

# SENATE BILL NO. 154

February 18, 2021, Introduced by Senators MCMORROW, BRINKS, WOJNO, POLEHANKI, SANTANA, GEISS, MCCANN, CHANG, MOSS, BAYER, ANANICH, BULLOCK, ALEXANDER, IRWIN and HERTEL 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), section 4a as amended by 2018 PA 673 and section 25 as amended by 2020 PA 29.

**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 ~~persons~~**individuals**

1 operated by an entity of government, a regularly organized church,  
 2 religious organization, or fraternal organization, a veterans'  
 3 organization, or a corporation incorporated under the laws of this  
 4 state, if the income or benefit from the operation does not inure,  
 5 in whole or in part, to an individual or private shareholder,  
 6 directly or indirectly, and if the activities of the entity or  
 7 agency are carried on exclusively for the benefit of the public at  
 8 large and are not limited to the advantage, interests, and benefits  
 9 of its members or any restricted group. A sale of tangible personal  
 10 property to a parent cooperative preschool is exempt from taxation  
 11 under this act. As used in this subdivision, "parent cooperative  
 12 preschool" means a nonprofit, nondiscriminatory educational  
 13 institution, maintained as a community service and administered by  
 14 parents of children currently enrolled in the preschool, that  
 15 provides an educational and developmental program for children  
 16 younger than compulsory school age, that provides an educational  
 17 program for parents, including active participation with children  
 18 in preschool activities, that is directed by qualified preschool  
 19 personnel, and that is licensed ~~pursuant to~~ **under** 1973 PA 116, MCL  
 20 722.111 to 722.128.

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

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

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

29 (c) The sale of food to bona fide enrolled students by a

1 school or other educational institution not operated for profit.

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

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

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

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

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

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

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

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

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

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

1 (h) The sale of tangible personal property used in the direct  
2 gathering of fish, by net, line, or otherwise, by an owner-operator  
3 of a business enterprise, not including a charter fishing business  
4 enterprise.

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

1 newspaper or periodical.

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

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

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

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

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

21 (o) A sale of tangible personal property installed as a  
22 component part of a water pollution control facility for which a  
23 tax exemption certificate is issued ~~pursuant to~~**under** part 37 of  
24 the natural resources and environmental protection act, 1994 PA  
25 451, MCL 324.3701 to 324.3708, or an air pollution control facility  
26 for which a tax exemption certificate is issued ~~pursuant to~~**under**  
27 part 59 of the natural resources and environmental protection act,  
28 1994 PA 451, MCL 324.5901 to 324.5908.

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

1 laundry:

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

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

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

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

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

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

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

20 (q) A sale of tangible personal property to a person holding a  
21 direct payment permit under section 8 of the use tax act, 1937 PA  
22 94, MCL 205.98.

23 (r) The sale of a dental prosthesis.

24 (s) A sale of tangible personal property that is specifically  
25 designed for, and directly used in, the harvesting of aquatic  
26 vegetation from the waters of the state, including parts and  
27 materials used for repairs of that tangible personal property, to a  
28 person engaged in a business enterprise of harvesting aquatic  
29 vegetation and ultimately used for purposes described in

1 subdivision (e) or (f). This exemption does not include a motor  
2 vehicle licensed or required to be licensed for use on the public  
3 roads or highways of this state or tangible personal property  
4 permanently affixed to and becoming a structural part of real  
5 estate.

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

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

23 (ii) "School" means a public school or public school academy as  
24 those terms are defined in section 5 of the revised school code,  
25 1976 PA 451, MCL 380.5.

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

28 (u) **The sale of feminine hygiene products after September 30,**  
29 **2021. As used in this subdivision, "feminine hygiene products"**

1 means tampons, panty liners, menstrual cups, sanitary napkins, and  
2 other similar tangible personal property designed for feminine  
3 hygiene in connection with the human menstrual cycle.

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

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

16 (4) ~~Subsections~~ **Subsection** (1)(e), (f), and (g) as amended by  
17 2018 PA 113 ~~are~~ **is** intended to be retroactive and to apply to all  
18 periods open under section 27a of 1941 PA 122, MCL 205.27a, but ~~de~~  
19 **does** not apply to any refund claims filed ~~prior to~~ **before** April 9,  
20 2018.

21 (5) As used in this section:

22 (a) "Agricultural land tile" means fired clay or perforated  
23 plastic tubing used as part of a subsurface drainage system for  
24 land.

25 (b) "Algae" means any of the group of nonvascular aquatic  
26 plants ~~which~~ **that** do not have stems, flowers, leaves, and roots,  
27 and ~~which~~ **that** are single-celled, colonial, or filamentous forms.

28 (c) "Aquatic vegetation" means both algae and higher aquatic  
29 plants.

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

3 (e) "Greenhouse" means a structure covered with transparent or  
4 translucent materials for the purpose of admitting natural light  
5 and controlling the atmosphere for growing horticultural products.  
6 Greenhouse does not include a structure primarily used to grow  
7 marihuana.

8 (f) "Higher aquatic plant" means any of the group of  
9 vascularized plants ~~which-that~~ have true stems, flowers, leaves,  
10 and roots, ~~which-that~~ live in water, and ~~which-that~~ belong to the  
11 class Angiospermae.

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

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

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

22 (2) Fifteen percent of the collections of the tax imposed at a  
23 rate of 4% must be distributed to cities, villages, and townships  
24 pursuant to the Glenn Steil state revenue sharing act of 1971, 1971  
25 PA 140, MCL 141.901 to 141.921.

26 (3) Sixty percent of the collections of the tax imposed at a  
27 rate of 4% must be deposited in the state school aid fund  
28 established in section 11 of article IX of the state constitution  
29 of 1963 and distributed as provided by law. In addition, all of the

1 collections of the tax imposed at the additional rate of 2%  
2 approved by the electors on March 15, 1994 must be deposited in the  
3 state school aid fund.

4 (4) Not less than 27.9% of 25% of the collections of the  
5 general sales tax imposed at a rate of 4% directly or indirectly on  
6 fuels sold to propel motor vehicles upon highways, on the sale of  
7 motor vehicles, and on the sale of the parts and accessories of  
8 motor vehicles by new and used car businesses, used car businesses,  
9 accessory dealer businesses, and gasoline station businesses as  
10 classified by the department must be deposited each year into the  
11 comprehensive transportation fund created in section 10b of 1951 PA  
12 51, MCL 247.660b.

13 (5) Beginning October 1, 2016 and the first day of each  
14 calendar quarter thereafter, an amount equal to the collections for  
15 the calendar quarter that is 2 calendar quarters immediately  
16 preceding the current calendar quarter of the tax imposed under  
17 this act at the additional rate of 2% approved by the electors on  
18 March 15, 1994 from the sale at retail of aviation fuel must be  
19 distributed as follows:

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

26 (b) An amount equal to 65% of the collections of the tax  
27 imposed at a rate of 2% on the sale at retail of aviation fuel must  
28 be deposited in the qualified airport fund and must be expended, on  
29 appropriation, only for those purposes authorized under section 35

1 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL  
2 259.35.

3 (6) The department shall, on an annual basis, reconcile the  
4 amounts distributed under subsection (5) during each fiscal year  
5 with the amounts actually collected for a particular fiscal year  
6 and shall make any necessary adjustments, positive or negative, to  
7 the amounts to be distributed for the next successive calendar  
8 quarter that begins January 1. The state treasurer or his or her  
9 designee shall annually provide to the operator of each qualified  
10 airport a report of the reconciliation performed under this  
11 subsection. The reconciliation report is subject to the  
12 confidentiality restrictions and penalties provided in section  
13 28(1)(f) of 1941 PA 122, MCL 205.28.

14 (7) An amount equal to the collections of the tax imposed at a  
15 rate of 4% under this act from the sale at retail of computer  
16 software must be deposited in the Michigan health initiative fund  
17 created in section 5911 of the public health code, 1978 PA 368, MCL  
18 333.5911, and must be considered in addition to, and is not  
19 intended as a replacement for any other money appropriated to the  
20 department of health and human services. The funds deposited in the  
21 Michigan health initiative fund on an annual basis must not be less  
22 than \$9,000,000.00 or more than \$12,000,000.00.

23 (8) An amount equal to all revenue lost to the state school  
24 aid fund as a result of the ~~exemption~~**exemptions** under ~~section~~  
25 **sections 4a(1)(u) and 4ee**, as determined by the department, must be  
26 deposited into the state school aid fund established in section 11  
27 of article IX of the state constitution of 1963. Money deposited  
28 into the state school aid fund under this subsection must not  
29 include and must be considered in addition to money deposited in

1 the state school aid fund under subsection (3). A person that  
2 claims an exemption under section 4ee shall report the sales price  
3 of the data center equipment as defined in section 4ee and any  
4 other information necessary to determine the amount of revenue lost  
5 to the school aid fund as a result of the exemption under section  
6 4ee annually on a form at the time and in a manner prescribed by  
7 the department. The report required under this subsection ~~shall~~  
8 **must** not include any remittance for tax, and does not constitute a  
9 return or otherwise alleviate any obligations under section 6.

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

12 (10) As used in this section:

13 (a) "Aviation fuel" means fuel as that term is defined in  
14 section 4 of the aeronautics code of the state of Michigan, 1945 PA  
15 327, MCL 259.4.

16 (b) "Qualified airport" means that term as defined in section  
17 109 of the aeronautics code of the state of Michigan, 1945 PA 327,  
18 MCL 259.109.

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

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

25 Enacting section 1. This amendatory act does not take effect  
26 unless House Bill No. 4270 of the 101st Legislature is enacted into  
27 law.