

SENATE CONCURRENT RESOLUTION NO. 5

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

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

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

WHEREAS, the Center for Business and Economic Research at the University of Tennessee has estimated that states lost as much as \$16.1 billion in 2003 because they were not able to collect taxes on remote sales, including sales on the internet and the center estimates that by 2006 this revenue loss to states will climb to \$26.5 billion and by 2008 it will be \$33.8 billion; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BE IT FURTHER RESOLVED, that the Legislature of South Dakota urges President George W. Bush to sign the Streamlined Sales and Use Tax Act into law, upon its passage by the Congress.

Adopted by the Senate,
Concurred in by the House of Representatives,

February 14, 2005
February 16, 2005

Dennis Daugaard
President of the Senate

Patricia Adam
Secretary of the Senate

Matthew Michels
Speaker of the House

Karen Gerdes
Chief Clerk of the House