

HJR014S01 compared with HJR014

~~{deleted text}~~ shows text that was in HJR014 but was deleted in HJR014S01.

inserted text shows text that was not in HJR014 but was inserted into HJR014S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Representative Steve Eliason proposes the following substitute bill:

**JOINT RESOLUTION URGING ~~{PASSAGE OF THE MARKET~~
{CONGRESS TO SUPPORT EQUITY {ACT OF 2011}} AND ~~{THE~~
MARKETPLACE
{SALES TAX FAIRNESS {ACT}}**

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: _____

LONG TITLE

General Description:

This joint resolution of the Legislature urges the United States House of Representatives to pass ~~{H.R. 3179, the Marketplace Equity Act of 2011, and urges the United States Senate to pass S. 1832, the Marketplace Fairness Act}~~ legislation for the fair and constitutional collection of state sales tax by both in-state and remote sellers.

Highlighted Provisions:

This resolution:

- ▶ urges the United States House of Representatives ~~{to pass H.R. 3179, the~~

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~~Marketplace Equity Act of 2011, } and { urges } the United States Senate to pass { S-1832, the Marketplace Fairness Act, without delay, and~~

~~declares } , without delay, federal legislation for the fair and constitutional collection of state sales tax;~~

- ~~▶ urges that Congress consider in the legislation the following principles: 1) state-provided or state-certified tax collection and remittance software that is simple to implement and maintain; 2) immunity from civil liability for retailers utilizing state-provided or state-certified software in tax collection and remittance; 3) tax audit accountability to a single state tax audit authority; 4) elimination of interstate tax complexity by streamlining taxable good categories; 5) adoption of a meaningful small business exception so that small businesses that sell remotely are not adversely affected by the legislation; and 6) fair compensation to the tax-collecting retailer; and~~
- ~~▶ affirms that, through passage of ~~{these pieces of}~~ such legislation, the United States Congress will ~~{help level the playing field between}~~ foster consistent standards for in-state and remote sellers who are obligated to collect state sales and use taxes, whether on a point-of-delivery basis or a point-of-sale basis, thus providing equal, consistent, and fair treatment among traditional brick and mortar retailers, brick and ~~{Internet-based}~~ click retailers, catalogue retailers, and pure-play internet-only-based retailers.~~

Special Clauses:

None

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

WHEREAS, ~~{the Supreme Court}~~ United States Supreme Court decisions in National Bellas Hess v. Department of Revenue, 386 U.S. 753 (1967) and Quill Corp. v. N.D., 504 U.S. 298 (1992), have ruled that the Commerce Clause of the United States ~~{established in its 1992, Quill v. North Dakota decision that states cannot, of their own accord, require out-of-state retailers to collect sales taxes}~~ Constitution denies states the authority to require the collection of sales and use taxes by remote sellers that have no physical presence in the taxing state;

WHEREAS, the United States Supreme Court also declared in the ~~{same ruling}~~ Quill

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v. North Dakota decision that Congress could exercise its authority under the Commerce Clause of the United States Constitution to decide "whether, when, and to what extent" the states may require sales and use tax collection on remote sales;

~~WHEREAS, {Utah municipalities receive a majority of operating revenue from sales taxes collected by brick and mortar businesses, online vendors with a nexus in the state, and use taxes collected by the Utah State Tax Commission on purchases made online through vendors without a brick and mortar location in the state;~~

~~WHEREAS, remittance of use taxes not collected by the vendor from online purchases puts an undue burden and widely unknown obligation on consumers}~~ states and localities that use sales and use taxes as a revenue source may not collect revenue from some portion of remote sales commerce;

WHEREAS, since 1999, various state legislators, governors, local elected officials, state tax administrators, and representatives of the private sector have worked together as a Streamline Sale Board to develop a streamlined sales and use tax system currently adopted in some form in 24 states;

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

~~WHEREAS, the {state of Utah has taken all necessary steps to prepare for collecting online sales taxes by making remittance of sales taxes as simple as possible for online vendors}~~ actions of these states arguably provide some justification for Congress to enact legislation to allow states to require remote sellers to collect the states' sales and use tax;

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

WHEREAS, Congress, in considering federal legislation, should consider the following principles: 1) state-provided or state-certified tax collection and remittance software that is simple to implement and maintain; 2) immunity from civil liability for retailers utilizing state-provided or state-certified software in tax collection and remittance; 3) tax audit accountability to a single state tax audit authority; 4) elimination of interstate tax complexity by streamlining taxable good categories; 5) adoption of a meaningful small business exception so

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that small businesses that sell remotely are not adversely affected by the legislation; and 6) fair compensation to the tax-collecting retailer;

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

WHEREAS, the ~~{traditional legal measures of a physical presence or a nexus create an unlevel playing field between Internet-based retailers and Utah-based retailers, who are rooted and invested in the community;~~

~~WHEREAS, the unlevel playing field and tax collection loophole given to online-only retailers starves local economies of precious resources for providing services such as schools, public safety, and infrastructure}~~enactment of legislation by Congress and the President that allows states to require remote sellers to collect the states' sales and use taxes, will facilitate the states' ability to enforce their current laws for collecting sales and use taxes on remote sales;

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

WHEREAS, ~~{local brick and mortar retailers serve as a foundation of our economy and are permanent, engaged members of the community who employ our citizens, support neighborhood charities and organizations, and contribute to cities}~~empowering states to collect sales and use taxes on in-state and remote sales is consistent with the 10th Amendment to the United States Constitution and is a states' rights issue;

NOW, THEREFORE, BE IT RESOLVED that the Utah State Legislature~~{of the state of Utah}~~ urges the United States House of Representatives ~~{to pass H.R. 3179, the Marketplace Equity Act of 2011, }and {urges}~~ the United States Senate to pass~~{ S. 1832, the Marketplace Fairness Act, without delay. }~~without delay, and the President of the United States to sign, federal legislation that provides for the fair and constitutional collection of state sales and use taxes.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah ~~{declares}~~urges that, ~~{through passage of these pieces of legislation, the United States Congress will help level the playing field between traditional brick and mortar retailers and Internet-based retailers}~~in

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

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

BE IT FURTHER RESOLVED that this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, ~~{the Majority Leader of the United States Senate, the Utah State Tax Commission, the Utah Department of Commerce, }~~ and to the members of Utah's congressional delegation.

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Legislative Review Note

~~as of 2-20-12 11:52 AM~~

~~Office of Legislative Research and General Counsel}~~