NAIOP
COMMERCIAL REAL ESTATE DEVELOPMENT ASSOCIATION
SOUTHERN NEVADA CHAPTER

March 20, 2015

Governor Brian Sandoval
Department of the Administration
State Capitol Building
101 N. Carson Street
Carson City, NV 89701

RE: Concerns with SB252 (Business License Fee or "BLF")

Dear Governor Sandoval:

My name is Charles Van Geel and I am the 2015 President of NAIOP Southern Nevada- the Commercial Real Estate Development Association. Our Southern Nevada chapter is comprised of 400 member-companies. NAIOP also has a Northern Nevada chapter with 100 member-companies. NAIOP represents all aspects of the commercial real estate development industry including developers, construction companies, professional services firms, investors, lenders and utilities, and others.

Our member companies also have over 5,000 direct employees in Nevada and our members own and/or manage over 50 million square feet of commercial real estate space. Our organization also serves over 5,000 tenants, who, in turn, have over 75,000 employees. Therefore, as you can see, we have a very important stake in Nevada's educational system, and the need to effectively and appropriately fund and reform it to support the New Nevada that you spoke about in your recent State of the State speech.

After reviewing SB252, I am writing to identify and share our concerns regarding the bill as currently proposed and urge you to address several items during committee meetings in the coming weeks that will focus on the bill. By voicing these concerns now, we hope that those aspects of the bill that would have significantly and adversely affect the commercial development industry and our tenants will be addressed in a timely fashion.

We understand the primary purpose of the bill is to better fund and help reform our State's current K-12 educational system and initiatives. We strongly support your efforts to better fund and reform one of the lowest ranked educational systems in the nation and we believe that a straightforward and broad-based business tax is key to turning around the educational system in this great state.

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Since NAIOP represents thousands of member companies and tenants, we are troubled that there is no detail as to how the formula(s) used to develop the great variety of rates for all the NAICS Codes and tiers computed. Essentially, there are 30 NAIC categories and 67 tiers of gross revenues that when combined equate to 2,010 possible annual BLF scenarios. While vertical and horizontal equity is important, the principles of simplicity and cost of compliance are also important to Nevada' businesses. Accordingly, NAIOP recommends that an industry neutral BLF alternative be considered. Such an alternative could a flat fee, by revenue range, along with a periodic inflation escalator. This would make the BLF more akin to fixed cost, which business prefer, and is more predictable and easier to budget for than fee based in a percentage of gross revenue.

It is our strong belief that such a bill will enhance the likelihood that your biennium revenue goal of $438 million from the BLF will be achieved with a minimum amount of tax avoidance and disruption to Nevada's business investment and economic development climate.

NAIOP also suggests that it would be a much less cumbersome and more cost effective for businesses to use the federal taxable year as the reporting period for the BLF instead of having two different reporting periods: state fiscal year and federal taxable year.

We recognize that SB 252 is intended to be used to fund the education initiatives in your State of the State address. However, there is no reference or language in the bill to assure that the fee revenues generated by the bill will be used for education over the next two years or beyond. Instead, the bill indicates that the revenues will be placed in the state General Fund without any reference for what the revenues will specifically be used for regarding the educational programs. We recommend that the bill include specific language "earmarking" the BLF collections to the programs you detailed in your State of the State address.

Additionally, the bill contains no definition as to what the "primary" business activity a company is. Is it based on the amount of revenue received or the assets/resources that are used by the company in operating its businesses? Also, there is no clear language in SB 252 about how gross revenue is defined. This is critical when a company is undergoing an audit, because there is no apportionment formula included in the bill defining "Nevada Gross Revenue". SB 252 also states that each individual company or business will define what its own Nevada Gross Revenue is. However, it is unclear what basis the auditor will use to determine the Nevada share of total gross revenues.

Finally, we respectfully request that you post the detailed source data, assumptions and sources used in computing the BLF's NAIC categories, tax rates and gross revenue tiers on the Legislative Counsel Bureau or other appropriate website. It is important that this be included in a spreadsheet format with the actual formulas (not hard coded numbers), and that the actual source documents be posted so that Nevada companies can view the detailed formulas, the underlying assumptions and sources.

NAIOP applauds your efforts to address the critical matter of education in the state and we appreciate your time in considering these issues and concerns with SB 252 and look forward to further discussing and reviewing proposed modifications that will enhance the bill.

Please do not hesitate to call me at (702) 458-8855. NAIOP's board and members will be eager to discuss these issues and recommended solutions that will enhance the appeal of SB 252 to the commercial development industry. NAIOP is supportive of your plan and we recognize the need to create the sustainable revenue stream needed to support the educational system the New Nevada needs. NAIOP is ready and willing to proactively work with you, your staff and the Legislature in this regard.

Regards,

Charles Van Geel
President, NAIOP Southern Nevada

cc: Senate Majority Leader Michael Roberson
Chairman, Senate Revenue and Economic Development

Assemblyman Derek Armstrong
Chairman, Assembly Committee on Taxation

Senator Greg Brower, Vice Chairman, Senate Revenue and Economic Development
Senator Joe P. Hardy
Senator Ben Kieckhefer
Senator Ruben J. Kihuen
Senator Aaron D. Ford
Senator Pat Spearman

Assemblyman Randy Kirner, Vice Chair, Assembly Taxation
Assemblywoman Jill Dickman
Speaker John Hambrick
Assemblyman Pat Hickey
Assemblyman Erven T. Nelson
Assemblyman Glenn E. Trowbridge
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Irene Bustamante Adams
Assemblywoman Olivia Diaz
Assemblywoman Marilyn K. Kirkpatrick
Assemblywoman Dina Neal