[STATE] FISCAL SOVEREIGNTY AND ELECTION PROTECTION ACT

Model State Legislation

This is model legislation drafted by The Existentialist Republic. Bracketed terms such as [State], [State Legislature], [State Treasurer], and [State] Supreme Court are placeholders. An adopting state replaces each with its own equivalent.

ARTICLE I: SHORT TITLE, PURPOSE, AND FINDINGS

Section 101. Short Title

This Act shall be known and may be cited as the "[State] Fiscal Sovereignty and Election Protection Act."

Section 102. Findings Regarding Constitutional Legitimacy

The [State Legislature] finds and declares:

(a) The Constitution of the United States does not grant the federal government inherent or self-executing authority. It establishes a process through which governing authority is conferred. That process is democratic election. The legitimacy of federal power flows entirely from this process. A federal government not constituted through legitimate elections possesses no constitutional claim to obedience, cooperation, or revenue from the people or the states.

(b) The Supremacy Clause of the Constitution establishes that the Constitution itself is the supreme law of the land, and that federal laws are supreme only when made "in Pursuance thereof." Federal authority that does not derive from constitutional processes is not made in pursuance of the Constitution and carries no claim to supremacy.

(c) When the federal government subverts the electoral process that legitimizes its authority, it severs the constitutional foundation of its own power. This severance is a structural failure of the constitutional order. No doctrine of federal supremacy, preemption, or state obligation assumes or survives such a failure.

(d) The states preexisted the Constitution and ratified it as a compact creating a federal government of limited and enumerated powers. The states did not surrender their sovereignty to any government. They delegated specific authorities to a government constituted through processes the Constitution defines. Delegation to a constitutionally legitimate federal government does not imply delegation to any entity that seizes federal power through extra-constitutional means.

(e) The Constitution divides authority between federal and state governments for the protection of individuals. When federal institutions fail, the obligation to protect individuals does not fail

with them. It returns to the states, which retain what James Madison called in Federalist No. 39, and the Supreme Court has since affirmed, a "residuary and inviolable sovereignty."

Section 103. Findings Regarding State Authority

The [State Legislature] further finds and declares:

(a) Under the anti-commandeering doctrine established in New York v. United States, 505 U.S. 144 (1992), Printz v. United States, 521 U.S. 898 (1997), and Murphy v. NCAA, 584 U.S. 453 (2018), the federal government may not issue directives requiring states to address particular problems, nor command state officers to administer or enforce federal regulatory programs. States retain complete authority over their own administrative apparatus and their own cooperation with federal programs.

(b) This Act represents an exercise of that authority. It does not nullify federal law. It does not declare federal taxes invalid. It conditions state cooperation with federal tax collection on the federal government's compliance with the constitutional processes that legitimize its authority to collect taxes in the first instance.

(c) The distinction between nullification and conditional cooperation is fundamental. Nullification claims that a state may override federal law based on the state's own judgment of constitutionality. This Act claims only that a state may withhold its own cooperation from a federal government that has abandoned constitutional legitimacy. The former attacks federal authority. The latter withdraws state assistance from an entity that has forfeited its claim to federal authority.

(d) No provision of this Act prevents federal agencies staffed by federal employees, funded by federal appropriations, and equipped with federal resources from attempting to collect federal taxes directly. This Act addresses only what the state will do with its own personnel, its own resources, and its own administrative systems.

(e) The mechanism this Act establishes, conditioning the cooperation of this state with federal tax collection and holding contested revenue in escrow pending the restoration of constitutional governance, has precedent in legislation introduced across the political spectrum, and is therefore neither novel nor confined to any single party or region. In 2010, members of the Washington State Legislature introduced House Bill 2712, the "Washington State Sovereignty and Federal Tax Escrow Account Act," which would have directed the redirection of collected federal taxes into a state escrow account subject to review for constitutional compliance, and which declared that the Constitution is a compact between the people of the sovereign states, creating a federal government as their agent and endowing it with only enumerated powers. In 2025, legislators in Maryland, New York, Connecticut, and Wisconsin introduced measures directing the withholding of payments owed to the federal government, including federal taxes collected from the wages of

state employees, in response to unlawful federal action taken in contravention of judicial orders or in disregard of appropriations enacted by Congress.

Section 104. Statement of Purpose

The purpose of this Act is to:

(a) Establish that the cooperation of this state with federal tax collection is conditioned upon the federal government's respect for the constitutional processes that legitimize federal authority;

(b) Create mechanisms through which this state may suspend such cooperation when the federal government has subverted electoral processes and thereby forfeited constitutional legitimacy;

(c) Protect employers within this state from federal retaliation for complying with state law during any period of suspended cooperation;

(d) Provide for voluntary coordination with other states that enact substantially similar legislation, without conditioning activation on the participation of any other state;

(e) Preserve escrowed funds for release to the federal government upon restoration of constitutional legitimacy, recognizing that this Act addresses the temporary crisis of illegitimate government rather than any permanent repudiation of federal authority; and

(f) Protect the right of residents of this state to be governed only by federal officials who derive their authority from constitutional processes.

Section 105. Construction and Intent

(a) This Act shall be liberally construed to effectuate its purposes.

(b) Nothing in this Act shall be construed to authorize obstruction of federal operations conducted by a constitutionally legitimate federal government.

(c) Nothing in this Act shall be construed to authorize any state officer or employee to use force or violence against any person.

(d) It is the intent of the [State Legislature] that this Act operate as a peaceful, lawful, and temporary measure to encourage restoration of constitutional governance, not as a permanent separation from the federal union or a repudiation of constitutional obligations to a legitimate federal government.

ARTICLE II: DEFINITIONS

Section 201. Definitions

As used in this Act:

(a) "Activation order" means an order issued by the Attorney General or the Governor pursuant to Article V directing the commencement of escrow operations on a specified date.

(b) "Comptroller" means the [State] Treasurer or the Treasurer's designee.

(c) "Escrow account" means the [State] Federal Tax Escrow Account established under Section 301.

(d) "Lawfully certified" means electoral votes certified by the official or body designated under state law to certify presidential electors, in accordance with the procedures established by state law, where such certification has not been invalidated by a final order of a court of competent jurisdiction within that state.

(e) "Triggering event" means any event described in Section 501.

ARTICLE III: FISCAL PROVISIONS

Section 301. Establishment of Federal Tax Escrow Account

(a) There is hereby established in the [State] Treasury a special fund to be known as the "[State] Federal Tax Escrow Account."

(b) The Comptroller shall administer the escrow account and shall maintain accurate records of all deposits and disbursements.

(c) Funds deposited in the escrow account shall be held in trust and shall not be commingled with other state funds or used for any state purpose.

(d) Interest earned on funds in the escrow account shall be credited to the account.

Section 302. Payments Subject to Escrow

(a) Upon activation of this Act pursuant to Article V, all employers within [State] shall deposit the following payments into the escrow account in lieu of remittance to the United States government:

(1) Federal income taxes withheld from employee wages pursuant to 26 U.S.C. § 3402;

(2) The employee share of Federal Insurance Contributions Act taxes withheld pursuant to 26 U.S.C. § 3102;

(3) The employer share of Federal Insurance Contributions Act taxes pursuant to 26 U.S.C. § 3111;

(4) Federal unemployment taxes pursuant to 26 U.S.C. § 3301; and

(5) Any other federal employment taxes required to be withheld or paid by employers under federal law.

(b) The Comptroller shall establish procedures for employer compliance, including registration requirements, deposit schedules mirroring existing federal deposit requirements, and reporting requirements.

(c) No employer shall be required to take any action under this section until an activation order has been issued pursuant to Article V and the activation date specified in such order has arrived.

Section 303. Employer Indemnification and Protection

(a) Employers who comply in good faith with the requirements of this Act shall be indemnified by [State] against any federal penalties, interest, or other charges arising from such compliance.

(b) [State] shall provide legal defense for any employer facing federal enforcement action arising from compliance with this Act.

(c) The [State Legislature] shall appropriate funds sufficient to satisfy the obligations under subsections (a) and (b). Such appropriation shall be maintained at a level adequate to provide credible assurance to employers that indemnification and defense are not theoretical.

(d) No employer shall be subject to any penalty, sanction, or adverse action under [State] law for complying with this Act.

(e) No employer shall be subject to any penalty under this Act for failure to comply if the employer demonstrates good faith uncertainty regarding their obligations or circumstances beyond the employer's control.

Section 304. Employer Indemnification Fund

(a) There is hereby established in the [State] Treasury a special fund to be known as the "[State] Employer Indemnification Fund."

(b) Upon enactment of this Act, and annually thereafter until this Act is activated or repealed, the [State Legislature] shall appropriate to the Employer Indemnification Fund an amount not less than $[amount], determined from the number of employers in the state and their estimated liability exposure.

(c) The Employer Indemnification Fund shall be maintained separately from the Federal Tax Escrow Account and shall not be subject to appropriation for any other purpose.

(d) Upon activation of this Act, interest earned on funds held in the Federal Tax Escrow Account shall be transferred monthly to the Employer Indemnification Fund.

(e) The Employer Indemnification Fund shall be used exclusively for:

(1) Payment of federal penalties, interest, or other charges assessed against employers for compliance with this Act;

(2) Legal defense costs for employers facing federal enforcement action;

(3) Legal defense costs for employers facing federal criminal prosecution arising from compliance with this Act; and

(4) Administrative costs of the indemnification program.

(f) The Comptroller shall report annually to the [State Legislature] on the status of the Employer Indemnification Fund, including current balance, projected liabilities, and recommendations regarding appropriation levels.

Section 305. Criminal Defense Protection

(a) The [State Legislature] recognizes that state indemnification cannot immunize employers against federal criminal prosecution, and that an aggressive federal Department of Justice could bring criminal charges against employers who comply with this Act.

(b) [State] shall provide legal defense for any employer, officer, or employee of an employer facing federal criminal prosecution arising from good faith compliance with this Act.

(c) In the event of federal criminal conviction of any employer, officer, or employee for conduct undertaken in good faith compliance with this Act, the Governor is authorized to issue a full pardon for any related state offenses and to provide such financial assistance to the convicted person and their family as the [State Legislature] may appropriate.

ARTICLE IV: INTERSTATE COORDINATION

Section 401. Voluntary Coordination with Other States

(a) The Governor may enter into agreements with other states that have enacted substantially similar legislation for the purpose of coordinating escrow operations, sharing information, establishing consistent procedures, and coordinating legal defense strategies.

(b) The Attorney General may enter into cooperative agreements with attorneys general of other states for joint legal defense and coordination of enforcement efforts related to this Act.

(c) No agreement entered into under this section shall be a prerequisite for the activation of this Act. [State] retains sole authority to activate escrow operations pursuant to Article V regardless of whether any other state has enacted similar legislation or entered into any agreement.

(d) The Attorney General shall coordinate criminal defense efforts with other states that have enacted substantially similar legislation and shall maintain a roster of qualified criminal defense attorneys for the defense of employers facing federal prosecution.

Section 402. Annual Report on Coordination

The Attorney General shall submit an annual report to the [State Legislature] regarding the status of any agreements entered into pursuant to this Article, efforts to encourage adoption of similar legislation in other states, and any coordination activities undertaken.

ARTICLE V: TRIGGERING EVENTS AND ACTIVATION

Section 501. Triggering Events

This Act shall be activated upon certification of any of the following triggering events:

(a) REFUSAL TO COUNT LAWFUL ELECTORAL VOTES. The Congress of the United States has refused to count electoral votes that were lawfully certified by state authorities under the laws of the state from which such votes originated.

(b) COUNTING OF UNLAWFUL ELECTORAL VOTES. The Congress of the United States has counted electoral votes that were not lawfully certified by state authorities under the laws of the state from which such votes purported to originate, or has counted electoral votes that were certified in direct contradiction of a final order of a court of competent jurisdiction within that state.

(c) REFUSAL TO RECOGNIZE ELECTION RESULTS. The Executive Branch of the United States has refused to recognize the results of a presidential election as lawfully certified by the states, or the incumbent President has refused to vacate office following certification of electoral votes for a different candidate.

(d) FEDERAL INTERFERENCE IN STATE ELECTIONS. Federal officers or agencies have interfered with the administration of elections in any state through:

(1) Seizure of voting equipment, ballots, or election records without judicial authorization;

(2) Deployment of federal personnel to polling places in a manner that suppresses voter participation;

(3) Threats of prosecution against state election officials for performing their duties under state law;

(4) Actions purporting to invalidate state election laws or procedures without judicial authorization; or

(5) Other actions designed to alter the outcome of an election or prevent the lawful certification of results.

Section 502. Certification Process

(a) The Attorney General of [State] shall have primary authority to certify that a triggering event has occurred. The Governor shall have concurrent authority to certify a triggering event if the

Attorney General fails to act within fourteen (14) days of a triggering event becoming publicly known.

(b) A certification shall identify the specific triggering event, provide documentation supporting the determination, and specify the date on which the triggering event occurred.

(c) Upon issuing a certification, the certifying official shall transmit the certification and all supporting documentation to the [State Legislature], to the other certifying official under this section, and to the public.

(d) A certification may be challenged by any resident of [State] in a proceeding before the [State] Supreme Court, which shall have original jurisdiction over such challenges. The Court shall rule on any challenge within fourteen (14) days of filing. If the Court does not rule within fourteen (14) days, the certification shall stand.

(e) A certification may be rescinded by the certifying official at any time prior to the activation date if the certifying official determines that the triggering event has been remediated or that the initial certification was issued in error.

Section 503. Activation

(a) Upon certification of a triggering event pursuant to Section 502, the certifying official shall issue an activation order specifying an activation date thirty (30) days hence.

(b) On the activation date, employers in [State] shall begin depositing funds into the state escrow account in lieu of remittance to the United States government.

(c) The Comptroller shall coordinate public communications to ensure employers receive clear and timely notice of the activation and their obligations under this Act.

ARTICLE VI: RELEASE CONDITIONS AND DEACTIVATION

Section 601. Conditions for Release

Funds held in the escrow account shall be released to the United States government when the Attorney General or the Governor determines that:

(a) For activation based on refusal to count lawful electoral votes: Congress has counted the electoral votes that were lawfully certified;

(b) For activation based on counting of unlawful electoral votes: The unlawfully counted votes have been excluded and the electoral count corrected;

(c) For activation based on refusal to recognize election results: The federal government has recognized the lawful results and the lawfully elected President has assumed or retained office;

(d) For activation based on federal interference: The interfering actions have ceased, any unlawful seizures have been reversed, and the affected elections have been permitted to proceed or have been remediated.

Section 602. Deactivation

(a) Upon determination that release conditions have been met, the Attorney General or the Governor shall issue a deactivation order.

(b) Upon deactivation, escrowed funds shall be released to the United States government, employers shall resume normal federal tax remittance, and this Act shall remain in effect and eligible for future activation.

ARTICLE VII: RESIDENT PROTECTION PROVISIONS

Section 701. Prohibition on State Participation in Federal Election Interference

(a) No officer or employee of [State] or any political subdivision thereof shall assist federal officers or agents in any action that constitutes a triggering event under Section 501(d).

(b) No jail, prison, or other detention facility owned or operated by [State] or any political subdivision thereof shall be used to detain any person arrested in connection with federal election interference.

(c) No state facility, equipment, or property shall be used to support federal actions constituting triggering events under this Act.

Section 702. Legal Defense for State Officials

[State] shall provide legal defense for any state or local election official facing federal prosecution, civil action, or administrative proceeding arising from the official's good faith performance of duties under [State] election law.

Section 703. Protection of Election Infrastructure

(a) All voting equipment, ballots, election records, and election administration systems owned or operated by [State] or any political subdivision thereof are hereby declared to be critical state infrastructure essential to the sovereign functions of this state.

(b) No state or local official shall surrender custody of any voting equipment, ballots, election records, or election administration systems to any federal officer or agent except pursuant to a final order of a court of competent jurisdiction that has been affirmed on appeal or for which all appeals have been exhausted.

(c) The Attorney General shall immediately seek injunctive relief against any federal attempt to seize election infrastructure without proper judicial authorization.

ARTICLE VIII: IMPLEMENTATION AND INFRASTRUCTURE

Section 801. Pre-Activation Planning

(a) Upon enactment of this Act, the Comptroller shall begin development of the administrative systems necessary to implement escrow operations, including:

(1) Employer registration systems;

(2) Electronic deposit systems mirroring existing federal deposit requirements;

(3) Compliance monitoring and reporting systems;

(4) Communication systems for employer notification; and

(5) Accounting and reconciliation systems for escrow funds.

(b) The Comptroller shall complete development of all systems required for escrow operations within twelve (12) months of enactment of this Act and shall maintain such systems in a state of operational readiness thereafter.

(c) The Comptroller shall conduct annual readiness exercises to ensure that escrow operations can commence within the thirty (30) day period specified in Section 503(a).

Section 802. Employer Education and Preparation

(a) Upon enactment of this Act, the Comptroller shall develop educational materials for employers explaining:

(1) The provisions of this Act;

(2) The circumstances under which the Act may be activated;

(3) The procedures employers will be required to follow upon activation;

(4) The protections and indemnifications available to employers; and

(5) The systems employers should have in place to ensure rapid compliance upon activation.

(b) The Comptroller shall make such educational materials available to all employers within [State] and shall conduct outreach to employer associations, chambers of commerce, and other business organizations.

Section 803. Technology Infrastructure

(a) The [State] Department of Information Technology shall ensure that all technology systems required for escrow operations are:

(1) Secure against unauthorized access;

(2) Resilient against denial-of-service attacks or other disruption;

(3) Capable of processing the volume of transactions anticipated upon activation; and

(4) Redundant and recoverable in the event of system failure.

ARTICLE IX: GENERAL PROVISIONS

Section 901. Legal Defense of This Act

(a) The Attorney General shall defend this Act against any legal challenge.

(b) The [State Legislature] shall appropriate funds necessary for the legal defense of this Act.

Section 902. Severability

(a) If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application.

(b) The provisions of this Act are severable. Specifically:

(1) If the escrow mechanism established in Article III is held invalid, the resident protection provisions of Article VII shall remain in effect.

(2) If the triggering events specified in Section 501 are held to be non-justiciable political questions, the determination of whether such events have occurred shall be made by the political branches of state government as specified in this Act.

(3) If any interstate coordination provision is held invalid, all other provisions of this Act shall remain in full force and effect.

(c) It is the intent of the [State Legislature] that this Act provide maximum protection to the residents of [State] under any judicial outcome, and that courts construe the severability provisions liberally to effectuate this intent.

Section 903. Savings Clause

(a) Nothing in this Act shall be construed to authorize obstruction of lawful federal operations conducted by a constitutionally legitimate federal government.

(b) Nothing in this Act shall prevent federal agencies from conducting lawful operations within [State] using federal employees, federal funds, and federal equipment.

(c) Nothing in this Act shall be construed to authorize any action that would violate the Constitution of the United States as properly interpreted by a legitimate judiciary.

Section 904. Appropriations

The [State Legislature] shall appropriate funds necessary to carry out this Act, including:

(a) Administration of the escrow account;

(b) The Employer Indemnification Fund established under Section 304;

(c) Employer legal defense, including criminal defense;

(d) Development and maintenance of implementation infrastructure under Article VIII;

(e) Legal defense of this Act; and

(f) Such other purposes as may be necessary to effectuate this Act.

Section 905. Reporting

(a) The Comptroller shall report to the [State Legislature] annually on:

(1) The status of implementation infrastructure;

(2) The status of the Employer Indemnification Fund;

(3) Any legal challenges to this Act and their status; and

(4) Recommendations for amendments to this Act.

(b) The Attorney General shall report to the [State Legislature] annually on:

(1) Legal developments affecting the validity or implementation of this Act;

(2) Coordination with other states; and

(3) Recommendations for amendments to this Act.

Section 906. Effective Date

This Act shall take effect upon ratification.

This model legislation was drafted by The Existentialist Republic.