

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2811 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Lewis Moore _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2811

By: Moore

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8 PROPOSED COMMITTEE SUBSTITUTE

9 An Act relating to public finance; enacting the State
10 Sovereignty Act; making legislative findings;
11 defining terms; creating Federal Tax Fund; providing
12 for disposition of interest and penalty amounts;
13 requiring remittance of certain taxes; requiring
14 deposit of taxes in Federal Tax Fund; prescribing
15 procedures for State Treasurer; providing for
16 transfer of monies to the Internal Revenue Service;
17 providing for withholding of monies in Federal Tax
18 Fund based upon certain determinations; prescribing
19 procedures; providing civil penalty for failure to
20 comply; providing for effect of act upon taxes based
21 on specific date; creating Oklahoma Tax Contingency
22 Task Force; providing for membership; providing for
23 meetings; requiring ongoing reporting by Oklahoma Tax
24 Contingency Advisory Panel; providing for
codification; providing an effective date; and
declaring 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 9001 of Title 62, unless there
is created a duplication in numbering, reads as follows:

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

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 9002 of Title 62, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The Oklahoma Legislature finds that the Tenth Amendment of
7 the United States Constitution defines the total scope of federal
8 power as being that specifically granted by the federal constitution
9 and no more. The Legislature recognizes that the United States
10 Congress has the right to lay and collect taxes under the Federal
11 Constitution. The Legislature finds, however, that the Congress
12 does not have the right under the Federal Constitution to withhold
13 from the states the benefits of those taxes through unconstitutional
14 mandates and/or executive orders, administrative rules and
15 regulations.

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

22 C. In light of the continuing unconstitutional withholding of
23 the benefits of the taxes, the State of Oklahoma hereby reasserts
24 its claim of Sovereignty.

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SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9003 of Title 62, 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 General Revenue Fund of the State Treasury.

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

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

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

17 2. If the federal government imposes any sanctions on citizens
18 of this state, corporations domiciled in this state or the State of
19 Oklahoma for failing to enact mandates, rules, regulations,
20 executive orders or legislation required by federal law, which the
21 Legislature, Governor, Speaker of the House of Representatives and
22 President Pro Tempore of the Senate, if the Legislature is not in
23 session, deems to be unconstitutional, by withholding or
24 reprogramming any federal-aid monies from, among other things,

1 highway construction to highway safety or other programs, the State
2 Treasurer shall not transfer any taxes held in the Federal Tax Fund,
3 but shall retain the monies in the fund until such time as the
4 sanctions are lifted. If the lifting of the sanctions occurs within
5 ninety (90) days, the State Treasurer shall transfer the amounts
6 held in the fund to the Internal Revenue Service within ten (10)
7 days of the lifting of the sanctions. If the sanctions are not
8 lifted within ninety (90) days, the state shall impose a surcharge
9 on the monies in the fund to be kept in the fund.

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

16 G. The act shall apply to federal taxes to be collected after
17 January 1, 2016.

18 H. An Oklahoma Tax Contingency Advisory Panel shall be created.
19 The Advisory Panel members shall consist of eleven (11) persons to
20 include three persons selected by the Speaker of the House of
21 Representatives, three persons selected by the President Pro Tempore
22 of the Senate, three persons selected by the Governor, one person
23 selected by the Oklahoma Tax Commission and one person selected by
24 the State Treasurer. They shall meet at least once a month or at

1 the call of the Advisory Panel leaders as determined by the Speaker
2 of the House of Representatives and the President Pro Tempore of the
3 Senate.

4 I. The Oklahoma Tax Contingency Advisory Panel shall report to
5 the Legislature and the Governor on an ongoing basis. The Advisory
6 Panel shall meet on a regular basis after August 2014 and until a
7 contingency plan is prepared.

8 SECTION 4. This act shall become effective July 1, 2014.

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

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