

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 420

Introduced by Speaker Bromm, 23; at the request of the Governor

Read first time January 15, 2003

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-2602, 77-2608, and 77-4008, Revised Statutes
3 Supplement, 2002; to change provisions relating to taxes
4 on tobacco and cigarette tax stamps; 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, Revised Statutes Supplement,
2 2002, 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
6 in addition to all other taxes. It shall be paid prior to or at
7 the time of the sale, gift, or delivery to the retail dealer in the
8 several amounts as follows: On each package of cigarettes
9 containing not more than twenty cigarettes, ~~sixty-four cents per~~
10 ~~package until October 1, 2004~~ July 1, 2003, and thirty-four
11 eighty-four cents per package commencing October 1, 2004 July 1,
12 2003; and on packages containing more than twenty cigarettes, the
13 same tax as provided on packages containing not more than twenty
14 cigarettes for the first twenty cigarettes in each package and a
15 tax of one-twentieth of the tax on the first twenty cigarettes on
16 each cigarette in excess of twenty cigarettes in each package.
17 Commencing July 1, 1994, and continuing until July 1, ~~2009~~ 2003,
18 the State Treasurer shall place the equivalent of twenty-one cents
19 of such tax less three million dollars each fiscal year of proceeds
20 of such tax in the General Fund. Commencing July 1, 2003, and
21 continuing until October 1, 2004, the State Treasurer shall place
22 the equivalent of forty-one cents of such tax less three million
23 dollars each fiscal year of proceeds of such tax in the General
24 Fund. Commencing October 1, 2004, and continuing until July 1,
25 2009, the State Treasurer shall place the equivalent of sixty-nine
26 cents of such tax less three million dollars each fiscal year of
27 proceeds of such tax in the General Fund. Commencing July 1, 2009,
28 the State Treasurer shall place the equivalent of ~~twenty-one~~

1 sixty-nine cents of such tax in the General Fund. For purposes of
2 this section, the equivalent of a specified number of cents of the
3 tax shall mean that portion of the proceeds of the tax equal to the
4 specified number divided by the tax rate per package of cigarettes
5 containing not more than twenty cigarettes. The State Treasurer
6 shall distribute the remaining proceeds of such tax in the
7 following order:

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

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

25 (c) Third, beginning July 1, 2001, and continuing until
26 October 1, 2002, the State Treasurer shall place the equivalent of
27 five cents of such tax in the Building Renewal Allocation Fund.
28 Beginning October 1, 2002, and continuing until ~~October 1, 2004~~ all

1 the purposes of the Deferred Building Renewal Act have been
2 fulfilled, the State Treasurer shall place the equivalent of seven
3 cents of such tax in the Building Renewal Allocation Fund.
4 ~~Beginning October 1, 2004, and continuing until all the purposes of~~
5 ~~the Deferred Building Renewal Act have been fulfilled, the State~~
6 ~~Treasurer shall place the equivalent of five cents of such tax in~~
7 ~~the Building Renewal Allocation Fund.~~ The Legislature shall
8 appropriate each fiscal year all sums inuring to the fund, plus
9 interest earnings for the Task Force for Building Renewal to be
10 used to carry out its duties and to fulfill the purposes of the
11 Deferred Building Renewal Act. Unexpended balances existing at the
12 end of each fiscal year shall be, and are hereby, reappropriated.
13 For fiscal year distributions occurring after FY1998-99, the
14 distribution under this subdivision shall not be less than
15 five-sevenths of the amount distributed under this subdivision for
16 FY1997-98. Any money needed to increase the amount distributed
17 under this subdivision to five-sevenths of the FY1997-98 amount
18 shall reduce the distribution to the General Fund;

19 (d) Fourth, until October 1, 2002, and beginning on
20 October 1, 2004, the State Treasurer shall place the difference
21 between the equivalent of thirteen cents of such tax and the sum of
22 the amounts distributed pursuant to subdivisions (a) through (c)
23 and (f) through (h) of this subsection in a special fund to be
24 known as the Nebraska Capital Construction Fund. Beginning October
25 1, 2002, and continuing until October 1, 2004, the State Treasurer
26 shall place the difference between the equivalent of forty-three
27 cents of such tax and the sum of the amounts distributed pursuant
28 to subdivisions (a) through (c) and (f) through (i) of this

1 subsection in the Nebraska Capital Construction Fund;

2 (e) Fifth, beginning July 1, 1994, and continuing until
3 July 1, 2009, the State Treasurer shall place in the Municipal
4 Infrastructure Redevelopment Fund the sum of three million dollars
5 each fiscal year to carry out the Municipal Infrastructure
6 Redevelopment Fund Act. The Legislature shall appropriate the sum
7 of three million dollars each year for fiscal year 1994-95 through
8 fiscal year 2008-09;

9 (f) Sixth, beginning July 1, 2001, the State Treasurer
10 shall place the equivalent of two cents of such tax in the
11 Information Technology Infrastructure Fund;

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

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

27 (i) Ninth, beginning October 1, 2002, and continuing
28 until October 1, 2004, the State Treasurer shall place the

1 equivalent of twenty-eight cents of such tax in the Cash Reserve
2 Fund.

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

1 priority to any of the programs or projects specified in
2 subdivisions (a) through (i) of this subsection.

3 Sec. 2. Section 77-2608, Revised Statutes Supplement,
4 2002, is amended to read:

5 77-2608. The Tax Commissioner shall prepare and have
6 suitable stamps for use on each kind of piece or package of
7 cigarettes, except when cigarette tax meter impressions are
8 affixed. Requisition for the preparation of such stamps shall be
9 made through the materiel division of the Department of
10 Administrative Services as other state supplies are requisitioned,
11 and the Tax Commissioner and his or her bondsperson shall be liable
12 for the value of all such stamps delivered to him or her. The
13 Auditor of Public Accounts shall audit annually or as often as the
14 auditor deems advisable the records of the Tax Commissioner with
15 respect to the money received from the sale of stamps and as
16 revenue from tax meter impressions for the purpose of determining
17 the accuracy and correctness of the same. The Tax Commissioner
18 shall sell the stamps only to licensed wholesale dealers, as
19 defined in section 77-2601, and he or she shall keep an accurate
20 record of all stamps coming into and leaving his or her hands.
21 Such stamps shall be sold and accounted for at the face value
22 thereof, except that the Tax Commissioner may, by rule and
23 regulation certified to the State Treasurer, authorize the sale
24 thereof to wholesale dealers in this state or outside of this state
25 at a discount of ~~three and four-tenths~~ one and seven-tenths percent
26 of such face value of the tax as a commission for affixing and
27 canceling such stamps. ~~7 except that for stamps sold beginning~~
28 ~~October 1, 2002, through September 30, 2004, the authorized~~

1 ~~commission for affixing and canceling such stamps shall be one and~~
 2 ~~seven-tenths percent of the face value of the tax.~~ Any wholesale
 3 dealer using a tax meter machine shall be entitled to the same
 4 discount as allowed a wholesale dealer for affixing and canceling
 5 the stamps. The money received by the Tax Commissioner from the
 6 sale of the stamps and as revenue from such tax meter impressions
 7 shall be deposited by him or her daily with the State Treasurer who
 8 shall credit such money as provided in section 77-2602. Upon proof
 9 by the Tax Commissioner that he or she can affix such stamps or
 10 meter impressions, warehouse and distribute such cigarettes, and
 11 collect such revenue at a cost less than any discount allowed to
 12 wholesale dealers pursuant to this section, he or she may then
 13 proceed to affix the stamps himself or herself after giving the
 14 wholesale dealers sixty days' notice and purchasing all equipment
 15 used by them for the purpose of affixing such stamps or meter
 16 impressions at a fair market value.

17 Sec. 3. Section 77-4008, Revised Statutes Supplement,
 18 2002, is amended to read:

19 77-4008. (1) ~~Commencing on or after January 1, 1988, a A~~
 20 tax is hereby imposed upon the first owner of tobacco products to
 21 be sold in this state. ~~Prior to October 1, 2002, and on and after~~
 22 ~~October 1, 2004, the tax shall be fifteen percent, and on and after~~
 23 ~~October 1, 2002, and continuing until October 1, 2004~~ Until July 1,
 24 2003, the tax shall be twenty percent, and on and after July 1,
 25 2003, the tax shall be twenty-five percent of (a) the purchase
 26 price of such tobacco products paid by the first owner or (b) the
 27 price at which a first owner who made, manufactured, or fabricated
 28 the tobacco product sells the items to others. Such tax shall be

1 in addition to all other taxes.

2 (2) Whenever any person who is licensed under section
3 77-4009 purchases tobacco products from another person licensed
4 under section 77-4009, the seller shall be liable for the payment
5 of the tax.

6 (3) ~~On and after October 1, 2002, and continuing until~~
7 ~~October 1, 2004~~ Until July 1, 2003, the Tax Commissioner shall
8 remit the amount collected pursuant to this section to the State
9 Treasurer, and the State Treasurer shall credit three-fourths of
10 such amount to the General Fund and one-fourth of such amount to
11 the Cash Reserve Fund. On and after July 1, 2003, and continuing
12 October 1, 2004, the Tax Commissioner shall remit the amount
13 collected pursuant to this section to the State Treasurer, and the
14 State Treasurer shall credit three-fifths of such amount to the
15 General Fund, one-fifth of such amount to the Cash Reserve Fund,
16 and one-fifth shall be used and distributed pursuant to section
17 77-4025. On and after October 1, 2004, the Tax Commissioner shall
18 remit the amount collected pursuant to this section to the State
19 Treasurer, and the State Treasurer shall credit four-fifths of such
20 amount to the General Fund, and one-fifth of the amounts collected
21 shall be used and distributed pursuant to section 77-4025.

22 Sec. 4. Original sections 77-2602, 77-2608, and 77-4008,
23 Revised Statutes Supplement, 2002, are repealed.

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