

SECOND REGULAR SESSION

# HOUSE BILL NO. 2176

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES GUEST (Sponsor), GATSCHENBERGER, EMERY,  
STEVENSON, SMITH (150) AND RUESTMAN (Co-sponsors).

4772L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 14, RSMo, by adding thereto one new section relating to the State Authority and Federal Tax Fund Act, with an emergency clause.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 14, RSMo, is amended by adding thereto one new section, to be  
2 known as section 14.100, to read as follows:

**14.100. 1. (1) This section shall be known and may be cited as the "State Authority  
2 and Federal Tax Fund Act".**

**3 (2) In light of the continuing unconstitutional federal expenditures, the state hereby  
4 reasserts its authority under the tenth amendment to the Constitution of the United States.**

**5 2. As used in this section, the following terms mean:**

**6 (1) "Consumer tax", any tax imposed by the federal government on any beer,  
7 liquor, wine, or similar alcoholic beverage, tobacco, gasoline, or any other consumer goods;**

**8 (2) "Director", the director of the department of revenue;**

**9 (3) "Excise tax", any tax that forms a component of the State Highway Account;**

**10 (4) "Federal Tax Fund", the fund created in this section;**

**11 (5) "Income tax", any tax imposed by the federal government on incomes from  
12 whatever source derived and shall include but not be limited to all income, withholding,  
13 payroll, Social Security, Medicare and unemployment taxes;**

**14 (6) "Person", natural persons, corporations, partnerships, limited liability  
15 companies, associations, and other legal entities.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16           **3. (1) There is hereby created in the state treasury the "Federal Tax Fund", which**  
17 **shall consist of moneys collected under this section. The state treasurer shall be custodian**  
18 **of the fund. In accordance with sections 30.170 and 30.180, the state treasurer shall**  
19 **approve disbursements as provided in this section. Upon appropriation, money in the fund**  
20 **shall be used solely for the administration of this section. Notwithstanding the provisions**  
21 **of section 33.080 to the contrary, any moneys remaining in the fund at the end of the**  
22 **biennium shall not revert to the credit of the general revenue fund. The state treasurer**  
23 **shall invest moneys in the fund in the same manner as other funds are invested. Any**  
24 **interest and moneys earned on such investments shall be credited to the fund. Moneys**  
25 **accruing to and deposited in the designated funds shall not be part of total state revenues**  
26 **as defined in section 17, article X, Constitution of Missouri, and the expenditure of such**  
27 **revenues shall not be an expense of state government under section 20, article X,**  
28 **Constitution of Missouri.**

29           **(2) All federal tax moneys collected by the state on behalf of the federal government**  
30 **shall be deposited by the director into the federal tax fund. The treasurer shall disburse**  
31 **the funds on a quarterly basis, less any interest earned on the deposits, to the respective**  
32 **appropriate federal recipient.**

33           **4. Any person liable for any federal excise, income, or consumer tax shall remit the**  
34 **tax when due along with the federal taxpayer number to the director for deposit into the**  
35 **federal tax fund. All moneys collected under this subsection shall be transmitted to the**  
36 **director who, as a fiduciary agent, shall credit the funds to the federal tax fund on behalf**  
37 **of the person who remitted the tax. The director shall submit to the Internal Revenue**  
38 **Service the names and tax identification numbers of, and the date on which and amounts**  
39 **deposited by, persons liable for any federal excise, income, or consumer tax so that the**  
40 **Internal Revenue Service can credit the state's taxpayers for federal tax obligations. Any**  
41 **person liable for any federal excise, income, or consumer tax who fails to forward federal**  
42 **tax moneys to the director shall be subject to penalties assessed under applicable federal**  
43 **or state statutes.**

44           **5. The general assembly, by simple majority vote in both houses, shall determine**  
45 **how the moneys transferred from the federal tax fund to the general fund, including**  
46 **accrued interest, shall be used for the benefit of the people of the state. Such moneys shall**  
47 **be used for the benefit of the people of this state only.**

48           **6. (1) If, as a result of any state action taken under the authority of this section, the**  
49 **federal government denies any matching funds or grants or imposes or mandates any other**  
50 **financial sanctions, penalties, or withholding of funds effecting a financial cost to the state,**

51 the state treasurer shall withhold quarterly disbursements as provided in subdivision (3)  
52 of this subsection.

53 (2) If the federal government imposes sanctions of any kind on the state for failing  
54 to enact legislation called for by federal mandate, the general assembly shall consider the  
55 constitutionality of such mandate by concurrent resolution. If the general assembly  
56 determines the federal government is operating beyond the scope of its constitutionally  
57 delegated powers, and is therefor operating unconstitutionally, the general assembly shall  
58 disapprove of such actions by the federal government by concurrent resolution adopted by  
59 a majority vote of each chamber of the general assembly, and shall present such concurrent  
60 resolution to the state attorney general, who shall send written notice to the state treasurer  
61 that the treasurer shall begin withholding disbursements under subdivision (3) of this  
62 subsection in accordance with the concurrent resolution of the general assembly. If the  
63 federal government denies any matching funds or grants or imposes or mandates any other  
64 financial sanctions, penalties, or withholding of funds effecting a financial cost to the state  
65 while the general assembly is not in session, the governor shall convene the general  
66 assembly in special session for the sole purpose of considering the actions of the federal  
67 government under this subdivision.

68 (3) Upon the denial of any matching funds or grants or the imposition or mandate  
69 of any other financial sanctions, penalties, or withholding of funds effecting a financial cost  
70 to the state by the federal government, or upon receiving notice of the general assembly's  
71 determination under subdivision (2) of this subsection, the state treasurer shall withhold  
72 from payment all or part of the quarterly disbursement normally disbursed or transferred  
73 to the appropriate federal recipient, per occurrence, an amount equal to the total  
74 cumulative outstanding amount of the federal denial of matching funds or grants or  
75 financial sanctions, penalties, or withholding of funds. The state treasurer shall continue  
76 to withhold all or part of the quarterly disbursement or transfer not otherwise disbursed  
77 or transferred to the respective appropriate federal recipients until the total cumulative  
78 amount withheld from the federal government is equal to the total cumulative outstanding  
79 amount of federal denial of matching funds or grants or financial sanctions, penalties, or  
80 withholding of funds.

81 (4) Per occurrence, when the general assembly has been duly notified in writing by  
82 the federal government that the federal government has terminated any denial of any  
83 matching funds or grants or any imposition or mandate of any other financial sanctions,  
84 penalties, or withholding of funds effecting a financial cost to the state, the state treasurer  
85 shall resume disbursements under this section at the end of the calendar quarter  
86 immediately following such notice by the federal government.

87           **7. In compliance with the oath or affirmation clause found in Article VI,**  
88 **Constitution of the United States, the governor, lieutenant governor, members of the**  
89 **general assembly, judges, attorney general, secretary of state, state auditor, state treasurer,**  
90 **director, and all other state officers and employees shall implement this section regardless**  
91 **of any sanctions, threats, court action, or other pressure brought to bear by federal**  
92 **authorities. Any actions by the federal government, its agencies or agents, or the Congress**  
93 **of the United States against any person in this state for compliance with this section shall**  
94 **be considered an action against this state, and this state shall make an appropriate**  
95 **response to cause the action to cease and desist. This state shall take all necessary**  
96 **measures to recover from the federal government, its agencies, or agents, or the Congress**  
97 **of the United States, the reasonable costs of defending the action.**

98           **8. This section shall apply to federal taxes collected after the effective date of this**  
99 **section and, because the Constitution, and the laws of the United States which shall be**  
100 **made in pursuance thereof, and all treaties made, or which shall be made, under the**  
101 **authority of the United States, shall be the supreme law of the land, as provided in Article**  
102 **VI, Constitution of the United States, this section shall be enforced retroactively to repeal**  
103 **any unconstitutional federal mandates that have been imposed on the state.**

          Section B. Because immediate action is necessary to enable the residents of this state to  
2 retain the benefits from tax revenues derived from the people of this state, section A of this act  
3 is deemed necessary for the immediate preservation of the public health, welfare, peace, and  
4 safety, and is hereby declared to be an emergency act within the meaning of the constitution, and  
5 section A of this act shall be in full force and effect upon its passage and approval.

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