

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 54th Legislature (2014)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2811

By: Moore of the House

and

Dahm of the Senate

7
8
9
10 COMMITTEE SUBSTITUTE

11 An Act relating to public finance; enacting the State
12 Sovereignty Act; making legislative findings;
13 defining terms; creating the Federal Tax Fund;
14 providing for disposition of interest and penalty
15 amounts; requiring remittance of certain taxes;
16 requiring deposit of taxes into Federal Tax Fund;
17 prescribing procedures for State Treasurer; providing
18 for transfer of monies to the Internal Revenue
19 Service; providing for withholding of monies in
20 Federal Tax Fund based upon certain determinations;
21 prescribing procedures; providing civil penalty for
22 failure to comply; providing for effect of act upon
23 taxes based on specific date; creating Oklahoma Tax
24 Contingency Task Force; providing for membership;
 providing for meetings; requiring ongoing reporting
 by Oklahoma Tax 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:

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 9001 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

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

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

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

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

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

4 SECTION 3. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 9003 of Title 62, unless there
6 is created a duplication in numbering, reads as follows:

7 A. As used in this act:

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

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

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

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

16 B. There shall be created in the State Treasury the "Federal
17 Tax Fund", which shall be an escrow account. Any interest earned on
18 the deposit of monies in the fund along with any civil penalties
19 assessed pursuant to subsection F of this section shall remain in
20 the fund and shall not revert to the General Revenue Fund of the
21 state at the end of any fiscal year. The interest earned on the
22 deposit of monies and any civil penalties shall be used to pay any
23 necessary administrative costs incurred pursuant to this act and any
24

1 excess interest and penalties shall be transferred to the General
2 Revenue Fund of the State Treasury.

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

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

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

19 2. If the federal government imposes any sanctions on citizens
20 of this state, corporations domiciled in this state or the State of
21 Oklahoma for failing to enact mandates, rules, regulations,
22 executive orders or legislation required by federal law, which the
23 Legislature, Governor, Speaker of the House of Representatives and
24 President Pro Tempore of the Senate, if the Legislature is not in

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

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

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

20 H. An Oklahoma Tax Contingency Advisory Panel shall be created.
21 The Advisory Panel members shall consist of eleven (11) persons to
22 include three persons selected by the Speaker of the House of
23 Representatives, three persons selected by the President Pro Tempore
24 of the Senate, three persons selected by the Governor, one person

1 selected by the Oklahoma Tax Commission and one person selected by
2 the State Treasurer. They shall meet at least once a month or at
3 the call of the Advisory Panel leaders as determined by the Speaker
4 of the House of Representatives and the President Pro Tempore of the
5 Senate.

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

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

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

15

16 COMMITTEE REPORT BY: COMMITTEE ON STATES' RIGHTS, dated 02/26/2014 -
17 DO PASS, As Amended and Coauthored.

18

19

20

21

22

23

24

25