

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1037

Introduced by Raybould, 28.

Read first time January 14, 2026

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 77-2602.05, 77-2602.06, and 77-2603.01, Reissue Revised Statutes of
3 Nebraska; to change provisions relating to negotiations and
4 agreements between the Governor and federally recognized Indian
5 tribes relating to the collection and dissemination of any cigarette
6 tax or other tobacco product tax collected on sales of cigarettes,
7 roll-your-own, or smokeless tobacco made or sold on a federally
8 recognized Indian tribe's Indian country; to harmonize provisions;
9 and to repeal the original sections.

10 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 77-2602.05, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 77-2602.05 (1) A person that paid taxes applicable under section
4 77-2602 on cigarettes sold in an exempt transaction shall be eligible for
5 a refund of the taxes paid on those cigarettes.

6 (2) Exempt transactions, for purposes of this section and section
7 69-2703, are defined as:

8 (a) Cigarette sales on a federal installation in a transaction that
9 is exempt from state taxation under federal law; and

10 (b) Cigarette sales on an Indian tribe's Indian country to its
11 tribal members where state taxation is precluded by federal law.

12 (3) Except as provided in subsection (5) of this section, the person
13 seeking a refund of taxes shall submit an application to the Tax
14 Commissioner providing documentation sufficient to demonstrate (a) that
15 the cigarettes were sold in a package bearing the correct stamp required
16 under section 77-2603 or 77-2603.01 and that the stamp was one that
17 required payment of tax, (b) that the person paid the applicable taxes in
18 question, (c) that the cigarettes were sold in an exempt transaction, and
19 (d) that the person has not previously obtained the refund on the
20 cigarettes. The documentation shall include, in addition to information
21 necessary to meet the requirements of subdivisions (3)(a) through (d) of
22 this section and any other information that the Tax Commissioner may
23 reasonably require, documents showing the identity of the seller and
24 purchaser and the places of shipment and delivery of the cigarettes. The
25 Tax Commissioner shall verify the accuracy and completeness of the
26 required documentation and information before granting the requested
27 refund.

28 (4) If a meritorious refund claim under subsection (3) of this
29 section is not paid within sixty days after submission of the required
30 documentation, the refund shall include interest on the amount of such
31 refund at the rate specified in section 45-104.02 as such rate existed at

1 the date of submission of the required documentation.

2 (5) The Tax Commissioner and an Indian tribe may agree upon a tax
3 refund formula to operate in lieu of application for refunds under
4 subsection (3) of this section. The aggregate refund provided to an
5 Indian tribe under a formula for a year shall not exceed the aggregate
6 tax paid by entities owned and operated by that tribe or a member of that
7 tribe on cigarettes sold in exempt transactions on that tribe's Indian
8 country during that year. Refunds of taxes under subsection (3) of this
9 section shall not be available for cigarettes sold in exempt transactions
10 on an Indian tribe's Indian country by an Indian tribe that agrees upon a
11 refund formula under this subsection. Nothing in this subsection shall
12 limit the state's responsibility authority to enter into negotiations for
13 an agreement pursuant to section 77-2602.06 pertaining to the collection
14 and dissemination of any cigarette taxes or the state's authority to
15 enter into such an agreement which may otherwise be inconsistent with
16 this subsection.

17 **Sec. 2.** Section 77-2602.06, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 77-2602.06 (1)(a) Upon receipt of a written request from the
20 governing body of any federally recognized Indian tribe within the State
21 of Nebraska, the (1) The Governor or his or her designated representative
22 shall enter into good-faith negotiations for the purpose of executing may
23 negotiate and execute an agreement with the governing body of any
24 federally recognized Indian tribe within the State of Nebraska concerning
25 the collection and dissemination of any cigarette tax or other tobacco
26 product tax under this section and sections 77-2602.05 and 77-2603.01 or
27 escrow collected pursuant to section 69-2703, on sales of cigarettes,
28 roll-your-own, or smokeless tobacco made or sold on a federally
29 recognized Indian tribe's Indian country. The Governor or his or her
30 designated representative retains the discretion on whether to execute
31 such an agreement, but is under a duty to negotiate in good-faith.

1 Negotiations on such agreement shall commence within sixty days after the
2 Governor's receipt of such written request and shall continue until
3 either an agreement is executed or the parties jointly declare an impasse
4 in writing. While negotiations remain active there shall be at least one
5 negotiation session every ninety days.

6 (b) The Governor or his or her designated representative shall not
7 decline to negotiate, terminate negotiations, or unreasonably delay
8 negotiations under this section based solely or primarily upon a
9 federally recognized Indian tribe's exercise of its lawful governmental
10 authority with respect to matters unrelated to the taxation of cigarettes
11 and other tobacco products, including, but not limited to, the regulation
12 of cannabis within the tribe's Indian country.

13 (c) The scope of negotiations under this section includes, but is
14 not limited to, the collection, allocation, and refund of any cigarette
15 tax or other tobacco product tax, as well as any amounts paid into or out
16 of escrow pursuant to section 69-2703 or other statutes enacted to
17 implement the Master Settlement Agreement.

18 (d) The existence of obligations arising under the Master Settlement
19 Agreement or statutes enacted to implement the Master Settlement
20 Agreement, including escrow requirements under section 69-2703, shall not
21 on its own constitute a valid basis for declining or unreasonably
22 delaying negotiations under this section so long as the tribe's proposals
23 are consistent with federal law and the Master Settlement Agreement.

24 (2) The agreement shall specify:

25 (a) Its duration;

26 (b) Its purpose;

27 (c) Provisions for administering, collecting, and enforcing the
28 agreement and for the mutual waiver of sovereign immunity objections with
29 respect to such provisions;

30 (d) Remittance of taxes and escrow collected;

31 (e) The division of the proceeds of the tax and escrow between the

1 parties;

2 (f) The method to be employed in accomplishing the partial or
3 complete termination of the agreement;

4 (g) A dispute resolution procedure;

5 (h) Adequate reporting and auditing provisions; and

6 (i) Any other necessary and proper matters.

7 (3) (2) The agreement shall require tribal taxes to be imposed
8 equally on all cigarettes and other tobacco products regardless of
9 manufacturer or brand.

10 (4) (3) The agreement shall require that all packages of cigarettes
11 bear either a stamp under section 77-2603 or a tribal stamp under section
12 77-2603.01.

13 (5) (4) The agreement may provide for the sale of cigarettes not
14 included in the directory under section 69-2706, but only if the
15 agreement requires that such cigarettes bear the tribal stamp under
16 section 77-2603.01 and only if the agreement includes provisions to
17 account for escrow deposits on such cigarettes in amounts equal to and in
18 a manner consistent with the deposits required of manufacturers under
19 section 69-2703 or otherwise requires payment of escrow by the
20 manufacturers in accordance with section 69-2703 and pursuant to section
21 69-2708.01.

22 (6) (5) An Indian tribe entering into an agreement under this
23 section shall agree not to license or otherwise authorize an individual
24 tribal member or other person or entity to sell cigarettes, roll-your-
25 own, or smokeless tobacco in violation of the terms of the agreement.

26 (7) Upon receipt of a written request from a federally recognized
27 Indian tribe within the State of Nebraska, the (6) The state shall may,
28 in the best interests of the state, enter into good faith negotiations
29 toward a any future agreement, compact, or treaty with such any Indian
30 tribe that is consistent with sections 77-2602.05, 77-2602.06, and
31 77-2603.01.

1 **Sec. 3.** Section 77-2603.01, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 77-2603.01 The state may, as part of ~~enter into~~ an agreement with an
4 Indian tribe entered into pursuant to section 77-2602.06, contemplate
5 ~~which contemplates~~ the use of a tribal stamp for sales of cigarettes on
6 an Indian tribe's Indian country in lieu of the cigarette stamp required
7 under section 77-2603.

8 **Sec. 4.** Original sections 77-2602.05, 77-2602.06, and 77-2603.01,
9 Reissue Revised Statutes of Nebraska, are repealed.