
SUBSTITUTE SENATE JOINT MEMORIAL 8009

State of Washington 62nd Legislature 2011 2nd Special Session

By Senate Ways & Means (originally sponsored by Senators Regala and Nelson)

READ FIRST TIME 12/14/11.

1 TO THE HONORABLE BARACK OBAMA, PRESIDENT OF THE UNITED STATES, AND
2 TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
3 REPRESENTATIVES, AND TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE
4 UNITED STATES, IN CONGRESS ASSEMBLED:

5 We, your Memorialists, the Senate and House of Representatives of
6 the State of Washington, in legislative session assembled, respectfully
7 represent and petition as follows:

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

12 WHEREAS, This puts local, in-state sellers, whether electronic or
13 brick and mortar, at a competitive disadvantage in making sales,
14 because they must collect the sales tax and most remote sellers do not
15 collect sales tax; and

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

1 WHEREAS, The following federal legislation has been introduced in
2 the United States Congress to grant states the authority to require all
3 sellers, regardless of nexus, to collect those states' sales and use
4 taxes:

5 (1) The Main Street Fairness Act of 2011 (S.1452 sponsored by
6 Senators Richard Durbin, Daniel Akaka, Daniel Inouye, Tim Johnson, Jack
7 Reed, and Sheldon Whitehouse; and H.R. 2701 sponsored by
8 Representatives John Conyers, Jr., Michael Capuano, Jesse Jackson,
9 Henry C. "Hank" Jr. Johnson, Heath Shuler, Adam Smith, and Peter
10 Welch);

11 (2) The Marketplace Fairness Act of 2011 (S.1832 sponsored by
12 Senators Michael Enzi, Lamar Alexander, Roy Blunt, John Boozman, Bob
13 Corker, Richard Durbin, Tim Johnson, Mark Pryor, Jack Reed, and Sheldon
14 Whitehouse); and

15 (3) The Marketplace Equity Act of 2011 (H.R. 3179 sponsored by
16 Steve Womack, Michael Cupuano, Judy Chu, Eric A. "Rick" Crawford,
17 Theodore E. Deutch, Mario Diaz-Balart, John J. Duncan Jr., Renee L.
18 Ellmers, Gene Green, Carolyn B. Maloney, Betty McCollum, Brad Miller,
19 Kristi L. Noem, Ted Poe, Dennis Ross, Heath Shuler, Jackie Speier, and
20 Peter Welch); and

21 WHEREAS, It is estimated that Washington would realize up to \$170.3
22 million in state and local taxes in the 2011-2013 biennium, and \$483.0
23 million in state and local taxes in the 2013-2015 biennium, if it had
24 the ability to require remote sellers to collect our state's sales and
25 use taxes; and

26 WHEREAS, Since 1999, state legislators, governors, local elected
27 officials, state tax administrators, and representatives of the private
28 sector have worked to develop a Streamlined Sales and Use Tax
29 Collection System for the 21st century; and

30 WHEREAS, On November 12, 2002, state delegates unanimously ratified
31 the Streamlined Sales and Use Tax Agreement, which substantially
32 simplifies state and local sales tax systems, removes the burdens to
33 interstate commerce that were of concern to the Supreme Court, protects
34 state sovereignty, and is consistent with the introduced federal
35 legislation; and

36 WHEREAS, The Streamlined Sales and Use Tax Agreement provides the
37 states with a blueprint to create a simplified and more uniform sales

1 and use tax collection system that when implemented, allows
2 justification for Congress to overturn the Bellas Hess and Quill
3 decisions; and

4 WHEREAS, Washington State enacted legislation in 2007 to bring this
5 state's sales and use tax statutes into compliance with the Streamlined
6 Sales and Use Tax Agreement; and

7 WHEREAS, By November 30, 2011, 24 states: Arkansas, Georgia,
8 Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, Nevada,
9 New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island,
10 South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia,
11 Wisconsin, and Wyoming, representing over 40 percent of the total
12 population of the United States enacted legislation to bring their
13 state's sales and use tax statutes into compliance with the Agreement;
14 and

15 WHEREAS, Over 1,700 businesses have voluntarily registered under
16 the Streamline Sales and Use Tax Agreement to collect and remit sales
17 and use taxes; and

18 WHEREAS, The legislature of Washington and our colleagues in the
19 other states have shown the resolve to acknowledge the complexities of
20 the current sales and use tax collection system, have worked with the
21 business community to formulate a truly simplified and streamlined
22 collection system, and have shown the political will to enact the
23 necessary changes to make the streamlined collection system the law;
24 and

25 WHEREAS, Until Congress and the President enact federal
26 legislation, participation by remote sellers is only voluntary and thus
27 states are unlikely to close the revenue gap between what is owed on
28 remote transactions and what is collected; and

29 WHEREAS, Governors and state legislatures have made the difficult
30 choices to reduce spending and where necessary to raise revenue during
31 the recent "great" recession to close the \$417 billion cumulative
32 budget gaps; and

33 WHEREAS, After closing \$417 billion in budget gaps for fiscal years
34 2009-2011, the estimated budget shortfall for states in fiscal year
35 2012 will be \$82 billion and for fiscal year 2013 will be \$67 billion;
36 and

37 WHEREAS, Federal legislation would provide fiscal relief for the
38 states by enabling collections of taxes that are already due;

1 NOW, THEREFORE, Your Memorialists respectfully pray that: The
2 members of our congressional delegation join as cosponsors of the
3 introduced federal legislation and support the Act's swift adoption by
4 the Congress of the United States; and that President Barack Obama sign
5 the legislation, upon its passage by Congress.

6 BE IT RESOLVED, That copies of this Memorial be immediately
7 transmitted to the Honorable Barack Obama, President of the United
8 States, the President of the United States Senate, the Speaker of the
9 House of Representatives, and each member of Congress from the State of
10 Washington.

--- END ---