

Revised due to adoption of amendments on Select File

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *				
	FY 2010-11		FY 2011-12	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS		\$171,720		\$171,720
CASH FUNDS	\$4,000		\$4,000	
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$4,000	\$171,720	\$4,000	\$171,720

*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

LB 861, as amended by AM2140 on General File and AM 2163 on Select File, amends the Nebraska Liquor Control Act to harmonize and clarify statutory language, reorder definitions, provide that license fees are distributed as per the Nebraska Constitution, eliminates outdated language, and incorporates the provisions of seven other bills.

LB 861 now includes the following legislative bills or amendments:

(1) LB 786 repeals Section 53-174 and therefore removes the restriction that makes it unlawful for any person or licensee to sell beer to which alcohol has been added or to permit any person to add alcohol to beer on the premises of the licensee.

LB 786 has no fiscal impact.

(2) LB 869, as amended, amends several section of the Nebraska Liquor Control Act dealing with application, renewal and registration fees.

Section 53-123.12, which refers to farm winery licenses, is amended to change language from a “state registration” fee to a “nonrefundable application” fee and increase the amount paid to the Liquor Control Commission from \$45 to \$400 and, when renewing a farm winery license, pay the current license fee of \$250 and the \$45 renewal fee.

Section 53-124.11 is amended to change language referring to “registration fee” to “application or renewal fee”.

Sections 53-129 and 53-135 are amended to change language referring to “state registration” fee to “renewal” fee.

Section 53-130, which applies to new licenses for manufacturers, wholesalers, railroads, airlines, boats, and nonbeverage users of alcoholic liquor, is amended to change language referring to “state registration” fee to either “nonrefundable application” fee or “renewal” fee. The section is also amended to increase what would now be referred to as the “nonrefundable application fee” from the current \$45 to \$400 and would also provide for the current \$45 renewal fee for these licenses. This Section was amended again on Select File to return the fee to the original \$45. Please see (8) below.

Section 53-131, which applies to new licenses to sell liquor at retail, craft brewery license, and microdistillery license, is amended to change language from “state registration” fee to “nonrefundable application” fee; increases what would now be referred to as the “nonrefundable application” fee from the current \$45 to \$400; and would also provide for the current \$45 renewal fee for these licenses.

Section 53-138.01 is amended to provide that the amount of the application fee that is credited to the General Fund is \$395 with the remaining \$5 credited to the Nebraska Liquor Control Commission Rule and Regulation Cash Fund, and continue to credit \$40 of the renewal fee to the General Fund with the remaining \$5 credited to the Nebraska Liquor Control Commission Rule and Regulation Cash Fund.

The estimated increase in revenue to the General Fund is \$171,720 per fiscal year based on an estimated 478 new applications per year.

(3) LB 870, as amended, amends the Nebraska Liquor Control Act, Nebraska Revised Statutes Section 53-149 dealing with the termination of a liquor license upon the sale of the licensed premises.

The bill would insert new language specifying that a license terminates immediately upon the sale of the licensed premises. The purchaser of the premises may apply for a new license prior to the closing of the sale of the premises. The purchaser may obtain a temporary operating permit for 90 days or until the purchaser obtains a license their own name, whichever comes sooner. In the absence of a temporary permit, the purchaser shall not manufacture, store, or sell alcoholic liquor on the premises until the purchaser has obtained a license in their own name.

Prior to the issuance of the temporary operating permit, the purchaser shall supply the Liquor Control Commission with documentation from the seller that the seller is current on all accounts with any wholesaler. A seller who provides false information regarding such accounts is guilty of a Class IV misdemeanor.

LB 870 has no fiscal impact.

(4) LB 883, as amended, allows farm wineries to store and warehouse products at an offsite facility. The Liquor Control Commission must be notified of the offsite location and maintain a perpetual inventory of the product stored at the site. Consumption at the offsite facility is prohibited. The language also harmonizes with federal law regarding reporting and tax payment schedules. Farm wineries that pay less than \$1,000 in excise taxes are to report the total amount of wine produced and pay their taxes on an annual basis. Farm wineries that pay \$1,000 or more in excise taxes are to report the total amount of wine produced and pay their taxes on a monthly basis. Farm wineries that were reporting and paying on an annual basis that become liable for \$1,000 or more in excise taxes are to then pay their taxes immediately.

The fiscal impact of LB 883 is minimal.

(5) LB 906, as amended, allows the Liquor Control Commission to grant a liquor license for an establishment located within 150 feet of a church only after notice has been provided to the affected church and a hearing has been held.

LB 906 is expected to have minimal fiscal impact.

(6) LB 1000 amends the Nebraska Liquor Control Act, Nebraska Revised Statutes Sections 53-103 and 53-125 regarding the provisions for managers and limited liability companies.

The bill redefines "manager" to include a person appointed by a limited liability company, and changes the residency and citizenship requirements for managers to require that they are the same as for applicants for a liquor license. An applicant for a Nebraska liquor license must be a resident of Nebraska and a citizen of the United States.

The bill also amends language regarding limited liability companies to clarify that a limited liability company will not be issued a license if any officer or director of the company or any member who has more than a 25 percent ownership interest would be ineligible to receive a license or if the manager of a limited liability company licensee would be ineligible to receive a license under that section.

LB 1000 has no fiscal impact.

(7) LB 1012 amends Nebraska Revised Statutes Sections 2-1201 and 2-1219 dealing with the State Racing Commission.

The bill would amend Section 2-1201 to increase the membership of the State Racing Commission from the current three members to five members as of the effective date of the act.

Section 2-1219 is amended to change language and inserts "employee" where "member" is now used. This section deals with prohibitions on horse ownership, pecuniary interest, and wagering by a member of the State Racing Commission. The bill would change those prohibitions to specify that they apply to an employee of the Commission.

The State Racing Commission indicates that the changes proposed by LB 1012 would result in increased expenditures by the Commission. Commissioners do not receive a salary but are reimbursed for all expenses. Currently the State Racing Commission meets an average of six times a year and commissioners are reimbursed for mileage, meals, lodging, and any conferences they may attend.

The State Racing Commission estimates LB 1012 will result in an increase of expenditures of \$4,000 per fiscal year for increased expenses. Commissioners do not receive a salary but are reimbursed for all expenses. The Commission meets an average of six times a year and commissioners are reimbursed for mileage, meals, lodging, and any conferences they may attend. There is no basis to disagree with the Commission's estimate of expenditure.

(8) AM 2287, adopted on Select File, amends Section 53-130 and reinstates the current application fee of \$45 for certain licenses, including new licenses for manufacturers, wholesalers, railroads, airlines, boats, and nonbeverage users of alcoholic liquor. The bill had originally changed this fee to \$400. The result is a slight decrease in anticipated revenue of \$1,165 from the bill as amended on General File.

(9) AM 2163, adopted on Select File, would allow the retail sale of alcoholic liquor for consumption on the premises of a licensed establishment up to 2:00 a.m. any day if approved by two-thirds of the governing board with appropriate jurisdiction. Sale of lottery tickets would also be allowed up to closing time. This amendment appears to have no fiscal impact.

DEPARTMENT OF ADMINISTRATIVE SERVICES

REVIEWED BY	Gary Bush	DATE	3/31/10	PHONE	471-2526
COMMENTS					
LIQUOR CONTROL COMMISSION: No basis to disagree.					