

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2013-14		FY 2014-15	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS		(\$ 180,000)		(\$ 182,000)
CASH FUNDS	\$ 62,075	\$ 452,000	\$ 52,575	\$ 59,000
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$ 62,075	\$272,000	\$ 52,575	(\$ 123,000)

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.

LB 590 amends Nebraska Statutes Sections 2-1203.01 and 2-1222, dealing with horseracing, to authorize the State Racing Commission to license and regulate pari-mutuel wagering on historic horseraces.

The bill defines “historic horserace” to mean a form of horserace that creates a pari-mutuel pool from wagers placed on a horserace previously held.

The Commission is to require that enough of the historic horserace is to be televised as to maintain the integrity of such horserace before another wager takes place or before beginning another historic horserace.

The bill imposes a one-time licensing fee of \$1,000 for each machine used for pari-mutuel wagering on historic horseraces. This fee is collected by the Racing Commission, remitted to the State Treasurer, and credited to the Historic Horseracing Distribution Fund, which is created by the bill. The fund is to be administered by the Department of Revenue and the Department’s administrative costs are to be paid from the new fund.

LB 590 requires a tax on the gross sum wagered on historic horseraces in lieu of any other tax imposed on a licensed racetrack under Sections 2-1201 to 2-1242. The tax is 1% of the first \$100 million of collected receipts, 1.5% on receipts over \$100 million and up to and including \$200 million, and 2% on any additional amounts over \$200 million. The revenue collected from this tax is to be paid to the Department of Revenue and remitted to the State Treasurer for credit to the Historic Horseracing Distribution Fund.

In addition to the above tax, the bill provides that (a) if the racetrack enclosure is not located within the corporate limits of a city, then the track must remit 0.1% of the gross sum wagered on historic horseracing to the county treasurer of the county where the track is located for credit to the county’s general fund, or (b) if the track is located within the corporate limits of a city, then the racetrack must remit 0.05% of the gross sum wagered to the county treasurer for credit to the county’s general fund and 0.05% of the gross sum wagered to the city treasurer for credit to the city’s general fund.

Note: We believe the use of the term “in lieu of” in LB 590 regarding the tax imposed by the bill means that the requirements of Sec. 2-1208 and Sec. 2-1208.01 do not apply to pari-mutuel wagering on historic horse races.

The bill also provides that if any “court of competent jurisdiction” determines that the authorization of historic horseracing allows for additional Class III gaming (other than historic horseracing or horseracing) as defined and permitted by the Indian Gaming Regulatory Act, then any license issued by the State Racing Commission for historic horseracing terminates one year from the date of that court’s final order.

LB 590 provides a four-year sunset clause for authorization of historic horseracing unless the State Racing Commission determines the following:

- A racetrack enclosure is located in a county that has a city of the primary class; and
- Racetrack enclosures at which historic horseracing machines are in use for four years of continuous use starting from the date of the original Commission order permitting their use, have:
 - If the county in which the racetrack is located does not have a city of the metropolitan class, the racetrack has demonstrated a 30% increase in the days of live horseraces compared to 2011; or
 - If the county in which the racetrack is located does have a city of the metropolitan class, the racetrack has demonstrated a 40% increase in the days of live horseraces compared to 2011;
 - A 25% increase in the purse at the racetrack enclosure compared to the purse at the racetrack enclosure in 2011.

In addition, the bill provides that after the Department of Revenue deducts administrative costs, one-half of the revenue credited to the Historic Horseracing Distribution Fund is to be credited to the State Racing Commission Cash Fund to be used by the Commission for "programs which facilitate equine therapy for youth and veterans and programs that promote equine and equestrian activities in Nebraska," and one-half to the Compulsive Gamblers Assistance Fund. Equine therapy programs are not defined by the bill.

Fiscal Impact:

Both the Department of Revenue and the State Racing Commission estimate the one-time licensing fee will generate \$400,000 of revenue, based on 400 devices being installed in the state in FY2013-14.

The Department of Revenue estimates that LB 590 will generate approximately \$17,776,000 in additional gross wagering subject to tax in the first fiscal year. The Racing Commission estimates \$18,000,000 in additional wagering.

The Department also estimates that the expanded wagering on historic horse races will reduce current charitable gaming receipts by 15% for keno and pickle cards in counties with licensed horse tracks. 60% of all keno and pickle card proceeds are credited to the General Fund and 40% goes to the Charitable Gaming Cash Fund. The impact to the General Fund and Charitable Gaming Cash Fund is as follows:

<u>Fiscal Year:</u>	<u>General Fund Impact:</u>	<u>Charitable Gaming Cash Fund Impact:</u>
2013-14:	(\$ 180,000)	(\$ 120,000)
2014-15:	(\$ 182,000)	(\$ 122,000)
2015-16:	(\$ 183,000)	(\$ 122,000)
2016-17:	(\$ 185,000)	(\$ 124,000)

Cash Fund Impact Detail:

<u>Fiscal Year:</u>	<u>Charitable Gaming Cash Fund:</u>	<u>Historic Horseracing Cash Fund Licensing Fee:</u>	<u>Historic Horseracing Cash Fund Gross Receipts Tax:</u>	<u>Total:</u>
2013-14:	(\$ 120,000)	\$ 400,000	\$ 172,000	\$ 452,000
2014-15:	(\$ 122,000)	\$ 0	\$ 181,000	\$ 59,000
2015-16:	(\$ 122,000)	\$ 0	\$ 190,000	\$ 68,000
2016-17:	(\$ 124,000)	\$ 0	\$ 200,000	\$ 76,000

The Department of Revenue indicates minimal impact to the department to implement the provisions of LB 590.

We agree with the Department of Revenue's estimate of fiscal impact and cost.

The State Racing Commission has indicated implementing the provisions of LB 590 will require 1.0 FTE for an investigator for a total cost of \$62,075 for FY2013-14 and \$52,575 for FY2014-15. PSL for this position is \$41,625 per fiscal year.

We agree with the Racing Commission's estimate of cost.

ADMINISTRATIVE SERVICES-STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES			
LB: 590	AM:	AGENCY/POLT. SUB: Nebraska Racing Commission	
REVIEWED BY: Cindy Miserez		DATE: 1/25/2013	PHONE: 402-471-4174
COMMENTS: I have no basis to disagree with the Nebraska Racing Commission's statement.			

LB⁽¹⁾ 590 FISCAL NOTE

State Agency OR Political Subdivision Name: (2) Nebraska State Racing Commission

Prepared by: (3) Tom Sage Date Prepared: (4) January 24, 2013 Phone: (5) 402-471-4155

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2013-2014</u>		<u>FY 2014-2015</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
CASH FUNDS	<u>\$62,075</u>	<u>\$257,000</u>	<u>\$52,575</u>	<u>\$115,200</u>
FEDERAL FUNDS	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
OTHER FUNDS		<u>\$200,000</u>	<u>0</u>	<u>0</u>
TOTAL FUNDS	<u>\$62,075</u>	<u>\$457,000</u>	<u>\$52,575</u>	<u>\$115,200</u>

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

The Nebraska racing industry believes that there will be 400 historic racing machines installed in the state. I have spoken with the creators of the machines regarding the projected handle from the machines. They only could cite what other jurisdictions are handling on their machines. The creator indicated that Oaklawn Park in Hot Springs, Arkansas is handling \$200,000,000 per year on 275 machines. They also cited that Kentucky Downs in Franklin, Kentucky have handled \$20,000 since installing machines September 1, 2011.

I am going to take a more conservative approach and estimate the machines in Nebraska will handle \$125.00 day. So the Racing Commission estimates the handle per month would be \$1,500,000.

The Racing Commission is a cash funded agency and receives .0064 of the handle. So the estimated revenue for the Commission would be 115,200.

LB 890 has a provision that the Racing Commission collect a one-time fee of \$1000 per machine. The Commission then remits this fee to the State Treasurer to credit to the Historic Horseracing Distribution Fund. If 400 machines are installed the fee would be \$400,000. One half of the \$400,000 will be distributed to the Racing Commission Cash fund and one half to the compulsive gamblers assistance fund.

I am estimating that these machines would be installed in January 2013.

Expenditures:

Developed proposed rules relating to licensing of historic racing, overall rules pertaining to historical racing and personnel, approval of types of wagers and reporting requirements.

Conduct hearings to adopt rules, file approved rules pursuant to statutory requirements.

Investigate historical racing pari-mutuel systems to insure integrity and

security of the system designs, management, operations, and fairness to players.

Monitor historical racing to insure continuing integrity and security of the operations and fairness to players.

Review existing historic racing operations in other jurisdictions.

Investigate license applications to certify compliance with rules.

Monitor historical racing in the state.

MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2012-2013</u>	<u>2013-2014</u>
	<u>13-14</u>	<u>14-15</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Investigator	1 FTE	1 FTE	\$41,624.96	\$41,624.96
Benefits.....			\$5950	\$5950
Operating.....			\$10,500.00	\$3000.00
Travel.....			\$4,000	\$2,000
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....				