

Short Ballot Title

An initiative restricting the payment of federal tax collections based on state discretion.

Long Ballot Title

An initiative related to federal taxes; amending Title 63, adding Chapter 46, to establish a federal tax escrow account to provide that monies collected by the state are paid into the account; provide that should the federal government act toward the state of Idaho in a manner deemed unconstitutional by the Idaho Legislature, the treasurer withhold a certain portion of the funds due. Setting forth management of the account, preserving Idaho's sovereignty, defining applicability, conflicts of laws, nullifying federal law and providing severability.

Text of Initiative

SECTION 1. That Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 46, Title 63, Idaho Code, and to read as follows:

CHAPTER 46

IDAHO STATE SOVEREIGNTY AND FEDERAL TAX ESCROW ACCOUNT ACT

63-4601. SHORT TITLE. This act may be known and cited as the "Idaho State Sovereignty and Federal Tax Escrow Account Act."

63-4602. PURPOSE. By this act the people of the state of Idaho intend to: Create the federal tax escrow account in the state treasury to provide that moneys collected by the state for payment to the federal government are paid into the account; provide that any private person liable for a federal tax must pay the tax into the account; provide that should the federal government, including, but not limited to, the federal courts, act toward the state of Idaho or any of its citizens in a manner deemed unconstitutional by the Idaho state legislature, the state treasury must withhold a certain portion of the funds due the federal government; provide that if the federal government takes any punitive action against the state in any manner for failure to comply with a federal statute or directive of any kind that the Idaho state legislature deems unconstitutional, the state treasury must withhold from payment a certain portion of the funds due the federal government; provide sanctions for failure to comply with such provisions; provide that state officials must comply with such provisions without regard to any action taken by the federal government; provide for a special session of the Idaho state legislature; provide that unconstitutional measures taken by the federal authorities constitute an action against the state of Idaho and must be met with all necessary measures to safeguard the sovereignty of the state and the constitutional rights of its citizens; provide for retroactive application; provide for the expenditure of funds withheld from the federal government; provide for other matters relative to the foregoing; provide an effective date; and repeal all conflicting laws.

63-4603. DECLARATION OF AUTHORITY. (1) The people of the state of Idaho find that the Constitution of the United States is a compact between the people of the sovereign states creating a general or federal government as their agent and endowing it with only enumerated

powers. That the general or federal government is not, and can never be, the sole and exclusive authority in determining what powers were enumerated, or delegated, and what powers were reserved to the states and to the people thereof.

(2)(a) The tenth amendment to the Constitution of the United States states: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

(b) The people of the state of Idaho find that the tenth amendment to the Constitution of the United States defines the entire scope of federal power as being limited to that specifically delegated in the Constitution and no more.

(3) The people of the state of Idaho find that the congress of the United States has the power to lay and collect taxes pursuant only to clause 1 of Section 8 of Article 1; and clauses 4 and 5 of Section 9 of Article 1 of the Constitution of the United States.

(4) The people of the state of Idaho find that the federal government, its agencies or agents, including the congress of the United States, does not have the power under the Constitution of the United States to withhold from the states the benefits of those taxes as stated in subsection (2)(b) of this section by the use of federal mandates or other means that fall outside the scope of the powers delegated to the federal government by the Constitution of the United States.

(5) In consideration of the continuing unconstitutional federal mandates, directives, laws, court orders, and other usurpations that withhold the benefits of those taxes as stated in subsection (2)(b) of this section to the states, the state of Idaho reasserts its claim of sovereignty pursuant to the original compact between the several states and the tenth amendment to the Constitution of the United States.

63-4604. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

(2) "Excise tax" means any tax restricted by Article II, section 40 of the state Constitution.

(3) "Federal tax escrow account" means the federal tax escrow account created in section 63-6405, Idaho Code.

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

63-4605. ESTABLISHMENT OF ESCROW ACCOUNT. (1) The federal tax escrow account is created in the state treasury. All federal tax moneys collected by the state of Idaho on behalf of the federal government, or any of its agencies or agents, must be deposited by the state treasurer into the federal tax escrow account.

(2) The state treasurer, on a quarterly basis, must disburse the funds to the appropriate federal recipient if the Idaho state legislature deems that the federal government, and its agencies or agents, have acted in a constitutional manner toward the state of Idaho or its citizens. If, as a result of state action taken pursuant to this chapter, the federal government imposes or mandates any financial sanctions or penalties or otherwise acts in a punitive manner toward the state of Idaho and its citizens, the state treasurer must withhold from payment all or part of the quarterly disbursement that otherwise would be disbursed or transferred to the appropriate federal recipient.

(3) Funds that are withheld by the state treasurer from the federal recipient must be transferred to and deposited in the state general fund for general use.

63-4606. MANAGEMENT OF ESCROW ACCOUNT. (1) Any person liable for any federal excise or consumer tax must remit such tax when due along with a federal taxpayer identification number, if applicable, to the state treasurer for deposit into the federal tax escrow account created in 63-4605, Idaho Code. A social security number, according to statute, is not to be defined as a federal tax identification number.

(2) All moneys collected under this section must be transmitted to the state treasurer, who, as a fiduciary agent, must credit such funds to the federal tax escrow account on behalf of the person who remitted the tax.

(3) The state treasurer must submit to the federal internal revenue service, or other such tax-collecting agencies that the congress of the United States may from time to time establish, the names and tax identification numbers, where applicable and excluding social security numbers, of, and the amounts deposited by, persons liable for any federal excise or consumer tax so that the federal internal revenue service can credit the state of Idaho's taxpayers for federal tax obligations.

(4) Upon the effective date of this act, no federal agent or agents may operate within the borders of the state of Idaho, as described in 63-4607, Idaho Code, for the purpose of collecting taxes or of exacting punitive measures because of the exercise by the state of Idaho of any provision or provisions of this chapter.

(5) Except as provided in subsection (2) of 63-4605, Idaho Code, the state treasurer must transfer at the end of each quarter the moneys held in the federal tax escrow account, less any interest earned on the deposit, to the appropriate federal recipient in payment of the tax obligations of those persons who remitted the tax funds to the state treasurer.

(6) If the federal government, or any of its agencies or agents, impose sanctions on or take punitive actions of any sort against the state of Idaho for failing to enact legislation called for by a mandate from the federal government, or any of its agencies or agents, a vote must be taken by the state legislature as to the constitutionality of the sanctions or punitive actions. By a simple majority vote in each house of the state legislature, if the federal government, or any of its agencies or agents, is found to be operating beyond the scope of its constitutionally delegated powers, and therefore unlawfully, the state treasurer must be notified in writing within two days by the attorney general of the vote of each house of the state legislature, and the state legislature must instruct the state treasurer to carry out the procedure specified in subsection (2) of 63-4605, Idaho Code.

(7) It must be determined by a simple majority vote in each house of the state legislature when the federal government, or its agencies or agents, have properly rescinded or removed any sanctions or have ceased punitive actions against Idaho state and its citizens. Until both houses of the state legislature have determined by a simple majority vote that the federal government, or its agencies or agents, are operating within the scope of its constitutionally delegated powers, and therefore lawfully, the state treasurer must disburse or transfer no funds from the federal tax escrow account to the federal tax recipient.

(8) Any person liable for any federal excise or consumer tax who fails to forward the federal tax moneys to the state treasurer is subject to penalties assessed according to the applicable state laws.

63-4607. PRESERVATION OF SOVEREIGNTY. (1) The governor, members of each

house of the state legislature, judges, the attorney general, the secretary of state, the state treasurer, the state auditor, and all other state officers and employees must implement the provisions of this chapter regardless of any sanctions, threats, punitive actions, federal court orders, or other measures brought to bear against them by any and all federal authorities and their agencies or agents.

(2) If the federal government, or its agencies or agents, impose any sanctions on or execute any punitive action against the state or any of its citizens while the state legislature is not in session, the governor must call the state legislature into special session for the purpose of implementing the appropriate provision of this chapter.

(3) Any action by the federal government, or its agencies or agents, including the president of the United States, the congress of the United States, and the federal courts, against any person in Idaho state for compliance with the provisions of this chapter is considered a hostile and unconstitutional action against Idaho state and its citizens, and the state of Idaho will by all necessary measures act to preserve its sovereignty.

(4) The Idaho state legislature, by a simple majority vote in each house, must determine how the moneys transferred from the federal tax escrow account to the state general fund, including accrued interest, are to be used for the benefit of the people of Idaho state. These moneys must be used only for the benefit of the people of Idaho state.

63-4608. APPLICABILITY. This chapter applies to all federal actions within the state of Idaho, including, but not limited to, the collection of federal excise and consumer taxes upon the date which it is enacted. Because the Constitution of the United States has been the fundamental law of the land since its ratification by the requisite nine states in 1788, this chapter must be enforced retroactively to repeal any unconstitutional federal laws, mandates, edicts, and court orders that have been imposed on the state of Idaho and its citizens.

63-4609. RESOLUTION OF CONFLICTS OF LAW. The provisions of this chapter control in the event of a conflict between the provisions of this chapter and other state or local laws and regulations.

63-4610. NULLIFICATION OF UNCONSTITUTIONAL LAWS. Any federal law, rule, order, or other act by the federal government violating the provisions of this chapter is invalid in this state, is not recognized by and is specifically rejected by this state, and is considered as null and void and of no effect in this state.

63-4611. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.