

HOUSE BILL No. 6680

November 19, 2008, Introduced by Rep. Alma Smith and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 51e (MCL 206.51e), as amended by 2003 PA 239,
and by adding section 278; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 51e. (1) On and after January 1, 2004, for receiving,
2 earning, or otherwise acquiring income from any source whatsoever,
3 there is levied and imposed upon the taxable income of every person
4 other than a corporation a tax at the following rate for the
5 applicable period:

6 (a) On and after January 1, 2004 and before July 1, 2004,
7 4.0%.

8 (b) On and after July 1, 2004 **AND BEFORE JANUARY 1, 2007,**
9 3.9%.

1 (C) ON AND AFTER JANUARY 1, 2007, 4.9%.

2 (2) IT IS THE INTENT OF THE LEGISLATURE THAT THE INCREASE IN
3 THE TAX RATE UNDER SUBSECTION (1) (C) SHALL BE USED TO OFFSET
4 REVENUES NOT COLLECTED UNDER THIS ACT BASED ON CREDITS CLAIMED
5 UNDER SECTION 278.

6 SEC. 278. (1) THE CREDIT ALLOWED UNDER THIS SECTION SHALL BE
7 KNOWN AS THE "MICHIGAN HIGHER EDUCATION LEARNING PROMOTION CREDIT"
8 OR "HELP CREDIT".

9 (2) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2006 AND
10 SUBJECT TO THE CONDITIONS UNDER THIS SECTION, AN ELIGIBLE TAXPAYER
11 MAY CLAIM A CREDIT AGAINST THE TAX IMPOSED BY THIS ACT EQUAL TO THE
12 AMOUNT CALCULATED UNDER THIS SECTION.

13 (3) AN ELIGIBLE TAXPAYER SHALL NOT CLAIM THE CREDIT ALLOWED
14 UNDER THIS SECTION FOR MORE THAN 6 YEARS OR FOR MORE THAN 120
15 CREDIT HOURS, WHICHEVER IS GREATER, BEGINNING WITH THE FIRST YEAR
16 THAT THE ELIGIBLE TAXPAYER ENROLLS IN AN ELIGIBLE INSTITUTION.

17 (4) THE CREDIT ALLOWED UNDER THIS SECTION IS EQUAL TO THE
18 AMOUNT OF TUITION AND FEES PAID BY THE ELIGIBLE TAXPAYER MINUS ALL
19 OF THE FOLLOWING:

20 (A) ANY AMOUNT OF TUITION AND FEES USED TO REDUCE THAT
21 ELIGIBLE TAXPAYER'S FEDERAL TAX LIABILITY UNDER THE HOPE
22 SCHOLARSHIP TAX CREDIT, THE LIFETIME LEARNING TAX CREDIT, OR ANY
23 SUCCESSOR TAX CREDIT TO THOSE CREDITS.

24 (B) EDUCATIONAL BENEFITS PURSUANT TO THE MONTGOMERY GI BILL
25 PROGRAM.

26 (C) PELL GRANT FUNDS UNDER SECTION 411 OF TITLE IV OF THE
27 HIGHER EDUCATION ACT OF 1965, 20 USC 1070A.

1 (D) TUITION PAID UNDER AN ADVANCE TUITION PAYMENT CONTRACT
2 PURCHASED PURSUANT TO THE MICHIGAN EDUCATION TRUST ACT, 1986 PA
3 316, MCL 390.1421 TO 390.1442 OR AN ADVANCE TUITION PAYMENT
4 CONTRACT PURCHASED THROUGH ANY OTHER STATE'S ADVANCE TUITION
5 PAYMENT PROGRAM.

6 (E) ANY OTHER AMOUNT OF TUITION AND FEES PAID ON BEHALF OF OR
7 AS A REIMBURSEMENT TO THE ELIGIBLE TAXPAYER.

8 (5) FOR PURPOSES OF THIS SECTION, ALL OTHER TAX CREDITS UNDER
9 THIS ACT ARE CONSIDERED TO HAVE BEEN TAKEN BEFORE THE CREDIT
10 ALLOWED UNDER THIS SECTION.

11 (6) AN ELIGIBLE TAXPAYER MAY CLAIM 100% OF TUITION AND FEES IF
12 THE ELIGIBLE STUDENT ATTENDED A HIGH SCHOOL IN THIS STATE PRIOR TO
13 ATTENDING AN ELIGIBLE INSTITUTION TO WHICH THE ELIGIBLE STUDENT
14 PAID TUITION AND FEES ON WHICH A CREDIT UNDER THIS SECTION IS
15 BASED.

16 (7) A CREDIT UNDER THIS SECTION SHALL BE REDUCED AS FOLLOWS
17 FOR EACH TAXPAYER WHOSE HOUSEHOLD INCOME EXCEEDS \$53,000.00 BUT IS
18 LESS THAN \$63,000.00 FOR A SINGLE RETURN OR EXCEEDS \$107,000.00 BUT
19 IS LESS THAN \$127,000.00 FOR A JOINT RETURN:

20 (A) FOR A SINGLE RETURN, THE AMOUNT OF THE CREDIT SHALL BE
21 REDUCED BY A PERCENTAGE DETERMINED BY SUBTRACTING \$53,000.00 FROM
22 THE TAXPAYER'S INCOME AND DIVIDING THAT RESULT BY \$10,000.00.

23 (B) FOR A JOINT RETURN, THE AMOUNT OF THE CREDIT SHALL BE
24 REDUCED BY A PERCENTAGE DETERMINED BY SUBTRACTING \$107,000.00 FROM
25 THE TAXPAYER'S INCOME AND DIVIDING THAT RESULT BY \$20,000.00.

26 (8) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2007, THE
27 MAXIMUM HOUSEHOLD INCOME AMOUNTS UNDER SUBSECTION (7) SHALL BE

1 ADJUSTED BY THE PERCENTAGE INCREASE IN THE UNITED STATES CONSUMER
2 PRICE INDEX FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR.

3 (9) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE TAX
4 LIABILITY OF THE ELIGIBLE TAXPAYER FOR THE TAX YEAR, THAT PORTION
5 OF THE CREDIT THAT EXCEEDS THE TAX LIABILITY OF THE ELIGIBLE
6 TAXPAYER FOR THE TAX YEAR SHALL BE REFUNDED.

7 (10) ON OR BEFORE THE FIRST MONDAY IN JANUARY BEGINNING IN
8 JANUARY 2008, THE STATE TREASURER SHALL DETERMINE ALL OF THE
9 FOLLOWING:

10 (A) THE DOLLAR VALUE OF THE INCREASE IN THE TAX RATE FROM 3.9%
11 TO 4.9% FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR.

12 (B) THE AMOUNT OF THE CREDITS CLAIMED UNDER THIS SECTION FOR
13 THE IMMEDIATE PRECEDING CALENDAR YEAR.

14 (C) THE PERCENTAGE THAT THE AMOUNT IN SUBDIVISION (B) IS OF
15 THE AMOUNT IN SUBDIVISION (A).

16 (11) IT IS THE INTENT OF THE LEGISLATURE THAT THAT PORTION OF
17 THE AMOUNT DETERMINED UNDER SUBSECTION (10) (A) THAT IS EQUAL TO THE
18 AMOUNT DETERMINED UNDER SUBSECTION (10) (B) BE DEPOSITED INTO THE
19 GENERAL FUND TO OFFSET REVENUES NOT COLLECTED UNDER THIS ACT BASED
20 ON CREDITS CLAIMED UNDER THIS SECTION AND THAT ANY REMAINING AMOUNT
21 SHALL BE APPROPRIATED AS FOLLOWS:

22 (A) UNTIL THE STATE TREASURER CERTIFIES THAT THE ASSETS IN THE
23 MICHIGAN PRESCHOOL ENDOWMENT FUND EXCEED \$6,000,000,000.00, TO THE
24 MICHIGAN PRESCHOOL ENDOWMENT FUND TO BE DISTRIBUTED IN THE
25 FOLLOWING MANNER:

26 (i) UP TO 20% OF THE REMAINING AMOUNT PLUS THE INTEREST AND
27 EARNINGS CREDITED TO THE ENDOWMENT FUND SHALL BE AVAILABLE FOR

1 DISBURSEMENT FOR GRANTS TO PRESCHOOL PROGRAMS IN THIS STATE FOR
2 EARLY CHILDHOOD EDUCATION PROGRAMS FOR 4-YEAR-OLDS.

3 (ii) THE AMOUNT REMAINING AFTER THE DISTRIBUTION UNDER
4 SUBPARAGRAPH (i) SHALL BE DEPOSITED INTO THE MICHIGAN PRESCHOOL
5 ENDOWMENT FUND.

6 (B) FOR THE TAX YEAR IN WHICH THE STATE TREASURER CERTIFIES
7 THAT THE ASSETS IN THE MICHIGAN PRESCHOOL ENDOWMENT FUND EXCEED
8 \$6,000,000,000.00 AND EACH TAX YEAR AFTER THAT YEAR, THE REMAINING
9 AMOUNT EACH TAX YEAR SHALL BE APPROPRIATED IN ONLY 1 STATE FISCAL
10 YEAR AND SOLELY FOR A 1-TIME SPENDING PURPOSE.

11 (12) ON OR BEFORE JANUARY 12 EACH YEAR BEGINNING JANUARY 12,
12 2008, THE INFORMATION DETERMINED UNDER SUBSECTION (10) SHALL BE
13 REPORTED TO THE MAJORITY AND MINORITY LEADERS OF THE HOUSE OF
14 REPRESENTATIVES AND THE SENATE, THE CHAIRPERSONS OF THE HOUSE OF
15 REPRESENTATIVES AND SENATE APPROPRIATIONS COMMITTEES, AND THE HOUSE
16 AND SENATE FISCAL AGENCIES, SHALL BE POSTED ON THE OFFICIAL
17 GOVERNMENTAL WEBSITE OF THIS STATE, AND SHALL BE DISSEMINATED TO
18 EVERY DAILY NEWSPAPER IN THIS STATE.

19 (13) AS USED IN THIS SECTION:

20 (A) "ELIGIBLE INSTITUTION" MEANS A PUBLICLY FUNDED ACCREDITED
21 UNIVERSITY, COLLEGE, COMMUNITY COLLEGE, OR VOCATIONAL TRAINING
22 CENTER IN THIS STATE ESTABLISHED BEFORE JANUARY 1, 1999 THAT IS
23 ALSO DESCRIBED IN SECTION 481 OF THE HIGHER EDUCATION ACT OF 1965,
24 20 USC 1088, AND IS ELIGIBLE TO PARTICIPATE IN STUDENT AID PROGRAMS
25 ADMINISTERED BY THE FEDERAL DEPARTMENT OF EDUCATION OR ANY OTHER
26 FEDERAL AGENCY OR DEPARTMENT. IN ORDER FOR THE TUITION AND FEES
27 PAID TO AN ELIGIBLE INSTITUTION TO BE USED TO CLAIM THE CREDIT

1 UNDER THIS SECTION FOR ANY TAX YEAR, THAT ELIGIBLE INSTITUTION
2 SHALL NOT RAISE TUITION AND FEES FOR THE ACADEMIC YEAR THAT BEGINS
3 IN THAT TAX YEAR BY MORE THAN THE INCREASE IN THE UNITED STATES
4 CONSUMER PRICE INDEX FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR
5 PLUS 1%.

6 (B) "ELIGIBLE STUDENT" MEANS AN INDIVIDUAL WHO MEETS ALL OF
7 THE FOLLOWING CRITERIA:

8 (i) IS A MICHIGAN RESIDENT. ONCE A STUDENT WHO IS CLAIMED AS
9 DEPENDENT OF ANOTHER TAXPAYER UNDER THIS ACT AND WHO ATTENDS AN
10 ELIGIBLE INSTITUTION IN THIS STATE HAS BEEN CORRECTLY DETERMINED TO
11 MEET THE RESIDENCY REQUIREMENTS FOR PURPOSES OF THE CREDIT UNDER
12 THIS SECTION, THE RESIDENCY STATUS OF THE STUDENT CONTINUES TO
13 ATTACH TO THE STUDENT AS LONG AS THE STUDENT IS CONTINUOUSLY
14 ENROLLED IN AN ELIGIBLE INSTITUTION.

15 (ii) IS ENROLLED IN AND ATTENDS AN ELIGIBLE INSTITUTION IN THIS
16 STATE FOR AT LEAST 1 ACADEMIC PERIOD DURING THE TAX YEAR IN WHICH
17 THE CREDIT UNDER THIS SECTION IS CLAIMED.

18 (iii) IS NOT CLAIMED AS A DEPENDENT ON HIS OR HER PARENT'S
19 ANNUAL RETURN REQUIRED UNDER THIS ACT.

20 (iv) DOES NOT HAVE A CERTIFICATE, AN ASSOCIATE DEGREE, OR AN
21 UNDERGRADUATE DEGREE AT THE TIME THE CREDIT UNDER THIS SECTION IS
22 FIRST CLAIMED AND WHO IS PURSUING A CERTIFICATE, AN ASSOCIATE
23 DEGREE, OR AN UNDERGRADUATE DEGREE DURING THE TAX YEAR IN WHICH A
24 CREDIT UNDER THIS SECTION IS CLAIMED.

25 (v) IS ENROLLED IN AT LEAST 6 CREDIT HOURS AND MAINTAINS
26 ACADEMIC ELIGIBILITY, AS DEFINED BY THE ELIGIBLE INSTITUTION, IN
27 THE COURSE OF STUDY THAT THE STUDENT IS PURSUING DURING THE TAX

1 YEAR IN WHICH A CREDIT UNDER THIS SECTION IS CLAIMED.

2 (vi) THE STUDENT'S TUITION AND FEES USED AS A BASIS FOR A
3 CREDIT UNDER THIS SECTION WERE ALSO USED AS THE BASIS FOR A CREDIT
4 CLAIMED UNDER SECTION 25A OF THE INTERNAL REVENUE CODE FOR THE TAX
5 YEAR IN WHICH THE CREDIT FOR THE TUITION AND FEES UNDER THIS
6 SECTION IS CLAIMED.

7 (vii) HAS FILED A FREE APPLICATION FOR FEDERAL STUDENT AID,
8 FORM OMB 1840-0110, WITH THE UNITED STATES DEPARTMENT OF EDUCATION
9 FOR THE ACADEMIC YEAR FOR WHICH TUITION PAYMENTS ARE USED AS THE
10 BASIS FOR A CREDIT CLAIMED UNDER THIS SECTION OR AN ALTERNATIVE
11 FORM DEVELOPED BY THE DEPARTMENT THAT REQUIRES SUBSTANTIALLY THE
12 SAME INFORMATION.

13 (C) "ELIGIBLE TAXPAYER" MEANS AN INDIVIDUAL WHO IS ALL OF THE
14 FOLLOWING:

15 (i) A MICHIGAN RESIDENT.

16 (ii) HAS HOUSEHOLD INCOME OF LESS THAN \$63,000.00 IF THE
17 TAXPAYER FILES A SINGLE RETURN OR LESS THAN \$127,000.00 IF THE
18 TAXPAYER FILES A JOINT RETURN.

19 (iii) MEETS 1 OF THE FOLLOWING CRITERIA:

20 (A) IS ELIGIBLE FOR THE HOPE SCHOLARSHIP TAX CREDIT AND HAS
21 FILED A FEDERAL INCOME TAX RETURN ON WHICH HE OR SHE CLAIMS THE
22 HOPE SCHOLARSHIP TAX CREDIT FOR THE SAME TAX YEAR IN WHICH HE OR
23 SHE FILES A CLAIM FOR THE CREDIT ALLOWED UNDER THIS SECTION.

24 (B) MEETS THE CRITERIA FOR A HOPE SCHOLARSHIP TAX CREDIT OR
25 LIFETIME LEARNING TAX CREDIT IN THE YEAR IN WHICH HE OR SHE FILES A
26 CLAIM FOR THE CREDIT ALLOWED UNDER THIS SECTION BUT WAS UNABLE TO
27 CLAIM A HOPE SCHOLARSHIP TAX CREDIT OR LIFETIME LEARNING TAX CREDIT

1 ON HIS OR HER ANNUAL FEDERAL INCOME TAX RETURN FOR THAT YEAR
2 BECAUSE OF INSUFFICIENT TAX LIABILITY. A TAXPAYER THAT QUALIFIES
3 UNDER THIS SUB-SUBPARAGRAPH MUST FILE AN ANNUAL FEDERAL INCOME
4 RETURN FOR THE TAX YEAR IN WHICH HE OR SHE FILES A CLAIM FOR THE
5 CREDIT ALLOWED UNDER THIS SECTION.

6 (iv) AN ELIGIBLE STUDENT OR THE SPOUSE OR PARENT OF A STUDENT.

7 (D) "HOPE SCHOLARSHIP TAX CREDIT" AND "LIFETIME LEARNING TAX
8 CREDIT" MEAN THE CREDITS ALLOWED UNDER SECTION 25A OF THE INTERNAL
9 REVENUE CODE.

10 (E) "IN-DISTRICT TUITION" MEANS THE TUITION CHARGED TO A
11 MICHIGAN RESIDENT WHO IS ALSO A RESIDENT OF THE COMMUNITY COLLEGE
12 DISTRICT AS DETERMINED BY THE COMMUNITY COLLEGE ESTABLISHED UNDER
13 THE COMMUNITY COLLEGE ACT OF 1966, 1966 PA 331, MCL 389.1 TO
14 389.195, OF THE COMMUNITY COLLEGE HE OR SHE IS ATTENDING.

15 (F) "IN-STATE TUITION" MEANS THE PER CREDIT HOUR CHARGE OR
16 SEMESTER CHARGE TO A MICHIGAN RESIDENT WHO IS ENROLLED IN AN
17 ELIGIBLE INSTITUTION.

18 (G) "MICHIGAN RESIDENT" MEANS AN INDIVIDUAL THAT IS 1 OF THE
19 FOLLOWING:

20 (i) AN ELIGIBLE STUDENT WHO MEETS BOTH OF THE FOLLOWING
21 CRITERIA:

22 (A) GRADUATED FROM AN ACCREDITED HIGH SCHOOL IN THIS STATE OR
23 ATTENDED AN ACCREDITED HIGH SCHOOL IN THIS STATE AND PASSED THIS
24 STATE'S GENERAL EDUCATION DEVELOPMENT (GED) TEST.

25 (B) HAS LIVED IN THIS STATE FOR AT LEAST 12 MONTHS IMMEDIATELY
26 PRECEDING THE YEAR IN WHICH HE OR SHE CLAIMS A CREDIT UNDER THIS
27 SECTION.

1 (ii) AN INDIVIDUAL WHO MEETS ALL OF THE FOLLOWING CRITERIA:

2 (A) IS A MEMBER OF THE ARMED FORCES OF THE UNITED STATES AND
3 WAS STATIONED IN A STATE OTHER THAN THIS STATE OR A COUNTRY OTHER
4 THAN THE UNITED STATES IN THE 12 MONTHS IMMEDIATELY PRECEDING
5 ENROLLMENT IN AN ELIGIBLE INSTITUTION.

6 (B) GRADUATED FROM AN ACCREDITED HIGH SCHOOL IN THIS STATE OR
7 ATTENDED AN ACCREDITED HIGH SCHOOL IN THIS STATE AND PASSED THIS
8 STATE'S GENERAL EDUCATION DEVELOPMENT (GED) TEST.

9 (iii) NOT AN ELIGIBLE STUDENT BUT WHO HAS LIVED IN THIS STATE
10 FOR AT LEAST 12 MONTHS IMMEDIATELY PRECEDING THE YEAR IN WHICH HE
11 OR SHE CLAIMS A CREDIT UNDER THIS SECTION FOR TUITION AND FEES PAID
12 ON BEHALF OF AN ELIGIBLE STUDENT.

13 (H) "TUITION AND FEES" MEANS IN-STATE OR IN-DISTRICT TUITION
14 FOR NOT MORE THAN A TOTAL OF 120 CREDITS FOR ALL TAX YEARS FOR
15 COURSE WORK THAT LEADS TO A BACCALAUREATE DEGREE OR NOT MORE THAN A
16 TOTAL OF 60 CREDITS FOR ALL TAX YEARS FOR COURSE WORK THAT LEADS TO
17 AN ASSOCIATE DEGREE OR IS PART OF A CERTIFICATION PROGRAM, AND
18 MANDATORY FEES THAT ARE REQUIRED AND UNIFORMLY PAID BY A MAJORITY
19 OF THE STUDENTS OF THE ELIGIBLE INSTITUTION BUT DOES NOT INCLUDE
20 ANY OF THE FOLLOWING:

21 (i) THE AMOUNT CLAIMED BY THE ELIGIBLE TAXPAYER IN THE TAX YEAR
22 AGAINST HIS OR HER FEDERAL TAX LIABILITY AS A HOPE SCHOLARSHIP TAX
23 CREDIT OR A LIFETIME LEARNING TAX CREDIT.

24 (ii) AMOUNTS PAID THAT ARE EXCLUDED UNDER SECTION 25A(F) (1) (B)
25 AND (C) OF THE INTERNAL REVENUE CODE.

26 (iii) AMOUNTS DESCRIBED IN SECTION 25A(G) (2) (A), (B), AND (C) OF
27 THE INTERNAL REVENUE CODE.

1 (I) "UNITED STATES CONSUMER PRICE INDEX" MEANS THE UNITED
2 STATES CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS AS DEFINED AND
3 REPORTED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR
4 STATISTICS.

5 Enacting section 1. Section 274 of the income tax act of 1967,
6 1967 PA 281, MCL 206.274, is repealed.