

PREPARED BY: Scott Danigole  
 DATE PREPARED: July 14, 2020  
 PHONE: 471-0055

**LB 808**

Revision: 02

Revised to include agency response.

**FISCAL NOTE**  
**LEGISLATIVE FISCAL ANALYST ESTIMATE**

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)</b>				
	<b>FY 2020-21</b>		<b>FY 2021-22</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS				
CASH FUNDS	21,436			
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	21,436			

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

LB 808 amends the Nebraska Model Business Corporation Act by defining additional terms under the act and providing for ratification of defective corporate actions.

As amended, provisions from the following five bills are incorporated into LB 808:

- LB775
- LB782
- LB902
- LB929
- LB1123

The Secretary of State estimates the cost to add the new filing type “Articles of Validation” to the existing Business Services Filing System (BSFS) to be \$21,436. There is no basis to disagree with this estimate.

<b>ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY &amp; POLT. SUB. RESPONSE</b>			
LB: 808	AM: 2259 & 2750	AGENCY/POLT. SUB: Nebraska Real Estate Commission	
REVIEWED BY: Lucas Martin	DATE: 3/10/2020	PHONE: (402) 471-4181	
COMMENTS: No basis to disagree with the Real Estate Commission’s assessment of no fiscal impact.			

<b>ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY &amp; POLT. SUB. RESPONSE</b>			
LB: 808	AM:	AGENCY/POLT. SUB: Nebraska Real Property Appraisers Board	
REVIEWED BY: Lucas Martin	DATE: 3/6/2020	PHONE: (402) 471-4181	
COMMENTS: No basis to disagree with the Real Property Appraisers Board’s assessment of no fiscal impact.			

<b>ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY &amp; POLT. SUB. RESPONSE</b>			
LB: 808	AM: 2559	AGENCY/POLT. SUB: Nebraska Secretary of State	
REVIEWED BY: Lucas Martin	DATE: 3/12/2020	PHONE: (402) 471-4181	
COMMENTS: No basis to disagree with the Secretary of State’s assessment of fiscal impact.			

Please complete ALL (5) blanks in the first three lines.

**2020**

**LB<sup>(1)</sup> 808(AM2259 & AM2750)**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> Nebraska Real Estate Commission

Prepared by: <sup>(3)</sup> Greg Lemon Date Prepared: <sup>(4)</sup> 3/6/2020 Phone: <sup>(5)</sup> 402-471-2004

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

	<u>FY 2020-21</u>		<u>FY 2021-22</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
<b>TOTAL FUNDS</b>	<b>=====</b>	<b>=====</b>	<b>=====</b>	<b>=====</b>

**Explanation of Estimate:**

LB808 with the above captioned amendments would amend the Nebraska Model Business Corporation Act and the Nebraska Condominium Act. These amendments would not affect the operations or expenditures of the Nebraska Real Estate Commission. No Fiscal Impact.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2020-21</u>	<u>2021-22</u>
	<u>20-21</u>	<u>21-22</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
<b>TOTAL.....</b>	<b>_____</b>	<b>_____</b>	<b>_____</b>	<b>_____</b>

Please complete ALL (5) blanks in the first three lines.

**2020**

**LB<sup>(1)</sup> 808 (AM2559 & AM2750)**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> Nebraska Real Property Appraiser Board

Prepared by: <sup>(3)</sup> Tyler Kohtz Date Prepared: <sup>(4)</sup> March 6, 2020 Phone: <sup>(5)</sup> 402-471-9015

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

	<u>FY 2020-21</u>		<u>FY 2021-22</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS				
CASH FUNDS	0.00	0.00	0.00	0.00
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>

Explanation of Estimate:

LB808 has no fiscal impact on the Nebraska Real Property Appraiser Board.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2020-21</u>	<u>2021-22</u>
	<u>20-21</u>	<u>21-22</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Benefits.....				
Operating.....				
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
<b>TOTAL.....</b>			<u>0.00</u>	<u>0.00</u>

Please complete ALL (5) blanks in the first three lines.

**2020**

**LB<sup>(1)</sup> 808 AM2559**

**FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> Secretary of State

Prepared by: <sup>(3)</sup> Joan Arnold Date Prepared: <sup>(4)</sup> 3/10/2020 Phone: <sup>(5)</sup> 402-471-2384

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

	<u>FY 2020-21</u>		<u>FY 2021-22</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	\$21,436	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
<b>TOTAL FUNDS</b>	<u>\$21,436</u>	_____	_____	_____

**Explanation of Estimate:**

AM 2559 includes the same language from LB808 and would still require modifications to our Business Services Filing System (BSFS) by the system vendor in order to add "Articles of Validation" as a new filing type. The vendor estimates the cost to add this functionality to be \$21,436.

In order to pay for these system modifications we are requesting an increase in cash fund appropriations only. We have a sufficient cash balance to accommodate these costs; no general funds are requested.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2020-21</u>	<u>2021-22</u>
	<u>20-21</u>	<u>21-22</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	\$21,436	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
<b>TOTAL.....</b>	_____	_____	<u>\$21,436</u>	_____

**State Agency Estimate**

State Agency Name: Department of Revenue		Date Prepared: 3/20/2020		Date Due LFA:		
Approved by: Tony Fulton				Phone: 471-5896		
	<b>FY 2020-2021</b>		<b>FY 2021-2022</b>		<b>FY 2022-2023</b>	
	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>	<u>Expenditures</u>	<u>Revenue</u>
General Funds	See below	See below	See below	See below	See below	See below
Cash Funds						
Federal Funds						
Other Funds						
Total Funds	See below	See below	See below	See below	See below	See below

LB 808 adds eight new sections to the Nebraska Model Business Corporation Act (Act). These provisions lay out the process and procedure to validate or ratify corporate actions that are void or voidable due to a failure of authorization or shares issued in excess of the number of shares the corporation has the power to issue or shares not authorized by the articles of incorporation.

AM 2750 retains all of the provisions of LB 808 and incorporates the changes to the Nebraska Condominium Act, as originally created in LB 767, amending Neb. Rev. Stat §§ 25-223, 76-842, 76-844, 76-854, 76-857, 76-859, 76-860, 76-861, 76-867, 76-869, 76-870, 76-884, and 76-890. The amendments pertain to condominiums, specifically the statute of limitations on breach of warranty claims, permissible provisions in declarations and amendments to declarations and restrictions, who may commence litigation on behalf of condominium owners and notice requirements prior to commencing litigation.

AM 2559 amends Neb. Rev. Stat. § 1-116 pertaining to when applicants may take the Certified Public Accounting test. It also adopts the Uniform Trust Decanting Act (Trust Act). The Trust Act applies to trusts created before, on, or after the operative date of Section 15 and trusts whose principal place of administration are in Nebraska or whose trust instrument provides that it is governed by the laws of Nebraska. The Trust Act allows for an authorized fiduciary to distribute property of a trust to one or more second trusts or modify the terms of the trust. It also includes notice requirements, places limits on the decanting power of an authorized fiduciary, provisions for special needs trust decanting, charitable interest trust decanting, grantor trusts and animal trust.

AM 2559 amends Neb. Rev. Stat. § 76-902 to exempt deeds transferring property pursuant to the Trust Act from the documentary stamp tax on deeds in Neb. Rev. Stat. § 76-901 which will result in a significant reduction in the collection of documentary stamp tax. This in turn will reduce payments to the Affordable Housing Trust Fund, Site and Building Development Fund, Homeless Shelter Assistance Trust Fund, and Behavioral Health Services Fund by an undeterminable amount. The bill as amended also harmonizes provisions to specify appraisal as meaning “real property” appraisals. Neb. Rev. Stat. §§ 76-2205.01 and 76-2216.03 are repealed outright. It added to the definition of securities in the Public Funds Deposit Security Act, Neb. Rev. Stat. § 77-2387, student loans backed or partially guaranteed by the United States Department of Education. AM 2559 excludes certain unlicensed persons from the Nebraska Real Estate License Act in Neb. Rev. Stat. § 81-885.04.

All sections contained in AM 2750 are operative three months after adjournment.

AM 2559 contains an emergency clause. All sections contained therein become law upon enactment.

**Fiscal Impact:**

The provision on decanting a trust may result in a decrease in general fund revenue from fiduciary income tax. The Department used data from 2015 through 2018 on resident fiduciary income tax payments and estimates that the reduction in fiduciary income tax would be in the range of minimal to three million dollars annually.

It is estimated that there will be minimal cost to the Department to implement the bill.

<u>Class Code</u>	<u>Classification Title</u>	<u>20-21 FTE</u>	<u>21-22 FTE</u>	<u>22-23 FTE</u>	<u>20-21 Expenditures</u>	<u>21-22 Expenditures</u>	<u>22-23 Expenditures</u>
	Benefits.....						
	Operating Costs.....						
	Travel.....						
	Capital Outlay.....						
	Capital Improvements.....						
	<b>Total</b> .....						