

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 745**

Introduced by Fischer, 43.

Read first time January 04, 2012

Committee: Revenue

A BILL

1 FOR AN ACT relating to cities and villages; to amend sections 15-202,  
2 15-203, 16-205, and 17-525, Reissue Revised Statutes of  
3 Nebraska, and section 14-109, Revised Statutes  
4 Supplement, 2011; to provide requirements for imposition  
5 of an occupation tax; to harmonize provisions; and to  
6 repeal the original sections.

7 Be it enacted by the people of the State of Nebraska,

1           Section 1. (1) After the effective date of this act, a  
2 municipality may impose an occupation tax pursuant to section 14-109,  
3 15-202, 15-203, 16-205, or 17-525 if the question of whether to  
4 impose the tax has been submitted at a primary or general election at  
5 which members of the governing body of the municipality are nominated  
6 or elected or at a special election held within the municipality and  
7 in which all registered voters shall be entitled to vote on the  
8 question. The officials of the municipality shall order the  
9 submission of the question by submitting a certified copy of the  
10 resolution proposing the tax to the election commissioner or county  
11 clerk at least fifty days before the election. The election shall be  
12 conducted in accordance with the Election Act. If a majority of the  
13 votes cast upon the question are in favor of the tax, then the  
14 governing body of such municipality shall be empowered to impose the  
15 tax, subject to the limitations of this section. If a majority of  
16 those voting on the question are opposed to the tax, then the  
17 governing body of the municipality shall not impose the tax.

18           (2) After the effective date of this act, a municipality  
19 may change the rate of an occupation tax or change the termination  
20 date of an occupation tax if the question of whether to change the  
21 rate or termination date has been submitted at a primary or general  
22 election at which members of the governing body of the municipality  
23 are nominated or elected or at a special election held within the  
24 municipality and in which all registered voters shall be entitled to  
25 vote on the question. The officials of the municipality shall order

1 the submission of the question by submitting a certified copy of the  
2 resolution proposing the rate change or termination date change to  
3 the election commissioner or county clerk at least fifty days before  
4 the election. The election shall be conducted in accordance with the  
5 Election Act. If a majority of the votes cast upon the question are  
6 in favor of the rate change or termination date change, then the  
7 governing body of such municipality shall be empowered to make the  
8 change, subject to the limitations of this section. If a majority of  
9 those voting on the question are opposed to the rate change or  
10 termination date change, then the governing body of the municipality  
11 shall not make the change. This subsection applies to occupation  
12 taxes imposed prior to, on, or after the effective date of this act.

13 (3) After the effective date of this act, an occupation  
14 tax authorized under section 14-109, 15-202, 15-203, 16-205, or  
15 17-525 shall meet the following requirements:

16 (a) The occupation tax shall be imposed only for a  
17 specific project set forth in the question submitted to the  
18 registered voters; and

19 (b) The occupation tax shall have a determinable  
20 termination date.

21 (4) The provisions of this section do not apply to an  
22 occupation tax subject to section 86-704.

23 Sec. 2. Section 14-109, Revised Statutes Supplement,  
24 2011, is amended to read:

25 14-109 (1)(a) The city council shall have power to tax

1 for revenue, license, and regulate any person within the limits of  
2 the city by ordinance except as otherwise provided in this section.  
3 Such tax may include both a tax for revenue and license. The city  
4 council may raise revenue by levying and collecting a tax on any  
5 occupation or business within the limits of the city. The occupation  
6 tax shall be imposed in the manner provided in section 1 of this act  
7 or section 86-704. All such taxes shall be uniform in respect to the  
8 class upon which they are imposed. All scientific and literary  
9 lectures and entertainments shall be exempt from taxation, as well as  
10 concerts and all other musical entertainments given exclusively by  
11 the citizens of the city. It shall be the duty of the city clerk to  
12 deliver to the city treasurer the certified copy of the ordinance  
13 levying such tax, and the city clerk shall append thereto a warrant  
14 requiring the city treasurer to collect such tax.

15 (b) For purposes of this subsection, limits of the city  
16 does not include the extraterritorial zoning jurisdiction of such  
17 city.

18 (2)(a) Except as otherwise provided in subdivision (c) of  
19 this subsection, the city council shall also have power to require  
20 any individual whose primary residence or person who owns a place of  
21 business which is within the limits of the city and that owns and  
22 operates a motor vehicle within such limits to annually register such  
23 motor vehicle in such manner as may be provided and to require such  
24 person to pay an annual motor vehicle fee therefor and to require the  
25 payment of such fee upon the change of ownership of such vehicle. All

1 such fees which may be provided for under this subsection shall be  
2 credited to a separate fund of the city, thereby created, to be used  
3 exclusively for constructing, repairing, maintaining, or improving  
4 streets, roads, alleys, public ways, or parts thereof or for the  
5 amortization of bonded indebtedness when created for such purposes.

6 (b) No motor vehicle fee shall be required under this  
7 subsection if (i) a vehicle is used or stored but temporarily in such  
8 city for a period of six months or less in a twelve-month period,  
9 (ii) an individual does not have a primary residence or a person does  
10 not own a place of business within the limits of the city and does  
11 not own and operate a motor vehicle within the limits of the city, or  
12 (iii) an individual is a full-time student attending a postsecondary  
13 institution within the limits of the city and the motor vehicle's  
14 situs under the Motor Vehicle Certificate of Title Act is different  
15 from the place at which he or she is attending such institution.

16 (c) After December 31, 2012, no motor vehicle fee shall  
17 be required of any individual whose primary residence is or person  
18 who owns a place of business within the extraterritorial zoning  
19 jurisdiction of such city.

20 (d) For purposes of this subsection, limits of the city  
21 includes the extraterritorial zoning jurisdiction of such city.

22 (3) For purposes of this section, person includes bodies  
23 corporate, societies, communities, the public generally, individuals,  
24 partnerships, limited liability companies, joint-stock companies,  
25 cooperatives, and associations. Person does not include any federal,

1 state, or local government or any political subdivision thereof.

2           Sec. 3. Section 15-202, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           15-202 A city of the primary class shall have power to  
5 levy taxes for general revenue purposes on all property within the  
6 corporate limits of the city taxable according to the laws of  
7 Nebraska and to levy an occupation tax on public service property or  
8 corporations in such amounts as may be proper and necessary, in the  
9 judgment of the mayor and council, for purposes of revenue. All such  
10 taxes shall be uniform with respect to the class upon which they are  
11 imposed. The occupation tax may be based upon a certain percentage of  
12 the gross receipts of such public service corporation or upon such  
13 other basis as may be determined upon by the mayor and council and  
14 shall be imposed in the manner provided in section 1 of this act or  
15 section 86-704.

16           Sec. 4. Section 15-203, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           15-203 A city of the primary class shall have power to  
19 raise revenue by levying and collecting a license or occupation tax  
20 on any person, partnership, limited liability company, corporation,  
21 or business within the limits of the city and regulate the same by  
22 ordinance except as otherwise provided in this section and in section  
23 15-212. The occupation tax shall be imposed in the manner provided in  
24 section 1 of this act or section 86-704. All such taxes shall be  
25 uniform in respect to the class upon which they are imposed. All

1 scientific and literary lectures and entertainments shall be exempt  
2 from such taxation as well as concerts and all other musical  
3 entertainments given exclusively by the citizens of the city.

4 Sec. 5. Section 16-205, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 16-205 A city of the first class may raise revenue by  
7 levying and collecting a license or occupation tax on any person,  
8 partnership, limited liability company, corporation, or business  
9 within the limits of the city and to regulate same by ordinance. The  
10 occupation tax shall be imposed in the manner provided in section 1  
11 of this act or section 86-704. All such taxes shall be uniform in  
12 respect to the class upon which they are imposed. All scientific and  
13 literary lectures and entertainments shall be exempt from such  
14 taxation as well as concerts and all other musical entertainments  
15 given exclusively by the citizens of the city.

16 Sec. 6. Section 17-525, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 17-525 Second-class cities and villages shall have power  
19 to raise revenue by levying and collecting a license tax on any  
20 occupation or business within the limits of the city or village, and  
21 regulate the same by ordinance. The occupation tax shall be imposed  
22 in the manner provided in section 1 of this act or section 86-704.  
23 All such taxes shall be uniform in respect to the classes upon which  
24 they are imposed. All ~~;~~ ~~Provided,~~ all scientific and literary  
25 lectures and entertainments shall be exempt from such taxation, as

1 well as concerts and other musical entertainments given exclusively  
2 by the citizens of the city or village.

3           Sec. 7. Original sections 15-202, 15-203, 16-205, and  
4 17-525, Reissue Revised Statutes of Nebraska, and section 14-109,  
5 Revised Statutes Supplement, 2011, are repealed.