

SENATE JOINT RESOLUTION NO. 5—SENATORS WOODHOUSE, DENIS, KIHUEN, SMITH, PARKS; ATKINSON, FORD, HUTCHISON, JONES, KIECKHEFER, MANENDO, ROBERSON, SEGERBLOM AND SPEARMAN

FEBRUARY 12, 2013

Referred to Committee on Legislative Operations and Elections

SUMMARY—Urges Congress to pass the Marketplace Fairness Act. (BDR R-697)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

SENATE JOINT RESOLUTION—Urging Congress to pass the Marketplace Fairness Act.

1 WHEREAS, In the case of *National Bellas Hess, Inc. v.*
2 *Department of Revenue*, 386 U.S. 753 (1967), the United States
3 Supreme Court held, in relevant part, that Congress alone has the
4 power to regulate and control the taxation of commerce which is
5 conducted between a business that is located within one state, and a
6 customer who is located in another state and who communicates
7 with and purchases from the business using only remote means; and
8 WHEREAS, The United States Supreme Court established in
9 *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992), that a state
10 government cannot, of its own accord, require out-of-state retailers
11 to collect sales tax on sales within the state; and
12 WHEREAS, The United States Supreme Court also announced in
13 *Quill* that Congress could exercise its authority under the Commerce
14 Clause of the United States Constitution to decide whether, when
15 and to what extent the states may require collection of sales tax on
16 remote sales; and
17 WHEREAS, The State of Nevada and municipalities within this
18 State receive significant operating revenue from sales taxes
19 collected by brick-and-mortar businesses and online vendors with a
20 nexus to the State and from use taxes on purchases made online



1 through vendors without a brick-and-mortar location in the State;
2 and

3 WHEREAS, Remittance of use taxes not collected by a vendor
4 from online purchases puts an undue burden and widely unknown
5 obligation on consumers; and

6 WHEREAS, The unequal taxation schemes as between online and
7 traditional retailers create a disadvantage for Nevada-based retailers,
8 who are rooted and invested in the Nevada community and employ
9 residents of this State; and

10 WHEREAS, The tax collection loophole for online retailers
11 deprives local governments of revenue that could be used to fund
12 necessities such as schools, police and fire departments, and other
13 important infrastructure; and

14 WHEREAS, The Marketplace Fairness Act, S. 336, 113th Cong.
15 (2013), and H.R. 684, 113th Cong. (2013), proposes to provide
16 states with the authority to require out-of-state retailers, such as
17 online and catalog retailers, to collect and remit sales tax on
18 purchases shipped into the state; and

19 WHEREAS, The State of Nevada has enacted the Simplified
20 Sales and Use Tax Administration Act, chapter 360B of NRS, which
21 is in compliance with the Marketplace Fairness Act, S. 336, 113th
22 Cong. § 2 (2013) and H.R. 684, 113th Cong. § 2 (2013); now,
23 therefore, be it

24 RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF
25 NEVADA, JOINTLY, That the members of the 77th Session of the
26 Nevada Legislature urge Congress to pass the Marketplace Fairness
27 Act without delay; and be it further

28 RESOLVED, That the Secretary of the Senate prepare and
29 transmit a copy of this resolution to the Vice President of the United
30 States as the presiding officer of the United States Senate, the
31 Speaker of the House of Representatives, each member of the
32 Nevada Congressional Delegation and the Executive Director of
33 the Department of Taxation; and be it further

34 RESOLVED, That this resolution becomes effective upon
35 passage.

