

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 436

Introduced by Gloor, 35; Campbell, 25; Dubas, 34; Howard, 9.

Read first time January 14, 2011

Committee: Revenue

A BILL

1 FOR AN ACT relating to taxation; to amend sections 77-2602 and
2 77-4008, Reissue Revised Statutes of Nebraska; to change
3 provisions relating to taxation of cigarettes and other
4 tobacco products; to create a fund; to harmonize
5 provisions; to repeal the original sections; and to
6 declare an emergency.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2602, Reissue Revised Statutes of
2 Nebraska, 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 Tax
5 Commissioner of this state a special privilege tax. This shall be in
6 addition to all other taxes. It shall be paid prior to or at the time
7 of the sale, gift, or delivery to the retail dealer in the several
8 amounts as follows: On each package of cigarettes containing not more
9 than twenty cigarettes, ~~sixty-four one dollar and ninety-nine cents~~
10 per package; and on packages containing more than twenty cigarettes,
11 the same tax as provided on packages containing not more than twenty
12 cigarettes for the first twenty cigarettes in each package and a tax
13 of one-twentieth of the tax on the first twenty cigarettes on each
14 cigarette in excess of twenty cigarettes in each package.

15 (2) Beginning October 1, 2004, and until October 1, 2011,
16 the State Treasurer shall place the equivalent of forty-nine cents of
17 such tax in the General Fund. ~~The State Treasurer shall reduce the~~
18 ~~amount placed in the General Fund under this subsection by the amount~~
19 ~~prescribed in subdivision (3)(d) of this section. Beginning October~~
20 1, 2011, the State Treasurer shall place the equivalent of one dollar
21 and forty-six cents of such tax in the General Fund. For purposes of
22 this section, the equivalent of a specified number of cents of the
23 tax shall mean that portion of the proceeds of the tax equal to the
24 specified number divided by the tax rate per package of cigarettes
25 containing not more than twenty cigarettes.

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

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

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

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

1 FY1997-98 amount shall reduce the distribution to the General Fund;

2 ~~(d) Fourth, until July 1, 2009, the State Treasurer shall~~
3 ~~place in the Municipal Infrastructure Redevelopment Fund the sum of~~
4 ~~five hundred twenty thousand dollars each fiscal year to carry out~~
5 ~~the Municipal Infrastructure Redevelopment Fund Act. The Legislature~~
6 ~~shall appropriate the sum of five hundred twenty thousand dollars~~
7 ~~each year for fiscal year 2003-04 through fiscal 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 two~~
10 ~~cents of such tax in the Information Technology Infrastructure Fund.~~
11 ~~The distribution under this subdivision shall not be less than two~~
12 ~~million fifty thousand dollars. Any money needed to increase the~~
13 ~~amount distributed under this subdivision to two million fifty~~
14 ~~thousand dollars shall reduce the distribution to the General Fund;~~

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

22 ~~(g) Seventh, (e) Fifth, beginning July 1, 2001, and~~
23 ~~continuing until June 30, 2016, the State Treasurer shall place one~~
24 ~~million five hundred thousand dollars each fiscal year in the City of~~
25 ~~the Metropolitan Class Development Fund. If necessary, the State~~

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

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

20 (g) Seventh, beginning July 1, 2011, the State Treasurer
21 shall place the equivalent of thirty-seven and one-half cents of such
22 tax but not less than thirty million eight hundred thousand dollars
23 each fiscal year in the Health Care and Human Service Provider Rate
24 Stabilization Fund for the purposes described in section 3 of this
25 act. If necessary, the State Treasurer shall reduce the distribution

1 of tax proceeds to the General Fund pursuant to subsection (2) of
2 this section by such amount required to fulfill the distribution
3 pursuant to this subdivision; and

4 (h) Eighth, beginning July 1, 2011, the State Treasurer
5 shall place the equivalent of one-half cent of such tax but not less
6 than four hundred eighty-six thousand four hundred seventy dollars
7 each fiscal year in the Tobacco Prevention and Control Cash Fund. If
8 necessary, the State Treasurer shall reduce the distribution of tax
9 proceeds to the General Fund pursuant to subsection (2) of this
10 section by such amount required to fulfill the distribution pursuant
11 to this subdivision.

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

16 (5) The Legislature hereby finds and determines that the
17 projects funded from the Municipal Infrastructure Redevelopment Fund
18 and the Building Renewal Allocation Fund are of critical importance
19 to the State of Nebraska. It is the intent of the Legislature that
20 the allocations and appropriations made by the Legislature to such
21 funds or, in the case of allocations for the Municipal Infrastructure
22 Redevelopment Fund, to the particular municipality's account not be
23 reduced until all contracts and securities relating to the
24 construction and financing of the projects or portions of the
25 projects funded from such funds or accounts of such funds are

1 completed or paid or, in the case of the Municipal Infrastructure
 2 Redevelopment Fund, the earlier of such date or July 1, 2009, and
 3 that until such time any reductions in the cigarette tax rate made by
 4 the Legislature shall be simultaneously accompanied by equivalent
 5 reductions in the amount dedicated to the General Fund from cigarette
 6 tax revenue. Any provision made by the Legislature for distribution
 7 of the proceeds of the cigarette tax for projects or programs other
 8 than those to (a) the General Fund, (b) the Nebraska Outdoor
 9 Recreation Development Cash Fund, (c) the Health and Human Services
 10 Cash Fund, (d) ~~the Municipal Infrastructure Redevelopment Fund,~~ (e)
 11 the Building Renewal Allocation Fund, ~~(f) the Information Technology~~
 12 ~~Infrastructure Fund,~~ ~~(g)~~ (e) the City of the Primary Class
 13 Development Fund, ~~(h)~~ (f) the City of the Metropolitan Class
 14 Development Fund, ~~and~~ ~~(i)~~ (g) the Nebraska Public Safety
 15 Communication System Cash Fund, (h) the Health Care and Human Service
 16 Provider Rate Stabilization Fund, and (i) the Tobacco Prevention and
 17 Control Cash Fund shall not be made a higher priority than or an
 18 equal priority to any of the programs or projects specified in
 19 subdivisions (a) through (i) of this subsection.

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

22 77-4008 (1)(a) A tax is hereby imposed upon the first
 23 owner of tobacco products to be sold in this state.

24 (b) The tax on snuff shall be forty-four cents per ounce
 25 and a proportionate tax at the like rate on all fractional parts of

1 an ounce. Such tax shall be computed based on the net weight as
2 listed by the manufacturer.

3 (c) The tax on tobacco products other than snuff shall be
4 ~~twenty-sixty-five~~ percent of (i) the purchase price of such tobacco
5 products paid by the first owner or (ii) the price at which a first
6 owner who made, manufactured, or fabricated the tobacco product sells
7 the items to others.

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

10 (2) Whenever any person who is licensed under section
11 77-4009 purchases tobacco products from another person licensed under
12 section 77-4009, the seller shall be liable for the payment of the
13 tax.

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

16 Sec. 3. The Health Care and Human Service Provider Rate
17 Stabilization Fund is created. The fund shall consist of money
18 credited to it pursuant to section 77-2602, any gifts, grants, or
19 donations from any source, and any other funds appropriated by the
20 Legislature. The fund shall be used to support reimbursement of
21 service providers through service rates within, but not limited to,
22 the Medical Assistance Act, the Children's Health Insurance Program,
23 the Nebraska Behavioral Health Services Act, and the Nebraska
24 Community Aging Services Act. Any money in the fund available for
25 investment shall be invested by the state investment officer pursuant

1 to the Nebraska Capital Expansion Act and the Nebraska State Funds
2 Investment Act.

3 Sec. 4. Original sections 77-2602 and 77-4008, Reissue
4 Revised Statutes of Nebraska, are repealed.

5 Sec. 5. Since an emergency exists, this act takes effect
6 when passed and approved according to law.