

Revision updated for the 2014 Legislative Session. Includes any adopted amendments.

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

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES</b> (See narrative for political subdivision estimates)				
	<b>FY 2014-15</b>		<b>FY 2015-16</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS		See Below		See Below
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS		See Below		See Below

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

LB 474 amends a number of sections of Nebraska statutes dealing with municipal occupation taxes.

The bill amends Section 18-1208 to provide that a municipality may raise revenue by levying an occupation tax on any person, partnership, limited liability company, corporation, or business within its corporate limits and regulate such by ordinance. The municipality may not impose an occupation tax based upon a certain percentage of the gross receipts or sales volume of the person, partnership, limited liability company, corporation, or business. Neither shall an occupation tax be imposed upon tobacco, tobacco products, or alcoholic liquor.

The bill further amends this section to require that if an occupation tax produces revenue in any fiscal year that exceeds certain amounts specified in Section 18-1208, that the municipality shall adjust the rate of the tax for the next fiscal year to offset the excess collection of revenue from the previous fiscal year. In addition, no funds collected from an occupation tax shall be provided by the municipality to another political subdivision, state government entity, or nonprofit entity unless the funds are used for a building that will become the property of the municipality or for an upgrade to infrastructure, public utilities, or public service support for the municipality.

LB 474 provides that any occupation tax adopted on or after July 19, 2012 and prior to the operative date of LB 474, shall terminate on January 1, 2015, unless the tax complies with the requirements of LB 474 prior to January 1, 2015. The bill also provides that the changes in Section 18-1208 do not apply to occupation taxes imposed prior to July 19, 2012.

NOTE: The Department of Revenue has indicated that because LB 474 repeals the sections that authorize nearly all municipal occupation taxes (although restoring authority with additional restrictions) and those repealers are not changes to Sec. 18-1208, there is some question about whether this provision operates as a grandfather clause that preserves all occupation taxes that were imposed prior to July 19, 2012. If not, this could require all occupation taxes originally adopted under the repealed sections to be re-adopted.

The bill also amends several sections of statute to strike the word “occupation” so that the statutes now just refer to “tax,” these include sections of statute dealing with Natural Resources Districts and a tax to support volunteer fire departments.

LB 474 does allow municipalities to impose an occupation tax pursuant to the provisions of Section 18-1208, as noted above, and becomes the only section of statute that authorizes municipal occupation taxes.

The bill outright repeals the following sections of statute:

- 15-203: power to levy an occupation tax by a city of the primary class
- 16-205: power to levy an occupation tax by a city of the first class
- 17-525: power to levy an occupation tax by second class cities and villages

The bill has an operative date of January 1, 2014.

The Department of Revenue indicates that there will be some General Fund impact associated with LB 474 but they are unable to estimate the amount of impact. There will be a reduction in sales tax collected, at least with respect to occupation taxes adopted on or after July 19, 2012. If the bill repeals nearly all existing municipal occupation taxes, there would be a large negative impact to General Fund revenues.

NOTE: The reason there would be an impact to the General Fund is because the state does collect sales tax from retailers on whom an occupation tax has been imposed. If a retailer selling items or services subject to sales tax chooses to show the occupation tax on the customer’s bill, the occupation tax is part of gross receipts. In this case, the occupation tax must be included in the sales price

before calculating the state and any local sales tax. Stating the occupation tax on the customer's invoice does not impose it on the customer. Whenever a retailer itemizes its cost of doing business for the customer, these amounts are still part of gross receipts subject to sales tax. Eliminating the amount of the occupation tax from the gross receipts would therefore, reduce the sales tax revenue.

The Department indicates no cost to implement the provisions of LB 474.

There is no basis to disagree with the Department of Revenue's estimate of fiscal impact and cost.

IMPACT TO POLITICAL SUBDIVISIONS:

The city of Omaha estimate a loss of revenue from the city's occupation tax on tobacco retailers of \$3.5 million per year beginning after January 1, 2015. The city also noted that eight current occupation taxes account for approximately 17% of the 2013 general fund revenue budget and that the changes proposed by LB 474 would have an adverse impact on those funds.