

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2013-14		FY 2014-15	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
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.

ADMINISTRATIVE SERVICES-STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES			
LB: 474	AM:	AGENCY/POLT. SUB: City of Omaha	
REVIEWED BY: Lyn Heaton		DATE: 3/8/2013	PHONE: 402.471.4181
COMMENTS: No basis upon which to disagree with the City of Omaha's estimate of revenue impact.			

ADMINISTRATIVE SERVICES-STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES			
LB: 474	AM:	AGENCY/POLT. SUB: Papio-Missouri River NRD	
REVIEWED BY: Lyn Heaton		DATE: 1/24/2013	PHONE: 402.471.4181
COMMENTS: No basis upon which to disagree with the NRD's estimate of no fiscal impact.			

ADMINISTRATIVE SERVICES-STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES			
LB: 474	AM:	AGENCY/POLT. SUB: Upper Big Blue NRD	
REVIEWED BY: Lyn Heaton		DATE: 1/23/2013	PHONE: 402.471.4181
COMMENTS: No basis upon which to disagree with the NRD's analysis.			

State Agency Estimate

State Agency Name: Department of Revenue		Date Due LFA: 02/08/2013			
Approved by: Douglas Ewald		Date Prepared: 02/04/2013			
		Phone: 471-5896			
<u>FY 2013-2014</u>		<u>FY 2014-2015</u>		<u>FY 2015-2016</u>	
<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)
Cash Funds					
Federal Funds					
Other Funds					
Total Funds	(see below)		(see below)		(see below)

LB 474 would strike all the current statutory language authorizing municipal occupation taxes and unify the authorization in a single section, Neb. Rev. Stat. § 18-1208. Struck would be part of Neb. Rev. Stat. § 14-109 (authorization for metropolitan class cities). Repealed outright would be Neb. Rev. Stat. §§ 15-203 (primary class cities), 16-205 (first class cities), and 17-525 (second class cities and villages).

Three sections dealing with Natural Resources Districts would be amended to strike the word “occupation” before tax. Section 13 also would strike the word “occupation” in connection with a special tax to support volunteer fire departments. These changes remove these taxes from the restrictions on levying and increasing occupation taxes that are currently contained in Neb. Rev. Stat. § 18-1208 and additional restrictions that would be added by LB 474. Sections 7 through 12 and 14 would incorporate the requirements of Neb. Rev. Stat. § 18-2808 as amended by LB 474 into numerous other sections authorizing cities to impose license and occupation taxes.

LB 474 would amend Neb. Rev. Stat. § 18-1208 to:

1. Prohibit municipal occupation taxes based upon gross receipts;
2. Prohibit occupation taxes levied on tobacco or tobacco products, or alcoholic beverages;
3. Provide that if the revenue generated by a new or increased occupation tax exceeds the limits that would have required a vote, the rate must be lowered the following year to offset the surplus collections over the prior fiscal year;
4. Provide that a municipal occupation tax must be used for municipal purposes and cannot be transferred to another public or private entity; and
5. Provide that any occupation tax adopted after July 19, 2012, and before the operative date of this bill will terminate January 1, 2015 unless it conforms to the requirements of this section as amended by LB 474.

Subsection (8) of this section states that the changes to this section by this legislative bill do not apply to occupation taxes imposed prior to July 19, 2012. However, because the bill would repeal the sections that authorize nearly all municipal occupation taxes (while restoring the authority with additional restrictions in this section), and those repealers are not “changes to this section,” there is a question about whether this provision operates as a grandfather clause that preserves all occupation taxes that were imposed prior to July 19, 2012. LB 474 could require all occupation taxes originally adopted under Neb. Rev. Stat. §§ 14-109, 15-203, 16-205, or 17-525 to be re-adopted.

There will be some General Fund impact associated with this bill, but the amount of the impact is unknown. There will be a reduction in the sales tax collected at least with respect to occupation taxes adopted on or after July 19, 2012, but the amount cannot be determined. If LB 474 repeals nearly all existing municipal occupation taxes, there would be a large negative impact to General Fund revenues. The affected cities could re-adopt their old occupation taxes and change their new occupation taxes or comply with the new requirements before January 1, 2015.

LB 474 would be operative January 1, 2014. It is estimated that there will be no costs to implement the bill.

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

2013

LB⁽¹⁾ 474 FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ City of Omaha

Prepared by: ⁽³⁾ Finance/Law Department Date Prepared: ⁽⁴⁾ 1/25/13 Phone: ⁽⁵⁾ 402-444-6262

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>Calendar Year 2013</u>		<u>Calendar Year 2014</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

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

Explanation of Estimate:

The Bill as we understand it would eliminate the current Omaha occupation tax on tobacco retailers after January 1, 2015. That tax is expected to raise approximately \$3.5 million per year for 8 years after that date. The known effect of the Bill is to eliminate \$28 million in revenue expected to be received from January 1, 2015, through December 31, 2022.

Although the use of the tobacco occupation tax is not limited by law, by contract the City is obligated to pay UNMC up to \$3.5 million per year from the tobacco occupation tax through 2022. If the tax is eliminated, the contractual obligation ceases. The City of Omaha is unable to determine any other fiscal impact until we receive clarity on the existing occupation taxes prior to July of 2012 and how it would affect them.

Page 13 (8) states that “The changes made to this section by this legislative bill do not apply to occupation taxes imposed prior to July 19, 2012.” This statement appears to support the premise that the existing occupation taxes (other than the tobacco occupation tax) are not affected as they stand, but clarity is needed. There is uncertainty on the impact it would have on increases on existing occupation taxes. The City of Omaha relies upon various occupation taxes for a large percentage of its general fund support. In the chart below, the following General Fund (11111) occupation tax revenues represent over 17% of the 2013 general fund revenue budget. All of these revenues listed below, with the exception of the telephone tax, would be affected by the uncertainty of the legislation:

11111 GENERAL	51411 OCCUPATION TAX TELEPHONE CO.	15,212,669
11111 GENERAL	51412 OCCUPATION TAX O.P.P.D.	7,813,881
11111 GENERAL	51425 VEHICLE RENTAL OCC TAX	2,223,810
11111 GENERAL	51426 HOTEL/MOTEL OCCUPANCY TAX	3,920,186
11111 GENERAL	51431 RESTAURANT TAX	25,645,594
11112 GENERAL FUND/STADIUM	51425 VEHICLE RENTAL OCC TAX	741,270
11112 GENERAL FUND/STADIUM	51426 HOTEL/MOTEL OCCUPANCY TAX	3,060,847
21109 GREATER OMAHA CONVENTION & VISITORS BUREAU	51426 HOTEL/MOTEL OCCUPANCY TAX	698,103

Being limited in the ability to increase these revenue sources in future years is expected to have an adverse effect on revenue, although the amount cannot at this time be calculated.

In addition, the Bill prohibits any future occupation tax from being based upon sales volume, even if the voters were to approve that method. This prohibition will restrict occupation taxes to a specific amount per taxpayer and will severely limit the amount of occupation taxes that can be collected in the future and the fairness of those taxes, even with voter approval.

MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2013-14</u> <u>EXPENDITURES</u>	<u>2014-15</u> <u>EXPENDITURES</u>
	<u>13-14</u>	<u>14-15</u>		
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....				
Operating.....				
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....				

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

2013

LB⁽¹⁾ 474 FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Papio-Missouri River Natural Resources District

Prepared by: ⁽³⁾ John Winkler Date Prepared: ⁽⁴⁾ January 24, 2013 Phone: ⁽⁵⁾ 402-444-6222

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2013-14</u>		<u>FY 2014-15</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

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

Explanation of Estimate:

This bill would have no fiscal impact on the Papio-Missouri River NRD.

MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2013-14</u>	<u>2014-15</u>
	<u>13-14</u>	<u>14-15</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....			_____	_____
Operating.....			_____	_____
Travel.....			_____	_____
Capital outlay.....			_____	_____
Aid.....			_____	_____
Capital improvements.....			_____	_____
TOTAL.....			_____	_____

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

LB⁽¹⁾ 474 FISCAL NOTE

State Agency OR Political Subdivision Name: (2) Upper Big Blue NRD

Prepared by: (3) John C. Turnbull Date Prepared: (4) 23 January 2013 Phone: (5) 402-362-6601

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

Table with 4 columns: Category, FY 2013-14 EXPENDITURES, FY 2013-14 REVENUE, FY 2014-15 EXPENDITURES, FY 2014-15 REVENUE. Rows include GENERAL FUNDS, CASH FUNDS, FEDERAL FUNDS, OTHER FUNDS, and TOTAL FUNDS.

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

Explanation of Estimate:

No Fiscal Impact because this NRD does not use the occupation tax authority, but would affect future taxing decisions concerning groundwater management. The occupation tax would be able to raise a large part of the revenues to support a groundwater management budget for the NRD if it was adopted by the Board of Directors.

MAJOR OBJECTS OF EXPENDITURE

Table with 5 columns: POSITION TITLE, NUMBER OF POSITIONS (13-14, 14-15), 2013-14 EXPENDITURES, 2014-15 EXPENDITURES. Rows include Personal Services, Benefits, Operating, Travel, Capital outlay, Aid, Capital improvements, and TOTAL.