

House Bill 6

By: Representatives Franklin of the 39th, Coan of the 82nd and Joyce of the 1st

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 50 of the Official Code of Georgia Annotated, relating to state government,
2 so as to enact the "State Sovereignty and Federal Tax Funds Act"; to provide legislative
3 findings; to define certain terms; to create the Federal Tax Fund in the state treasury; to
4 provide that moneys collected by the state for payment to the federal government shall be
5 paid into such fund; to provide that any private person liable for a federal tax shall pay such
6 tax into such fund; to provide that if the federal government sanctions the state for failure to
7 comply with a federal statute which the General Assembly feels is unconstitutional, the state
8 treasury shall withhold from payment a certain amount of the funds due the federal
9 government; to provide sanctions for failure to comply with such provisions; to provide that
10 state officials shall comply with such provisions without regard to any action taken by the
11 federal government; to provide for a special session of the General Assembly; to provide that
12 action by the federal authorities shall constitute an action against this state and shall be met
13 with all necessary measures; to provide for retroactive application; to provide for the
14 expenditure of confiscated federal funds; to provide for other matters relative to the
15 foregoing; to provide an effective date; to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

17 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended
18 by inserting at the end thereof a new chapter to read as follows:
19

"CHAPTER 35

20 50-35-1.

21 This article shall be known and may be cited as the 'State Sovereignty and Federal Tax
22 Funds Act.'
23

1 50-35-2.

2 (a) The Tenth Amendment to the Constitution of the United States of America states that
3 '(t)he powers not delegated to the United States by the Constitution, or prohibited by it to
4 the States, are reserved to the States respectively, or to the people.' The General Assembly
5 finds that the Tenth Amendment to the Constitution of the United States of America
6 defines the total scope of federal power as being that specifically stated in the Constitution
7 of the United States of America and no more.

8 (b) The General Assembly finds that the Congress of the United States has the power to
9 lay and collect taxes pursuant only to clause 1 of Section 8 of Article 1, clauses 4 and 5 of
10 Section 9 of Article 1, and the Sixteenth Amendment of the Constitution of the United
11 States of America.

12 (c) The General Assembly finds that the federal government, its agencies or agents, or the
13 United States Congress does not have the power under the Constitution of the United States
14 of America to withhold from the states the benefits of those taxes by use of federal
15 mandates that are outside the scope of the powers enumerated in the Constitution of the
16 United States of America for the federal government.

17 (d) In light of the continuing unconstitutional federal mandates that withhold the benefits
18 of the taxes, the state hereby reasserts its claim of sovereignty pursuant to the Tenth
19 Amendment to the Constitution of the United States of America.

20 50-35-3.

21 As used in this Code section, the term:

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

24 (2) 'Director' means the director of the Office of Treasury and Fiscal Services.

25 (3) 'Excise tax' means any tax that forms a component of the State Highway Account.

26 (4) 'Federal Tax Fund' means the escrow account created by Code Section 50-35-4.

27 (5) 'Income tax' means any tax imposed by the federal government on incomes from
28 whatever source derived.

29 (6) 'Person' means natural persons, corporations, partnerships, limited liability
30 companies, associations, and other legal entities.

31 50-35-4.

32 (a) The Federal Tax Fund is created in the state treasury. All federal tax moneys
33 collected by the state on behalf of the federal government shall be deposited by the
34 director into the Federal Tax Fund.

1 (b) The director, on a quarterly basis shall disburse the funds to the respective appropriate
2 federal recipient. If, as a result of state action taken pursuant to this article, the federal
3 government denies any matching funds or grants, imposes or mandates any financial
4 sanctions or penalties, or withholds funds resulting in a financial cost to the state, the
5 director shall withhold from payment all or part of the quarterly disbursement otherwise
6 disbursed or transferred to each federal recipient, per occurrence, in an amount equal to
7 the total cumulative outstanding amount of federal sanctions, denial of any matching
8 funds, denial of grants, or any other financial sanctions, penalties, or withholding of funds.
9 The director shall continue to withhold all or part of the quarterly disbursement otherwise
10 disbursed or transferred to each respective appropriate federal recipient until the total
11 cumulative amount withheld from the federal government is equal to the total cumulative
12 outstanding amount of federal sanctions, denial of any matching funds, denial of grants,
13 or any other financial sanctions, penalties, or withholding of funds.

14 (c) Funds that the director withholds from each federal recipient shall be transferred
15 quarterly from the Federal Tax Fund and deposited into the general fund for general use.
16

17 50-35-5.

18 (a) Any person liable for any federal excise, income, or consumer tax shall remit the tax
19 when due along with the federal taxpayer number to the director for deposit into the
20 Federal Tax Fund.

21 (b) All moneys collected pursuant to subsection (a) of this Code section shall be
22 transmitted to the director who, as a fiduciary agent, shall credit the funds to the Federal
23 Tax Fund on behalf of the person who remitted the tax.

24 (c) The director shall submit to the federal Internal Revenue Service the names and tax
25 identification numbers of, and the amounts deposited by, persons liable for any federal
26 excise, income, or consumer tax so that the Internal Revenue Service can credit the state's
27 taxpayers for federal tax obligations.

28 50-35-6.

29 (a) Except as provided in Code Section 50-35-4, the director shall transfer at the end of
30 each quarter the moneys held in the fund, less any interest earned on the deposit, to the
31 respective appropriate federal recipient in payment of the tax obligations of those persons
32 who remitted the tax funds to the director.

33 (b) If the federal government imposes sanctions of any kind on the state for failing to
34 enact legislation called for by federal mandate, a vote shall be taken in the General
35 Assembly as to the constitutionality of the sanctions. By a simple majority vote in each

1 house of the General Assembly, if the federal government is found to be operating beyond
2 the scope of its constitutionally delegated powers, and therefore, unconstitutionally, the
3 director shall be notified in writing by the Attorney General of the vote of the General
4 Assembly, and the General Assembly shall instruct the director to carry out the procedure
5 specified in subsection (b) of Code Section 50-35-4.

6 (c) Per occurrence, when the state has been legally notified in writing by the federal
7 government that it has lifted any sanction as specified in subsection (b) of Code Section
8 50-35-4, then, pursuant to subsection (a) of this Code section, the director shall resume
9 disbursement of funds to the respective appropriate federal recipients at the end of the next
10 upcoming quarter.

11 50-35-7.

12 Any person liable for any federal excise, income, or consumer tax who fails to forward
13 federal tax moneys to the director shall be subject to penalties assessed pursuant to
14 applicable federal or state statutes.

15 50-35-8.

16 The Governor, members of the General Assembly, judges, the Attorney General, the
17 Secretary of State, the director, the state auditor, and all other state officers and employees
18 shall implement this article regardless of any sanctions, threats, court action, or other
19 pressure brought to bear by federal authorities.

20 50-35-9.

21 If the federal government imposes any sanctions on the state while the General Assembly
22 is not in session, the Governor shall call the General Assembly into special session for the
23 purpose of implementing subsection (b) of Code Section 50-35-6.

24 50-35-10.

25 Any actions by the federal government, its agencies or agents, or the Congress of the
26 United States against any person in this state for compliance with this article shall be
27 considered an action against this state, and this state shall make an appropriate response
28 to cause the action to cease and desist. This state shall take all necessary measures to
29 recover from the federal government, its agencies or agents, or the Congress of the United
30 States the reasonable costs of defending the action.

1 50-35-11.

2 This article shall apply to federal taxes collected after the date on which this article takes
3 effect, and, because the Constitution of the United States of America is and has always
4 been the supreme law of the land, this article shall be enforced retroactively to repeal any
5 unconstitutional federal mandates that have been imposed on the state.

6 50-35-12.

7 The General Assembly, by simple majority vote in both houses, shall determine how the
8 moneys transferred from the Federal Tax Fund to the general fund, including accrued
9 interest, are to be used for the benefit of the people of the state. These moneys shall be
10 used for the benefit of the people of Georgia only."

11 **SECTION 2.**

12 This Act shall become effective upon its approval by the Governor or upon its becoming
13 law without such approval.

14 **SECTION 3.**

15 All laws and parts of laws in conflict with this Act are repealed.