

**SUBSTITUTE FOR
HOUSE BILL NO. 5405**

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 30 (MCL 206.30), as amended by 2020 PA 65, and
by adding sections 279 and 679.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 30. (1) "Taxable income" means, for a person other than a
2 corporation, estate, or trust, adjusted gross income as defined in
3 the internal revenue code subject to the following adjustments
4 under this section:

5 (a) Add gross interest income and dividends derived from
6 obligations or securities of states other than Michigan, in the
7 same amount that has been excluded from adjusted gross income less
8 related expenses not deducted in computing adjusted gross income



1 because of section 265(a) (1) of the internal revenue code.

2 (b) Add taxes on or measured by income to the extent the taxes
3 have been deducted in arriving at adjusted gross income.

4 (c) Add losses on the sale or exchange of obligations of the
5 United States government, the income of which this state is
6 prohibited from subjecting to a net income tax, to the extent that
7 the loss has been deducted in arriving at adjusted gross income.

8 (d) Deduct, to the extent included in adjusted gross income,
9 income derived from obligations, or the sale or exchange of
10 obligations, of the United States government that this state is
11 prohibited by law from subjecting to a net income tax, reduced by
12 any interest on indebtedness incurred in carrying the obligations
13 and by any expenses incurred in the production of that income to
14 the extent that the expenses, including amortizable bond premiums,
15 were deducted in arriving at adjusted gross income.

16 (e) Deduct, to the extent included in adjusted gross income,
17 the following:

18 (i) Compensation, including retirement or pension benefits,
19 received for services in the Armed Forces of the United States.

20 (ii) Retirement or pension benefits under the railroad
21 retirement act of 1974, 45 USC 231 to 231v.

22 (iii) Beginning January 1, 2012, retirement or pension benefits
23 received for services in the Michigan National Guard.

24 (f) Deduct the following to the extent included in adjusted
25 gross income subject to the limitations and restrictions set forth
26 in subsection (9):

27 (i) Retirement or pension benefits received from a federal
28 public retirement system or from a public retirement system of or
29 created by this state or a political subdivision of this state.



1 (ii) Retirement or pension benefits received from a public
2 retirement system of or created by another state or any of its
3 political subdivisions if the income tax laws of the other state
4 permit a similar deduction or exemption or a reciprocal deduction
5 or exemption of a retirement or pension benefit received from a
6 public retirement system of or created by this state or any of the
7 political subdivisions of this state.

8 (iii) Social Security benefits as defined in section 86 of the
9 internal revenue code.

10 (iv) Beginning on and after January 1, 2007, retirement or
11 pension benefits not deductible under subparagraph (i) or
12 subdivision (e) from any other retirement or pension system or
13 benefits from a retirement annuity policy in which payments are
14 made for life to a senior citizen, to a maximum of \$42,240.00 for a
15 single return and \$84,480.00 for a joint return. The maximum
16 amounts allowed under this subparagraph shall be reduced by the
17 amount of the deduction for retirement or pension benefits claimed
18 under subparagraph (i) or subdivision (e) and by the amount of a
19 deduction claimed under subdivision (p). For the 2008 tax year and
20 each tax year after 2008, the maximum amounts allowed under this
21 subparagraph shall be adjusted by the percentage increase in the
22 United States Consumer Price Index for the immediately preceding
23 calendar year. The department shall annualize the amounts provided
24 in this subparagraph as necessary. ~~As used in this subparagraph,~~
25 ~~"senior citizen" means that term as defined in section 514.~~

26 (v) The amount determined to be the section 22 amount eligible
27 for the elderly and the permanently and totally disabled credit
28 provided in section 22 of the internal revenue code.

29 (g) Adjustments resulting from the application of section 271.



(h) Adjustments with respect to estate and trust income as provided in section 36.

(i) Adjustments resulting from the allocation and apportionment provisions of chapter 3.

(j) Deduct the following payments made by the taxpayer in the tax year:

(i) For the 2010 tax year and each tax year after 2010, the amount of a charitable contribution made to the advance tuition payment fund created under section 9 of the Michigan education trust act, 1986 PA 316, MCL 390.1429.

(ii) The amount of payment made under an advance tuition payment contract as provided in the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1442.

(iii) The amount of payment made under a contract with a private sector investment manager that meets all of the following criteria:

(A) The contract is certified and approved by the board of directors of the Michigan education trust to provide equivalent benefits and rights to purchasers and beneficiaries as an advance tuition payment contract as described in subparagraph (ii).

(B) The contract applies only for a state institution of higher education as defined in the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1442, or a community or junior college in Michigan.

(C) The contract provides for enrollment by the contract's qualified beneficiary in not less than 4 years after the date on which the contract is entered into.

(D) The contract is entered into after either of the following:

(I) The purchaser has had his or her offer to enter into an



1 advance tuition payment contract rejected by the board of directors
2 of the Michigan education trust, if the board determines that the
3 trust cannot accept an unlimited number of enrollees upon an
4 actuarially sound basis.

5 (II) The board of directors of the Michigan education trust
6 determines that the trust can accept an unlimited number of
7 enrollees upon an actuarially sound basis.

8 (k) If an advance tuition payment contract under the Michigan
9 education trust act, 1986 PA 316, MCL 390.1421 to 390.1442, or
10 another contract for which the payment was deductible under
11 subdivision (j) is terminated and the qualified beneficiary under
12 that contract does not attend a university, college, junior or
13 community college, or other institution of higher education, add
14 the amount of a refund received by the taxpayer as a result of that
15 termination or the amount of the deduction taken under subdivision
16 (j) for payment made under that contract, whichever is less.

17 (l) Deduct from the taxable income of a purchaser the amount
18 included as income to the purchaser under the internal revenue code
19 after the advance tuition payment contract entered into under the
20 Michigan education trust act, 1986 PA 316, MCL 390.1421 to
21 390.1442, is terminated because the qualified beneficiary attends
22 an institution of postsecondary education other than either a state
23 institution of higher education or an institution of postsecondary
24 education located outside this state with which a state institution
25 of higher education has reciprocity.

26 (m) Add, to the extent deducted in determining adjusted gross
27 income, the net operating loss deduction under section 172 of the
28 internal revenue code.

29 (n) Deduct a net operating loss deduction for the taxable year



1 as determined under section 172 of the internal revenue code
2 subject to the modifications under section 172(b)(2) of the
3 internal revenue code and subject to the allocation and
4 apportionment provisions of chapter 3 for the taxable year in which
5 the loss was incurred.

6 (o) Deduct, to the extent included in adjusted gross income,
7 benefits from a discriminatory self-insurance medical expense
8 reimbursement plan.

9 (p) Beginning on and after January 1, 2007, subject to any
10 limitation provided in this subdivision, a taxpayer who is a senior
11 citizen may deduct to the extent included in adjusted gross income,
12 interest, dividends, and capital gains received in the tax year not
13 to exceed \$9,420.00 for a single return and \$18,840.00 for a joint
14 return. The maximum amounts allowed under this subdivision shall be
15 reduced by the amount of a deduction claimed for retirement or
16 pension benefits under subdivision (e) or a deduction claimed under
17 subdivision (f) (i), (ii), (iv), or (v). For the 2008 tax year and each
18 tax year after 2008, the maximum amounts allowed under this
19 subdivision shall be adjusted by the percentage increase in the
20 United States Consumer Price Index for the immediately preceding
21 calendar year. The department shall annualize the amounts provided
22 in this subdivision as necessary. Beginning January 1, 2012, the
23 deduction under this subdivision is not available to a senior
24 citizen born after 1945. ~~As used in this subdivision, "senior~~
25 ~~citizen" means that term as defined in section 514.~~

26 (q) Deduct, to the extent included in adjusted gross income,
27 all of the following:

28 (i) The amount of a refund received in the tax year based on
29 taxes paid under this part.



(ii) The amount of a refund received in the tax year based on taxes paid under the city income tax act, 1964 PA 284, MCL 141.501 to 141.787.

(iii) The amount of a credit received in the tax year based on a claim filed under sections 520 and 522 to the extent that the taxes used to calculate the credit were not used to reduce adjusted gross income for a prior year.

(r) Add the amount paid by the state on behalf of the taxpayer in the tax year to repay the outstanding principal on a loan taken on which the taxpayer defaulted that was to fund an advance tuition payment contract entered into under the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1442, if the cost of the advance tuition payment contract was deducted under subdivision (j) and was financed with a Michigan education trust secured loan.

(s) Deduct, to the extent included in adjusted gross income, any amount, and any interest earned on that amount, received in the tax year by a taxpayer who is a Holocaust victim as a result of a settlement of claims against any entity or individual for any recovered asset pursuant to the German act regulating unresolved property claims, also known as Gesetz zur Regelung offener Vermögensfragen, as a result of the settlement of the action entitled *In re: Holocaust victim assets litigation*, CV-96-4849, CV-96-5161, and CV-97-0461 (E.D. NY), or as a result of any similar action if the income and interest are not commingled in any way with and are kept separate from all other funds and assets of the taxpayer. As used in this subdivision:

(i) "Holocaust victim" means a person, or the heir or beneficiary of that person, who was persecuted by Nazi Germany or any Axis regime during any period from 1933 to 1945.



(ii) "Recovered asset" means any asset of any type and any interest earned on that asset including, but not limited to, bank deposits, insurance proceeds, or artwork owned by a Holocaust victim during the period from 1920 to 1945, withheld from that Holocaust victim from and after 1945, and not recovered, returned, or otherwise compensated to the Holocaust victim until after 1993.

(t) Deduct all of the following:

(i) To the extent not deducted in determining adjusted gross income, contributions made by the taxpayer in the tax year less qualified withdrawals made in the tax year from education savings accounts, calculated on a per education savings account basis, pursuant to the Michigan education savings program act, 2000 PA 161, MCL 390.1471 to 390.1486, not to exceed a total deduction of \$5,000.00 for a single return or \$10,000.00 for a joint return per tax year. The amount calculated under this subparagraph for each education savings account shall not be less than zero.

(ii) To the extent included in adjusted gross income, interest earned in the tax year on the contributions to the taxpayer's education savings accounts if the contributions were deductible under subparagraph (i).

(iii) To the extent included in adjusted gross income, distributions that are qualified withdrawals from an education savings account to the designated beneficiary of that education savings account.

(u) Add, to the extent not included in adjusted gross income, the amount of money withdrawn by the taxpayer in the tax year from education savings accounts, not to exceed the total amount deducted under subdivision (t) in the tax year and all previous tax years, if the withdrawal was not a qualified withdrawal as provided in the



Michigan education savings program act, 2000 PA 161, MCL 390.1471 to 390.1486. This subdivision does not apply to withdrawals that are less than the sum of all contributions made to an education savings account in all previous tax years for which no deduction was claimed under subdivision (t), less any contributions for which no deduction was claimed under subdivision (t) that were withdrawn in all previous tax years.

(v) A taxpayer who is a resident tribal member may deduct, to the extent included in adjusted gross income, all nonbusiness income earned or received in the tax year and during the period in which an agreement entered into between the taxpayer's tribe and this state pursuant to section 30c of 1941 PA 122, MCL 205.30c, is in full force and effect. As used in this subdivision:

(i) "Business income" means business income as defined in section 4 and apportioned under chapter 3.

(ii) "Nonbusiness income" means nonbusiness income as defined in section 14 and, to the extent not included in business income, all of the following:

(A) All income derived from wages whether the wages are earned within the agreement area or outside of the agreement area.

(B) All interest and passive dividends.

(C) All rents and royalties derived from real property located within the agreement area.

(D) All rents and royalties derived from tangible personal property, to the extent the personal property is utilized within the agreement area.

(E) Capital gains from the sale or exchange of real property located within the agreement area.

(F) Capital gains from the sale or exchange of tangible



1 personal property located within the agreement area at the time of
2 sale.

3 (G) Capital gains from the sale or exchange of intangible
4 personal property.

5 (H) All pension income and benefits including, but not limited
6 to, distributions from a 401(k) plan, individual retirement
7 accounts under section 408 of the internal revenue code, or a
8 defined contribution plan, or payments from a defined benefit plan.

9 (I) All per capita payments by the tribe to resident tribal
10 members, without regard to the source of payment.

11 (J) All gaming winnings.

12 (iii) "Resident tribal member" means an individual who meets all
13 of the following criteria:

14 (A) Is an enrolled member of a federally recognized tribe.

15 (B) The individual's tribe has an agreement with this state
16 pursuant to section 30c of 1941 PA 122, MCL 205.30c, that is in
17 full force and effect.

18 (C) The individual's principal place of residence is located
19 within the agreement area as designated in the agreement under sub-
20 subparagraph (B).

21 (w) For tax years beginning after December 31, 2011, eliminate
22 all of the following:

23 (i) Income from producing oil and gas to the extent included in
24 adjusted gross income.

25 (ii) Expenses of producing oil and gas to the extent deducted
26 in arriving at adjusted gross income.

27 (x) For tax years that begin after December 31, 2015, deduct
28 all of the following:

29 (i) To the extent not deducted in determining adjusted gross



1 income, contributions made by the taxpayer in the tax year less
2 qualified withdrawals made in the tax year from an ABLE savings
3 account, pursuant to the Michigan achieving a better life
4 experience (ABLE) program act, 2015 PA 160, MCL 206.981 to 206.997,
5 not to exceed a total deduction of \$5,000.00 for a single return or
6 \$10,000.00 for a joint return per tax year. The amount calculated
7 under this subparagraph for an ABLE savings account shall not be
8 less than zero.

9 (ii) To the extent included in adjusted gross income, interest
10 earned in the tax year on the contributions to the taxpayer's ABLE
11 savings account if the contributions were deductible under
12 subparagraph (i).

13 (iii) To the extent included in adjusted gross income,
14 distributions that are qualified withdrawals from an ABLE savings
15 account to the designated beneficiary of that ABLE savings account.

16 (y) For tax years that begin after December 31, 2015, add, to
17 the extent not included in adjusted gross income, the amount of
18 money withdrawn by the taxpayer in the tax year from an ABLE
19 savings account, not to exceed the total amount deducted under
20 subdivision (x) in the tax year and all previous tax years, if the
21 withdrawal was not a qualified withdrawal as provided in the
22 Michigan achieving a better life experience (ABLE) program act,
23 2015 PA 160, MCL 206.981 to 206.997. This subdivision does not
24 apply to withdrawals that are less than the sum of all
25 contributions made to an ABLE savings account in all previous tax
26 years for which no deduction was claimed under subdivision (x),
27 less any contributions for which no deduction was claimed under
28 subdivision (x) that were withdrawn in all previous tax years.

29 (z) For tax years that begin after December 31, 2018, deduct,



1 to the extent included in adjusted gross income, compensation
 2 received in the tax year pursuant to the wrongful imprisonment
 3 compensation act, 2016 PA 343, MCL 691.1751 to 691.1757.

4 **(aa) Deduct, to the extent included in adjusted gross income,**
 5 **funds allocated during the tax year to an SOS account pursuant to**
 6 **the student opportunity scholarship program created under the**
 7 **student opportunity scholarship act and used for qualifying**
 8 **education expenses of an SOS student as provided in the student**
 9 **opportunity scholarship act.**

10 (2) Except as otherwise provided in subsection (7) and section
 11 30a, a personal exemption of \$3,700.00 multiplied by the number of
 12 personal and dependency exemptions shall be subtracted in the
 13 calculation that determines taxable income. The number of personal
 14 and dependency exemptions allowed shall be determined as follows:

15 (a) Each taxpayer may claim 1 personal exemption. However, if
 16 a joint return is not made by the taxpayer and his or her spouse,
 17 the taxpayer may claim a personal exemption for the spouse if the
 18 spouse, for the calendar year in which the taxable year of the
 19 taxpayer begins, does not have any gross income and is not the
 20 dependent of another taxpayer.

21 (b) A taxpayer may claim a dependency exemption for each
 22 individual who is a dependent of the taxpayer for the tax year.

23 (c) For tax years beginning on and after January 1, 2019, a
 24 taxpayer may claim an additional exemption under this subsection in
 25 the tax year for which the taxpayer has a certificate of stillbirth
 26 from the department of health and human services as provided under
 27 section 2834 of the public health code, 1978 PA 368, MCL 333.2834.

28 (3) Except as otherwise provided in subsection (7), a single
 29 additional exemption determined as follows shall be subtracted in



1 the calculation that determines taxable income in each of the
2 following circumstances:

3 (a) \$1,800.00 for each taxpayer and every dependent of the
4 taxpayer who is a deaf person as defined in section 2 of the deaf
5 persons' interpreters act, 1982 PA 204, MCL 393.502; a paraplegic,
6 a quadriplegic, or a hemiplegic; a person who is blind as defined
7 in section 504; or a person who is totally and permanently disabled
8 as defined in section 522. When a dependent of a taxpayer files an
9 annual return under this part, the taxpayer or dependent of the
10 taxpayer, but not both, may claim the additional exemption allowed
11 under this subdivision.

12 (b) For tax years beginning after 2007, \$250.00 for each
13 taxpayer and every dependent of the taxpayer who is a qualified
14 disabled veteran. When a dependent of a taxpayer files an annual
15 return under this part, the taxpayer or dependent of the taxpayer,
16 but not both, may claim the additional exemption allowed under this
17 subdivision. As used in this subdivision:

18 (i) "Qualified disabled veteran" means a veteran with a
19 service-connected disability.

20 (ii) "Service-connected disability" means a disability incurred
21 or aggravated in the line of duty in the active military, naval, or
22 air service as described in 38 USC 101(16).

23 (iii) "Veteran" means a person who served in the active
24 military, naval, marine, coast guard, or air service and who was
25 discharged or released from his or her service with an honorable or
26 general discharge.

27 (4) An individual with respect to whom a deduction under
28 subsection (2) is allowable to another taxpayer during the tax year
29 is not entitled to an exemption for purposes of subsection (2), but



1 may subtract \$1,500.00 in the calculation that determines taxable
2 income for a tax year.

3 (5) A nonresident or a part-year resident is allowed that
4 proportion of an exemption or deduction allowed under subsection
5 (2), (3), or (4) that the taxpayer's portion of adjusted gross
6 income from Michigan sources bears to the taxpayer's total adjusted
7 gross income.

8 (6) In calculating taxable income, a taxpayer shall not
9 subtract from adjusted gross income the amount of prizes won by the
10 taxpayer under the McCauley-Traxler-Law-Bowman-McNeely lottery act,
11 1972 PA 239, MCL 432.1 to 432.47.

12 (7) For each tax year beginning on and after January 1, 2013,
13 the personal exemption allowed under subsection (2) shall be
14 adjusted by multiplying the exemption for the tax year beginning in
15 2012 by a fraction, the numerator of which is the United States
16 Consumer Price Index for the state fiscal year ending in the tax
17 year prior to the tax year for which the adjustment is being made
18 and the denominator of which is the United States Consumer Price
19 Index for the 2010-2011 state fiscal year. For the 2022 tax year
20 and each tax year after 2022, the adjusted amount determined under
21 this subsection shall be increased by an additional \$600.00. The
22 resultant product shall be rounded to the nearest \$100.00
23 increment. For each tax year, the exemptions allowed under
24 subsection (3) shall be adjusted by multiplying the exemption
25 amount under subsection (3) for the tax year by a fraction, the
26 numerator of which is the United States Consumer Price Index for
27 the state fiscal year ending the tax year prior to the tax year for
28 which the adjustment is being made and the denominator of which is
29 the United States Consumer Price Index for the 1998-1999 state



1 fiscal year. The resultant product shall be rounded to the nearest
2 \$100.00 increment.

3 (8) As used in this section, "retirement or pension benefits"
4 means distributions from all of the following:

5 (a) Except as provided in subdivision (d), qualified pension
6 trusts and annuity plans that qualify under section 401(a) of the
7 internal revenue code, including all of the following:

8 (i) Plans for self-employed persons, commonly known as Keogh or
9 HR10 plans.

10 (ii) Individual retirement accounts that qualify under section
11 408 of the internal revenue code if the distributions are not made
12 until the participant has reached 59-1/2 years of age, except in
13 the case of death, disability, or distributions described by
14 section 72(t)(2)(A)(iv) of the internal revenue code.

15 (iii) Employee annuities or tax-sheltered annuities purchased
16 under section 403(b) of the internal revenue code by organizations
17 exempt under section 501(c)(3) of the internal revenue code, or by
18 public school systems.

19 (iv) Distributions from a 401(k) plan attributable to employee
20 contributions mandated by the plan or attributable to employer
21 contributions.

22 (b) The following retirement and pension plans not qualified
23 under the internal revenue code:

24 (i) Plans of the United States, state governments other than
25 this state, and political subdivisions, agencies, or
26 instrumentalities of this state.

27 (ii) Plans maintained by a church or a convention or
28 association of churches.

29 (iii) All other unqualified pension plans that prescribe



1 eligibility for retirement and predetermine contributions and
2 benefits if the distributions are made from a pension trust.

3 (c) Retirement or pension benefits received by a surviving
4 spouse if those benefits qualified for a deduction prior to the
5 decedent's death. Benefits received by a surviving child are not
6 deductible.

7 (d) Retirement and pension benefits do not include:

8 (i) Amounts received from a plan that allows the employee to
9 set the amount of compensation to be deferred and does not
10 prescribe retirement age or years of service. These plans include,
11 but are not limited to, all of the following:

12 (A) Deferred compensation plans under section 457 of the
13 internal revenue code.

14 (B) Distributions from plans under section 401(k) of the
15 internal revenue code other than plans described in subdivision
16 (a) (iv) .

17 (C) Distributions from plans under section 403(b) of the
18 internal revenue code other than plans described in subdivision
19 (a) (iii) .

20 (ii) Premature distributions paid on separation, withdrawal, or
21 discontinuance of a plan prior to the earliest date the recipient
22 could have retired under the provisions of the plan.

23 (iii) Payments received as an incentive to retire early unless
24 the distributions are from a pension trust.

25 (9) In determining taxable income under this section, the
26 following limitations and restrictions apply:

27 (a) For a person born before 1946, this subsection provides no
28 additional restrictions or limitations under subsection (1) (f) .

29 (b) Except as otherwise provided in subdivision (c), for a



1 person born in 1946 through 1952, the sum of the deductions under
2 subsection (1)(f)(i), (ii), and (iv) is limited to \$20,000.00 for a
3 single return and \$40,000.00 for a joint return. After that person
4 reaches the age of 67, the deductions under subsection (1)(f)(i),
5 (ii), and (iv) do not apply and that person is eligible for a
6 deduction of \$20,000.00 for a single return and \$40,000.00 for a
7 joint return, which deduction is available against all types of
8 income and is not restricted to income from retirement or pension
9 benefits. A person who takes the deduction under subsection (1)(e)
10 is not eligible for the unrestricted deduction of \$20,000.00 for a
11 single return and \$40,000.00 for a joint return under this
12 subdivision.

13 (c) Beginning January 1, 2013 for a person born in 1946
14 through 1952 and beginning January 1, 2018 for a person born after
15 1945 who has retired as of January 1, 2013, if that person receives
16 retirement or pension benefits from employment with a governmental
17 agency that was not covered by the federal social security act,
18 chapter 531, 49 Stat 620, the sum of the deductions under
19 subsection (1)(f)(i), (ii), and (iv) is limited to \$35,000.00 for a
20 single return and, except as otherwise provided under this
21 subdivision, \$55,000.00 for a joint return. If both spouses filing
22 a joint return receive retirement or pension benefits from
23 employment with a governmental agency that was not covered by the
24 federal social security act, chapter 531, 49 Stat 620, the sum of
25 the deductions under subsection (1)(f)(i), (ii), and (iv) is limited
26 to \$70,000.00 for a joint return. After that person reaches the age
27 of 67, the deductions under subsection (1)(f)(i), (ii), and (iv) do
28 not apply and that person is eligible for a deduction of \$35,000.00
29 for a single return and \$55,000.00 for a joint return, or



1 \$70,000.00 for a joint return if applicable, which deduction is
2 available against all types of income and is not restricted to
3 income from retirement or pension benefits. A person who takes the
4 deduction under subsection (1)(e) is not eligible for the
5 unrestricted deduction of \$35,000.00 for a single return and
6 \$55,000.00 for a joint return, or \$70,000.00 for a joint return if
7 applicable, under this subdivision.

8 (d) Except as otherwise provided under subdivision (c) for a
9 person who was retired as of January 1, 2013, for a person born
10 after 1952 who has reached the age of 62 through 66 years of age
11 and who receives retirement or pension benefits from employment
12 with a governmental agency that was not covered by the federal
13 social security act, chapter 531, 49 Stat 620, the sum of the
14 deductions under subsection (1)(f)(i), (ii), and (iv) is limited to
15 \$15,000.00 for a single return and, except as otherwise provided
16 under this subdivision, \$15,000.00 for a joint return. If both
17 spouses filing a joint return receive retirement or pension
18 benefits from employment with a governmental agency that was not
19 covered by the federal social security act, chapter 531, 49 Stat
20 620, the sum of the deductions under subsection (1)(f)(i), (ii), and
21 (iv) is limited to \$30,000.00 for a joint return.

22 (e) Except as otherwise provided under subdivision (c) or (d),
23 for a person born after 1952, the deduction under subsection
24 (1)(f)(i), (ii), or (iv) does not apply. When that person reaches the
25 age of 67, that person is eligible for a deduction of \$20,000.00
26 for a single return and \$40,000.00 for a joint return, which
27 deduction is available against all types of income and is not
28 restricted to income from retirement or pension benefits. If a
29 person takes the deduction of \$20,000.00 for a single return and



1 \$40,000.00 for a joint return, that person shall not take the
2 deduction under subsection (1)(f)(iii) and shall not take the
3 personal exemption under subsection (2). That person may elect not
4 to take the deduction of \$20,000.00 for a single return and
5 \$40,000.00 for a joint return and elect to take the deduction under
6 subsection (1)(f)(iii) and the personal exemption under subsection
7 (2) if that election would reduce that person's tax liability. A
8 person who takes the deduction under subsection (1)(e) is not
9 eligible for the unrestricted deduction of \$20,000.00 for a single
10 return and \$40,000.00 for a joint return under this subdivision.

11 (f) For a joint return, the limitations and restrictions in
12 this subsection shall be applied based on the date of birth of the
13 older spouse filing the joint return. If a deduction under
14 subsection (1)(f) was claimed on a joint return for a tax year in
15 which a spouse died and the surviving spouse has not remarried
16 since the death of that spouse, the surviving spouse is entitled to
17 claim the deduction under subsection (1)(f) in subsequent tax years
18 subject to the same restrictions and limitations, for a single
19 return, that would have applied based on the date of birth of the
20 older of the 2 spouses. For tax years beginning after December 31,
21 2019, a surviving spouse born after 1945 who has reached the age of
22 67 and has not remarried since the death of that spouse may elect
23 to take the deduction that is available against all types of income
24 subject to the same limitations and restrictions as provided under
25 this subsection based on the surviving spouse's date of birth
26 instead of taking the deduction allowed under subsection (1)(f),
27 for a single return, based on the date of birth of the older
28 spouse.

29 (10) As used in this section:



1 (a) "Oil and gas" means oil and gas subject to severance tax
2 under 1929 PA 48, MCL 205.301 to 205.317.

3 (b) "Senior citizen" means that term as defined in section
4 514.

5 (c) ~~(b)~~ "United States Consumer Price Index" means the United
6 States Consumer Price Index for all urban consumers as defined and
7 reported by the United States Department of Labor, Bureau of Labor
8 Statistics.

9 Sec. 279. (1) Subject to the limitations under this section,
10 for tax years beginning on or after January 1, 2022, a taxpayer may
11 claim a credit against the tax imposed by this part for the tax
12 year in an amount up to 100% of the total amount of contributions
13 made by the taxpayer during the tax year to 1 or more scholarship-
14 granting organizations certified by the department and
15 participating in the student opportunity scholarship program. For a
16 taxpayer who is a member of a flow-through entity that qualifies
17 for the credit under this section, that taxpayer may claim the
18 credit against the member's tax liability under this part based on
19 the member's distributive share of business income reported from
20 that flow-through entity or an alternative method approved by the
21 department. To be eligible for the credit under this section, if
22 the taxpayer claims a deduction for the same contributions for
23 which a credit is sought under this section under section 170 of
24 the internal revenue code on his or her federal tax return for the
25 same tax year, the deduction must not exceed an amount equal to the
26 total contributions made during the tax year less the amount of the
27 credit certified and allowed to be claimed under this section for
28 that same tax year.

29 (2) To be eligible for a credit under this section, before



1 making a contribution to an SGO, a person or an SGO acting on
2 behalf of that person shall, in a form and manner as prescribed by
3 the department, submit an application and a contribution plan for
4 preapproval of the credit under this section. The application and
5 contribution plan shall include the total amount of the proposed
6 contributions, the tax year or tax years in which the contributions
7 will be made, whether the proposed contributions will be in the
8 form of cash or marketable securities, and the name of the SGO to
9 which the contributions will be made. Completed applications must
10 be considered in the order in which the department received the
11 completed applications and approved or denied within 10 business
12 days of receipt of the completed applications. If the department
13 determines that the application is complete and the contribution
14 plan and the SGO meet the requirements established under the SOS
15 act, the department shall issue a preapproval letter to the
16 applicant that states that the contribution plan qualifies for the
17 credit under this section and the maximum total amount of the
18 credit reserved for which a credit may be claimed for the tax year
19 in which the contribution is made and a certificate of the
20 contribution is issued by the SGO in accordance with section 11 of
21 the SOS act. If an application is denied under this subsection, the
22 applicant may file an appeal in a form and manner as prescribed by
23 the department or subsequently reapply for the same contribution
24 plan or for another contribution plan, or both.

25 (3) Except as otherwise provided under this subsection, the
26 total of all credits reserved under preapproval letters for
27 contribution plans approved under this section and section 679
28 shall not exceed \$500,000,000.00 for any state fiscal year.
29 However, if in any state fiscal year in which the total aggregate



1 amount of tax credits approved for the prior state fiscal year is
2 equal to or greater than 90% of the total aggregate amount of all
3 tax credits available under this section and section 679 for the
4 prior state fiscal year, then the total aggregate amount of all tax
5 credits available for the current state fiscal year shall increase
6 by 20%. The department shall publish on its publicly accessible
7 website the total aggregate amount of all tax credits available
8 when the amount is increased under this subsection.

9 (4) A taxpayer may agree to a multiyear contribution plan, not
10 to exceed a total of 4 tax years.

11 (5) If the credit allowed under this section for the tax year
12 and any unused carryforward of the credit allowed by this section
13 exceed the taxpayer's tax liability for the tax year, that portion
14 that exceeds the tax liability for the tax year shall not be
15 refunded but may be carried forward to offset tax liability in
16 subsequent tax years for 5 years or until used up, whichever occurs
17 first.

18 (6) A taxpayer with a preapproval letter issued pursuant to
19 this section shall make the preapproved contribution to the SGO no
20 later than the earlier of 15 business days following the date of
21 the department's preapproval letter or June 30 of the fiscal year
22 of the preapproval letter. If the preapproved contribution is in
23 the form of marketable securities, the SGO shall monetize the
24 securities within 5 business days of receipt and notify the
25 department within 10 business days of the monetization of the
26 securities. If the monetized value of the marketable securities is
27 less than the amount of the proposed contribution reflected on the
28 preapproval letter, the taxpayer shall supplement the contribution
29 with additional cash to equal the amount of contribution reflected



1 on the preapproval letter. The taxpayer shall not claim a credit in
2 excess of the amount of proposed contribution reflected on the
3 preapproval letter. In accordance with section 11 of the SOS act,
4 within 10 business days after receipt of a contribution for which a
5 preapproval letter was issued, the SGO shall notify the department
6 and issue a certificate of contribution to the taxpayer that
7 includes the name of the taxpayer, the amount of the contribution
8 made, and the date on which the contribution was made.

9 (7) The taxpayer shall attach a copy of the certificate of
10 contribution to the taxpayer's annual return under this part for
11 which a credit is claimed under this section.

12 (8) For this section and section 679, the department shall
13 include on its publicly accessible website the current amount of
14 the total credit applications pending verification, the amount of
15 the total credits allocated to date, and the remaining credit
16 available to taxpayers making contributions to SGOs. Upon
17 notification that a contribution has been made and certificate of
18 contribution has been issued, the department shall update the
19 website to modify the amount of credit pending certification, the
20 amount of credit allocated to taxpayers, and the remaining credit
21 available for allocation, as applicable.

22 (9) By November 1, 2023 and each November 1 after 2023, the
23 department shall submit a report concerning the administration,
24 operation, and financial impact of the student opportunity
25 scholarships program and the corresponding credits under this
26 section and section 679 to the legislature annually for the
27 immediately preceding state fiscal year that includes all of the
28 following:

29 (a) The number of applications received and the total amount

1 of contributions proposed for which a credit is sought.

2 (b) The number of preapproval letters issued and the total
3 amount of credits authorized in the preapproval letters.

4 (c) The number of certificate of contributions issued and the
5 total amount of credits claimed.

6 (d) The amount of credits authorized in a preapproval letter
7 that were not claimed or that were claimed but carried forward.

8 (e) The number of SOS accounts opened and the total amount
9 awarded by SGOs to SOS students reported by household income range
10 intervals of \$5,000.00.

11 (f) The number of SOS accounts opened and total amount awarded
12 by SGOs to SOS students reported as follows:

13 (i) SOS students who meet the definition of a child with a
14 disability as defined under the individuals with disabilities
15 education act, Public Law 108-446.

16 (ii) SOS students who are currently in foster care as defined
17 in section 2 of the foster care and adoption services act, 1994 PA
18 203, MCL 722.952.

19 (iii) SOS students who are members of a household in which a
20 student has previously received an SOS under the SOS act.

21 (g) Any other information that may be necessary to assist the
22 legislature in determining that the purposes of the SOS program and
23 the corresponding tax credits are being fulfilled.

24 (10) As used in this section and section 679:

25 (a) "Contribution" means a donation in the form of cash or
26 marketable securities.

27 (b) "Contribution plan" means a plan to make contributions to
28 an SGO for SOS accounts in accordance with the requirements and
29 guidelines established under the SOS program.



(c) "Scholarship-granting organization", "SGO", "SOS", "SOS account", and "SOS student" mean those terms as defined in section 3 of the student opportunity scholarship act.

Sec. 679. (1) Subject to the limitations under this section, for tax years beginning on or after January 1, 2022, a taxpayer may claim a credit against the tax imposed by this part for the tax year in an amount up to 100% of the total amount of contributions made by the taxpayer during the tax year to 1 or more scholarship-granting organizations certified by the department and participating in the student opportunity scholarship program. To be eligible for the credit under this section, if the taxpayer claims a deduction for the same contributions for which a credit is sought under this section under section 170 of the internal revenue code on his or her federal tax return for the same tax year, the deduction must not exceed an amount equal to the total contributions made during the tax year less the amount of the credit certified and allowed to be claimed under this section for that same tax year.

(2) To be eligible for a credit under this section, before making a contribution to an SGO, a person or an SGO acting on behalf of that person shall, in a form and manner as prescribed by the department, submit an application and a contribution plan for preapproval of the credit under this section. The application and contribution plan shall include the total amount of the proposed contributions, the tax year or tax years in which the contributions will be made, whether the proposed contributions will be in the form of cash or marketable securities, and the name of the SGO to which the contributions will be made. Completed applications must be considered in the order in which the department received the



1 completed applications and approved or denied within 10 business
2 days of receipt of the completed applications. If the department
3 determines that the application is complete and the contribution
4 plan and the SGO meet the requirements established under the SOS
5 act, the department shall issue a preapproval letter to the
6 applicant that states that the contribution plan qualifies for the
7 credit under this section and the maximum total amount of the
8 credit reserved for which a credit may be claimed for the tax year
9 in which the contribution is made and a certificate of the
10 contribution is issued by the SGO in accordance with section 11 of
11 the SOS act. If an application is denied under this subsection, the
12 applicant may file an appeal in a form and manner as prescribed by
13 the department or subsequently reapply for the same contribution
14 plan or for another contribution plan, or both.

15 (3) Except as otherwise provided under this subsection, the
16 total of all credits reserved under preapproval letters for
17 contribution plans approved under this section and section 279
18 shall not exceed \$500,000,000.00 for any state fiscal year.
19 However, if in any state fiscal year in which the total aggregate
20 amount of tax credits approved for the prior state fiscal year is
21 equal to or greater than 90% of the total aggregate amount of all
22 tax credits available under this section and section 279 for the
23 prior state fiscal year, then the total aggregate amount of all tax
24 credits available for the current state fiscal year shall increase
25 by 20%. The department shall publish on its publicly accessible
26 website the total aggregate amount of all tax credits available
27 when the amount is increased under this subsection.

28 (4) A taxpayer may agree to a multiyear contribution plan, not
29 to exceed a total of 4 tax years.



1 (5) If the credit allowed under this section for the tax year
2 and any unused carryforward of the credit allowed by this section
3 exceed the taxpayer's tax liability for the tax year, that portion
4 that exceeds the tax liability for the tax year shall not be
5 refunded but may be carried forward to offset tax liability in
6 subsequent tax years for 5 years or until used up, whichever occurs
7 first.

8 (6) A taxpayer with a preapproval letter issued pursuant to
9 this section, shall make the preapproved contribution to the SGO no
10 later than the earlier of 15 business days following the date of
11 the department's preapproval letter or June 30 of the fiscal year
12 of the preapproval letter. If the preapproved contribution is in
13 the form of marketable securities, the SGO shall monetize the
14 securities within 5 business days of receipt and notify the
15 department within 10 business days of the monetization of the
16 securities. If the monetized value of the marketable securities is
17 less than the amount of the proposed contribution reflected on the
18 preapproval letter, the taxpayer shall supplement the contribution
19 with additional cash to equal the amount of contribution reflected
20 on the preapproval letter. The taxpayer shall not claim a credit in
21 excess of the amount of proposed contribution reflected on the
22 preapproval letter. In accordance with section 11 of the SOS act,
23 within 10 business days after receipt of a contribution for which a
24 preapproval letter was issued, the SGO shall notify the department
25 and issue a certificate of contribution to the taxpayer that
26 includes the name of the taxpayer, the amount of the contribution
27 made, and the date on which the contribution was made.

28 (7) The taxpayer shall attach a copy of the certificate of
29 contribution to the taxpayer's annual return under this part for



1 which a credit is claimed under this section.

