

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1238

Introduced by Hughes, 24.

Read first time January 21, 2026

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
2 77-2602, Revised Statutes Cumulative Supplement, 2024, and sections
3 77-4008 and 81-638, Revised Statutes Supplement, 2025; to change the
4 cigarette tax and the distribution of such tax as prescribed; to
5 change the taxes imposed under the Tobacco Products Tax Act as
6 prescribed; to harmonize provisions; to provide an operative date;
7 to repeal the original sections; and to declare an emergency.
8 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 77-2602, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 77-2602 (1) Every stamping agent engaged in distributing or selling
4 cigarettes at wholesale in this state shall pay to the Tax Commissioner
5 of this state a special privilege tax. This shall be in addition to all
6 other taxes. It shall be paid prior to or at the time of the sale, gift,
7 or delivery to the retail dealer in the several amounts as follows: On
8 each package of cigarettes containing not more than twenty cigarettes,
9
10 cents per package; and on packages containing more than twenty
11 cigarettes, the same tax as provided on packages containing not more than
12 twenty cigarettes for the first twenty cigarettes in each package and a
13 tax 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 July 1, 2026 ~~October 1, 2004~~, the State Treasurer
16 shall place the equivalent of fifty percent forty-nine cents of such tax
17 in the General Fund. ~~For purposes of this section, the equivalent of a~~
18 ~~specified number of cents of the tax shall mean that portion of the~~
19 ~~proceeds of the tax equal to the specified number divided by the tax rate~~
20 ~~per package of cigarettes containing not more than twenty cigarettes.~~

21 (3) The State Treasurer shall distribute the remaining proceeds of
22 such tax as follows:

23 (a) Beginning July 1, 2026 ~~1980~~, the State Treasurer shall place the
24 equivalent of two percent one cent of such tax in the Nebraska Outdoor
25 Recreation Development Cash Fund. For fiscal year distributions occurring
26 after FY1998-99, the distribution under this subdivision shall not be
27 less than the amount distributed under this subdivision for FY1997-98.
28 Any money needed to increase the amount distributed under this
29 subdivision to the FY1997-98 amount shall reduce the distribution to the
30 General Fund;

31 (b) Beginning July 1, 2026 ~~1993~~, the State Treasurer shall place the

1 equivalent of ten percent ~~three cents~~ of such tax in the Health and Human
2 Services Cash Fund to carry out sections 81-637 to 81-640. For fiscal
3 year distributions occurring after FY1998-99, the distribution under this
4 subdivision shall not be less than the amount distributed under this
5 subdivision for FY1997-98. Any money needed to increase the amount
6 distributed under this subdivision to the FY1997-98 amount shall reduce
7 the distribution to the General Fund;

8 (c) Beginning July 1, 2026 ~~October 1, 2002~~, and continuing until all
9 the purposes of the Deferred Building Renewal Act have been fulfilled,
10 the State Treasurer shall place the equivalent of twenty-six percent
11 ~~seven cents~~ of such tax in the Building Renewal Allocation Fund. The
12 distribution under this subdivision shall not be less than the amount
13 distributed under this subdivision for FY1997-98. Any money needed to
14 increase the amount distributed under this subdivision to the FY1997-98
15 amount shall reduce the distribution to the General Fund;

16 (d) Beginning July 1, 2026 ~~2016~~, and every fiscal year thereafter,
17 the State Treasurer shall place the equivalent of five percent ~~three~~
18 ~~million eight hundred twenty thousand dollars~~ of such tax in the Nebraska
19 Public Safety Communication System Cash Fund. If necessary, the State
20 Treasurer shall reduce the distribution of tax proceeds to the General
21 Fund pursuant to subsection (2) of this section by such amount required
22 to fulfill the distribution pursuant to this subdivision; and

23 (e) Beginning July 1, 2026 ~~2016~~, and every fiscal year thereafter,
24 the State Treasurer shall place the equivalent of six percent ~~one million~~
25 ~~two hundred fifty thousand dollars~~ of such tax in the Nebraska Health
26 Care Cash Fund. If necessary, the State Treasurer shall reduce the
27 distribution of tax proceeds to the General Fund pursuant to subsection
28 (2) of this section by such amount required to fulfill the distribution
29 pursuant to this subdivision; and -

30 (f) Beginning July 1, 2026, and every fiscal year thereafter, the
31 State Treasurer shall place the equivalent of one percent of such tax in

1 the Nebraska Capital Construction Fund. If necessary, the State Treasurer
2 shall reduce the distribution of tax proceeds to the General Fund
3 pursuant to subsection (2) of this section by such amount required to
4 fulfill the distribution pursuant to this subdivision.

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

9 (5) The Legislature hereby finds and determines that the projects
10 funded from the Building Renewal Allocation Fund are of critical
11 importance to the State of Nebraska. It is the intent of the Legislature
12 that the allocations and appropriations made by the Legislature to such
13 fund not be reduced until all contracts and securities relating to the
14 construction and financing of the projects or portions of the projects
15 funded from such fund are completed or paid, and that until such time any
16 reductions in 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 provision
19 made by the Legislature for distribution of the proceeds of the cigarette
20 tax for projects or programs other than those to (a) the General Fund,
21 (b) the Nebraska Outdoor Recreation Development Cash Fund, (c) the Health
22 and Human Services Cash Fund, (d) the Building Renewal Allocation Fund,
23 (e) the Nebraska Public Safety Communication System Cash Fund, and (f)
24 the Nebraska Health Care Cash Fund shall not be made a higher priority
25 than or an equal priority to any of the programs or projects specified in
26 subdivisions (a) through (f) of this subsection.

27 **Sec. 2.** Section 77-4008, Revised Statutes Supplement, 2025, is
28 amended to read:

29 77-4008 (1)(a) A tax is hereby imposed upon the first owner of
30 tobacco products to be sold in this state.

31 (b) The tax on snuff shall be thirty percent of the purchase price

1 ~~paid by the first owner forty-four cents per ounce and a proportionate~~
2 ~~tax at the like rate on all fractional parts of an ounce. Such tax shall~~
3 ~~be computed based on the net weight as listed by the manufacturer.~~

4 ~~(c) The tax on an electronic nicotine delivery system containing~~
5 ~~three milliliters or less of consumable material shall be five cents per~~
6 ~~milliliter of consumable material and a proportionate tax at the like~~
7 ~~rate on all fractional parts of a milliliter.~~

8 ~~(c) (d) The tax on an electronic nicotine delivery system containing~~
9 ~~more than three milliliters of consumable material shall be thirty ten~~
10 ~~percent of (i) the purchase price of such electronic nicotine delivery~~
11 ~~system paid by the first owner or (ii) the price at which the first owner~~
12 ~~who made, manufactured, or fabricated the electronic nicotine delivery~~
13 ~~system sells the item to others.~~

14 ~~(d) (e) For electronic nicotine delivery systems in the possession~~
15 ~~of retail dealers for which tax has not been paid, the tax under this~~
16 ~~subsection shall be imposed at the earliest time the retail dealer: (i)~~
17 ~~Brings or causes to be brought into the state any electronic nicotine~~
18 ~~delivery system for sale; (ii) makes, manufactures, or fabricates any~~
19 ~~electronic nicotine delivery system in this state for sale in this state;~~
20 ~~or (iii) sells any electronic nicotine delivery system to consumers~~
21 ~~within this state.~~

22 ~~(e) (f) The tax on alternative nicotine products shall be thirty~~
23 ~~twenty percent of (i) the purchase price of such products paid by the~~
24 ~~first owner or (ii) the price at which a first owner who made,~~
25 ~~manufactured, or fabricated the product sells the items to others.~~

26 ~~(f) (g) The tax on tobacco products not otherwise provided for in~~
27 ~~this section shall be thirty twenty percent of (i) the purchase price of~~
28 ~~such tobacco products paid by the first owner or (ii) the price at which~~
29 ~~a first owner who made, manufactured, or fabricated the tobacco product~~
30 ~~sells the items to others.~~

31 ~~(g) (h) The tax on tobacco products shall be in addition to all~~

1 other taxes.

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

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

7 **Sec. 3.** Section 81-638, Revised Statutes Supplement, 2025, is
8 amended to read:

9 81-638 (1) Subject to subsection (4) of this section, the
10 Legislature shall appropriate for each year from the Health and Human
11 Services Cash Fund to the department an amount derived from three and
12 one-half percent ~~one cent~~ of the cigarette tax imposed by section
13 77-2602, less any amount appropriated from the fund specifically to the
14 University of Nebraska Eppley Institute for Research in Cancer and Allied
15 Diseases. The department shall, after deducting expenses incurred in the
16 administration of such funds, distribute such funds exclusively for
17 grants and contracts for research on ~~of~~ cancer and smoking diseases, for
18 funding the cancer registry prescribed in sections 81-642 to 81-649.02,
19 and for associated expenses due to the establishment and maintenance of
20 such cancer registry. Not more than two hundred thousand dollars shall be
21 appropriated for funding the cancer registry and associated expenses. The
22 University of Nebraska may receive such grants and contracts, and other
23 postsecondary institutions having colleges of medicine located in the
24 State of Nebraska may receive such contracts.

25 (2) Subject to subsection (4) of this section, the Legislature shall
26 appropriate for each year from the Health and Human Services Cash Fund to
27 the department for cancer research an amount derived from six and one-
28 half percent ~~two cents~~ of the cigarette tax imposed by section 77-2602 to
29 be used exclusively for grants and contracts for research on cancer and
30 smoking diseases. No amount shall be appropriated or used pursuant to
31 this subsection for the operation and associated expenses of the cancer

1 registry. Not more than one-half of the funds appropriated pursuant to
2 this subsection shall be distributed to the University of Nebraska
3 Medical Center for research in cancer and allied diseases and the
4 University of Nebraska Eppley Institute for Research in Cancer and Allied
5 Diseases. The remaining funds available pursuant to this subsection shall
6 be distributed for contracts with other postsecondary educational
7 institutions having colleges of medicine located in Nebraska which have
8 cancer research programs for the purpose of conducting research in cancer
9 and allied diseases.

10 (3) Any contract between the department and another postsecondary
11 educational institution for cancer research under subsection (2) of this
12 section shall provide that:

13 (a) Any money appropriated for such contract shall only be used for
14 cancer research and shall not be used to support any other program in the
15 institution; and

16 (b) No money appropriated for such contract shall be spent for
17 travel, building construction, or any other purpose not directly related
18 to the research that is the subject of the contract.

19 ~~(4) The State Treasurer shall transfer seven million dollars from
20 the Health and Human Services Cash Fund to the General Fund on or before
21 June 30, 2018, on such dates and in such amounts as directed by the
22 budget administrator of the budget division of the Department of
23 Administrative Services. It is the intent of the Legislature that the
24 transfer to the General Fund in this subsection be from funds credited to
25 the Cancer Research subfund of the Health and Human Services Cash Fund
26 which were in excess of appropriations established in subsections (1) and
27 (2) of this section.~~

28 **Sec. 4.** This act becomes operative on July 1, 2026.

29 **Sec. 5.** Original section 77-2602, Revised Statutes Cumulative
30 Supplement, 2024, and sections 77-4008 and 81-638, Revised Statutes
31 Supplement, 2025, are repealed.

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