

## The NetChoice Coalition

*Promoting Convenience, Choice, and Commerce on The Net*

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October 26, 2011

Representative Judson S. Gilbert II  
Anderson House Office Building  
124 North Capitol Avenue  
P.O. Box 30014  
Lansing, MI 48909-7514

**RE: Supporting House Passage of SB 335 & SB 336, A Bill to Amend 1933 PA 167, entitled “General Sales Tax Act,” by Amending Section 1a (MCL 205.51a)**

Dear Representative Gilbert:

We write to support Michigan’s adjustment to its tax code to exempt “cloud computing” from the tax definition of “prewritten computer software.” This forward thinking move by Michigan will encourage the development of small to large businesses in Michigan and encourage cloud computing companies to bring jobs to Michigan.

### **Keeps Michigan as a “Leader in Cloud Computing”**

Passing this bill shows that Michigan is committed to developing cloud computing, supporting ongoing cloud computing efforts, and maintaining its title as “a leader in the transition to cloud computing.”<sup>1</sup>

Michigan repeatedly shows its commitment to cloud based services and this change could be another step. For example, last year, Ken Theis, Director and State CIO of Michigan’s Department of Technology, Management and Budget repeatedly advocated for the state’s move to cloud computing and helped lead the state’s construction of a 100,000 square foot data center and a statewide fiber network for the purposes of cloud computing.<sup>2</sup>

Moreover, last March, Michigan’s Department of Information and Technology began the pilot of its “MiCloud” project with the goal of providing residents with rapid, secure, and lower cost services as Michigan already offers cloud storage to local governments, universities, and state departments for non-sensitive data.

### **Cloud Computing Helps Michigan Businesses and Educators**

By not taxing cloud computing, Michigan encourages companies and educational organizations to make a strategic move that eliminates unnecessary costs.

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<sup>1</sup> Jon Oltsik, *State of Michigan Rolls Out Cloud Computing Services in Easy-to-Consume Bites*, Enterprise Strategy Group (Apr. 1, 2010).

<sup>2</sup> *Id.*

Cloud computing enables businesses to off-load much of the cost of running an online service to a “cloud-based” company thus eliminating the need to purchase expensive computer hardware and software and spend money on maintenance and electricity. The off-loading of costs to the cloud leaves Michigan companies with more money to spend on development, expansion, innovation, and job creation.

These benefits expand into the educational arena as well. University of Michigan Director of Computer and Network Services, Bryan Beecher, exclaimed the benefits of cloud computing. He told the Detroit Free Press that because of cloud based services "I can do less of the very routine stuff -- that other people are better at anyway -- and focus on the tech that's more unique to the kind of business we have here."<sup>3</sup>

### **Harm to Michigan’s Economy – Driving Away New Business Development and Existing Businesses**

Now is a critical point in the evolution of e-commerce and Internet content distribution. Online companies are experimenting with new ways to deliver services with cloud computing as a leading platform.

At the same time, state governments are looking online for additional revenue, including taxing cloud-based services. However, taxation of cloud services could drive away existing businesses and discourage development in Michigan.

For example, Michigan has several large unused structures that are ideal for development into cloud servers. These structures are ideal for retrofitting into cloud computing services facilities. This legislation can encourage the creation of jobs in Michigan and put to use these existing facilities.

Moreover, many Michigan businesses are making the move to cloud computing and offering cloud-based services. But imposing a tax on this service may make them think twice about maintaining or expanding their Michigan presence.

For example, Bizipub in Bridgeport uses cloud computing services to run their internet publishing business. A tax on using cloud computing services strikes directly at Bizipub’s business model. Likewise, Exinent, based in Holland, offers cloud-based services to companies. A tax on these services would discourage companies from using Exinent. And Data Strategy in Grand Rapids uses cloud computing to deliver their services to businesses across the country.

Michigan should help these businesses and encourage similar businesses in the state by eliminating this tax on cloud services.



**Exinent is one of many Michigan companies offering cloud-based services.**

<sup>3</sup> Mark W. Smith, *Cloud computing: What it can do for you and your business*, Detroit Free Press (Mar. 20, 2011).

## **No Gain Effects – Proposal Is a Tax on Michigan Residents**

It's essential to remember that, in any event, no new money would flow into Michigan. Any incremental sales tax collected just moves from the Michigan purchaser to the state treasury at a time when businesses are being squeezed by a struggling economy.

Michigan cherishes its online technology sector and its role as a leader in cloud computing. This taxation of new cloud-based business models is an attack on Michigan itself. For this reason, as well as all the others listed above, we urge you to support this modification to the tax code and to help grow the Michigan technology sector.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve DelBianco", with a long horizontal flourish extending to the right.

Steve DelBianco  
Executive Director, NetChoice

cc: Members of the House Tax Policy Committee

*NetChoice is a coalition of trade associations and e-Commerce businesses who share the goal of promoting convenience, choice and commerce on the Net. More information about NetChoice can be found at [www.netchoice.org](http://www.netchoice.org)*