

By Senator Lynn

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Senate Memorial

A memorial to the Congress of the United States,
urging 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
sales tax exemption for Internet and mail order sales because

7-00029-10

201094

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

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

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

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

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

55 WHEREAS, the Streamlined Sales and Use Tax Agreement
56 provides the states with a blueprint to create a simplified
57 sales and use tax collection system that, when implemented,
58 allows justification for Congress to overturn the Bellas Hess

7-00029-10

201094

59 and Quill decisions under its federal Commerce Clause powers,
60 and

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

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

67 WHEREAS, the Sales Tax Fairness and Simplification Act,
68 filed as S.34 by Senator Mike Enzi of Wyoming and H.R.3396 by
69 Representative William Delahunt of Massachusetts, was introduced
70 in the 110th Congress to grant those states that comply with the
71 agreement the authority to require all sellers, regardless of
72 whether they have physical presence in the taxing state, to
73 collect those states' sales and use taxes, and

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

79
80 Be It Resolved by the Legislature of the State of Florida:

81
82 That the Congress of the United States is urged to enact
83 legislation to give states that have complied with the
84 Streamlined Sales and Use Tax Agreement the authority to require
85 out-of-state sellers to collect their sales and use tax.

86 BE IT FURTHER RESOLVED that copies of this memorial be
87 dispatched to the President of the United States, to the

7-00029-10

201094__

88 President of the United States Senate, to the Speaker of the
89 United States House of Representatives, and to each member of
90 the Florida delegation to the United States Congress.