

By Senator Lynn

7-04784-09

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Senate Resolution

A resolution addressed to the Congress of the United States, urging the Congress to enact legislation to authorize states that have complied with the Streamlined Sales and Use Tax Agreement to require out-of-state sellers to collect each such state's sales and use tax.

WHEREAS, the opinions of the United States Supreme Court in the 1967 National Bellas Hess decision and the 1992 Quill decision denied the several states the present authority to require the collection of sales and use tax on the sale of goods by out-of-state sellers that have no physical presence in the taxing state, and

WHEREAS, those opinions of the United States Supreme Court do acknowledge that Congress may confer upon the several states the authority to require out-of-state sellers to collect sales and use tax on these remote sales, and

WHEREAS, the present lack of state authority threatens the continued ability of states that are dependent on such revenue to rely on sales and use taxes as a stable revenue source for state and local governments, and

WHEREAS, estimated state revenues lost as a result of the lack of such authority may have been as much as \$ 16.1 billion in 2003 and such losses are expected to continue to climb, and

WHEREAS, this estimated revenue loss may have cost Florida hundreds of millions of dollars a year in lost tax revenue, and

WHEREAS, local Florida retailers who make sales at their Florida stores experience a tax inequity under the de facto

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30 sales tax exemption for Internet and mail order sales because  
31 these traditional "bricks and mortar" businesses must apply and  
32 collect sales tax while out-of-state sellers having no physical  
33 presence in this state need not, and

34 WHEREAS, there exists an unfair "digital divide" under  
35 which higher-income households, which are much more likely to  
36 have the resources to own a computer, have Internet access and a  
37 credit card to make de facto exempt, remote purchases, while  
38 low-income consumers without the resources to shop online or by  
39 mail, and who are consigned to shopping in local stores, bear  
40 more than their fair share of state sales tax, and

41 WHEREAS, since 1999, state legislators, governors, local  
42 elected officials, state tax administrators, and representatives  
43 of the private sector have worked to develop a Streamlined Sales  
44 and Use Tax Collection System for the 21st Century, and

45 WHEREAS, between 2001 and 2002, 35 states, including  
46 Florida, enacted legislation expressing the intent of the state  
47 to simplify the states' sales and use tax collection systems and  
48 to participate in multistate discussions to finalize and ratify  
49 an interstate agreement to streamline the collection of state  
50 sales and use taxes, and

51 WHEREAS, on November 12, 2002, these states unanimously  
52 ratified the Streamlined Sales and Use Tax Agreement, which  
53 substantially simplifies state and local sales tax systems,  
54 removes the burdens to interstate commerce that were of concern  
55 to the Supreme Court, and protects state sovereignty, and

56 WHEREAS, the Streamlined Sales and Use Tax Agreement  
57 provides the states with a blueprint to create a simplified  
58 sales and use tax collection system that, when implemented,

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59 allows justification for Congress to overturn the Bellas Hess  
60 and Quill decisions under its federal Commerce Clause powers,  
61 and

62 WHEREAS, by July 1, 2004, 21 states representing more than  
63 35 percent of the total population of the United States had  
64 enacted legislation to bring their states' sales and use tax  
65 statutes into compliance with the agreement, and

66 WHEREAS, Florida is resolved to address the complexities of  
67 the current sales and use tax collection system, and

68 WHEREAS, the Sales Tax Fairness and Simplification Act,  
69 S.2152 by Senator Mike Enzi of Wyoming and the Streamlined Sales  
70 Tax Simplification Act, S.2153 by Senator Byron Dorgan of North  
71 Dakota, were introduced in the last session of Congress to grant  
72 those states that comply with the agreement the authority to  
73 require all sellers, regardless of whether they have physical  
74 presence in the taxing state, to collect those states' sales and  
75 use taxes, and

76 WHEREAS, the House Majority Whip, Congressman Roy Blunt of  
77 Missouri, has termed this federal legislation to be "fiscal  
78 relief for the states that does not cost the federal government  
79 a single cent" and ensures the viability of the sales and use  
80 tax as a state revenue source, NOW, THEREFORE,

81

82 Be It Resolved by the Senate of the State of Florida:

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84 That the Senate urges the United States Congress to enact  
85 legislation to give states that have complied with the  
86 Streamlined Sales and Use Tax Agreement the authority to require  
87 out-of-state sellers to collect their sales and use tax.

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88 BE IT FURTHER RESOLVED that a copy of this resolution, with  
89 the Seal of the Senate affixed, be transmitted to the Speaker of  
90 the United States House of Representatives, the President of the  
91 United States Senate, and each member of the Florida  
92 congressional delegation.