SUBSTITUTE FOR
SENATE BILL NO. 688

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:

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

(a) Add gross interest income and dividends derived from obligations or securities of states other than Michigan, in the same amount that has been excluded from adjusted gross income less related expenses not deducted in computing adjusted gross income because of section 265(a)(1) of the internal revenue code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(n) Deduct a net operating loss deduction for the taxable year as determined under section 172 of the internal revenue code subject to the modifications under section 172(b)(2) of the internal revenue code and subject to the allocation and apportionment provisions of chapter 3 for the taxable year in which the loss was incurred.

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

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

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

(*i*) The amount of a refund received in the tax year based on 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 Vermogensfragen, 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 personal property located within the agreement area at the time of sale.

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

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

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

(J) All gaming winnings.

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

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

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

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

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

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

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

(x) For tax years that begin after December 31, 2015, 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 an ABLE savings account, pursuant to the Michigan achieving a better life experience (ABLE) program act, 2015 PA 160, MCL 206.981 to 206.997, 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 an ABLE 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 ABLE savings account if the contributions were deductible under subparagraph (*i*).

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

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

(z) For tax years that begin after December 31, 2018, deduct, to the extent included in adjusted gross income, compensation received in the tax year pursuant to the wrongful imprisonment compensation act, 2016 PA 343, MCL 691.1751 to 691.1757.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) For each tax year beginning on and after January 1, 2013, the personal exemption allowed under subsection (2) shall be adjusted by multiplying the exemption for the tax year beginning in 2012 by a fraction, the numerator of which is the United States Consumer Price Index for the state fiscal year ending in the tax year prior to the tax year for which the adjustment is being made and the denominator of which is the United States Consumer Price Index for the 2010-2011 state fiscal year. For the 2022 tax year and each tax year after 2022, the adjusted amount determined under this subsection shall be increased by an additional $600.00. The resultant product shall be rounded to the nearest $100.00 increment. For each tax year, the exemptions allowed under subsection (3) shall be adjusted by multiplying the exemption amount under subsection (3) for the tax year by a fraction, the numerator of which is the United States Consumer Price Index for the state fiscal year ending the tax year prior to the tax year for which the adjustment is being made and the denominator of which is the United States Consumer Price Index for the 1998-1999 state

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

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

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

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

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

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

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

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

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

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

(*iii*) All other unqualified pension plans that prescribe eligibility for retirement and predetermine contributions and benefits if the distributions are made from a pension trust.

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

(d) Retirement and pension benefits do not include:

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

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

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

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

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

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

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

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

(b) Except as otherwise provided in subdivision (c), for a person born in 1946 through 1952, the sum of the deductions under subsection (1)(f)(*i*), (*ii*), and (*iv*) is limited to $20,000.00 for a single return and $40,000.00 for a joint return. After that person reaches the age of 67, the deductions under subsection (1)(f)(*i*), (*ii*), and (*iv*) do not apply and that person is eligible for a deduction of $20,000.00 for a single return and $40,000.00 for a joint return, which deduction is available against all types of income and is not restricted to income from retirement or pension benefits. A person who takes the deduction under subsection (1)(e) is not eligible for the unrestricted deduction of $20,000.00 for a single return and $40,000.00 for a joint return under this subdivision.

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

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

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

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

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

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

(10) As used in this section:

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

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

(c) ~~(b)~~ "United States 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.

Sec. 279. (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. For a taxpayer who is a member of a flow-through entity that qualifies for the credit under this section, that taxpayer may claim the credit against the member's tax liability under this part based on the member's distributive share of business income reported from that flow-through entity or an alternative method approved by the department. 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 completed applications and approved or denied within 10 business days of receipt of the completed applications. If the department determines that the application is complete and the contribution plan and the SGO meet the requirements established under the SOS act, the department shall issue a preapproval letter to the applicant that states that the contribution plan qualifies for the credit under this section and the maximum total amount of the credit reserved for which a credit may be claimed for the tax year in which the contribution is made and a certificate of the contribution is issued by the SGO in accordance with section 11 of the SOS act. If an application is denied under this subsection, the applicant may file an appeal in a form and manner as prescribed by the department or subsequently reapply for the same contribution plan or for another contribution plan, or both.

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

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

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

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

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

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

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

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

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

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

of contributions proposed for which a credit is sought.

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

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

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

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

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

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

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

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

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

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

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

(b) "Contribution plan" means a plan to make contributions to an SGO for SOS accounts in accordance with the requirements and 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

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

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

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

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

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

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

which a credit is claimed under this section.