Introduced by Senator Ducheny

January 27, 2009

Senate Joint Resolution No. 1—Relative to the Sales Tax Fairness and Simplification Act.

LEGISLATIVE COUNSEL'S DIGEST

SJR 1, as introduced, Ducheny. Sales Tax Fairness and Simplification Act.

This measure would urge members of the California congressional delegation to join as cosponsors of the federal Sales Tax Fairness and Simplification Act, or similar legislation, and for the Congress of the United States to pass the legislation and the President to sign that legislation.

Fiscal committee: no.

1   WHEREAS, United States Supreme Court decisions (National
2 Bellas Hess v. Department of Revenue (1967) 386 U.S. 753 and
3 Quill Corp. v. N.D. (1992) 504 U.S. 298) have interpreted the
4 Commerce Clause of the United States Constitution to deny states
5 the authority to require the collection of use taxes by out-of-state
6 sellers that have no physical presence in the taxing state; and
7   WHEREAS, The failure to collect use taxes on remote sales
8 through traditional carriers and the erosion of sales and use tax
9 due to electronic commerce threatens the future viability of the
10 sales and use tax as a stable revenue source for state and local
11 governments; and
12   WHEREAS, The Center for Business and Economic Research
13 at the University of Tennessee has estimated that states could lose

 1 as much as $33 billion in 2008 because they were not able to collect
 2 taxes on remote sales, including sales on the Internet; and
 3   WHEREAS, The same study estimated that California may have
 4 lost as much as $4 billion in 2008 because of the failure to require
 5 remote sellers to collect our state's use taxes; and
 6   WHEREAS, Since 1999, state legislators, governors, local
 7 elected officials, state tax administrators, and representatives of
 8 the private sector have worked to develop a streamlined sales and
 9 use tax system for the 21st century; and
10   WHEREAS, Between 2001 and 2002, 40 states enacted
11 legislation expressing the intent to simplify the states' sales and
12 use tax collection systems, and to participate in multistate
13 discussions to finalize, and ratify, an interstate agreement to
14 streamline payment and collection of the states' sales and use taxes;
15 and
16   WHEREAS, On November 12, 2002, delegates from these 40
17 states unanimously ratified the Streamlined Sales and Use Tax
18 Agreement, which substantially simplifies state and local sales
19 and use tax systems, addresses the burdens to interstate commerce
20 that were of concern to the United States Supreme Court, and
21 protects state sovereignty; and
22   WHEREAS, The Streamlined Sales and Use Tax Agreement
23 provides states with a blueprint to create a simplified and more
24 uniform sales and use tax system, and provides justification for
25 Congress to enact legislation to allow states to require remote
26 sellers to collect the states' use tax; and
27   WHEREAS, California enacted legislation, SB 157 in 2003,
28 expressing the intent of the Legislature to bring this state's sales
29 and use tax statutes into compliance with the Streamlined Sales
30 and Use Tax Agreement; and
31   WHEREAS, By January 1, 2008, 22 states: Arkansas, Indiana,
32 Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, Nevada,
33 New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, South
34 Dakota, Tennessee, Texas, Utah, Vermont, Washington, West
35 Virginia, and Wyoming, representing over 35 percent of the total
36 population of the United States, enacted legislation to bring their
37 state's sales and use tax statutes into compliance with the
38 agreement; and
39   WHEREAS, The California State Legislature and our colleagues
40 in other states have shown the resolve to acknowledge the

 1 complexities of the current sales and use tax system, have worked
 2 with the business community to formulate a truly simplified and
 3 streamlined collection system, and have shown the political will
 4 to enact the necessary changes to make the streamlined collection
 5 system the law; and
 6   WHEREAS, In the 110th Congress, the Sales Tax Fairness and
 7 Simplification Act (S.34 by U.S. Senators Enzi, Inouye, Leahy, et
 8 al.; H.R. 3396 by Congress persons Delahunt, LaHood, Conyers,
 9 et al.) was introduced to grant those states that complied with the
10 Streamlined Sales and Use Tax Agreement the authority to require
11 out-of-state sellers, regardless of nexus, to collect those states' use
12 taxes on remote sales; and
13   WHEREAS, Until Congress and the President enact the Sales
14 Tax Fairness and Simplification Act or similar legislation,
15 participation by remote sellers not engaged in business in a state
16 is only voluntary and thus states are unlikely to close the revenue
17 gap between what is owed on remote transactions and what is
18 collected; and
19   WHEREAS, Members of the United States Congress have
20 termed this federal legislation as "fiscal relief for the states that
21 does not cost the federal government a single cent" and ensures
22 the viability of the sales and use tax as a state revenue source; now,
23 therefore, be it
24   *Resolved by the Senate and the Assembly of the State of*
25 *California, jointly,* That the California State Legislature calls upon
26 the members of our congressional delegation to join as cosponsors
27 of the Sales Tax Fairness and Simplification Act or similar
28 legislation and to support its swift adoption by the Congress of the
29 United States, or take other appropriate legislative action to allow
30 states to collect use taxes on products sold over the Internet; and
31 be it further
32   *Resolved,* That the California State Legislature urges the
33 President to sign into law the Sales Tax Fairness and Simplification
34 Act or other legislation allowing for the collection of use taxes on
35 products sold over the Internet, upon its passage by the Congress;
36 and be it further
37   *Resolved,* That the Secretary of the Senate transmit copies of
38 this resolution to the President and Vice President of the United
39 States, to the President pro Tempore of the United States Senate,
40 to the Speaker of the House of Representatives, to each Senator

1 and Representative from California in the Congress of the United
2 States, and to the author for appropriate distribution.

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