# HOUSE BILL NO. 5103

June 23, 2021, Introduced by Reps. Witwer, Camilleri, Clemente, Brabec, Breen, Aiyash, Stone, Scott, Weiss, Hope, Young, Hood, Sabo, Steckloff, Haadsma, Liberati, Morse, Shannon, Sowerby, Hertel, Tyrone Carter, Rogers, Puri, Cavanagh, Kuppa, Cynthia Johnson, Hammoud, Anthony, Brixie and Yancey and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled

"Income tax act of 1967,"

by amending sections 30, 435, 623, 693, and 695 (MCL 206.30, 206.435, 206.623, 206.693, and 206.695), section 30 as amended by 2020 PA 65, section 435 as amended by 2018 PA 258, section 623 as amended by 2014 PA 13, and sections 693 and 695 as added by 2011 PA 38.

**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~~ **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~~ **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~~

**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~~ **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,~~ **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) For tax years beginning on and after January 1, 2022, deduct contributions made by the taxpayer during the tax year to the local teacher supply reimbursement fund created in section 7 of the local teacher supply reimbursement program 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. 435. (1) Except as otherwise provided under this section, an individual may designate in a manner and form as prescribed by the department pursuant to subsection (2) on his or her annual return that contributions of $5.00, $10.00, or more of his or her refund be credited to any of the following:

(a) The children's trust fund created in 1982 PA 249, MCL 21.171 to 21.172.

(b) The military family relief fund created in section 3 of the military family relief fund act, 2004 PA 363, MCL 35.1213.

(c) The animal welfare fund created in section 3 of the animal welfare fund act, 2007 PA 132, MCL 287.993.

(d) The united way fund created in section 3 of the united way fund act, 2008 PA 527, MCL 333.26533.

~~(e) For the 2016 tax year and each tax year after the 2016 tax year, the Michigan junior achievement fund created in section 5 of~~

~~the Michigan junior achievement fund act, 2016 PA 181, MCL 206.1015.~~

**(e)** ~~(f) For the 2016 tax year and each tax year after the 2016 tax year, the~~ **The** American Red Cross Michigan fund created in section 5 of the American Red Cross Michigan fund act, 2016 PA 183, MCL 206.1035.

~~(g) For the 2018 tax year and each tax year after the 2018 tax year, the fostering futures scholarship trust fund created in section 3 of the fostering futures scholarship trust fund act, 2008 PA 525, MCL 722.1023.~~

~~(h) For the 2018 tax year and each tax year after the 2018 tax year, the Lions of Michigan Foundation fund created in section 5 of the Lions of Michigan Foundation fund act.~~

~~(i) For the 2018 tax year and each tax year after the 2018 tax year, the Michigan World War II Legacy Memorial fund created in section 5 of the Michigan World War II Legacy Memorial fund act.~~

~~(j) For the 2018 tax year and each tax year after the 2018 tax year, the Kiwanis fund created in section 5 of the Kiwanis fund act.~~

**(f) For the 2022 tax year and each tax year after the 2022 tax year, the local teacher supply reimbursement fund created in section 7 of the local teacher supply reimbursement program act.**

(2) Subject to the limitations provided under this subsection, the department shall establish and utilize a separate contributions schedule that incorporates each contribution designation authorized under this section that remains in effect and available for each tax year and shall revise the state individual income tax return form to include a separate line for the total contribution designations made under the separate contributions schedule. The

contribution designations authorized under sections 437, 438, and 440 shall be incorporated into the contributions schedule for the 2010 tax year and shall remain on the schedule until the contribution designation expires by law or is otherwise no longer available as determined by the department pursuant to subsection (3). A contribution designation that is enacted after November 1, 2007 shall be incorporated as soon as practical on the contributions schedule, and each new contribution designation shall be listed on the schedule in alphabetical order. **The contribution designation for the local teacher supply reimbursement fund under subsection (1)(f) shall include a space for the taxpayer to designate the school district to which his or her contribution is to be distributed.** The separate contributions schedule required under this section shall include not more than 10 separate contribution designations in any single tax year.

(3) The department shall cease to include a contribution designation on the contributions schedule if that contribution designation fails to raise $50,000.00 in any tax year for 2 consecutive tax years.

(4) If an individual's refund is not sufficient to make a contribution under this section, the individual may designate a contribution amount and that contribution amount shall be added to the individual's tax liability for the tax year.

(5) Notwithstanding any other allocations or disbursements required by this act, each year that a contribution designation under this section is in effect, an amount equal to the cumulative designation made under this section, less the amount appropriated to the department to implement this section, shall be appropriated from the general fund and distributed to the department responsible

for administering the appropriate fund to which the taxpayer designated his or her contribution and shall be used solely for the purposes of that fund.

(6) Money appropriated pursuant to an appropriations act as required by law in accordance with this section to the department responsible for administering each respective fund shall be in addition to any other allocation or appropriation and is intended to enhance appropriations from the general fund and not to replace or supplant those appropriations.

(7) Notwithstanding any other provision of law, all of the following apply:

(a) Money appropriated from the contributions made pursuant to this section shall be distributed as provided in each respective fund within 1 year and none of the money appropriated pursuant to this section shall be used for the purpose of administering the fund.

(b) If the fund to which the taxpayer designated his or her contributions is to be used for donations to multiple organizations located in this state, the department responsible for administering that fund shall designate 1 local representative or agency of that organization to administer and distribute those funds to other similar organizations in this state as provided in each respective act that created the fund.

(8) When considering whether to grant legislative approval to amend the state individual income tax return to include additional contribution designations on the contributions schedule, the legislature shall consider all of the following:

(a) Whether the organization serves multiple regions throughout this state.

(b) Whether the organization has demonstrated that it is capable of raising more than $50,000.00 in this state during the tax year through means other than the income tax contribution designation.

(c) Whether the organization expends 30% or more of its money to cover administrative and fund-raising costs.

(d) Whether the organization had previously been included on the contributions schedule within the last immediately preceding 3 years and was removed because it failed to raise a sufficient amount of money as prescribed under subsection (3).

(e) Whether the organization receives any other state funds or other type of financial assistance from this state.

(f) Whether the organization is associated with a nonprofit charitable organization.

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 6.0%.

(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)~~ **adjustments in subsections (4) and (5)** 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.

(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 964 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) 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 federal taxable income.

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

(h) For tax years beginning after December 31, 2012, 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.

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

(4) Deduct any available business loss incurred after December 31, 2011. As used in this subsection, "business loss" means a negative business income taxable amount after allocation or

apportionment. For purposes of this subsection, a taxpayer that acquires the assets of another corporation in a transaction described under section 381(a)(1) or (2) of the internal revenue code may deduct any business loss attributable to that distributor or transferor corporation. The business loss shall be carried forward to the year immediately succeeding the loss year as an offset to the allocated or apportioned corporate income tax base, then successively to the next 9 taxable years following the loss year or until the loss is used up, whichever occurs first.

**(5) Deduct contributions made during the tax year to the local teacher supply reimbursement fund created in section 7 of the local teacher supply reimbursement program act.**

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

Sec. 693. (1) The tax imposed by this part shall be administered by the department of treasury pursuant to 1941 PA 122, MCL 205.1 to 205.31, and this part. If a conflict exists between 1941 PA 122, MCL 205.1 to 205.31, and this part, the provisions of this part apply.

(2) The department may promulgate rules to implement this part pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) The department shall prescribe forms for use by taxpayers and may promulgate rules in conformity with this part for the maintenance by taxpayers of records, books, and accounts, and for the computation of the tax, the manner and time of changing or electing accounting methods and of exercising the various options contained in this part, the making of returns, and the

ascertainment, assessment, and collection of the tax imposed under this part. **Beginning with the 2022 tax year and each tax year after 2022, the income tax return required to be filed under this part shall include a space for the taxpayer to contribute to the local teacher supply reimbursement fund created in section 7 of the local teacher supply reimbursement program act and designate the school district to which the contribution is to be distributed.**

(4) The tax imposed by this part is in addition to all other taxes for which the taxpayer may be liable.

(5) The department shall prepare and publish statistics from the records kept to administer the tax imposed by this part that detail the distribution of tax receipts by type of business, legal form of organization, sources of tax base, timing of tax receipts, and types of deductions. The statistics shall not result in the disclosure of information regarding any specific taxpayer.

Sec. 695. The revenue collected under this part shall be distributed to the general fund. **Each year that a contribution designation under section 435 is in effect, an amount equal to the cumulative designations made under section 693 on a return filed under this part shall be appropriated from the general fund and distributed to the local teacher supply reimbursement fund created in section 7 of the local teacher supply reimbursement program act and be used solely for the purposes of that fund.**

Enacting section 1. This amendatory act does not take effect unless Senate Bill No.____ or House Bill No. 5102 (request no. 02837'21) of the 101st Legislature is enacted into law.