A Resolution sponsored by Washington, Indiana, North Dakota, South Dakota, and Utah opposing Federal preemption of state authority over how to exempt or tax digital goods and services:

WHEREAS, our society is moving from a tangible economy to a digital economy at an increasingly rapid rate where many items formerly sold as tangible personal property are more frequently being sold in digital form (books, music, and video), and where businesses increasingly buy software as a service delivered electronically.

WHEREAS, Streamlined states worked diligently with business to understand the changes in technology and the changes in the proliferating and evolving business models so that states can manage their sales tax base in a rational basis;

WHEREAS, in Congress has been introduced the Digital Goods and Services Tax Fairness Act of 2011 (H.R. 1860 and S. 971) (the "Acts"), the purported purpose of which is to eliminate the excessive, multiple, and discriminatory state and local taxation of digital goods and services;

WHEREAS, the Acts are a Federal preemption of state taxes on digital goods and services, including all sales and use taxes covered by the Streamlined Sales and Use Tax Agreement;

WHEREAS, the proposed Federal preemption includes language that differs from or is inconsistent with the Streamlined Sales and Use Tax Agreement, including but not limited to, provisions relating to sourcing, bundled transactions, the definitions of sales price, purchase price, and specified digital products, software delivered electronically as tangible personal property, and the election for origin sourcing for intrastate transactions;

WHEREAS, the Acts are drafted broadly to apply to services and goods that Streamlined states have not traditionally treated as digital goods and services, contain many overly broad, ambiguous, and poorly defined terms, and would require all Streamlined states to change to their law;

WHEREAS, the Acts restrict the ability of states to interpret and administer the law in regard to sales and use tax on digital goods and services and would exacerbate the problems caused by Quill v. North Dakota by imposing a mandatory sourcing regime without providing states with the authority to tax sellers without physical presence;

WHEREAS, the Acts provide unprecedented federal court concurrent jurisdiction in regard to excise taxes, which will lead to significant conflicts between courts and jurisdictions, greater uncertainty for Streamlined states , and higher litigation costs;

WHEREAS, the problems of multiple and discriminatory taxation with respect to sales and use taxes are addressed under existing constitutional jurisprudence and federal law;

NOW THEREFORE, BE IT RESOLVED THAT THE MEMBERS OF THE STREAMLINED SALES AND USE TAX AGREEMENT HEREBY: oppose The Digital Goods and Services Tax Fairness Act of 2011 in its current form.

BE IT FURTHER RESOLVED THAT THE MEMBERS OF THE STREAMLINED SALES AND USE TAX AGREEMENT HEREBY: encourage proponents of the Act to engage the Streamlined organization and other interested stakeholders to establish model rules to accomplish their goals or to make changes to the Acts that would address the needs and concerns of the state and local governments;

BE IT FURTHER RESOLVED THAT Congress has a responsibility to do no harm to state tax structures or to business competitiveness and the Acts **MUST** eliminate the risk of nowhere tax under the Act's sourcing rules even if that means granting states jurisdictional authority to collect taxes from digital goods sellers without physical presence.

This resolution was adopted on August 31, 2011 shall automatically terminate one year after adoption.