SENATE SUBSTITUTE FOR

HOUSE BILL NO. 4833

A bill to levy and collect a specific tax upon the rental of certain heavy equipment rental personal property; to provide for the disposition of that specific tax; to provide for the powers and duties of certain state and local governmental officers and entities; and to provide penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. This act may be cited as the "qualified heavy equipment rental personal property specific tax act".

Sec. 3. As used in this act:

(a) "Department" means the department of treasury.

(b) "Eligible personal property" means personal property exempt under section 9p of the general property tax act, 1893 PA 206, MCL 211.9p, and qualified heavy equipment rental personal

property acquired or brought into this state during the tax year by a qualified renter and rented from a qualified renter business location.

(c) "Fund" means the qualified heavy equipment rental personal property exemption reimbursement fund created in section 9(1).

(d) "Local tax collecting unit" means a township or city that assesses and collects property taxes pursuant to the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(e) "Person" means an individual, corporation, limited liability company, partnership, association, or any other legal entity.

(f) "Qualified heavy equipment rental personal property", "qualified renter", "qualified renter business location", and "rent" or "rental" mean those terms as defined in section 9p of the general property tax act, 1893 PA 206, MCL 211.9p.

(g) "Qualified heavy equipment rental personal property specific tax" and "tax" mean the specific tax levied under section 5.

(h) "Rental price" means the total amount of the consideration for renting qualified heavy equipment rental personal property, excluding any separately stated charges, fees, and costs, such as delivery and pickup fees, damage waivers, environmental mitigation fees, sales or use taxes, or insurance.

(i) "Reporting periods" means the quarterly periods ending on March 31, June 30, September 30, and December 31 for which a qualified renter must report and remit the tax collected under this act.

Sec. 5. (1) Beginning January 1, 2023, in addition to all other taxes, the qualified heavy equipment rental personal property

specific tax is levied on each transaction of a qualified renter for renting eligible personal property as provided in this section.

(2) The tax under this section is a state specific tax imposed directly on the customer of a qualified renter in an amount equal to 2% of the rental price of the eligible personal property net of any customer credits given at the end of the rental.

(3) A qualified renter shall collect the tax under this section as part of each rental payment made by the customer renting the eligible personal property and shall remit the tax to the department as provided in this act.

(4) The tax under this section does not apply to the rental of eligible personal property to the United States or any agency, department, administration, or political subdivision of the United States, to any federally recognized Indian tribes, to this state, to any local governmental entity in this state, or to any other public body corporate in this state.

(5) Before October 1, 2024, the department shall divide the total 2020, 2021, and 2022 property tax by the total 2020, 2021, and 2022 calculated specific tax as reported under section 9p(2)(c) of the general property tax act, 1893 PA 206, MCL 211.9p. If the result is less than 0.95 or greater than 1.05, the specific tax rate under this act for 2025 and subsequent years must equal the result multiplied by 2%, rounded to the nearest hundredth of a percent.

Sec. 7. (1) The department shall collect and administer the tax as provided in this section.

(2) Not later than March 31 each year beginning in 2023, the department shall make available a statement, to be submitted in a form and manner prescribed by the department, for calculating the

tax as provided in section 5.

(3) Not later than April 30, July 31, October 31, and January 31 each year, a qualified renter shall submit to the department a completed statement along with full payment of the tax levied and collected under section 5 for the immediately preceding reporting period as calculated under section 5(2). A statement filed by a qualified renter must include the total rental price of all rental transactions for the eligible personal property for the immediately preceding reporting period, a listing of exempt sales, and the total tax collected on or otherwise due with respect to all rental transactions for the eligible personal property for the immediately preceding reporting period. The amounts reported under this section must be reported separately for each qualified renter business location. The statement required under this subsection is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) If a qualified renter does not submit a completed statement and full payment of the tax levied under section 5 by the applicable deadline in subsection (3), the department shall issue a notice to the qualified renter within 30 days after that deadline. The notice must include a statement explaining the consequences of nonpayment as described in subsection (5) and instructing the qualified renter of its potential responsibility under subsection (5)(b). A qualified renter shall submit payment in full within 90 days after the issuance of the notice with a penalty of 3% per month calculated from the applicable deadline in subsection (3) on the unpaid balance for each month payment is not made in full. In calculating the penalty, a partial month is considered a whole month and the penalty must not be prorated based on the day of the

month the late payment is received. For the qualified renter's first assessment year, the penalty must be waived if the qualified renter submits a completed statement along with full payment of the tax levied under section 5 within 30 days after the issuance of the department's notice. A qualified renter may amend a submitted statement for any of the 3 reporting periods immediately preceding the reporting period in which the amendment is submitted. Payments made due to an amended statement are subject to the penalties described in this subsection. The total penalty on each late payment under this subsection must not exceed 21%. The department shall issue refunds for overpayments due to an amended statement. All refunds due to overpayment must be remitted without interest.

(5) All of the following apply if a qualified renter does not submit payment in full and any penalty due under subsection (4) within 90 days after the issuance of the department's notice under subsection (4), if a qualified renter does not submit payment in full and any penalty due under subsection (6) within 90 days after an audit assessment under subsection (6), or if the department discovers that the property is not eligible for exemption under section 9p of the general property tax act, 1893 PA 206, MCL 211.9p:

(a) The department shall rescind no later than the first Monday in June any exemption described in section 9p of the general property tax act, 1893 PA 206, MCL 211.9p, granted for any property for which payment in full and any penalty due have not been received or for which the department discovers that the property is not eligible under section 9p of the general property tax act, 1893 PA 206, MCL 211.9p.

(b) The person whose exemption was rescinded under subdivision

(a) shall file with the assessor of the township or city within 30 days after the date of the rescission issued under subdivision (a) a statement under section 19 of the general property tax act, 1893 PA 206, MCL 211.19, for all property for which the exemption has been rescinded under this section.

(c) Within 60 days after a rescission under subdivision (a), the treasurer of the local tax collecting unit or village shall issue amended tax bills for any taxes, including penalty and interest, that were not billed under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, and that are owed as a result of the rescission.

(6) A qualified renter shall provide the department access to all books and records relevant to the department's collection and enforcement of the tax under this act for the current calendar year and the immediately preceding 3 calendar years. The department shall develop and implement an audit program that includes, but is not limited to, the audit of statements submitted under subsection (3) and amended statements submitted under subsection (4) for the current calendar year and the 3 calendar years immediately preceding the commencement of an audit. An assessment as a result of an audit must be paid in full within 90 days after the date of issuance and must include penalties as described in subsection (4). Refunds as a result of an audit under this subsection must be without interest. The exemption for personal property for which an assessment has been issued as a result of an audit under this subsection is subject to the rescission provisions in subsection (5) for the years of the assessment if full payment is not timely made as required by this subsection.

(7) A qualified renter may appeal the tax levied under section

5 or a penalty or rescission under this section to the Michigan tax tribunal by filing a petition not later than December 31 in that tax year. A qualified renter may appeal an assessment issued, including penalties or rescission, as a result of an audit conducted under subsection (6) by filing a petition with the Michigan tax tribunal within 60 days after the date of that assessment's issuance. The department may appeal to the Michigan tax tribunal by filing a petition for the current calendar year and 3 immediately preceding calendar years.

Sec. 9. (1) The qualified heavy equipment rental personal property exemption reimbursement fund is created within the state treasury. All proceeds from the qualified heavy equipment rental personal property specific tax levied under this act are dedicated to this fund.

(2) The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year must remain in the fund and not lapse to the general fund.

(4) The department is the administrator of the fund for auditing purposes.

(5) The department shall distribute money from the fund, upon appropriation, only for the following purposes and in the following order of priority:

(a) Starting for fiscal year 2022-2023, to the department, for administrative costs associated with administering this act, an amount equal to $400,000.00. For each fiscal year after fiscal year 2022-2023, to the department, for administrative costs associated with administering this act, an amount equal to the amount allowed

under this subdivision in the prior fiscal year increased for inflation, as measured by the ratio of the average published monthly Detroit Consumer Price Index values for the previous fiscal year to the published monthly Detroit Consumer Price Index values for the fiscal year prior to the previous fiscal year, minus 1.

(b) After the distribution in subdivision (a), distribute the remaining balance as follows:

(*i*) By September 30, 2023, and each September 30 thereafter, distribute 90% of the revenues deposited into the fund in the preceding January through June, less any amount distributed under subdivision (a) during the preceding January through June, to eligible local tax collecting units. By March 31, 2024, and each March 31 thereafter, distribute 90% of the revenues deposited into the fund in the preceding July through December, less any amount distributed under subdivision (a) during the preceding July through December, to eligible local tax collecting units. The distribution under this subparagraph must be allocated to each eligible local tax collecting unit based on the proportion that the total tax collected in the 2 immediately preceding quarterly reporting periods from each qualified renter business location in the eligible local tax collecting unit bears to the total tax collected in the 2 immediately preceding quarterly reporting periods from all qualified renter business locations. At the time the department makes distributions under this subparagraph, the department shall provide each eligible local tax collecting unit information regarding the amount of tax collected in the 2 immediately preceding quarterly reporting periods from each qualified renter business location in the eligible local tax collecting unit. Within 35 days after an eligible local tax collecting unit receives an

allocation under this subparagraph, the eligible local tax collecting unit shall, subject to sub-subparagraph (D), distribute its allocation to the taxing units in accordance with sub-subparagraphs (A) to (C), as follows:

(A) For each qualified renter business location in the eligible local tax collecting unit, apportion the allocation received by the eligible local tax collecting unit by multiplying the allocation received by the eligible local tax collecting unit by a fraction, the numerator of which is the tax levied under this act and paid from the qualified renter business location in the eligible local tax collecting unit and the denominator of which is the total tax levied under this act and paid from all qualified renter business locations in the eligible local tax collecting unit.

(B) For each taxing unit that levied millage at the qualified renter business location in the eligible local tax collecting unit, multiply the amount calculated under sub-subparagraph (A) for the associated qualified renter business location by a fraction, the numerator of which is the sum of the millage rates levied on commercial personal property for the associated taxing unit in the prior calendar year and the denominator of which is the total of all millage rates levied on commercial personal property by all taxing units that levied millage at the qualified renter business location in the prior calendar year.

(C) For each taxing unit that levied millage at a qualified renter business location in the eligible local tax collecting unit, distribute to the taxing unit the sum of all amounts calculated under sub-subparagraph (B) for that taxing unit.

(D) The amount that would otherwise be disbursed under this

subsection to a local school district for school operating purposes must be paid instead to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963. Of the amount that would otherwise be disbursed under this subsection to an intermediate school district receiving state aid under section 56 or 62 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656 and 388.1662, all or a portion, to be determined on the basis of the tax rates being utilized to compute the amount of state aid, must be paid to the state treasury to the credit of the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(E) As used in this subparagraph, "eligible local tax collecting unit" means a local tax collecting unit in which is located a qualified renter business location that was reported under section 7(3) for the 2 immediately preceding quarterly reporting periods.

(*ii*) By July 31, 2024, and each July 31 thereafter, distribute 10% of the revenues deposited into the fund in the previous calendar year, less any amount distributed under subdivision (a) during the previous calendar year, to those cities, villages, townships, and counties that do not directly or indirectly receive money distributed under subparagraph (*i*). The distribution under this subparagraph must be allocated to each city, village, township, or county, that does not directly or indirectly receive money distributed under subparagraph (*i*), based on the proportion that its distribution of local community stabilization share revenue, for the calendar year in question, under section 17(4)(a)(*i*) to (*vi*) and 17(4)(b) to (e) of the local community

stabilization authority act, 2014 PA 86, MCL 123.1357, bears to the total amount of local community stabilization share revenue distributed, for the calendar year in question, under section 17(4)(a)(*i*) to (*vi*) and 17(4)(b) to (e) of the local community stabilization authority act, 2014 PA 86, MCL 123.1357, to all cities, villages, townships, and counties not directly or indirectly receiving money distributed under subparagraph (*i*).

Sec. 11. Qualified heavy equipment rental personal property specific taxes are not subject to capture by any tax increment finance authority. This section does not prohibit a tax increment finance authority from sharing in the distribution of a local tax collecting unit's allocation described in section 9(5)(b)(*i*).

Sec. 13. The department may promulgate rules as necessary for the administration of this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Enacting section 1. This act does not take effect unless House Bill No. 4834 of the 101st Legislature is enacted into law.