

SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 5190

A bill to amend 1967 PA 281, entitled  
"Income tax act of 1967,"  
by amending section 51 (MCL 206.51), as amended by 2015 PA 180, and  
by adding section 312.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 51. (1) For receiving, earning, or otherwise acquiring  
2 income from any source whatsoever, there is levied and imposed  
3 under this part upon the taxable income of every person other than  
4 a corporation a tax at the following rates in the following  
5 circumstances:

6       (a) On and after October 1, 2007 and before October 1, 2012,  
7 4.35%.

8       (b) Except as otherwise provided under subdivision (c), on and

1 after October 1, 2012, 4.25%.

2 (c) For each tax year beginning on and after January 1, 2023,  
3 if the percentage increase in the total general fund/general  
4 purpose revenue from the immediately preceding fiscal year is  
5 greater than the inflation rate for the same period and the  
6 inflation rate is positive, then the current rate shall be reduced  
7 by an amount determined by multiplying that rate by a fraction, the  
8 numerator of which is the difference between the total general  
9 fund/general purpose revenue from the immediately preceding state  
10 fiscal year and the capped general fund/general purpose revenue and  
11 the denominator of which is the total revenue collected from this  
12 part in the immediately preceding state fiscal year. For purposes  
13 of this subdivision only, the state treasurer, the director of the  
14 senate fiscal agency, and the director of the house fiscal agency  
15 shall determine whether the total revenue distributed to general  
16 fund/general purpose revenue has increased as required under this  
17 subdivision based on the comprehensive annual financial report  
18 prepared and published by the department of technology, management,  
19 and budget in accordance with section 23 of article IX of the state  
20 constitution of 1963. The state treasurer, the director of the  
21 senate fiscal agency, and the director of the house fiscal agency  
22 shall make the determination under this subdivision no later than  
23 the date of the January 2023 revenue estimating conference  
24 conducted pursuant to sections 367a through 367f of the management  
25 and budget act, 1984 PA 431, MCL 18.1367a to 18.1367f, and the date  
26 of each January revenue estimating conference conducted each year  
27 thereafter. As used in this subdivision:

1           (i) "Capped general fund/general purpose revenue" means the  
2 total general fund/general purpose revenue from the 2020-2021 state  
3 fiscal year multiplied by the sum of 1 plus the product of 1.425  
4 times the difference between a fraction, the numerator of which is  
5 the consumer price index for the state fiscal year ending in the  
6 tax year prior to the tax year for which the adjustment is being  
7 made and the denominator of which is the consumer price index for  
8 the 2020-2021 state fiscal year, and 1.

9           (ii) "Total general fund/general purpose revenue" means the  
10 total general fund/general purpose revenue and other financing  
11 sources as published in the comprehensive annual financial report  
12 schedule of revenue and other financing sources - general fund for  
13 that fiscal year plus any distribution made pursuant to section  
14 51d.

15           (2) Beginning January 1, 2000, that percentage of the gross  
16 collections before refunds from the tax levied under this section  
17 that is equal to 1.012% divided by the income tax rate levied under  
18 this section shall be deposited in the state school aid fund  
19 created in section 11 of article IX of the state constitution of  
20 1963.

21           (3) IN ADDITION TO THE DISTRIBUTION UNDER SUBSECTION (2) AND  
22 SECTION 51D, BEGINNING OCTOBER 1, 2016, FROM THE REVENUE COLLECTED  
23 UNDER THIS SECTION AN AMOUNT EQUAL TO 3.5% OF THE AVERAGE AMOUNT OF  
24 FARMLAND TAX CREDITS CLAIMED UNDER SECTION 36109 OF THE NATURAL  
25 RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL  
26 324.36109, FOR THE IMMEDIATELY PRECEDING 3 STATE FISCAL YEARS SHALL  
27 BE DEPOSITED INTO THE AGRICULTURAL PRESERVATION FUND CREATED IN

1   **SECTION 36202 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION**  
2   **ACT, 1994 PA 451, MCL 324.36202.**

3       (4) ~~(3)~~—The department shall annualize rates provided in  
4   subsection (1) as necessary. The applicable annualized rate shall  
5   be imposed upon the taxable income of every person other than a  
6   corporation for those tax years.

7       (5) ~~(4)~~—The taxable income of a nonresident shall be computed  
8   in the same manner that the taxable income of a resident is  
9   computed, subject to the allocation and apportionment provisions of  
10  this part.

11      (6) ~~(5)~~—A resident beneficiary of a trust whose taxable income  
12  includes all or part of an accumulation distribution by a trust, as  
13  defined in section 665 of the internal revenue code, shall be  
14  allowed a credit against the tax otherwise due under this part. The  
15  credit shall be all or a proportionate part of any tax paid by the  
16  trust under this part for any preceding taxable year that would not  
17  have been payable if the trust had in fact made distribution to its  
18  beneficiaries at the times and in the amounts specified in section  
19  666 of the internal revenue code. The credit shall not reduce the  
20  tax otherwise due from the beneficiary to an amount less than would  
21  have been due if the accumulation distribution were excluded from  
22  taxable income.

23      (7) ~~(6)~~—The taxable income of a resident who is required to  
24  include income from a trust in his or her federal income tax return  
25  under the provisions of 26 USC 671 to 679, shall include items of  
26  income and deductions from the trust in taxable income to the  
27  extent required by this part with respect to property owned

1 outright.

2       (8) ~~(7)~~—It is the intention of this section that the income  
3 subject to tax of every person other than corporations shall be  
4 computed in like manner and be the same as provided in the internal  
5 revenue code subject to adjustments specifically provided for in  
6 this part.

7       (9) ~~(8)~~—As used in this section:

8       (a) "Consumer price index" means the United States consumer  
9 price index for all urban consumers as defined and reported by the  
10 United States Department of Labor, Bureau of Labor Statistics.

11       (b) "Inflation rate" means the annual percentage change in the  
12 consumer price index, as determined by the department, comparing  
13 the 2 most recent completed state fiscal years.

14       (c) "Person other than a corporation" means a resident or  
15 nonresident individual or any of the following:

16       (i) A partner in a partnership as defined in the internal  
17 revenue code.

18       (ii) A beneficiary of an estate or a trust as defined in the  
19 internal revenue code.

20       (iii) An estate or trust as defined in the internal revenue  
21 code.

22       (d) "Taxable income" means taxable income as defined in this  
23 part subject to the applicable source and attribution rules  
24 contained in this part.

25       **SEC. 312. BEGINNING WITH THE 2016 TAX YEAR, A TAXPAYER MAY,**  
26 **REGARDLESS OF THE NUMBER OF DEVELOPMENT RIGHTS AGREEMENTS ENTERED**  
27 **INTO PURSUANT TO PART 361 OF THE NATURAL RESOURCES AND**

1 ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.36101 TO  
2 324.36117, ELECTRONICALLY FILE A FARMLAND PRESERVATION TAX CREDIT  
3 CLAIM WITH THE TAXPAYER'S ANNUAL RETURN UNDER THIS PART.