

## Senate Joint Resolution No. 1

### RESOLUTION CHAPTER 95

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

[Filed with Secretary of State September 11, 2009.]

#### LEGISLATIVE COUNSEL'S DIGEST

SJR 1, Ducheny. Remote sales: use taxes.

This measure would urge members of the California congressional delegation to join in support of legislative action by the Congress of the United States to allow states to collect use taxes on remote sales and to exempt from the use tax collection requirement small businesses that sell products over the Internet, and for the President to sign that legislation.

WHEREAS, United States Supreme Court decisions (National Bellas Hess v. Department of Revenue (1967) 386 U.S. 753 and Quill Corp. v. N.D. (1992) 504 U.S. 298) have interpreted the Commerce Clause of the United States Constitution to deny states the authority to require the collection of use taxes by out-of-state sellers that have no physical presence in the taxing state; and

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

WHEREAS, States and localities that use sales and use taxes as a revenue source are not collecting revenue from a significant share of electronic commerce; 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 system for the 21st century; and

WHEREAS, Between 2001 and 2002, 40 states enacted legislation expressing the intent to simplify the states' sales and use tax collection systems, and to participate in discussions to allow for the collection of states' sales and use taxes; and

WHEREAS, The actions of the states provide justification for Congress to enact legislation to allow states to require remote sellers to collect the states' use tax; and

WHEREAS, The California State Legislature and our colleagues in other states have shown the resolve to acknowledge the complexities of the current sales and use tax system, have worked with the business community to

formulate alternative collection systems, and have shown the political will to enact the necessary changes to make the collection systems the law; and

WHEREAS, Until Congress and the President enact legislation allowing states to require remote sellers to collect the states' use tax, states are unlikely to close the revenue gap between what is owed on remote transactions and what is collected; and

WHEREAS, When considering legislation, Congress should ensure that any federal legislation enabling use tax collection on remote sales does not adversely affect California small businesses that sell remotely and should adopt a meaningful small business exception from the legislation; and

WHEREAS, Members of the United States Congress have 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 and the Assembly of the State of California, jointly,* That the California State Legislature calls upon the members of our congressional delegation to join in support of legislative action by the Congress of the United States to allow states to collect use taxes on remote sales and to exempt from the use tax collection requirement small businesses that sell products over the Internet; and be it further

*Resolved,* That the California State Legislature urges the President to sign into law legislation allowing for the collection of use taxes on remote sales and to exempt from the use tax collection requirement small businesses that sell products over the Internet, upon its passage by the Congress; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the President pro Tempore of the United States Senate, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the author for appropriate distribution.