

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 5080**

A bill to amend 1933 PA 167, entitled  
"General sales tax act,"  
by amending sections 1 and 25 (MCL 205.51 and 205.75), section 1 as  
amended by 2018 PA 2 and section 25 as amended by 2021 PA 108.

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

1           Sec. 1. (1) As used in this act:  
2           (a) "Person" means an individual, firm, partnership, joint  
3           venture, association, social club, fraternal organization,  
4           municipal or private corporation whether organized for profit or  
5           not, company, estate, trust, receiver, trustee, syndicate, the  
6           United States, this state, county, or any other group or  
7           combination acting as a unit, and includes the plural as well as  
8           the singular number, unless the intention to give a more limited



1 meaning is disclosed by the context.

2 (b) "Sale at retail" or "retail sale" means a sale, lease, or  
3 rental of tangible personal property for any purpose other than for  
4 resale, sublease, or subrent.

5 (c) "Gross proceeds" means sales price.

6 (d) "Sales price" means the total amount of consideration,  
7 including cash, credit, property, and services, for which tangible  
8 personal property or services are sold, leased, or rented, valued  
9 in money, whether received in money or otherwise, and applies to  
10 the measure subject to sales tax. Sales price includes the  
11 following subparagraphs (i) ~~through to~~ (vii) and excludes  
12 subparagraphs (viii) ~~through (xiv) to~~ (xv):

13 (i) Seller's cost of the property sold.

14 (ii) Cost of materials used, labor or service cost, interest,  
15 losses, costs of transportation to the seller, taxes imposed on the  
16 seller other than taxes imposed by this act, and any other expense  
17 of the seller.

18 (iii) Charges by the seller for any services necessary to  
19 complete the sale, other than the following:

20 (A) An amount received or billed by the taxpayer for  
21 remittance to the employee as a gratuity or tip, if the gratuity or  
22 tip is separately identified and itemized on the guest check or  
23 billed to the customer.

24 (B) Labor or service charges involved in maintenance and  
25 repair work on tangible personal property of others if separately  
26 itemized.

27 (iv) ~~Delivery~~ **Except as otherwise provided in subparagraph**  
28 **(xv), delivery** charges. ~~incurred or to be incurred before the~~  
29 ~~completion of the transfer of ownership of tangible personal~~



1 ~~property subject to the tax levied under this act from the seller~~  
2 ~~to the purchaser.~~ A seller is not liable under this act for  
3 delivery charges allocated to the delivery of exempt property.

4 (v) ~~Installation~~ **Except as otherwise provided in subparagraph**  
5 **(xv), installation** charges. ~~incurred or to be incurred before the~~  
6 ~~completion of the transfer of ownership of tangible personal~~  
7 ~~property from the seller to the purchaser.~~

8 (vi) Except as otherwise provided in subparagraphs (xi), (xii),  
9 and (xiv), credit for any trade-in.

10 (vii) Except as otherwise provided in subparagraph (x),  
11 consideration received by the seller from third parties if all of  
12 the following conditions are met:

13 (A) The seller actually receives consideration from a party  
14 other than the purchaser and the consideration is directly related  
15 to a price reduction or discount on the sale.

16 (B) The seller has an obligation to pass the price reduction  
17 or discount through to the purchaser.

18 (C) The amount of the consideration attributable to the sale  
19 is fixed and determinable by the seller at the time of the sale of  
20 the item to the purchaser.

21 (D) One of the following criteria is met:

22 (I) The purchaser presents a coupon, certificate, or other  
23 documentation to the seller to claim a price reduction or discount  
24 where the coupon, certificate, or documentation is authorized,  
25 distributed, or granted by a third party with the understanding  
26 that the third party will reimburse any seller to whom the coupon,  
27 certificate, or documentation is presented.

28 (II) The purchaser identifies himself or herself to the seller  
29 as a member of a group or organization entitled to a price



1 reduction or discount. A preferred customer card that is available  
2 to any patron does not constitute membership in a group or  
3 organization.

4 (III) The price reduction or discount is identified as a third  
5 party price reduction or discount on the invoice received by the  
6 purchaser or on a coupon, certificate, or other documentation  
7 presented by the purchaser.

8 (viii) Interest, financing, or carrying charges from credit  
9 extended on the sale of personal property or services, if the  
10 amount is separately stated on the invoice, bill of sale, or  
11 similar document given to the purchaser.

12 (ix) Any taxes legally imposed directly on the consumer that  
13 are separately stated on the invoice, bill of sale, or similar  
14 document given to the purchaser.

15 (x) Beginning January 1, 2000, employee discounts that are  
16 reimbursed by a third party on sales of motor vehicles.

17 (xi) Beginning November 15, 2013, credit for the agreed-upon  
18 value of a titled watercraft used as part payment of the purchase  
19 price of a new titled watercraft or used titled watercraft  
20 purchased from a watercraft dealer if the agreed-upon value is  
21 separately stated on the invoice, bill of sale, or similar document  
22 given to the purchaser. This subparagraph does not apply to leases  
23 or rentals.

24 (xii) Beginning December 15, 2013, credit for the agreed-upon  
25 value of a motor vehicle or recreational vehicle used as part  
26 payment of the purchase price of a new motor vehicle or used motor  
27 vehicle or recreational vehicle purchased from a dealer if the  
28 agreed-upon value is separately stated on the invoice, bill of  
29 sale, or similar document given to the purchaser. This subparagraph



1 does not apply to leases or rentals. Except as otherwise provided  
 2 under subparagraph (xiv), for purposes of this subparagraph, the  
 3 agreed-upon value of a motor vehicle or recreational vehicle used  
 4 as part payment ~~shall be~~ **is** limited as follows:

5 (A) Beginning December 15, 2013, subject to sub-subparagraphs  
 6 (B) and (C), the lesser of the following:

7 (I) \$2,000.00.

8 (II) The agreed-upon value of the motor vehicle or  
 9 recreational vehicle used as part payment.

10 (B) Beginning January 1, 2015 and each January 1 thereafter  
 11 through December 31, 2018, the amount under sub-subparagraph (A) (I)  
 12 ~~shall be~~ **is** increased by an additional \$500.00 each year.

13 (C) Beginning January 1, 2019, subject to sub-subparagraphs  
 14 (D) and (E), the lesser of the following:

15 (I) \$5,000.00.

16 (II) The agreed-upon value of the motor vehicle used as part  
 17 payment.

18 (D) Beginning January 1, 2020 and each January 1 thereafter,  
 19 the amount under sub-subparagraph (C) (I) ~~shall be~~ **is** increased by  
 20 an additional \$1,000.00 each year.

21 (E) Beginning on January 1 in the year in which the amount  
 22 under sub-subparagraph (C) (I) exceeds \$14,000.00 and each January 1  
 23 thereafter, there ~~shall be~~ **is** no limitation on the agreed-upon  
 24 value of the motor vehicle used as part payment.

25 (xiii) Beginning January 1, 2017, credit for the core charge  
 26 attributable to a recycling fee, deposit, or disposal fee for a  
 27 motor vehicle or recreational vehicle part or battery if the  
 28 recycling fee, deposit, or disposal fee is separately stated on the  
 29 invoice, bill of sale, or similar document given to the purchaser.



1 (xiv) Beginning January 1, 2018, credit for the agreed-upon  
2 value of a recreational vehicle used as part payment of the  
3 purchase price of a recreational vehicle purchased from a dealer if  
4 the agreed-upon value is separately stated on the invoice, bill of  
5 sale, or similar document given to the purchaser. This subparagraph  
6 does not apply to leases or rentals.

7 (xv) **Delivery or installation charges if such charges are**  
8 **separately stated on the invoice, bill of sale, or similar document**  
9 **provided to the purchaser, and the seller maintains its books and**  
10 **records to show separately the transactions used to determine the**  
11 **tax levied by this act.**

12 (e) "Business" includes an activity engaged in by a person or  
13 caused to be engaged in by that person with the object of gain,  
14 benefit, or advantage, either direct or indirect.

15 (f) "Tax year" or "taxable year" means the fiscal year of the  
16 state or the taxpayer's fiscal year if permission is obtained by  
17 the taxpayer from the department to use the taxpayer's fiscal year  
18 as the tax period instead.

19 (g) "Department" means the department of treasury.

20 (h) "Taxpayer" means a person subject to a tax under this act.

21 (i) "Tax" includes a tax, interest, or penalty levied under  
22 this act.

23 (j) "Textiles" means goods that are made of or incorporate  
24 woven or nonwoven fabric, including, but not limited to, clothing,  
25 shoes, hats, gloves, handkerchiefs, curtains, towels, sheets,  
26 pillows, pillow cases, tablecloths, napkins, aprons, linens, floor  
27 mops, floor mats, and thread. Textiles also include materials used  
28 to repair or construct textiles, or other goods used in the rental,  
29 sale, or cleaning of textiles.



1 (k) "New motor vehicle" means that term as defined in section  
2 33a of the Michigan vehicle code, 1949 PA 300, MCL 257.33a.

3 (l) "Recreational vehicle" means that term as defined in  
4 section 49a of the Michigan vehicle code, 1949 PA 300, MCL 257.49a.

5 (m) "Dealer" means that term as defined in section 11 of the  
6 Michigan vehicle code, 1949 PA 300, MCL 257.11.

7 (n) "Watercraft dealer" means a dealer as that term is defined  
8 in section 80102 of the natural resources and environmental  
9 protection act, 1994 PA 451, MCL 324.80102.

10 (2) If the department determines that it is necessary for the  
11 efficient administration of this act to regard an unlicensed  
12 person, including a salesperson, representative, peddler, or  
13 canvasser as the agent of the dealer, distributor, supervisor, or  
14 employer under whom the unlicensed person operates or from whom the  
15 unlicensed person obtains the tangible personal property sold by  
16 the unlicensed person, irrespective of whether the unlicensed  
17 person is making sales on the unlicensed person's own behalf or on  
18 behalf of the dealer, distributor, supervisor, or employer, the  
19 department may so regard the unlicensed person and may regard the  
20 dealer, distributor, supervisor, or employer as making sales at  
21 retail at the retail price for the purposes of this act.

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

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



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

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

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

28           (a) An amount equal to 35% of the collections of the tax  
29 imposed at a rate of 2% on the sale at retail of aviation fuel must





1 be deposited in the state aeronautics fund and must be expended, on  
2 appropriation, only for those purposes authorized in the  
3 aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1  
4 to 259.208.

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

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

22 (7) An amount equal to the collections of the tax imposed at a  
23 rate of 4% under this act from the sale at retail of computer  
24 software must be deposited in the Michigan health initiative fund  
25 created in section 5911 of the public health code, 1978 PA 368, MCL  
26 333.5911, and must be considered in addition to, and is not  
27 intended as a replacement for any other money appropriated to the  
28 department of health and human services. The funds deposited in the  
29 Michigan health initiative fund on an annual basis must not be less



1 than \$9,000,000.00 or more than \$12,000,000.00.

2 (8) ~~An~~ **In addition to the money deposited in the state school**  
 3 **aid fund under subsection (3), an** amount equal to ~~all revenue lost~~  
 4 ~~to the state school aid fund as a result of the exemptions under~~  
 5 ~~sections 4a(1)(u) and 4ee,~~ **the sum of the following,** as determined  
 6 by the department, must be deposited into the state school aid  
 7 fund: ~~established in section 11 of article IX of the state~~  
 8 ~~constitution of 1963. Money deposited into the state school aid~~  
 9 ~~fund under this subsection must not include and must be considered~~  
 10 ~~in addition to money deposited in the state school aid fund under~~  
 11 ~~subsection (3).~~

12 (a) **All revenue lost to the state school aid fund as a result**  
 13 **of the exemption under section 4a(1)(u).**

14 (b) **All revenue lost to the state school aid fund as a result**  
 15 **of the exemption under section 4ee.** A person that claims an  
 16 exemption under section 4ee shall report the sales price of the  
 17 data center equipment as defined in section 4ee and any other  
 18 information necessary to determine the amount of revenue lost to  
 19 the state school aid fund as a result of the exemption under  
 20 section 4ee annually on a form at the time and in a manner  
 21 prescribed by the department. The report required under this  
 22 ~~subsection~~ **subdivision** must not include any remittance for tax, and  
 23 does not constitute a return or otherwise alleviate any obligations  
 24 under section 6.

25 (c) **All revenue lost to the state school aid fund as a result**  
 26 **of the exclusion under section 1(1)(d)(xv).** A person that **excludes**  
 27 **delivery or installation charges from the sales price of tangible**  
 28 **personal property under section 1(1)(d)(xv) for purposes of**  
 29 **calculating the tax due under this act shall report the amount of**



1 the delivery or installation charges and any other information  
2 necessary to determine the amount of revenue lost to the state  
3 school aid fund as a result of the exclusion under section  
4 1(1)(d)(xv) on an existing or amended form at the time and in a  
5 manner prescribed by the department.

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

8 (10) As used in this section:

9 (a) "Aviation fuel" means fuel as that term is defined in  
10 section 4 of the aeronautics code of the state of Michigan, 1945 PA  
11 327, MCL 259.4.

12 (b) "Comprehensive transportation fund" means the  
13 comprehensive transportation fund created in section 10b of 1951 PA  
14 51, MCL 247.660b.

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

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

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

24 (f) "State school aid fund" means the state school aid fund  
25 established in section 11 of article IX of the state constitution  
26 of 1963.

27 (g) ~~(f)~~—"Transportation administration collection fund" means  
28 the transportation administration collection fund created in  
29 section 810b of the Michigan vehicle code, 1949 PA 300, MCL



1 257.810b.

2 Enacting section 1. Section 1(1)(d)(xv) of the general sales  
3 tax act, 1933 PA 167, MCL 205.51, is intended only to clarify the  
4 current status of the law in this state, is remedial in nature,  
5 and, therefore, applies to a civil action pending on the effective  
6 date of this amendatory act.

