet-level office for statewide economic development. The bill also earmarked $10 million to use as financial incentives — direct subsidies — to lure private firms into the state, in hopes of putting Nevadans back to work.[30]

By ignoring these sources of Nevada's economic vulnerabilities, the report was able to portray private actors as having erred in directing the state's industries..

Policymakers in other states had produced similar "economic development" schemes, and Nevada's elected officials wanted to be seen trying to ease the pain of the state's struggling households.

This new economic development framework, however, scorned the historically successful means by which healthy economies have overcome the impact of recessions: the entrepreneurship of private economic actors.

Throughout history, government policy failings in the monetary and other spheres have inspired a series of booms and busts similar to the one experienced in the 2000s.[31] Traditionally, however, savvy individuals have taken advantage of the depressed markets for commercial space, labor and other productive resources, redeploying these resources into new enterprises that led the nation out of recession.

In passing Assembly Bill 449, Nevada's policymakers instead endorsed the idea that entrepreneurs are incapable of performing this traditional role on their own and that, to exit from a recession created by government failings, the industrial path of the future must be planned and executed by government itself.

Economic Development Plan Takes Shape

Gov. Brian Sandoval signed Assembly Bill 449 into law on June 17, 2011.[32] Days prior to signing the bill into law, however, he, while sitting on the state Board of Examiners with Secretary of State Ross Miller and Attorney General Catherine Cortez Masto, approved contracts with SRI International and the Brookings Institution to map out a proposed strategy for state-directed economic development efforts in Nevada.[33]

By mid-September, Sandoval and legislative leaders announced their appointees to fill a new state executive-director post for economic development and to serve on the new state Board of Economic Development. By mid-November, these new appointees received the proposed plan drafted by SRI and Brookings.[34]

The SRI/Brookings report was unapologetic about envisioning a central role for state officials in planning the future of Nevada's economy. Instead of recognizing that Nevada's economic woes stemmed largely from government policy errors, the report attributed those woes to failings of the market itself. The report — claiming that Nevadans have built "an economy over-dependent on consumption sectors, prone to booms and busts, and too little invested in innovation and economic diversification"[35] — did not acknowledge any of the governmental policy failings that gave rise to the state's consumption-heavy economy.

By ignoring these sources of Nevada's economic vulnerabilities, the report was able to portray private actors as having erred in directing the state's industries. It called upon

government planners to take an even more central role and correct the supposed deficiencies that resulted when the market was purportedly left to govern itself.

The report then mapped out several broad, collectively defined goals to be accomplished by "the state" through its planners:

- "The state must now restore jobs and growth…"[36]
- "The state must now diversify its economy to spur growth…"[37]
- "The state must move to innovate in both emerging and traditional industries."[38]
- "The state must harness and build on the strengths and power of its three distinct regions to drive growth in the future."[39]

Consistent with the hubris implicit throughout the report, its authors made scant mention of how enterprising individuals, responding to the changing demands of the market, could realize these goals even without bureaucratic direction. Similarly, the report gave no consideration to the various ways by which state and local governments in Nevada are actually *impeding* economic recovery by erecting barriers to private entrepreneurship.

Instead, the report focused on how the state itself could realize these objectives by channeling investment toward seven targeted industries:[40]

1. Tourism, Gaming and Entertainment
2. Health and Medical Services
3. Information Technology
4. Renewable Energy
5. Mining, Materials and Manufacturing
6. Logistics and Operations
7. Aerospace and Defense

These favored industries were to benefit from the provision of both direct and indirect state subsidies — for which taxpayers would foot the bill. In other words, private entrepreneurs would be taxed and deprived of the capital they would need to preserve their own business ventures or to launch new ventures so that state bureaucrats could direct tax proceeds toward government-favored competitors for this capital.

Industry Champions. The SRI/Brookings report envisioned the new Governor's Office of Economic Development (GOED) hiring "a set of dedicated 'industry champions' or 'cluster product managers' — one for each of the state's target industries — to spearhead state and local efforts to address the needs and opportunities of the state's target clusters."[41] These "full-time professionals … would focus on channeling better support to the cluster, whether through interagency work on state program offerings, work on legislative issues, and problem-solving on workforce issues, or through engagement on strategic firm recruitment."[42]

In short, the "industry champions" to be hired by GOED would amount to state-funded super lobbyists working within the government itself to grant special privileges to politically favored firms.

Catalyst Fund. The "industry champions" would also have input on "strategic firm recruitment" — a reference to the Executive Director's ability, under AB 449, to offer cash

awards to private firms that move to or expand in Nevada. According to the law's language, the Executive Director can unilaterally authorize cash awards to any private firm of up to $100,000 from the new "Catalyst Fund" — initially seeded with $10 million in public funds. Awards greater than this amount are also possible, but require consent from the Board of Economic Development.[43] In addition, the Executive Director has unilateral authority to approve tax abatements and other special incentives for targeted firms.[44]

*Concludes the Kauffman foundation: "Startups aren't everything when it comes to job creation. They're the **only** thing.".*

Ironically, while the text of the SRI/Brookings report focused on the potential impact of the Catalyst Fund in recruiting out-of-state firms to Nevada, it acknowledged, in a footnote, that:

> Winning a relocation might make the headlines, but as research from the Public Policy Institute of California shows, *job gains and losses are overwhelmingly driven by intra-state business dynamics rather than the between-state movement of firms* … [That research] found that only 1.9 percent of job gains and 2.0 percent of job losses in a year in the average state were attributable to business relocations. By contrast, fully 41.8 percent of job gains come from the expansion of existing businesses, and a whopping 56.3 percent from the birth of new establishments. Given those facts, emphasizing firm recruitment places an outward focus on state economic development policy at the expense of the state's existing economic activity. *For the most part, then, state resources are better spent supporting the many factors that drive entrepreneurship and help firms to grow*.[45] (Emphasis added.)

Indeed, the figures about job growth that SRI and Brookings pushed off onto a footnote are further substantiated by many other reputable sources, including the Kauffman Foundation, which concludes, "startups aren't everything when it comes to job creation. They're the only thing."[46]

The large and growing body of evidence demonstrating that job growth overwhelmingly results from bottom-up entrepreneurship undercuts intellectual support for a Catalyst Fund to lure firms from out of state. And yet, state politicians made that very fund a central component of Nevada's new state-directed economic development law.

Taxpayer-funded research, development and marketing. Other provisions of AB 449 would allow industries and firms targeted by state officials to benefit from taxpayer-subsidized research by professors within the Nevada System of Higher Education. Although as yet unfunded, a "Knowledge Fund" created by the law is envisioned to eventually finance, with public money, the development and commercialization of new technologies for the direct benefit of firms targeted for state support.

The newly appointed state officers for economic development clarified the proposed mechanism for directing taxpayer-subsidized research and development efforts when they compiled the major themes offered by the SRI/Brookings report into an official three-year plan for economic development. Called "Moving Nevada Forward,"[47] this document, in addition to embracing the aforementioned components, announced that a single individual would be hired as a "Technology Commercialization Director" and would have the power to determine *which* technologies should be researched.

The official state plan also announced that marketing efforts for the nexus of state-selected businesses would be managed collectively and publicly subsidized under the banner of "Team Nevada" — a transparently corporatist union between state officials and those in private industry.

Critical Problems with the State Plan

1. It misperceives the role of the state

According to John Locke and his classical liberal contemporaries, as well as the American Declaration of Independence, governments are instituted among men to safeguard private property. Locke and his contemporaries, including Adam Smith, not only believed that man is endowed with certain "natural rights," including those to life, liberty and property, they also understood that protection of private property was essential to economic growth.[48]

Development of new machinery, technology or production techniques depends on the availability of capital — income that individuals have elected to save and invest rather than to consume immediately. Individuals who choose to forego immediate consumption in the hopes of realizing a return on their savings provide the capital necessary for entrepreneurs to construct factories, purchase machinery and develop new technologies, all of which increase labor productivity and lead to improvements in the quality of life enjoyed by every member of society. Individuals only have the incentive to produce capital, however, if their claim to it is secure. Otherwise, it would be irrational not to consume all income immediately, and the capital that makes economic development possible would never be created.

This observation inspired Locke and his contemporaries to conceive the primary purpose of civil government as protection of private property.

Nevada's new economic development plan, however, moves in the opposite direction by forcibly seizing wealth through taxes to be used as financial incentives for firms that state bureaucrats have selected for public investment.

2. The danger of cronyism

An obvious danger arising from the state's new economic development plan is that close relationships between politicians, their appointees and those in private industry have the potential to degenerate into outright cronyism.

When direct state support is awarded to particular firms — an action that serves as an official endorsement from the state and its political class, in addition to providing those firms with immediate financial resources — savvy businesspeople will concentrate more on securing political favors and less on creating products and services that provide value to consumers.

One need look no further than the 2011 bankruptcy of California-based solar-panel manufacturer Solyndra to see that government subsidization of private industry actually *damages* consumer welfare. That firm's existence was predicated upon receipt of federal and state subsidies and loan guarantees. Solyndra did not produce goods that consumers valued highly. In fact, as the *Wall Street Journal* noted, the firm created "$6 solar panels that it could sell for $3."[49] In other words, it was creating negative value. Yet, citizens were forcibly deprived of financial resources they otherwise could have used on their own higher priorities in order to subsidize a failing venture with political clout.[50]

That's also what happened in Texas after 2005, when Gov. Rick Perry and the Texas legislature created the Emerging Technology Fund — a $200 million pot of taxpayer money to be distributed to private firms by the state's top politicians. Among those who received the largest shares of this money were prominent financial contributors to the Perry campaign — businesspeople who had literally "purchased" goodwill within the administration.

One example was Convergen LifeSciences, Inc., whose founder and executive chairman,

David Nance, donated more than $75,000 into Perry's campaign fund between 2001 and 2006. Nance and his partners invested only $1,000 of their own money into Convergen, but were able to secure a $4.5 million grant of public funds from the Emerging Technology Fund. Taxpayers were compelled to stake almost the entirety of capital into Nance's firm even though an advisory panel had recommended the grant be denied. Nance won the grant only after appealing directly to the administration.[51]

> *Even if politicians ... are completely scrupulous when they select private firms for public investment ... they still compel taxpayers to assume the financial risk....*

Another example was ThromboVision, Inc., a medical imaging company that went bankrupt in 2010. ThromboVision did not get off the ground until it received a $1.5 million grant from the Emerging Technology Fund in 2007. Soon after a committee of Perry appointees had approved the grant, its chairman and major Perry campaign contributor Charles Tate, who had voted in favor of the grant, invested his own money in the company and acquired 200,000 preferred shares. Fellow campaign supporter Charles Miller, who had put $125,000 into Perry campaigns over the years, also invested into ThromboVision and acquired 250,000 preferred shares. When ThromboVision went belly-up — after having failed to submit required annual reports to the state for three consecutive years — Tate's and Miller's preferred shares meant they would receive a claim to the firm's remaining assets senior to state taxpayers.[52]

Texas state Representative David Simpson has called the Emerging Technology Fund "fundamentally immoral and arrogant … [It] opened the door to the appearance of impropriety, if not actual impropriety."[53]

Indeed, it's entirely possible that the Emerging Technology Fund does as much, or more, to *inhibit* economic development in Texas as foster it. The uncertainty created by government interference in the marketplace and "the appearance of impropriety" is likely to discourage genuine entrepreneurs from forming new businesses, knowing that, at any point, they may face competition from a firm that enjoys the explicit political and financial backing of the state. Individuals who have entrepreneurial talent and marketable expertise in fields such as software development, electrical engineering or medical technology, but no political connections, face higher obstacles in such an environment.

3. Subsidies create economic inefficiency

Even if politicians and their appointees are completely scrupulous when they select private firms for public investment and refuse to let personal connections influence their decisions, they still compel taxpayers to assume the financial risk of their decisions.

While some politicians may have business experience, no one is clairvoyant with respect to the future market for any particular product.

In the marketplace, value is determined by millions of consumers who consciously judge which goods or services will best fill their needs, given the limited resources at their disposal. And, because the needs and desires of individuals are constantly changing and evolving, the value of every good or service is constantly subject to change.

It is the role of the entrepreneur to use the information at his disposal to anticipate which goods or services will provide the greatest value to consumers at some *future* date and then to organize society's productive resources — hiring workers, renting office space, leasing heavy machinery — to produce these goods or services.

The future is uncertain, however, and some would-be entrepreneurs are more perceptive or better informed than others. As a result, those who more accurately anticipate the future

needs of society and organize production around the correct goods and services will realize a greater return, or profit, for their endeavors. Those who incorrectly anticipate the highest needs of society suffer losses because the sum value of the productive inputs they've employed — labor, commercial or industrial space, and machinery or technology — is worth more than the value that consumers place on the final product.

Prominent economists, including Adam Smith[54] and Ludwig von Mises,[55] have recognized the vital role played by this profit-and-loss system in allocating society's productive resources toward their highest-value uses: Ventures that suffer losses are discontinued, while those that earn profits are expanded.

Profits, then, should be applauded and not derided: They reveal when entrepreneurs have created something greater than the sum of its parts and — *in the personal judgment* of all those who purchase the new creations — have meaningfully improved the lives of those around them.

Profits are the organizing feature of social cooperation. They both inform entrepreneurs about society's current hierarchy of needs and provide the impetus for action. Seeking profits, entrepreneurial individuals work to organize the social fabric of life in ways that provide the greatest benefit to the greatest number of people.[56] They routinely risk their own personal wealth in order to accomplish this feat. That is why many authors insist that there is a strong moral case for capitalism.[57]

Government subsidies for corporate losses ignore the signals sent by consumers about their highest needs and subvert the organizing role of profits within the social fabric.

Any such moral case disintegrates, however, if and when individuals do not risk their own savings to form new business ventures but instead harness government's power to forcibly seize wealth created by others, and *then* use this wealth to hire workers, purchase machinery, etc. In that case, not only is the personal claim to profits illegitimate, but the efficiency of the market system breaks down: The predatory business owner has been insulated from the prospect of a financial loss and is therefore free to organize production around goods whose value to consumers is worth less than the sum value of its inputs. By allowing firms to produce negative value, subsidies result in a net societal loss and a decline in living standards.

Yet, this is precisely what Nevada's leading politicians have committed to do by using public funds to subsidize private industry. In the best of cases, these subsidies will permit these businessmen to collect illegitimate profits. In other cases, subsidies will allow these businessmen to keep productive resources locked up in relatively unproductive uses, creating a net loss for society. In the worst cases, subsidies will be insufficient to compensate for the losses incurred by firms that create negative value, and their owners will argue that an even *greater* level of subsidy is required.

Any contention from Catalyst Fund proponents that they will impose accountability on subsidy recipients is fundamentally misguided. True accountability *only* comes through consumers via the profit-and-loss system. Government subsidies for corporate losses ignore the signals sent by consumers about their highest needs and subvert the organizing role of profits within the social fabric.

4. The economic development plan is unconstitutional

These dangers of state-directed economic development schemes are precisely why Nevada's founders included a provision within the state's constitution to prohibit state interference in the marketplace.

Thus states Article 8, Section 9 of the Nevada Constitution:

> **Gifts or loans of public money to certain corporations prohibited.** The State shall not donate or loan money, or its credit, subscribe to or be, interested in the Stock of any company, association, or corporation, except corporations formed for educational or charitable purposes.[58]

This provision — common to many state constitutions — was the result of first-hand experience. After "the states went on an investment spree in the early part of the 19th Century … evidence on all sides of corruption, chicanery, special privilege and fiscal mismanagement … led outraged voters to demand the first set of constitutional … prohibitions of loans or credits to private individuals and corporations," noted the late Donald Axelrod.[59]

Regardless of these programs' dubious legal status, they are ill-advised on purely economic grounds.

The state's new Catalyst Fund, which GOED will disburse as "gifts" to private, for-profit companies, is in clear conflict with this constitutional provision. Also conflicting is a new, state-run venture-capital fund that Nevada lawmakers established within the State Treasurer's office in 2011, using $50 million from the state's Permanent School Fund. This new venture-capital fund, established by Senate Bill 75,[60] is intended to provide financing to private businesses seeking to move to or expand in Nevada — loans of public money specifically prohibited by the state's most basic law.

To justify each of these dubious creations, politicians elicited risible legal opinions that seek to obfuscate the constitution's clear language. In defense of the Catalyst Fund, state Attorney General Catherine Cortez Masto has argued that no constitutional problem would exist as long as state funds were channeled through local governments — legal subdivisions of the state itself — before being handed over to private businessmen.

The official state economic development plan calls for private firms interested in receiving subsidies from the Catalyst Fund to first apply to a recognized regional economic development agency, which would then apply to GOED for funding on that firm's behalf. GOED's political appointees would approve or deny the application and, if approved, disburse the money to the regional development agency to be handed over to the applicant. Through this mechanism, the attorney general argues, "the state" would not "donate or loan money" to "any company, association, or corporation," because the regional economic development agencies would be the ones to do so — even though it is state money and a state executive-branch agency would be the ultimate decision-maker about such disbursements.[61]

Likewise, a judicial opinion solicited by state lawmakers to justify creation of the state-run venture capital fund argues that constitutional limitations on the use of public funds can be discarded if lawmakers first move the money out of the state's general fund and into a "special" state fund. Although essentially an accounting gimmick with the obvious intent of circumventing the state constitution, this "Special Funds Doctrine" would absolve state lawmakers of any guilt, said the opinion.[62]

Still, regardless of these programs' dubious legal status, they are ill-advised on purely economic grounds. The additional political risk that these programs inject into the marketplace, combined with the economic inefficiency and societal loss that subsidies facilitate, are sufficient reasons to discard these programs irrespective of their legal status.

The Key to Economic Growth

Although it's understandable that Nevada's politicians would want to do something to rescue its citizens from an economic catastrophe created by misguided government policies, the approach developed by Carson City overlooks the driving force behind economic growth: individual entrepreneurship.

What is entrepreneurship?

In a broad sense, all human beings behave entrepreneurially. That is, they seek — in virtually every single personal decision — to produce for themselves the highest possible level of personal happiness. For some this means the acquisition of material goods. For others it means the attainment of a particular social status. For more still, it could mean an accumulation of knowledge or attaining spiritual enlightenment.

Every individual has a unique perception of what will make him or her happy and works throughout life to achieve those individual goals. Of course, most individuals also value leisure over work and, therefore, will trade off some degree of attainment in order to enjoy more leisure time.

The field of economics is dedicated to elucidating only one sphere of purposeful human action — individuals' quest to increase their *material* comfort. More precisely, economics provides the framework for individuals to calculate their decision making in ways that will maximize the return on their efforts.

Those who make such calculations in order to realize a material profit are considered "entrepreneurs" in the more narrow, strictly economic sense.[63]

These individuals actively weigh the relative prices for productive resources such as labor, financial capital, office or industrial space, machinery and technology against other individuals' projected future demand for an array of products or services in the marketplace. But not only must entrepreneurs compute the prices of inputs relative to outputs, they must also consider and mitigate various forms of risk — risk of loss due to natural disaster, risk of misappropriation, risk accruing through various forms of legal liability, risk of worker injury … and the list goes on and on.

The tasks of reconciling projected input and output prices and mitigating risks are the essence of economic entrepreneurship. That is, they are the primary tasks of entrepreneurs in an unrestricted free-market economy.

These roles are very important because through these calculations entrepreneurs give structure and order to the productive efforts of the individuals whose labor they employ. It is through this emergent order that autonomous persons are able to coordinate their individual efforts with others for the mutual benefit of all.

In essence, the actions of entrepreneurs transform the scattered and discoordinated efforts of individual humans into a single, organized and cooperative effort that can aptly be labeled "society." Without the entrepreneur, rational social cooperation cannot emerge.[64]

The truth is that most entrepreneurs come from relatively humble backgrounds.

Who are the entrepreneurs?

While the term "entrepreneur" might evoke images of wealthy captains of industry with vast resources at their disposal, the truth is that most entrepreneurs come from relatively humble backgrounds. As famed economist Ludwig von Mises said, "Every ingenious man is free

to start new business projects. He may be poor, his funds may be modest and most of them may be borrowed. But if he fills the wants of consumers in the best and cheapest way, he will succeed."[65]

In fact, the typical Nevadan regularly encounters entrepreneurs in his daily life. Examples include the culinary enthusiast who decides to open a restaurant or food truck, the fitness guru who opens a yoga studio or the laid-off software developer who launches his own consulting firm. All of these individuals must weigh the price of inputs — space or truck rental prices, energy costs, compensation for their time and for any employees' time, insurance, etc. — against the demand they expect to receive for their products. The yoga instructor, for instance, may personally prefer teaching cross-fit classes but has determined that greater demand exists for yoga and the higher revenues she expects to achieve teaching yoga will be necessary to justify her expenses.

Entrepreneurs routinely rescue society from the downside of a business cycle that is wrought from short-sighted interventions by politicians and bureaucrats.

Entrepreneurs are simply those who see an opportunity to create positive value for themselves and others and who act upon that vision. Every small-business owner, street performer or sidewalk vendor is an entrepreneur. Not all are successful in perceiving the future needs of others, but those who are can create financial independence for themselves while also improving the lives of those around them. Entrepreneurs provide their neighbors with things those neighbors value and often provide employment opportunities as well. In fact, as previously noted, more than half of all jobs nationwide result from the launch of new businesses — those jobs are the creation of small-time entrepreneurs.

Entrepreneurship during the downturn

Entrepreneurs are vital to the health of society at all times, but even more so during periods of economic recession.

During periods of economic recession, failing enterprises are liquidated and begin to shed factories and other capital equipment as well as workers. The resulting spike in the available supply of these resources exerts downward pressure on prices for both capital (rents) and labor (wages). Lower prices for these productive inputs open up new possibilities and talented entrepreneurs begin to once again envision business models that will produce positive value — firms for which the output is valued higher than the sum of the inputs.

When entrepreneurs act upon these visions, they begin to re-hire workers, bringing them aboard new ventures that, as they succeed, offer stable employment and opportunity for growth. Entrepreneurs rehabilitate empty buildings and warehouses, converting these assets into new uses that better conform to the changing needs of society — as expressed by the mass decisions of individual consumers, pursuing their individual desires.

Thus, entrepreneurs routinely rescue society from the downside of a business cycle that is wrought from short-sighted interventions by politicians and bureaucrats. Famed economist Joseph Schumpeter referred to entrepreneurs' ability to reconstitute a viable economy out of failing or liquidated enterprises as a process of "creative destruction."[66] Like a phoenix rising from the ashes, even an economy that has been decimated by misdirected government interventions can be resuscitated by a healthy and vibrant class of entrepreneurs.

Barriers to Entrepreneurship

Entrepreneurs' ability to respond to changing price signals and rescue society from the impact of economic recession, however, has become increasingly limited in recent decades due to certain government policies that complicate the process of entrepreneurship or which create artificial barriers to its exercise. The healing process of "creative destruction," for example, is circumvented by federal policy interventions that prevent firms producing negative value from entering into bankruptcy and liquidating productive resources. Financial bailouts designed to temporarily arrest the insolvency of large financial institutions or automakers, for instance, use public resources to permit these firms to continue generating negative value.

This means — as seen in America today — that society's ability to recover from recession becomes obstructed. Productive resources that remain with these firms never become available to entrepreneurs more likely to produce positive value.

Uncertainty over the future cost of tax rates, health-care mandates or other costly regulations also complicate the task of entrepreneurship. Since a primary task of the entrepreneur is to identify and mitigate various forms of risk, these politicized risk factors, which lie beyond the control of any single entrepreneur, make the task of entrepreneurship far more difficult.[67]

Federal policies are not alone in negatively impacting the ability of entrepreneurs to rescue society from recession, however. Policies set by state and local government officials also increasingly erect barriers to entrepreneurship and, thus, to economic recovery.

Obstacles to entrepreneurship imposed by Nevada governments

In general, these impediments can be grouped into four categories — each of which deeply complicates the entrepreneur's twin tasks of creatively reconciling input and future output prices and mitigating risks.

In addition to these already arduous tasks, state and local governments also force the entrepreneur to consider the current as well as prospective future costs associated with:

1. Tax structure and rates;
2. Licensing, zoning and filing requirements;
3. Restrictions on employing labor; and
4. Regulations that either prohibit or mandate specific production techniques or trade practices.

It must be recognized that each of these items combines with restrictions set at the federal level to produce a *cumulative* effect of discouraging or deflating entrepreneurs by rendering the task overly burdensome. Indeed, while no single tax or regulatory proposal or licensing requirement may discourage entrepreneurship on its own, the cumulative effect of all these hurdles can easily intimidate aspiring entrepreneurs and prevent them from realizing their dreams and launching new ventures.

After all, a landscaper goes into business for himself because he recognizes his neighbors have a need for landscaping services and because he presumably has the expertise to provide for that need. However, he may not be intimately familiar with the thousands of pages of regulations, licensing requirements, zoning ordinances or other legal conditions currently imposed by city, county and state officials. He may not enjoy personal relationships with the elected officials whose decisions could either greatly facilitate or hinder his attempt to

launch a business. If he had financial resources he was willing to spend, he could hire a team of lawyers, lobbyists and accountants to help guide him through each of the steps he must take. But this option isn't available to most aspiring entrepreneurs. In short, the maze of government-imposed obstacles to entrepreneurship can easily discourage and dissuade even the most talented and ambitious entrepreneurs.

Worse, governments across Nevada *have continued to erect barriers to entrepreneurship* even throughout the Great Recession — at a time when they should have been dismantling these barriers. Given that Nevada's political class continually professes a desire to *promote* "economic development," this is particularly frustrating.

If policymakers are serious about pursuing economic development, then they should focus on clearing the path for the state's aspiring entrepreneurs. Below we offer a guide for beginning that process.

Nevada lawmakers have clouded the horizon of future tax policy in Nevada through repeated and ongoing calls to erect significant new state taxes on private businesses.

Taxation

Current taxes

Among the most obvious disincentives facing entrepreneurs are government threats to confiscate a share of business revenues or entrepreneurial profits through taxation.

Much confusion exists in Nevada regarding the degree to which taxation discourages entrepreneurship. The Tax Foundation's State Business Tax Climate Index, a frequently cited index that purports to tabulate the relative tax burden placed on businesses within each state, consistently ranks Nevada as among the best states within which to do business. Nevada receives high rankings based primarily on its lack of corporate and individual income taxes.

The index, however, fails to consider any alternative tax instruments that are levied directly on businesses in Nevada — including the state's Modified Business Tax and special excise taxes levied against some of the state's largest industries such as gaming, mining and live entertainment.[68] Together, these business taxes account for nearly half of state general fund revenues and, yet, they are ignored by the Tax Foundation index.[69]

Indeed, more instructive than any flawed index is a simple measurement of how much in taxes state and local governments extract from the private economy. This figure can easily be calculated using state and local government revenue data reported to the U.S. Census Bureau.[70] That figure for Nevada, on a per-capita basis, was $5,742 in 2009 — 29th highest among the states.[71] This figure shows that Nevada is neither a particularly low-tax nor high-tax state, but, instead, hovers near the national median in terms of taxation.

Prospective future taxes

It's not just current tax rates that influence entrepreneurship. To be successful, prospective entrepreneurs must peer far into the future to try to compare the expected demand for their products with their expected costs. Yet, Nevada lawmakers have clouded the horizon of future tax policy in Nevada through repeated and ongoing calls to erect significant new state taxes on private businesses.

Proposals for a gross receipts tax or modified gross receipts tax (including a business "margin" tax) have regularly topped the agenda of legislative leaders in recent years, even though these leaders have been unable to corral the two-thirds support of lawmakers

necessary to enact these proposals into law.[72] The state teacher union and the state federation of the AFL-CIO are currently engaged in an ongoing campaign to impose a business margin tax through a ballot initiative.[73]

These efforts keep the outlook for entrepreneurs uncertain, impeding their ability to calculate future costs and mitigate risk. To the extent that entrepreneurs fear that these tax proposals might come to fruition and thus reduce profit margins — potentially even pushing some business models from positive value to negative value — the uncertainty created by these efforts thwarts entrepreneurship and delays the recovery process.

Licensing, Zoning and Filing

Launching a business in Nevada is no small undertaking. In large part, that's because aspiring entrepreneurs must devote vast amounts of time and financial resources to simply get permission from the state's political class to go to work. Before they can even *begin* to worry about the ins and outs of running a business, entrepreneurs must first successfully navigate this bureaucratic process.

For aspiring entrepreneurs who do not already have the legal expertise or political connections necessary to navigate this process, and who cannot afford to hire lobbyists, the lengthy legal requirements and administrative fees necessary to launch a small business can be enough to dash entrepreneurial ambitions and delay the recovery process.

While some of Nevada's different regulating authorities and state-funded agencies offer resources to help guide prospective business owners through the process, none provides the same information in the same way. And while some accounts are more detailed than others, none of them accurately details the full legal process required for the launch of a new firm. Some neglect to highlight necessary steps and each of them

Steps for launching a business in Nevada	
1.	Consult local zoning authority
2.	Form a recognized legal business entity
3.	Register fictitious firm name with county clerk(s)
4.	Obtain occupational licenses (if applicable)
5.	Obtain a state tax ID number with Department of Taxation
6.	File with IRS for a federal Employer Identification Number
7.	File with Secretary of State and obtain a state business license
8.	Obtain necessary permits from the Department of Taxation (if applicable)
9.	Obtain state license for liquor or gaming (if applicable)
10.	Register for Unemployment Insurance (if applicable)
11.	Comply with Nevada Labor Commission requirements
12.	Provide proof of workers' compensation insurance
13.	Inventory personal property for county assessor
14.	File for applicable local business license(s)
15.	Obtain jurisdictional liquor and gaming license (if applicable)
16.	Pass jurisdictional authority business facilities inspections
17.	Obtain other applicable jurisdictional permits

orders the steps differently.[74]

Length of zoning codes for Nevada's largest jurisdictions	
Clark County[75]	652 pages
Washoe County[76]	800 pages
City of Las Vegas[77]	578 pages
City of Henderson[78]	655 pages
City of North Las Vegas[79]	456 pages

This report details the actual steps necessary for launching a business in Nevada. Each of them constitutes an obstacle to entrepreneurial activity, economic progress and new job creation. Detailing each of these steps provides a better understanding of how state and local governments have complicated the task of entrepreneurship and, thereby, slowed economic growth.

Step 1. Consult local zoning authority

To begin, aspiring entrepreneurs must meet with their jurisdictional zoning department to determine how they will be impacted by local zoning ordinances. Zoning ordinances are land-use restrictions that artificially suppress, or raise, the value of particular parcels or neighborhoods by prohibiting, or permitting, certain activities, such as commercial or industrial production, from occurring on these or nearby sites.

Arguably, ensuring compliance with local zoning ordinances is the most challenging of all the hurdles along the way to establishing a new business, even though it does not top the list of steps in most of the guides provided by government offices.

Local zoning departments exist to establish unified standards for land usage and to determine what business operations will or will not be permissible in certain defined areas. If aspiring entrepreneurs do not first ensure compliance with these local zoning ordinances, or obtain a zoning variance (a case-specific exception to the established code), then any time and financial resources used to obtain the other necessary state and local permits and licenses may be wasted.

The zoning and development codes of Nevada's largest jurisdictions are extremely voluminous. They range from 456 to 800 pages in length and are filled with complex legal jargon that the layman may find incomprehensible. In most locations, these codes have been consolidated for "ease of use." However, one result of consolidation is that they now contain multiple restrictions or regulations on a single page. The entrepreneur of modest means is not always equipped with the skills or background to successfully navigate these legal codes unaided.

Possible incorporation structures	
1.	Corporation
2.	Limited Liability Corporation (LLC)
3.	Limited Partnership
4.	Limited Liability Partnership (LLP)
5.	Limited Liability Limited Partnership (LLLP)
6.	Business Trust
7.	Sole Proprietor
8.	General Partnership

Step 2. Form a recognized legal business entity

At this stage, the potential business owner must decide how to structure his business. He may choose from among eight possible classifications.

A unique set of forms and requirements exists for each of these business structures and must be completed before a license will be granted.[80] Each category may require the completion of three to eight mutually exclusive forms. The Secretary of State provides a breakdown of the requirements for each type of incorporation.

However, the secretary of state's office encourages all potential business owners to "seek legal counsel for guidance … [to] ensure they have met all applicable laws and regulations in the appropriate jurisdictions."[81] This is a *de facto* admission that Nevada policymakers have created and continue to perpetuate an obstacle-rich system that — for anyone hoping to launch a business — requires specialized legal knowledge.

3. Register fictitious firm name with appropriate county clerk(s)

Next, if the firm will operate under any name other than the legal name of the potential licensee (e.g. Smith's Cigars *vs.* John Smith), the owner must register a fictitious firm name with the county clerk for any and all counties in which the entrepreneur wishes to conduct business.[82] This is intended to provide legal clarity regarding who is responsible for the firm's activities and to prevent possible cases of fraud. Newly established corporations, LLCs, LLPs and LLLPs are exempt from this requirement as long as their operating name follows this format: name of the entity followed by the business structure designation (e.g. Business A, LLC).[83]

Registration of a fictitious firm name with each county is necessary before moving on to the state licensing process, because the secretary of state maintains no database for searching all the existing legally recognized firm names within each of the 17 counties. The secretary of state does maintain a listing of business entities that have been granted a state business license, but there is still a possibility that another entrepreneur might have registered the desired fictitious firm name with county authorities but has yet to receive a state business license. However, a prospective business owner may pay a $25 administrative fee and reserve a specific firm name with the secretary of state while awaiting approval of a fictitious-firm-name registration from the respective county clerk(s) or regulatory agencies.

One potential obstacle is that multiples of the same firm name could be registered with different counties, with each registration attributed to a different individual. While the secretary of state maintains records on all legal entities recognized at the state level and does not allow duplicates, the burden falls on the prospective business owner to ensure that the desired firm name is available in each county where business will be conducted. On their website, Washoe County authorities warn aspiring entrepreneurs of the possible confusion caused by this disorganization between parallel jurisdictions, saying, "There is no guarantee that the name is not in use elsewhere in the state, and there is no cross-reference between the Counties and the Secretary of State's Office."[84]

Along with the limitations placed on entrepreneurs who must research the availability of a potential fictitious firm name within each county's database, entrepreneurs are also restricted from the use of certain words within a firm name. The secretary of state maintains a list of words that are restricted from firm names.[85] Business owners who wish to use one of the restricted words (e.g. thrift, college, trust, surety, financial, engineer, residential design,

etc.) are required to either gain approval from the proper regulatory agency or receive an exemption letter. The secretary of state's website notes:

> If it appears from the name and/or purpose of the entity being formed that it is to be regulated by the Financial Institutions Division, Insurance Division, State Board of Professional Engineers and Land Surveyors, State Board of Accountancy or Real Estate Division, the application will need to be approved by the regulating agency before it is filed with the Office of the Secretary of State.[86]

Step 4. Obtain occupational licenses (if applicable)

Nevada lawmakers have barred more than 50 common occupations to anyone who has not first procured a state-sanctioned occupational license. If an aspiring entrepreneur hopes to fill a need within one of these fields, he and every employee he intends to hire for that field will need to obtain one of these licenses.

Nevada is among the top tier of the most broadly and onerously licensed states, ranking fourth.

In many cases, occupational licensing requirements appear to serve no purpose other than to exclude new firms or workers from the marketplace in order to protect existing firms from competition.

A displaced construction worker with a talent for interior design, for instance, is not permitted to simply begin contracting with his neighbors as an interior designer. Nevada's occupational licensing laws require any aspiring interior designer to complete six years worth of education or apprenticeship requirements, pay $250 in fees and pass a test administered by the State Board of Architecture, Interior Design, and Residential Design. It is unclear why Nevada erects such high barriers to entry for a field in which there is little threat of physical harm to consumers — even when practiced by individuals without years of training. In fact, 47 states impose no special licensing requirements at all on interior designers. There is no evidence that consumers in these states have suffered major losses due to poor design advice.

Nevada's licensing requirements, in fact, are among the most onerous in the nation — exploding the myth that Nevada is a particularly business-friendly state. A 2012 comparison of state licensing laws performed by the Institute for Justice concludes:

> Nevada is among the top tier of the most broadly and onerously licensed states, ranking fourth. The state requires a license for 55 of the 102 occupations studied, more than all but five other states. Nevada is the most expensive state in which to work in a licensed lower- and moderate-income occupation, with average fees of $505. It also requires an average of 601 days of education and experience and two exams, resulting in the third most burdensome licensing laws.[87]

Occupations such as travel agent, landscape contractor, manicurist or animal trainer all offer a path to entrepreneurship and self-reliance even for individuals with a limited educational background. Yet, Nevada lawmakers have imposed hundreds of dollars in special assessments and apprenticeship requirements on individuals wishing to practice these trades. In many cases, lawmakers have even established *criminal* penalties for individuals caught performing these services without having first obtained a state-sanctioned license.

A barber, for instance, must complete nearly 2.5 years worth of apprenticeship requirements and pass four exams before he is allowed to open shop and offer his services to customers. A door repairman must complete four years worth of apprenticeship, pay more than $1,000 in

fees and pass two exams before he is allowed to contract for services.

Travel guides, also, must complete more than two years of apprenticeship, pay $1,500 in fees and pass an exam to obtain a state-sanctioned license. Yet, the majority of states don't even require a license to practice this occupation.[88]

These hurdles unnecessarily delay the recovery process by suppressing individuals' entrepreneurial ambitions. In the absence of these requirements, aspiring entrepreneurs would be free to quickly launch new businesses in these markets, perhaps hiring other workers onto their ventures as well.

Step 5. Obtain a state tax identification number with Department of Taxation

At every stage of the licensing process, business owners are required to provide proof of registration with the state tax department. This means that business owners must register for a state tax identification number.[89] While at the tax department, prospective business owners may also need to file a Surety Bond Acknowledgement that will be given to an insurance provider for sales-tax collection purposes[90] and an Affidavit of Purchaser of Farm Machinery and Equipment if they plan to purchase certain items for their business.[91] Many other tax department filings may be required, depending on the type of business under consideration. In fact, the tax department has published a 69-page step-by-step guide on all the filings that may be required of prospective business owners.[92]

All filings with the state tax department must be completed before an entrepreneur continues on to any lower jurisdictional licensing authority.

Step 6. File with IRS for a federal Employer Identification Number

The first concern of the federal government, as well, is that new businesses become registered with the appropriate taxing authorities. At a local outpost of the Internal Revenue Service, prospective business owners must apply for and obtain a Federal Employer Identification Number.[93] This number is used to help IRS employees track the federal income tax liability owed by each employee. Sole proprietorships may be exempted from this requirement, unless they pay wages to one or more employees or have to file excise tax returns.

While at the IRS office, prospective business owners should also familiarize themselves with the employer requirements for W-4 and I-9 forms, since these will also be required once business operations are under way.

Step 7. File with Secretary of State and obtain a state business license

Once state and federal authorities are able to identify and track a new firm for taxing purposes, the prospective business owner must remit $200 to the secretary of state, along with a completed "Nevada Business Registration" form[94] to receive a state business license. The $200 fee, which was doubled from $100 by Nevada's 75th (2009) Legislature,[95] must be renewed on an annual basis and is deposited into the state's general fund.

The "Nevada Business Registration" form is also used by many local jurisdictions as part of the application process for a local business license. It can be filed electronically and there are a few expedited filing services available to entrepreneurs for extra fees. Depending on the jurisdiction, these fees can range between $25 and $1,000.

By this stage, it may also be necessary for the business owner to have entered into a lease for

the property where the firm will be located, since many local jurisdictions require a "Lease Information Form" to be filed along with the "Nevada Business Registration" form. Of course, entering into a lease at this stage of the process means that the business owner may be committed to paying rent for the term of the lease, even though necessary business filings are not yet completed and legal complications may still arise.[96]

In the best case, the remaining steps may be completed in about 45 days. However, depending on the particular business model and licensing requirements to which it is subject, that time horizon is often substantially longer.

A unique set of application forms exists for the licensing process within each jurisdiction, and each licensing process imposes a unique fee structure and time constraints.

Step 8. Obtain necessary permits from the Department of Taxation (if applicable)

Once a business license has been issued, any prospective retailer will need to file with the state tax department for a Resale Certificate,[97] plus a Retail Sales Permit. Other new tax department filings may be required as well, including consumer permits, Certificates of Authority and filings to ensure compliance with the Modified Business Tax, Live Entertainment Tax and other special excise taxes.

Step 9. Obtain state license for liquor or gaming (if applicable)

Any business model that includes liquor or gaming must pass through additional steps. Although not licensed at the state level, liquor sales and distribution are taxed and regulated. Nevada maintains a three-tier regulatory structure governing alcohol distribution and sales. Firms can register either as a "supplier," "importer/wholesaler" or "retailer." Suppliers can ship or sell to any importer/wholesaler as well as directly to consumers. Importers/wholesalers may only sell to retailers or other wholesalers. Retailers may purchase only from wholesalers — they cannot purchase from other retailers — and can only sell to final consumers.[98]

Nevada's Gaming Control Board can issue two different kinds of licenses to establishments that will include some variety of gaming: "restricted" and "nonrestricted." A restricted gaming license — which allows a business owner to operate up to 15 slot machines — costs $20 per quarter per machine, plus an annual $250 tax per machine.

A nonrestricted gaming license is required to operate table games or more than 15 slot machines. Operators of table games must pay annual license fees ranging from $100, if operating a single game, to more than $16,000, if operating 17 or more games. In addition, a quarterly license fee is also due on all table games that ranges from $12.50 for a single game to more than $20,300 if operating more than 35 games. Holders of a nonrestricted gaming license must also pay annual and quarterly license fees for all slot machines, in the amounts of $250 and $25 per machine, respectively. Finally, a gross receipts tax is levied against gaming revenue for holders of nonrestricted licenses. The first $50,000 of monthly revenue is taxed at 3.5 percent; the next $84,000 per month is taxed at 4.5 percent, and all monthly revenue over $134,000 is taxed at 6.75 percent.[99]

Step 10. Register for Unemployment Insurance (if applicable)

Any business that pays wages in excess of $225 per quarter must register with the Department of Employment, Training and Rehabilitation's Employment Security Division and pay for unemployment insurance.[100] Unemployment insurance is currently assessed at 3.0 percent of the gross wage paid to each employee and the rates are adjusted periodically.

Employers desiring to adjust the amount of wage subject to the tax can only do so annually.[101]

Step 11. Comply with Nevada Labor Commission requirements

All employers are required to comply with Nevada's minimum wage and overtime laws and must post signage deemed to explain those laws to their employees in a conspicuous location within their place of business.[102]

Step 12. Provide proof of workers' compensation insurance

Nevada law requires every business owner to provide workers' compensation insurance for all employees with a few exceptions. Business owners may not self-insure and any employer who fails to maintain adequate workers' compensation insurance is guilty of a criminal offense. Proof of insurance must be submitted to the Department of Business and Industry's Division of Industrial Relations by filing an "Affirmation of Compliance with Mandatory Industrial Insurance Requirements" form.[103]

Step 13. Inventory personal property for county assessor

Every firm or proprietor that owns office property — called "business personal property" by the state — is required to provide an inventory of all furniture and business equipment in its possession to the local county assessor. The assessor then appraises these assets and levies a personal property tax against the value of the equipment.[104]

Step 14. File for local business license

In addition to meeting all state licensing and fee requirements, aspiring entrepreneurs must also obtain similar permissions from local jurisdictional governments before their business can begin meeting the needs of consumers. Frequently, local jurisdictional requirements are more onerous, more costly and more specific than those imposed at the state level. In addition, the second layer of local jurisdictional authority means that aspiring entrepreneurs must familiarize themselves with a completely new legal corpus and political body. Alternatively, if they have financial resources they are willing to spend, they can hire lobbyists already familiar with local ordinances or who can influence how local officials wield their often-wide discretion.

Any aspiring entrepreneur who opens shop without first obtaining the necessary permissions from local government authorities faces potential penalties as high as a $1,000 fine and six months in jail.[105]

Each jurisdiction maintains an exclusive business-licensing department. This means entrepreneurs who wish to conduct business across multiple jurisdictions may be required to obtain a unique business license from each jurisdiction within which they hope to operate. Further, a unique set of application forms exists for the licensing process within each jurisdiction, and each licensing process imposes a unique fee structure and time constraints. As a result, the difference in legal documents and wait times across jurisdictions may frustrate or constrain entrepreneurs who envision opening a "chain" of stores.

To make matters even more complicated, three different classes of business licenses exist at the local government level. Entrepreneurs must apply for either a "General," "Regulated" or "Privileged" business license depending upon the particular business model they envision. The most common of these is a general business license, which applies to most firms and offers the most lenient regulatory oversight.

For some business models, however, local officials claim the authority to discriminate among persons who may own or operate the business and to stipulate how the business may be run. Any business that local officials believe poses a potential "threat" to the "public health, safety, morals and welfare of the [jurisdiction's] inhabitants"[106] — a necessarily subjective determination — may be required to obtain a regulated business license. Businesses that have been required to obtain a regulated business license include ice-cream-truck vendors, pawnbrokers, auctioneers, reflexologists and even automobile vendors. Regulations regarding these firms may extend into the day-to-day minutiae of business operations. Pawnbrokers, for instance, are typically subject to a long series of restrictions regarding from whom they may purchase items.

It is unclear why government officials need to inspect every building site when state lawmakers have required that the work be completed by contractors who have met strict occupational licensing criteria...

Not all jurisdictions have a "regulated license" category — a fact that displays the necessarily subjective, and possibly arbitrary, interpretation of "public welfare" clauses.[107]

Privileged licenses are required for any entrepreneur whose business model will include liquor sales or gaming services. To obtain a privileged business license, applicants must successfully pass a background check performed by the local sheriff's office. Typically, entrepreneurs will be required to provide a birth certificate, two color photos and two copies of passport and driver's license. In addition, the applicant must submit to fingerprinting, complete a personal history questionnaire detailing personal and family contacts, provide a personal financial history detailing personal bank accounts and investments, and provide past federal income tax and bank statements. Once the required materials have been assembled and submitted, the potential business owner must wait up to 30 days for completion of the background check and then appear before local officials to apply for a privileged business license. Even upon successful passage of the required background check, there is no guarantee that a license will be issued. Local licensing officials may still exercise their discretion as to whether to issue a privileged license to a prospective business owner.

Further, there is some question as to why a local business licensing process is even necessary since state officials have already judged an aspiring entrepreneur's qualifications.

In addition to the paperwork and bureaucratic delays that entrepreneurs must endure to obtain the requisite local business licenses, more fees are required. In fact, a review of budget documents from Clark and Washoe counties and the cities of Henderson, Las Vegas, North Las Vegas, Reno and Sparks reveals that these seven jurisdictions collected, in fiscal year 2011 alone, a combined $132.45 million in local business licensing fees.[108] These charges deprive entrepreneurs of needed capital. Rather than encouraging the growth of small business, such licensing fees and the departments they fund constitute artificial burdens and barriers.

Step 15. Obtain local jurisdictional liquor or gaming license

Once aspiring entrepreneurs have obtained a state license for liquor sales or gaming operations, they must obtain another, duplicative, license at the local government level and comply with an entirely new set of requirements. All prior licensing steps must be completed before an entrepreneur is permitted even to apply for a local liquor or gaming license.

This application process varies markedly across local jurisdictions. In Clark County, for instance, entrepreneurs must complete a gaming license application and a gaming license supplement and, if applicable, a separate liquor license application. These applications are in addition to the application and personal history reports necessary to receive a privileged business license.[109] Washoe County, on the other hand, requires applicants to complete only two additional pages on top of those required for a privileged business license.[110]

To obtain a local jurisdictional liquor or gaming license, local governments require more fees. Within the City of Henderson, for instance, a prospective tavern owner must pay $60,000 in one-time origination fees and, thereafter, a semi-annual fee of $1,200 to maintain a city liquor license.[111] These steep fees deprive entrepreneurs of capital and unnecessarily raise the barriers to their entry in the marketplace.

Step 16. Pass jurisdictional business facilities inspections

Even after entrepreneurs have obtained every requisite license or permit, paid all necessary fees and complied with zoning ordinances, they are not free to begin serving customers until local authorities have approved their business facilities. The ostensible goal of facility inspectors is to provide assurance that the business structure complies with local building standards.

Each facility, however, is subject to inspection by multiple government departments, each of which checks compliance with its own unique set of regulations. These include fire codes, building permits, demolition permits, health permits, dust permits and animal control regulations. Each set of regulations may be hundreds of pages in length, with each page specifying multiple requirements. The result is that, frequently, no two inspectors have an identical understanding of the criteria they are inspecting — a phenomenon that often results in business owners gaining approval from one inspector but then subsequently being cited for violations by a different inspector from the same department.

It is unclear why government officials need to inspect every building site when state lawmakers have required that the work be completed by contractors who have met strict occupational licensing criteria set by the Nevada State Contractors Board. If a state board has certified a builder’s qualifications to perform the job correctly, then rigorous inspections should be unnecessary. Conversely, if every building site is to be rigorously inspected, then state licensing requirements for builders should be unnecessary.

Further, while government inspections are purportedly to assure prospective consumers about a facility’s safety, no government agency assumes liability if it fails its responsibility and consumers suffer some loss or damage. Instead, all liability falls on the business owner and the private insurance agency with whom he’s contracted. Therefore, it would likely be more logical and cost-effective for self-interested insurance underwriters to inspect for compliance with building and fire codes.

Step 17. Obtain other applicable jurisdictional permits

In addition to each of the steps detailed above, prospective business owners may also need to procure other jurisdictional permits, adhere to specific mandates and pay additional, requisite fees. Depending on the business model envisioned, these may include:

· Application for Reflexology

· Authorization for Release of Information Upon Sale of Transient Lodging Establishment

· Charitable Registration

· Charitable Registration Solicitation Form

· Clark County Department of Public Works Form

· Multi-Jurisdictional Supplemental for New License Application Form (contractors)

· Request for Statement of Seller's Transient Lodging Tax Liability

· Application for Rodeo Permit

· Supplemental Information for Construction Clean Up & Recycling

· Apartment Designated Manager Form

· Franchise Service Forms

· Request for Duplicate License Form

· Vendor Registration

· Application Permit for Rock Musical Concert

· Temporary Merchant BL021

· Pre-Application Request Form

· Zoning Verification Letter

· Film Permit Forms

· Affirmation of Compliance with Mandatory Industrial Insurance Requirements

· Child Support Compliance Documents

· Compliance/Exemption Forms (SB356)

The licensing and zoning obstacle courses that prospective entrepreneurs in Nevada must run suggest that policymakers, despite their business-friendly rhetoric, actually remain largely indifferent to the value entrepreneurs bring to the state. Implicitly, policymakers demand that entrepreneurs effectively shelve their talents for perceiving the future needs of others and organizing productive resources to fill those needs, and instead devote months or years to negotiating Nevada's maze of government agencies and studying the peculiar preferences of state, county, city and special-entity bureaucrats.

Restrictions on Employing Labor

In addition to the multifaceted licensing burdens imposed on entrepreneurs and the growing threat to confiscate a share of entrepreneurial earnings through taxation, the State of Nevada also imposes relatively onerous barriers to creating new employment.

Chief among these is a price floor for labor that exceeds price floors found in most states. A 2006 amendment to the Nevada Constitution established a minimum wage rate perpetually one dollar higher than the federal minimum wage rate, if employers do not also provide qualifying health benefits. For employers that provide qualifying health benefits, the state minimum wage was set equal to the federal minimum wage.

In both cases, however, Nevada's minimum wage rate was also indexed to changes in the Consumer Price Index, a measure of inflation. Federal minimum-wage rates are changed only periodically based upon an arbitrary determination by Congress and are not anchored to any

Restrictions on labor compensation, by state (As of January 1, 2012)[112]

State	*Minimum wage*	*Overtime required after designated hours (daily)*	*Overtime required after designated hours (weekly)*
1. Washington	$9.04	*None*	40
2. Oregon	$8.80	*None*	40
3. Vermont	$8.46	*None*	40
4. Connecticut	$8.25	*None*	40
4. District of Columbia	$8.25	*None*	40
4. Illinois	$8.25	*None*	40
4. Nevada	**$8.25**	**8**	**40**
8. California	$8.00	8	40
8. Massachusetts	$8.00	*None*	40
10. Alaska	$7.75	8	40
11. Ohio	$7.70	*None*	40
12. Florida	$7.67	*None*	*None*
13. Arizona	$7.65	*None*	*None*
13. Montana	$7.65	*None*	40
15. Colorado	$7.64	12	40
16. Maine	$7.50	*None*	40
16. New Mexico	$7.50	*None*	40
18. Michigan	$7.40	*None*	40
18. Rhode Island	$7.40	*None*	40
Federal MW	*$7.25*		
20. Delaware	$7.25	*None*	*None*
20. Hawaii	$7.25	*None*	40
20. Iowa	$7.25	*None*	*None*
20. Idaho	$7.25	*None*	*None*
20. Indiana	$7.25	*None*	40
20. Kansas	$7.25	*None*	46
20. Kentucky	$7.25	*None*	40
20. Maryland	$7.25	*None*	40
20. Missouri	$7.25	*None*	40
20. Nebraska	$7.25	*None*	*None*
20. New Hampshire	$7.25	*None*	40
20. New Jersey	$7.25	*None*	40
20. New York	$7.25	*None*	40
20. North Carolina	$7.25	*None*	40
20. North Dakota	$7.25	*None*	40
20. Oklahoma	$7.25	*None*	*None*
20. Pennsylvania	$7.25	*None*	40
20. South Dakota	$7.25	*None*	*None*
20. Texas	$7.25	*None*	*None*
20. Utah	$7.25	*None*	*None*
20. Virginia	$7.25	*None*	*None*
20. West Virginia	$7.25	*None*	40
20. Wisconsin	$7.25	*None*	40
43. Arkansas	$6.25	*None*	40

44. Minnesota	$6.15	*None*	48
45. Georgia	$5.15	*None*	*None*
46. Wyoming	$5.15	*None*	*None*
47. Alabama	*None*	*None*	*None*
48. Louisiana	*None*	*None*	*None*
49. Mississippi	*None*	*None*	*None*
50. South Carolina	*None*	*None*	*None*
51. Tennessee	*None*	*None*	*None*

Note: State minimum wage and overtime laws are controlled by legislative activities of the individual states. When state requirements supersede federal requirements, state laws prevail. When federal requirements supersede state requirements, federal law prevails.

Source: U.S. Department of Labor, Wage and Hour Division

inflation index. As a result, the disparity between Nevada's minimum wage and the federal minimum wage tends to grow with each passing year. Nevada now requires a minimum wage that is exceeded only by those of Washington, Oregon and Vermont.

With only a few exceptions, entrepreneurs may not hire any employee at a wage rate less than the state minimum wage, even if the prospective employee agrees to a lower wage in order to avoid unemployment. The constitutional minimum-wage amendment states, "The provisions of this section may not be waived by agreement between an individual employee and an employer" unless the employer enters into "a bona fide collective bargaining agreement."[113]

In the building trades, entrepreneurs must pay even higher minimum wages when they contract for a publicly funded construction project. That's because Nevada is also one of 29 states that currently require contractors to pay "prevailing wage" rates. In practice, prevailing wage laws allow local trade unions to determine the wage schedule on publicly financed construction projects. In Nevada, prevailing wage laws have been found to force contractors and their employees to accept pay rates that are between 44.2 and 45.8 percent higher than those paid to similar classes of workers in the private marketplace. [114] This high price floor for construction labor limits the number of public infrastructure projects that can be undertaken, thus eliminating additional employment prospects for workers.

Nevada's overtime regulations are also more restrictive than those of most other states. Nevada is one of only four states that require employers to pay a wage premium for all hours worked beyond a daily *and* weekly limit. The majority of states require premium pay for employees who work more than a given number of hours per week (usually 40, although Kansas and Minnesota allow employees to work 46 and 48 hours, respectively, before a wage premium must be paid). However, only California, Colorado, Massachusetts and Nevada require a wage premium when workers exceed a daily number of hours worked. Colorado allows employees to work 12 hours in a day before they are required to receive an overtime premium, while California, Massachusetts and Nevada impose a premium after only eight hours.

Together, Nevada's comparatively aggressive minimum wage, prevailing wage and overtime laws artificially elevate the price of labor, creating an incentive for entrepreneurs to economize on the use of labor by investing more heavily in labor-saving capital equipment. Cashiers, for instance, are replaced with automated cashier machines as the employment of humans, relative to machines, becomes increasingly costly. The use of labor-saving devices can serve a highly beneficial purpose by increasing the productivity of labor for each hour worked, leading to a consequent rise in wages. However, when state laws that artificially

inflate the cost of labor relative to capital bias such entrepreneurial decisions, the result is suboptimal: Per-unit production costs increase, and thus, the prices facing consumers rise correspondingly. In short, these laws decrease living standards, since they distort one of the primary roles entrepreneurs perform — reconciling the price of inputs with the expected price of future outputs.

Not only do these laws impinge on entrepreneurs' ability to calculate efficiently, but they also tend to lower the employment prospects for low-skilled workers. When politicians establish legal price floors for labor, workers who lack the knowledge or skill level necessary to create value at least on par with that price floor are likely to be priced out of a job. Early proponents of minimum wage laws explicitly recognized that a legal price floor would reduce employment opportunities for low-skilled workers — a group that is disproportionately composed of minorities, teenagers and women. Indeed, these early advocates candidly saw unemployment of what they called "parasitic labor" as a primary virtue of minimum wage laws and other such price floors.[115]

The most powerful and effective regulation of private industry comes not from government, but from discerning consumers in an active and competitive marketplace.

Today, while government-mandated price floors for labor are proclaimed by advocates as a way to raise living standards for the poor, empirical evidence makes it clear that these laws continue to harm the same low-skilled workers they supposedly are intended to benefit. Nationwide unemployment rates for workers with less than a high school diploma have consistently ranged four to five percentage points above those for workers with a high school diploma and eight to nine percentage points above those for workers who hold a four-year degree.[116]

The particular demographics that are more likely to be unskilled are impacted acutely. Unemployment rates among teenagers who are actively seeking employment, for instance, have consistently remained about three times higher than unemployment rates for non-teenage workers.[117] Likewise, unemployment rates among black workers have consistently remained about twice as great as unemployment rates among white workers.[118]

Regulations

Policymakers in Nevada and elsewhere are generally slow to acknowledge that the most powerful and effective regulation of private industry comes not from government, but from discerning consumers in an active and competitive marketplace.

Regulations — such as those that prohibit or require certain production methods — interfere with entrepreneurs' capacity to calculate by limiting the combinations of productive inputs that entrepreneurs are able to employ. Facing a smaller range of legally available production methods, entrepreneurs' capacity for innovation and experimentation becomes sharply limited. This lost opportunity to discover potentially valuable new products or production techniques harms consumer welfare in the long run.

Consider the case of Uber Technologies, a San Francisco-based firm that sought to expand into the Las Vegas market early in 2012. The entrepreneurs at Uber proposed to offer consumers a smartphone application that would allow them to reserve transportation with licensed livery providers already in existence. Uber's "app" allows users to book travel from any location, arrange pick-up, render payment and tip drivers — all from their smartphones. Drivers forward a share of revenues on to Uber in exchange for the booking and dispatch services. From the firm's outset, however, it has faced opposition from restrictive state

licensing laws and the entrenched interest groups who foster and support those laws.

After the firm launched in San Francisco, under the name UberCab, traditional taxicab companies filed complaints with the San Francisco Metro Transit Authority and the Public Utilities Commission of California on grounds that the innovative start-up was acting as a taxicab company — even though its business model allowed it to sidestep the state's licensing structure. In response, those regulating agencies served UberCab with cease-and-desist letters. The agencies threatened to subject the firm's owners to $5,000 in fees per instance of operation and 90 days in jail for each day the company remained in operation.[119]

UberCab's owners responded by filing countersuits against the regulatory agencies and changing the firm's name to Uber Technologies. Although they have continued to face legal challenges, Uber's service is popular and has expanded into new markets, including Boston, Chicago, New York, Washington, D.C., London and Paris. The hostile regulatory environments Uber confronted in each of these cities, however, were dwarfed by what the company's founders discovered when they attempted to enter the Las Vegas market.

A 1997 law purportedly intended to begin a deregulation process for electric utilities also brought into existence a new state regulatory agency designed to restrict competition and innovation in Nevada's transportation industry.[120] The Senate Commerce and Labor Committee introduced more than 500 pages of amendments into the "deregulation" bill that, ironically, imposed some of the most restrictive regulations in state history — in part, by giving birth to the Nevada Transportation Authority (NTA). At the time, Institute for Justice

Items that must be included in NTA application for Certificate of Public Convenience and Necessity	
• A general description of the type of service proposed • For moving companies, a list of the types of goods that will be moved • The geographical area proposed to serve with details of where materials will be stored and a "concise, narrative description of the proposed route" • A map sketch of the route and all points to be served • A copy of all proposed contracts (if applying to be a contract carrier) • A schedule of proposed rates or fares • The type and number of units of equipment to be used along with titles of vehicles, photographs and description of proposed color scheme • A balance sheet for the six months prior to application	• A statement indicating the frequency of the proposed service • A statement of the qualification and experience of the management and procedural personnel • A description of all facilities necessary to provide the proposed service • Facts showing that the proposed operation is or will be beneficial to the traveling public • Evidence that the applicant is financially able to operate proposed business • A 12-month statement of income • A 12-month pro forma statement of the proposed operation, with proposed rates and proposed quantity of vehicles. (The NTA has the authority to prohibit the new business from putting more vehicles into service than what is proposed at time of application.)

attorney Deborah Simpson said, "In the same bill that they wanted to deregulate a true utility, they put in harsher limitations and regulations against something — transportation — that's clearly not a utility."[121]

According to that law, the purpose of the NTA is "to discourage any practices which would tend to increase or create competition that may be detrimental to the traveling and shipping public or the motor carrier businesses within this State."[122] In other words, the explicit purpose of this regulatory agency is to protect incumbent transportation providers from competition, even if would-be competitors, such as Uber, might offer the public better and more innovative services.

The NTA regulates all motor carrier businesses within Nevada, including taxicabs and limos, tow trucks and moving companies: If a business wants to transport the public or their property, it must first obtain a "certificate of public convenience and necessity" from the NTA. When a new enterprise applies for such a certificate, any party that "has direct and substantial interest in the proceeding" has a right to intervene in the application process and protest the granting of any new certificate.[123]

Interveners are declared to have a "direct and substantial interest in the proceeding" if mere issuance of a new certificate would "tend to increase competition" or would otherwise "unreasonably and adversely affect other carriers operating in the territory for which the certificate is sought."[124] Not only must applicants secure the blessing of their would-be competitors, they must also, in pursuit of a certificate of public convenience, divulge very specific information relating to their proposed operations.

Thus, through the regulatory hearing, incumbent firms gain access to the business plans of prospective competitors. Upon reviewing these plans, owners of an incumbent firm can raise objections leading to the denial of a new certificate and then turn around to amend their own certificate in order to offer a service identical to the one proposed by the applicant. In other words, the State of Nevada not only protects legalized transportation cartels, it allows those providers to steal the ideas of any prospective competitor.

Throughout the application process the burden of proof is on the applicant to show that a public need exists for the applicant to enter the market. The applicant must provide "facts showing that the proposed operation will be beneficial to the traveling public."[125] Based upon the evidence provided by the applicant, the political appointees on the NTA board then make a necessarily subjective determination as to whether the applicant has proved his case. This determination is reached arbitrarily before consumers are able to express through their purchasing decisions which transportation services they value most highly.

Even if an applicant can successfully pass through this regulatory process and procure a certificate of public convenience and necessity, NTA officials still have broad powers to control prices and business operations. Nevada is one of only a few states, for instance, that require livery services to charge a minimum hourly rate. Generally, providers are required to charge at least $40 to $45 per hour with a one-hour minimum, even if the commute only takes a matter of minutes. NTA officials designed this regulation in order to protect taxicab companies from competition by limousine companies for short commutes.

After examining this regulatory structure, Uber's entrepreneurs commented that no other city where they do business imposes such high minimum rates and that these rates — even if the firm could procure a Certificate of Public Convenience and Necessity — would destroy Uber's competitive advantage. It is particularly notable that the state's cartel-serving

regulatory structure has deterred Uber from entering the Las Vegas market even though the Governor's Office of Economic Development has expressed particular interest in attracting high-tech firms to the state, and even made specific overtures to Uber.[126]

Uber's decision not to enter the Las Vegas market due to the state's hostile regulatory environment is just one example of how an ill-conceived regulatory structure can stifle innovation and harm prospects for greater economic vitality and long-term economic growth. Over-regulation easily constrains and discourages entrepreneurs with new ideas. That's why policymakers should strive to keep regulations as flexible and adaptive to new ideas or technologies as possible by refraining from restrictive language.

Gov. Sandoval began to take positive steps in this direction, upon taking office in January 2011, with a one-year freeze on new regulations. He also asked his cabinet to conduct a thorough review of existing state regulations. That review culminated in the removal of more than 700 unnecessary regulations and modifications to 1,000 more.[127]

Much work remains to be done, however, including the removal of unnecessary and counterproductive state agencies such as the NTA, the easing of anti-competitive regulations and the repeal of other obstacles for entrepreneurs seeking to innovate with new technologies that disrupt the *status quo* and benefit the public.

Local-government regulations

At the local government level, also, a similar review and streamlining of regulation is needed if Nevada is to become a welcoming environment for aspiring entrepreneurs. Recent regulations passed by the Clark County Commission, however, move in the opposite direction by taking a hostile stance toward innovating entrepreneurs. Holders of a limited county gaming license now cannot continue to operate unless they've constructed beverage bars that include at least eight embedded slot machines. The rules also require all new taverns to have at least 2,500 square feet of public space, be at least 2,000 feet away from the next closest tavern and operate a kitchen at least 12 hours per day.[128]

The regulations were specifically intended to prohibit the business model followed by Dotty's Gaming & Spirits — friendly, neighborhood bars with stand-alone slot machines. Since 1995, Dotty's taverns have provided a popular entertainment venue for mostly elderly patrons who want to play slot machines but also want to avoid the hustle and crowds at larger casinos. The firm currently operates 21 such parlors in Clark County.

As the commission considered the new regulations, Dotty's attorney Mark Ferrario said, "This will do what those who have not liked Dotty's have wanted to do. If this ordinance is approved, there will be no more Dotty's from this point forward." Motivating the regulatory change was pressure from large casino operators who viewed Dotty's business model as a competitive threat and wanted to block the firm's growth.

Soon after the commission approved the new regulations in April 2011, Dotty's filed suit against Clark County, alleging that the property rights it held in its county gaming licenses had been violated by a "back-door revocation" through the new county ordinances that effectively outlawed the firm's business model. Key to Dotty's argument was that the firm's business model had been deemed a permissible use of its gaming licenses when authorities reviewed the owners' plans as part of the application process for those licenses. In September 2012, however, a federal district court judge ruled in favor of the county, saying "the court will not second guess the county's determination that taverns operating under limited gaming licenses should comply with certain physical requirements, including having eight bar-top gaming devices, to enhance public welfare."[129]

Now, if Dotty's owners wish to remain in business, they will have to bear the expense of retrofitting all existing establishments in order to comply with the new regulations. During the time Dotty's facilities are closed or restricted for this renovation, the firm will also suffer lost revenues and its employees will likely suffer lost wages. Further, the new building expenses will deplete the firm's capital assets and slow its future growth prospects. As of May 2011, the firm employed more than 500 workers statewide.[130]

Clark County's transparently hostile regulations against the entrepreneurs who founded Dotty's, however, are not unique among local governments in the Silver State. In October 2012, for instance, the Las Vegas City Council passed new regulations that raised barriers for food truck operators within city limits. Food trucks offer a popular and innovative new business model for aspiring entrepreneurs with limited capital resources. Entrepreneurs can typically outfit a food truck at a fraction of the cost of opening a restaurant because they needn't provide an expansive dining area or restroom facilities or pay hard costs such as for plumbing, rental space or property taxes. Food truck operators can then pass these savings on to consumers, offering gourmet-quality food at a fraction of prices charged by traditional restaurateurs.

The October 2012 city ordinance, however, prohibits all food truck operators within the City of Las Vegas from operating within 150 feet of an established restaurant. The ordinance — supported by traditional restaurateurs who feared competition from the new food-truck business model — places most high-traffic areas within Las Vegas' main tourism district out of reach of food-truck operators.[131]

Regulations such as these directly stifle opportunities for entrepreneurship and innovation, reducing consumer welfare. And they entrench the state in economic malaise for the benefit of those who deploy their political connections to shirk the challenge of competition.

Restore Lasting Growth

The official state plan for economic development adopted by GOED fails to identify a workable path toward economic growth precisely because it fails to recognize how state and local governments actively discourage private entrepreneurship. Instead, it actually compounds one of the state's more basic problems: government-granted privileges for the politically connected.

GOED's mission should be to restore authentic, lasting growth by identifying and removing obstacles to the free exercise of private entrepreneurship, which is the driver of all sustainable economic growth. The twin tasks of entrepreneurship — reconciling prices for inputs versus expected prices for future outputs and mitigating risk — should never be complicated unnecessarily by any public policy. Yet, the official state plan, as currently constituted, complicates these tasks by exposing entrepreneurs to the risk that a potential competitor might secure the explicit political and financial backing of the state.

Nevada policymakers serious about restoring economic growth should reject the current GOED plan and instead direct GOED to focus on lowering the costs and uncertainty that state and local governments impose on entrepreneurs.

Specifically, that means addressing both current and future:

1. Tax rates;
2. Licensing, zoning, and filing requirements;
3. Restrictions on the employment of labor; and

4. Regulations.

Despite the public meme that Nevada is a particularly business-friendly state, it is — as this report makes clear — actually among those most hostile to private entrepreneurship. Though near the national median in terms of the amount of revenue per capita extracted from the private economy, the state has some of the nation's most onerous licensing requirements, labor restrictions and regulatory schemes. When it comes to encouraging small business creation, each of these factors may be more significant than the tax structure alone.

This means Nevada policymakers have much work to do if they genuinely desire to see job growth, economic diversification and a return to prosperity for Nevada families. To that end, the following recommendations would help Nevada policymakers fix the state's deficiencies in economic development.

Recommendations

Allow private entrepreneurship to direct human action

1.1. Remove responsibility for economic planning from bureaucrats and empower private entrepreneurs. The official state economic development plan disdains the integral role played by entrepreneurs in restoring economic growth during the recovery phase of the business cycle. Instead, the plan favors greater state involvement in economic planning — a strategy that injects new risks into entrepreneurs' calculations and, thereby, impedes economic growth. Because entrepreneurs must now consider that potential competitors may gain the explicit political and financial backing of the state, the scheme increases both entrepreneurs' uncertainty and investors' reluctance to risk their capital.

Direct state subsidies to politically favored firms also allow those firms to harm social welfare by enabling them to produce negative value. Indeed, that was the experience all across America in the 19th Century, leading Nevada's founders to include a provision in the state's constitution prohibiting gifts from the state to private firms. Under any straightforward reading of that provision, both the Catalyst Fund and the state-directed venture capital fund created by SB 75 are unconstitutional. Lawmakers should thus immediately repeal these programs. Lawmakers should also place strong limitations, restrictions and oversight on the ability of GOED's unelected officials to hand out special tax exemptions to favored firms.

GOED's mission should, instead, be redefined — commissioned to facilitate private entrepreneurship by identifying and removing state and local obstacles to its free exercise.

1.2. Align worker skills with employer demand. Not every aspect of the current state plan for economic development is without merit. The plan does highlight the need to produce a workforce trained with the skills to innovate and compete in a global economy. Unfortunately, the plan's only proposal for achieving this laudable goal is to commit greater sums of taxpayer dollars to workforce training efforts or to research and development within the state's monopoly system of higher education.

A more direct route to aligning worker skills with employer demand would be to allow price-and-wage signals to more effectively penetrate the state's higher-education marketplace. According to data from the U.S. Department of Education, Nevada maintains the nation's third-lowest in-state tuition rates at its public, four-

year universities — a rate that is only 56.1 percent of the national average.[132] These unusually low tuition rates reflect the high degree of public subsidy going into government-run higher education.

As a result, students who directly bear only a minority of the cost of their studies are less sensitive to the demands of the marketplace because they needn't reconcile the full expense of their studies with a corresponding gain in earning potential. Students who receive large public subsidies are therefore more likely to specialize in fields for which there is less demand on the labor market.

Consider that the state plan emphasizes the need to produce more college graduates in the fields of science, technology, engineering and mathematics (STEM). However, when higher education is heavily subsidized and students need not reconcile the full costs of their instruction with the earning potential they are building, they are less likely to specialize in these rigorous fields and more likely to pursue degrees in fields like the humanities. A review of data from The Education Trust reveals that there is a strong, positive correlation among universities nationwide between tuition rates and the proportion of students who graduate in STEM fields. At universities with heavily subsidized tuition rates, students are not only more likely to focus on non-STEM fields, but they are also less likely to complete their degrees.[133]

Aligning worker skills with employer demand, particularly in the STEM fields, is a laudable goal. Yet, the most direct means of accomplishing this goal is by lowering the degree of public subsidy within the Nevada System of Higher Education so that students become more price- and wage-sensitive. An additional improvement that would facilitate the rise of a vibrant, dynamic state economy would be for universities to place a central focus, across all degree tracks, on entrepreneurship — with an emphasis on how each skill-set might be successfully adapted to meet society's ever-changing needs.

Taxation

2.1. Eliminate the Modified Business Tax. Nevada's current MBT assessment on private-sector payroll is a direct tax on labor that artificially raises the cost of employing labor. As a result, the tax biases entrepreneurs into economizing on labor by investing more heavily in labor-saving capital equipment beyond the point of maximum efficiency. The result is a net societal loss due to an unnecessary increase in per-unit production costs.

Additionally, the Modified Business Tax has been demonstrated to be among Nevada's most volatile taxing instruments, exacerbating the difficulties of planning state finances.[134] Removing this tax instrument, as part of a comprehensive and revenue-neutral tax reform package, would achieve the twin tasks of stabilizing state revenues and eliminating an artificial distortion in the calculations of Nevada's entrepreneurs.[135]

2.2. Provide greater certainty over future business tax rates with TASC. Not only must entrepreneurs incorporate the impact of current tax rates into their economic calculations, but they must also consider the *prospective* impact of potential changes in *future* tax rates or structures. Current and ongoing efforts to erect new taxes on Nevada businesses cloud the horizon for entrepreneurs and unnecessarily render economic calculation more difficult. Lawmakers should remove this haze of uncertainty by sending a strong signal to entrepreneurs that the real, per-capita burden

of public finance in Nevada will never increase. A constitutional Tax and Spending Control amendment would transmit this important signal.[136]

Licensing, zoning and filing requirements

3.1. Eliminate occupational licensing requirements for trades that pose little risk of physical harm. During the 1950s, only one in 20 American workers was required to obtain a state-sanctioned occupational license in order to go to work. That figure has since increased to one in three American workers. Worse, Nevada is in the top tier of states with the most onerous licensing requirements. It requires, on average, $505 in fees, 601 days of education or apprenticeship and the successful completion of two exams[137] for the lower- to moderate-income occupations that require licenses. These include jobs such as landscaper, travel guide or interior designer — occupations that offer a pathway to entrepreneurship even for individuals with modest means or educational background.

These obstacles to work unnecessarily suppress entrepreneurship within the Silver State. Lawmakers should remove licensing requirements on all occupations that do not present a significant threat of *physical* harm to consumers when practiced by an unknowledgeable professional.

3.2. Continue to develop a business portal and ensure that all local governments are included. During the 75th (2009) legislative session, Nevada lawmakers took the first step toward simplifying the filing requirements facing entrepreneurs in the Silver State when they created a state business portal within the Office of the Secretary of State.[138] According to the secretary of state's website, "This important tool will allow for streamlined entity formation, the payment of the annual business license and other business-related transactions online."[139] Three-and-a-half years after passage, the portal is still only in the first phase of a multi-phase development. As ultimately envisioned, however, it would facilitate transactions between aspiring entrepreneurs and multiple state and local government agencies through a single online venue.

Secretary of State Ross Miller acknowledges the effort's limitations:

> Currently, to incorporate, a business may interact in some capacity with many agencies including the SOS (incorporation), DMV (fleet/business license), DETR (unemployment insurance), Tax (sales & use permits), DPS (background check) and County and/or City offices (business license). *Steps to create a new business are currently not well defined or apparent to the end user who is required to complete a variety of forms; use varying methods of payment for processing fees and paperwork; and often must make physical trips to complete the process with varying agencies.*[140] (Emphasis added.)

The business portal is intended to simplify the process of incorporation and licensing for entrepreneurs, but its maximum potential will only be achieved if the format consolidates the licensing requirements of local governments with those at the state level. While the current state licensing requirements are complex and represent a major obstacle to entrepreneurship, those existing at the local government level often pose an even greater obstacle due to their duplicative, arbitrary and uncoordinated nature. State policymakers should require participation in the portal by the local government agencies and local government officials should participate wholeheartedly in the portal's prompt completion.

3.3. Reduce business license fees. Legal and administrative hurdles aren't the only barriers to incorporation in the State of Nevada. Aspiring entrepreneurs must also pay

substantial fees to state and local government authorities throughout the incorporation process. Particularly for aspiring entrepreneurs with limited resources at their disposal, these fees consume precious capital resources that could otherwise be used to sign a lease, build out office space or purchase equipment.

Policymakers must recognize that imposing financial burdens on aspiring entrepreneurs is an inefficient way to generate public revenues, since it discourages and suppresses entrepreneurship. When small businesses face costly, up-front incorporation fees, they are less likely to get off the ground and generate additional public revenues through alternative mediums such as the sales tax.

Indeed, experience has shown that nonresident firms are particularly sensitive to even small changes in business licensing fees — to the point that a rise in those fees may result in a *decline* in public revenues, as nonresident firms move to other states for incorporation. In the year after lawmakers doubled state business license fees in 2009, for example, the number of incorporations in Nevada declined by 31,760 as nonresident firms moved to other states.[141]

Restrictions on employing labor

4.1. Improve labor flexibility. Despite being a Right-to-Work state, Nevada imposes some of the most stringent restrictions in the nation on the employment of labor. The state imposes one of the nation's highest minimum wage rates, subjects public contractors to prevailing wage requirements and is one of only four states that require a premium "overtime" wage after a worker has exceeded a daily limit of hours. These government-imposed wage floors result in lost opportunities for both workers and entrepreneurs by making labor artificially expensive. In particular, wage floors harm unskilled workers who cannot yet provide enough value for employers to justify the expense of their employment. As a result, these workers lose out on employment opportunities that would offer needed skills training while entrepreneurs are compelled to turn to more costly production alternatives.

Regulations

5.1. Build on governor's effort to streamline state regulatory structure. Gov. Sandoval has moved in the right direction by instituting a temporary freeze on agency rule-making and then announcing the repeal of more than 700 state regulations. However, much work remains to be done. Regulatory agencies that unnecessarily interfere in the marketplace or which act only to protect the interests of incumbent businesses, such as the NTA, should be eliminated altogether.

5.2 Eliminate or drastically simplify local zoning ordinances and regulations. Policymakers at the local government level also should undertake a systematic review of local jurisdictional regulations and streamline or simplify these rules wherever possible. The volume of local jurisdictional regulations that exceed regulations already in existence at the federal or state levels should be kept to a minimum, and local governments should cease to promulgate rules that interfere unnecessarily in the dynamics of the marketplace.

Further, local jurisdictions should minimize the detrimental impact of land-use restrictions by using overlay zoning to make each parcel of land more useful and, therefore, more valuable.[142]

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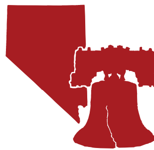

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