

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 745**

Final Reading

Introduced by Fischer, 43; Lautenbaugh, 18; Cornett, 45; Janssen,  
15.

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) Except as otherwise provided in this  
2 section, after the effective date of this act, a municipality may  
3 impose a new occupation tax or increase the rate of an existing  
4 occupation tax, which new occupation tax or increased rate of an  
5 existing occupation tax is projected to generate annual occupation  
6 tax revenue in excess of the applicable amount listed in subsection  
7 (2) of this section, pursuant to section 14-109, 15-202, 15-203,  
8 16-205, or 17-525 if the question of whether to impose the tax or  
9 increase the rate of an existing occupation tax has been submitted at  
10 an election held within the municipality and in which all registered  
11 voters shall be entitled to vote on the question. The officials of  
12 the municipality shall order the submission of the question by  
13 submitting a certified copy of the resolution proposing the tax or  
14 tax rate increase to the election commissioner or county clerk at  
15 least fifty days before the election. The election shall be conducted  
16 in accordance with the Election Act. If a majority of the votes cast  
17 upon the question are in favor of the new tax or increased rate of an  
18 existing occupation tax, then the governing body of such municipality  
19 shall be empowered to impose the new tax or to impose the increased  
20 tax rate. If a majority of those voting on the question are opposed  
21 to the new tax or increased rate, then the governing body of the  
22 municipality shall not impose the new tax or increased rate but shall  
23 maintain any existing occupation tax at its current rate.

24           (2) The applicable amount of annual revenue for each new  
25 occupation tax or annual revenue raised by the increased rate for an

1 existing occupation tax for purposes of subsection (1) of this  
2 section is:

3 (a) For cities of the metropolitan class, six million  
4 dollars;

5 (b) For cities of the primary class, three million  
6 dollars;

7 (c) For cities of the first class, seven hundred thousand  
8 dollars; and

9 (d) For cities of the second class and villages, three  
10 hundred thousand dollars.

11 (3) After the effective date of this act, a municipality  
12 shall not be required to submit the following questions to the  
13 registered voters:

14 (a) Whether to change the rate of an occupation tax  
15 imposed for a specific project which does not provide for deposit of  
16 the tax proceeds in the municipality's general fund; or

17 (b) Whether to terminate an occupation tax earlier than  
18 the determinable termination date under the original question  
19 submitted to the registered voters.

20 This subsection applies to occupation taxes imposed prior  
21 to, on, or after the effective date of this act.

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

24 Sec. 2. Section 14-109, Revised Statutes Supplement,  
25 2011, is amended to read:

1                   14-109 (1)(a) The city council shall have power to tax  
2 for revenue, license, and regulate any person within the limits of  
3 the city by ordinance except as otherwise provided in this section.  
4 Such tax may include both a tax for revenue and license. The city  
5 council may raise revenue by levying and collecting a tax on any  
6 occupation or business within the limits of the city. The occupation  
7 tax shall be imposed in the manner provided in section 1 of this act,  
8 except that section 1 of this act does not apply to an occupation tax  
9 subject to section 86-704. All such taxes shall be uniform in respect  
10 to the class upon which they are imposed. All scientific and literary  
11 lectures and entertainments shall be exempt from taxation, as well as  
12 concerts and all other musical entertainments given exclusively by  
13 the citizens of the city. It shall be the duty of the city clerk to  
14 deliver to the city treasurer the certified copy of the ordinance  
15 levying such tax, and the city clerk shall append thereto a warrant  
16 requiring the city treasurer to collect such tax.

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

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

1 person to pay an annual motor vehicle fee therefor and to require the  
2 payment of such fee upon the change of ownership of such vehicle. All  
3 such fees which may be provided for under this subsection shall be  
4 credited to a separate fund of the city, thereby created, to be used  
5 exclusively for constructing, repairing, maintaining, or improving  
6 streets, roads, alleys, public ways, or parts thereof or for the  
7 amortization of bonded indebtedness when created for such purposes.

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

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

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

24 (3) For purposes of this section, person includes bodies  
25 corporate, societies, communities, the public generally, individuals,

1 partnerships, limited liability companies, joint-stock companies,  
2 cooperatives, and associations. Person does not include any federal,  
3 state, or local government or any political subdivision thereof.

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

6           15-202 A city of the primary class shall have power to  
7 levy taxes for general revenue purposes on all property within the  
8 corporate limits of the city taxable according to the laws of  
9 Nebraska and to levy an occupation tax on public service property or  
10 corporations in such amounts as may be proper and necessary, in the  
11 judgment of the mayor and council, for purposes of revenue. All such  
12 taxes shall be uniform with respect to the class upon which they are  
13 imposed. The occupation tax may be based upon a certain percentage of  
14 the gross receipts of such public service corporation or upon such  
15 other basis as may be determined upon by the mayor and council and  
16 shall be imposed in the manner provided in section 1 of this act,  
17 except that section 1 of this act does not apply to an occupation tax  
18 subject to section 86-704.

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

21           15-203 A city of the primary class shall have power to  
22 raise revenue by levying and collecting a license or occupation tax  
23 on any person, partnership, limited liability company, corporation,  
24 or business within the limits of the city and regulate the same by  
25 ordinance except as otherwise provided in this section and in section

1    15-212. The occupation tax shall be imposed in the manner provided in  
2    section 1 of this act, except that section 1 of this act does not  
3    apply to an occupation tax subject to section 86-704. All such taxes  
4 shall be uniform in respect to the class upon which they are imposed.  
5 All scientific and literary lectures and entertainments shall be  
6 exempt from such taxation as well as concerts and all other musical  
7 entertainments given exclusively by the citizens of the city.

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

10                   16-205 A city of the first class may raise revenue by  
11 levying and collecting a license or occupation tax on any person,  
12 partnership, limited liability company, corporation, or business  
13 within the limits of the city and to regulate same by ordinance. The  
14 occupation tax shall be imposed in the manner provided in section 1  
15 of this act, except that section 1 of this act does not apply to an  
16 occupation tax subject to section 86-704. All such taxes shall be  
17 uniform in respect to the class upon which they are imposed. All  
18 scientific and literary lectures and entertainments shall be exempt  
19 from such taxation as well as concerts and all other musical  
20 entertainments given exclusively by the citizens of the city.

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

23                   17-525 Second-class cities and villages shall have power  
24 to raise revenue by levying and collecting a license tax on any  
25 occupation or business within the limits of the city or village, and

1 regulate the same by ordinance. The occupation tax shall be imposed  
2 in the manner provided in section 1 of this act, except that section  
3 1 of this act does not apply to an occupation tax subject to section  
4 86-704. All such taxes shall be uniform in respect to the classes  
5 upon which they are imposed. All ~~;/ Provided, all~~ scientific and  
6 literary lectures and entertainments shall be exempt from such  
7 taxation, as well as concerts and other musical entertainments given  
8 exclusively by the citizens of the city or village.

9           Sec. 7. Original sections 15-202, 15-203, 16-205, and  
10 17-525, Reissue Revised Statutes of Nebraska, and section 14-109,  
11 Revised Statutes Supplement, 2011, are repealed.