

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 25

Introduced by Hadley, 37.

Read first time January 10, 2013

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 18-2604, 77-4014, and 86-527, Reissue Revised Statutes of
3 Nebraska, and sections 77-2602 and 77-2602.03, Revised
4 Statutes Cumulative Supplement, 2012; to change the
5 manner and timing for reporting and paying the cigarette
6 tax and the tobacco products tax; to eliminate obsolete
7 provisions; to harmonize provisions; to provide an
8 operative date; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 18-2604, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 18-2604 There is hereby created in the state treasury a
4 cash fund to be known as the Municipal Infrastructure Redevelopment
5 Fund. The fund shall have a separate account for each municipality in
6 the state. ~~Money shall be deposited into the fund pursuant to section~~
7 ~~77-2602.~~

8 Any money in the fund available for investment shall be
9 invested by the state investment officer pursuant to the Nebraska
10 Capital Expansion Act and the Nebraska State Funds Investment Act.
11 Investment earnings on each account shall be credited to that
12 account.

13 Sec. 2. Section 77-2602, Revised Statutes Cumulative
14 Supplement, 2012, is amended to read:

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

1 twenty cigarettes in each package. The stamping agent shall report
2 and pay the tax to the Tax Commissioner on or before the fifteenth
3 day of each calendar month. The report shall be in such form and
4 contain such information as prescribed by the Tax Commissioner. The
5 amount to be paid each month shall be based on the stamping agent's
6 taxable cigarette sales during the preceding calendar month. The
7 stamping agent shall not be required to pay the tax at the time of
8 acquiring stamps or cigarette tax meter impressions from the Tax
9 Commissioner. In order to insure payment of the tax, the stamping
10 agent shall file a surety bond with the Tax Commissioner or deposit
11 money or other security with the Tax Commissioner in such form and
12 amount as the Tax Commissioner deems necessary.

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

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

24 (a) First, beginning July 1, 1980, the State Treasurer
25 shall place the equivalent of one cent of such tax in the Nebraska

1 Outdoor Recreation Development Cash Fund. For fiscal year
2 distributions occurring after FY1998-99, the distribution under this
3 subdivision shall not be less than the amount distributed under this
4 subdivision for FY1997-98. Any money needed to increase the amount
5 distributed under this subdivision to the FY1997-98 amount shall
6 reduce the distribution to the General Fund;

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

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

23 ~~(d) Fourth, until July 1, 2009, the State Treasurer shall~~
24 ~~place in the Municipal Infrastructure Redevelopment Fund the sum of~~
25 ~~five hundred twenty thousand dollars each fiscal year to carry out~~

1 ~~the Municipal Infrastructure Redevelopment Fund Act. The Legislature~~
2 ~~shall appropriate the sum of five hundred twenty thousand dollars~~
3 ~~each year for fiscal year 2003-04 through fiscal year 2008-09;~~

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

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

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

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

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

20 (5) The Legislature hereby finds and determines that the
21 projects funded from the ~~Municipal Infrastructure Redevelopment Fund~~
22 ~~and the Building Renewal Allocation Fund~~ are of critical importance
23 to the State of Nebraska. It is the intent of the Legislature that
24 the allocations and appropriations made by the Legislature to such
25 funds or, in the case of allocations for the ~~Municipal Infrastructure~~

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

22 Sec. 3. Section 77-2602.03, Revised Statutes Cumulative
 23 Supplement, 2012, is amended to read:

24 77-2602.03 The increase in the tax shall apply to all
 25 unused stamps, meter impressions, and packages of stamped cigarettes

1 owned by stamping agents at 12:01 a.m. on the day the increase
2 becomes operative. On the date any change in the tax takes effect,
3 each stamping agent shall take an inventory of all unused stamps,
4 meter impressions, and packages of stamped cigarettes owned by the
5 cigarette wholesaler at 12:01 a.m. ~~The additional tax shall be~~
6 ~~remitted with the return for the last month preceding the date any~~
7 ~~change in the tax takes effect. The Tax Commissioner shall credit to~~
8 ~~each stamping agent an amount equal to the additional tax on two~~
9 ~~weeks of such stamping agent's average purchases of stamps.~~

10 Sec. 4. Section 77-4014, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 77-4014 (1) On or before the ~~tenth~~-fifteenth day of each
13 calendar month, every person licensed under subsection (1) of section
14 77-4009 shall file a return with the Tax Commissioner showing either
15 the quantity and the price of each tobacco product brought or caused
16 to be brought into this state for sale or the quantity and the price
17 of each tobacco product made, manufactured, or fabricated in this
18 state for sale in this state, whichever is applicable, during the
19 preceding calendar month. For snuff, such return shall also include
20 the net weight as listed by the manufacturer.

21 (2) Every person licensed pursuant to subsection (2) of
22 section 77-4009 shall, in the manner described in subsection (1) of
23 this section, file a return showing in detail the different kinds,
24 quantity, and wholesale sales price of each tobacco product shipped
25 or transported to retailers in this state to be sold by such

1 retailers during the preceding calendar month. For snuff, such return
2 shall also include the net weight as listed by the manufacturer.

3 (3) Returns shall be made upon forms furnished and
4 prescribed by the Tax Commissioner. Each return shall be accompanied
5 by a remittance for the full tax liability shown, less an amount of
6 such liability equal to any amount allowed a payer of the sales and
7 use tax pursuant to subdivision (1)(d) of section 77-2708 as
8 compensation to reimburse the licensee for his or her expenses
9 incurred in complying with the Tobacco Products Tax Act.

10 Sec. 5. Section 86-527, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 86-527 The Information Technology Infrastructure Fund is
13 hereby created. The fund shall contain ~~revenue from the special~~
14 ~~privilege tax as provided in section 77-2602,~~ gifts, grants, and such
15 other money as is appropriated or transferred by the Legislature. The
16 fund shall be used to attain the goals and priorities identified in
17 the statewide technology plan. The fund shall be administered by the
18 office of Chief Information Officer. Expenditures shall be made from
19 the fund to finance the operations of the Information Technology
20 Infrastructure Act in accordance with the appropriations made by the
21 Legislature. Transfers from the fund to the General Fund may be made
22 at the direction of the Legislature. Any money in the Information
23 Technology Infrastructure Fund available for investment shall be
24 invested by the state investment officer pursuant to the Nebraska
25 Capital Expansion Act and the Nebraska State Funds Investment Act.

1 Sec. 6. This act becomes operative on October 1, 2013.

2 Sec. 7. Original sections 18-2604, 77-4014, and 86-527,
3 Reissue Revised Statutes of Nebraska, and sections 77-2602 and
4 77-2602.03, Revised Statutes Cumulative Supplement, 2012, are
5 repealed.