

MAR 11 2016

S.R. NO. III

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## SENATE RESOLUTION

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REQUESTING THE DEPARTMENT OF TAXATION TO TAKE PROMPT AND  
DECISIVE ACTION ADDRESSING E-FAIRNESS.

1 WHEREAS, the Commerce Clause (Article I, Section 8) of the  
2 United States Constitution as currently interpreted by the  
3 Supreme Court of the United States, prohibits states from  
4 imposing sales or use tax collection obligations on out-of-state  
5 businesses unless the business has a substantial nexus with the  
6 taxing state, which in turn gives online-only retailers an  
7 unfair advantage over their competitors with a physical presence  
8 within the taxing state; and  
9

10 WHEREAS, on November 14, 2014, the National Conference of  
11 State Legislatures (NCSL) stated that it advocates for passage  
12 of legislation to correct this advantage, also known as "e-  
13 fairness legislation," because it levels the playing field for  
14 local businesses, which provide key employment and tax revenues  
15 that fund vital governmental services. As sales taxes account  
16 for over a third of revenues for most states, including over  
17 half of tax collections for six states, the inability to collect  
18 taxes that are legally owed constrains states' options to reform  
19 their tax code elsewhere. This includes lowering tax rates or  
20 requiring states to raise certain tax rates to fund necessary  
21 government services; and  
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23 WHEREAS, the NCSL estimates that states lost an estimated  
24 \$23.3 billion in 2012 from being prohibited from collecting  
25 sales tax from online and catalog purchases. The NCSL further  
26 estimates that Hawaii lost in excess of \$122.5 million in that  
27 one year for this reason, which revenue could help fund disaster  
28 relief, eradication of mosquito-borne diseases, essential  
29 improvements to K-12 education, and other much-needed programs;  
30 and  
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32 WHEREAS, the Legislature and the Department of Taxation  
33 have made various efforts over the years to address the issue of  
e-fairness; and



## S.R. NO. 111

1 WHEREAS, on or about February 29, 2016, the NCSL released  
2 model legislative language for expanding sales and use tax  
3 collection requirements through state lawmaking, which, in  
4 addition to suggesting possible legislative action, also  
5 suggests that the Department of Taxation may have power to  
6 address the issue administratively; now, therefore,  
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8 BE IT RESOLVED by the Senate of the Twenty-eighth  
9 Legislature of the State of Hawaii, Regular Session of 2016,  
10 that the Department of Taxation is urged to take prompt and  
11 decisive action to address e-fairness; and  
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13 BE IT FURTHER RESOLVED that the Department of Taxation is  
14 requested to submit a report of its efforts, findings, and  
15 recommendations, including proposed legislation, if any, to the  
16 Legislature no later than twenty days prior to the convening of  
17 the Regular Session of 2017; and  
18

19 BE IT FURTHER RESOLVED that certified copies of this  
20 Resolution be transmitted to the Governor and the Director of  
21 Taxation.  
22  
23  
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OFFERED BY: 

