

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       thirty percent of the purchase price paid by the retail dealer ~~sixty-four~~  
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.