

SENATE BILL No. 858

November 30, 2011, Introduced by Senator HUNE and referred to the Committee on Finance.

A bill to amend 1905 PA 282, entitled

"An act to provide for the assessment of the property, by whomsoever owned, operated or conducted, of railroad companies, union station and depot companies, telegraph companies, telephone companies, sleeping car companies, express companies, car loaning companies, stock car companies, refrigerator car companies, and fast freight companies, and all other companies owning, leasing, running or operating any freight, stock, refrigerator, or any other cars, not being exclusively the property of any railroad company paying taxes upon its rolling stock under the provisions of this act, over or upon the line or lines of any railroad or railroads in this state, and for the levy of taxes thereon by a state board of assessors, and for the collection of such taxes, and to repeal all acts or parts of acts contravening any of the provisions of this act,"

by amending the title and sections 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 13a, 13b, 14, 16, and 19 (MCL 207.3, 207.4, 207.5, 207.6, 207.7, 207.9, 207.10, 207.11, 207.12, 207.13, 207.13a, 207.13b, 207.14, 207.16, and 207.19), sections 4, 5, and 9 as amended by 2002 PA 610, sections 10, 11, 14, and 19 as amended by 1995 PA 257, sections 12 and 13 as amended by 2001 PA 35, section 13a as added

by 2000 PA 341, and section 13b as added by 2002 PA 50; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to provide for the assessment of the property ~~by~~
~~whomsoever owned, operated or conducted,~~ of railroad companies,
union station and depot companies, telegraph companies, telephone
companies, sleeping car companies, express companies, car loaning
companies, stock car companies, refrigerator car companies, ~~and~~
fast freight companies, and all other companies owning, leasing,
running, or operating any freight, stock, refrigerator, or any
other cars ~~, not being exclusively the~~ **EXCLUSIVE** property of any
railroad company paying taxes upon its rolling stock under ~~the~~
~~provisions of this act,~~ over or upon the line or lines of any
railroad or railroads in this state, and for the levy of ~~taxes~~
~~thereon by a state board of assessors~~ **A TAX ON THAT PROPERTY**, and
for the collection of ~~such taxes~~ **THAT TAX**, and to repeal ~~all~~
~~acts or~~ **AND** parts of acts. ~~contravening any of the provisions of~~
~~this act.~~

Sec. 3. (1) ~~Said board~~ **THE STATE TAX COMMISSION** shall have
access to all books, papers, documents, statements, and accounts ~~,~~
on file or of record in any of the departments of **THIS** state,
subject to the rules and regulations of the respective departments
~~relative to~~ **REGARDING** the care of public records. ~~It shall have~~
~~like~~ **THE STATE TAX COMMISSION SHALL ALSO HAVE** access to all books,
papers, documents, statements, and accounts ~~,~~ on file or of record
in counties, townships, and municipalities. ~~It~~

1 (2) **THE STATE TAX COMMISSION** shall have the right to subpoena
2 witnesses, upon a subpoena signed by the ~~chairman~~**CHAIRPERSON** of
3 ~~said board and~~**THE STATE TAX COMMISSION**, attested by the secretary
4 ~~thereof~~**OF THE STATE TAX COMMISSION, AND** delivered to ~~such~~**THOSE**
5 witnesses. ~~, which subpoenas~~**SUBPOENAS** may be served by any person
6 authorized to serve subpoenas from courts of record in this state.
7 ~~, and the~~**THE** attendance of witnesses may be compelled by
8 attachment, to be issued by any circuit court in this state, upon
9 proper showing that ~~such~~**THE** witness has been properly subpoenaed ~~,~~
10 and has refused to obey ~~such~~**THAT** subpoena. The person appearing in
11 response to ~~such~~**A** subpoena shall receive ~~like~~**THE** compensation ~~as~~
12 ~~is allowed by the statutes of this state to witnesses in the~~
13 ~~circuit court, to be allowed by the board of state auditors upon~~
14 ~~the presentation of a copy of~~ ~~such~~**THE** subpoena, with the number of
15 days' service and mileage endorsed ~~thereon~~**ON THE SUBPOENA** and
16 approved by a member of ~~said board of assessors,~~**THE STATE TAX**
17 **COMMISSION** or the secretary ~~thereof~~**OF THE STATE TAX COMMISSION.**
18 The person serving ~~such~~**A** subpoena shall receive the same
19 compensation now allowed to sheriffs or other officers for serving
20 subpoenas. ~~Said board shall have power to~~

21 (3) **THE STATE TAX COMMISSION MAY** examine witnesses under oath
22 ~~, said oath to be administered by any member of the board,~~**STATE**
23 **TAX COMMISSION** or by the secretary ~~thereof~~**OF THE STATE TAX**
24 **COMMISSION.** ~~It shall have the right to~~

25 (4) **THE STATE TAX COMMISSION MAY** inspect and examine the
26 books, papers, or accounts of any corporation, firm, or individual
27 owning property to be assessed ~~by said board, and if such~~**UNDER**

1 **THIS ACT. IF A** corporation, firm, or individual ~~refuse~~**REFUSES** to
 2 permit ~~said~~**AN** inspection and examination ~~, or neglect or fail~~
 3 **NEGLECTS OR FAILS** to appear before ~~said board~~**THE STATE TAX**
 4 **COMMISSION** in response to its subpoena, ~~said~~**THAT** corporation,
 5 firm, or individual shall, for each ~~such~~ refusal, neglect, or
 6 failure, forfeit ~~the sum of 500 dollars~~**\$500.00** to the ~~the~~**THIS** state.
 7 ~~, the sum so~~**THE AMOUNT** forfeited ~~to~~**MAY** be recovered in a ~~proper~~
 8 **AN** action brought in the name of the people of the state of
 9 Michigan, in any court of competent jurisdiction.

10 Sec. 4. (1) The state ~~board of assessors~~**TAX COMMISSION** shall
 11 annually determine the true cash value and taxable value of
 12 property having a situs in this state of all of the following:

13 (a) Railroad companies.

14 (b) Union station and depot companies.

15 (c) Telegraph companies.

16 (d) Telephone companies.

17 (e) Sleeping car companies.

18 (f) Express companies.

19 (g) Car loaning companies.

20 (h) Stock car companies.

21 (i) Refrigerator car companies.

22 (j) Fast freight line companies.

23 (k) All other companies owning, leasing, running, or operating
 24 any freight, stock, refrigerator, or any other cars not the
 25 exclusive property of a railroad company paying taxes on its
 26 rolling stock under this act, over or on the line or lines of any
 27 railroad in this state.

1 (2) For tax years that begin after December 31, 2005, the
2 state ~~board of assessors~~ **TAX COMMISSION** shall annually determine
3 the true cash value and taxable value of property having a situs in
4 this state of telegraph companies and telephone companies in the
5 same manners as property assessed under the general property tax
6 act, 1893 PA 206, MCL 211.1 to ~~211.157~~ **211.155**.

7 (3) The property of a telegraph and telephone company with
8 gross receipts within this state for a year ending December 31 of
9 not more than \$1,000.00 is exempt from taxation under this act.

10 (4) All telegraph and telephone companies doing business in
11 this state shall make the report required under section 6.

12 Sec. 5. (1) As used in this act, "property" means 1 of the
13 following:

14 (a) Except as otherwise provided in subdivision (b), all
15 property, real or personal, belonging to the persons, corporations,
16 companies, copartnerships, and associations subject to taxation
17 under this act, including rights-of-way, road beds, stations, cars,
18 rolling stock, tracks, wagons, horses, office furniture, telegraph
19 and telephone poles, wires, conduits, switchboards, all other
20 property used in carrying on their business and owned by them
21 respectively, all other real and personal property, and all
22 franchises. Franchises shall not be directly assessed, but shall be
23 considered in determining the value of the other property. Property
24 does not include, apply to, or subject to taxation property or real
25 property owned and capable of being conveyed by the persons,
26 corporations, companies, copartnerships, and associations subject
27 to taxation under this act that is not actually occupied in the

1 exercise of their franchises, or in use in the operation and
2 conduct of their business.

3 (b) For telegraph companies and telephone companies only, for
4 tax years that begin after December 31, 2005, only property that
5 would be subject to the collection of taxes under the general
6 property tax act, 1893 PA 206, MCL 211.1 to ~~211.157~~**211.155**, if
7 that property were not subject to taxation under this act.

8 (2) Real property exempt from the tax levied under this act
9 under subsection (1) is subject to taxation in the same manner, for
10 the same purposes, to the same extent, and subject to the same
11 conditions and limitations as other real property in the townships
12 or municipalities in which that property is located.

13 (3) As used in this act, the terms "company", "corporation",
14 "copartnership", "association", and "person" apply to and shall be
15 construed as referring to **ANY OF** the following:

16 (a) A railroad company, union station and depot company,
17 telegraph company, telephone company, sleeping car company, express
18 company, car loaning company, stock car company, refrigerator or
19 fast freight line company, or any other companies owning, leasing,
20 running, or operating any freight cars, stock cars, refrigerator
21 cars, or any other cars, not the exclusive property of a railroad
22 company paying taxes upon its rolling stock under this act, over or
23 upon the line or lines of any railroad or railroads in this state.

24 (b) A firm, joint stock association, copartnership,
25 corporation, or other association or person engaged in carrying on
26 any business, the tangible property of which is subject to taxation
27 under this act.

1 (4) As used in this act, "property having a situs in this
2 state," includes all of the following:

3 (a) Except as otherwise provided in subdivision (b), the
4 property, real and personal, of the persons, corporations,
5 companies, copartnerships, and associations subject to taxation
6 under this act, owned, used, and occupied by them within this
7 state, and also the proportion of their rolling stock, cars, and
8 other property used partly within and partly outside of this state
9 as provided in this act.

10 (b) For telegraph companies and telephone companies only, for
11 tax years that begin after December 31, 2005, only the tangible
12 property, real and personal, owned, used, and occupied by them
13 within this state.

14 Sec. 6. The ~~several~~ corporations, persons, copartnerships,
15 companies, and associations whose property is subject to assessment
16 and taxation under ~~the provisions of this act~~ , and whose annual
17 gross receipts exceed \$1,000,000.00 shall annually between ~~the~~
18 ~~first day of January 1 and the thirty-first day of March 31~~ in each
19 year, and the ~~several~~ corporations, persons, copartnerships,
20 companies, and associations whose property is subject to assessment
21 and taxation under ~~the provisions of this act~~ , and whose annual
22 gross receipts do not exceed \$1,000,000.00 , shall annually between
23 ~~the first day of January 1 and the fifteenth day of March 15~~ in
24 each year, under oath of the president, secretary, superintendent,
25 or chief officer of ~~such~~ **THAT** corporation, company, or association,
26 or of the person or persons owning ~~such~~ **THAT** property, make and
27 file with the state ~~board of assessors~~ **TAX COMMISSION** an annual

1 report, in such ~~A~~ form as ~~said board may provide, upon blanks to be~~
 2 ~~furnished by said board~~ **PROVIDED BY THE STATE TAX COMMISSION,**
 3 setting forth ~~specifically upon blanks so furnished by the board~~
 4 the information prescribed by ~~said board~~ **THE STATE TAX COMMISSION**
 5 to enable ~~them~~ **THE STATE TAX COMMISSION** to make the assessment
 6 required ~~in~~ **UNDER** this act.

7 Sec. 7. (1) Every joint stock association, company,
 8 copartnership, or association ~~incorporated or acting under the laws~~
 9 ~~of this or any other state, or of any foreign nation, and conveying~~
 10 to, from, through, in, or across this state ~~, or any part thereof,~~
 11 passengers or travelers ~~, in palace cars, drawing room cars,~~
 12 sleeping cars, or tourist cars ~~, under any contract, express or~~
 13 implied, with any railroad company ~~, or the managers, lessees,~~
 14 agents, or receivers ~~thereof,~~ **OF ANY RAILROAD COMPANY** shall be
 15 deemed ~~and held to be~~ a sleeping car company for the purposes of
 16 this act. ~~, and every such~~

17 (2) ~~A~~ sleeping car company doing business in this state ~~,~~
 18 shall annually between ~~the first day of January 1 and the thirty-~~
 19 ~~first day of March 31~~ ~~, make out and deliver to the state board of~~
 20 ~~assessors,~~ **TAX COMMISSION** a statement, verified ~~by the~~ **UNDER** oath
 21 ~~of~~ **BY** the officer or agent of ~~such~~ **THAT SLEEPING CAR** company making
 22 ~~such~~ **THAT** statement, with reference to the ~~thirty first day of~~
 23 ~~December next~~ **IMMEDIATELY** preceding **DECEMBER 31**, setting forth the
 24 information prescribed by the ~~board to~~ **STATE TAX COMMISSION TO**
 25 enable ~~them~~ **THE STATE TAX COMMISSION** to make the assessment
 26 required ~~in~~ **UNDER** this act.

27 Sec. 9. (1) Not later than May 15 in each year, the state

1 ~~board of assessors~~ **TAX COMMISSION** shall prepare an assessment roll
2 upon which they shall set forth the true cash value and taxable
3 value on the immediately preceding December 31 of all the property
4 of the companies subject to taxation under this act. A
5 determination of true cash value and taxable value is not final
6 until reviewed as provided in this act. For the purpose of arriving
7 at the true cash value and taxable value of the property on the
8 assessment roll, the state ~~board of assessors~~ **TAX COMMISSION** may
9 personally inspect the property assessed, may consider the reports
10 filed under this act or reports and returns filed in the office of
11 any officer of this state or in the office of any other
12 governmental agency, and **MAY CONSIDER** any other evidence or
13 information obtained or possessed by the state ~~board of assessors~~
14 **TAX COMMISSION**.

15 (2) In determining the true cash value and taxable value of
16 the property of a railroad, union station, and depot company that
17 owns, leases, operates, or uses lines partly within or partly
18 outside of this state, the state ~~board of assessors~~ **TAX COMMISSION**
19 shall consider the proportion of the number of miles of all track
20 controlled or used by that company within this state to the entire
21 mileage of all track controlled or used by that company both within
22 and outside of this state. The state ~~board of assessors~~ **TAX**
23 **COMMISSION** shall also consider any other uniform factors that
24 reflect a fair allocation of value to this state.

25 (3) For tax years that begin before January 1, 2006, in
26 determining the true cash value and taxable value of the property
27 of a telegraph company or telephone company that owns, leases,

1 operates, or uses lines partly within and partly outside of this
2 state, the state ~~board of assessors~~ **TAX COMMISSION** shall only
3 consider the proportion of the number of miles of telegraph or
4 telephone lines controlled or used by that company within this
5 state to the entire mileage of telegraph or telephone lines
6 controlled or used by that company both within and outside of this
7 state. The state ~~board of assessors~~ **TAX COMMISSION** shall also
8 consider any other uniform factors that reflect a fair allocation
9 of value to this state.

10 (4) In determining the true cash value and taxable value of
11 the property of an express company, the state ~~board of assessors~~
12 **TAX COMMISSION** shall determine the actual value of the entire
13 amount of the capital stock and bonded indebtedness of that express
14 company. From that amount, the state ~~board of assessors~~ **TAX**
15 **COMMISSION** shall determine and deduct the actual value of all real
16 property owned by that express company, —and the actual value of
17 all personal property owned by that express company that is not
18 used in the express business of that express company. The state
19 ~~board of assessors~~ **TAX COMMISSION** shall then divide the remaining
20 amount by the total number of miles, as determined by the state
21 ~~board of assessors~~ **TAX COMMISSION**, of railroad, stage, water, and
22 other routes over which the company did business to obtain the
23 value per mile. The state ~~board of assessors~~ **TAX COMMISSION** shall
24 then multiply the value per mile by the total number of miles of
25 the routes within this state, as determined by the state ~~board of~~
26 ~~assessors~~ **TAX COMMISSION**. The state ~~board of assessors~~ **TAX**
27 **COMMISSION** shall then add to the product of that calculation the

1 value of all real estate owned by that express company in this
2 state, as determined by the state ~~board of assessors~~ **TAX**
3 **COMMISSION**. The sum of this calculation is the actual value of the
4 property of that express company subject to assessment and taxation
5 in this state.

6 (5) If the state ~~board of assessors~~ **TAX COMMISSION** determines
7 that the ocean routes of a company are so different in character
8 from its other routes that the mileage basis of apportionment of
9 the value of the entire property to be apportioned in this state
10 would be unfair if the full mileage of the ocean routes were
11 included, the state ~~board of assessors~~ **TAX COMMISSION** may make an
12 allowance for that company's ocean routes to bring those ocean
13 routes to parity with that company's other routes. In making this
14 determination, the state ~~board of assessors~~ **TAX COMMISSION** shall
15 consider the relative mileage values and earning capacities of the
16 ocean routes and the other routes and shall require special reports
17 of the character, mileage, earnings, and value of the ocean routes.
18 The state ~~board of assessors~~ **TAX COMMISSION** may exclude from its
19 determination of aggregate mileage any ocean routes on which the
20 express company fails to furnish the requisite reports, but no
21 further penalty shall be imposed for the failure to report the
22 mileage of ocean routes.

23 (6) If a company claims in writing that the mileage basis of
24 apportionment of the value of the entire property to be attributed
25 to this state is unfair, the state ~~board of assessors~~ **TAX**
26 **COMMISSION** shall make the apportionment that in its judgment is
27 fair. In making that apportionment, the state ~~board of assessors~~

1 **TAX COMMISSION** shall consider the mileage within and outside of
2 this state, making any necessary allowance for ocean mileage as
3 provided in this section.

4 (7) In determining the true cash value and taxable value of
5 the property in this state of car loaning, stock car, refrigerator,
6 fast freight lines, and other car companies, and other companies
7 owning, leasing, running, or operating cars subject to taxation
8 under this act, the state ~~board of assessors~~ **TAX COMMISSION** shall
9 consider the proportion of the aggregate car mileage made or run by
10 the entire number of cars owned or operated by a company to the car
11 mileage made or run by the entire number of cars owned or operated
12 by that company within this state.

13 Sec. 10. On the assessment roll, after the name of each of the
14 companies assessed, the state ~~board of assessors~~ **TAX COMMISSION**
15 shall place a general description of the property of each company,
16 which includes all of the property of each company liable to
17 taxation under this act. In the case of railroad, union station,
18 and depot companies, the general description may be "Real estate,
19 rolling stock, right-of-way and appurtenances, and all other
20 property used in carrying on the corporate business and subject to
21 taxation by a ~~THE~~ state ~~board of assessors~~ **TAX COMMISSION**". In the
22 case of telegraph and telephone companies, the general description
23 may be "Real estate, exchanges, switchboards, conduits, telegraph
24 and telephone poles, and lines, and other appurtenances, and all
25 other property used in carrying on the business of ~~said~~ **THAT**
26 company, and subject to taxation by a ~~THE~~ state ~~board of assessors~~
27 **TAX COMMISSION**". In the case of car loaning, stock car,

1 refrigerator and fast freight line, and other car companies, and
2 other companies, owning, leasing, running, or operating any cars
3 subject to taxation under this act, the general description may be
4 "Cars subject to taxation by a ~~THE~~ state ~~board of assessors~~ **TAX**
5 **COMMISSION**". In the case of express companies and sleeping car
6 companies, the general description may be "Property subject to
7 taxation by a ~~THE~~ state ~~board of assessors~~ **TAX COMMISSION**". In a
8 column opposite the name of each company assessed shall be extended
9 the true cash value and taxable value of the property assessed.

10 Sec. 11. On the third Monday in May in each year, the state
11 ~~board of assessors~~ **TAX COMMISSION** shall meet at its office in the
12 city of Lansing and continue in session from day to day for as long
13 as necessary, but not later than June 15, to review the assessment
14 roll. Any interested company or person may appear during that
15 period and be heard as to the true cash value or taxable value of
16 the property of any company assessed. The state ~~board of assessors~~
17 **TAX COMMISSION** may, on application or on its own motion, correct
18 the true cash value or taxable value of the property assessed. To
19 determine the true cash value or taxable value of the property
20 assessed, the state ~~board of assessors~~ **TAX COMMISSION** may subpoena
21 witnesses as provided in section 3 and may hold any hearing it
22 considers necessary. If the property of a company subject to
23 taxation under this act has been omitted from the assessment roll,
24 the state ~~board of assessors~~ **TAX COMMISSION** shall place that
25 property on the assessment roll and assess the property as required
26 in sections 9 and 10. An assessment under this section shall not be
27 made if there are less than 5 days before the completion of the

1 review. After the state ~~board of assessors~~ **TAX COMMISSION** completes
2 the review of the assessment roll, it shall place opposite each
3 description of property in the assessment roll, in a column
4 provided for that purpose, the true cash value and taxable value of
5 that property as determined by it. The taxable value determined by
6 the state ~~board of assessors~~ **TAX COMMISSION** is the final valuation
7 on which the tax on that property shall be levied and spread. After
8 the state ~~board of assessors~~ **TAX COMMISSION** completes its review of
9 the assessment roll, a majority of the state ~~board of assessors~~ **TAX**
10 **COMMISSION** shall certify that the assessment roll has been acted
11 upon and reviewed in accordance with this act, shall state all of
12 the alterations, changes, corrections, and additions made to the
13 true cash value or taxable value of the property on the assessment
14 roll, shall state all the alterations, changes, and corrections
15 made in the true cash value or taxable value of the property of the
16 state other than that included in this act on which ad valorem
17 taxes are assessed for state, county, township, school, and
18 municipal purposes for the current year, and shall also state all
19 of the alterations, changes, and corrections made in computing the
20 average rate as provided in this act.

21 Sec. 12. The director of the tax or equalization department in
22 each county in this state, as soon as possible after the
23 equalization ~~of~~ **BY** the board of commissioners of the county of the
24 assessment rolls of the municipalities in that county, and not
25 later than December 1 in each year, shall make a report, duly
26 certified, to the state ~~board of assessors~~ **TAX COMMISSION**, on a
27 form to be provided by the state ~~board of assessors~~ **TAX COMMISSION**,

1 of the amount of ad valorem taxes to be raised in the
2 municipalities in that county for state, county, municipal,
3 township, school, and other purposes, including a statement of the
4 aggregate valuation of the property in each of the municipalities
5 in that county, as taken from the assessment rolls of the
6 municipalities for the year in which the equalization is made, ~~and~~
7 ~~, for taxes levied before January 1, 1995, the state equalized~~
8 ~~valuation of each municipality and, for taxes levied after December~~
9 ~~31, 1994, the taxable value of each municipality.~~ The supervisor or
10 other assessing officer of each township, city, and village in this
11 state shall make, within the time provided in this section, a
12 report to the state ~~board of assessors~~ **TAX COMMISSION**, on a form ~~to~~
13 ~~be provided by the state board of assessors~~ **TAX COMMISSION**, of all
14 ad valorem taxes raised in his or her assessing district for the
15 current year, ~~and, for taxes levied before January 1, 1995, of~~
16 ~~the state equalized valuation of real and personal property upon~~
17 ~~which the taxes are levied and, for taxes levied after December 31,~~
18 ~~1994, of the taxable value of real and personal property upon which~~
19 the taxes are levied. If any director of a county tax or
20 equalization department or any supervisor or assessing officer
21 neglects or fails to make the report required by this section
22 within the time provided in this section, the state ~~board of~~
23 ~~assessors~~ **TAX COMMISSION** shall inspect and examine or cause an
24 inspection and examination of the records of the board of
25 commissioners or of the proper township, city, or village officers,
26 to procure the information required to arrive at the average rate
27 of taxation in this state. Any director of a county tax or

1 equalization department, supervisor, or assessing officer who fails
2 to make the report required by this section is subject to a penalty
3 of \$100.00, to be recovered in an action in the name of the people
4 of this state in any court of competent jurisdiction.

5 Sec. 13. (1) The state ~~board of assessors~~ **TAX COMMISSION**, from
6 the information contained in the reports provided for in section
7 12, shall determine for the year in which the reports are required
8 to be made the average rate of taxation levied on other commercial,
9 industrial, and utility property on which ad valorem taxes are
10 assessed for state, county, township, school, and municipal
11 purposes, and enter the determination in its records, together with
12 the method by which the average rate of taxation was determined. ~~In~~
13 ~~determining the average rate of taxation for taxes levied under~~
14 ~~this act before January 1, 1996, the state board of assessors shall~~
15 ~~divide the state equalized value as set by the state board of~~
16 ~~equalization for the previous year into the total ad valorem taxes~~
17 ~~as reported by each director of a county tax or equalization~~
18 ~~department as provided in section 12. In determining the average~~
19 ~~rate of taxation, for taxes levied under this act after December~~
20 ~~31, 1995, the state board of assessors~~ **TAX COMMISSION** shall divide
21 the state taxable value for the previous year into the total ad
22 valorem taxes as reported by each director of a county tax or
23 equalization department as provided in section 12. ~~In determining~~
24 ~~the average rate of taxation for 1994, ad valorem taxes levied for~~
25 ~~the year in which the reports are required by a local school~~
26 ~~district for school operating purposes as defined in section 1211~~
27 ~~of the revised school code, 1976 PA 451, MCL 380.1211, shall be~~

~~excluded from the calculation required by this section and the state board of assessors shall add to the tax rate calculated under this section after the exclusion required by this sentence, the number of mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, plus the statewide average number of mills levied in 1994 by local school districts for school operating purposes under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852. If the state board of assessors is unable to determine the average rate of taxation for 1994 before June 1, 1994, the state board of assessors shall determine a preliminary average rate of taxation that shall be used to complete the 1994 tax roll under section 14. However, before June 1, 1995, the state board of assessors shall determine and certify the average rate of taxation for 1994 and prepare a supplemental 1994 tax roll using the 1994 assessed valuations for the purpose of levying a supplemental tax or making a refund. The supplemental tax is due and payable and the refund, if any, is due July 1, 1995 without interest. If the supplemental tax is paid after August 1, 1995, the tax is payable with interest due at the rate of 1% per month or portion of a month calculated from January 15, 1995 to the date of payment.~~

(2) A railroad company is allowed a credit against the tax imposed by this act for the tax year in an amount equal to 25% of the amount expended for the maintenance or improvement of rights of way, including those items, except depreciation, in the official maintenance-of-way and capital track accounts of the railroad company in this state during the calendar year immediately preceding the tax year but not to exceed the total liability for

1 the tax under this act. The manner of applying for the credit and
2 the proof of expenditures required shall be prescribed by the state
3 ~~board of assessors~~ **TAX COMMISSION**.

4 (3) A railroad company that claims a credit under this section
5 is required to file an annual report with the state ~~board of~~
6 ~~assessors~~ **TAX COMMISSION** that shall include detailed data of right
7 of way work conducted in this state during the past calendar year.
8 The state ~~board of assessors~~ **TAX COMMISSION** shall transmit a copy
9 of the report to the chairperson of the senate finance committee
10 and the house ~~taxation~~ **TAX POLICY** committee. This report submitted
11 to the state ~~board of assessors~~ **TAX COMMISSION** shall include the
12 number of notices of violation from railway inspectors by railroad
13 section, and shall include a detailed account of the location and
14 the nature of the work. The location of the work shall be defined
15 by the railroad section or mile posts surrounding the work area
16 plus the county, city, or township in which the work was performed.
17 This report shall include a separation of costs by labor and
18 materials on each project. The report also shall include an
19 itemized account of what work was done. This account shall be
20 itemized by the following categories:

21 (a) Miles of track laid.

22 (b) Tons of new ballast installed.

23 (c) Number of ties installed.

24 (d) Miles of tracks surfaced.

25 (e) Signals installed.

26 (f) Under drainage work done.

27 (4) The railroad companies, in order to qualify for the full

1 25% credit under this act, ~~must~~ **SHALL** demonstrate to the state
2 ~~board of assessors~~ **TAX COMMISSION** that the highest priority of
3 expenditures for the maintenance or improvement of rights of way
4 has been given to rail lines that handle hazardous materials,
5 especially those that are located in urban or residential areas. A
6 railroad company that claims a credit under this section is
7 required to file an annual report with the state ~~board of assessors~~
8 **TAX COMMISSION** that shall include detailed data on the tonnages of
9 hazardous materials handled in relation to tonnages of other
10 traffic handled over the rail line for which a tax credit is being
11 applied.

12 (5) A railroad company utilizing the property tax credit
13 provisions of this act shall grant to another railroad company,
14 upon application, ~~by the latter,~~ trackage rights over its line for
15 trains, providing that the train operations do not interfere with
16 the movement of Michigan freight using the same trackage, if
17 operations can be accomplished safely in the opinion of the grantor
18 and if trackage arrangements and train operations are approved by
19 the interstate commerce commission. The grantee shall pay the
20 grantor reasonable charges agreed to between the 2 parties if the
21 charges and terms of the agreement between the 2 parties are not in
22 violation of the antitrust provisions of federal ~~laws.~~ **LAW.**

23 Sec. 13a. (1) Subject to subsection (2), an eligible company
24 is allowed a credit against the tax imposed under this act for the
25 tax year equal to the amount of eligible expenses incurred during
26 the calendar year immediately preceding the tax year for which the
27 credit under this subsection is claimed.

1 (2) The sum of the credits under subsection (1) and section
2 13(2) shall not exceed an eligible company's liability for the tax
3 levied under this act in the tax year in which the credit is
4 claimed.

5 (3) An eligible company may apply for the credit under
6 subsection (1) by submitting to the state ~~board of assessors~~**TAX**
7 **COMMISSION** an application in the form prescribed by the state ~~board~~
8 ~~of assessors~~**TAX COMMISSION**.

9 (4) If the ~~board~~**STATE TAX COMMISSION** determines that for any
10 eligible company the sum of the credits provided in this section
11 and in section 13(2) equals the eligible company's liability for
12 the tax levied under this act before application of the credits,
13 the ~~board~~**STATE TAX COMMISSION** may waive the application
14 requirement in subsection (3) and the reports and statements
15 required under sections 6, 7, 8, and 13. A waiver under this
16 subsection does not affect the ~~board's~~**STATE TAX COMMISSION'S**
17 powers under section 3.

18 (5) As used in this section:

19 (a) "Eligible company" means railroad companies, union station
20 and depot companies, sleeping car companies, express companies, car
21 loaning companies, stock car companies, refrigerator car companies,
22 fast freight line companies, and all other companies owning,
23 leasing, running, or operating any freight, stock, refrigerator, or
24 any other cars not the exclusive property of a railroad company
25 paying taxes upon its rolling stock under this act, over or upon
26 the line or lines of any railroad in this state.

27 (b) "Eligible expenses" means 1 or more of the following:

1 (i) Expenses incurred in this state to maintain or improve an
2 eligible company's qualified rolling stock.

3 (ii) Seventy-five percent of the expenses incurred in this
4 state for maintenance or improvement of rights-of-way, including
5 those items, except depreciation, in the official maintenance-of-
6 way and capital track accounts of the eligible company.

7 (c) "Qualified rolling stock" means any freight, stock,
8 refrigerator, or other railcars subject to the tax levied under
9 this act.

10 Sec. 13b. (1) Subject to subsections (2), (3), and (4), a
11 company shall be allowed a credit against the tax imposed under
12 this act for the tax year equal to 6% of eligible expenditures
13 incurred in the calendar year immediately preceding the tax year
14 for which the credit under this subsection is claimed.

15 (2) The amount of the credit under subsection (1) shall
16 ~~be limited as follows:~~

17 ~~—— (a) For the 2003 tax year, the credit shall not exceed 3% of~~
18 ~~the company's liability for the tax levied under this act in the~~
19 ~~2003 tax year.~~

20 ~~—— (b) For the 2004 tax year, the credit shall not exceed the~~
21 ~~greater of 6% of the company's liability for the tax levied under~~
22 ~~this act in the 2004 tax year or 100% of the credit the company~~
23 ~~received under this subsection in the 2003 tax year.~~

24 ~~—— (c) For the 2005 tax year, the credit shall not exceed the~~
25 ~~greater of 9% of the company's liability for the tax levied under~~
26 ~~this act in the 2005 tax year or 100% of the credit the company~~
27 ~~received under this subsection in the 2004 tax year.~~

1 ~~—— (d) For the 2006 tax year and each year after the 2006 tax~~
2 ~~year, the credit shall not~~ exceed the greater of 12% of the
3 company's liability for the tax levied under this act in the tax
4 year in which the credit is claimed or 100% of the credit the
5 company received under this subsection in the immediately preceding
6 tax year.

7 (3) The amount of the credit under subsection (1) shall not
8 exceed a company's liability for the tax levied under this act in
9 the tax year in which the credit is claimed.

10 (4) A credit under subsection (1) may not be claimed by a
11 company in a tax year in which 1 or more of the following
12 conditions apply:

13 (a) The company is not subject to the annual maintenance fee
14 required under section 8 of the metropolitan extension
15 telecommunications rights-of-way oversight act, **2002 PA 48, MCL**
16 **484.3108.**

17 (b) The company is subject to the annual maintenance fees
18 required under section 8 of the metropolitan extension
19 telecommunications rights-of-way oversight act, **2002 PA 48, MCL**
20 **484.3108,** and has failed to pay the annual maintenance fees that
21 are due and payable as of May 1 in that year.

22 (5) After any credit under subsection (1) is determined, a
23 company shall be allowed a credit against any remaining tax imposed
24 under this act equal to the credit allowed under section 8 of the
25 metropolitan extension telecommunications rights-of-way oversight
26 act, **2002 PA 48, MCL 484.3108,** less the amount of any credit
27 determined under subsection (1). If the credit allowed under this

1 subsection for the tax year and any unused carryforward of the
2 credit allowed by this subsection exceed the company's remaining
3 tax liability for the tax year after any credit under subsection
4 (1) is determined, that portion of the credit that exceeds the
5 remaining tax liability for the tax year shall not be refunded but
6 may be carried forward to offset any tax liability in subsequent
7 tax years that remains after any credit claimed under subsection
8 (1) in that subsequent tax year is determined until used up. A
9 credit may not be claimed under this subsection in a tax year in
10 which 1 or more of the conditions set forth in subsection (4)
11 apply.

12 (6) A company may apply for the credit under subsection (1) by
13 submitting to the state ~~board of assessors~~ **TAX COMMISSION** an
14 application in a form prescribed by the state ~~board of assessors~~
15 **TAX COMMISSION** at the time the annual report required under section
16 6 is due.

17 (7) A company may apply for the credit under subsection (5) by
18 submitting to the state ~~board of assessors~~ **TAX COMMISSION** an
19 application in a form prescribed by the state ~~board of assessors~~
20 **TAX COMMISSION** before May 1.

21 (8) As used in this section:

22 (a) "Eligible expenditures" means expenditures made by a
23 company to purchase and install eligible equipment after December
24 31, 2001.

25 (b) "Eligible equipment" means property placed into service in
26 this state for the first time with information carrying capability
27 in excess of 200 kilobits per second in both directions.

1 Sec. 14. (1) The state ~~board of assessors~~ **TAX COMMISSION** shall
2 tax the property of the companies subject to taxation under this
3 act based upon the taxable value of the property determined by the
4 state ~~board of assessors~~ **TAX COMMISSION** and at the rate determined
5 by the state ~~board of assessors~~ **TAX COMMISSION**. The amount of tax
6 to be paid by each company assessed shall be extended on the
7 assessment roll, opposite the description of that company's
8 property. After the tax roll is completed, and before June 20 in
9 each year, the state ~~board of assessors~~ **TAX COMMISSION** shall attach
10 to the tax roll a certificate signed by the members of the state
11 ~~board of assessors~~ **TAX COMMISSION**, or a majority of the members of
12 the state ~~board of assessors~~ **TAX COMMISSION**, that states "We do
13 hereby certify that we have set down in the above assessment roll
14 all of the property of railroad companies, express companies, union
15 station and depot companies, telegraph and telephone companies, car
16 loaning, stock car, refrigerator, fast freight line, and other car
17 companies, and other companies owning, leasing, running, or
18 operating cars, and sleeping car companies liable to be taxed in
19 this state, according to our best information, and that we have
20 determined the true cash value and taxable value of that property,
21 and that we have assessed the taxes on that property at the average
22 rate of taxes for state, county, township, school, municipal, and
23 other purposes levied through this state during the preceding year
24 as determined by us.".

25 (2) The tax roll shall be delivered to the ~~commissioner of~~
26 ~~revenue~~ **STATE TREASURER**, who shall immediately notify by registered
27 mail each company taxed to pay the taxes extended on the tax roll

1 to the state treasurer. The taxes assessed are payable on July 1
2 following the assessment and levy of those taxes, and are in lieu
3 of all ad valorem taxes for state and local purposes, not including
4 special assessments on property particularly benefited made in any
5 county, city, village, or township. All taxes not paid before
6 August 1 in the year in which those taxes are payable shall bear
7 interest from August 1 at the rate of 1% per month or fraction of a
8 month. However, if 1/2 of the amount of the taxes due are paid
9 before August 1, the remaining taxes due may be paid before the
10 immediately succeeding December 1 without interest, otherwise the
11 taxes unpaid on August 1 shall bear interest as provided in this
12 section. The taxes levied are a debt of the company assessed to the
13 **THIS** state and are a lien on all of the property of that company,
14 real, personal, and mixed. A lien under this section takes
15 precedence over all demands, judgments, assignments by warranty
16 deed or otherwise, or decrees against the company assessed. A lien
17 and debt under this section may be enforced by the seizure or sale
18 of the property assessed or any portion of the property assessed
19 necessary to satisfy the lien and debt. The state ~~board of~~
20 ~~assessors~~ **TAX COMMISSION** shall, upon the completion of the tax roll
21 and the correction of the tax roll as provided in this act, annex
22 to the tax roll a warrant, signed by the ~~board~~ **STATE TAX COMMISSION**
23 or a majority of the state ~~board of assessors~~ **TAX COMMISSION**,
24 commanding the ~~commissioner of revenue~~ **STATE TREASURER** to collect
25 the taxes due under this act. The warrant shall authorize and
26 command the ~~commissioner of revenue~~ **STATE TREASURER**, in case any
27 corporation, company, or person named in the tax roll does not pay

1 the tax due under this act, to levy the tax due by distress and
2 sale of the property of that corporation, company, or person or any
3 portion of that property necessary to raise sufficient money to
4 satisfy the tax due and the expense of the sale, after giving the
5 corporation, company, or person notice of the sale as provided by
6 law for the sale of property seized for taxes and offered for sale.
7 However, the ~~commissioner~~**STATE TREASURER** may bring an action in
8 the name of the people of this state in any court of competent
9 jurisdiction in this state, or in any other state, to enforce the
10 lien. ~~and after obtaining~~**IF THE STATE TREASURER OBTAINS** a judgment
11 or decree, the judgment or decree may be collected by execution,
12 levy, and sale.

13 Sec. 16. No tax assessed upon any property and no average rate
14 determined by ~~said state board of assessors as hereinbefore~~
15 ~~required,~~**THE STATE TAX COMMISSION AS REQUIRED UNDER THIS ACT** shall
16 be held invalid by any court of this state on account of any
17 irregularity in any assessment, or on account of any assessment or
18 tax roll not having been made or proceeding had within the time
19 required by law, or on account of the property having been assessed
20 without the name of the owner, or in the name of any corporation or
21 person other than the owner, or on account of any other
22 irregularity, informality, or omission, if the method and manner of
23 ascertaining and determining the average rate of taxation on
24 property in this state is in accordance with the constitution and
25 statutes of this state.

26 Sec. 19. If the state ~~board of assessors~~**TAX COMMISSION**
27 willfully assesses any property at more or less than what the

1 members taking part in making that assessment believe to be its
2 true cash value or taxable value, each member voting in favor of
3 that assessment is guilty of a misdemeanor punishable by
4 imprisonment in the county jail for not more than 1 year or by a
5 fine of not more than \$5,000.00.

6 Enacting section 1. Sections 1 and 2 of 1905 PA 282, MCL 207.1
7 and 207.2, are repealed.

8 Enacting section 2. 1905 PA 282, MCL 207.1 to 207.21, is
9 repealed effective 90 days after the effective date of this
10 amendatory act.