



State of Wisconsin
2021 - 2022 LEGISLATURE

LRBs0099/1
RAC:cjs

**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE RESOLUTION 6**

April 14, 2021 - Offered by Senator LEMAHIEU.

1 **Relating to:** directing the attorney general to seek to join the state as a plaintiff in
2 *State of West Virginia, et al., v. US Department of the Treasury, et al.*

3 Whereas, the American Rescue Plan Act of 2021 (“ARPA”), signed by President
4 Biden on March 11, 2021, includes a short—but incredibly impactful—provision,
5 which impermissibly seizes taxing authority from the states; and

6 Whereas, this provision, the Federal Tax Mandate, housed in § 9901 of ARPA,
7 sets up an untenable choice for states either to relinquish control over a core function
8 of their inherent sovereign powers or else, in the midst of a deadly and destructive
9 pandemic, to forfeit massive and much needed federal assistance; and

10 Whereas, the Federal Tax Mandate prevents states from decreasing taxes on
11 their citizens for a period of over three years, while allowing them to increase taxes
12 on their citizens and residents without restriction; and

1 Whereas, the Federal Tax Mandate usurps the ability of the citizens to reduce
2 their tax burdens and creates an impermissible chilling effect on their elected
3 officials' willingness to do the same—based on a threat that the federal government
4 may claw back some or all of the states' share of critical ARPA funding; and

5 Whereas, never before in the history of the United States has the federal
6 government attempted such a complete take-over of state finances; and

7 Whereas, the Federal Tax Mandate steps well beyond the constitutional bounds
8 set forth in Article I of the United States Constitution and the Tenth Amendment to
9 the United States Constitution, and offends the dignity of co-sovereign states in our
10 federal system; now, therefore, be it

11 ***Resolved by the senate, That*** pursuant to section 165.25 (1m) of the
12 Wisconsin statutes, the attorney general is hereby directed to seek to join the state
13 as a plaintiff in *State of West Virginia, et al., v. US Department of the Treasury, et al.*,
14 Case No. 7:21-CV-465 (ND Ala. filed March 31, 2021), and the assembly urges and
15 authorizes the attorney general to pursue all other legal means available to oppose
16 the Federal Tax Mandate; and, be it further

17 ***Resolved, That*** nothing in this resolution prohibits the assembly, the senate,
18 or the legislature under section 13.365 of the Wisconsin statutes from seeking to
19 intervene on behalf of the state as a plaintiff in *State of West Virginia, et al., v. US*
20 *Department of the Treasury, et al.*, Case No. 7:21-CV-465 (ND Ala. filed March 31,
21 2021).

22 (END)