

1                   **CONCURRENT RESOLUTION IN SUPPORT OF SALES AND**  
2                                   **USE TAX TRANSACTIONAL EQUITY**

3                                   2016 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Chief Sponsor: Wayne A. Harper**

6                                   House Sponsor: Brad L. Dee

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8                   **LONG TITLE**

9                   **General Description:**

10                   This concurrent resolution of the Legislature and the Governor urges the United States  
11 Congress to pass the Remote Transactions Parity Act of 2015, H.R. 2775, legislation  
12 for fair, uniform, simplified, and constitutional collection and remittance of state and  
13 local sales and use taxes by both in-state and remote sellers.

14                   **Highlighted Provisions:**

15                   This resolution:

16                   ▶ urges Congress to pass, without delay, the Remote Transactions Parity Act of 2015,  
17 H.R. 2775, for the fair, uniform, simplified, and constitutional collection of state  
18 and local sales and use taxes due; and

19                   ▶ affirms that, through passage of the legislation, Congress will:

20                   • foster consistent standards for in-state and remote sellers who are obligated to  
21 collect state and local sales and use taxes, providing equal, consistent, and fair  
22 treatment among traditional brick-and-mortar retailers, brick-and-click retailers,  
23 catalogue retailers, and Internet-only retailers; and

24                   • require similarly situated purchasers to pay the same sales and use tax rates,  
25 regardless of which type of retailer they make their purchases from and  
26 regardless of where that retailer is located.

27                   **Special Clauses:**

28                   None

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30 *Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

31 WHEREAS, United States Supreme Court decisions in National Bellas Hess v.  
32 Department of Revenue, 386 U.S. 753 (1967), and Quill Corp. v. North Dakota, 504 U.S. 298  
33 (1992), require a seller to have a physical presence in a taxing state before the state may require  
34 the seller to collect and remit sales and use taxes on transactions that occur within that state;

35 WHEREAS, the United States Supreme Court also declared in the Quill Corp. v. North  
36 Dakota decision that Congress "has the ultimate power" under the commerce clause of the  
37 United States Constitution to resolve "whether, when, and to what extent" the states may  
38 require sales and use tax collection and remittance on remote sales;

39 WHEREAS, states and localities that use sales and use taxes as a revenue source may  
40 not collect revenue from some portion of remote sales commerce under the current Supreme  
41 Court rulings;

42 WHEREAS, since 1999, various state legislators, governors, local elected officials,  
43 state tax administrators, and representatives of the private sector have worked together to  
44 develop standards, protocols, and tax systems that mitigate the burdens addressed in Quill  
45 Corp. v. North Dakota;

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

49 WHEREAS, Utah has been a leader in demonstrating the political will to make  
50 meaningful state sales and use tax reform and encouraging state membership in the Streamlined  
51 Sales and Use Tax Agreement;

52 WHEREAS, 24 states, including Utah, have joined the Streamlined Sales and Use Tax  
53 Agreement and have refined their state laws accordingly;

54 WHEREAS, the actions of these states provide justification for Congress to enact  
55 legislation to allow states to require remote sellers to collect the states' sales and use taxes;

56 WHEREAS, the end consumer is responsible for paying the statutorily due sales and  
57 use tax and the retailer is the state-appointed collector of sales and use tax;

58           WHEREAS, the enactment of legislation by Congress that allows states to require  
59 remote sellers to collect the states' sales and use taxes is necessary to treat all sales transactions  
60 the same regardless of whether they are done by an in-state, remote, or online retailer;

61           WHEREAS, Congress has had sufficient time to address the requirements of Quill  
62 Corp. v. North Dakota and the states have acted to minimize the additional burdens on  
63 businesses by implementing automated software to calculate tax rates imposed by each tax  
64 jurisdiction;

65           WHEREAS, empowering states to collect sales and use taxes on in-state and remote  
66 sales is consistent with the Tenth Amendment to the United States Constitution and is a states'  
67 rights issue;

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

71           WHEREAS, the Utah Legislature has repeatedly passed resolutions over the last 10  
72 years calling upon Congress to pass legislation supporting Tenth Amendment rights and  
73 allowing states to collect the sales and use taxes due from all transactions;

74           WHEREAS, the United States Senate heeded that call by overwhelmingly passing the  
75 Marketplace Fairness Act of 2013, but the United States House of Representatives failed to  
76 consider or vote on the legislation;

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

80           WHEREAS, the Remote Transactions Parity Act of 2015, H.R. 2775 (the Remote  
81 Transactions Parity Act), is currently introduced in the United States House of Representatives  
82 and satisfies Quill;

83           WHEREAS, passage of the Remote Transactions Parity Act is intended to foster  
84 consistent treatment of and standards for in-state and remote sellers in collecting and remitting  
85 already due sales and use taxes;

86 WHEREAS, the small remote seller phase-in as set forth in the Remote Transactions  
87 Parity Act needs to treat all retailers the same, including retailers using an electronic  
88 marketplace;

89 WHEREAS, passage of the Remote Transactions Parity Act or the Marketplace  
90 Fairness Act is the top priority of the National Governors Association and the National  
91 Conference of State Legislatures; and

92 WHEREAS, passage of the Remote Transactions Parity Act is a top priority of the  
93 Retail Industry Leaders Association, the International Council of Shopping Centers, the Farm  
94 Bureau, the Chamber of Commerce, the United States Conference of Mayors, and other major  
95 associations:

96 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the  
97 Governor concurring therein, urges and calls upon the United States Congress to pass, without  
98 delay, and the President of the United States to sign, the Remote Transactions Parity Act,  
99 which provides for the fair, uniform, simplified, and constitutional administration of and  
100 collection of state and local sales and use taxes due.

101 BE IT FURTHER RESOLVED that Congress, in the Remote Transactions Parity Act,  
102 treat all retailers and small sellers the same in the small remote seller phase-in, including  
103 retailers using an electronic marketplace.

104 BE IT FURTHER RESOLVED that the Legislature and the Governor call upon each of  
105 Utah's members of Congress to actively support, to cosponsor, and to vote in favor of the  
106 Remote Transactions Parity Act and for Utah's members of the Senate to do the same once the  
107 legislation reaches the Senate.

108 BE IT FURTHER RESOLVED that the Legislature and the Governor affirm that,  
109 through passage of the Remote Transactions Parity Act, the United States Congress will foster  
110 consistent standards for in-state and remote sellers who are obligated to collect state and local  
111 sales and use taxes, providing equal, consistent, and fair treatment among traditional  
112 brick-and-mortar retailers, brick-and-click retailers, catalogue retailers, and Internet-only  
113 retailers and require similarly situated purchasers to easily pay the sales and use taxes due,

114 regardless of which type of retailer they make their purchases from and regardless of where that  
115 retailer is located.

116 BE IT FURTHER RESOLVED that the Legislature and the Governor urge all members  
117 of Utah's congressional delegation to vote in favor of the Marketplace Fairness Act of 2015, S.  
118 698, should that legislation be presented for a vote.

119 BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Majority  
120 Leader of the United States Senate, the Speaker of the United States House of Representatives,  
121 the chair and cochair of the Senate Finance Committee, the chair and cochair of the House  
122 Judiciary Committee, and the members of Utah's congressional delegation.