

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1796

By: Merrick

AS INTRODUCED

An Act relating to state sovereignty; creating the State Sovereignty and Federal Tax Funds Act; stating Legislative intent; defining terms; creating the Federal Tax Fund; providing for deposits to fund and disbursements and transfers from fund; requiring the withholding of disbursements and the transfer of funds upon certain actions of the federal government and Legislature; requiring persons liable for federal taxes to remit payments and certain information to the State Treasurer; requiring deposit of remittances to the Federal Tax Fund; requiring the State Treasurer to submit certain information to the Internal Revenue Service; stating subjection to penalties; requiring transfer of certain funds to federal government; providing exception; requiring vote of the Legislature upon certain federal action; implementing vote threshold; requiring notification by the Attorney General upon certain legislative action; requiring resumption of disbursement of funds upon certain federal action; requiring certain persons to implement provisions of this act; requiring the Governor to call special session upon certain federal action; requiring the state to recover certain costs; providing for retroactive enforcement against certain mandate; providing for appropriation of certain funds; requiring funds be appropriated for certain purpose; providing for noncodification; providing for codification; and providing an effective date.

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

1           SECTION 1.           NEW LAW           A new section of law not to be  
2 codified in the Oklahoma Statutes reads as follows:

3           This act shall be known and may be cited as the "State  
4 Sovereignty and Federal Tax Funds Act".

5           SECTION 2.           NEW LAW           A new section of law to be codified  
6 in the Oklahoma Statutes as Section 297.1 of Title 68, unless there  
7 is created a duplication in numbering, reads as follows:

8           The Legislature finds that:

9           A.   The Tenth Amendment to the United States Constitution states  
10 that "The powers not delegated to the United States by the  
11 Constitution, or prohibited by it to the States, are reserved to the  
12 States respectively, or to the people." The Legislature finds that  
13 the Tenth Amendment to the United States Constitution defines the  
14 total scope of federal power as being that specifically stated in  
15 the United States Constitution and no more.

16           B.   The Legislature further finds that the Congress of the  
17 United States has the power to lay and collect taxes pursuant only  
18 to Article 1, Section 8, clause 1 and Article 1, Section 9, clauses  
19 4 and 5, and Article XVI of the Constitution for the United States  
20 of America.

21           C.   In addition, the Legislature finds that the federal  
22 government, its agencies or agents, or the U.S. Congress does not  
23 have the power under the Constitution for the United States of  
24 America to withhold from the States the benefits of those taxes by

1 use of federal mandates that are outside the scope of the powers  
2 enumerated in the Constitution for the United States of America for  
3 the federal government.

4 D. Considering the continuing unconstitutional federal mandates  
5 that withhold the benefits of the taxes, the State hereby reasserts  
6 its claim of sovereignty pursuant to the Tenth Amendment to the  
7 Constitution for the United States of America.

8 SECTION 3. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 297.2 of Title 68, unless there  
10 is created a duplication in numbering, reads as follows:

11 For the purposes of this act:

12 1. "Consumer tax" means any tax imposed by the federal  
13 government on any beer, liquor, wine, or similar alcoholic beverage,  
14 tobacco, gasoline, or any other consumer goods;

15 2. "Excise tax" means federal taxes that are imposed on various  
16 goods, services, and activities. Such taxes may be imposed on the  
17 manufacturer, retailer or consumer, depending on the specific tax;  
18 and

19 3. "Person" means natural persons, corporations, partnerships,  
20 limited liability companies, associations, and other legal entities.

21 SECTION 4. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 297.3 of Title 68, unless there  
23 is created a duplication in numbering, reads as follows:

1       A. There is hereby created in the State Treasury a revolving  
2 fund to be designated the "Federal Tax Fund". The fund shall be a  
3 continuing fund, not subject to fiscal year limitations, and shall  
4 consist of all monies collected by this state on behalf of the  
5 federal government.

6       B. The State Treasurer, on a quarterly calendar basis, shall  
7 disburse the funds to the respective appropriate federal recipients.  
8 However if, as a result of this state's action taken pursuant to the  
9 authority of this act, pursuant to Section 6 of this act, the  
10 federal government imposes or mandates any financial sanctions,  
11 denies any matching funds or grants, or imposes or mandates any  
12 other financial sanctions, penalties, or withholding of funds or any  
13 other federal sanctions or penalties effecting a financial cost to  
14 this state, the State Treasurer shall withhold from payment all or  
15 part of the quarterly disbursement normally disbursed or transferred  
16 to federal recipients, per occurrence, an amount equal to the total  
17 cumulative outstanding amount of federal sanctions, denial of any  
18 matching funds, or denial of grants or any other financial  
19 sanctions, penalties, or withholding of funds. The State Treasurer  
20 shall continue to withhold all or part of the quarterly disbursement  
21 otherwise disbursed or transferred to the respective appropriate  
22 federal recipients until the total cumulative amount withheld from  
23 the federal government is equal to the total cumulative outstanding  
24 amount of federal sanctions, denial of any matching funds, or denial

1 of grants, or any other financial sanctions, penalties, or  
2 withholding of funds.

3 C. Funds that the State Treasurer withholds from federal  
4 recipients must be transferred quarterly from the Federal Tax Fund  
5 and placed in the Special Cash Fund created pursuant to Section 253  
6 of Title 62 of the Oklahoma Statutes.

7 SECTION 5. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 297.4 of Title 68, unless there  
9 is created a duplication in numbering, reads as follows:

10 A. Any person liable for any excise, federal income, or  
11 consumer tax shall remit the tax, when due, along with the federal  
12 taxpayer number to the State Treasurer for deposit into the Federal  
13 Tax Fund.

14 B. All monies collected pursuant to subsection A of this  
15 section shall credit the same to the Federal Tax Fund on behalf of  
16 the persons that remitted the tax.

17 C. The State Treasurer shall submit to the Internal Revenue  
18 Service the names and tax identification numbers of, and the amounts  
19 deposited by, persons liable for any excise, federal income, or  
20 consumer tax so that the Internal Revenue Service can credit this  
21 state's taxpayers for federal tax obligations.

22 D. Any person liable for any excise, federal income, or  
23 consumer tax who fails to remit payment to the State Treasurer will  
24

1 be subject to penalties assessed pursuant to applicable federal law  
2 and Oklahoma Statutes.

3 SECTION 6. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 297.5 of Title 68, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. Except as provided in Section 4 of this act, the State  
7 Treasurer shall transfer, at the end of each calendar quarter, the  
8 monies held in the fund, less any interest earned on the deposits,  
9 to the respective appropriate federal recipients in payment of the  
10 tax obligation of those persons who remitted the tax to the State  
11 Treasurer.

12 B. If the federal government imposes sanctions of any kind on  
13 this state for failing to enact legislation called for by federal  
14 mandate, a vote will be taken in the Legislature as to the  
15 constitutionality of the sanctions. By a simple majority vote in  
16 the House of Representatives and the Senate, if the federal  
17 government is found to be operating beyond the scope of its  
18 constitutionally delegated powers, the State Treasurer is to be  
19 notified in writing by the Attorney General of the Legislature's  
20 vote, with instructions from the Legislature, to carry out the  
21 provisions of subsection B of Section 4 of this act.

22 C. When this state has been notified in writing by the federal  
23 government that it has lifted any sanction outlined in subsection B  
24 of Section 4 of this act, then, pursuant to subsection A of this

1 section, the State Treasurer shall resume disbursement of funds to  
2 the respective appropriate federal recipients at the end of the next  
3 upcoming calendar quarter.

4 SECTION 7. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 297.6 of Title 68, unless there  
6 is created a duplication in numbering, reads as follows:

7 A. The Governor, members of the Legislature, Justices of the  
8 Supreme Court, the Attorney General, the Secretary of State, the  
9 State Treasurer, the State Auditor and Inspector, cabinet  
10 secretaries, state agency directors, and supervisors and employees  
11 of this state shall implement the provisions of this act, regardless  
12 of any sanctions, threats, court action, or other pressures brought  
13 to bear by federal authorities.

14 B. If the federal government imposes any sanctions on this  
15 state while the Legislature is not in session, the Governor shall  
16 call the Legislature into special session for the purpose of  
17 implementing subsection B of Section 6 of this act.

18 C. Any actions by the federal government, its agencies or  
19 agents, or Congress against any person in this state for compliance  
20 with this act will be considered an action against this state and  
21 this state will make an appropriate response to cause the action to  
22 cease and desist. This state shall take all necessary measures to  
23 recover from the federal government, its agencies or agents, or  
24 Congress the reasonable costs of defending the action.

1       SECTION 8.       NEW LAW       A new section of law to be codified  
2 in the Oklahoma Statutes as Section 297.7 of Title 68, unless there  
3 is created a duplication in numbering, reads as follows:

4       The State Sovereignty and Federal Tax Funds Act shall apply to  
5 federal taxes collected after the effective date of this act and,  
6 because the United States Constitution is and has always been the  
7 supreme law of the land, this act will be enforced retroactively to  
8 repeal any unconstitutional federal mandates that have been imposed  
9 on this state.

10       SECTION 9.       NEW LAW       A new section of law to be codified  
11 in the Oklahoma Statutes as Section 297.8 of Title 68, unless there  
12 is created a duplication in numbering, reads as follows:

13       The Legislature shall, by simple majority vote appropriate the  
14 monies transferred from the Federal Tax Fund to the Special Cash  
15 Fund. These appropriations shall only be used for the benefit of  
16 the people of this state.

17       SECTION 10. This act shall become effective November 1, 2022.

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