Fiscal Note 2009 Biennium

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Bill #	SB0230		**Title:**	Establish fee for liquor license quota area transfers -- recent license sales
Primary Sponsor:	Tropila, Joseph (Joe)		**Status:**	As Introduced

- ☑ Significant Local Gov Impact
- ☐ Needs to be included in HB 2
- ☑ Technical Concerns
- ☐ Included in the Executive Budget
- ☐ Significant Long-Term Impacts
- ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Expenditures:				
General Fund	$0	$0	$0	$0
State Special Revenue- DOC	$808,750	$404,375	$202,188	$101,094
Distribution to Cities and Counties	$269,583	$134,792	$67,396	$33,698
Revenue:				
General Fund	$0	$0	$0	$0
State Special Revenue- DOC	$808,750	$404,375	$202,188	$101,094
State Special Revenue- DOR	$269,583	$134,792	$67,396	$33,698
Net Impact-General Fund Balance:	$0	$0	$0	$0

Description of Fiscal Impact: This legislation implements a new quota area liquor license transfer fee equal to the difference between the purchase price of a liquor license transferred from a different quota area and the average purchase price of a liquor license in the quota area. Twenty-five percent of the fee is distributed to the city upon which the quota area is based or, if not city based, to the county in which the license is allowed by quota increase. Seventy-five percent is distributed to the Department of Commerce to implement the Primary Sector Business Workforce Training Act, (39-11, MCA) through funds appropriated for grants.

FISCAL ANALYSIS

Assumptions:

1. Liquor license quota area transfers occur after a census indicates that that the number of liquor licenses in the quota area is below the allotted amount, which is based on population. The license can be transferred from a quota area that is above the allotted amount. This legislation would implement a new quota area transfer fee on each transfer equal to the difference between the purchase price of the transferred license and the average purchase price of licenses within the quota area.
2. There were two quota area transfers that occurred in FY 2006. The fee on these two transfers would have been $1,078,333. This fiscal note assumes that this fiscal impact will be the same in each of the fiscal years covered in this note, subject to the decreases described in assumption 3.
3. The license sales are a negotiated contract between the seller and the buyer. If the buyer agrees to purchase the license below the average market rate for the buyer's quota area, this legislation would require the buyer to pay the difference between the negotiated price and the average market rate as the transfer fee. Therefore, there is no incentive for the buyer to negotiate for a price lower than the average market rate. In the long run, these market incentives will result in the price of all license transfers to be the average market rate for the buyer's quota area. As liquor license buyers and sellers become more sophisticated in the methods of avoiding this tax, the amount of the fee collected will decrease. This fiscal note assumes that the full $1,078,333 increment will be collected for the fee in FY 2008, but collections decrease by half in each successive fiscal year, resulting in collections of $539,167 in FY 2009, $269,583 in FY 2010, and $134,792 in FY 2011.
4. The Department of Revenue does not anticipate any additional administrative costs associated with this legislation.
5. The proposed fee is to be distributed 25% to the city or county into which the license is transferred and 75% to the Department of Commerce. The distribution received by cities or counties is equal to $269,583 in FY 2008, $134,792 in FY 2009, $67,396 in FY 2010, and $33,698 in FY 2011. This distribution is shown as a revenue gain to the Department of Revenue, and then is shown as an expenditure from the Department of Revenue to the cities in counties.
6. The distribution to the Department of Commerce is shown as a revenue gain to the Department of Commerce and would be $808,750 in FY 2008, $404,375 in FY 2009, $202,188 in FY 2010, and $101,094 in FY 2011. For the purposes of this fiscal note, it is assumed that the fees will be deposited in a state special revenue account (see technical note 1. below) and that Department of Commerce expenditures will equal revenues and be in the form of primary sector business workforce training grants. The additional funds would be managed by existing staff with the assumption that the funding for, and the allocation of 2.00 full-time equivalent (FTE) positions as proposed in HB 2 in Decision Package 5101 are approved as requested.

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Fiscal Impact:				
Expenditures:				
Grants	$808,750	$404,375	$202,188	$101,094
Transfers to Cities and Count	$269,583	$134,792	$67,396	$33,698
TOTAL Expenditures	$1,078,333	$539,167	$269,584	$134,792
Funding of Expenditures:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$808,750	$404,375	$202,188	$101,094
State Special Revenue (02)	$269,583	$134,792	$67,396	$33,698
TOTAL Funding of Exp.	$1,078,333	$539,167	$269,584	$134,792
Revenues:				
General Fund (01)	$0	$0	$0	$0
Department of Commerce (02	$808,750	$404,375	$202,188	$101,094
Department of Revenue (02)	$269,583	$134,792	$67,396	$33,698
TOTAL Revenues	$1,078,333	$539,167	$269,584	$134,792
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$269,583	$134,792	$67,396	$33,698
Other- Cities and Counties	$808,750	$404,375	$202,188	$101,094

Effect on County or Other Local Revenues or Expenditures:

1. Twenty-five percent of the fee will be distributed to the city or county government in which the buyer is located.

Technical Notes:

1. New section 1(2)(b) dedicates 75% of the fee for quota area transfers to the Department of Commerce to implement the Primary Sector Workforce Training Act (Title 39, Chapter 11, MCA) through funds appropriated for grants. Dedicated revenues are typically accounted for in state special revenue funds. SB 230 as introduced does not create a state special revenue fund for 75% of the fees contemplated in the bill; therefore the fees directed to the Department of Commerce for workforce training would likely be deposited in the general fund where they may, or may not, be appropriated for workforce training. SB 230 should be amended to clarify what fund type the dedicated revenue stream is directed to.
2. This bill does not indicate how the fee would be administered. There is no mention of who would pay it or when it would be paid.
3. The bill creates a fee that is the difference between the average cost and the actual cost of licenses. The fiscal note assumes the buyer's actual cost will be less than the average cost and they will pay the difference to the Department of Revenue. The actual cost could be greater than the average cost, and the bill does not specify who would pay that difference.
4. This legislation does not address the numerous methods that could be used by the buyer and the seller to avoid paying the transfer fee. For example, the negotiated buy-sell agreement could list the purchase price

to be the average price in the buyer's quota area, thus avoiding a fee, but could also include a refund as a part of the sales contract.

5. License transfers often occur as a part of the transfer of other property, such as when the buyer purchases a restaurant business, the building, the business name, the equipment, and the liquor license in one negotiated purchase. In these instances, it would be difficult to establish what price was paid for the license separate from the price paid for the other property.
6. License transfers happen infrequently; therefore, using the average price from the last three license transfers may not reflect the updated price of the license.

Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*