

SENATE BILL No. 822

February 25, 2014, Introduced by Senators HILDENBRAND, JANSEN, WARREN, MOOLENAAR and BRANDENBURG and referred to the Committee on Finance.

A bill to amend 1937 PA 94, entitled
"Use tax act,"
by amending sections 3, 19, and 21 (MCL 205.93, 205.109, and 205.111), section 3 as amended by 2007 PA 103, section 19 as added by 2004 PA 172, and section 21 as amended by 2010 PA 37, and by adding sections 2c and 10a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SEC. 2C. AS USED IN THIS ACT:

(A) "AUTHORITY" MEANS THE LOCAL COMMUNITY STABILIZATION
AUTHORITY CREATED UNDER THE LOCAL COMMUNITY STABILIZATION AUTHORITY
ACT.

(B) "BASIC SCHOOL OPERATING MILLS" MEANS SCHOOL OPERATING
MILLS USED TO CALCULATE THE STATE PORTION OF A LOCAL SCHOOL
DISTRICT'S FOUNDATION ALLOWANCE UNDER SECTION 20 OF THE STATE

1 SCHOOL AID ACT OF 1979, 1979 PA 94, MCL 388.1620, AND LEVIED UNDER
2 SECTION 1211 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1211,
3 BY A LOCAL SCHOOL DISTRICT THAT RECEIVES FROM THIS STATE A PORTION
4 OF ITS FOUNDATION ALLOWANCE, AS CALCULATED UNDER SECTION 20(4) OF
5 THE STATE SCHOOL AID ACT OF 1979, 1979 PA 94, MCL 388.1620.

6 (C) "LOCAL COMMUNITY STABILIZATION SHARE" MEANS THE LOCAL
7 COMMUNITY STABILIZATION SHARE TAX DESCRIBED IN SECTION 3(5) AND
8 INCLUDED IN THE SPECIFIC TAX LEVIED UNDER SECTION 3(1).

9 (D) "PERSONAL PROPERTY GROWTH FACTOR" MEANS THE AVERAGE ANNUAL
10 GROWTH RATE FOR INDUSTRIAL AND COMMERCIAL PERSONAL PROPERTY TAXABLE
11 VALUE FROM 1996 THROUGH 2012 ROUNDED UP TO THE NEAREST TENTH OF A
12 PERCENT, WHICH IS 1.0%.

13 (E) "STATE FISCAL YEAR" MEANS THE ANNUAL PERIOD FISCAL
14 BEGINNING ON OCTOBER 1 OF EACH YEAR AND ENDING ON SEPTEMBER 30 IN
15 THE IMMEDIATELY SUCCEEDING YEAR.

16 (F) "STATE SHARE" MEANS THE STATE SHARE TAX DESCRIBED IN
17 SECTION 3(5) AND INCLUDED IN THE SPECIFIC TAX LEVIED UNDER SECTION
18 3(1).

19 Sec. 3. (1) There is levied upon and there shall be collected
20 from every person in this state a specific tax for the privilege of
21 using, storing, or consuming tangible personal property in this
22 state at a **TOTAL** rate equal to 6% of the price of the property or
23 services specified in section 3a or 3b. The tax levied under this
24 act applies to a person who acquires tangible personal property or
25 services that are subject to the tax levied under this act for any
26 tax-exempt use who subsequently converts the tangible personal
27 property or service to a taxable use, including an interim taxable

1 use. If tangible personal property or services are converted to a
2 taxable use, the tax levied under this act shall be imposed without
3 regard to any subsequent tax-exempt use. Penalties and interest
4 shall be added to the tax if applicable as provided in this act.
5 For the purpose of the proper administration of this act and to
6 prevent the evasion of the tax, all of the following shall be
7 presumed:

8 (a) That tangible personal property purchased is subject to
9 the tax if brought into this state within 90 days of the purchase
10 date and is considered as acquired for storage, use, or other
11 consumption in this state.

12 (b) That tangible personal property used solely for personal,
13 nonbusiness purposes that is purchased outside of this state and
14 that is not an aircraft is exempt from the tax levied under this
15 act if 1 or more of the following conditions are satisfied:

16 (i) The property is purchased by a person who is not a resident
17 of this state at the time of purchase and is brought into this
18 state more than 90 days after the date of purchase.

19 (ii) The property is purchased by a person who is a resident of
20 this state at the time of purchase and is brought into this state
21 more than 360 days after the date of purchase.

22 (2) The tax imposed by this section for the privilege of
23 using, storing, or consuming a vehicle, ORV, manufactured housing,
24 aircraft, snowmobile, or watercraft shall be collected before the
25 transfer of the vehicle, ORV, manufactured housing, aircraft,
26 snowmobile, or watercraft, except a transfer to a licensed dealer
27 or retailer for purposes of resale that arises by reason of a

1 transaction made by a person who does not transfer vehicles, ORVs,
2 manufactured housing, aircraft, snowmobiles, or watercraft in the
3 ordinary course of his or her business done in this state. The tax
4 on a vehicle, ORV, snowmobile, and watercraft shall be collected by
5 the secretary of state before the transfer of the vehicle, ORV,
6 snowmobile, or watercraft registration. The tax on manufactured
7 housing shall be collected by the department of ~~consumer and~~
8 ~~industry services~~ **LICENSING AND REGULATORY AFFAIRS**, mobile home
9 commission, or its agent before the transfer of the certificate of
10 title. The tax on an aircraft shall be collected by the department
11 of treasury. The price tax base of a new or previously owned car or
12 truck held for resale by a dealer and that is not exempt under
13 section 4(1)(c) is the purchase price of the car or truck
14 multiplied by 2.5% plus \$30.00 per month beginning with the month
15 that the dealer uses the car or truck in a nonexempt manner.

16 (3) The following transfers or purchases are not subject to
17 use tax:

18 (a) A transaction or a portion of a transaction if the
19 transferee or purchaser is the spouse, mother, father, brother,
20 sister, child, stepparent, stepchild, stepbrother, stepsister,
21 grandparent, grandchild, legal ward, or a legally appointed
22 guardian with a certified letter of guardianship, of the
23 transferor.

24 (b) A transaction or a portion of a transaction if the
25 transfer is a gift to a beneficiary in the administration of an
26 estate.

27 (c) If a vehicle, ORV, manufactured housing, aircraft,

1 snowmobile, or watercraft that has once been subjected to the
2 Michigan sales or use tax is transferred in connection with the
3 organization, reorganization, dissolution, or partial liquidation
4 of an incorporated or unincorporated business and the beneficial
5 ownership is not changed.

6 (d) If an insurance company licensed to conduct business in
7 this state acquires ownership of a late model distressed vehicle as
8 defined in section 12a of the Michigan vehicle code, 1949 PA 300,
9 MCL 257.12a, through payment of damages in response to a claim or
10 when the person who owned the vehicle before the insurance company
11 reacquires ownership from the company as part of the settlement of
12 a claim.

13 (4) The department may utilize the services, information, or
14 records of any other department or agency of state government **OR OF**
15 **THE AUTHORITY** in the performance of its duties under this act, and
16 other departments or agencies of state government **AND THE AUTHORITY**
17 are required to furnish those services, information, or records
18 upon the request of the department.

19 (5) ~~Any decrease in the rate of the tax levied under~~
20 ~~subsection (1) on services subject to tax under this act shall~~
21 ~~apply only to billings rendered on or after the effective date of~~
22 ~~the decrease.~~**BEGINNING ON OCTOBER 1, 2015, THE SPECIFIC TAX LEVIED**
23 **UNDER SUBSECTION (1) INCLUDES BOTH A STATE SHARE TAX LEVIED BY THIS**
24 **STATE AND A LOCAL COMMUNITY STABILIZATION SHARE TAX LEVIED BY THE**
25 **AUTHORITY AT THE FOLLOWING RATES IN EACH OF THE FOLLOWING STATE**
26 **FISCAL YEARS:**

27 (A) FOR FISCAL YEAR 2015-2016, THE LOCAL COMMUNITY

1 STABILIZATION SHARE TAX RATE IS THAT RATE CALCULATED BY THE
2 DEPARTMENT OF TREASURY ON BEHALF OF THE AUTHORITY SUFFICIENT TO
3 GENERATE \$96,100,000.00 IN REVENUE AND THE STATE SHARE TAX RATE IS
4 THAT RATE DETERMINED BY SUBTRACTING THE LOCAL COMMUNITY
5 STABILIZATION SHARE TAX RATE FROM 6%.

6 (B) FOR FISCAL YEAR 2016-2017, THE LOCAL COMMUNITY
7 STABILIZATION SHARE TAX RATE IS THAT RATE CALCULATED BY THE
8 DEPARTMENT OF TREASURY ON BEHALF OF THE AUTHORITY SUFFICIENT TO
9 GENERATE \$380,600,000.00 IN REVENUE AND THE STATE SHARE TAX RATE IS
10 THAT RATE DETERMINED BY SUBTRACTING THE LOCAL COMMUNITY
11 STABILIZATION SHARE TAX RATE FROM 6%.

12 (C) FOR FISCAL YEAR 2017-2018, THE LOCAL COMMUNITY
13 STABILIZATION SHARE TAX RATE IS THAT RATE CALCULATED BY THE
14 DEPARTMENT OF TREASURY ON BEHALF OF THE AUTHORITY SUFFICIENT TO
15 GENERATE \$410,500,000.00 IN REVENUE AND THE STATE SHARE TAX RATE IS
16 THAT RATE DETERMINED BY SUBTRACTING THE LOCAL COMMUNITY
17 STABILIZATION SHARE TAX RATE FROM 6%.

18 (D) FOR FISCAL YEAR 2018-2019, THE LOCAL COMMUNITY
19 STABILIZATION SHARE TAX RATE IS THAT RATE CALCULATED BY THE
20 DEPARTMENT OF TREASURY ON BEHALF OF THE AUTHORITY SUFFICIENT TO
21 GENERATE \$437,700,000.00 IN REVENUE AND THE STATE SHARE TAX RATE IS
22 THAT RATE DETERMINED BY SUBTRACTING THE LOCAL COMMUNITY
23 STABILIZATION SHARE TAX RATE FROM 6%.

24 (E) FOR FISCAL YEAR 2019-2020, THE LOCAL COMMUNITY
25 STABILIZATION SHARE TAX RATE IS THAT RATE CALCULATED BY THE
26 DEPARTMENT OF TREASURY ON BEHALF OF THE AUTHORITY SUFFICIENT TO
27 GENERATE \$465,900,000.00 IN REVENUE AND THE STATE SHARE TAX RATE IS

1 THAT RATE DETERMINED BY SUBTRACTING THE LOCAL COMMUNITY
2 STABILIZATION SHARE TAX RATE FROM 6%.

3 (F) FOR FISCAL YEAR 2020-2021, THE LOCAL COMMUNITY
4 STABILIZATION SHARE TAX RATE IS THAT RATE CALCULATED BY THE
5 DEPARTMENT OF TREASURY ON BEHALF OF THE AUTHORITY SUFFICIENT TO
6 GENERATE \$491,500,000.00 IN REVENUE AND THE STATE SHARE TAX RATE IS
7 THAT RATE DETERMINED BY SUBTRACTING THE LOCAL COMMUNITY
8 STABILIZATION SHARE TAX RATE FROM 6%.

9 (G) FOR FISCAL YEAR 2021-2022, THE LOCAL COMMUNITY
10 STABILIZATION SHARE TAX RATE IS THAT RATE CALCULATED BY THE
11 DEPARTMENT OF TREASURY ON BEHALF OF THE AUTHORITY SUFFICIENT TO
12 GENERATE \$521,300,000.00 IN REVENUE AND THE STATE SHARE TAX RATE IS
13 THAT RATE DETERMINED BY SUBTRACTING THE LOCAL COMMUNITY
14 STABILIZATION SHARE TAX RATE FROM 6%.

15 (H) FOR FISCAL YEAR 2022-2023, THE LOCAL COMMUNITY
16 STABILIZATION SHARE TAX RATE IS THAT RATE CALCULATED BY THE
17 DEPARTMENT OF TREASURY ON BEHALF OF THE AUTHORITY SUFFICIENT TO
18 GENERATE \$548,000,000.00 IN REVENUE AND THE STATE SHARE TAX RATE IS
19 THAT RATE DETERMINED BY SUBTRACTING THE LOCAL COMMUNITY
20 STABILIZATION SHARE TAX RATE FROM 6%.

21 (I) FOR FISCAL YEAR 2023-2024, THE LOCAL COMMUNITY
22 STABILIZATION SHARE TAX RATE IS THAT RATE CALCULATED BY THE
23 DEPARTMENT OF TREASURY ON BEHALF OF THE AUTHORITY SUFFICIENT TO
24 GENERATE \$561,700,000.00 IN REVENUE AND THE STATE SHARE TAX RATE IS
25 THAT RATE DETERMINED BY SUBTRACTING THE LOCAL COMMUNITY
26 STABILIZATION SHARE TAX RATE FROM 6%.

27 (J) FOR FISCAL YEAR 2024-2025, THE LOCAL COMMUNITY

1 STABILIZATION SHARE TAX RATE IS THAT RATE CALCULATED BY THE
2 DEPARTMENT OF TREASURY ON BEHALF OF THE AUTHORITY SUFFICIENT TO
3 GENERATE \$569,800,000.00 IN REVENUE AND THE STATE SHARE TAX RATE IS
4 THAT RATE DETERMINED BY SUBTRACTING THE LOCAL COMMUNITY
5 STABILIZATION SHARE TAX RATE FROM 6%.

6 (K) FOR FISCAL YEAR 2025-2026, THE LOCAL COMMUNITY
7 STABILIZATION SHARE TAX RATE IS THAT RATE CALCULATED BY THE
8 DEPARTMENT OF TREASURY ON BEHALF OF THE AUTHORITY SUFFICIENT TO
9 GENERATE \$571,400,000.00 IN REVENUE AND THE STATE SHARE TAX RATE IS
10 THAT RATE DETERMINED BY SUBTRACTING THE LOCAL COMMUNITY
11 STABILIZATION SHARE TAX RATE FROM 6%.

12 (I) FOR FISCAL YEAR 2026-2027, THE LOCAL COMMUNITY
13 STABILIZATION SHARE TAX RATE IS THAT RATE CALCULATED BY THE
14 DEPARTMENT OF TREASURY ON BEHALF OF THE AUTHORITY SUFFICIENT TO
15 GENERATE \$572,200,000.00 IN REVENUE AND THE STATE SHARE TAX RATE IS
16 THAT RATE DETERMINED BY SUBTRACTING THE LOCAL COMMUNITY
17 STABILIZATION SHARE TAX RATE FROM 6%.

18 (M) FOR FISCAL YEAR 2027-2028, THE LOCAL COMMUNITY
19 STABILIZATION SHARE TAX RATE IS THAT RATE CALCULATED BY THE
20 DEPARTMENT OF TREASURY ON BEHALF OF THE AUTHORITY SUFFICIENT TO
21 GENERATE \$572,600,000.00 IN REVENUE AND THE STATE SHARE TAX RATE IS
22 THAT RATE DETERMINED BY SUBTRACTING THE LOCAL COMMUNITY
23 STABILIZATION SHARE TAX RATE FROM 6%.

24 (N) FOR FISCAL YEAR 2028-2029 AND EACH FISCAL YEAR THEREAFTER,
25 THE LOCAL COMMUNITY STABILIZATION SHARE TAX RATE IS THAT RATE
26 CALCULATED BY THE DEPARTMENT OF TREASURY ON BEHALF OF THE AUTHORITY
27 SUFFICIENT TO GENERATE THE AMOUNT DISTRIBUTED UNDER THIS SECTION IN

1 THE IMMEDIATELY PRECEDING YEAR ADJUSTED BY THE PERSONAL PROPERTY
2 GROWTH FACTOR AND THE STATE SHARE TAX RATE IS THAT RATE DETERMINED
3 BY SUBTRACTING THE LOCAL COMMUNITY STABILIZATION SHARE TAX RATE
4 FROM 6%.

5 (6) THE STATE SHARE INCLUDES THE PORTION OF THE USE TAX
6 IMPOSED AT THE ADDITIONAL RATE OF 2% APPROVED BY THE ELECTORS OF
7 THIS STATE ON MARCH 15, 1994 AND DEDICATED FOR AID TO SCHOOLS UNDER
8 SECTION 21(2). THE LOCAL COMMUNITY STABILIZATION SHARE DOES NOT
9 INCLUDE THE PORTION OF THE USE TAX IMPOSED AT THE ADDITIONAL RATE
10 OF 2% APPROVED BY THE ELECTORS OF THIS STATE ON MARCH 15, 1994.

11 (7) THE TOTAL COMBINED RATE OF THE TAX LEVIED BY THIS STATE
12 AND THE AUTHORITY UNDER THIS ACT, INCLUDING BOTH THE STATE SHARE
13 AND THE LOCAL COMMUNITY STABILIZATION SHARE, SHALL NOT EXCEED 6%.
14 THE AUTHORITY SHALL NOT INCREASE TAX RATES.

15 SEC. 10A. THE DEPARTMENT SHALL ADMINISTER UNDER THIS ACT AND
16 UNDER 1941 PA 122, MCL 205.1 TO 205.31, THE RECEIPT AND COLLECTION
17 OF THE LOCAL COMMUNITY STABILIZATION SHARE ON BEHALF OF THE
18 AUTHORITY AS AN AGENT OF THE AUTHORITY. THE DEPARTMENT MAY ENTER
19 INTO AN AGREEMENT WITH THE AUTHORITY RELATING TO THE RECEIPT AND
20 COLLECTION OF THE LOCAL COMMUNITY STABILIZATION SHARE AND THE
21 PAYMENT OF AUTHORITY REVENUE GENERATED BY THE LOCAL COMMUNITY
22 STABILIZATION SHARE TO THE AUTHORITY, DEDICATED TO LOCAL PURPOSES,
23 INCLUDING, BUT NOT LIMITED TO, POLICE SAFETY, FIRE PROTECTION, AND
24 AMBULANCE EMERGENCY SERVICES.

25 Sec. 19. (1) The tax collected by the seller from the consumer
26 or lessee under this act is for the benefit of this state, ~~and a~~
27 THE AUTHORITY, AND THE METROPOLITAN AREAS OF THIS STATE, INCLUDING,

BUT NOT LIMITED TO, LOCAL COMMUNITIES WITHIN THE METROPOLITAN AREAS. A person other than this state, THE AUTHORITY, AND THE METROPOLITAN AREAS OF THIS STATE shall not derive a benefit from the collection or payment of this tax.

(2) THE LEGISLATURE FINDS AND DECLARES THAT THE PURPOSE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION IS MODERNIZING THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS IN THIS STATE.

Sec. 21. (1) Except as provided in subsections (2), ~~and (3),~~ AND (4), all money received and collected under this act shall be deposited by the department of treasury in the state treasury to the credit of the general fund, to be disbursed only by appropriations by the legislature.

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

~~—— (3) For the fiscal year ending September 30, 2010 only, \$9,500,000.00 shall be deposited by the department of treasury into the Michigan promotion fund. As used in this subsection, "Michigan promotion fund" means the fund created in section 39 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2039.~~

(3) FROM THE MONEY RECEIVED AND COLLECTED UNDER THIS ACT FOR THE STATE SHARE, AN AMOUNT EQUAL TO ALL REVENUE LOST UNDER THE STATE EDUCATION TAX ACT, 1993 PA 331, MCL 211.901 TO 211.906, AND ALL REVENUE LOST FROM BASIC SCHOOL OPERATING MILLS AS A RESULT OF THE EXEMPTION OF PERSONAL PROPERTY UNDER SECTION 9M, 9N, AND 9O OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.9M, 211.9N, AND

1 211.90, AS DETERMINED BY THE DEPARTMENT, SHALL BE DEPOSITED INTO
2 THE STATE SCHOOL AID FUND ESTABLISHED BY SECTION 11 OF ARTICLE IX
3 OF THE STATE CONSTITUTION OF 1963. FUNDS DEPOSITED INTO THE STATE
4 SCHOOL AID FUND UNDER THIS SUBSECTION SHALL NOT INCLUDE THE PORTION
5 OF THE STATE SHARE OF THE USE TAX IMPOSED AT THE ADDITIONAL RATE OF
6 2% APPROVED BY THE ELECTORS OF THIS STATE ON MARCH 15, 1994 AND
7 DEDICATED FOR AID TO SCHOOLS UNDER SUBSECTION (2).

8 (4) MONEY RECEIVED AND COLLECTED UNDER THIS ACT FOR THE LOCAL
9 COMMUNITY STABILIZATION SHARE IS NOT STATE FUNDS, SHALL NOT BE
10 CREDITED TO THE STATE TREASURY, AND SHALL BE TRANSMITTED TO THE
11 AUTHORITY FOR DEPOSIT IN THE TREASURY OF THE AUTHORITY, TO BE
12 DISBURSED BY THE AUTHORITY ONLY AS AUTHORIZED UNDER THE LOCAL
13 COMMUNITY STABILIZATION AUTHORITY ACT. THE LOCAL COMMUNITY
14 STABILIZATION SHARE IS A LOCAL TAX, NOT A STATE TAX, AND MONEY
15 RECEIVED AND COLLECTED FOR THE LOCAL COMMUNITY STABILIZATION SHARE
16 IS MONEY OF THE AUTHORITY AND NOT MONEY OF THIS STATE.

17 Enacting section 1. This amendatory act does not take effect
18 unless approved by a majority of the qualified electors of this
19 state voting on the question at an election to be held on the
20 August regular election date in 2014. This amendatory act shall be
21 submitted to the qualified electors of this state at that election
22 as provided by the Michigan election law, 1954 PA 116, MCL 168.1 to
23 168.992. When submitted to the qualified electors of this state,
24 this amendatory act shall be presented with the following question:
25 "APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX
26 AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE
27 THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS

1 The amendatory act adopted by the Legislature would:

2 1. Reduce the state use tax and replace with a local community
3 stabilization share of the tax for the purpose of modernizing the
4 tax system to help small businesses grow and create jobs in
5 Michigan.

6 2. Require Local Community Stabilization Authority to provide
7 revenue to local governments dedicated for local purposes,
8 including police safety, fire protection, and ambulance emergency
9 services.

10 3. Increase portion of state use tax dedicated for aid to
11 local school districts.

12 4. Prohibit Authority from increasing taxes.

13 5. Prohibit total use tax rate from exceeding existing
14 constitutional 6% limitation.

15 Should this law be approved?

16 YES []

17 NO []".

18 Enacting section 2. If approved by the qualified electors of
19 this state as provided in enacting section 1, this amendatory act
20 takes effect January 1, 2015.