

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1013

Introduced by Gloor, 35.

Read first time January 15, 2016

Committee:

- 1 A BILL FOR AN ACT relating to taxation; to amend section 77-4008, Reissue
- 2 Revised Statutes of Nebraska, and sections 71-7611, 77-1238, and
- 3 77-2602, Revised Statutes Supplement, 2015; to state intent; to
- 4 change provisions relating to taxation of cigarettes and other
- 5 tobacco products; to provide for distribution of proceeds; to state
- 6 intent regarding appropriations; and to repeal the original
- 7 sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. The Legislature finds and declares that:

2 (1) Smoking kills more than two thousand two hundred residents of
3 Nebraska each year;

4 (2) The amount of annual health care costs in Nebraska directly
5 caused by smoking and tobacco use is five hundred thirty-seven million
6 dollars;

7 (3) For each five-dollar pack of cigarettes sold to a resident of
8 Nebraska in 2012, every resident of Nebraska paid nine dollars and sixty-
9 four cents to subsidize associated health care costs;

10 (4) Tobacco price increases are the most effective way to reduce
11 tobacco use, especially among youth;

12 (5) The residents of Nebraska are the greatest resource of the
13 state; and

14 (6) Tobacco-related death and disease are tremendous burdens on the
15 health and welfare of each resident of Nebraska and of the families of
16 the state.

17 Sec. 2. Section 71-7611, Revised Statutes Supplement, 2015, is
18 amended to read:

19 71-7611 (1) The Nebraska Health Care Cash Fund is created. The State
20 Treasurer shall transfer (a) ~~sixty million three hundred thousand dollars~~
21 ~~on or before July 15, 2014,~~ (b) ~~sixty million three hundred fifty~~
22 ~~thousand dollars on or before July 15, 2015,~~ (c) sixty million three
23 hundred fifty thousand dollars on or before July 15, 2016, (b ~~4~~) sixty
24 million three hundred fifty thousand dollars on or before July 15, 2017,
25 (c ~~e~~) sixty million three hundred fifty thousand dollars on or before
26 July 15, 2018, and (d ~~f~~) sixty million one hundred thousand dollars on or
27 before every July 15 thereafter from the Nebraska Medicaid
28 Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Trust
29 Fund to the Nebraska Health Care Cash Fund, except that such amount shall
30 be reduced by the amount of the unobligated balance in the Nebraska
31 Health Care Cash Fund at the time the transfer is made. The state

1 investment officer upon consultation with the Nebraska Investment Council
2 shall advise the State Treasurer on the amounts to be transferred from
3 the Nebraska Medicaid Intergovernmental Trust Fund and from the Nebraska
4 Tobacco Settlement Trust Fund under this section in order to sustain such
5 transfers in perpetuity. The state investment officer shall report
6 electronically to the Legislature on or before October 1 of every even-
7 numbered year on the sustainability of such transfers. The Nebraska
8 Health Care Cash Fund shall also include money received pursuant to
9 section 77-2602. ~~Except as otherwise provided by law, no more than the~~
10 ~~amounts specified in this subsection may be appropriated or transferred~~
11 ~~from the Nebraska Health Care Cash Fund in any fiscal year.~~

12 ~~It is the intent of the Legislature that no additional programs are~~
13 ~~funded through the Nebraska Health Care Cash Fund until funding for all~~
14 ~~programs with an appropriation from the fund during FY2012-13 are~~
15 ~~restored to their FY2012-13 levels.~~

16 (2) Any money in the Nebraska Health Care Cash Fund available for
17 investment shall be invested by the state investment officer pursuant to
18 the Nebraska Capital Expansion Act and the Nebraska State Funds
19 Investment Act.

20 (3) The University of Nebraska and postsecondary educational
21 institutions having colleges of medicine in Nebraska and their affiliated
22 research hospitals in Nebraska, as a condition of receiving any funds
23 appropriated or transferred from the Nebraska Health Care Cash Fund,
24 shall not discriminate against any person on the basis of sexual
25 orientation.

26 (4) The State Treasurer shall transfer fifty thousand dollars on or
27 before July 15, 2016, from the Nebraska Health Care Cash Fund to the
28 Board of Regents of the University of Nebraska for the University of
29 Nebraska Medical Center. It is the intent of the Legislature that these
30 funds be used by the College of Public Health for workforce training.

31 Sec. 3. (1) It is the intent of the Legislature to appropriate four

1 million dollars annually beginning in fiscal year 2016-17 from the
2 Nebraska Health Care Cash Fund to the Board of Regents of the University
3 of Nebraska for the University of Nebraska Medical Center to be used by
4 the College of Public Health to educate, train, and retain public health
5 professionals in Nebraska; to improve population health through
6 community-based research, interventions, and education that address
7 community needs, such as patient-centered medical homes, chronic-disease
8 care, aging, substance abuse, and access; and to develop a shared public
9 health data network and evaluation center, in partnership with the
10 Department of Health and Human Services, to provide information for
11 public health interventions and public health policy. Any appropriation
12 pursuant to this subsection is intended to be in addition to any other
13 funding from the Nebraska Health Care Cash Fund or any other source for
14 the College of Public Health for any purpose.

15 (2) It is the intent of the Legislature to appropriate one million
16 dollars annually beginning in fiscal year 2016-17 from the Nebraska
17 Health Care Cash Fund to the Board of Regents of the University of
18 Nebraska for the University of Nebraska Medical Center to be used by the
19 Behavioral Health Education Center. Any appropriation pursuant to this
20 subsection is intended to be in addition to any other funding from the
21 Nebraska Health Care Cash Fund or any other source for the Behavioral
22 Health Education Center.

23 (3) It is the intent of the Legislature to appropriate one million
24 dollars annually beginning in fiscal year 2016-17 from the Nebraska
25 Health Care Cash Fund to the Board of Regents of the University of
26 Nebraska for the University of Nebraska Medical Center to be used by Area
27 Health Education Centers. Any appropriation pursuant to this subsection
28 is intended to be in addition to any other funding from the Nebraska
29 Health Care Cash Fund or any other source for Area Health Education
30 Centers.

31 (4) It is the intent of the Legislature to appropriate ten million

1 dollars annually beginning in fiscal year 2016-17 from the Nebraska
2 Health Care Cash Fund to the Department of Health and Human Services for
3 the biomedical research program for purposes of research on cancer and
4 smoking-related illness. Any appropriation pursuant to this subsection is
5 intended to be in addition to any other funding from the Nebraska Health
6 Care Cash Fund or any other source for the biomedical research program.

7 (5) It is the intent of the Legislature to transfer one million
8 dollars annually beginning in fiscal year 2016-17 from the Nebraska
9 Health Care Cash Fund to the Tobacco Prevention and Control Program. Any
10 appropriation pursuant to this subsection is intended to be in addition
11 to any other funding from the Nebraska Health Care Cash Fund or any other
12 source for the Tobacco Prevention and Control Program.

13 (6) It is the intent of the Legislature to appropriate three million
14 dollars annually beginning in fiscal year 2016-17 from the Nebraska
15 Health Care Cash Fund to the Department of Health and Human Services for
16 the public health aid program to be distributed to federally qualified
17 health centers. Any appropriation pursuant to this subsection is intended
18 to be in addition to any other funding from the Nebraska Health Care Cash
19 Fund or any other source for federally qualified health centers.

20 (7) It is the intent of the Legislature to appropriate six million
21 dollars annually beginning in fiscal year 2016-17 from the Nebraska
22 Health Care Cash Fund to the County Public Health Aid Program for
23 distribution to local public health departments pursuant to section
24 71-1628.08. Any appropriation pursuant to this subsection is intended to
25 be in addition to any other funding from the Nebraska Health Care Cash
26 Fund or any other source for the County Public Health Aid Act.

27 (8) It is the intent of the Legislature to appropriate one million
28 five hundred thousand dollars annually beginning in fiscal year 2016-17
29 from the Nebraska Health Care Cash Fund to the Department of Health and
30 Human Services for the health aid program to provide for training and
31 recruitment of emergency medical services personnel and firefighters. Any

1 appropriation pursuant to this subsection is intended to be in addition
2 to any other funding from the Nebraska Health Care Cash Fund or any other
3 source for the health aid program.

4 (9) It is the intent of the Legislature to appropriate two million
5 dollars annually beginning in fiscal year 2016-17 from the Nebraska
6 Health Care Cash Fund to the Department of Health and Human Services for
7 rate increases for behavioral health providers. Any appropriation
8 pursuant to this subsection is intended to be in addition to any other
9 funding from the Nebraska Health Care Cash Fund or any other source for
10 rate increases for behavioral health providers.

11 (10) It is the intent of the Legislature to appropriate five hundred
12 thousand dollars annually beginning in fiscal year 2016-17 from the
13 Nebraska Health Care Cash Fund to the Department of Health and Human
14 Services for the transformation of the provision of health care pursuant
15 to Legislative Bill 549, One Hundred Fourth Legislature, Second Session,
16 2016.

17 Sec. 4. Section 77-1238, Revised Statutes Supplement, 2015, is
18 amended to read:

19 77-1238 (1) Every person who is required to list his or her taxable
20 tangible personal property as defined in section 77-105, as required
21 under section 77-1229, shall receive an exemption from taxation for the
22 first twenty-five ~~ten~~ thousand dollars of valuation of his or her
23 tangible personal property in each tax district as defined in section
24 77-127 in which a personal property return is required to be filed.
25 Failure to report tangible personal property on the personal property
26 return required by section 77-1229 shall result in a forfeiture of the
27 exemption for any tangible personal property not timely reported for that
28 year.

29 (2) The Property Tax Administrator shall reduce the value of the
30 tangible personal property owned by each railroad, car line company,
31 public service entity, and air carrier by a compensating exemption factor

1 to reflect the exemption allowed in subsection (1) of this section for
2 all other personal property taxpayers. The compensating exemption factor
3 is calculated by multiplying the value of the tangible personal property
4 of the railroad, car line company, public service entity, or air carrier
5 by a fraction, the numerator of which is the total amount of locally
6 assessed tangible personal property that is actually subjected to
7 property tax after the exemption allowed in subsection (1) of this
8 section, and the denominator of which is the net book value of locally
9 assessed tangible personal property prior to the exemptions allowed in
10 subsection (1) of this section.

11 Sec. 5. Section 77-2602, Revised Statutes Supplement, 2015, is
12 amended to read:

13 77-2602 (1) Every stamping agent engaged in distributing or selling
14 cigarettes at wholesale in this state shall pay to the Tax Commissioner
15 of this state a special privilege tax. This shall be in addition to all
16 other taxes. It shall be paid prior to or at the time of the sale, gift,
17 or delivery to the retail dealer in the several amounts as follows: On
18 each package of cigarettes containing not more than twenty cigarettes,
19 two dollars and fourteen ~~sixty-four~~ cents per package; and on packages
20 containing more than twenty cigarettes, the same tax as provided on
21 packages containing not more than twenty cigarettes for the first twenty
22 cigarettes in each package and a tax of one-twentieth of the tax on the
23 first twenty cigarettes on each cigarette in excess of twenty cigarettes
24 in each package.

25 (2) Beginning October 1, 2004, the State Treasurer shall place the
26 equivalent of forty-nine cents of such tax in the General Fund. The State
27 Treasurer shall reduce the amount placed in the General Fund under this
28 subsection by the amount prescribed in subdivision (3)(d) of this
29 section. For purposes of this section, the equivalent of a specified
30 number of cents of the tax shall mean that portion of the proceeds of the
31 tax equal to the specified number divided by the tax rate per package of

1 cigarettes containing not more than twenty cigarettes.

2 (3) The State Treasurer shall distribute the remaining proceeds of
3 such tax in the following order:

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

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

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

27 (d) Fourth, until July 1, 2009, the State Treasurer shall place in
28 the Municipal Infrastructure Redevelopment Fund the sum of five hundred
29 twenty thousand dollars each fiscal year to carry out the Municipal
30 Infrastructure Redevelopment Fund Act. The Legislature shall appropriate
31 the sum of five hundred twenty thousand dollars each year for fiscal year

1 2003-04 through fiscal year 2008-09;

2 (e) Fifth, beginning July 1, 2001, and continuing until June 30,
3 2008, the State Treasurer shall place the equivalent of two cents of such
4 tax in the Information Technology Infrastructure Fund. The distribution
5 under this subdivision shall not be less than two million fifty thousand
6 dollars. Any money needed to increase the amount distributed under this
7 subdivision to two million fifty thousand dollars shall reduce the
8 distribution to the General Fund;

9 (f) Sixth, beginning July 1, 2001, and continuing until June 30,
10 2016, the State Treasurer shall place one million dollars each fiscal
11 year in the City of the Primary Class Development Fund. If necessary, the
12 State Treasurer shall reduce the distribution of tax proceeds to the
13 General Fund pursuant to subsection (2) of this section by such amount
14 required to fulfill the one million dollars to be distributed pursuant to
15 this subdivision;

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

24 (h) Eighth, beginning July 1, 2008, and continuing until June 30,
25 2009, the State Treasurer shall place the equivalent of two million fifty
26 thousand dollars of such tax in the Nebraska Public Safety Communication
27 System Cash Fund. Beginning July 1, 2009, and continuing until June 30,
28 2016, the State Treasurer shall place the equivalent of two million five
29 hundred seventy thousand dollars of such tax in the Nebraska Public
30 Safety Communication System Cash Fund. Beginning July 1, 2016, and every
31 fiscal year thereafter, the State Treasurer shall place the equivalent of

1 three million eight hundred twenty thousand dollars of such tax in the
2 Nebraska Public Safety Communication System Cash Fund. If necessary, the
3 State Treasurer shall reduce the distribution of tax proceeds to the
4 General Fund pursuant to subsection (2) of this section by such amount
5 required to fulfill the distribution pursuant to this subdivision;~~and~~

6 (i) Ninth, beginning July 1, 2016, and every fiscal year thereafter,
7 the State Treasurer shall place the equivalent of thirty-one ~~one~~ million
8 two hundred fifty thousand dollars of such tax in the Nebraska Health
9 Care Cash Fund. If necessary, the State Treasurer shall reduce the
10 distribution of tax proceeds to the General Fund pursuant to subsection
11 (2) of this section by such amount required to fulfill the distribution
12 pursuant to this subdivision; and -

13 (j) Tenth, beginning July 1, 2016, and every fiscal year thereafter,
14 the State Treasurer shall place the equivalent of forty-five million
15 dollars of such tax in the Property Tax Credit Cash Fund. If necessary,
16 the State Treasurer shall reduce the distribution of tax proceeds to the
17 General Fund pursuant to subsection (2) of this section by such amount
18 required to fulfill the distribution pursuant to this subdivision; and

19 (k) Eleventh, beginning July 1, 2016, and every fiscal year
20 thereafter, the State Treasurer shall place the equivalent of forty-five
21 million dollars of such tax in the General Fund for purposes of the
22 Personal Property Tax Relief Act.

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

27 (5) The Legislature hereby finds and determines that the projects
28 funded from the Municipal Infrastructure Redevelopment Fund and the
29 Building Renewal Allocation Fund are of critical importance to the State
30 of Nebraska. It is the intent of the Legislature that the allocations and
31 appropriations made by the Legislature to such funds or, in the case of

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

23 Sec. 6. Section 77-4008, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 77-4008 (1)(a) A tax is hereby imposed upon the first owner of
26 tobacco products to be sold in this state.

27 (b) The tax on snuff shall be forty-four cents per ounce and a
28 proportionate tax at the like rate on all fractional parts of an ounce.
29 Such tax shall be computed based on the net weight as listed by the
30 manufacturer.

31 (c) The tax on tobacco products other than snuff shall be thirty-one

1 ~~twenty~~ percent of (i) the purchase price of such tobacco products paid by
2 the first owner or (ii) the price at which a first owner who made,
3 manufactured, or fabricated the tobacco product sells the items to
4 others.

5 (d) The tax on tobacco products shall be in addition to all other
6 taxes.

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

10 (3) Amounts collected pursuant to this section shall be used and
11 distributed pursuant to section 77-4025.

12 Sec. 7. Original section 77-4008, Reissue Revised Statutes of
13 Nebraska, and sections 71-7611, 77-1238, and 77-2602, Revised Statutes
14 Supplement, 2015, are repealed.