

# SENATE BILL NO. 803

January 12, 2022, Introduced by Senator BARRETT and referred to the Committee on Finance.

A bill to amend 1937 PA 94, entitled  
"Use tax act,"  
by amending sections 4 and 21 (MCL 205.94 and 205.111), as amended  
by 2021 PA 109.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 4. (1) The following are exempt from the tax levied under  
2       this act, subject to subsection (2):  
3       (a) Property sold in this state on which transaction a tax is  
4       paid under the general sales tax act, 1933 PA 167, MCL 205.51 to  
5       205.78, if the tax was due and paid on the retail sale to a  
6       consumer.

1 (b) Property, the storage, use, or other consumption of which  
2 this state is prohibited from taxing under the Constitution or laws  
3 of the United States, or under the constitution of this state.

4 (c) All of the following:

5 (i) Property purchased for resale. Property purchased for  
6 resale includes promotional merchandise transferred pursuant to a  
7 redemption offer to a person located outside this state or any  
8 packaging material, other than promotional merchandise, acquired  
9 for use in fulfilling a redemption offer or rebate to a person  
10 located outside this state.

11 (ii) Property purchased for lending or leasing to a public or  
12 parochial school offering a course in automobile driving except  
13 that a vehicle purchased by the school must be certified for  
14 driving education and must not be reassigned for personal use by  
15 the school's administrative personnel.

16 (iii) Property purchased for demonstration purposes. For a new  
17 vehicle dealer selling a new car or truck, exemption for  
18 demonstration purposes is determined by the number of new cars and  
19 trucks sold during the current calendar year or the immediately  
20 preceding calendar year, without regard to specific make or style,  
21 according to the following schedule but not to exceed 25 cars and  
22 trucks in 1 calendar year for demonstration purposes:

23 (A) 0 to 25, 2 units.

24 (B) 26 to 100, 7 units.

25 (C) 101 to 500, 20 units.

26 (D) 501 or more, 25 units.

27 (iv) Motor vehicles purchased for resale purposes by a new  
28 vehicle dealer licensed under section 248(8)(a) of the Michigan  
29 vehicle code, 1949 PA 300, MCL 257.248.

1 (d) Property that is brought into this state by a nonresident  
2 person for storage, use, or consumption while temporarily within  
3 this state, except if the property is used in this state in a  
4 nontransitory business activity for a period exceeding 15 days.

5 (e) Property the sale or use of which was already subjected to  
6 a sales tax or use tax equal to, or in excess of, that imposed by  
7 this act under the law of any other state or a local governmental  
8 unit within a state if the tax was due and paid on the retail sale  
9 to the consumer and the state or local governmental unit within a  
10 state in which the tax was imposed accords like or complete  
11 exemption on property the sale or use of which was subjected to the  
12 sales or use tax of this state. If the sale or use of property was  
13 already subjected to a tax under the law of any other state or  
14 local governmental unit within a state in an amount less than the  
15 tax imposed by this act, this act applies, but at a rate measured  
16 by the difference between the rate provided in this act and the  
17 rate by which the previous tax was computed.

18 (f) Except as otherwise provided under subsection (3),  
19 property sold to a person engaged in a business enterprise that  
20 uses or consumes the property, directly or indirectly, for either  
21 the tilling, planting, draining, caring for, maintaining, or  
22 harvesting of things of the soil or the breeding, raising, or  
23 caring for livestock, poultry, or horticultural products, including  
24 the transfers of livestock, poultry, or horticultural products for  
25 further growth.

26 (g) Property or services sold to the United States, an  
27 unincorporated agency or instrumentality of the United States, an  
28 incorporated agency or instrumentality of the United States wholly  
29 owned by the United States or by a corporation wholly owned by the

1 United States, the American Red Cross and its chapters or branches,  
2 this state, a department or institution of this state, or a  
3 political subdivision of this state.

4 (h) Property or services sold to a school, hospital, or home  
5 for the care and maintenance of children or aged individuals,  
6 operated by an entity of government, a regularly organized church,  
7 religious organization, or fraternal organization, a veterans'  
8 organization, or a corporation incorporated under the laws of this  
9 state, if not operated for profit, and if the income or benefit  
10 from the operation does not inure, in whole or in part, to an  
11 individual or private shareholder, directly or indirectly, and if  
12 the activities of the entity or agency are carried on exclusively  
13 for the benefit of the public at large and are not limited to the  
14 advantage, interests, and benefits of its members or a restricted  
15 group. The tax levied does not apply to property or services sold  
16 to a parent cooperative preschool. As used in this subdivision,  
17 "parent cooperative preschool" means a nonprofit, nondiscriminatory  
18 educational institution, maintained as a community service and  
19 administered by parents of children currently enrolled in the  
20 preschool that provides an educational and developmental program  
21 for children younger than compulsory school age, that provides an  
22 educational program for parents, including active participation  
23 with children in preschool activities, that is directed by  
24 qualified preschool personnel, and that is licensed under 1973 PA  
25 116, MCL 722.111 to 722.128.

26 (i) Property or services sold to a regularly organized church  
27 or house of religious worship except the following:

28 (i) Sales in which the property is used in activities that are  
29 mainly commercial enterprises.

1           (ii) Sales of vehicles licensed for use on the public highways  
2 other than a passenger van or bus with a manufacturer's rated  
3 seating capacity of 10 or more that is used primarily for the  
4 transportation of individuals for religious purposes.

5           (j) A vessel designed for commercial use of registered tonnage  
6 of 500 tons or more, if produced upon special order of the  
7 purchaser, and bunker and galley fuel, provisions, supplies,  
8 maintenance, and repairs for the exclusive use of a vessel of 500  
9 tons or more engaged in interstate commerce.

10          (k) Property purchased for use in this state if actual  
11 personal possession is obtained outside this state, the purchase  
12 price or actual value of which does not exceed \$10.00 during 1  
13 calendar month.

14          (l) A newspaper or periodical classified under federal postal  
15 laws and regulations effective September 1, 1985 as second-class  
16 mail matter or as a controlled circulation publication or qualified  
17 to accept legal notices for publication in this state, as defined  
18 by law, or any other newspaper or periodical of general  
19 circulation, established not less than 2 years, and published at  
20 least once a week, and a copyrighted motion picture film. Tangible  
21 personal property used or consumed in producing a copyrighted  
22 motion picture film, a newspaper published more than 14 times per  
23 year, or a periodical published more than 14 times per year, and  
24 not becoming a component part of that film, newspaper, or  
25 periodical is subject to the tax. Tangible personal property used  
26 or consumed in producing a newspaper published 14 times or less per  
27 year or a periodical published 14 times or less per year and that  
28 portion or percentage of tangible personal property used or  
29 consumed in producing an advertising supplement that becomes a

1 component part of a newspaper or periodical is exempt from the tax  
2 under this subdivision. For purposes of this subdivision, tangible  
3 personal property that becomes a component part of a newspaper or  
4 periodical and consequently not subject to tax, includes an  
5 advertising supplement inserted into and circulated with a  
6 newspaper or periodical that is otherwise exempt from tax under  
7 this subdivision, if the advertising supplement is delivered  
8 directly to the newspaper or periodical by a person other than the  
9 advertiser, or the advertising supplement is printed by the  
10 newspaper or periodical.

11 (m) Property purchased by persons licensed to operate a  
12 commercial radio or television station if the property is used in  
13 the origination or integration of the various sources of program  
14 material for commercial radio or television transmission. This  
15 subdivision does not include a vehicle licensed and titled for use  
16 on public highways or property used in the transmitting to or  
17 receiving from an artificial satellite.

18 (n) An individual who is a resident of this state who  
19 purchases an automobile in another state while in the military  
20 service of the United States and who pays a sales tax in the state  
21 where the automobile is purchased.

22 (o) A vehicle for which a special registration is secured in  
23 accordance with section 226(9) of the Michigan vehicle code, 1949  
24 PA 300, MCL 257.226.

25 (p) The sale of a prosthetic device, durable medical  
26 equipment, or mobility enhancing equipment.

27 (q) Water if delivered through water mains, water sold in bulk  
28 tanks in quantities of not less than 500 gallons, or the sale of  
29 bottled water.

1 (r) A vehicle not for resale used by a nonprofit corporation  
2 organized exclusively to provide a community with ambulance or fire  
3 department services.

4 (s) Tangible personal property purchased and installed as a  
5 component part of a water pollution control facility for which a  
6 tax exemption certificate is issued under part 37 of the natural  
7 resources and environmental protection act, 1994 PA 451, MCL  
8 324.3701 to 324.3708, or an air pollution control facility for  
9 which a tax exemption certificate is issued under part 59 of the  
10 natural resources and environmental protection act, 1994 PA 451,  
11 MCL 324.5901 to 324.5908.

12 (t) Tangible real or personal property donated by a  
13 manufacturer, wholesaler, or retailer to an organization or entity  
14 exempt under subdivision (h) or (i) or section 4a(1)(a) or (b) of  
15 the general sales tax act, 1933 PA 167, MCL 205.54a.

16 (u) The storage, use, or consumption of an aircraft by a  
17 domestic air carrier for use solely in the transport of air cargo,  
18 passengers, or a combination of air cargo and passengers, that has  
19 a maximum certificated takeoff weight of at least 6,000 pounds. For  
20 purposes of this subdivision, the term "domestic air carrier" is  
21 limited to a person engaged primarily in the commercial transport  
22 for hire of air cargo, passengers, or a combination of air cargo  
23 and passengers as a business activity. The state treasurer shall  
24 estimate on January 1 each year the revenue lost by this act from  
25 the **state** school aid fund and deposit that amount into the **state**  
26 school aid fund from the general fund.

27 (v) The storage, use, or consumption of an aircraft by a  
28 person who purchases the aircraft for subsequent lease to a  
29 domestic air carrier operating under a certificate issued by the

1 Federal Aviation Administration under 14 CFR part 121, for use  
2 solely in the regularly scheduled transport of passengers.

3 (w) Property or services sold to an organization not operated  
4 for profit and exempt from federal income tax under section  
5 501(c)(3) or (4) of the internal revenue code of 1986, 26 USC 501;  
6 or to a health, welfare, educational, cultural arts, charitable, or  
7 benevolent organization not operated for profit that has been  
8 issued before June 13, 1994 an exemption ruling letter to purchase  
9 items exempt from tax signed by the administrator of the sales,  
10 use, and withholding taxes division of the department. The  
11 department shall reissue an exemption letter after June 13, 1994 to  
12 each of those organizations that had an exemption letter that  
13 remains in effect unless the organization fails to meet the  
14 requirements that originally entitled it to this exemption. The  
15 exemption does not apply to sales of tangible personal property and  
16 sales of vehicles licensed for use on public highways, that are not  
17 used primarily to carry out the purposes of the organization as  
18 stated in the bylaws or articles of incorporation of the exempt  
19 organization.

20 (x) The use or consumption of services described in section  
21 3a(1)(a) or (c) or 3b by means of a prepaid telephone calling card,  
22 a prepaid authorization number for telephone use, or a charge for  
23 internet access.

24 (y) The purchase, lease, use, or consumption of the following  
25 by an industrial laundry:

26 (i) Textiles and disposable products including, but not limited  
27 to, soap, paper, chemicals, tissues, deodorizers and dispensers,  
28 and all related items such as packaging, supplies, hangers, name  
29 tags, and identification tags.



(ii) Equipment, whether owned or leased, used to repair and dispense textiles including, but not limited to, roll towel cabinets, slings, hardware, lockers, mop handles and frames, and carts.

(iii) Machinery, equipment, parts, lubricants, and repair services used to clean, process, and package textiles and related items, whether owned or leased.

(iv) Utilities such as electric, gas, water, or oil.

(v) Production washroom equipment and mending and packaging supplies and equipment.

(vi) Material handling equipment including, but not limited to, conveyors, racks, and elevators and related control equipment.

(vii) Wastewater pretreatment equipment and supplies and related maintenance and repair services.

(z) Property purchased or manufactured by a person engaged in the business of constructing, altering, repairing, or improving real estate for others, to the extent that the property is affixed to and made a structural part of real estate located in another state, regardless of whether sales or use tax was due and paid in the state in which the property is affixed to real estate.

(aa) The sale of a dental prosthesis.

(bb) Except as otherwise provided under subsection (3), a sale of any of the following to a person engaged in a business enterprise that uses or consumes the following for purposes as described in subdivision (f):

(i) Machinery that is capable of simultaneously harvesting grain or other crops and biomass and machinery used for the purpose of harvesting biomass.

(ii) Agricultural land tile and subsurface irrigation pipe.

1           (iii) Portable grain bins, including tangible personal property  
2 affixed or to be affixed to portable grain bins and directly used  
3 in the operation of a portable grain bin.

4           (iv) Grain drying equipment and the fuel or energy source that  
5 powers that equipment, including tangible personal property affixed  
6 or to be affixed to that equipment and directly used in the  
7 operation of grain drying equipment.

8           (v) Tangible personal property purchased and installed as a  
9 component part of a structure such as a barn or shop, including,  
10 but not limited to, a water supply system, heating and cooling  
11 system, lighting system, milking system, or any other appurtenance  
12 used for purposes described in this subdivision or subdivision (f),  
13 including the maintenance or improvement of existing structures, to  
14 the extent that it is not permanently affixed to and does not  
15 become a structural part of real estate. For purposes of this  
16 subparagraph and subsection (3), property installed as a component  
17 part of a structure as provided in this subparagraph is not  
18 permanently affixed to or a structural part of real estate if it is  
19 assembled and installed in a manner that it can be disassembled  
20 without affecting the physical structural functionality of the  
21 original structure and reassembled and reused for any of the  
22 purposes described in this subdivision or subdivision (f).

23           (vi) Greenhouses, including tangible personal property affixed  
24 to or to be affixed to greenhouses and directly used in the  
25 operation of a greenhouse. For purposes of subsection (3), a  
26 greenhouse is not permanently affixed to or a structural part of  
27 real estate if it is assembled and installed in a manner that it  
28 can be disassembled and reassembled without affecting the  
29 functionality of the greenhouse upon being reassembled.

1 (cc) The sale of agricultural land tile, subsurface irrigation  
2 pipe, portable grain bins, greenhouses, and grain drying equipment  
3 to a person in the business of constructing, altering, repairing,  
4 or improving real estate for others to the extent that it is  
5 affixed to and made a structural part of real estate for others and  
6 is used for an exempt purpose described under subdivision (f) or  
7 (bb).

8 (dd) The sale of tangible personal property used in the direct  
9 gathering of fish, by net, line, or otherwise, by an owner-operator  
10 of a business enterprise, not including a charter fishing business  
11 enterprise.

12 (ee) A sale of tangible personal property that is specifically  
13 designed for, and directly used in, the harvesting of aquatic  
14 vegetation from the waters of the state, including parts and  
15 materials used for repairs of that tangible personal property, to a  
16 person engaged in a business enterprise of harvesting aquatic  
17 vegetation and ultimately used for purposes described in  
18 subdivision (f) or (bb). This exemption does not include a motor  
19 vehicle licensed or required to be licensed for use on the public  
20 roads or highways of this state or tangible personal property  
21 permanently affixed to and becoming a structural part of real  
22 estate.

23 (ff) The purchase or lease of a school bus or transportation-  
24 related services, and parts or adaptive equipment affixed or to be  
25 affixed to a school bus that are used in the repair, maintenance,  
26 accommodation, or modification of a school bus, if the school bus  
27 or services are primarily used in the performance of a contract  
28 entered into with an authorized representative of a school for the  
29 transportation of preprimary, primary, or secondary school pupils

1 to or from a school or school-related events authorized by the  
2 administration of the school. However, if the school bus is used to  
3 provide transportation-related services other than to or from a  
4 school or school-related event authorized by the administration of  
5 the school to a nonexempt entity, then the amount paid for those  
6 services by the nonexempt entity is not exempt under this  
7 subdivision. As used in this subdivision:

8 (i) "Lease" means any transfer of possession or control for a  
9 fixed or indeterminate term for consideration and may include  
10 future options to purchase or extend.

11 (ii) "School" means a public school or public school academy as  
12 defined in section 5 of the revised school code, 1976 PA 451, MCL  
13 380.5.

14 (iii) "School bus" means that term as defined in section 7 of  
15 the pupil transportation act, 1990 PA 187, MCL 257.1807.

16 (gg) The sale of feminine hygiene products. As used in this  
17 subdivision, "feminine hygiene products" means tampons, panty  
18 liners, menstrual cups, sanitary napkins, and other similar  
19 tangible personal property designed for feminine hygiene in  
20 connection with the human menstrual cycle.

21 **(hh) The sale of adult diapers and children's diapers. As used**  
22 **in this subdivision:**

23 (i) "Adult diapers" means diapers other than children's  
24 diapers.

25 (ii) "Children's diapers" means diapers marketed to be worn by  
26 children.

27 (iii) "Diaper" means an absorbent garment worn by humans who are  
28 incapable of, or have difficulty, controlling their bladder or  
29 bowel movements.

1           (2) The property or services under subsection (1) are exempt  
2 only to the extent that the property or services are used for the  
3 exempt purposes if one is stated in subsection (1). The exemption  
4 is limited to the percentage of exempt use to total use determined  
5 by a reasonable formula or method approved by the department.

6           (3) The exemptions under subsection (1)(f), (bb), (cc), and  
7 (dd) do not include the transfers of food, fuel, clothing, or any  
8 similar tangible personal property for personal living or human  
9 consumption or tangible personal property permanently affixed to  
10 and becoming a structural part of real estate unless it is  
11 agricultural land tile, subsurface irrigation pipe, a portable  
12 grain bin, or grain drying equipment.

13           (4) Subsection (1)(f), (bb), and (cc) as amended by 2018 PA  
14 114 is intended to be retroactive and to apply to all periods open  
15 under section 27a of 1941 PA 122, MCL 205.27a, but does not apply  
16 to any refund claims filed before April 9, 2018.

17           (5) As used in this section:

18           (a) "Agricultural land tile" means fired clay or perforated  
19 plastic tubing used as part of a subsurface drainage system for  
20 land.

21           (b) "Algae" means any of the group of nonvascular aquatic  
22 plants that do not have stems, flowers, leaves, and roots, and that  
23 are single-celled, colonial, or filamentous forms.

24           (c) "Aquatic vegetation" means both algae and higher aquatic  
25 plants.

26           (d) "Biomass" means crop residue used to produce energy or  
27 agricultural crops grown specifically for the production of energy.

28           (e) "Greenhouse" means a structure covered with transparent or  
29 translucent materials for the purpose of admitting natural light

1 and controlling the atmosphere for growing horticultural products.  
2 Greenhouse does not include a structure primarily used to grow  
3 marihuana.

4 (f) "Higher aquatic plant" means any of the group of  
5 vascularized plants that have true stems, flowers, leaves, and  
6 roots, that live in water, and that belong to the class  
7 Angiospermae.

8 (g) "Portable grain bin" means a structure that is used or is  
9 to be used to shelter grain and that is designed to be disassembled  
10 without significant damage to its component parts.

11 (h) "Waters of the state" means that term as defined in  
12 section 3302 of the natural resources and environmental protection  
13 act, 1994 PA 451, MCL 324.3302.

14 Sec. 21. (1) Except as provided in subsections (2), (3), (4),  
15 and (5), all money received and collected under this act must be  
16 deposited by the department of treasury in the state treasury to  
17 the credit of the general fund, to be disbursed only by  
18 appropriations by the legislature.

19 (2) The collections from the use tax imposed at the additional  
20 rate of 2% approved by the electors on March 15, 1994 must be  
21 deposited in the state school aid fund established in section 11 of  
22 article IX of the state constitution of 1963.

23 (3) From the money received and collected under this act for  
24 the state share, an amount equal to all revenue lost under the  
25 state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and  
26 all revenue lost from basic school operating mills, as a result of  
27 the exemption of personal property under sections 9m, 9n, and 9o of  
28 the general property tax act, 1893 PA 206, MCL 211.9m, 211.9n, and  
29 211.9o, and all revenue lost to the **state** school aid fund as a

1 result of the exemptions under sections 4(1)(gg) **and (hh)** and 4cc,  
2 as determined by the department, must be deposited into the state  
3 school aid fund established by section 11 of article IX of the  
4 state constitution of 1963. Funds deposited into the state school  
5 aid fund under this subsection must not include the portion of the  
6 state share of the use tax imposed at the additional rate of 2%  
7 approved by the electors of this state on March 15, 1994 and  
8 dedicated for aid to schools under subsection (2). A person that  
9 claims an exemption under section 4cc shall report the purchase  
10 price of the data center equipment as defined in section 4cc and  
11 any other information necessary to determine the amount of revenue  
12 lost to the **state** school aid fund as a result of the exemption  
13 under section 4cc annually on a form at the time and in a manner  
14 prescribed by the department. The report required under this  
15 subsection must not include any remittance for tax and does not  
16 constitute a return or otherwise alleviate the person's obligations  
17 under section 6.

18 (4) Money received and collected under this act for the local  
19 community stabilization share is not state funds, must not be  
20 credited to the state treasury, and must be transmitted to the  
21 authority for deposit in the treasury of the authority, to be  
22 disbursed by the authority only as authorized under the local  
23 community stabilization authority act, 2014 PA 86, MCL 123.1341 to  
24 123.1362. The local community stabilization share is a local tax,  
25 not a state tax, and money received and collected for the local  
26 community stabilization share is money of the authority and not  
27 money of this state.

28 (5) Beginning October 1, 2016 and the first day of each  
29 calendar quarter thereafter, from the money received and collected

1 under this act for the state share, an amount equal to the  
2 collections for the calendar quarter that is 2 calendar quarters  
3 immediately preceding the current calendar quarter of the tax  
4 imposed under this act at the additional rate of 2% approved by the  
5 electors on March 15, 1994 from the use, storage, or consumption of  
6 aviation fuel must be distributed as follows:

7 (a) An amount equal to 35% of the collections of the tax  
8 imposed at a rate of 2% on the use, storage, or consumption of  
9 aviation fuel must be deposited in the state aeronautics fund and  
10 must be expended, on appropriation, only for those purposes  
11 authorized in the aeronautics code of the state of Michigan, 1945  
12 PA 327, MCL 259.1 to 259.208.

13 (b) An amount equal to 65% of the collections of the tax  
14 imposed at a rate of 2% on the use, storage, or consumption of  
15 aviation fuel must be deposited in the qualified airport fund and  
16 must be expended, on appropriation, only for those purposes  
17 authorized under section 35 of the aeronautics code of the state of  
18 Michigan, 1945 PA 327, MCL 259.35.

19 (6) The department shall, on an annual basis, reconcile the  
20 amounts distributed under subsection (5) during each fiscal year  
21 with the amounts actually collected for a particular fiscal year  
22 and shall make any necessary adjustments, positive or negative, to  
23 the amounts to be distributed for the next successive calendar  
24 quarter that begins January 1. The state treasurer or his or her  
25 designee shall annually provide to the operator of each qualified  
26 airport a report of the reconciliation performed under this  
27 subsection. The reconciliation report is subject to the  
28 confidentiality restrictions and penalties provided in section  
29 28(1)(f) of 1941 PA 122, MCL 205.28.



1 (7) As used in this section:

2 (a) "Aviation fuel" means fuel as that term is defined in  
3 section 4 of the aeronautics code of the state of Michigan, 1945 PA  
4 327, MCL 259.4.

5 (b) "Qualified airport" means that term as defined in section  
6 109 of the aeronautics code of the state of Michigan, 1945 PA 327,  
7 MCL 259.109.

8 (c) "Qualified airport fund" means the qualified airport fund  
9 created in section 34(2) of the aeronautics code of the state of  
10 Michigan, 1945 PA 327, MCL 259.34.

11 (d) "State aeronautics fund" means the state aeronautics fund  
12 created in section 34(1) of the aeronautics code of the state of  
13 Michigan, 1945 PA 327, MCL 259.34.

14 Enacting section 1. This amendatory act takes effect October  
15 1, 2022.