



2021 Senate Resolution 6

ENGROSSED RESOLUTION

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

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

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

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

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

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

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

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

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

State Capitol
Madison, Wisconsin

Senator Chris Kapenga
President of the Senate

Date

Michael J. Queensland
Senate Chief Clerk