

Legislative Testimony SB 252 Business License Fee

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Testimony before the Joint Meeting of the Senate Committee on Revenue and Economic Development and Assembly Committee on Taxation

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The Kenny Guinn Center for Policy Priorities supports the Governor's revised Business License Fee. We believe that Governor Sandoval has demonstrated tremendous courage in offering a plan to pay for a number of educational programs that will help build a 21st Century Nevada.

As we stated in our recent report: *The Business License Fee, What we Still Don't Know*, we believe that the revised Business License Fee proposal contains elements of sound tax policy.

- The proposed Business License Fee rates are low. In fact, we report in our policy brief that the effective tax rate under the restructured Business License Fee rate plus the Modified Business Tax is lower than the rate under the 2014 Education Initiative (margin tax).
- The Business License Fee is broad-based. While revenue subject to some industry-specific taxes is exempt, the Business License Fee will affect all industries.
- The Business License Fee expands the revenue base. Similar to other states, the restructured Business License Fee will affect all businesses, including S corporations, limited liability partnerships, and other pass-through entities. Unlike the Modified Business Tax that is paid by only 4 percent of businesses, the Business License Fee will include the vast number of businesses operating in Nevada.
- The Business License Fee avoids the "cliff effect" by taking into account a business's ability to grow over time.

While the revised Business License Fee embodies principles of good tax policy, we have some recommendations to help ensure the rates meet the state's policy goals and that the desired revenue is received.

1. First, the Legislature should pass legislation (even before a revenue plan is approved) that requires large companies to file an informational tax return for the first quarter of 2015 before June 30th and submit it to the Secretary of State and the Department of Taxation.

Nationwide, states have experienced challenges projecting revenue. For example, both Texas and Ohio realized much less revenue than projected when they first implemented their gross receipts taxes. This is particularly problematic in the case of the BLF since Nevada does not currently collect data on gross receipts and there is no reliable data.

2. The State must ensure Business License Fee rates reflect the profitability of the industry and identify corrective mechanisms to adjust the tax structure in the event that revenues fall short of projections or it is observed that some industries are disproportionately impacted.

The revised Nevada Business License Fee structure has nineteen different rates. The different rates introduce greater complexity and uncertainty, and provide opportunities for businesses to game the system. Business License Fee rates should reflect and align with the general profitability of the industry, as well as the contribution of the industry to the State's Gross Domestic Product. For the ease of implementation and to improve transparency, the State may want to consider the advantages of having a single or limited license

fee rate schedule, similar to other states. Nevada lawmakers may also want to consider the advantages of establishing a target rate(s) and phasing the plan in over a period of time. Simply put, we believe that it is important to identify what sorts of corrective mechanisms are available should expected revenues fall short or we observe that some industries are disproportionately impacted.

3. The State should phase out the Modified Business Tax and adjust rates for the Business License Fee over time to ensure revenue targets are met.

The Modified Business tax is only paid by 4 percent of the businesses operating in Nevada. It also disproportionately affects businesses that rely heavily on human capital. Lawmakers should consider the combined impact of the BLF and the MBT. For example, a small medical practitioner would be taxed at 0.028 percent under the BLF; when the MBT is added in, the effective tax rate triples to 0.607%. The Modified Business Tax could be phased out and Business License Fee rates could be adjusted accordingly.

4. Lawmakers should weigh the costs and benefits of explicitly earmarking Business License Fee revenues toward K-12 and higher education in the legislation.

Governor Sandoval proposed a revised Business License Fee structure as a means of funding his education priorities. The Legislature should consider the advantages of specifically earmarking revenues generated by the restructured Business License Fee to Nevada's K-12 and higher education systems.

5. Lawmakers must ensure that any legislative tax reform proposal helps improve Nevada's tax base

We applaud the Governor's goal to diversify the tax base for the purpose of making our economy more resilient. As the Legislature considers the revised Business License Fee proposal and other tax proposals, Legislators must ask whether a given proposal meets four objectives:

- Does it move Nevada away from industry-specific taxes or even sector-specific taxes?
- Does it broaden the State's base and lower rates?
- Does it address inequities, hyper-volatility and overdependence on key industries?
- Combined with Nevada's existing tax structure, does the tax plan serve to simplify and broaden the state's overall tax code?

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