

SENATE BILL NO. 804

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

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending sections 4a and 25 (MCL 205.54a and 205.75), as amended
by 2021 PA 108.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4a. (1) Subject to subsection (2), the following are
2 exempt from the tax under this act:

3 (a) A sale of tangible personal property not for resale to a
4 nonprofit school, nonprofit hospital, or nonprofit home for the
5 care and maintenance of children or aged individuals operated by an
6 entity of government, a regularly organized church, religious

1 organization, or fraternal organization, a veterans' organization,
2 or a corporation incorporated under the laws of this state, if the
3 income or benefit from the operation does not inure, in whole or in
4 part, to an individual or private shareholder, directly or
5 indirectly, and if the activities of the entity or agency are
6 carried on exclusively for the benefit of the public at large and
7 are not limited to the advantage, interests, and benefits of its
8 members or any restricted group. A sale of tangible personal
9 property to a parent cooperative preschool is exempt from taxation
10 under this act. As used in this subdivision, "parent cooperative
11 preschool" means a nonprofit, nondiscriminatory educational
12 institution, maintained as a community service and administered by
13 parents of children currently enrolled in the preschool, that
14 provides an educational and developmental program for children
15 younger than compulsory school age, that provides an educational
16 program for parents, including active participation with children
17 in preschool activities, that is directed by qualified preschool
18 personnel, and that is licensed under 1973 PA 116, MCL 722.111 to
19 722.128.

20 (b) A sale of tangible personal property not for resale to a
21 regularly organized church or house of religious worship, except
22 the following:

23 (i) Sales in activities that are mainly commercial enterprises.

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

28 (c) The sale of food to bona fide enrolled students by a
29 school or other educational institution not operated for profit.

1 (d) The sale of a vessel designated for commercial use of
2 registered tonnage of 500 tons or more, if produced upon special
3 order of the purchaser, and bunker and galley fuel, provisions,
4 supplies, maintenance, and repairs for the exclusive use of the
5 vessel engaged in interstate commerce.

6 (e) Except as otherwise provided under subsection (3), a sale
7 of tangible personal property to a person engaged in a business
8 enterprise that uses or consumes the tangible personal property,
9 directly or indirectly, for either the tilling, planting, draining,
10 caring for, maintaining, or harvesting of things of the soil or the
11 breeding, raising, or caring for livestock, poultry, or
12 horticultural products, including the transfers of livestock,
13 poultry, or horticultural products for further growth.

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

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

21 (ii) Agricultural land tile and subsurface irrigation pipe.

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

25 (iv) Grain drying equipment and the fuel or energy source that
26 powers that equipment, including tangible personal property affixed
27 or to be affixed to that equipment and directly used in the
28 operation of grain drying equipment.

29 (v) Tangible personal property purchased and installed as a

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

15 (vi) Greenhouses, including tangible personal property affixed
16 to or to be affixed to greenhouses and directly used in the
17 operation of a greenhouse. For purposes of subsection (3), a
18 greenhouse is not permanently affixed to or a structural part of
19 real estate if it is assembled and installed in a manner that it
20 can be disassembled and reassembled without affecting the
21 functionality of the greenhouse upon being reassembled.

22 (g) The sale of agricultural land tile, subsurface irrigation
23 pipe, portable grain bins, greenhouses, and grain drying equipment
24 to a person in the business of constructing, altering, repairing,
25 or improving real estate for others to the extent that it is
26 affixed to and made a structural part of real estate for others and
27 is used for an exempt purpose described under subdivision (e) or
28 (f).

29 (h) The sale of tangible personal property used in the direct

1 gathering of fish, by net, line, or otherwise, by an owner-operator
2 of a business enterprise, not including a charter fishing business
3 enterprise.

4 (i) The sale of a copyrighted motion picture film or a
5 newspaper or periodical admitted under federal postal laws and
6 regulations effective September 1, 1985 as second-class mail matter
7 or as a controlled circulation publication or qualified to accept
8 legal notices for publication in this state, as defined by law, or
9 any other newspaper or periodical of general circulation,
10 established not less than 2 years, and published not less than once
11 a week. Tangible personal property used or consumed in producing a
12 copyrighted motion picture film, a newspaper published more than 14
13 times per year, or a periodical published more than 14 times per
14 year, and not becoming a component part of that film, newspaper, or
15 periodical is subject to the tax. Tangible personal property used
16 or consumed in producing a newspaper published 14 times or less per
17 year or a periodical published 14 times or less per year and that
18 portion or percentage of tangible personal property used or
19 consumed in producing an advertising supplement that becomes a
20 component part of a newspaper or periodical is exempt from the tax
21 under this subdivision. For purposes of this subdivision, tangible
22 personal property that becomes a component part of a newspaper or
23 periodical and consequently not subject to tax includes an
24 advertising supplement inserted into and circulated with a
25 newspaper or periodical that is otherwise exempt from tax under
26 this subdivision, if the advertising supplement is delivered
27 directly to the newspaper or periodical by a person other than the
28 advertiser, or the advertising supplement is printed by the
29 newspaper or periodical.

1 (j) A sale of tangible personal property to persons licensed
2 to operate commercial radio or television stations if the property
3 is used in the origination or integration of the various sources of
4 program material for commercial radio or television transmission.
5 This subdivision does not include a vehicle licensed and titled for
6 use on public highways or property used in the transmission to or
7 receiving from an artificial satellite.

8 (k) The sale of a prosthetic device, durable medical
9 equipment, or mobility enhancing equipment.

10 (l) The sale of a vehicle not for resale to a Michigan
11 nonprofit corporation organized exclusively to provide a community
12 with ambulance or fire department services.

13 (m) Before October 1, 2012, a sale of tangible personal
14 property to inmates in a penal or correctional institution
15 purchased with scrip or its equivalent issued and redeemed by the
16 institution.

17 (n) A sale of textbooks sold by a public or nonpublic school
18 to or for the use of students enrolled in any part of a
19 kindergarten through twelfth grade program.

20 (o) A sale of tangible personal property installed as a
21 component part of a water pollution control facility for which a
22 tax exemption certificate is issued under part 37 of the natural
23 resources and environmental protection act, 1994 PA 451, MCL
24 324.3701 to 324.3708, or an air pollution control facility for
25 which a tax exemption certificate is issued under part 59 of the
26 natural resources and environmental protection act, 1994 PA 451,
27 MCL 324.5901 to 324.5908.

28 (p) The sale or lease of the following to an industrial
29 laundry:

1 (i) Textiles and disposable products including, but not limited
2 to, soap, paper, chemicals, tissues, deodorizers and dispensers,
3 and all related items such as packaging, supplies, hangers, name
4 tags, and identification tags.

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

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

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

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

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

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

19 (q) A sale of tangible personal property to a person holding a
20 direct payment permit under section 8 of the use tax act, 1937 PA
21 94, MCL 205.98.

22 (r) The sale of a dental prosthesis.

23 (s) A sale of tangible personal property that is specifically
24 designed for, and directly used in, the harvesting of aquatic
25 vegetation from the waters of the state, including parts and
26 materials used for repairs of that tangible personal property, to a
27 person engaged in a business enterprise of harvesting aquatic
28 vegetation and ultimately used for purposes described in
29 subdivision (e) or (f). This exemption does not include a motor

1 vehicle licensed or required to be licensed for use on the public
2 roads or highways of this state or tangible personal property
3 permanently affixed to and becoming a structural part of real
4 estate.

5 (t) A sale or lease of a school bus or transportation-related
6 services, and parts or adaptive equipment affixed or to be affixed
7 to a school bus that are used in the repair, maintenance,
8 accommodation, or modification of a school bus, if the school bus
9 or services are primarily used in the performance of a contract
10 entered into with an authorized representative of a school for the
11 transportation of preprimary, primary, or secondary school pupils
12 to or from a school or school-related events authorized by the
13 administration of the school. However, if the school bus is used to
14 provide transportation-related services other than to or from a
15 school or school-related event authorized by the administration of
16 the school to a nonexempt entity, then the amount paid for those
17 services by the nonexempt entity is not exempt under this
18 subdivision. As used in this subdivision:

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

22 (ii) "School" means a public school or public school academy as
23 those terms are defined in section 5 of the revised school code,
24 1976 PA 451, MCL 380.5.

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

27 (u) The sale of feminine hygiene products. As used in this
28 subdivision, "feminine hygiene products" means tampons, panty
29 liners, menstrual cups, sanitary napkins, and other similar

1 tangible personal property designed for feminine hygiene in
2 connection with the human menstrual cycle.

3 (v) **The sale of adult diapers and children's diapers. As used**
4 **in this subdivision:**

5 (i) **"Adult diapers" means diapers other than children's**
6 **diapers.**

7 (ii) **"Children's diapers" means diapers marketed to be worn by**
8 **children.**

9 (iii) **"Diaper" means an absorbent garment worn by humans who are**
10 **incapable of, or have difficulty, controlling their bladder or**
11 **bowel movements.**

12 (2) The tangible personal property under subsection (1) is
13 exempt only to the extent that that property is used for the exempt
14 purpose if one is stated in subsection (1). The exemption is
15 limited to the percentage of exempt use to total use determined by
16 a reasonable formula or method approved by the department.

17 (3) The exemptions under subsection (1)(e), (f), (g), and (h)
18 do not include transfers of food, fuel, clothing, or any similar
19 tangible personal property for personal living or human consumption
20 or tangible personal property permanently affixed to and becoming a
21 structural part of real estate unless it is agricultural land tile,
22 subsurface irrigation pipe, a portable grain bin, or grain drying
23 equipment.

24 (4) Subsection (1)(e), (f), and (g) as amended by 2018 PA 113
25 is intended to be retroactive and to apply to all periods open
26 under section 27a of 1941 PA 122, MCL 205.27a, but does not apply
27 to any refund claims filed before April 9, 2018.

28 (5) As used in this section:

29 (a) **"Agricultural land tile" means fired clay or perforated**

1 plastic tubing used as part of a subsurface drainage system for
2 land.

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

6 (c) "Aquatic vegetation" means both algae and higher aquatic
7 plants.

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

10 (e) "Greenhouse" means a structure covered with transparent or
11 translucent materials for the purpose of admitting natural light
12 and controlling the atmosphere for growing horticultural products.
13 Greenhouse does not include a structure primarily used to grow
14 marihuana.

15 (f) "Higher aquatic plant" means any of the group of
16 vascularized plants that have true stems, flowers, leaves, and
17 roots, that live in water, and that belong to the class
18 Angiospermae.

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

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

25 Sec. 25. (1) All money received and collected under this act
26 must be deposited by the department in the state treasury to the
27 credit of the general fund, except as otherwise provided in this
28 section.

29 (2) Fifteen percent of the collections of the tax imposed at a

1 rate of 4% must be distributed to cities, villages, and townships
2 pursuant to the Glenn Steil state revenue sharing act of 1971, 1971
3 PA 140, MCL 141.901 to 141.921.

4 (3) Sixty percent of the collections of the tax imposed at a
5 rate of 4% must be deposited in the state school aid fund
6 established in section 11 of article IX of the state constitution
7 of 1963 and distributed as provided by law. In addition, all of the
8 collections of the tax imposed at the additional rate of 2%
9 approved by the electors on March 15, 1994 must be deposited in the
10 state school aid fund.

11 (4) Except as otherwise provided in this subsection, not less
12 than 27.9% of 25% of the collections of the general sales tax
13 imposed at a rate of 4% directly or indirectly on fuels sold to
14 propel motor vehicles upon highways, on the sale of motor vehicles,
15 and on the sale of the parts and accessories of motor vehicles by
16 new and used car businesses, used car businesses, accessory dealer
17 businesses, and gasoline station businesses as classified by the
18 department must be deposited each year into the comprehensive
19 transportation fund. For the fiscal year ending September 30, 2021
20 only, the amount deposited into the comprehensive transportation
21 fund under this subsection must be reduced by \$18,000,000.00 and
22 that \$18,000,000.00 must be deposited into the transportation
23 administration collection fund.

24 (5) Beginning October 1, 2016 and the first day of each
25 calendar quarter thereafter, an amount equal to the collections for
26 the calendar quarter that is 2 calendar quarters immediately
27 preceding the current calendar quarter of the tax imposed under
28 this act at the additional rate of 2% approved by the electors on
29 March 15, 1994 from the sale at retail of aviation fuel must be

1 distributed as follows:

2 (a) An amount equal to 35% of the collections of the tax
3 imposed at a rate of 2% on the sale at retail of aviation fuel must
4 be deposited in the state aeronautics fund and must be expended, on
5 appropriation, only for those purposes authorized in the
6 aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1
7 to 259.208.

8 (b) An amount equal to 65% of the collections of the tax
9 imposed at a rate of 2% on the sale at retail of aviation fuel must
10 be deposited in the qualified airport fund and must be expended, on
11 appropriation, only for those purposes authorized under section 35
12 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL
13 259.35.

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

25 (7) An amount equal to the collections of the tax imposed at a
26 rate of 4% under this act from the sale at retail of computer
27 software must be deposited in the Michigan health initiative fund
28 created in section 5911 of the public health code, 1978 PA 368, MCL
29 333.5911, and must be considered in addition to, and is not

1 intended as a replacement for any other money appropriated to the
2 department of health and human services. The funds deposited in the
3 Michigan health initiative fund on an annual basis must not be less
4 than \$9,000,000.00 or more than \$12,000,000.00.

5 (8) An amount equal to all revenue lost to the state school
6 aid fund as a result of the exemptions under sections 4a(1)(u) **and**
7 **(v)** and 4ee, as determined by the department, must be deposited
8 into the state school aid fund established in section 11 of article
9 IX of the state constitution of 1963. Money deposited into the
10 state school aid fund under this subsection must not include and
11 must be considered in addition to money deposited in the state
12 school aid fund under subsection (3). A person that claims an
13 exemption under section 4ee shall report the sales price of the
14 data center equipment as defined in section 4ee and any other
15 information necessary to determine the amount of revenue lost to
16 the state school aid fund as a result of the exemption under
17 section 4ee annually on a form at the time and in a manner
18 prescribed by the department. The report required under this
19 subsection must not include any remittance for tax, and does not
20 constitute a return or otherwise alleviate any obligations under
21 section 6.

22 (9) The balance in the state general fund shall be disbursed
23 only on an appropriation or appropriations by the legislature.

24 (10) As used in this section:

25 (a) "Aviation fuel" means fuel as that term is defined in
26 section 4 of the aeronautics code of the state of Michigan, 1945 PA
27 327, MCL 259.4.

28 (b) "Comprehensive transportation fund" means the
29 comprehensive transportation fund created in section 10b of 1951 PA

1 51, MCL 247.660b.

2 (c) "Qualified airport" means that term as defined in section
3 109 of the aeronautics code of the state of Michigan, 1945 PA 327,
4 MCL 259.109.

5 (d) "Qualified airport fund" means the qualified airport fund
6 created in section 34(2) of the aeronautics code of the state of
7 Michigan, 1945 PA 327, MCL 259.34.

8 (e) "State aeronautics fund" means the state aeronautics fund
9 created in section 34(1) of the aeronautics code of the state of
10 Michigan, 1945 PA 327, MCL 259.34.

11 (f) "Transportation administration collection fund" means the
12 transportation administration collection fund created in section
13 810b of the Michigan vehicle code, 1949 PA 300, MCL 257.810b.

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