

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 provide for the comprehensive regulation of federal tax funds; to provide for a short
3 title; to provide for legislative findings; to provide for definitions; to create the federal tax
4 fund panel and provide for its members, operation, powers, and duties; to create the federal
5 tax fund and provide for its operation; to provide for powers, duties, responsibilities, and
6 liabilities of state officials and state taxpayers in connection with the forgoing; to provide for
7 related matters; to provide for applicability; to provide for use of certain funds; to provide
8 for an effective date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

10 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended
11 by adding a new chapter to read as follows:
12

"CHAPTER 37

13 50-37-1.

14 This chapter shall be known and may be cited as the 'State Authority and Federal Tax
15 Funds Act.'
16

17 50-37-2.

18 (a) The Tenth Amendment to the Constitution of the United States of America states that
19 '(t)he powers not delegated to the United States by the Constitution, or prohibited by it to
20 the States, are reserved to the States respectively, or to the people.' The General Assembly
21 finds that the Tenth Amendment to the Constitution of the United States of America
22 defines the total scope of federal power as being that specifically stated in the Constitution
23 of the United States of America and no more.

24 (b) The General Assembly finds that the federal government, its agencies or agents, or the
 25 United States Congress does not have the power under the Constitution of the United States
 26 of America to appropriate or otherwise expend funds for purposes that are outside the
 27 scope of the powers enumerated in the Constitution of the United States of America for the
 28 federal government.

29 (c) In light of the continuing unconstitutional federal expenditures, the state hereby
 30 reasserts its authority pursuant to the Tenth Amendment to the Constitution of the United
 31 States of America.

32 50-37-3.

33 As used in this chapter, the term:

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

36 (2) 'Director' means the director of the Office of Treasury and Fiscal Services;

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

38 (4) 'Federal Tax Fund' means the escrow account created by Code Section 50-37-5;

39 (5) 'Income tax' means any tax imposed by the federal government on incomes from
 40 whatever source derived and shall include but not be limited to all income, withholding,
 41 payroll, Social Security, Medicare and unemployment taxes;

42 (6) 'Panel' means the Federal Tax Fund Panel created in Code Section 50-37-4; and

43 (7) 'Person' means natural persons, corporations, partnerships, limited liability
 44 companies, associations, and other legal entities.

45 50-37-4.

46 (a) There is created the Federal Tax Fund Panel which shall consist of six members of the
 47 General Assembly, none of which shall be members of the State Bar of Georgia. Three
 48 members shall be appointed by the Speaker of the House of Representatives and three
 49 members shall be appointed by the President of the Senate.

50 (b) In even numbered years the Speaker shall appoint one of the members of the Panel as
 51 chairman, and in odd numbered years the Lieutenant Governor shall appoint one of the
 52 members of the Panel as chairman. Each person appointed as chairman shall serve for a
 53 term of office of one year and until that person's successor is appointed and qualified. Any
 54 vacancy occurring during a year shall be filled by the appointing officer for the remainder
 55 of the unexpired term of office.

56 (c) The Panel shall determine the percentage of all federal expenditures that are in
57 compliance with the limits placed on the federal government by the states using the most
58 recent data published by the federal government plus any additional information on other
59 expenditures made but not disclosed by the federal government. No Federal expenditures
60 shall be qualified for disbursement to the appropriate federal recipient from the Federal Tax
61 Fund unless the use of those expenditures is made transparent to the Panel and to the
62 members of the General Assembly for the purpose of certifying the constitutionality of said
63 expenditures.

64 50-37-5.

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

68 (b) The director, on a quarterly basis shall disburse the funds to the respective appropriate
69 federal recipient provided that it has been determined by the Panel that all federal
70 expenditures for the most recently published fiscal year were only for constitutional
71 purposes. The percentage of federal appropriations that are in compliance with the limits
72 placed on the federal government by the states in Section 8 of Article 1 of the Constitution
73 of the United States of America, as determined by the Panel, shall be the same percentage
74 of the Federal Tax Fund that the director shall disburse to the appropriate federal recipient.
75 The remainder of the fund shall be withheld.

76 (c) Funds that the director withholds from each federal recipient plus any interest earned
77 thereon shall be transferred quarterly from the Federal Tax Fund and deposited into the
78 general fund for general use.

79 50-37-6

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

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

86 (c) The director shall submit to the federal Internal Revenue Service the names and tax
87 identification numbers of, and the date on which and amounts deposited by, persons liable
88 for any federal excise, income, or consumer tax so that the Internal Revenue Service can
89 credit the state's taxpayers for federal tax obligations.

90 50-37-7.

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

94 50-37-8.

95 In compliance with the Oath or Affirmation clause found in Article VI of the Constitution
 96 of the United States of America, the Governor, members of the General Assembly, judges,
 97 the Attorney General, the Secretary of State, the director, the state auditor, and all other
 98 state officers and employees shall implement this chapter regardless of any sanctions,
 99 threats, court action, or other pressure brought to bear by federal authorities.

100 50-37-9.

101 Any actions by the federal government, its agencies or agents, or the Congress of the
 102 United States against any person in this state for compliance with this chapter shall be
 103 considered an action against this state, and this state shall make an appropriate response to
 104 cause the action to cease and desist. This state shall take all necessary measures to recover
 105 from the federal government, its agencies or agents, or the Congress of the United States
 106 the reasonable costs of defending the action.

107 50-37-10.

108 This chapter shall apply to federal taxes collected after the date on which this chapter takes
 109 effect, and, because the 'Constitution, and the Laws of the United States *which shall be*
 110 *made in Pursuance thereof;* and all Treaties made, or which shall be made, *under the*
 111 *Authority* of the United States, shall be the supreme Law of the Land,' [emphasis added],
 112 this article shall be enforced retroactively to repeal any unconstitutional federal mandates
 113 that have been imposed on the state.

114 50-37-11.

115 The General Assembly, by simple majority vote in both houses, shall determine how the
 116 moneys transferred from the Federal Tax Fund to the general fund, including accrued
 117 interest, are to be used for the benefit of the people of the state. These moneys shall be
 118 used for the benefit of the people of Georgia only. Nothing in this Code section shall
 119 prohibit the General Assembly from authorizing all or a portion of the funds withheld from
 120 the appropriate federal agency be refunded to the federal taxpayers from whence it came
 121 and such refund shall not be considered a gratuity."

122

SECTION 2.

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This Act shall become effective upon its approval by the Governor or upon its becoming law

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without such approval.

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SECTION 3.

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