

**SUBSTITUTE FOR  
HOUSE BILL NO. 5611**

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.

7           (b) Property, the storage, use, or other consumption of which  
8 this state is prohibited from taxing under the Constitution or laws



1 of the United States, or under the constitution of this state.

2 (c) All of the following:

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

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

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

21 (A) 0 to 25, 2 units.

22 (B) 26 to 100, 7 units.

23 (C) 101 to 500, 20 units.

24 (D) 501 or more, 25 units.

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

28 (d) Property that is brought into this state by a nonresident  
29 person for storage, use, or consumption while temporarily within



1 this state, except if the property is used in this state in a  
2 nontransitory business activity for a period exceeding 15 days.

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

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

24 (g) Property or services sold to the United States, an  
25 unincorporated agency or instrumentality of the United States, an  
26 incorporated agency or instrumentality of the United States wholly  
27 owned by the United States or by a corporation wholly owned by the  
28 United States, the American Red Cross and its chapters or branches,  
29 this state, a department or institution of this state, or a



1 political subdivision of this state.

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

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

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

28 (ii) Sales of vehicles licensed for use on the public highways  
29 other than a passenger van or bus with a manufacturer's rated



1 seating capacity of 10 or more that is used primarily for the  
2 transportation of individuals for religious purposes.

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

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

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



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

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

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

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

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

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

28 (r) A vehicle not for resale used by a nonprofit corporation  
29 organized exclusively to provide a community with ambulance or fire



1 department services.

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

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

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

25 (v) The storage, use, or consumption of an aircraft by a  
26 person who purchases the aircraft for subsequent lease to a  
27 domestic air carrier operating under a certificate issued by the  
28 Federal Aviation Administration under 14 CFR part 121, for use  
29 solely in the regularly scheduled transport of passengers.



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

18 (x) The use or consumption of services described in section  
19 3a(1)(a) or (c) or 3b by means of a prepaid telephone calling card,  
20 a prepaid authorization number for telephone use, or a charge for  
21 internet access.

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

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

28 (ii) Equipment, whether owned or leased, used to repair and  
29 dispense textiles including, but not limited to, roll towel





1 cabinets, slings, hardware, lockers, mop handles and frames, and  
2 carts.

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

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

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

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

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

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

19 (aa) The sale of a dental prosthesis.

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

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

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

28 (iii) Portable grain bins, including tangible personal property  
29 affixed or to be affixed to portable grain bins and directly used



1 in the operation of a portable grain bin.

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

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

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

28 (cc) The sale of agricultural land tile, subsurface irrigation  
29 pipe, portable grain bins, greenhouses, and grain drying equipment



1 to a person in the business of constructing, altering, repairing,  
2 or improving real estate for others to the extent that it is  
3 affixed to and made a structural part of real estate for others and  
4 is used for an exempt purpose described under subdivision (f) or  
5 (bb).

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

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

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



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

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

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

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

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

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

21 **(i) "Adult briefs" means diapers other than children's diapers.**

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

24 **(iii) "Diaper" means an absorbent garment worn by humans who are**  
25 **incapable of, or have difficulty, controlling their bladder or**  
26 **bowel movements. Diaper includes an incontinence pad.**

27 (2) The property or services under subsection (1) are exempt  
28 only to the extent that the property or services are used for the  
29 exempt purposes if one is stated in subsection (1). The exemption



1 is limited to the percentage of exempt use to total use determined  
2 by a reasonable formula or method approved by the department.

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

10 (4) Subsection (1)(f), (bb), and (cc) as amended by 2018 PA  
11 114 is intended to be retroactive and to apply to all periods open  
12 under section 27a of 1941 PA 122, MCL 205.27a, but does not apply  
13 to any refund claims filed before April 9, 2018.

14 (5) As used in this section:

15 (a) "Agricultural land tile" means fired clay or perforated  
16 plastic tubing used as part of a subsurface drainage system for  
17 land.

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

21 (c) "Aquatic vegetation" means both algae and higher aquatic  
22 plants.

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

25 (e) "Greenhouse" means a structure covered with transparent or  
26 translucent materials for the purpose of admitting natural light  
27 and controlling the atmosphere for growing horticultural products.  
28 Greenhouse does not include a structure primarily used to grow  
29 marihuana.



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

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

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

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

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

20 (3) From the money received and collected under this act for  
21 the state share, an amount equal to all revenue lost under the  
22 state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and  
23 all revenue lost from basic school operating mills, as a result of  
24 the exemption of personal property under sections 9m, 9n, and 9o of  
25 the general property tax act, 1893 PA 206, MCL 211.9m, 211.9n, and  
26 211.9o, and all revenue lost to the **state** school aid fund as a  
27 result of the exemptions under sections 4(1)(gg) **and (hh)** and 4cc,  
28 as determined by the department, must be deposited into the state  
29 school aid fund established by section 11 of article IX of the



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

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

25 (5) Beginning October 1, 2016 and the first day of each  
26 calendar quarter thereafter, from the money received and collected  
27 under this act for the state share, an amount equal to the  
28 collections for the calendar quarter that is 2 calendar quarters  
29 immediately preceding the current calendar quarter of the tax



1 imposed under this act at the additional rate of 2% approved by the  
2 electors on March 15, 1994 from the use, storage, or consumption of  
3 aviation fuel must be distributed as follows:

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

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

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

27 (7) As used in this section:

28 (a) "Aviation fuel" means fuel as that term is defined in  
29 section 4 of the aeronautics code of the state of Michigan, 1945 PA





1 327, MCL 259.4.

2 (b) "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 (c) "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 (d) "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 Enacting section 1. This amendatory act takes effect October  
12 1, 2022.

