

Revised due to adoption of amendments on Select File

# FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

## ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)

	FY 2022-23		FY 2023-24	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS		\$2,700		\$6,663,850
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS		\$2,700		\$6,663,850

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

LB 876 amends various sections related to the Nebraska Racetrack Gaming Act and the State Racing and Gaming Commission.

The bill does the following:

- Amends provisions related to the commission membership, penalties for violations, and meetings.
- Increases the maximum fine that can be imposed by the commission on racing industry participants from \$5,000 to \$25,000. For decisions made by the board of stewards, delegated by the commission, the maximum fine that can be imposed is decreased from \$15,000 to \$5,000. Decisions made by the board can be appealed to the commission.
- For licensed racetracks in existence and operational after the effective date of LB 876, beginning Jan 1, 2026 to 2030, licensed racetracks must hold a minimum of 5 live racing days and 50 live horseraces annually, and beginning Jan. 1, 2031, hold 15 live racing meet days and 120 live horseraces annually.
- For licensed racetracks not in existence and operational until after the effective date of LB 876, licensed racetracks must hold a minimum of 1 live racing days per year the first 3 years, 5 live racing days and 50 live horseraces the 4<sup>th</sup> through 7<sup>th</sup> years, and 15 live racing days and 120 live horseraces annually thereafter.
- Changes the parimutuel wagering tax paid to the commission from 0.64% to 1% from July 1, 2023 to June 30, 2024; and 2% thereafter.
- Increases the live race day cost for licensees hosting intrastate simulcasting from \$50 to \$100 and for all other live race days, from \$25 to \$50.
- Strikes language prohibiting race meets on Sundays.
- Increases the penalty for certain violations from a Class I misdemeanor to a Class IV felony.
- Renames the Racing and Gaming Commission Cash Fund to the Racing and Gaming Commission Racing Cash Fund.
- Renames the Racetrack Gaming Fund the Racing and Gaming Commission Racetrack Gaming Fund.
- Extends the license for racetracks from 1 year to 5 years, and the one-time gaming operator licensing fee of \$1 million is increased to \$5 million, which can be paid over a five year period. Licenses must pay a \$50,000 annual review fee.
- Amends provisions related to penalties for violations of the Nebraska Racetrack Gaming Act.
- Requires a market analysis of the racing market in Adams, Dakota, Douglas, Hall, Lancaster, and Platte Counties no later than January 1, 2025, and every 5 years thereafter, which is submitted to the Legislature, and must contain certain information.
- Requires a market analysis of the casino gaming market in Adams, Dakota, Douglas, Hall, Lancaster, and Platte Counties no later than January 1, 2025, and every 5 years thereafter, which is submitted to the Legislature, and must contain certain information.
- Requires a market analysis of the statewide socioeconomic impact of horseracing and casino gaming and at each racetrack and gaming facility in Adams, Dakota, Douglas, Hall, Lancaster, and Platte Counties no later than January 1, 2025, and every 5 years thereafter, which is submitted to the Legislature, and must contain certain information.
- Requires the commission to base an approval of a new licensed racetrack based on the most recent issuance of the 3 required market analysis studies.
- Requires the commission to establish a list of persons self-excluded from licensed racetracks in Nebraska and specifies procedures for creating such list.
- Requires certain information from any applicant for an authorized gaming operator.
- Clarifies that parimutuel wagers can be placed in the designated sports wagering area at a licensed racetrack.
- Clarifies that operators must remit gaming tax to the commission by the 15<sup>th</sup> of each month.
- Outright repeals section 2-1213.01, which relates to a vote to allow Sunday horseracing in a county.

LB 876 has the emergency clause.

CONTINUED

REVENUE:

LB 876 increases the amounts of certain fees, including the licensing fee for live racing days by \$50 per day. The commission estimates an annual revenue increase of \$2,700 related to this increase. When provisions requiring a certain number of live racing days take effect in future years, revenue due to this provision will increase. Fee revenue is credited to the Racing and Gaming Commission Racing Cash Fund.

The gaming operator licensing fee is increased from \$1 million to \$5 million, with payment being allowed over a 5 year period so long as at least \$1 million is paid when the license is issued. The increase in this fee will increase revenue by \$4 million per license issued. However, the timing of when such increase will occur is dependent upon when licenses are issued. Because the initial payment when the license is issued remains \$1 million, there is not likely to be an increase in FY22-23 related to this change. Assuming all of the 6 racetracks have a licensed gaming operator approved in FY22-23 and pay the license fee \$1 million per year for 5 years, additional revenue in FY23-24 would be \$6 million. Fee revenue is credited to the Racing and Gaming Commission Racetrack Gaming Fund.

LB 876 requires authorized gaming operators to be subject to annual review by the commission and pay a \$50,000 annual review fee. Once licenses are issued, there will be additional revenue related to this fee. Assuming all of the 6 racetracks have a licensed gaming operator approved in FY22-23, additional revenue in FY23-24 would be \$300,000. Fee revenue is credited to the Racing and Gaming Commission Racetrack Gaming Fund.

As amended by AM2764, the amount of parimutuel tax paid to the Racing and Gaming Commission Racing Cash Fund is amended, beginning July 1, 2023. The change eliminates the reduction in tax rate in AM2188, leaving the rate unchanged from the current rate of 0.64% for FY21-22 and FY22-23. We estimate that once casino gaming begins at licensed racetracks, the parimutuel handle will increase. Estimated revenue to the Racing and Gaming Commission Racing Cash Fund from the change to the parimutuel tax rate is as follows:

	Tax Rate	Parimutuel Tax Revenue	Net Change
FY22-23	0.64%	\$400,000	\$0
FY23-24	1%	\$750,000	\$361,150
FY24-25	2%	\$1,750,000	\$1,361,150

LB 876 also increases certain fines. Any fine is paid to the county for credit to the common schools.

EXPENDITURES:

The commission has certain responsibilities related to market analysis studies. However, the commission notes in its response that it is unclear as to who is responsible for paying for such studies, and if it is required to pay for such costs, the commission likely has adequate funding to complete such studies in the required timeframe. The first market analysis studies are due as soon as practicable and no later than January 1, 2025.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 876	AM: 1288	AGENCY/POLT. SUB: Nebraska Racing and Gaming Commission	
REVIEWED BY:	Jacob Leaver	DATE: 4/6/2022	PHONE: (402) 471-4173
COMMENTS: Concur with the Nebraska Racing and Gaming's estimated indeterminable fiscal impact to the agency as a result of LB 876 AM 1288. Disagree with the Commission's estimated revenue. Revenue would be higher due to a increase in fees listed within LB 876.			

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**2022**

**LB<sup>(1)</sup> 876 AM1288, REVISED**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> Nebraska Racing and Gaming Commission

Prepared by: <sup>(3)</sup> Tom Sage Date Prepared: <sup>(4)</sup> 4-3-2022 Phone: <sup>(5)</sup> 402-471-4155

**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

	<b>FY 2022-23</b>		<b>FY 2023-24</b>	
	<b><u>EXPENDITURES</u></b>	<b><u>REVENUE</u></b>	<b><u>EXPENDITURES</u></b>	<b><u>REVENUE</u></b>
GENERAL FUNDS	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
CASH FUNDS	<u>0</u>	<u>2,135,300</u>	<u>0</u>	<u>3,480,100</u>
FEDERAL FUNDS	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
OTHER FUNDS	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL FUNDS	<u>0</u>	<u>2,135,300</u>	<u>0</u>	<u>3,480,100</u>

**Explanation of Estimate:**

There is no way of determining estimates to complete this fiscal note as there are many "what ifs". Please see the response below.

Licensing Fees for Authorized Gaming Operators. The known fact is that there will be six gaming facilities at the current racetracks. We do not know when these tracks will be able to apply for licensure. Will they be subject to the current license fee of \$1,000,000 for twenty years? Or will the license occur after LB876 is passed (if it is passed)? If it is after LB876 is passed, there will be additional revenue to the Commission. I do not anticipate additional personnel or expenditure cost. Only the yearly assessment on each gaming facility will be less.

Fines. Fine money is paid to the school district where the fine is assessed. This also cannot be determined as we have no way of knowing how many fines will be levied as we have never had gaming in the state. We also do not know what, "fines and penalties of an amount not to exceed three times the highest daily amount of gross receipts derived from wagering on games of chance at such licensed racetrack enclosure gaming facility during the previous twelve months." Since we have not had gaming as of yet, we will not have numbers to use until after the gaming facilities are open for 12 months. We also have no way of knowing how many fines would be assessed at \$50,000 – if any.

LB876 would increase administrative fines in racing. The fines go to the school districts where the violations occur. In 2021, there were 10 fines assessed at the steward's level and three at the Commission level. We have determined an estimate for potential increase in funding for the school districts and have put those increases under "other". LB876 only increases the maximum that can be fined. We are estimating an increase of \$5,000.

LB876 would increase funding for the Commission Regulatory Program 74 (racing). Currently, the Commission receives .64 of one percent of the parimutuel handle. In calendar year 2021 the handle was \$56,000,000. The total revenue was \$358,400. Using 2021 handle numbers the projected increase with LB876 would be \$2,127,600 for FY22/23. LB876 would increase the funding for the Commission by an additional .05 percent for FY 23/24 in the amount of \$3,472,400.

LB876 would change live racing day licensing fees for race days. These fees would increase from \$50 per race day to \$100. The number of race days projected to be ran in calendar year 2022 is 54. This increase will be \$2,700.

LB876 also calls for a statewide assessment as to the feasibility to add additional racetrack/casinos to the state. We do not believe that the LB is clear who will be responsible for paying for the studies. We do believe that if the Commission is reasonable, we will have adequate funding with the new revenue stream in LB876.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

POSITION TITLE	NUMBER OF POSITIONS		2022-23	2023-24
	22-23	23-24	EXPENDITURES	EXPENDITURES
Benefits.....				
Operating.....				
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....				