



Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 5080 (Substitute S-2 as reported)
House Bill 5081 (Substitute S-2 as reported)
Sponsor: Representative Pat Outman (H.B. 5080)
Representative Kevin Coleman (H.B. 5081)
House Committee: Tax Policy
Senate Committee: Finance

CONTENT

House Bill 5080 (S-2) and House Bill 5081 (S-2) would amend the General Sales Tax Act and the Use Tax Act, respectively, to amend the definition of "sales price" and "purchase price", as applicable, to exclude delivery and installation charges from those definitions, provided those charges met the conditions prescribed in the bills.

Under the bills, all revenue lost to the State School Aid Fund (SAF) as a result of the above exclusions would have to be deposited into the SAF. A person who excluded delivery or installation charges from the sales price or purchase price, as applicable, of tangible personal property to calculate the tax due under the General Sales Tax Act or Use Tax Act would have to report the amount of those charges and any other information needed to determine the amount of revenue lost to the SAF as a result of these exclusions on an existing or amended form at the time and in a manner prescribed by the Department of Treasury.

Each bill states that the proposed exclusion "is intended only to clarify the current status of the law in this state, is remedial in nature, and, therefore, applies to a civil action pending on the effective date" of the bill.

MCL 205.51 & 205.75 (H.B. 5080)
205.92 & 205.111 (H.B. 5081)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bills would reduce revenue to the State General Fund and constitutional revenue sharing to local units of government by approximately \$60.0 million per year in the first year, according to the Michigan Department of Treasury. The actual impact on each fund affected would depend on the relative impact of the exemption between sales taxes and use taxes and would grow over time. It is expected that most of the bills' impact would be on sales tax revenue, and if the sales tax experienced two-thirds of the impact, the bills would reduce General Fund revenue by approximately \$56.1 million per year and constitutional revenue sharing to local units of government by approximately \$4.0 million per year. While the School Aid Fund receives revenue from the sales tax and the use tax, the bill specifies that any revenue loss to the SAF would be offset by a transfer of revenue from the General Fund.

House Bill 5080 (S-2) is not tie-barred to House Bill 5081. The enacting sections of the bills indicate that the bills are intended to clarify existing law. However, the transactions exempted from tax under the bills currently are subject to tax.

The bills could reduce revenue by more than the estimated amount if retailers engaged in evasive practices. For example, vendors on Amazon or eBay often price goods at low prices to affect search results, and then offset the loss of revenue with large delivery charges. A \$50 item may be listed and sold by one seller for \$50 but by another with a price of \$1, with \$49 in delivery charges. Under current law, the sales tax on both transactions would be \$3, but under the bills the latter transaction would exhibit a sales tax liability of six cents. The bills would create an incentive for more sellers to engage in the same or similar practices.

Date Completed: 3-8-22

Fiscal Analyst: David Zin