

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL

Introduced by

Read first time

Committee:

A BILL

1 FOR AN ACT relating to taxation; to amend section 77-4008, Reissue
2 Revised Statutes of Nebraska, and section 77-2602,
3 Revised Statutes Cumulative Supplement, 2008; to change
4 provisions relating to tobacco products taxation; to
5 provide an operative date; and to repeal the original
6 sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2602, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 77-2602 (1) Every person engaged in distributing or
4 selling cigarettes at wholesale in this state shall pay to the
5 Tax Commissioner of this state a special privilege tax. This shall
6 be in addition to all other taxes. It shall be paid prior to or
7 at the time of the sale, gift, or delivery to the retail dealer
8 in the several amounts as follows: On each package of cigarettes
9 containing not more than twenty cigarettes, ~~sixty-four~~ one dollar
10 and fourteen cents per package; and on packages containing more
11 than twenty cigarettes, the same tax as provided on packages
12 containing not more than twenty cigarettes for the first twenty
13 cigarettes in each package and a tax of one-twentieth of the tax on
14 the first twenty cigarettes on each cigarette in excess of twenty
15 cigarettes in each package.

16 (2) Beginning October 1, 2004, until October 1, 2009,
17 the State Treasurer shall place the equivalent of forty-nine cents
18 of such tax in the General Fund. Beginning October 1, 2009, the
19 State Treasurer shall place the equivalent of ninety-nine cents of
20 such tax in the General Fund. The State Treasurer shall reduce
21 the amount placed in the General Fund under this subsection by
22 the amount prescribed in subdivision (3)(d) of this section. For
23 purposes of this section, the equivalent of a specified number of
24 cents of the tax shall mean that portion of the proceeds of the tax
25 equal to the specified number divided by the tax rate per package
26 of cigarettes containing not more than twenty cigarettes.

27 (3) The State Treasurer shall distribute the remaining

1 proceeds of such tax in the following order:

2 (a) First, beginning July 1, 1980, the State Treasurer
3 shall place the equivalent of one cent of such tax in the
4 Nebraska Outdoor Recreation Development Cash Fund. For fiscal year
5 distributions occurring after FY1998-99, the distribution under
6 this subdivision shall not be less than the amount distributed
7 under this subdivision for FY1997-98. Any money needed to increase
8 the amount distributed under this subdivision to the FY1997-98
9 amount shall reduce the distribution to the General Fund;

10 (b) Second, beginning July 1, 1993, the State Treasurer
11 shall place the equivalent of three cents of such tax in the
12 Health and Human Services Cash Fund to carry out sections 81-637
13 to 81-640. For fiscal year distributions occurring after FY1998-99,
14 the distribution under this subdivision shall not be less than the
15 amount distributed under this subdivision for FY1997-98. Any money
16 needed to increase the amount distributed under this subdivision to
17 the FY1997-98 amount shall reduce the distribution to the General
18 Fund;

19 (c) Third, beginning October 1, 2002, and continuing
20 until all the purposes of the Deferred Building Renewal Act have
21 been fulfilled, the State Treasurer shall place the equivalent of
22 seven cents of such tax in the Building Renewal Allocation Fund.
23 The distribution under this subdivision shall not be less than the
24 amount distributed under this subdivision for FY1997-98. Any money
25 needed to increase the amount distributed under this subdivision to
26 the FY1997-98 amount shall reduce the distribution to the General
27 Fund;

1 (d) Fourth, until July 1, 2009, the State Treasurer
2 shall place in the Municipal Infrastructure Redevelopment Fund
3 the sum of five hundred twenty thousand dollars each fiscal year
4 to carry out the Municipal Infrastructure Redevelopment Fund Act.
5 The Legislature shall appropriate the sum of five hundred twenty
6 thousand dollars each year for fiscal year 2003-04 through fiscal
7 year 2008-09;

8 (e) Fifth, beginning July 1, 2001, and continuing until
9 June 30, 2008, the State Treasurer shall place the equivalent of
10 two cents of such tax in the Information Technology Infrastructure
11 Fund. The distribution under this subdivision shall not be less
12 than two million fifty thousand dollars. Any money needed to
13 increase the amount distributed under this subdivision to two
14 million fifty thousand dollars shall reduce the distribution to the
15 General Fund;

16 (f) Sixth, beginning July 1, 2001, and continuing until
17 June 30, 2016, the State Treasurer shall place one million dollars
18 each fiscal year in the City of the Primary Class Development Fund.
19 If necessary, the State Treasurer shall reduce the distribution of
20 tax proceeds to the General Fund pursuant to subsection (2) of this
21 section by such amount required to fulfill the one million dollars
22 to be distributed pursuant to this subdivision;

23 (g) Seventh, beginning July 1, 2001, and continuing
24 until June 30, 2016, the State Treasurer shall place one million
25 five hundred thousand dollars each fiscal year in the City of
26 the Metropolitan Class Development Fund. If necessary, the State
27 Treasurer shall reduce the distribution of tax proceeds to the

1 General Fund pursuant to subsection (2) of this section by such
2 amount required to fulfill the one million five hundred thousand
3 dollars to be distributed pursuant to this subdivision; and

4 (h) Eighth, beginning July 1, 2008, and continuing until
5 June 30, 2009, the State Treasurer shall place the equivalent of
6 two million fifty thousand dollars of such tax in the Nebraska
7 Public Safety Communication System Cash Fund. Beginning July 1,
8 2009, and continuing until June 30, 2016, the State Treasurer shall
9 place the equivalent of two million five hundred seventy thousand
10 dollars of such tax in the Nebraska Public Safety Communication
11 System Cash Fund. Beginning July 1, 2016, and every fiscal year
12 thereafter, the State Treasurer shall place the equivalent of
13 five million seventy thousand dollars of such tax in the Nebraska
14 Public Safety Communication System Cash Fund. If necessary, the
15 State Treasurer shall reduce the distribution of tax proceeds to
16 the General Fund pursuant to subsection (2) of this section by
17 such amount required to fulfill the distribution pursuant to this
18 subdivision.

19 (4) If, after distributing the proceeds of such tax
20 pursuant to subsections (2) and (3) of this section, any proceeds
21 of such tax remain, the State Treasurer shall place such remainder
22 in the Nebraska Capital Construction Fund.

23 (5) The Legislature hereby finds and determines that the
24 projects funded from the Municipal Infrastructure Redevelopment
25 Fund and the Building Renewal Allocation Fund are of critical
26 importance to the State of Nebraska. It is the intent of the
27 Legislature that the allocations and appropriations made by the

1 Legislature to such funds or, in the case of allocations for
2 the Municipal Infrastructure Redevelopment Fund, to the particular
3 municipality's account not be reduced until all contracts and
4 securities relating to the construction and financing of the
5 projects or portions of the projects funded from such funds or
6 accounts of such funds are completed or paid or, in the case
7 of the Municipal Infrastructure Redevelopment Fund, the earlier
8 of such date or July 1, 2009, and that until such time any
9 reductions in the cigarette tax rate made by the Legislature
10 shall be simultaneously accompanied by equivalent reductions in the
11 amount dedicated to the General Fund from cigarette tax revenue.
12 Any provision made by the Legislature for distribution of the
13 proceeds of the cigarette tax for projects or programs other than
14 those to (a) the General Fund, (b) the Nebraska Outdoor Recreation
15 Development Cash Fund, (c) the Health and Human Services Cash
16 Fund, (d) the Municipal Infrastructure Redevelopment Fund, (e) the
17 Building Renewal Allocation Fund, (f) the Information Technology
18 Infrastructure Fund, (g) the City of the Primary Class Development
19 Fund, (h) the City of the Metropolitan Class Development Fund, and
20 (i) the Nebraska Public Safety Communication System Cash Fund shall
21 not be made a higher priority than or an equal priority to any of
22 the programs or projects specified in subdivisions (a) through (i)
23 of this subsection.

24 Sec. 2. Section 77-4008, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 77-4008 (1) A tax is hereby imposed upon the first owner
27 of tobacco products to be sold in this state. The tax shall be

1 ~~twenty~~ forty percent of (a) the purchase price of such tobacco
2 products paid by the first owner or (b) the price at which a first
3 owner who made, manufactured, or fabricated the tobacco product
4 sells the items to others. Such tax shall be in addition to all
5 other taxes.

6 (2) Whenever any person who is licensed under section
7 77-4009 purchases tobacco products from another person licensed
8 under section 77-4009, the seller shall be liable for the payment
9 of the tax.

10 (3) On and after October 1, 2002, and continuing until
11 October 1, 2004, the Tax Commissioner shall remit the amount
12 collected pursuant to this section to the State Treasurer, and the
13 State Treasurer shall credit three-fourths of such amount to the
14 General Fund and one-fourth of such amount to the Cash Reserve
15 Fund. On and after October 1, 2004, amounts collected shall be used
16 and distributed pursuant to section 77-4025.

17 Sec. 3. This act becomes operative on October 1, 2009.

18 Sec. 4. Original section 77-4008, Reissue Revised
19 Statutes of Nebraska, and section 77-2602, Revised Statutes
20 Cumulative Supplement, 2008, are repealed.