

Rep. Townsend offered the following concurrent resolution:

**House Concurrent Resolution No. 8.**

A concurrent resolution to memorialize the President and Congress of the United States to take a comprehensive, sustainable, and workable approach that allows states to tax remote purchases made by consumers of their state.

Whereas, Fifteen years ago, in response to the emerging remote sales and e-commerce industry, which was made possible by the Internet, the Michigan Department of Treasury began including a line on the individual income tax return to encourage consumers to voluntarily remit the state use tax owed. However, only \$6.69 million was collected from 116,625 tax returns in 2014, substantially less than the actual use tax owed by Michigan filers; and

Whereas, To better address this issue, the Michigan Legislature passed the Main Street Fairness Acts, amending the state's sales and use tax laws, to require remote sellers that have nexus in Michigan, or are working with affiliated or subsidiary businesses that have nexus in Michigan, to collect sales and use tax for remote purchases of eligible tangible personal property made by Michigan consumers. These acts were signed into law on January 15, 2015 by Gov. Rick Snyder and take effect on October 1, 2015; and

Whereas, In requiring sellers to collect sales and use taxes from Michigan consumers who purchase eligible tangible personal property, the Main Street Fairness Acts appropriately expand the definition of nexus in order to include remote sellers who conduct business through affiliated businesses in an effort to avoid the legal requirement to collect sales and use taxes from Michigan consumers. The acts create two statutory tests under which remote sellers will be deemed to have established physical presence within Michigan, thus meeting sales and use tax collection and remittance responsibility under *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992); and

Whereas, While Michigan has taken every available step to address the inequity between remote sellers and brick-and-mortar businesses, we are not able to fully resolve the inequity without federal reforms that allow states to tax remote purchases made by consumers of their state. Without federal action, Michigan is limited to collecting sales and use taxes from Michigan consumers who purchase eligible tangible personal property from remote sellers that have nexus in Michigan. Consumers who purchase from remote sellers that do not have nexus in Michigan will continue to forgo paying sales and use taxes. Furthermore, remote sellers that take steps to eliminate their nexus in Michigan will adversely impact the Main Street Fairness Acts' ability to capture uncollected sales and use tax revenue resulting from remote sales; and

Whereas, With an average annual increase of 6 percent, primarily from e-commerce, the uncaptured sales and use taxes on remote sales is a substantial and growing void in state coffers. According to the Michigan Department of Treasury, without these acts an estimated \$444.5 million in sales and use tax revenue resulting from remote sales will go uncollected in Fiscal Year 2015, \$281.6 million, or 63 percent, of which is attributable to e-commerce. In Fiscal Year 2016, the loss will increase to \$463.1 million with \$304.3 million, or 65.7 percent, resulting from e-commerce. With these acts it's expected that the state will capture approximately \$50 million per year in uncollected sales and use tax, 11 percent of the total uncaptured liability; and

Whereas, The limitations of federal law negatively impact Michigan's efforts to resolve our tax inequity. Remote sellers can avoid nexus in Michigan by eliminating affiliate partners and/or relocating warehouses located in Michigan to other states, a practice that has been adopted by remote sellers who have faced similar state laws in the past. If this were to occur,

Michigan's efforts may not successfully capture any of the uncollected sales and use tax revenue resulting from remote sellers; now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That we memorialize the President and Congress of the United States to take a comprehensive, sustainable, and workable approach that allows states to tax remote purchases made by consumers of their state; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.