

Representative Steve Eliason proposes the following substitute bill:

1 **JOINT RESOLUTION URGING CONGRESS TO SUPPORT EQUITY**
2 **AND SALES TAX FAIRNESS**

3 2012 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Steve Eliason**

6 Senate Sponsor: Wayne L. Niederhauser

8 **LONG TITLE**

9 **General Description:**

10 This joint resolution of the Legislature urges the United States House of
11 Representatives to pass legislation for the fair and constitutional collection of state sales
12 tax by both in-state and remote sellers.

13 **Highlighted Provisions:**

14 This resolution:

15 ▶ urges the United States House of Representatives and the United States Senate to
16 pass, without delay, federal legislation for the fair and constitutional collection of
17 state sales tax;

18 ▶ urges that Congress consider in the legislation the following principles: 1)
19 state-provided or state-certified tax collection and remittance software that is simple
20 to implement and maintain; 2) immunity from civil liability for retailers utilizing
21 state-provided or state-certified software in tax collection and remittance; 3) tax
22 audit accountability to a single state tax audit authority; 4) elimination of interstate
23 tax complexity by streamlining taxable good categories; 5) adoption of a meaningful
24 small business exception so that small businesses that sell remotely are not
25 adversely affected by the legislation; and 6) fair compensation to the tax-collecting



26 retailer; and

27 ▶ affirms that, through passage of such legislation, the United States Congress will
28 foster consistent standards for in-state and remote sellers who are obligated to
29 collect state sales and use taxes, whether on a point-of-delivery basis or a
30 point-of-sale basis, thus providing equal, consistent, and fair treatment among
31 traditional brick and mortar retailers, brick and click retailers, catalogue retailers,
32 and pure-play internet-only-based retailers.

33 **Special Clauses:**

34 None

35

36 *Be it resolved by the Legislature of the state of Utah:*

37 WHEREAS, United States Supreme Court decisions in National Bellas Hess v.
38 Department of Revenue, 386 U.S. 753 (1967) and Quill Corp. v. N.D., 504 U.S. 298 (1992),
39 have ruled that the Commerce Clause of the United States Constitution denies states the
40 authority to require the collection of sales and use taxes by remote sellers that have no physical
41 presence in the taxing state;

42 WHEREAS, the United States Supreme Court also declared in the Quill v. North
43 Dakota decision that Congress could exercise its authority under the Commerce Clause of the
44 United States Constitution to decide "whether, when, and to what extent" the states may require
45 sales and use tax collection on remote sales;

46 WHEREAS, states and localities that use sales and use taxes as a revenue source may
47 not collect revenue from some portion of remote sales commerce;

48 WHEREAS, since 1999, various state legislators, governors, local elected officials,
49 state tax administrators, and representatives of the private sector have worked together as a
50 **H→ [Streamline Sale] Streamlined Sales Tax Project and Governing ←H** Board to develop a
50a streamlined sales and use tax system currently adopted in
51 some form in 24 states;

52 WHEREAS, between 2001 and 2002, 40 states enacted legislation expressing their
53 intent to simplify the states' sales and use tax collection systems, and to participate in
54 discussions to allow for the collection of states' sales and use taxes;

55 WHEREAS, the actions of these states arguably provide some justification for
56 Congress to enact legislation to allow states to require remote sellers to collect the states' sales

57 and use tax;

58 WHEREAS, any federal legislation should be fair to both in-state and remote sellers,
59 whether such legislation requires sales and use taxes to be collected on a point-of-sales or
60 point-of-delivery basis;

61 WHEREAS, Congress, in considering federal legislation, should consider the following
62 principles: 1) state-provided or state-certified tax collection and remittance software that is
63 simple to implement and maintain; 2) immunity from civil liability for retailers utilizing
64 state-provided or state-certified software in tax collection and remittance; 3) tax audit
65 accountability to a single state tax audit authority; 4) elimination of interstate tax complexity by
66 streamlining taxable good categories; 5) adoption of a meaningful small business exception so
67 that small businesses that sell remotely are not adversely affected by the legislation; and 6) fair
68 compensation to the tax-collecting retailer;

69 WHEREAS, the Utah State Legislature and some of its sister legislatures in other states
70 have acknowledged the complexities of the current sales and use tax system, have formulated
71 varied alternative collection systems, and have shown the political will to make changes in
72 their respective sales and use tax systems;

73 WHEREAS, the enactment of legislation by Congress and the President that allows
74 states to require remote sellers to collect the states' sales and use taxes, will facilitate the states'
75 ability to enforce their current laws for collecting sales and use taxes on remote sales;

76 WHEREAS, requiring remote sellers to collect the sales and use taxes may broaden
77 Utah's sales tax base and potentially enable the Utah State Legislature to lower sales and use
78 tax rates; and

79 WHEREAS, empowering states to collect sales and use taxes on in-state and remote
80 sales is consistent with the 10th Amendment to the United States Constitution and is a states'
81 rights issue:

82 NOW, THEREFORE, BE IT RESOLVED that the Utah State Legislature urges the
83 United States House of Representatives and the United States Senate to pass, without delay,
84 and the President of the United States to sign, federal legislation that provides for the fair and
85 constitutional collection of state sales and use taxes.

86 BE IT FURTHER RESOLVED that the Legislature of the state of Utah urges that, in
87 passing such legislation, Congress consider the following principles: 1) state-provided or

88 state-certified tax collection and remittance software that is simple to implement and maintain;
89 2) immunity from civil liability for retailers utilizing state-provided or state-certified software
90 in tax collection and remittance; 3) tax audit accountability to a single state tax audit authority;
91 4) elimination of interstate tax complexity by streamlining taxable good categories; 5) adoption
92 of a meaningful small business exception so that small businesses that sell remotely are not
93 adversely affected by the legislation; and 6) fair compensation to the tax-collecting retailer.

94 BE IT FURTHER RESOLVED that the Legislature of the state of Utah, recognizing
95 that such legislation may not include all of these principles, declares that Congress' passage of
96 the legislation will help create consistent standards for retailers forced to collect state sales and
97 use taxes whether on a point-of-delivery basis or a point-of-sale basis, thus leveling the playing
98 field between in-state and remote sellers.

99 BE IT FURTHER RESOLVED that this resolution be sent to the President of the
100 United States, the Majority Leader of the United States Senate, the Speaker of the United States
101 House of Representatives, and to the members of Utah's congressional delegation.