

SENATE, No. 1985

STATE OF NEW JERSEY

INTRODUCED APRIL 17, 1997

By Senators LaROSSA and LITTELL

1 AN ACT concerning the State collection of certain federal tax funds  
2 and their sequestration in response to federal sanctions for State  
3 failure to respond to certain federal mandates deemed  
4 unconstitutional by the Legislature, supplementing Title 52 of the  
5 Revised Statutes.

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7 **BE IT ENACTED** by the Senate and General Assembly of the State  
8 of New Jersey:

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10 1. This act shall be known and may be cited as the "State  
11 Sovereignty and Federal Tax Funds Act."

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13 2. a. The Legislature finds and declares that the United States  
14 Constitution states that "[t]he powers not delegated to the United  
15 States by the Constitution, nor prohibited by it to the states are  
16 reserved to the states respectively, or to the people." The Legislature  
17 finds that the Tenth Amendment to the United States Constitution  
18 defines the total scope of federal power as being that specifically  
19 stated in the United States Constitution and no more.

20 b. The Legislature recognizes that the Congress of the United  
21 States has the power to lay and collect taxes pursuant only to clause  
22 1 of Section 8 of Article I of, clauses 4 and 5 of Section 9 of Article  
23 I of, and the Sixteenth Amendment to, the United States Constitution.

24 c. The Legislature finds that neither the federal government, its  
25 agencies and agents, or the Congress has the power under the United  
26 States Constitution to withhold from the states benefits of those taxes  
27 by use of federal mandates that are outside the scope of the powers  
28 enumerated in the United States Constitution for the federal  
29 government.

30 d. In light of the continuing unconstitutional federal mandates that  
31 withhold the benefits of the taxes, the State hereby reasserts its claim  
32 of sovereignty pursuant to the Tenth Amendment to the United States  
33 Constitution.

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35 3. For purposes of this act, the following terms have the following  
36 meanings:

37 "Consumer tax" means any tax imposed by the federal government

1 on any beer, liquor, wine or similar alcoholic beverage, tobacco,  
2 gasoline, or any other consumer goods;

3 "Excise tax" means any tax that forms a component of the federal  
4 Highway Trust Fund;

5 "Fund" means the Federal Tax Fund established pursuant to section  
6 4 of this act; and

7 "Income tax" means any tax imposed by federal government on any  
8 income earned by a taxpayer.

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10 4. The "Federal Tax Fund" is hereby created as a special fund in  
11 the State General Fund. Any interest earned on the deposit of moneys  
12 in the fund, along with any civil penalties assessed pursuant to section  
13 10 of this act, shall remain in the fund and shall not revert to the  
14 General Fund at the end of any fiscal year. The interest earned on the  
15 deposit of moneys and any civil penalties shall be used to pay any  
16 necessary administrative costs incurred pursuant to this act.

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18 5. Any person liable for any federal excise, income, or consumer  
19 tax shall remit the tax, when due, along with the federal taxpayer  
20 number of the person to the Director of the Division of Taxation of the  
21 New Jersey Department of the Treasury for deposit into the fund.

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23 6. All moneys collected pursuant to section 5 of this act shall be  
24 transmitted to the State Treasurer who shall deposit these moneys into  
25 the fund on behalf of the person that remitted the tax.

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27 7. a. Except as provided in subsection b. of this section, the State  
28 Treasurer shall transfer, at the end of each month, the moneys held in  
29 the fund, less any interest earned on the deposit, to the Internal  
30 Revenue Service in payment of the tax obligation of those persons  
31 who remitted the tax to the Director of the Division of Taxation.

32 b. If the federal government imposes a sanction of any kind on the  
33 State for failing to enact legislation called for by federal mandates that  
34 a majority of the members of each House of the Legislature deems to  
35 be unconstitutional, by withholding or reprogramming any State-  
36 derived federal moneys from such things as, but not limited to,  
37 highway construction, highway safety, or any other programs, the  
38 State Treasurer shall not transfer any taxes held in the fund, but shall  
39 retain the moneys in the fund until such time as the sanctions are lifted.  
40 If the lifting of the sanction occurs within 90 days of the sanction's  
41 imposition, the State Treasurer shall transfer the amounts held in the  
42 fund to the Internal Revenue Service within 10 days of the lifting of  
43 the sanction. If the sanction is not lifted within 90 days, the State shall  
44 impose a surcharge on the moneys in the fund to be used for payment  
45 to continue funding of any project for which funds have been withheld  
46 or reprogrammed.



1 a civil penalty of 150% of the tax owed for each day that the person  
2 does not comply.

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7 "State Sovereignty and Federal Tax Funds Act."