

State of South Dakota

EIGHTIETH SESSION LEGISLATIVE ASSEMBLY, 2005

339L0669

HOUSE ENGROSSED NO. **SCR 5** - 02/16/2005

Introduced by: Senators Smidt, Abdallah, Adelstein, Apa, Bartling, Bogue, Broderick, Dempster, Duenwald, Duniphan, Earley, Gant, Gray, Greenfield, Hansen (Tom), Hanson (Gary), Kelly, Knudson, Koetzle, Kooistra, Koskan, Lintz, McCracken, McNenny, Moore, Napoli, Nesselhuf, Olson (Ed), Peterson (Jim), Schoenbeck, Sutton (Dan), and Sutton (Duane) and Representatives Wick, Boomgarden, Bradford, Brunner, Buckingham, Cutler, Davis, Deadrick, Dennert, Dykstra, Elliott, Faehn, Frost, Fryslie, Garnos, Gassman, Gillespie, Glenski, Glover, Hackl, Haley, Halverson, Hanks, Hargens, Haverly, Heineman, Hennies, Hills, Howie, Hunhoff, Jensen, Jerke, Klaudt, Koistinen, Kraus, Krebs, Kroger, Lange, McCoy, McLaughlin, Michels, Miles, Murschel, Nelson, Novstrup, O'Brien, Olson (Ryan), Pederson (Gordon), Peters, Putnam, Rausch, Rave, Rhoden, Roberts, Rounds, Schafer, Sebert, Sigdestad, Street, Thompson, Tidemann, Tornow, Turbiville, Van Etten, Vehle, Weems, and Willadsen

1 A CONCURRENT RESOLUTION, Urging the members of the South Dakota Congressional
2 delegation to sponsor and support the Streamlined Sales and Use Tax Act.

3 WHEREAS, the 1967 Bellas Hess and the 1992 Quill Supreme Court decisions denied
4 states the authority to require the collection of sales and use taxes by out-of-state sellers that
5 have no physical presence in the taxing state; and

6 WHEREAS, the combined weight of the inability to collect sales and use taxes on remote
7 sales through traditional carriers and the tax erosion due to electronic commerce threatens the
8 future viability of the sales tax as a stable revenue source for state and local governments; and

9 WHEREAS, the Center for Business and Economic Research at the University of Tennessee



1 has estimated that states lost as much as \$16.1 billion in 2003 because they were not able to
2 collect taxes on remote sales, including sales on the internet and the center estimates that by
3 2006 this revenue loss to states will climb to \$26.5 billion and by 2008 it will be \$33.8 billion;
4 and

5 WHEREAS, the same study estimated that South Dakota lost as much as \$43.8 million in
6 2003 because of this inability to require remote sellers to collect our state's sales and use taxes,
7 and the study further estimates that by 2008 this revenue loss will climb to \$88.6 million; and

8 WHEREAS, South Dakota's sales and use tax base shrinks every day as consumers change
9 their purchase habits while the state government's expenses continue to increase; and

10 WHEREAS, a voluntary streamlined sales and use tax system will generate \$2 million to
11 \$3 million in state taxes which the Legislature and the Governor will make sure does not
12 disappear into the state's budget and is used for those areas critical to our citizens, such as
13 education and property tax relief; and

14 WHEREAS, since 1999, state legislators, governors, local elected officials, state tax
15 administrators, and representatives of the private sector have worked to develop a streamlined
16 sales and use tax collection system for the 21st Century; and

17 WHEREAS, between 2001 and 2002, South Dakota and thirty-four other states enacted
18 legislation expressing the intent of the state to simplify the state's sales and use tax collection
19 systems and to participate in multistate discussions to finalize and ratify an interstate agreement
20 to streamline collection of the states' sales and use taxes; and

21 WHEREAS, on November 12, 2002, delegates from South Dakota and the other states
22 unanimously ratified the Streamlined Sales and Use Tax Agreement, which substantially
23 simplifies state and local sales tax systems, removes the burdens to interstate commerce that
24 were of concern to the Supreme Court, and protects state sovereignty; and

1 WHEREAS, the Streamlined Sales and Use Tax Agreement provides the states with a
2 blueprint to create a simplified and more uniform sales and use tax collection system that when
3 implemented, allows justification for Congress to overturn the Bellas Hess and Quill decisions;
4 and

5 WHEREAS, South Dakota enacted legislation in 2003 to bring this state's sales and use tax
6 statutes into compliance with the Streamlined Sales and Use Tax Agreement; and

7 WHEREAS, by July 1, 2004, twenty-one states, Arkansas, Indiana, Iowa, Kansas, Kentucky,
8 Michigan, Minnesota, Nebraska, Nevada, North Carolina, North Dakota, Ohio, Oklahoma,
9 South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia and Wyoming,
10 representing over thirty-five percent of the total population of the United States enacted
11 legislation to bring their state's sales and use tax statutes into compliance with the Agreement;
12 and

13 WHEREAS, the Legislature of South Dakota and our colleagues in the other states have
14 shown the resolve to acknowledge the complexities of the current sales and use tax collection
15 system, have worked with the business community to formulate a truly simplified and
16 streamlined collection system, and have shown the political will to enact the necessary changes
17 to make the streamlined collection system the law; and

18 WHEREAS, the Streamlined Sales and Use Tax Act will be introduced in Congress to grant
19 those states that comply with the agreement the authority to require all sellers, regardless of
20 nexus, to collect those states' sales and use taxes; and

21 WHEREAS, supporting the states' effort to comply with the Streamlined Sales and Use Tax
22 Agreement and the federal legislation granting states collection authority are such companies
23 and organizations as: American Booksellers Association, AFL-CIO, American Federation of
24 Teachers, American Federation of State, County and Municipal Employees, American Jewelers

1 Association, Circuit City Stores, Inc., Department for Professional Employees, Electronic
2 Commerce Association, Gateway Companies, Inc., Home Depot, International Association of
3 Firefighters, International Council of Shopping Centers, K-Mart Corporation, Lowe's
4 companies, National Association of College Stores, National Association of Convenience
5 Stores, National Association of Industrial and Office Properties, National Association of
6 Realtors, National Community Pharmacists Association, National Education Association,
7 National Retail Federation, North America Retail Dealers Association, PETsSMART, Inc.,
8 RadioShack Corporation, Service Employees International Union, ShopKo, Staples, Inc., Target,
9 Inc., The Gap, Inc., The Real Estate Roundtable, The Rouse Company, United Food and
10 Commercial Workers International Union, VerticalNet, Inc., Wal-Mart, and Westfield America,
11 Inc.; and

12 WHEREAS, until Congress and the President enact the Streamlined Sales and Use Tax Act,
13 participation by remote sellers is only voluntary making it unlikely that the states will close the
14 revenue gap between what is owed on remote transactions and what is collected; and

15 WHEREAS, Congressman Roy Blunt of Missouri, House Majority Whip, has termed this
16 federal legislation as "fiscal relief for the states that does not cost the federal government a
17 single cent" and ensures the viability of the sales and use tax as a state revenue source;

18 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Eightieth Legislature of the
19 State of South Dakota, the House of Representatives concurring therein, that the Legislature of
20 South Dakota calls upon the members of our congressional delegation, Senators Tim Johnson
21 and John Thune and Representative Stephanie Herseth, to join as co-sponsors of the Streamlined
22 Sales and Use Tax Act and to support its swift adoption by the Congress of the United States;
23 and

24 BE IT FURTHER RESOLVED, that the Legislature of South Dakota urges President

- 1 George W. Bush to sign the Streamlined Sales and Use Tax Act into law, upon its passage by
- 2 the Congress.