

**SUBSTITUTE FOR  
SENATE BILL NO. 768**

A bill to amend 1967 PA 281, entitled  
"Income tax act of 1967,"  
by amending sections 51 and 623 (MCL 206.51 and 206.623), section  
51 as amended by 2020 PA 75 and section 623 as amended by 2021 PA  
135, and by adding section 277.

**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%.



(b) ~~Except as otherwise provided under subdivision (c), on~~ On  
and after October 1, 2012 **through December 31, 2021**, 4.25%.

(c) **Except as otherwise provided under subdivision (d), on and  
after January 1, 2022, 3.9%.**

(d) ~~(e)~~ For each tax year beginning on and after January 1,  
2023, if the percentage increase in the total general fund/general  
purpose revenue from the immediately preceding fiscal year is  
greater than the inflation rate for the same period and the  
inflation rate is positive, then the current rate shall be reduced  
by an amount determined by multiplying that rate by a fraction, the  
numerator of which is the difference between the total general  
fund/general purpose revenue from the immediately preceding state  
fiscal year and the capped general fund/general purpose revenue and  
the denominator of which is the total revenue collected from this  
part in the immediately preceding state fiscal year. For purposes  
of this subdivision only, the state treasurer, the director of the  
senate fiscal agency, and the director of the house fiscal agency  
shall determine whether the total revenue distributed to general  
fund/general purpose revenue has increased as required under this  
subdivision based on the comprehensive annual financial report  
prepared and published by the department of technology, management,  
and budget in accordance with section 23 of article IX of the state  
constitution of 1963. The state treasurer, the director of the  
senate fiscal agency, and the director of the house fiscal agency  
shall make the determination under this subdivision no later than  
the date of the January 2023 revenue estimating conference  
conducted pursuant to sections 367a through 367f of the management  
and budget act, 1984 PA 431, MCL 18.1367a to 18.1367f, and the date  
of each January revenue estimating conference conducted each year



1 thereafter. As used in this subdivision:

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

10 (ii) "Total general fund/general purpose revenue" means the  
11 total general fund/general purpose revenue and other financing  
12 sources as published in the comprehensive annual financial report  
13 schedule of revenue and other financing sources - general fund for  
14 that fiscal year plus any distribution made pursuant to section  
15 51d.

16 (2) Except as otherwise provided for December 1, 2018 through  
17 September 30, 2019, beginning January 1, 2000, that percentage of  
18 the gross collections before refunds from the tax levied under this  
19 section that is equal to 1.012% divided by the income tax rate  
20 levied under this section shall be deposited in the state school  
21 aid fund created in section 11 of article IX of the state  
22 constitution of 1963. For December 1, 2018 through September 30,  
23 2019 only, that percentage of the gross collections before refunds  
24 from the tax levied under this section that is equal to 0.954%  
25 divided by the income tax rate levied under this section shall be  
26 deposited in the state school aid fund created in section 11 of  
27 article IX of the state constitution of 1963.

28 (3) In addition to the distributions under subsections (2) and  
29 (4) and sections 51d, 51e, and 51f, beginning October 1, 2016, from



1 the revenue collected under this section an amount equal to 3.5% of  
2 the average amount of farmland tax credits claimed under section  
3 36109 of the natural resources and environmental protection act,  
4 1994 PA 451, MCL 324.36109, for the immediately preceding 3 state  
5 fiscal years shall be deposited into the agricultural preservation  
6 fund created in section 36202 of the natural resources and  
7 environmental protection act, 1994 PA 451, MCL 324.36202.

8 (4) In addition to the distributions under subsections (2) and  
9 (3) and sections 51d, 51e, and 51f, and subject to the limitation  
10 under this subsection, beginning with the 2018-2019 state fiscal  
11 year and each fiscal year thereafter, from the revenue collected  
12 under this section \$69,000,000.00 shall be deposited into the renew  
13 Michigan fund created in section 51g. However, if, in any 1 of the  
14 2018-2019 through the 2021-2022 state fiscal years, the minimum  
15 foundation allowance falls below the 2017-2018 minimum foundation  
16 allowance established under section 20 of the state school aid act  
17 of 1979, 1979 PA 94, MCL 388.1620, as amended by 2017 PA 108, then  
18 no money shall be deposited into the renew Michigan fund pursuant  
19 to this subsection for that fiscal year.

20 (5) The department shall annualize rates provided in  
21 subsection (1) as necessary. The applicable annualized rate shall  
22 be imposed upon the taxable income of every person other than a  
23 corporation for those tax years.

24 (6) The taxable income of a nonresident shall be computed in  
25 the same manner that the taxable income of a resident is computed,  
26 subject to the allocation and apportionment provisions of this  
27 part.

28 (7) A resident beneficiary of a trust whose taxable income  
29 includes all or part of an accumulation distribution by a trust, as



defined in section 665 of the internal revenue code, shall be allowed a credit against the tax otherwise due under this part. The credit shall be all or a proportionate part of any tax paid by the trust under this part for any preceding taxable year that would not have been payable if the trust had in fact made distribution to its beneficiaries at the times and in the amounts specified in section 666 of the internal revenue code. The credit shall not reduce the tax otherwise due from the beneficiary to an amount less than would have been due if the accumulation distribution were excluded from taxable income.

(8) The taxable income of a resident who is required to include income from a trust in his or her federal income tax return under the provisions of 26 USC 671 to 679, shall include items of income and deductions from the trust in taxable income to the extent required by this part with respect to property owned outright.

(9) It is the intention of this section that the income subject to tax of every person other than corporations shall be computed in like manner and be the same as provided in the internal revenue code subject to adjustments specifically provided for in this part.

(10) As used in this section:

(a) "Consumer Price Index" means the United States Consumer Price Index for all urban consumers as defined and reported by the United States Department of Labor, Bureau of Labor Statistics.

(b) "Inflation rate" means the annual percentage change in the Consumer Price Index, as determined by the department, comparing the 2 most recent completed state fiscal years.

(c) "Person other than a corporation" means a resident or



nonresident individual or any of the following:

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

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

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

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

**Sec. 277. (1) For tax years that begin on and after January 1, 2022, a taxpayer may claim a credit against the tax imposed by this part equal to \$500.00 for each qualified dependent of the taxpayer for which an exemption was claimed under section 30(2)(b) for that same tax year. If the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall not be refunded.**

**(2) As used in this section, "qualified dependent" means a dependent who is less than 19 years of age on the last day of the tax year for which the credit is claimed.**

**Sec. 623. (1) Except as otherwise provided in this part, there is levied and imposed a corporate income tax on every taxpayer with business activity within this state or ownership interest or beneficial interest in a flow-through entity that has business activity in this state unless prohibited by 15 USC 381 to 384. The corporate income tax is imposed on the corporate income tax base, after allocation or apportionment to this state, at the ~~rate of~~ following rates in the following circumstances:**

**(a) Through December 31, 2021, 6.0%.**



**(b) On and after January 1, 2022, 3.9%.**

(2) The corporate income tax base means a taxpayer's business income subject to the following adjustments, before allocation or apportionment, and the adjustment in subsection (4) after allocation or apportionment:

(a) Add interest income and dividends derived from obligations or securities of states other than this state, in the same amount that was excluded from federal taxable income, less the related portion of expenses not deducted in computing federal taxable income because of sections 265 and 291 of the internal revenue code.

(b) Add all taxes on or measured by net income including the tax imposed under this part to the extent that the taxes were deducted in arriving at federal taxable income including any direct or indirect allocated share of taxes paid by a flow-through entity under part 4.

(c) Add any carryback or carryover of a net operating loss to the extent deducted in arriving at federal taxable income.

(d) To the extent included in federal taxable income, deduct dividends and royalties received from persons other than United States persons and foreign operating entities, including, but not limited to, amounts determined under section 78 of the internal revenue code or sections 951 to 965 of the internal revenue code.

(e) Except as otherwise provided under this subdivision, to the extent deducted in arriving at federal taxable income, add any royalty, interest, or other expense paid to a person related to the taxpayer by ownership or control for the use of an intangible asset if the person is not included in the taxpayer's unitary business group. The addition of any royalty, interest, or other expense



described under this subdivision is not required to be added if the taxpayer can demonstrate that the transaction has a nontax business purpose, is conducted with arm's-length pricing and rates and terms as applied in accordance with sections 482 and 1274(d) of the internal revenue code, and 1 of the following is true:

(i) The transaction is a pass through of another transaction between a third party and the related person with comparable rates and terms.

(ii) An addition would result in double taxation. For purposes of this subparagraph, double taxation exists if the transaction is subject to tax in another jurisdiction.

(iii) An addition would be unreasonable as determined by the state treasurer.

(iv) The related person recipient of the transaction is organized under the laws of a foreign nation which has in force a comprehensive income tax treaty with the United States.

(f) To the extent included in federal taxable income, deduct interest income derived from United States obligations.

(g) Eliminate all of the following:

(i) Income from producing oil and gas to the extent included in federal taxable income.

(ii) Expenses of producing oil and gas to the extent deducted in arriving at federal taxable income.

(h) For a qualified taxpayer, eliminate all of the following:

(i) Income derived from a mineral to the extent included in federal taxable income.

(ii) Expenses related to the income deductible under subparagraph (i) to the extent deducted in arriving at federal taxable income.





1           (3) For purposes of subsection (2), the business income of a  
2 unitary business group is the sum of the business income of each  
3 person included in the unitary business group less any items of  
4 income and related deductions arising from transactions including  
5 dividends between persons included in the unitary business group.

6           (4) Deduct any available business loss incurred after December  
7 31, 2011. As used in this subsection, "business loss" means a  
8 negative business income taxable amount after allocation or  
9 apportionment. For purposes of this subsection, a taxpayer that  
10 acquires the assets of another corporation in a transaction  
11 described under section 381(a)(1) or (2) of the internal revenue  
12 code may deduct any business loss attributable to that distributor  
13 or transferor corporation. The business loss shall be carried  
14 forward to the year immediately succeeding the loss year as an  
15 offset to the allocated or apportioned corporate income tax base,  
16 then successively to the next 9 taxable years following the loss  
17 year or until the loss is used up, whichever occurs first.

18           (5) As used in this section, "oil and gas" means oil and gas  
19 that is subject to severance tax under 1929 PA 48, MCL 205.301 to  
20 205.317.

