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DATE PREPARED: February 29, 2012
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LB 536

Revision: 03

Revised based upon amendments adopted through 2/15/2012

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *				
	FY 2012-13		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

*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.

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

State Agency or Political Subdivision Name:(2) Department of Health and Human Services

~~LEGISLATIVE FISCAL~~

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	FY 2012-2013		FY 2013-2014	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	See Below	\$0	See Below	\$0

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

Explanation of Estimate:

AM1668 has no fiscal impact. LB0536 is a new process, and there is no way to estimate how many Medicaid recipients will avail themselves of this option. It is possible social service staff may need to be added at a later date if enough Medicaid recipients use the transfer on death deed so that appropriate real estate recoveries occur, and there is a potential loss of revenue because assets would escape detection.

MAJOR OBJECTS OF EXPENDITURE

PERSONAL SERVICES:	POSITION TITLE	NUMBER OF POSITIONS		2012-2013 EXPENDITURES	2013-2014 EXPENDITURES
		12-13	13-14		
Benefits.....					
Operating.....					
Travel.....					
Capital Outlay.....					
Aid.....					
Capital Improvements.....					
TOTAL.....				See Above	See Above

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.