

ENGROSSED HOUSE  
BILL NO. 1874

By: Key, Webb, Cotner,  
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( revenue and taxation - State Sovereignty Act - Federal  
Tax Fund - codification - effective date - emergency )

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 50200 of Title 68, unless there  
is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "State  
Sovereignty Act".

SECTION 2. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 50201 of Title 68, unless there  
is created a duplication in numbering, reads as follows:

A. The Oklahoma Legislature finds that the Tenth Amendment of  
the United States Constitution defines the total scope of federal  
power as being that specifically granted by the federal constitution  
and no more. The Legislature recognizes that the United States  
Congress has the right to lay and collect taxes under the federal  
constitution. The Legislature finds, however, that the Congress  
does not have the right under the federal constitution to withhold

from the states the benefits of those taxes through unconstitutional mandates.

B. The Legislature further finds that most unconstitutional mandates prohibit Oklahoma from implementing programs of excellence that would exceed federal expectations. Oklahoma has significant technical expertise in resource management in the areas of air, earth and water, but the persistent threat of sanctions renders that expertise ineffective.

C. In light of the continuing unconstitutional withholding of the benefits of the taxes, the State of Oklahoma hereby reasserts its claim of sovereignty.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 50202 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. As used in this act:

1. "Person" means natural persons, corporations, partnerships, limited liability companies, associations and other legal entities;

2. "Excise tax" means any tax that forms a component of the highway users tax fund;

3. "Income tax" means any tax imposed by the federal government on any income earned by a taxpayer; and

4. "Liquor or alcohol tax" means any tax imposed by the federal government on any beer, liquor, wine or similar alcoholic beverage.

B. There shall be created in the State Treasury the "Federal Tax Fund", which shall be an escrow account. Any interest earned on the deposit of monies in the fund along with any civil penalties assessed pursuant to subsection F of this section shall remain in the fund and shall not revert to the General Revenue Fund of the state at the end of any fiscal year. The interest earned on the deposit of monies and any civil penalties shall be used to pay any necessary administrative costs incurred pursuant to this act and any

excess interest and penalties shall be transferred to the State Transportation Fund.

C. Any person liable for any federal excise, income or liquor or alcohol tax shall remit the tax when due along with the federal taxpayer number of such person to the Oklahoma Tax Commission for deposit into the fund.

D. All monies collected pursuant to subsection C of this section shall be transmitted to the State Treasurer who, as a fiduciary agent, shall credit the same to the Federal Tax Fund on behalf of the person that remitted the tax.

E. 1. Except as provided in paragraph 2 of this subsection, the State Treasurer shall transfer at the end of each month the monies held in the Federal Tax Fund less any interest earned on the deposit to the Internal Revenue Service in payment of the tax obligation of those persons who remitted the tax to the Oklahoma Tax Commission. As part of the transfer, the State Treasurer shall identify the federal taxpayer number and amount received from each person who remitted any tax to the Oklahoma Tax Commission.

2. If the federal government imposes any sanctions on the State of Oklahoma for failing to enact legislation required by federal law, which the Legislature, or the Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate, if the Legislature is not in session, deems to be unconstitutional, by withholding or reprogramming any federal-aid monies from, among other things, highway construction to highway safety or other programs, the State Treasurer shall not transfer any taxes held in the Federal Tax Fund but shall retain the monies in the fund until such time as the sanctions are lifted. If the lifting of the sanctions occurs within ninety (90) days, the State Treasurer shall transfer the amounts held in the fund to the Internal Revenue Service within ten (10) days of the lifting of the sanctions. If the sanctions are not lifted within ninety (90) days, the state

shall impose a surcharge on the monies in the fund to be used for payment to continue highway project funding.

F. Any actions by the federal government of the United States, its agencies or agents, against any person in this state for compliance with this act shall be considered as an action against this state and this state shall make an appropriate response to cause the action to cease and desist. This state shall take all necessary measures to recover from the federal government the reasonable costs of defending the action.

G. Any person who fails to comply with this section shall be subject to a civil penalty in an amount equal to one hundred fifty percent (150%) of the tax owed for each day the person fails to comply with this section. Any civil penalties assessed under this section shall be deposited into the Federal Tax Fund established in this section.

H. The act shall apply to federal taxes to be collected after June 30, 1995.

SECTION 4. This act shall become effective July 1, 1995.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 6th day of March, 1995.

Speaker of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 1995.

President of the Senate