

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2021-22		FY 2022-23	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$310,000	(\$2,235,860)		(\$1,674,073)
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$310,000	(\$2,235,860)		(\$1,674,073)

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

LB 578 seeks to impose a separate excise tax on the sale of ready-to-drink (RTD) cocktails. Currently, RTD cocktails are classified under spirits, and as such are taxed at \$3.75 per gallon. LB 578 defines RTD Cocktails as a beverage made with spirits that is 12.5% or less alcohol by volume. LB 578 sets the tax rate for RTD Cocktails as \$0.31 per gallon.

Revenue:

The Nebraska Liquor Control Commission (NLCC) estimates RTD Cocktails make up 20% of the market for spirits in Nebraska. The total gallons of spirits sold in FY2019-2020 equaled 4,179,959, with 20% equaling 835,991 gallons. NLCC estimates 5% growth in spirit gallons sold, and finds that LB 578 would create an initial revenue loss of \$2,235,860 in FY21-22 and be reduced to \$1,674,073 in FY22-23 due to growth. There is no basis to disagree with these estimates.

NLCC expects rapid growth in the RTD Cocktail market if LB 578 were to pass. Several distilleries have found the current excise tax rate of \$3.75 per gallon for RTD Cocktails as limiting to their ability to set competitive prices. This rapid growth could make up for the initial revenue loss from LB 578. It is estimated that the gallons sold from RTD Cocktails would need to multiply by 12 times to equal the original revenue amount. It's unclear how long it will take for this growth to reach this level.

Expenditures:

NLCC expects a one-time OCIO programming charge of \$150,000 to allow for product registration to verify ABV & federal product classification. Additionally, NLCC estimates a cost of \$160,000 to change the two excise tax reporting systems currently in use to allow distilleries and wholesales to include RTD Cocktails in their monthly report. There is no basis to disagree with these estimates.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 578	AM:	AGENCY/POLT. SUB: Nebraska Liquor Control Commission (35)
REVIEWED BY: Joe Wilcox	DATE: 01/26/2021	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Nebraska Liquor Control Commission estimate of potential Fiscal Impact to the Agency, and potential General Fund Revenue Loss, from LB 578.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE		
LB: 578	AM:	AGENCY/POLT. SUB: Nebraska Department of Revenue (16)
REVIEWED BY: Joe Wilcox	DATE: 02/03/2021	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Nebraska Department of Revenue estimate of No Fiscal Impact to the Agency, but potential State General Fund Revenue Impact from LB 578.		

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2021

LB⁽¹⁾ 578

FISCAL NOTE

State Agency OR Political Subdivision Name: (2) Liquor Control Commission

Prepared by: (3) LeAnna Prange Date Prepared: (4) 1/25/2021 Phone: (5) 402-471-4892

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2021-22		FY 2022-23	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$310,000	-\$2,235,860	0	-\$1,674,073
CASH FUNDS	0	0	0	0
FEDERAL FUNDS	0	0	0	0
OTHER FUNDS	0	0	0	0
TOTAL FUNDS	\$310,000	-\$2,235,860	0	-\$1,674,073

Explanation of Estimate:

NLCC finds that approximately 20% of all spirit gallons sold in the state comprise RTD cocktails, LB 578 will lead to an initial drop in excise tax revenue due to the reclassification. FY2019-2020 saw a total spirit tax paid of \$15,674,846

FY2019-2020 Spirit Gallons reported to NLCC for Excise Tax:	4,179,959.0000
RTD Cocktail Gallons per LB578, 20% of all Spirit Gallons:	835,991.8000
Actual 2019-2020 Spirit Excise Tax Revenue:	\$15,674,846
2019-2020 Spirit Excise Tax Revenue with 20% of gallons comprised of RTD Cocktails:	\$12,799,034
Projected 2021-2022 Revenue with LB578 at \$0.31 Per Gallon:	\$13,438,986
Projected 2022-2023 Revenue with LB578 at \$0.31 Per Gallon:	\$14,110,935

NLCC saw an average growth in spirit gallons sold in the state for the past 4 years of 5% a year, continuing with that average, with 20% of those gallons meeting the definition of RTD Cocktails by LB 578 shows a projected tax revenue of \$13,438,986 in 2021-2022, a decline in revenue from 2019-2020 of -\$2,235,860; and \$14,000,773 in 2022-2023, a decline in revenue from 2019-2020 of -\$1,674,073.

There would be an initial drop in revenue from FY2020-2021 to FY2021-2022 due to the proportion of spirit gallons that comprise RTD Cocktails as defined in LB578. However, the ready-to-drink category has been experiencing year-over-year growth as a portion of the market and the gap is likely to close quickly with the importation and manufacture of RTD cocktails increasing in the state with the tax classification change.

Nebraska currently has 12 Micro Distillery license types that would have the privilege of creating spirit-based RTD cocktails. Production limitation of 10,000 gallons for this license type would be a severe limitation on this license type in order to produce RTD cocktails. Proposed bills LB311 & LB415 would address this issue. NLCC believes this is an un-tapped market area in Nebraska. With the current excise tax rate, NLCC was informed Nebraska distilleries were finding it difficult to keep their prices of canned cocktails competitive in similar categories. For this reason, NLCC has not seen much growth in this area.

Nebraska currently has 2 Spirit Manufacturing license types that would have the privilege of creating spirit-based RTD cocktails. There is no production limit for these license types. NLCC believes this is an un-tapped market in Nebraska but is unable to provide an estimate of revenue since neither of these licenses have begun reporting production.

NLCC would require product registration to verify ABV & federal product classification. NLCC's preference is

that the process be automated to confirm that RTD cocktails being manufactured and imported into the state meet the definition provided in LB578 through a brand/product registration system. The cost of this is estimated by the OCIO at \$150,000. NLCC would utilize existing staff and resources to implement and manage.

NLCC has 2 online reporting systems that collect spirit excise taxes. These online reporting systems will require revision to accommodate RTD cocktails as defined by LB 578. There is a cost estimate of \$80,000 associated with each online system for a total of \$160,000.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	NUMBER OF POSITIONS		2021-22	2022-23
	<u>21-22</u>	<u>22-23</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Benefits.....			0	0
Operating.....			\$310,000	0
Travel.....			0	0
Capital outlay.....			0	0
Aid.....			0	0
Capital improvements.....			0	0
TOTAL.....			\$310,000	0

NLCC will work with Nebraska interactive developers to implement changes to two excise tax reporting systems. The changes require the addition of a section on the monthly excise tax returns for Nebraska Micro Distilleries and Spirit/Wine Wholesalers. The cost for these changes have been estimated at \$80,000 per online reporting system for a total expenditure of \$160,000.

NLCC has confirmed with OCIO regarding the creation of an online portal to identify RTD cocktails manufactured and imported into the State of Nebraska. This would be required in order to identify and maintain compliance in this area. The OCIO estimated this cost to be \$150,000.

NLCC would utilize existing staff and resources to implement and manage LB578.

NLCC highlights the need for modernization in the area of reporting and compliance. NLCC has submitted an I.T. Project Proposal in their 2021-2023 Biennium Budget that would encompass this area of reporting and modernization. If funded, this proposed expenditure could be reduced or possibly eliminated.

