

**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

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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

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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.