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HOUSE BILL 1278

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State of Washington                      56th Legislature                      1999 Regular Session

By Representatives Koster, Lambert, Campbell, Dunn, Sump and Fortunato

Read first time 01/20/1999. Referred to Committee on Finance.

1            AN ACT Relating to the collection of federal taxes; adding a new  
2 chapter to Title 82 RCW; prescribing penalties; and declaring an  
3 emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.** This chapter may be known and cited as the  
6 state sovereignty act.

7            NEW SECTION.    **Sec. 2.** The definitions in this section apply  
8 throughout this chapter unless the context clearly requires otherwise.

9            (1) "Person" means natural persons, corporations, partnerships,  
10 limited liability companies, associations, and other legal entities.

11            (2) "Excise tax" means any tax that forms a component of the  
12 highway users tax fund.

13            NEW SECTION.    **Sec. 3.** (1) The tenth amendment of the United States  
14 Constitution defines the total scope of federal power as being that  
15 specifically granted by the federal Constitution and no more. The  
16 legislature recognizes that the United States congress has the right to  
17 lay and collect taxes under the federal Constitution. The legislature

1 finds, however, that the congress does not have the right under the  
2 federal Constitution to withhold from the states the benefits of those  
3 taxes through unconstitutional mandates.

4 (2) The legislature further finds that most unconstitutional  
5 mandates prohibit Washington from implementing programs of excellence  
6 that would exceed federal expectations. Washington has significant  
7 technical expertise in resource management in the areas of air, earth,  
8 and water, but the persistent threat of sanctions renders that  
9 expertise ineffective.

10 (3) In light of the continuing unconstitutional withholding of the  
11 benefits of the taxes, the state of Washington hereby asserts its claim  
12 of sovereignty.

13 NEW SECTION. **Sec. 4.** (1) There is created in the Washington state  
14 treasury the federal tax fund, which shall be an escrow account. Any  
15 interest earned on the deposit of moneys in the fund along with any  
16 civil penalties assessed under section 5 of this act shall remain in  
17 the fund and shall not revert to the general fund of the state at the  
18 end of any fiscal year. The interest earned on the deposit of moneys  
19 and any civil penalties shall be used to pay any necessary  
20 administrative costs incurred under this chapter and any excess  
21 interest and penalties shall be transferred to the highway users tax  
22 fund.

23 (2) Any person liable for any excise tax shall remit the tax when  
24 due along with the person's federal taxpayer number to the department  
25 of revenue for deposit into the fund.

26 (3) All moneys collected under subsection (2) of this section shall  
27 be transmitted to the state treasurer who, as a fiduciary agent, shall  
28 credit the same to the federal tax fund on behalf of the person that  
29 remitted the tax.

30 (4)(a) Except as provided in (b) of this subsection, the state  
31 treasurer shall transfer at the end of each month the moneys held in  
32 the federal tax fund less any interest earned on the deposit to the  
33 internal revenue service in payment of the tax obligation of those  
34 persons who remitted the tax to the department of revenue. As a part  
35 of the transfer, the state treasurer shall identify the federal  
36 taxpayer number and amount received from each person who remitted any  
37 tax to the department of revenue.

1 (b) If the federal government imposes any sanctions on the state of  
2 Washington for failing to enact legislation required by federal law,  
3 which the legislature deems to be unconstitutional, by withholding or  
4 reprogramming any federal aid moneys from, among other things, highway  
5 construction to highway safety or other programs, the state treasurer  
6 shall not transfer any taxes held in the federal tax fund but shall  
7 retain the moneys in the fund until such time as the sanctions are  
8 lifted. If the lifting of the sanctions occurs within ninety days, the  
9 state treasurer shall transfer the amounts held in the fund to the  
10 internal revenue service within ten days of the lifting of the  
11 sanctions. If the sanctions are not lifted within ninety days, the  
12 state shall impose a surcharge on the moneys in the fund to be used for  
13 payment to continue highway project funding.

14 NEW SECTION. **Sec. 5.** Any person who fails to comply with section  
15 4 of this act is subject to a civil penalty in an amount equal to one  
16 hundred fifty percent of the tax owed for each day the person fails to  
17 comply with section 4 of this act. Any civil penalties assessed under  
18 this section shall be deposited into the federal tax fund established  
19 in section 4 of this act.

20 NEW SECTION. **Sec. 6.** This chapter applies to federal taxes to be  
21 collected on or after the effective date of this section.

22 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act constitute  
23 a new chapter in Title 82 RCW.

24 NEW SECTION. **Sec. 8.** This act is necessary for the immediate  
25 preservation of the public peace, health, or safety, or support of the  
26 state government and its existing public institutions, and takes effect  
27 immediately.

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