Phil Hovis February 29, 2012 471-0057 **LB 536** 

Revision: 03

## FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

Revised based upon amendments adopted through 2/15/2012

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *							
	FY 2012	2-13	FY 2013-14				
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE			
GENERAL FUNDS							
CASH FUNDS		See below		See below			
FEDERAL FUNDS							
OTHER FUNDS							
TOTAL FUNDS	See below	See below	See below	See below			

<sup>\*</sup>Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

LB536 would adopt the Nebraska Uniform Real Property Transfer on Death Act. Among its provisions, the bill also would amend Sec. 76-902 so as to include transfer on death deeds or revocations of transfer on death deeds as well as certified or authenticated death certificates pertaining to transfer on death deeds among those instruments currently exempt from the documentary stamp tax. Insofar that it appears transfer on death deeds would largely, if not exclusively, be utilized in lieu of means of real estate transfer that are already exempt from documentary stamp tax under current law (e.g. exemptions currently provided under subsections (15) and (18) of Sec. 76-902); the impact of LB536, if any, upon documentary stamp tax revenue would apparently be minimal.

In addition to the changes to current documentary stamp tax exemptions noted above, LB536 would explicitly provide that the documentary stamp tax is not to apply to deeds between ex-spouses for the purpose of conveying any rights to property acquired or held during the marriage. The related statutory change appears to codify current practice of nearly all Nebraska counties in terms of not imposing the documentary stamp tax in such cases of conveyance of property. As such, the effective impact of this provision of the bill upon documentary stamp tax revenue would appear to be relatively minimal.

The Department of Revenue indicates that costs associated with implementation of changes in certain reporting requirements as provided in LB536 would be minimal.

The Department of Health and Human Services indicates that real estate transfers by means of transfer on death deeds, as authorized by LB536, will affect asset detection for purposes of pursuing Medicaid liabilities. The Department indicates that provisions of the bill represent implications for increased workload in terms of asset detection in pursuing Medicaid liabilities as well as prospects for reductions in recovery of Medicaid liabilities, as assets of Medicaid recipients may be undetected under the authorized procedures for transfer of death deeds. The Department indicates, however, that the extent of such potential impacts is indeterminate given the uncertainty with respect to the extent to which transfer on death deeds may be utilized in the future under authority of LB536. We have no basis to dispute the inconclusiveness of any related impacts of the bill with respect to the Department of Health and Human Services.

## RECEIVED

LB<sub>(1)</sub> <u>0536 AM1668</u> FISCAL NOTE

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State Agency or Political	EUTIMATE I TIOTIE	DED BY STATE AGENCY OR	POLITICAL S	SUBDIVISION	COAL	
State Agency of Folitical	Subdivision Name:(2) Depa	ertment of Health and Huma	an Services	HEGIOTATIVE PE	DOAL	
Prepared by: (3) Willard Bo	ouwens Date Prepa	ared:(4) 2-8-12	·	Phone	e: (5) 471-8072	
	FY 2012-2013			FY 2013-2014		
	EXPENDITURES F		EXPE	NDITURES	REVENUE	
GENERAL FUNDS						
CASH FUNDS		<del>-</del>				
FEDERAL FUNDS				\ <del>-</del>		
OTHER FUNDS		<u> </u>				
TOTAL FUNDS	See Below	\$0		See Below	\$0	
Return by date specified or 7	72 hours prior to public hearing,	whichever is earlier.				
Explanation of Estim	<del></del>					
AM1668 has no fisca	al impact. LB0536 is a n	new process, and there	e is no wa	v to estimate how	many Medicaid	
	nemselves of this option					
	caid recipients use the t					
occur, and there is a	potential loss of revenu	in honories accets we		1		
	F = 101111111111111111111111111111111111	ie pecause asseis wo	ouia escap	e detection.		
	,	de because assets wo	ouia escap	e detection.		
		de decause assets wo	ouid escap	e detection.		
		JOR OBJECTS OF EXPENDIT		e detection.		
PERSONAL SERVICES:		JOR OBJECTS OF EXPENDIT	URE		2013-2014	
PERSONAL SERVICES:			URE	2012-2013 EXPENDITURES	2013-2014 EXPENDITURES	
PERSONAL SERVICES:	MA	JOR OBJECTS OF EXPENDIT  NUMBER OF	URE	2012-2013		
PERSONAL SERVICES:	MA	JOR OBJECTS OF EXPENDIT  NUMBER OF	URE	2012-2013		
PERSONAL SERVICES:	MA	JOR OBJECTS OF EXPENDIT  NUMBER OF	URE	2012-2013		
PERSONAL SERVICES:	MA	JOR OBJECTS OF EXPENDIT  NUMBER OF	URE	2012-2013		
	MA	JOR OBJECTS OF EXPENDIT  NUMBER OF	URE	2012-2013		
Benefits	POSITION TITLE	JOR OBJECTS OF EXPENDIT  NUMBER OF 12-13	URE	2012-2013		
Benefits	POSITION TITLE	JOR OBJECTS OF EXPENDIT  NUMBER OF 12-13	URE	2012-2013		
Benefits Operating	POSITION TITLE	JOR OBJECTS OF EXPENDIT  NUMBER OF 12-13	URE	2012-2013		
Benefits Operating Travel Capital Outlay	POSITION TITLE	NUMBER OF 12-13	URE	2012-2013		
Benefits Operating Travel Capital Outlay	POSITION TITLE	JOR OBJECTS OF EXPENDIT  NUMBER OF 12-13	URE	2012-2013		
Benefits Operating Travel Capital Outlay Aid Capital Improvements	POSITION TITLE	JOR OBJECTS OF EXPENDIT  NUMBER OF 12-13	URE	2012-2013		

## LB 536 AM2046, FA33, and AM2042

Fiscal Note 2011

	State Agency	Estimate	- 0 2012		
State Agency Name: Department of Revenue		LEGIO		Date Due LFA:	2/17/2012
	Date Prepared:	2/28/2012	CATIVE FIRE	Phone: 471-5700	
FY 2011	1-2012	FY 201	2-2013 CAL	FY 20	13-2014
Expenditures	Revenue	Expenditures	Revenue	Expenditures	Revenue
					1
	(\$341,000)		(\$347,000)		(\$355,000)
				-	
	(\$341,000)		(\$347,000)		(\$355,000)
	FY 201	of Revenue  Date Prepared:  FY 2011-2012 Expenditures Revenue  (\$341,000)	Date Prepared: 2/28/2012   FY 2011-2012   FY 201   Expenditures   Expenditures	Date Prepared:   2/28/2012   FY 2011-2012   Expenditures   Revenue   Expenditures   Revenue   (\$341,000)   (\$347,000)	LEGIOLATIVE FISCAL         Date Due LFA:           Date Prepared:         2/28/2012         Phone: 471-5700           FY 2011-2012         FY 2012-2013         Expenditures         Revenue         Expenditures           (\$341,000)         (\$347,000)

LB 536, as amended by AM 1668, adopts the Uniform Real Property Transfer on Death Act. This act would require a death certificate of a transferor to be filed with the register of deeds when any real property is transferred upon the death of the transferor by a death deed, joint tenancy deed, or the expiration of a life estate. The Real Estate Transfer Statement may require a date of death, name of the decedent and whether the title is affected as a result of the transfer because of death, if a death certificate is recorded with the Register of Deeds.

The Real Estate Transfer Statement is not required to be filed at the time the death deed is filed or at the time a revocation instrument is filed revoking a death deed. Transfer on death deeds or revocations of death deeds are exempt from documentary stamp tax. Death certificates filed with the Register of Deeds that pertain to deeds that transfer real property upon death are exempt from documentary stamp tax.

FA 33 amends one of the warnings required on a death deed included in AM 1668 to read "... any such claim remaining after a proportionate application of the assets...," from "... any such claim remaining after application of the assets...."

LB 536 as amended by AM 1668, FA 33, and AM 2046 requires the transfer on a death deed to be signed by the transferor or by a witness in the transferor's presence and be attested by two or more disinterested witnesses. The transferor may designate in the transfer on death deed the disposition of the transferor's interest in growing crops to the transferor's estate or to one or more of the designated beneficiaries. If the death deed does not contain a designation of the disposition of the growing crops, the transferor's interest in the growing crops will pass to his or her estate.

AM 2042 (LB 818) would further amend AM 1668, by amending existing section 76-902(5), which provides an exemption from the documentary stamp tax for "deeds between husband and wife." This exemption will be expanded to include deeds between spouses and ex-spouses for the purpose of transferring property acquired or held during the marriage. Section 76-902(12) currently exempts deeds executed pursuant to court decrees (for example a divorce decree that transfers real property between ex-spouses). The Department's regulations address section 76-902(12) by providing that certain deeds between spouses or ex-spouses in the context of divorce will not be exempt if the transfer is not specifically required by the court decree. Regulation 52-003.02M.

	Maj	or Objects of I	Expendit	ure			
Class Code	Classification Title	11-12 FTE	12-13 FTE	13-14 FTE	11-12 Expenditures	12-13 Expenditures	13-14 Expenditures
ravel							
vid							

The Real Estate Transfer Statement is not required to be filed at the time the death deed is filed or at the time a revocation instrument is filed revoking a death deed. Transfer on death deeds or revocations of death deeds are exempt from documentary stamp tax. Death certificates filed with the register of deeds that pertain to deeds that transfer real property upon death are exempt from documentary stamp tax.

Currently, the Documentary Stamp tax rate is \$2.25 per \$1,000 of value. Counties retain \$0.50 from the \$2.25 collected. Twenty-five cents of the remaining \$1.75 is credited to the Homeless Shelter Assistance Trust Fund, \$0.95 is credited to the Affordable Housing Trust Fund, \$0.30 is credited to the Behavioral Health Services Fund, and \$0.25 is credited to the Site and Building Fund.

Assuming the exemption has the same effect as the average of the 22 current exemptions, both in terms of its use and the dollar value of the transaction, the estimated impact of the new exemptions will be as follows:

	Affordable Housing Trust Fund	Homeless Shelter Assistance Fund	Behavioral Health	Site & Building Fund	County
FY 2012-2013	(\$185,000)	(\$49,000)	(\$58,000)	(\$49,000)	(\$97,000)
FY 2013-2014	(\$188,000)	(\$50,000)	(\$59,000)	(\$50,000)	(\$99,000)
FY 2014-2015	(\$192,000)	(\$51,000)	(\$61,000)	(\$51,000)	(\$101,000)

The Department expects minimal costs to implement this bill as amended.