

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 2069

By: Key

4
5
6 AS INTRODUCED

7 An Act relating to public finance; enacting the State
8 Sovereignty Act; defining terms; making findings
9 regarding the Tenth Amendment to the United States
10 Constitution; making findings regarding impermissible
11 exercises of federal power; making declaration of
12 sovereignty; creating the Federal Tax Fund; providing
13 for deposit of interest and penalty amounts; imposing
14 remitting responsibilities upon certain taxpayers;
15 providing for credits to Federal Tax Fund; providing
16 for transfer of monies to the Internal Revenue
17 Service; prescribing procedures; providing for
18 suspension of payment from Federal Tax Fund based
19 upon certain actions of the federal government;
20 prescribing procedures for release of monies;
21 authorizing surcharge; prescribing civil penalty
22 amount; providing for deposit of monies into Federal
23 Tax Fund; providing for codification; and declaring
24 an 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 7001 of Title 62, 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".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 7002 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in this act, "person" means natural persons,
5 corporations, partnerships, limited liability companies,
6 associations, and other legal entities.

7 SECTION 3. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 7003 of Title 62, unless there
9 is created a duplication in numbering, reads as follows:

10 A. The Tenth Amendment of the United States Constitution
11 defines the total scope of federal power as being that specifically
12 granted by the federal Constitution and no more. The Legislature
13 recognizes that the United States Congress has the right to levy and
14 collect taxes under the federal Constitution. The Legislature
15 finds, however, that the Congress does not have the right under the
16 federal Constitution to withhold from the states the benefits of
17 those taxes through unconstitutional mandates.

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

24

1 C. In light of the continuing unconstitutional withholding of
2 the benefits of the taxes, the State of Oklahoma hereby asserts its
3 claim of sovereignty.

4 SECTION 4. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 7004 of Title 62, unless there
6 is created a duplication in numbering, reads as follows:

7 A. There is created in the Oklahoma State Treasury the Federal
8 Tax Fund, which shall be an escrow account. Any interest earned on
9 the deposit of monies in the fund along with any civil penalties
10 assessed under Section 5 of this act shall remain in the fund and
11 shall not revert to the General Revenue Fund of the state at the end
12 of any fiscal year. The interest earned on the deposit of monies
13 and any civil penalties shall be used to pay any necessary
14 administrative costs incurred under this act and any excess interest
15 and penalties shall be transferred to the State Highway Construction
16 and Maintenance Fund.

17 B. Any person liable for any excise tax shall remit the tax
18 when due along with the person's federal taxpayer number to the
19 Oklahoma Tax Commission for deposit into the fund.

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

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

9 2. If the federal government imposes any sanctions on the State
10 of Oklahoma for failing to enact legislation required by federal
11 law, which the Legislature deems to be unconstitutional, by
12 withholding or reprogramming any federal aid monies from, among
13 other things, highway construction to highway safety or other
14 programs, the State Treasurer shall not transfer any taxes held in
15 the Federal Tax Fund but shall retain the monies in the fund until
16 such time as the sanctions are lifted. If the lifting of the
17 sanctions occurs within ninety (90) days, the State Treasurer shall
18 transfer the amounts held in the fund to the Internal Revenue
19 Service within ten (10) days of the lifting of the sanctions. If
20 the sanctions are not lifted within ninety (90) days, the state
21 shall impose a surcharge on the monies in the fund to be used for
22 payment to continue highway project funding.

23
24

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 7005 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

4 Any person who fails to comply with Section 4 of this act is
5 subject to a civil penalty in an amount equal to one hundred fifty
6 percent (150%) of the tax owed for each day the person fails to
7 comply with Section 4 of this act. Any civil penalties assessed
8 under this section shall be deposited into the Federal Tax Fund
9 established in Section 4 of this act.

10 SECTION 6. It being immediately necessary for the preservation
11 of the public peace, health and safety, an emergency is hereby
12 declared to exist, by reason whereof this act shall take effect and
13 be in full force from and after its passage and approval.

14

15 53-1-5174 MAH 01/10/11

16

17

18

19

20

21

22

23

24