STATE OF MICHIGAN
COURT OF CLAIMS

Associated Builders and Contractors of Michigan, National Federation of Independent Business, Inc., Senator Edward McBroom in his official capacity, Representative Dale Zorn in his official capacity, Rodney Davies, Kimberley Davies, Owen Pyle, William Lubaway, Barbara Carter, and Ross VanderKlok,

Plaintiffs,

v.

Treasurer of Michigan, Rachael Eubanks, in her official capacity

Defendant.

Case No.: 23-___________-MB

Hon. ____________________

Complaint and *Ex Parte* Motion

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PLAINTIFFS' COMPLAINT AND *EX PARTE* MOTION TO SHOW CAUSE UNDER MCR 3.305(C) AND FOR EXPEDITED DECLARATORY RELIEF UNDER MCR 2.605(D)

*****DECISION REQUESTED BY DECEMBER 15, 2023*****

There is no other pending or resolved civil action arising out of the same transaction or occurrence alleged in the complaint.

NOW COMES Plaintiffs, Associated Builders and Contractors of Michigan, National Federation of Independent Business, Inc., Senator Edward McBroom in his official capacity, Representative Dale Zorn in his official capacity, and Rodney Davies, Kimberly Davies, Owen Pyle, William Lubaway, Barbara Carter, and Ross VanderKlok, who file this *ex parte* Motion for Show Cause under MCR 3.305(C) as contained in this Complaint, filed simultaneously with this motion. Because of the time constraints posed by this matter in light of its impact on the State's approximately 5 million taxpayers, Plaintiffs request that this Court issue a ruling on September 22, 2023. In support, Plaintiffs state as follows:

INTRODUCTION

Plaintiffs ask this Court to declare that the State of Michigan income tax rate for the 2024 tax year is capped at 4.05%, and to issue a writ of mandamus requiring Defendant to apply that rate. This declaration would be contrary to Attorney General Opinion No. 7320 (March 23, 2023), Exhibit 1, wherein the Attorney General opined the 2024 income tax rate would be 4.25%, after a one-year reduction to 4.05%.

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff, Associated Builders and Contractors of Michigan ("ABC"), is a Michigan nonprofit incorporated trade association headquartered in Ingham County, Michigan.
2. ABC is a trade association representing more than 900 construction and construction-related firms throughout the State of Michigan and in bordering states. ABC's members include both taxpaying corporate entities and individual taxpayers. ABC employer members employ a combined workforce of more than 30,000 individuals. ABC regularly engages in the lobbying of legislatures in an effort to promote its members' priorities.
3. Plaintiff, National Federation of Independent Business, Inc. (NFIB) is the nation's leading small business association. NFIB's mission is to promote and protect the right of its

members to own, operate, and grow their business. NFIB represents the interests of its members in Washington D.C. and all 50 state capitals.

4. NFIB's membership spans the spectrum of business operations, ranging from sole proprietor enterprises to firms with hundreds of employees. NFIB represents over 287,000 businesses nationwide and nearly 10,000 Michigan businesses. NFIB's members account for approximately 2,000,000 of the nation's jobs and the average NFIB member employs just over 7 employees.
5. Plaintiff, Edward McBroom, is an elected Senator of the State of Michigan.
6. Plaintiff, Dale Zorn, is an elected Representative of the State of Michigan.
7. Plaintiff, Rodney Davies, is a natural person and resident and citizen of the State of Michigan, County of Oakland.
8. Plaintiff, Kimberley Davies, is a natural person and resident and citizen of the State of Michigan, County of Oakland.
9. Plaintiff, Owen Pyle, is a natural person and resident and citizen of the State of Michigan, County of Kent.
10. Plaintiff, William Lubaway, is a natural person and resident and citizen of the State of Michigan, County of Oakland.
11. Plaintiff, Barbara Carter, is a natural person and resident and citizen of the State of Michigan, County of Oakland.
12. Plaintiff, Ross VanderKlok, is a natural person and resident and citizen of the State of Michigan, County of Kent.

13. Defendant, State of Michigan Treasurer Rachael Eubanks, heads Michigan's Department of Treasury, one of the 20 principal executive departments in Michigan. Const 1963, art 5, § 2; MCL 16.175.

14. Venue and subject-matter jurisdiction are proper in the Court of Claims pursuant to MCL 600.6419.

BACKGROUND ON MCL 206.51(1)(c)

15. The Plaintiffs hereby incorporate the preceding paragraphs as if fully restated herein.

16. 2015 PA 180 was passed and became effective in 2015.

17. Regarding the income tax rate, 2015 PA 180 stated and codified at MCL 206.51(1)(a)-(c):

> (1) For receiving, earning, or otherwise acquiring income from any source whatsoever, there is levied and imposed under this part upon the taxable income of every person other than a corporation a tax at the following rates in the following circumstances:
>
> (a) On and after October 1, 2007 and before October 1, 2012, 4.35%.
>
> (b) Except as otherwise provided under subdivision (c), on and after October 1, 2012, 4.25%.
>
> (c) For each tax year beginning on and after January 1, 2023, if the percentage increase in the total general fund/general purpose revenue from the immediately preceding fiscal year is greater than the inflation rate for the same period and the inflation rate is positive, then the **<u>current rate</u>** shall be reduced by an amount determined by multiplying that rate by a fraction, the numerator of which is the difference between the total general fund/general purpose revenue from the immediately preceding state fiscal year and the capped general fund/general purpose revenue and the denominator of which is the total revenue collected from this part in the immediately preceding state fiscal year. For purposes of this subdivision only, the state treasurer, the director of the senate fiscal agency, and the director of the house fiscal agency shall determine whether the total revenue distributed to general fund/general purpose revenue has increased as required under this subdivision based on the comprehensive annual financial report prepared and published by the department of technology, management, and budget in accordance with section 23 of article IX of the state constitution of 1963. The state treasurer, the director of the senate fiscal agency, and the director of the house fiscal agency shall make the determination under this subdivision no later than the date of the January 2023 revenue estimating conference conducted pursuant to sections 367a through 367f of the management and budget act, 1984 PA 431, MCL 18.1367a to

> 18.1367f, and the date of each January revenue estimating conference conducted each year thereafter. . . .

Exhibit 2 (emphasis added).

18. Subsequent amendments to MCL 206.51 did not change the above language. See 2016 PA 266; 2018 PA 588; and 2020 PA 75.

19. 2023 PA 4 also will not change that language when it becomes effective.

20. At the time 2015 PA 180 was adopted, it was clear that the income tax reduction was intended to apply on an ongoing basis. House Fiscal Agency's analysis of 2015 PA 180 stated:

> Senate Bill 414
>
> The income tax rate reduction trigger created by this bill would reduce state GF/GP revenues in years in which prior-year GF/GP revenue growth exceeds the rate of inflation beginning with FY 2022-23, assuming GF/GP revenues were above the adjusted FY 2020- 21 level. **Those revenue reductions would continue in subsequent years.**
>
> The frequency and magnitude of such revenue reductions would depend on future levels of inflation and economic growth, as well as potential non-economic factors affecting state revenues. (An example of such a non-economic factor is the increase in capital gain and dividend income tax revenue associated with the fiscal cliff in tax year 2011. While this one-time revenue increase was largely offset the following year, the trigger mechanism would have resulted in a **permanent reduction in the income tax rate.**)

Exhibit 3, House Fiscal Analysis, Legislative Analysis: "Road-Funding Package – Preliminary Analysis" at 4 (November 3, 2015) (emphasis added). House Fiscal's November 16, 2015 "Road Funding Package – Enacted Analysis" said the same thing word for word. Exhibit 4 at p. 5. Plaintiff Zorn was serving as a state Senator at the time, and Plaintiff McBroom was serving as a State Representative at the time.

21. That interpretation is consistent with how MCL 206.51(1)(c) was being interpreted prior to the Attorney General issuing her opinion on this matter.

22. In its preparatory document for the January 11, 2023 Consensus Revenue Estimating Conference ("CREC"), the Senate Fiscal Agency indicated that it was likely that the MCL 206.51(1)(c) formula would lead to a permanent income-tax-rate reduction from 4.25% to around 4.05%: "Because preliminary GF/GP revenue is forecasted to increase in FY 2021-22 by an amount greater than 1.425 times the rate of inflation, Public Act 180 of 2015 is predicted to require a **permanent reduction** in the IIT rate." Exhibit 5 at p. 29 (emphasis added).

23. In its preparatory document for the January 11, 2023 Consensus Revenue Estimating Conference ("CREC"), the House Fiscal Agency indicated that it was likely that the MCL 206.51(1)(c) formula would lead to an income-tax-rate reduction from 4.25% to around 4.05%. Exhibit 6 at p. 14.

24. As there was some debate whether such a rate cut would be permanent, on March 22, 2023, Defendant Eubanks sought an opinion from the Attorney General. Exhibit 7.

25. The next day, March 23, 2023, Attorney General Nessel issued Attorney General Opinion No. 7320. Exhibit 1.

26. On March 29, 2023, after the closing of the 2021-22 fiscal year via the issuance of the State of Michigan Annual Comprehensive Financial Reports (sometimes known as SOMACFR or ACFR), Defendant Eubanks announced the reduction of the 2023 income tax rate from 4.25% to 4.05% "for one year." Exhibit 8.

27. On March 30, 2023, Defendant Eubanks issued a Taxpayer Notice again indicating that the 2023 income tax rate would be 4.05%, and indicating that new tax tables would not be issued:

> Treasury's withholding rate tables for the 2023 tax year will not be updated to accommodate the revised rate. Individuals and fiduciaries with questions

> about the effect of the rate change on the amount of tax being withheld from their income should contact their employer or administrator directly.

Exhibit 9.

DECLARATORY RELIEF IS NECESSARY TO ENSURE THE LEGISLATURE CAN PREPARE AND MAINTAIN AN ACCURATE BUDGET

28. Const 1963, art 4, § 31 states:

> The general appropriation bills for the succeeding fiscal period covering items set forth in the budget shall be passed or rejected in either house of the legislature before that house passes any appropriation bill for items not in the budget except bills supplementing appropriations for the current fiscal year's operation. Any bill requiring an appropriation to carry out its purpose shall be considered an appropriation bill. One of the general appropriation bills as passed by the legislature shall contain an itemized statement of estimated revenue by major source in each operating fund for the ensuing fiscal period, the total of which shall not be less than the total of all appropriations made from each fund in the general appropriation bills as passed.

29. The Notice to the Address of the People related to Const 1963, art 4, § 31 stated:

> This is a new section designed to accomplish two major purposes:
>
> 1. To focus legislative attention on the general appropriation bills or bills to the exclusion of any other appropriation bills, except those supplementing appropriations for the current year's operation.
>
> 2. To require the legislature (as well as the governor by subsequent provision) to set forth by major items its own best estimates of revenue.
>
> The legislature frequently differs from the executive estimates of revenue. It is proper to require that such differences as exist be specifically set forth for public understanding and future judgement as to the validity of each.

Exhibit 10, 2 Official Record, Constitutional Convention 1961, p. 3375.

30. Michigan's fiscal year runs from October 1 to September 30. MCL 18.1491.

31. Const 1963 art 5, § 20 provides a mechanism by which the Governor and Legislature shall reduce expenditures in the event they do not reflect the actual revenue assumptions that existed during the appropriations process:

> No appropriation shall be a mandate to spend. The governor, with the approval of the appropriating committees of the house and senate, shall reduce expenditures authorized by appropriations whenever it appears that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based. Reductions in expenditures shall be made in accordance with procedures prescribed by law. The governor may not reduce expenditures of the legislative and judicial branches or from funds constitutionally dedicated for specific purposes.

32. According to the House Fiscal Agency's January 2019 "A Legislator's Guide to Michigan's Budget Process," Exhibit 11 at p. 8 Figure 1,[1] the major steps in the budget process are:

    a. First revenue estimating conference in the second week of January. See also MCL 18.1367b.

    b. Governor presents budget recommendation ("Early February"). See also 1963 Const, art 5, § 18.

    c. Budget legislation introduced and debated (February to May).

    d. Second revenue estimating conference in third week of May. See also MCL 18.1367b.

    e. Passage of budget. See also MCL 18.1365 ("the legislature shall pass and present general appropriation bills for the upcoming fiscal year to the governor on or before July 1.")

33. On May 16, 2023, the Senate Fiscal Agency published its "Michigan Economic Outlook and Budget Review FY 2022-23, FY 2023-24, and FY 2024-25." Exhibit 12.[2] It stated:

    > Based on the FY 2021-22 Annual Comprehensive Financial Report, the [individual income tax] rate for tax year 2023 is 4.05%, which will reduce General Fund revenue by $527.6 million in FY 2022-23 and $186.6 million in FY 2023-24. Based on an opinion from the Attorney General, the rate reduction is a temporary rate reduction for tax year 2023, although the reduction will affect both FY 2022-23 and 2023-24.

[1] Available at: https://www.house.mi.gov/hfa/PDF/Alpha/approps_process_report.pdf
[2] Available At:
https://www.senate.michigan.gov/sfa/Publications/BudUpdates/EconomicOutlookMay23.pdf

Id. at p. 36. This permanence question was directly contrary to the Senate Fiscal Agency's earlier opinion in preparation for the January 11, 2023 Consensus Revenue Estimating Conference ("CREC").

34. On May 19, 2023, the Senate Fiscal Agency indicated to Senate members that the income tax rate cut was for tax year 2023 only due to Attorney General Opinion No. 7320 (March 23, 2023): "Income tax reduction (ie, trigger) - 4/10/23: AG opinion 1-year impact." [sic] Exhibit 13.[3]

35. The income tax year runs on a calendar basis. MCL 206.24.

36. In 2020, $9,424,548,300 in income taxes were levied. Exhibit 14, Michigan Department of Treasury, *Michigan's Individual Income Tax*, November, 2022.[4]

37. In tax year 2020, there were 4,952,798 Michigan 1040s filed. *Id*.

38. According to the Senate Fiscal Agency's Spring 2015 "State Notes Topics of Legislative Interest – A History of the Michigan Individual Income Tax Rate," income taxes usually provide over 30% of the revenue for the combined general fund/general purpose and school aid funds. Exhibit 15 at 2, table 1.[5]

39. The Senate Fiscal Agency's Michigan Economic Outlook and Budget Review FY 2022-23, FY 2023-24, and FY 2024-25 document estimates that the income tax reduction within

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[3] Available at: https://www.senate.michigan.gov/sfa/Publications/BudUpdates/ConsensusYearEndBalanceMay23.pdf

[4] Available at: https://www.michigan.gov/treasury/-/media/Project/Websites/treasury/Uncategorized/2022/ORTA-Tax-Reports/IIT-report_TY2020-data.pdf.

[5] Available at: https://www.senate.michigan.gov/SFA/Publications/Notes/2015Notes/NotesSpr15lpdz.pdf

MCL 251.61(c) would result in a state revenue reduction of $527.6 million in FY 2022-23 and $186.6 million in FY 2023-24. Exhibit 12.

40. A holding that the tax rate is capped at 4.05% for tax year 2024 and subsequent tax years, would mean that around $714.2 million is not available for the fiscal 2023-24 budget cycle. *Id.*

41. An appropriate schedule which would allow this matter to be finally resolved by December 15, 2023, while still allowing the parties and courts adequate time to address the issues would be:

Event	Date
Defendant's Response Brief	Sept. 6, 2023 (2 days after Labor Day)
Plaintiff's Reply	Sept. 13, 2023
Court of Claims Decision	Sept. 22, 2023
Appellant's/s' Brief to Court of Appeals	Oct. 2, 2023
Appellee's/s' Response/Amicus Briefs	Oct. 12, 2023
Appellant's/s' Reply	Oct. 17, 2023
Court of Appeals Decision	Oct. 27, 2023
Appellant's/s' Brief to Supreme Court	Nov. 3, 2023
Appellee's/s' Brief to Supreme Court/Amicus Briefs	Nov. 10, 2023
Appellant's/s' Reply	Nov. 15, 2023
Oral Argument	To be decided by Michigan Supreme Court if necessary
Decision of the Michigan Supreme Court	December 15, 2023

EXPEDITED DECLARATORY RELIEF IS NECESSARY TO AVOID OVERWHELMING THE DEPARTMENT OF TREASURY, MICHIGAN TAX

TRIBUNAL, AND THIS COURT WITH INDIVIDUAL INCOME TAX RATE CHALLENGES

42. The Plaintiffs hereby incorporate the preceding paragraphs as if fully restated herein.

43. MCR 2.605(D) permits this Court to "order a speedy hearing of an action for declaratory relief and may advance it on the calendar."

44. This Court should grant a speedy hearing consistent with the schedule set forth above in order to avoid the significant consequences that would occur should this matter go unresolved.

45. The closer this matter gets to calendar year 2024 without resolution, the greater the likelihood that some of Michigan's approximately 5 million individual taxpayers will be filing suit to seek guidance.

46. Citizens may challenge an income tax assessment using the following procedures: (1) informal dispute resolution with the Department of Treasury; (2) filing a claim in the Tax Tribunal; and (3) filing a suit with the Court of Claims. MCL 205.21; MCL 205.22.

47. Although it is unclear precisely when Plaintiff's claims accrued, it is at least arguable that they accrued as of March 29, 2023, upon Treasurer Eubank's announcement of the income tax reduction for fiscal years 2023-2024. Exhibit 9. As a result, anyone wishing to challenge the Treasurer's application of MCL 206.51(1)(c) would arguably need to file such a challenge no later than March 29, 2024, pursuant to MCL 600.6431(1).

48. If even a small minority of taxpayers challenge their income taxes on the basis that MCL 206.51(1)(c) requires an income tax rate of 4.05%, rather than 4.25%, there exists a real possibility that any or all of the above entities find themselves overwhelmed with an unprecedented volume of cases.

49. Annually, there are generally less than 100,000 new actions filed in all Michigan circuit courts.[6]

50. Therefore, if even as few as 3% of taxpayers file a challenge on the basis that MCL 206.51(1)(c) caps the income tax rate at 4.05% for tax years 2024 and beyond, more tax claims will have been filed than number of actions typically filed in all of the circuit courts combined annually.

51. A taxpayer wishing to challenge an assessment under MCL 205.21 must do so within 60 days of receiving the Department's notice of intent to assess tax. MCL 205.21(2)(c).

52. A taxpayer wishing to appeal an assessment, decision, or order of the Department by elevating it to the Tax Tribunal must file that appeal within 60 days of that determination. MCL 205.22(1).

53. A taxpayer wishing to appeal an assessment, decision, or order of the Department by filing a claim with the Court of Claims must file that appeal within 90 days of that determination. MCL 205.752(1).

54. If the Department's assessment or decision is not appealed within the aforementioned time limits, it is "final and is not reviewable in any court by mandamus, appeal, or other method of direct or collateral attack." MCL 205.22(4).

55. Taken together, these legal requirements create the potential for judicial overload. In the 60-90 days following the assessment of 2024 taxes, the Court of Claims, Department of Treasury, and Michigan Tax Tribunal may reasonably see what is essentially a year's

[6] The Court may take judicial notice of the Statewide Circuit Court Summary Caseload Reports. In 2021, there were 89,024 new filings, including all civil, criminal, and appellate actions, in the Michigan circuit courts. In 2020, that number was 76,823. In 2019, 94,458 actions were filed.

worth of filings in a roughly three-month period if even a tiny fraction of taxpayers challenge the Attorney General's interpretation of MCL 206.51(1)(c).

56. Although the most significant impacts of the meaning of MCL 206.51(1)(c) would probably arise when 2024 taxes are assessed, this Court should not wait until that point to rule on this issue. The meaning of MCL 206.51(1)(c) has substantial consequences beginning as soon as January 1, 2024.

57. Many taxpayers may wait until they file their 2024 taxes to seek a rebate, but the legal ramifications of an improper application of MCL 206.51(1)(c) begin as early as January 1, 2024.

58. Beginning on January 1, 2024, an employer who overwithholds income tax from an employee's wages becomes exposed to liability for a demand for repayment of the overwithholding. Mich Admin Code, R 206.22.

59. As a result, Michigan employers may face demands for repayment of overwithholdings beginning on January 15, 2024. Mich Admin Code, R 206.23.

60. If an employer refuses to repay a disputed overwitholding, an employee can claim credit for the amount withheld on their individual tax return. Mich Admin Code, R 206.22.

61. Therefore, as of January 15, 2024, Michigan employers may find themselves facing as many as 5 million demands for repayment of overwitholdings.

62. Should those employers refuse to repay the disputed overwithholdings, the Department of Treasury could face an equal number of claimed credits on individual tax returns.

63. This is further complicated when non-W2 employees are considered. For employees earning income reported on IRS Form 990, individual estimated taxes are due on April 15, 2024. MCL 206.301.[7]

64. Individual estimated taxes are based on quarterly installments of an individual's annual estimated taxes. *Id.*

65. Thus, as of January 1, 2024, taxpayers required to pay individual estimated taxes will need to accurately calculate their annual individual estimated tax for tax year 2024.

66. Should MCL 206.51(1)(c) not be clarified, those taxpayers paying individual estimated taxes will face a dilemma: pay taxes assuming a 4.25% tax rate, and risk overpayment, or pay taxes at 4.05% and risk enforcement action.

67. It is therefore in the interest of judicial economy to resolve this question prior to January 1, 2024.

68. A final judgement issued by December 15, 2023, would clarify the interpretation of MCL 206.51(1)(c) with sufficient notice to the parties to enable an efficient administration of the 2024 tax year.

COUNT I: REQUEST FOR DECLARATORY RELIEF

69. The Plaintiffs hereby incorporate the preceding paragraphs as if fully restated herein.

70. This case turns on the proper statutory analysis of MCL 206.51(1)(c). If the Attorney General's interpretation of that section is correct, then Michigan's income tax will be capped at 4.25% rate after being reduced to 4.05% for a single year. If Plaintiffs are

[7] Please note this is after the potential accrual date of March 29, 2024.

correct, then Michigan's income tax will be capped at a 4.05% rate unless later reduced by future application of MCL 206.51(1)(c).[8]

71. In Attorney General Opinion 7320, Attorney General Nessel concluded that "it is apparent that the Legislature intended any income tax reduction under subsection (1)(c) to be for that tax year only, where the conditions described in subsection (1)(c) apply."

72. The Attorney General based her conclusion on the statutory interpretation of the word "current" as a description of "rate" in MCL 206.51(1)(c). She concluded:

> "According to subsection 1(c), the rate that is subject to reduction is the 'current' rate. The statute does not offer a definition, but the common meaning of the word 'current' is 'existing at the present time." At the present time, the income tax rate is specifically set out in subsection (1)(b)—4.25%."

73. Attorney General Opinion 7320 reaches a conclusion that is not consistent with the plain text of MCL 206.51(1)(c), or with the Legislature's intent.

74. The online version of Merriam Webster's Dictionary lists three definitions for "current" as an adjective: (1) "occurring in or existing at the present time"; (2) "presently elapsing"; and (3) "most recent."[9]

75. The relevant Dictionary.com definitions for "current" are: (1) "passing in time; belonging to the time actually passing"; (2) "prevalent; customary"; (3) "popular; in vogue"; and (4) "new; present; most recent."[10]

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[8] Individual Taxpayer Plaintiffs and NFIB and ABC as membership organizations would be limited to declaratory relief.

[9] Available at: https://www.merriam-webster.com/dictionary/current (accessed August 21, 2023). The Michigan Supreme Court cited Merriam Webster's online dictionary in *Detroit New v Independent Citizens Redistricting Commission*, 508 Mich 399, 421 (2021). This is also the dictionary the Attorney General cited in Opinion 7320.

[10] Available at: https://www.dictionary.com/browse/current (accessed August 21, 2023). The Michigan Supreme Court referred to this dictionary in *Drouillard v American Alternative Insurance Corp*, 504 Mich 919 (2019).

76. Plaintiffs argue that the use of "current" in MCL 206.51(1)(c) means "most recent." The Attorney General's opinion, on the other hand, concluded that "current" means "existing at the present time."

77. Courts may look at past legislative practice to guide analysis of a disputed term. *Honigman Miller Schwartz and Cohn LLP v Detroit*, 505 Mich 284, 310-11 (2020).

78. The Legislature has previously identified a numeric income tax rate in 1983 PA 53. Exhibit 16.

79. Under 1983 PA 53, the income tax was set based on a formula for "January 1, 1983, and thereafter." *Id.* at Section 51(1)(d). The formula in 1983 PA 53 was based on a specific rate, namely, 3.9%.

80. This indicates that, as of 2015, there was legislative experience in setting a particular numerically identified rate (1983's 3.9%) as a starting point for a year-by-year formulaic determination of the applicable income tax.

81. Thus, the 2015 Legislature's choice to not follow its past-proven method from 1983 indicates the Legislature meant "current" to mean "most recent" for purposes for MCL 206.51(1)(c).

82. If the Legislature had intended "current" to mean "existing at the present time," it could have achieved that goal by doing precisely what it did in 1983: using a fixed numerical value. Its decision to not do so demonstrates that the Legislature did not intend for MCL 206.51(1)(c) to refer to the income tax rate "existing at the present time," but rather the "most recent" rate.

83. Even if the phrase "current" causes MCL 206.51(1)(c) to be ambiguous, Plaintiffs should still prevail on the merits.

84. Under *Honigman*, 505 Mich at 291 n 3, the Michigan Supreme Court noted that "ambiguities in the language of the tax statute are to be resolved in favor of the taxpayer."

85. Plaintiffs' interpretation of MCL 206.51(1)(c) is to the benefit of the taxpayer, as it would provide a .2% lower cap to Michigan's income tax rate, with a potential for additional future reductions to the cap if MCL 206.51(1)(c) were to be triggered in the future. The State's position, meanwhile, would limit the reduction to the income cap tax to a single year, resulting in Michigan taxpayers paying an additional $714.2 million per year. Exhibit 12.

86. Thus, if Plaintiffs should prevail on the meaning of "current" in MCL 206.51(1)(c), the Court need not consult staff reports to determine legislative intent.

87. Those reports, however, support Plaintiffs' position. See, e.g., Exhibits 5, 6.

88. The plain language of the use of the word "current" in MCL 206.51(1)(c), when taken in context and considered in light of the relevant legislative experience, is clear and favors Plaintiffs' position. Even if ambiguous, contemporaneous committee reports and the requirement that ambiguities in taxing statutes are to read in the taxpayers' favor result in Plaintiffs' interpretation of that statute being the superior interpretation.

89. In 2023, the Legislature passed almost $2 billion in targeted tax relief, and the Governor signed an $81.7 billion budget, the largest budget in state history. See 2023 PA 119, 2023 PA 103, and House Fiscal Agency, Legislative Analysis of House Bill 4001 (Feb. 8, 2023) (Exhibit 17). Taken together, that spending could have sustained a 4-year reduction in the income tax rate at $714.2 million per year.

90. Plaintiffs therefore request that this court issue an order declaring that MCL 206.51(1)(c)'s definition of current means "most recent," thereby requiring the income tax rate be capped at 4.05% until such time as MCL 206.51(1)(c) is subsequently triggered.

COUNT II: MANDAMUS

91. Plaintiffs hereby incorporate the preceding paragraphs as if fully restated herein.

92. "Mandamus is the appropriate remedy for a party seeking to compel action by 'state officers.'" *Taxpayers for Mich Const Gov v Dep't of Tech*, ___ Mich App ___; 2022 WL 17865554 (Dec 22, 2022) at *7.

93. To obtain a writ of mandamus, a plaintiff must meet four elements: "(1) the plaintiff has a clear legal right to the performance of the duty sought to be compelled, (2) the defendant has a clear legal duty to perform such act, (3) the act is ministerial in nature such that it involves no discretion or judgement, and (4) the plaintiff has no other adequate legal or equitable remedy." *Wilcoxon v City of Detroit Election Comm'n*, 301 Mich App 619, 632-33 (2013); *Deleeuw v State Bd of Canvassers*, 263 Mich App 496, 500 (2004).

94. "A clear legal right is a right 'clearly founded in, or granted by, law; a right which is inferable as a matter of law from uncontroverted facts regardless of the difficulty of the legal questions to be decided.'" *Att'y Gen Bd of State Canvassers*, 318 Mich App 242, 249 (2016) (citation omitted).

95. Plaintiffs McBroom and Zorn are legislators and, like every member of the Legislature, have the clear legal right to accurate information during the budgeting and appropriations process.

96. Similarly, Plaintiffs ABC Michigan and NFIB are organizations which regularly engage in the budget process through advocating on behalf of their members.

97. Const 1963, art 4, § 31 tasks legislators with the duty to vote on general appropriations bills, which must in turn contain an "itemized statement of estimated revenue by major source." In voting on these bills, Plaintiff legislators necessarily need accurate information in order to fulfil their constitutional duties.

98. Doubt about a statute's meaning does not preclude a mandamus action:

> "[T]he requirement that a duty be clearly defined to warrant issuance of a writ does not rule out mandamus actions in situations where the interpretation of a controlling statute is in doubt. As long as the statute, once interpreted, creates a preemptory obligation for the officer to act, a mandamus action will lie."

Berdy v Buffa, 504 Mich 876 (2019).

99. This Court has the authority to issue declaratory relief in the form of an order establishing the correct legal interpretation of MCL 206.51(1)(c). MCL 600.6419(a). That same section provides the Court with the authority to issue a writ of mandamus. *Id.*

100. The proper application of MCL 206.51(1)(c) is a ministerial act.

101. "A ministerial act is one in which the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion or judgment." *Berry v Garrett*, 316 Mich App 37 (2016) (citation omitted).

102. Defendant has no discretion to apply an income tax rate other than the one specified by law, namely, MCL 206.51.

103. Plaintiffs McBroom and Zorn have no adequate remedy other than a writ of mandamus. Without accurate information regarding the proper tax rate, Plaintiff legislators (and all legislators) would be required to vote on appropriations bills without knowing whether the revenue available accurately reflects proper taxation.

104. Plaintiffs ABC Michigan and NFIB as advocacy organizations have no adequate remedy other than a writ of mandamus, as the improper application of MCL 206.51(1)(c) impacts

their ability to properly petition the Legislature on budgetary issues through lobbying undertaken on behalf of their members.[11]

105. If the Court determines Plaintiffs' interpretation of MCL 206.51(1)(c) is correct, it should issue a writ of mandamus requiring Defendant to apply that interpretation for the current and subsequent tax years. As State Treasurer, Defendant has a clear legal duty to apply the tax laws as written.

RELIEF REQUESTED

The individual Plaintiffs respectfully request that this Court enter a declaratory judgement holding that MCL 206.51(1)(c) requires an individual income tax rate for tax years 2022-2023 and all subsequent tax years that is capped at 4.05%, unless or until modified by the Legislature. A final declaratory judgment by December 15, 2023, allows the parties the opportunity to respond to the Court's ruling in time to avoid potentially overwhelming the Court, the Department of Treasury, and the Michigan Tax Tribunal with individualized challenges. Plaintiffs request that, pursuant to MCR 2.605(D) the Court schedule an expediated hearing on that question. Plaintiffs legislators and Plaintiffs ABC Michigan and NFIB, in their advocacy capacities, further request this court enter an Order to Show Cause as to why a writ of mandamus should not be issued requiring Defendant to apply MCL 206.51(1)(c) in the manner specified above under MCR 3.305(C), along with an appropriate briefing schedule.

Respectfully Submitted,

Dated: August 25, 2023

/s/ Patrick J. Wright
Patrick J. Wright (P54052)
Mackinac Center Legal Foundation
Attorneys for Plaintiffs

---

[11] In light of the various appellate options described above, the individual taxpayer members of ABC Michigan and NFIB have another remedy at law, albeit one that is inefficient and likely to overwhelm the systems for challenging tax determinations. As such, neither organization is seeking a writ of mandamus on behalf of their individual members.

I declare that the statements above [redacted]n, knowledge, and belief.

Dated: 8/24/23

Shane Hernandez
On behalf of ABC Michigan

Subscribed and sworn to by Shane Hernandez before me on the 24 day of August, 2023.

Signature [redacted]
Notary Public, State of Michigan
County of St. Clair
My Commission Expires Oct. 29, 2025
Acting in the County of St. Clair

HEATHER WORDEN
Notary Public, State of Michigan
County of St. Clair
My Commission Expires Oct. 29, 2025
Acting in the County of St. Clair

I declare that the statements above are true to the best of my information, knowledge, and belief.

Dated: 8-23-23

[redacted]

Amanda Fisher
State Director, Michigan
On behalf of the National Federation of Independent Business, Inc.

Subscribe[redacted]isher before me on the 23 day of August, 2023.
Signature[redacted]
Notary Public, State of Michigan
County of Ingham
My Commission Expires 02/20/2028
Acting in the County of Ingham

I declare that the statements above are true to the best of my ~~info~~rmation, knowledge, and belief.

Dated: August 23, 2023

[redacted]
Senator Edward McBroom

Subscribe[redacted]before me on the 23 day of ~~June~~ August, 2023.
Signature [redacted]
Notary Public, State of Michigan
County of Marquette
My Commission Expires 9|29|2029
Acting in the County of Marquette

MARY MYERS
Notary Public, State of Michigan
County of Marquette
My Commission Expires 09-29-2029
Acting in the County of Marquette

I declare that the statements above are true to the best of my information, knowledge, and belief.

Dated: 8-23-23

[redacted]

Representative Dale Zorn

Subscribed [redacted] on the 23rd day of August, 2023.
Signature [redacted]
Notary Public, State of Michigan
County of Monroe
My Commission Expires March 21, 2027
Acting in the County of Monroe

NICOLE GALLOWAY
Notary Public - State of Michigan
County of Monroe
My Commission Expires March 21, 2027

I declare that the statements above are true to the best of my information, knowledge, and belief.

Dated: August 23, 2023 [redacted]

Rodney Davies

Subscribed [redacted] Davies before me on the 23 day of August, 2023.
Signature [redacted]
Notary Public, State of Michigan
County of Ingham
My Commission Expires 07-29-2025
Acting in the County of midland

STEPHEN DELIE
Notary Public, State of Michigan
County of Ingham
My Commission Expires 07-29-2025
Acting in the County of midland

I declare that the statements above are true to the best of my information, knowledge, and belief.

Dated: August 23, 2023 [redacted]

Kimberley Davies

Subscribed and sworn to by Kimberley Davies before me on the 23 day of August, 2023.[redacted]
Signature [redacted]
Notary Public, State of Michigan
County of Ingham
My Commission Expires 07-29-2025
Acting in the County of Midland

STEPHEN DELIE
Notary Public, State of Michigan
County of Ingham
My Commission Expires 07-29-2025
Acting in the County of Midland

I declare that the statements above are tru [redacted]**, and belief.**

Dated: 8/23/2023

[redacted]
Owen Pyle

Subscribed and sworn to by Owen Pyle before me on the 23 day of August, 2023.
Signature [redacted]
County of Kent
My Commission Expires 6/2/24
Acting in the County of Kent

FELICIA SWIFT
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF KENT
My Commission Expires June 2, 2024
Acting in the County of Kent

CamScanner

I declare that the statements above are [redacted], and belief.

Dated: 08/23/2023 [redacted]

Ross VanderKlok

Subscribed [redacted] me on the 23 day of August, 2023.
Signature [redacted]
Notary Public, State of Michigan
County of Kent
My Commission Expires 6/2/24
Acting in the County of Kent

FELICIA SWIFT
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF KENT
My Commission Expires June 2, 2024
Acting in the County of Kent

FELICIA SWIFT NOTARY PUBLIC KENT COUNTY

I declare that the statements above are true to the best of my information, knowledge, and belief.

Dated: 8/23/2023 [redacted]

William Lubaway

Subscribed and sworn to by William Lubaway before me on the 23 day of August, 2023.
Signature [redacted]
Notary Public, State of Michigan
County of Oakland
My Commission Expires 4-5-2027
Acting in the County of ____________

SALENE RIGGINS
Notary Public - State of Michigan
County of Oakland
My Commission Expires Apr 5, 2027
Acting in the County of ____________

I declare that the statements above are true to the best of my information, knowledge, and belief.

Dated: 8-23-2023 [redacted]

Barbara Carter

Subscribed [redacted]ter before me on the 23 day of August, 2023.

Signature [redacted]

Notary Public, State of Michigan

County of Oakland

My Commission Expires 4-5-2027

Acting in the County of ____________________

SALENE RIGGINS
Notary Public - State of Michigan
County of Oakland
My Commission Expires Apr 5, 2027
Acting in the County of ____________

STATE OF MICHIGAN
COURT OF CLAIMS

Associated Builders and Contractors of Michigan, National Federation of Independent Business, Inc., Senator Edward McBroom in his official capacity, Representative Dale Zorn, in his official capacity, Rodney Davies, Kimberly Davies, Owen Pyle, William Lubaway, Barbara Carter, and Ross VanderKlok.

Plaintiffs,

v.

Treasurer of Michigan, Rachael Eubanks, in her official capacity

Defendant.

Case No.: 23-___________-MB

Hon. ____________________

Index of Exhibits

Patrick J. Wright (P54052)
Derk A. Wilcox (P66177)
Stephen A. Delie (P80209)
Mackinac Center for Public Policy
Attorneys for Plaintiffs
140 West Main Street
Midland, MI 48640
(989) 631-0900 – voice
(989) 631-0964 – fax

INDEX OF EXHIBITS

INDEX OF EXHIBITS

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Exhibit 1

STATE OF MICHIGAN

DANA NESSEL, ATTORNEY GENERAL

INCOME TAX ACT: Reduction in the income tax rate where a percentage increase in the general fund/general purpose revenue for the preceding fiscal year exceeded the inflation rate for that same period and the inflation rate is positive.

An individual income tax rate reduction under MCL 206.51(1)(c) is temporary (i.e., for one year only) and if the income tax rate for a particular year is reduced under MCL 206.51(1)(c), it returns to 4.25% in the subsequent year, as described in MCL 206.51(1)(b).

Opinion No. 7320 March 23, 2023

The Honorable Rachel Eubanks
State Treasurer
Michigan Department of Treasury
Lansing, MI 48922

You have requested my opinion on whether the individual income tax rate reduction under MCL 206.51(1)(c) is temporary (i.e., for one year only) or permanent (i.e., for all subsequent years). Specifically, you ask if the income tax rate for a particular year is reduced under MCL 206.51(1)(c), does the income tax rate return to 4.25% in the subsequent year, as described in MCL 206.51(1)(b), or does the rate remain at the reduced rate calculated under MCL 206.51(1)(c)? You indicate that for purposes of your question, it should be presumed that the rate reduction in MCL 206.51(1)(c) is not triggered in consecutive years.

In 2015, the Income Tax Act was amended to provide a mechanism by which the income tax rate would be reduced in circumstances where a percentage increase in the general fund/general purpose revenue for the preceding fiscal year exceeded the inflation rate for that same period and the inflation rate was positive. In particular, MCL 206.51(1) provides, in relevant part:

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

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

(b) Except as otherwise provided under subdivision (c), on and after October 1, 2012, 4.25%.

(c) For each tax year beginning on and after January 1, 2023, if the percentage increase in the total general fund/general purpose revenue from the immediately preceding fiscal year is greater than the inflation rate for the same period and the inflation rate is positive, then the current rate shall be reduced by an amount determined by multiplying that rate by a fraction, the numerator of which is the difference between the total general fund/general purpose revenue from the immediately preceding state fiscal year and the capped general fund/general purpose revenue and the denominator of which is the total revenue collected from this part in the immediately preceding state fiscal year.

Resolving your question turns on an interpretation of this language. The goal of statutory interpretation is to give effect to the Legislature's intent, focusing first on the statute's plain language. *Ally Financial Inc v State Treasurer*, 502 Mich 484, 493 (2018). The statute must be examined as a whole, reading individual words and phrases in the context of the entire legislative scheme, including the physical and logical relation of its many parts. *Id.* When a statute's language is unambiguous, the Legislature must have intended the meaning clearly expressed, and the statute must be enforced as written. *Ronnisch Construction Group Inc v Lofts on the Nine LLC*, 499 Mich 544, 552 (2016).

Here, examining MCL 206.51(1) as a whole, it is apparent that the Legislature intended any income tax reduction under subsection (1)(c) to be for that tax year only, where the conditions described in subsection (1)(c) apply.

According to subsection (1)(c), the rate that is subject to reduction is the "current" rate. The statute does not offer a definition, but the common meaning of the word "current" is "existing at the present time."[1] At the present time, the income tax rate is specifically set out in subsection (1)(b) – 4.25%. Significantly, subsection (1)(b) states that the 4.25% rate applies, "[e]xcept as otherwise provided under subdivision (c)," and as mentioned, "subdivision (c)" creates a triggering event that leads to the reduction in the current rate. Importantly, whether that triggering event occurs is determined "[f]or each tax year." MCL 206.51(c). Otherwise, subsection (1)(b) provides the tax rate for years "on and after October 1, 2012." MCL 206.51(b).

Giving effect to this language, particularly considering the physical and logical relation of the subsections and subdivisions in MCL 206.51, subsection (1)(b) establishes a default tax rate for each tax year that applies *unless* the triggering event in subsection (1)(c) that leads to the reduction of the current rate occurs. In other words, the "current" rate referred to in subsection (1)(c) is that rate specifically set out in subsection (1)(b), and whether a reduction in the subsection (1)(b) rate is warranted must be determined "each tax year" as stated in subsection (1)(c). Accordingly, whether the triggering event – and an attendant reduction in the income tax rate – occurred in a prior year is of no consequence to the annual determination made under subsection (1)(c). The "current" rate is the baseline rate specifically set out in subsection (1)(b), 4.25%, and any reduction in that rate that occurred by operation of the triggering event is for a single tax year only, as provided in subsection (1)(c).

It is noteworthy that MCL 206.51(10) is a subsection that specifically defines terms as used in MCL 206.51. Had the Legislature intended the phrase "current rate" in subsection (1)(c) to require a permanent change to the rate specifically set out in subsection (1)(b), it could have easily, and clearly, done so in subsection (10) (or in subsection (1)(c)). But it did not, and where the Legislature's intent is otherwise apparent, nothing should be read into the statute that the Legislature did not see fit to include. See generally, *In re Estate of Lewis*, 329 Mich App 85, 103 (2019).

The conclusion that any reduction is temporary is supported not only by the plain language of the statute, but also by the nature of the triggering event itself. In particular, the triggering event is based on temporary, impermanent, circumstances that change, and are reviewed, every year. Essentially, the Legislature has determined that if a situation exists where a percentage increase in state revenue in the immediately preceding fiscal year is greater than the rate of inflation for that same year and the inflation rate is positive, then the State can afford to provide relief to taxpayers. But because that situation is only temporary, it makes sense that, rather than provide a permanent tax reduction based on the (perhaps unusual) economic circumstances of a single fiscal year, the Legislature intended the relief to taxpayers to be only temporary as well. Simply put, the statute provides temporary relief based on temporary circumstances.

It is my opinion, therefore, that any individual income tax rate reduction under MCL 206.51(1)(c) is temporary (i.e., for one year only) and if the income tax rate for a particular year is reduced under MCL 206.51(1)(c), it returns to 4.25% in the subsequent year, as described in MCL 206.51(1)(b).

Sincerely,

DANA NESSEL
Attorney General

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[1] www.merriam-webster.com/dictionary/current <accessed March 23, 2023>. A dictionary may be consulted to ascertain the plain meaning of a word. *Wardell v Hincka*, 297 Mich App 127, 132 (2012).

Exhibit 2

Act No. 180
Public Acts of 2015
Approved by the Governor
November 10, 2015
Filed with the Secretary of State
November 10, 2015
EFFECTIVE DATE: November 10, 2015

STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2015

Introduced by Senator Schmidt

ENROLLED SENATE BILL No. 414

AN ACT to amend 1967 PA 281, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement by lien and otherwise of taxes on or measured by net income and on certain commercial, business, and financial activities; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal acts and parts of acts," by amending section 51 (MCL 206.51), as amended by 2012 PA 223.

The People of the State of Michigan enact:

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

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

(b) Except as otherwise provided under subdivision (c), on and after October 1, 2012, 4.25%.

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

(*i*) "Capped general fund/general purpose revenue" means the total general fund/general purpose revenue from the 2020-2021 state fiscal year multiplied by the sum of 1 plus the product of 1.425 times the difference between a fraction, the numerator of which is the 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 consumer price index for the 2020-2021 state fiscal year, and 1.

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

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

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

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

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

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

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

(8) As used in this section:

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

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

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

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

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

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

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

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 98th Legislature are enacted into law:

(a) House Bill No. 4370.

(b) House Bill No. 4614.

(c) House Bill No. 4616.

(d) House Bill No. 4736.

(e) House Bill No. 4737.

(f) House Bill No. 4738.

This act is ordered to take immediate effect.

Jeffrey F. Cobb

Secretary of the Senate

Gary E. Randall

Clerk of the House of Representatives

Approved ____________________

____

Governor

Exhibit 3

Legislative Analysis

ROAD FUNDING PACKAGE – *PRELIMINARY ANALYSIS*

Phone: (517) 373-8080
http://www.house.mi.gov/hfa

Analysis available at
http://www.legislature.mi.gov

Note: All bills are as passed by the Senate.

House Bill 4370 (S-3)
Sponsor: Rep. Hughes

House Bill 4614 (S-5)
Sponsor: Rep. LaFontaine

House Bill 4616 (S-6)
House Bill 4736 (S-4)
House Bill 4737 (S-4)
House Bill 4738 (S-5)
Sponsor: Rep. McCready

Senate Bill 414 (S-4)
Sponsor: Sen. Schmidt

Complete to 11-3-15

SUMMARY:

Note: This document describes major changes contained in these bills related to transportation financing and other state revenues. It is not a comprehensive description of the changes made by each bill.

House Bill 4738 would amend the Motor Fuel Tax Act to increase motor fuel taxes as follows:

- Increase the tax on diesel motor fuel from 15 cents per gallon and the tax on gasoline motor fuel from 19 cents per gallon to a single rate of 26.3 cent per gallon on all motor fuel effective January 1, 2017
- Annually adjust the tax rates for motor fuels based on consumer inflation (using the U.S. Consumer Price Index), with increases capped at 5% per year, effective January 1, 2022.

The bill would also add provisions to the act related to alternative fuels.

House Bill 4736 would amend the Michigan Vehicle Code to increase vehicle registration tax rates. Rates for passenger cars, vans, light trucks, and large commercial trucks would all be increased by approximately 20% across the board, effective January 1, 2017. The current average registration tax for a passenger vehicle is approximately $100; this bill would increase that average by approximately $20. The bill would also create a new registration tax surcharge for electric-powered motor vehicles.

House Bill 4370 would amend the Income Tax Act of 1967 to earmark a portion of income tax revenue currently allocated as General Fund/General Purpose (GF/GP) revenue to the Michigan Transportation Fund for distribution to state and local road agencies (bypassing the Comprehensive Transportation Fund). The earmarks would be as follows:

- $150 million for FY 2018-19.
- $325 million for FY 2019-20.
- $600 million for FY 2020-21 and subsequent fiscal years.

The bill would also expand the Homestead Property Tax Credit by changing the following parameters:

- Increase the percentage of gross rent paid that can be utilized to calculate the credit from 20% to 23% for tax year 2018 and subsequent tax years.
- Increase the household income phase-out range for claiming the credit by $10,000 for tax year 2018 and subsequent tax years. The current phase-out range is $41,000-$50,000 (the credit is reduced by 10% for each $1,000 of income above $40,000).
- Increase the maximum credit that can be claimed from $1,200 to $1,500 for tax year 2018 and subsequent tax years.
- Lower the percentage of household resources utilized as the threshold for calculating the credit amount from 3.5% to 3.2% for tax year 2018 and subsequent tax years.
- Adjust dollar amounts utilized in calculating the credit amount based on the U.S. Consumer Price Index beginning with tax year 2021.

Senate Bill 414 would amend the Income Tax Act of 1967 to create a mechanism that would automatically reduce the individual income tax rate if the increase from one year to the next in total General Fund/General Purpose (GF/GP) revenues exceeded inflation (as calculated using the U.S. Consumer Price Index). This determination would begin with tax year 2023 (based on final FY 2021-22 GF/GP revenue growth) and continue indefinitely on an annual basis. The income tax rate (currently 4.25%) would be reduced proportionally based on the amount by which GF/GP revenue exceeded FY 2020-21 GF/GP revenue adjusted for inflation times 1.425, divided by total income tax revenue. (Note that in some years, GF/GP revenue growth may exceed inflation but the amount of GF/GP revenue will not be above the adjusted FY 2020-21 base level due to prior revenue declines. Presumably no rate reduction would occur in such a year.)

House Bill 4614 would amend the Streamlined Sales and Use Tax Revenue Equalization Act and House Bill 4616 would amend the Motor Carrier Fuel Tax Act to make complementary amendments to those in House Bill 4738.

House Bill 4737 would amend Public Act 51 of 1951 to require the Department of Transportation to form a Roads Innovation Task Force that would issue a report to the Legislature by March 1, 2016 that would include, among other things, an evaluation of road materials and construction methods that could allow the department to build high-quality roads that last longer than those typically constructed by the department, with a goal of roads last at least 50 years, higher quality roads, and reduced maintenance costs.

The bill would also create a Roads Innovation Fund. Money could be expended from this fund only after each house of the Legislature approved a one-time concurrent resolution on a record roll call vote. For FY 2016-17 and subsequent years, the first $100 million of motor fuel tax revenue would be deposited into the fund (rather than into the Michigan Transportation Fund); this annual deposit is also provided for in House Bill 4738. Once the Legislature approved the concurrent resolution releasing money in the fund, the deposits would no longer be made into the fund.

The bill would also add a number of provisions related to road construction warranties.

Finally, the bill would effectively allow, with the approval of the director of the Department of Transportation, the City of Detroit to use up to 20% of its Michigan Transportation Fund distribution for public transit purposes.

The seven bills are all tie-barred to one another; that is, no bill would become law unless all seven bills became law.

FISCAL IMPACT:

House Bills 4370, 4736, and 4738

The attached table presents preliminary estimates for the state fiscal impacts of this package over the period of FY 2016-17 to FY 2020-21. For FY 2017-18, when both sets of tax increases would be effective on a full-year basis, the bills would increase total state revenues by an estimated $608 million. When the expansion of the Homestead Property Tax Credit became effective in FY 2018-19, the estimated net increase in state revenues would be $407 million.

More specifically, when fully phased in the bills would increase funds dedicated for transportation purpose via the Michigan Transportation Fund by an estimated $1.2 billion per year while reducing available state GF/GP funds by an estimated $806 million per year.

The $1.2 billion in new transportation funds would be distributed from the Michigan Transportation Fund as follows:

- $62 million to the Comprehensive Transportation Fund (CTF) for public transportation purposes (10.0% of new revenue but not diverted GF/GP funds).
- $454 million to the State Trunkline Fund for state highway construction and maintenance (39.1% of the remaining funds after the CTF earmark).
- $454 million to county road agencies (39.1% of the remaining funds).
- $253 million to cities and villages (21.8% of the remaining funds).

Those amounts include the $100 million per year that would be held in the Road Innovation Fund pending legislative approval of a concurrent resolution.

Based on estimates from the May 2015 consensus revenue estimating conference and trend analysis assuming continued moderate economic growth over the next six years, total GF/GP revenues for FY 2020-21 are estimated to be roughly $11.6 billion. The estimated

$806 million reduction in GF/GP funds under this package would represent approximately 7% of that total.

Senate Bill 414
The income tax rate reduction trigger created by this bill would reduce state GF/GP revenues in years in which prior-year GF/GP revenue growth exceeds the rate of inflation beginning with FY 2022-23, assuming GF/GP revenues were above the adjusted FY 2020-21 level. Those revenue reductions would continue in subsequent years.

The frequency and magnitude of such revenue reductions would depend on future levels of inflation and economic growth, as well as potential non-economic factors affecting state revenues. (An example of such a non-economic factor is the increase in capital gain and dividend income tax revenue associated with the fiscal cliff in tax year 2011. While this one-time revenue increase was largely offset the following year, the trigger mechanism would have resulted in a permanent reduction in the income tax rate.)

Based on FY 2013-14 and FY 2014-15 GF/GP revenue estimates from the May 2015 consensus revenue estimating conference, if these provisions were currently in effect (with FY 2013-14 as the base year), the income tax rate for tax year 2016 would drop from the current level of 4.25% to approximately 3.96%, resulting in a revenue reduction of $593 million.

The bill would effectively create a GF/GP revenue limit equal to FY 2020-21 revenues adjusted for inflation since FY 2020-21 times 1.425.

In contrast to the House-passed version of this bill, which would utilize a year-over-year measure of revenue growth to trigger income tax rate cuts, this version of the bill effectively uses a cumulative measure of inflation to trigger rate cuts. This would allow future revenue growth to offset a decline in revenues occurring for economic or other reasons prior to the trigger taking effect. It would not, however, preclude a revenue decline occurring in a year immediately following a triggered rate reduction.

Fiscal Analysts: Jim Stansell
William E. Hamilton
Kyle I. Jen

Summary: Road Funding Package Fiscal Impacts (As Passed by the Senate)
PRELIMINARY ESTIMATES
Millions of Dollars

	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	
Revenue Changes						
Increase gasoline fuel tax (HB 4738)	236	313	311	310	308	A
Increase diesel fuel tax (HB 4738)	69	93	94	95	96	B
Increase vehicle registrations taxes (HB 4736)	147	202	208	214	221	C
Expand Homestead Property Tax Credit (HB 4370)	0	0	(206)	(206)	(206)	D
Total Net Increase/(Decrease) in State Revenues	**452**	**608**	**407**	**413**	**419**	E=A+B+C+D
Revenue Diversion						
Divert income tax revenue from GF/GP to transportation (HB 4370)	0	0	150	325	600	F
Total Increase in Transporation Funds*	**452**	**608**	**763**	**944**	**1,225**	G=A+B+C+F
Distribution to:						
Comprehensive Transportation Fund	45	61	61	62	62	
State Trunkline Fund	159	214	274	345	454	
County Road Commissions	159	214	274	345	454	
City and Villages	89	119	153	192	253	
Total Reduction in GF/GP Funds	**0**	**0**	**(356)**	**(531)**	**(806)**	H = D - F

*Includes $100 million per year to be held in the Road Innovation Fund pending legislative approval of a concurrent resolution.

Note: Does not reflect potential fiscal impacts from automatic income tax rate cut trigger (SB 414) beginning in FY 2022-23 and inflationary adjustments to the motor fuel tax rate (HB 4738) and Homestead Property Tax Credit parameters (HB 4370) beginning in FY 2021-22.

Exhibit 4

Legislative Analysis

Phone: (517) 373-8080
http://www.house.mi.gov/hfa

Analysis available at
http://www.legislature.mi.gov

ROAD FUNDING PACKAGE – *ENACTED ANALYSIS*

House Bill 4370 – Public Act 179 of 2015
Sponsor: Rep. Hughes

House Bill 4614 – Public Act 177 of 2015
Sponsor: Rep. LaFontaine

House Bill 4616 – Public Act 178 of 2015
House Bill 4736 – Public Act 174 of 2015
House Bill 4737 – Public Act 175 of 2015
House Bill 4738 – Public Act 176 of 2015
Sponsor: Rep. McCready

Senate Bill 414 – Public Act 180 of 2015
Sponsor: Sen. Schmidt

Complete to 11-16-15

SUMMARY:

Note: This document describes major changes contained in these bills related to transportation financing and other state revenues. It is not a comprehensive description of the changes made by each bill.

House Bill 4738 would amend the Motor Fuel Tax Act to increase motor fuel taxes as follows:

- Increase the tax on diesel motor fuel from 15 cents per gallon and the tax on gasoline motor fuel from 19 cents per gallon to a single rate of 26.3 cent per gallon on all motor fuel effective January 1, 2017
- Annually adjust the tax rates for motor fuels based on consumer inflation (using the U.S. Consumer Price Index), with increases capped at 5% per year, effective January 1, 2022.

The bill would also add provisions to the act related to alternative fuels.

House Bill 4736 would amend the Michigan Vehicle Code to increase certain vehicle registration tax rates. Rates for most passenger cars, vans, light trucks, and large commercial trucks would increase by 20%, beginning January 1, 2017. The current average registration tax for a passenger vehicle is approximately $100; this bill would increase that average by approximately $20. The bill would also create a new registration tax surcharge for electric-powered motor vehicles.[1]

[1] For a more complete description of the changes in House Bill 4736, see this HFA analysis: http://www.legislature.mi.gov/documents/2015-2016/billanalysis/House/pdf/2015-HLA-4736-400E3D1D.pdf.

House Bill 4370 would amend the Income Tax Act of 1967 to earmark a portion of income tax revenue currently allocated as General Fund/General Purpose (GF/GP) revenue to the Michigan Transportation Fund (MTF) for distribution to the State Trunkline Fund (STF) and to local road agencies according Section 10(1)(k) of Public Act 51 of 1951 (bypassing the Comprehensive Transportation Fund). The earmarks would be as follows:

- $150 million for FY 2018-19.
- $325 million for FY 2019-20.
- $600 million for FY 2020-21 and subsequent fiscal years.

The bill would also expand the Homestead Property Tax Credit by changing the following parameters:

- Increase the percentage of gross rent paid that can be utilized to calculate the credit from 20% to 23% for tax year 2018 and subsequent tax years.
- Increase the household income phase-out range for claiming the credit by $10,000 for tax year 2018 and subsequent tax years. The current phase-out range is $41,000-$50,000 (the credit is reduced by 10% for each $1,000 of income above $40,000).
- Increase the maximum credit that can be claimed from $1,200 to $1,500 for tax year 2018 and subsequent tax years.
- Lower the percentage of household resources utilized as the threshold for calculating the credit amount from 3.5% to 3.2% for tax year 2018 and subsequent tax years.
- Adjust dollar amounts utilized in calculating the credit amount based on the U.S. Consumer Price Index beginning with tax year 2021.

Senate Bill 414 would amend the Income Tax Act of 1967 to create a mechanism that would automatically reduce the individual income tax rate if the increase from one year to the next in total GF/GP revenues exceeded inflation (as calculated using the U.S. Consumer Price Index). This determination would begin with tax year 2023 (based on final FY 2021-22 GF/GP revenue growth) and continue indefinitely on an annual basis.

The income tax rate (currently 4.25%) would be reduced proportionally based on the amount by which GF/GP revenue exceeded FY 2020-21 GF/GP revenue adjusted for inflation times 1.425, divided by total income tax revenue. (Note that in some years, GF/GP revenue growth may exceed inflation but the amount of GF/GP revenue will not be above the adjusted FY 2020-21 base level due to prior revenue declines. Presumably no rate reduction would occur in such a year.)

House Bill 4614 and House Bill 4616 would amend the Streamlined Sales and Use Tax Revenue Equalization Act, and the Motor Carrier Fuel Tax Act, respectively, to make those acts consistent with the amendments to the Motor Fuel Tax Act made in House Bill 4738.

House Bill 4737 would amend Public Act 51 of 1951 (Act 51) to require the Michigan Department of Transportation (MDOT) to form a Roads Innovation Task Force that would issue a report to the Legislature by March 1, 2016. The report would include, among other things, an evaluation of road materials and construction methods that could allow the department to build high-quality roads that last longer than those typically constructed by the department, with a goal of roads that last at least 50 years, higher quality roads, and reduced maintenance costs.

The bill would also create a *Roads Innovation Fund*. For FY 2016-17 and each subsequent fiscal year, the first $100.0 million of motor fuel tax revenue would be deposited into the fund (rather than into the MTF); this annual deposit is also provided for in House Bill 4738. Money could be expended from this fund only after each house of the Legislature approved a one-time concurrent resolution on a record roll call vote. Approval of the concurrent resolution would release money from the fund for credit to the MTF and distribution according to Section 10 of Act 51. Once money was released from the fund by the concurrent resolution, the fund would no longer receive the annual $100.0 million deposit of motor fuel tax revenue.

The bill would also earmark up to $3.0 million from the MTF each year for a new railroad grade crossing surface account, and would increase a current $43.0 million MTF earmark for STF debt service to $50.0 million.

The bill would also add a number of provisions related to road construction warranties and would lower the current limit on MDOT administrative expenses from 10% to 8% of all funds received by the department.

Finally, the bill would effectively allow, with the approval of the MDOT director, the City of Detroit to use up to 20% of its MTF distribution for public transit purposes.[2]

The seven bills were all tie-barred to one another; all seven bills have been enacted.

FISCAL IMPACTS:

Overall Impact on State Revenues

The attached table presents estimates for the state fiscal impacts of this package over the period of FY 2016-17 to FY 2020-21. For FY 2017-18, when both the motor fuel and vehicle registration tax increases would be effective on a full-year basis, the bills would increase total state revenues by an estimated $617 million. When the expansion of the Homestead Property Tax Credit became effective in FY 2018-19, the estimated net increase in state revenues would be $416 million.

Impacts on Transportation Programs

When fully phased in for FY 2020-21, the bills would increase funds dedicated for transportation purpose via the MTF by an estimated $1.2 billion per year. The $1.2 billion in new transportation funds would be distributed from the MTF as follows:

- Up to $3 million for a new Rail grade crossing surface account.
- $62 million to the Comprehensive Transportation Fund (CTF) for public transportation purposes (10.0% of increased motor fuel and vehicle registration tax revenue but not GF/GP revenue redirected in House Bill 4370).

[2] For a more complete description of the changes in House Bill 4737, see this HFA analysis: http://www.legislature.mi.gov/documents/2015-2016/billanalysis/House/pdf/2015-HLA-4737-E9495306.pdf.

- $459 million to the State Trunkline Fund (STF) for state highway construction and maintenance (39.1% of the net MTF balance after CTF and other earmarks, plus $7.0 million increase in the current earmark for STF debt service).
- $452 million for distribution to county road commissions (39.1% of the net MTF balance after CTF and other earmarks).
- $252 million for distribution to cities and villages (21.8% of the net MTF balance after CTF and other earmarks).

The above figures, and the "Total Increase in Transportation Funds" figures in the attached table are based on the following assumptions:

- That the Legislature approves a concurrent resolution to release $100.0 million from the Roads Innovation Fund for inclusion in FY 2016-17 MTF distributions.
- That 2% of revenue from the increase in gasoline motor fuel tax revenue made by House Bill 4738 would be credited to the Recreation Improvement Account. [3]
- That the statutory maximum of $3.0 million for the Rail Crossing Surface Account would be appropriated from the MTF each year.

Note – Net Impact on Transportation Revenue: Over the last three fiscal years, FYs 2013-14 through 2015-16, state transportation appropriations have included over $1.1 billion in state GF/GP revenue – an average of $378.7 million. Specifically, FY 2015-16 transportation appropriations include $400.0 million in GF/GP revenue, of which $214.8 million is for credit to the STF. Of the $400.0 million total, $258.0 million is designated as being one-time only.

The Road Funding Package would increase certain dedicated transportation motor fuel and vehicle registration taxes beginning in FY 2016-17, and would permanently redirect state income tax revenue from GF/GP to transportation programs starting in FY 2018-19. These increases are shown in the attached table as increases in transportation revenue – starting at $455 million in in FY 2016-17 and growing to $1.2 billion by FY 2020-21. However, the actual increases in net revenue available for transportation programs will depend on the whether or not the transportation budget continues to use GF/GP revenue in baseline appropriations. If GF/GP revenue is not retained in the FY 2016-17 budget, STF revenue could be less in FY 2016-17 as compared with FY 2015-16.

Impacts on General Fund/General Purpose Revenues

When fully phased in for FY 2020-21, the bills would reduce annual state GF/GP revenues by an estimated $806 million. Based on estimates from the May 2015 consensus revenue estimating conference and trend analysis assuming continued moderate economic growth over the next six years, total GF/GP revenues for FY 2020-21 are estimated to be roughly

---

[3] There is a presumption in current law that 2% of revenue from the motor fuel tax on gasoline is used for watercraft, snowmobiles, and off-road vehicles. As a result, Article IX, Section 40 of the Michigan Constitution dedicates 2% of all tax revenue derived from the sale of gasoline for consumption in internal combustion engines to the Recreation Improvement Account within the Michigan Conservation and Recreation Legacy Fund. This constitutional dedication is reflected in Part 711 of the Michigan Natural Resources and Environmental Protection Act (1994 PA 451).

$11.6 billion. The estimated reduction in GF/GP funds under this package would represent approximately 7% of that total.

The income tax rate reduction trigger created by Senate Bill 414 would reduce state GF/GP revenues in years in which prior-year GF/GP revenue growth exceeds the rate of inflation beginning with FY 2022-23, assuming GF/GP revenues were above the adjusted FY 2020-21 level. Those revenue reductions would continue in subsequent years.

The frequency and magnitude of such revenue reductions would depend on future levels of inflation and economic growth, as well as potential non-economic factors affecting state revenues. (An example of such a non-economic factor is the increase in capital gain and dividend income tax revenue associated with the fiscal cliff in tax year 2011. While this one-time revenue increase was largely offset the following year, the trigger mechanism would have resulted in a permanent reduction in the income tax rate.)

Based on FY 2013-14 and FY 2014-15 GF/GP revenue estimates from the May 2015 consensus revenue estimating conference, if these provisions were currently in effect (with FY 2013-14 as the base year), the income tax rate for tax year 2016 would drop from the current level of 4.25% to approximately 3.96%, resulting in a revenue reduction of $593 million.

The bill would effectively create an ongoing GF/GP revenue limit equal to FY 2020-21 revenues adjusted for cumulative inflation times 1.425. This would allow future revenue growth to offset a decline in revenues occurring for economic or other reasons prior to the trigger taking effect. It would not, however, preclude a revenue decline occurring in a year immediately following a triggered rate reduction.

Fiscal Analysts: William E. Hamilton
Jim Stansell
Kyle I. Jen

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

Summary: Road Funding Package Fiscal Impacts (As Enacted)

FINAL ESTIMATES

Millions of Dollars

	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	
Revenue Changes						
Increase gasoline fuel tax (HB 4738)	236	313	311	310	308	A
Increase diesel fuel tax (HB 4738)	69	93	94	95	96	B
Increase vehicle registrations taxes (HB 4736)	155	211	217	224	230	C
Expand Homestead Property Tax Credit (HB 4370)	0	0	(206)	(206)	(206)	D
Total Net Increase/(Decrease) in State Revenues	**$ 460**	**$ 617**	**$ 416**	**$ 423**	**$ 428**	E=A+B+C+D
Revenue Diversion						
Divert income tax revenue from GF/GP to transportation (HB 4370)	0	0	150	325	600	F
Other Revenue Earmark						
Increase in Recreation Improvement Account [(1)]	5	6	6	6	6	G
Total Increase in Transportation Funds [(2)]	**$ 455**	**$ 611**	**$ 766**	**$ 948**	**$ 1,228**	H=A+B+C+F-G
Distribution (HB 4737) to:						
Rail Grade Surface Account [(3)]	3	3	3	3	3	
Comprehensive Transportation Fund	45	60	61	61	62	
State Trunkline Fund [(4)]	163	219	279	350	459	
County Road Commissions	157	211	272	343	452	
City and Villages	87	118	151	191	252	
Total Reduction in GF/GP Funds [(5)]	**$ 0**	**$ 0**	**$ (356)**	**$ (531)**	**$ (806)**	H = D - F

Notes:

(1) 2% of the motor fuel tax on gasoline is dedicated to the Recreation Improvement Account within the Michigan Conservation and Recreation Legacy Fund.

(2) Assumes that $100 million held in the Road Innovation Fund would be released by the Legislature for inclusion in FY 2016-17 MTF distribution.

(3) Assumes full $3.0 million approrpriation for the rail grade surface account each year.

(4) STF includes $7.0 million increase in the MTF earmark for STF debt service.

(5) Does not reflect potential fiscal impacts from automatic income tax rate cut trigger (SB 414) beginning in FY 2022-23 and inflationary adjustments to the motor fuel tax rate (HB 4738) and Homestead Property Tax Credit parameters (HB 4370) beginning in FY 2021-22.

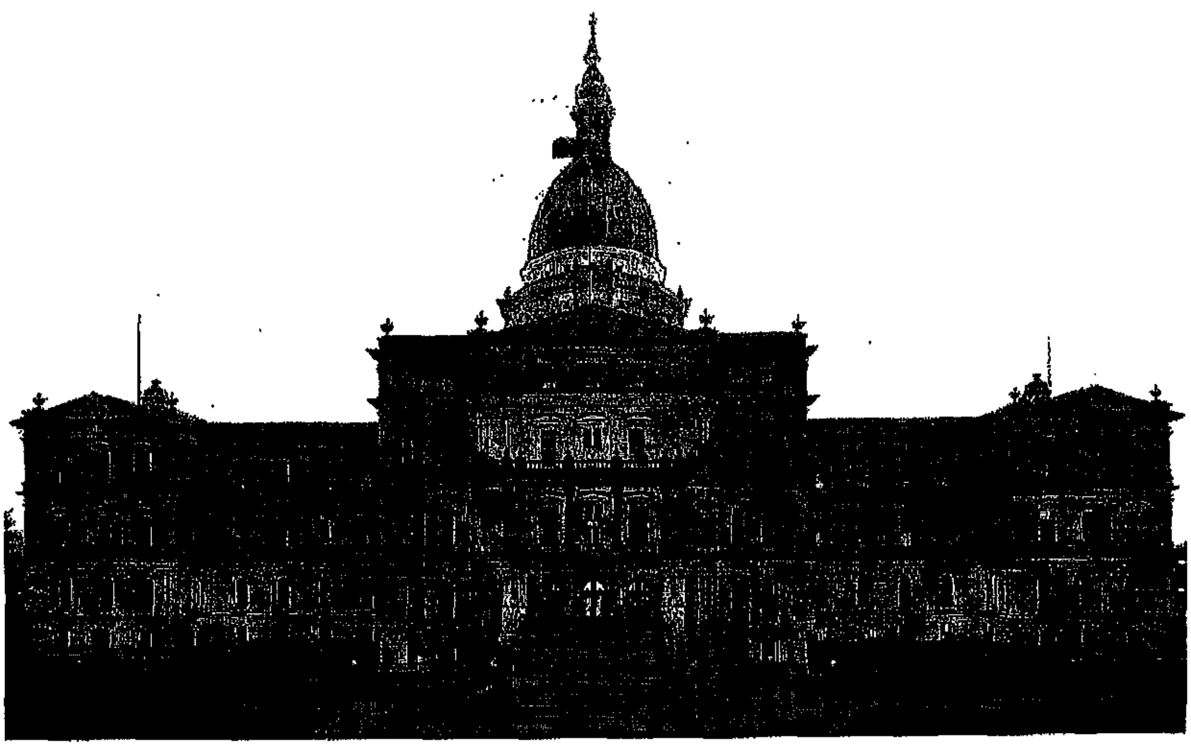
Exhibit 5

Senate Fiscal Agency

MICHIGAN'S ECONOMIC OUTLOOK AND BUDGET REVIEW

FY 2021-22, FY 2022-23, FY 2023-24, and FY 2024-25

January 11, 2023



Kathryn R. Summers, Director – Lansing, Michigan – (517) 373-2768
www.senate.michigan.gov/sfa

FY 2021-22 PRELIMINARY REVENUE

- General Fund/General Purpose and SAF revenue increased an estimated 13.7% in FY 2021-22 compared with FY 2020-21.
- The revenue increase in FY 2021-22 reflected in part increases in personal income tax, corporate income tax, and sales tax. These increases were slightly offset by a drop in the use tax and lower lottery revenue.
- The books have not yet been closed for FY 2021-22; final revenue will be determined at bookclosing.

Michigan's economy grew during FY 2021-22. Personal income grew 0.1%, wage and salary employment grew 3.0%, and wage and salary income grew 8.1%; however, inflation-adjusted personal income fell 7.5%. Based on preliminary year-end revenue data, GF/GP and SAF revenue from ongoing revenue sources totaled $33.0 billion in FY 2021-22, which is 13.7% above the FY 2020-21 revenue level (as presented in Table 4). These figures are preliminary in that they remain under review by the Office of Financial Management, which prepares the Michigan ACFR. Actions taken or determinations made between the date of this publication and bookclosing may, and likely will, change the amounts of final year-end revenues for FY 2021-22.

The preliminary GF/GP and SAF revenue level for FY 2021-22 is $1,510.7 million above the May 2022 consensus revenue estimate. The largest share of the revenue increase from the May 2022 estimates reflects net income tax collections, which were $459.0 million above the May consensus estimate due to high quarterly payments related to timing issues associated with the adoption of the Flow-Through Entity Tax in December 2021. Sales and use tax revenue was $69.2 million above the May estimate. Refunds paid under the MBT were $94.0 million lower than expected, although this may reflect timing issues, and companies could claim these refunds in a subsequent year. Corporate income tax collections rose 19.2% and finished $206.7 million above the May 2022 estimates. Lottery revenue was $48.7 million below the May 2022 estimates. Baseline GF/GP and SAF revenue increased 11.5% in FY 2021-22.

Tax Policy Changes

Individual Income Taxes. The indexing of the personal exemption for the IIT reduced revenue by $112.5 million ($85.7 million GF/GP and $26.8 million SAF). Because preliminary GF/GP revenue is forecasted to increase in FY 2021-22 by an amount greater than 1.425 times the rate of inflation, Public Act 180 of 2015 is predicted to require a permanent reduction in the IIT rate. Any reduction that ultimately occurs (based on final year-end revenues determined at book-closing) would reduce revenue beginning in FY 2022-23 and is discussed in the balance sheet section at the end of this report.

Personal Property Tax Reform. Use tax collections of $521.9 million in FY 2021-22 will be levied by the Local Community Stabilization Authority (LCSA). These collections finance reimbursements of local revenue losses associated with exempting eligible manufacturing personal property from property taxation and the continuing impact of the small taxpayer exemption. Use tax collections for the LCSA reduce GF/GP revenue.

Michigan Business Tax. The MBT will lower GF/GP revenue by $500.3 million in FY 2021-22. All the impact of MBT credits reduces GF/GP revenue.

Federal Tax Reform and the COVID-19 Relief Measures. COVID-19 Federal stimulus from 2020 reduced IIT revenue by $12.4 million ($8.7 million GF/GP and $3.7 million SAF). This also reduced CIT by $103.1 million to the GF/GP. The CARES Act reduced IIT revenue by $18.0 million ($13.7 million GF/GP and $4.3 million SAF). The American Rescue Plan reduced IIT revenue $258.2 million ($229.2 million GF/GP and $29.0 million SAF).

Exhibit 6

ECONOMIC OUTLOOK

AND

REVENUE ESTIMATES

FOR

MICHIGAN

FY 2022-23
THROUGH
FY 2024-25

House Fiscal Agency

Mary Ann Cleary, Director

January 2023

Income Tax Trigger

Public Act 180 of 2015 amended the income tax act so that beginning with tax year 2023, in the event general fund revenue growth exceeds certain levels the income tax rate will be automatically reduced. The base of the trigger is FY 2020-21 general fund revenue, and that amount is multiplied by cumulative inflation and an adjustment factor of 1.425 to determine the level of capped revenue in subsequent years. For tax year 2023, the level of capped revenue is based on the inflation-adjusted growth (including the adjustment factor) between FY 2020-21 and FY 2021-22. For tax year 2024, the span would be FY 2020-21 through FY 2022-23.

If the actual amount of general fund revenue in a given year, as published in the Annual Comprehensive Financial Report (ACFR), exceeds the capped revenue for that year, the excess amount will be offset by a reduction in the income tax rate, and thus income tax revenues. Note that because the ACFR for FY 2021-22 has not yet been published, it's not possible to calculate the impact of the trigger on the income tax rate for TY 2023 under the requirements set forth in the statute. However, based on preliminary FY 2021-22 general fund revenue, the trigger would take effect and lower the income tax rate for TY 2023 to 4.05%.

BSF Year-End Balance

The Counter-Cyclical Budget and Economic Stabilization Fund (BSF), the state's rainy day fund, is a reserve of cash to contribute to or withdraw from throughout economic and budget cycles. **Table 5** details deposits, withdrawals, interest earnings, and the year-end balance from FY 1990-91 through FY 2024-25. Estimates include the impact of 2014 PA 186, which amended the Michigan Trust Fund Act to require annual $17.5 million deposits of tobacco settlement revenue to the BSF from FY 2014-15 through FY 2034-35.

The statutory BSF trigger calculation, based on Michigan personal income less transfer payments adjusted for inflation and actual or net GF/GP revenue, indicates whether deposits (pay-ins) or withdrawals (pay-outs) are recommended for a fiscal year. Regardless of the calculated amounts, however, all deposits and withdrawals must be appropriated. After an appropriated pay-in of $180.0 million in FY 2021-22, the BSF ending fund balance was $1,588.9 million. Based on the formula, no pay-ins or pay-outs would be indicated for FY 2022-23, FY 2023-24, or FY 2024-25.

After adjusting for the required $17.5 million deposits and estimating interest earnings, the estimated year-end balances are $1,688.1 million for FY 2022-23, $1,795.5 million for FY 2023-24, and $1,888.9 million for FY 2024-25.

Exhibit 7

89 (Rev. 03-19)

STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

GRETCHEN WHITMER
GOVERNOR

RACHAEL EUBANKS
STATE TREASURER

March 22, 2023

The Honorable Dana Nessel
Department of the Attorney General
G. Mennen Williams Building
525 West Ottawa Street
Lansing, MI 48933

Re: Request for an Attorney General Opinion

Dear Attorney General Nessel:

As we have previously discussed, I am writing to formally request an opinion from your office regarding whether the individual income tax rate reduction under MCL 206.51(1)(c) is temporary (i.e., for one year only) or permanent (i.e., for all subsequent years).

2015 PA 180 amended the Income Tax Act of 1967 to reduce the income tax rate from 4.25% "if the percentage increase in the total general fund/general purpose revenue from the immediately preceding fiscal year is greater than the inflation rate for the same period and the inflation rate is positive . . . ."[1] Specifically, MCL 206.51 provides, in relevant part:

> (1) For receiving, earning, or otherwise acquiring income from any source whatsoever, there is levied and imposed under this part upon the taxable income of every person other than a corporation a tax at the following rates in the following circumstances:
>
> * * *
>
> (b) Except as otherwise provided under subdivision (c), on and after October 1, 2012, 4.25%.
> (c) For each tax year beginning on and after January 1, 2023, if the percentage increase in the total general fund/general purpose revenue from the immediately preceding fiscal year is greater than the inflation rate for the same period and the inflation rate is positive, then the current rate shall be reduced by an amount determined by multiplying that rate by a fraction, the numerator of which is the difference between the total general fund/general purpose revenue from the immediately preceding state fiscal year and the capped general fund/general purpose revenue and the denominator of which is the total revenue collected from this part in the immediately preceding state fiscal year.

[1] MCL 206.51(1)(c).

P.O. BOX 30716 • LANSING, MICHIGAN 48909
www.michigan.gov/treasury • 517-335-7508

Question: If the income tax rate for a particular year is reduced under MCL 206.51(1)(c), does the income tax rate return to 4.25% as described in MCL 206.51(1)(b) in the subsequent year, or does the rate remain at the reduced rate calculated under MCL 206.51(1)(c)? For purposes of this question, presume that the rate reduction in MCL 206.51(1)(c) is not triggered in consecutive years.

I respectfully request your formal opinion on this question. If you or your staff would like any additional information regarding this question, please contact this office.

Sincerely,

Rachael Eubanks

Rachael Eubanks
State Treasurer

Exhibit 8

TREASURY

Treasurer Eubanks Announces Income Tax Cut for Michiganders

March 29, 2023

Ron Leix, Treasury, 517-335-2167

LANSING, Mich. -- Today, following the release of the State's fiscal year 2022 Annual Comprehensive Financial Report, Treasurer Rachael Eubanks announced that Michigan's state income tax will decrease to 4.05% for one year. Driven by low unemployment, strong business growth, and an overall strong economy, families will pay lower taxes when they file next year for tax year 2023.

"Michigan's strong economic position has led to a reduction in the state income tax from 4.25% to 4.05% for 2023," said **Treasurer Rachael Eubanks**. "When Michiganders file their 2023 state income taxes in 2024, they will see the rate adjustment in the form of less tax owed or a larger refund."

"As a result of our growing economy and strong fiscal management, Michigan's state income tax will decrease to its lowest in 15 years," said **Governor Whitmer**. "Our state is headed in the right direction, bolstered by low unemployment, projects bringing jobs and supply chains home, and fiscally responsible, bipartisan leadership that took us from a projected $3.5 billion deficit in 2020 to a $9.2 billion surplus this year, paid down $14 billion in debt, and brought the rainy-day fund to an all-time high. This year, we permanently rolled back the retirement tax on our seniors, quintupled the Working Families Tax Credit for 700,000 families, and now, everyone's income tax will decrease for a year. In total, we have put $1.6 billion in tax relief back in people's pockets without cutting any critical services or programs."

State Income Tax Reduction

In 2015, Michigan enacted a law requiring a temporary reduction of the state income tax if the general fund grew faster than the rate of inflation in any year starting in 2023. Now, because of strong economic growth and robust state revenues, the state income tax will decrease to 4.05% for one year. This will equate to a savings of approximately $50 for the average Michigan taxpayer.

Attorney General Dana Nessel issued a legal opinion finding that the tax reduction will apply to tax year 2023. It requires consensus by and annual reevaluation by the Treasurer, Senate Fiscal Agency, and House Fiscal Agency. It is anticipated the formal step of adopting a consensus with updated revenue estimates will occur as a procedural matter at the May Consensus Revenue Estimating Conference. The tax change will be effective Jan. 1, 2023 for tax year 2023.

Governor Whitmer's Fiscally Responsible Leadership

Since taking office, Governor Whitmer has signed four balanced, bipartisan budgets paying down $14 billion in debt, and brought the rainy-day fund to an all-time high of nearly $2 billion without raising taxes on working families by a dime. She signed legislation cutting taxes for small business owners, permanently rolling back the retirement tax on seniors, permanently quintupling the Working Families Tax Credit, and established bipartisan economic development tools to help the state land over $16 billion of projects creating 16,000 domestic manufacturing jobs. Thanks to this governor's strong, fiscally responsible leadership, Michigan received its first credit rating upgrade in a decade from Fitch, a national financial firm.

MI Newswire   Department of Treasury

Related News

Time Running Out to Complete the FAFSA

Treasury Offers Help to Taxpayers Who Missed Tax Filing Deadline

Treasury Provides Last-Minute Tips Before Individual Income Tax Deadline

Last Weekend Before State Individual Income Tax Deadline

Treasury: State Individual Income Tax Deadline in a Week

Local School Districts to Save Approximately $8 Million in Interest Fees School Loan Revolving Fund Interest Rate Dropped to 1.19%

Treasury: Adult-Use Marijuana Payments to be Distributed to Michigan Municipalities, Counties

Treasury: State Individual Income Tax Returns Due in Less Than a Month

Investing Tax Refund in MESP can Pay Big Dividends for Child's Future

Exhibit 9

TREASURY

Notice: Income Tax Rate of Individuals and Fiduciaries Reduced to 4.05% For The 2023 Tax Year

Date: March 30, 2023

Individuals and fiduciaries subject to tax under Part 1 of the Income Tax Act, MCL 206.1 *et seq.*, are generally subject to tax at a 4.25% tax rate under Section 51 of the Income Tax Act, MCL 206.51. However, for each tax year beginning on and after January 1, 2023, that rate may be subject to a formulary reduction as provided by Section 51(1)(c) if there is a determination that the percentage increase in general fund revenue from the immediately preceding state fiscal year exceeded the inflation rate for the same period. That determination is required to be made jointly by the State Treasurer, the Director of the Senate Fiscal Agency, and the Director of the House Fiscal Agency based on financial data from the Annual Comprehensive Financial Report (ACFR).

Based on recently finalized data from the ACFR for the fiscal year that ended September 30, 2022, it has been determined the conditions requiring a reduction to the current tax rate have been met. Based on the formula prescribed by Section 51(1)(c), the reduction to the current tax rate is equal to 0.20 percentage points (0.20%). **Thus, the tax rate applicable to all individuals and fiduciaries for the 2023 tax year is 4.05%.** This revised rate is an annual tax rate that is effective as of January 1, 2023.

Treasury's withholding rate tables for the 2023 tax year will not be updated to accommodate the revised rate. Individuals and fiduciaries with questions about the effect of the rate change on the amount of tax being withheld from their income should contact their employer or administrator directly.

Treasury will update forms, instructions, and guidance as necessary to reflect the change to the annual income tax rate for the 2023 tax year. These changes, as well as any other future guidance related to the 2023 tax year, will be available on Treasury's website at www.michigan.gov/taxes.

Notice: Income Tax Rate of Individuals and Fiduciaries Reduced to 4.05% For The 2023 Tax Year

Exhibit 10

[ADDRESS TO THE PEOPLE]

What the Proposed New State Constitution Means to You

- A report to the people of Michigan by their elected delegates to the Constitutional Convention of 1961-62.

Lansing, Michigan

August 1, 1962

No change from Sec. 24, Article V, of the present constitution except for the insertion of the words "and serving" to clarify the method of computing a majority provided in Sec. 14 of this Article.

General appropriations; priority.

Sec. 31. *The general appropriation bills for the succeeding fiscal period covering items set forth in the budget shall be passed or rejected in either house of the legislature before that house passes any appropriation bill for items not in the budget except bills supplementing appropriations for the current fiscal year's operation. Any bill requiring an appropriation to carry out its purpose shall be considered an appropriation bill. One of the general appropriation bills as passed by the legislature shall contain an itemized statement of estimated revenue by major source in each operating fund for the ensuing fiscal period, the total of which shall not be less than the total of all appropriations made from each fund in the general appropriation bills as passed.*

This is a new section designed to accomplish two major purposes:

1. To focus legislative attention on the general appropriation bill or bills to the exclusion of any other appropriation bills, except those supplementing appropriations for the current year's operation.

2. To require the legislature (as well as the governor by a subsequent provision) to set forth by major item its own best estimates of revenue.

The legislature frequently differs from executive estimates of revenue. It is proper to require that such differences as exist be specifically set forth for public understanding and future judgment as to the validity of each.

Laws imposing taxes.

Sec. 32. Every law which imposes, continues or revives a tax shall distinctly state the tax ****.

This is a revision of Sec. 6, Article X, of the present constitution. It requires a distinct and clear statement of any tax imposed upon the citizens of this state.

The section eliminates the requirement that tax laws specify "the objects to which (the tax) is to be applied". This has been judicially construed to mean "the purpose for which the money is to be spent". In a complex system of taxation, when the proceeds of one general tax may be devoted to many different purposes, this seems obsolete.

Also deleted is the present statement that "it shall not be sufficient to refer to any other law to fix such tax". This eliminates the possible question of the legislature's right to refer to income determined for federal tax purposes. It is not the intention of the section, however, to permit any delegation of the power to fix a tax or tax base to another legislative authority.

Bills passed; approval and veto by governor.

Sec. 33. Every bill passed by the legislature shall be presented to the governor before it becomes law, *and the governor shall have 14 days*

measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law. If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves, and the legislature continues the session at which the bill was passed, he shall return it within such 14-day period with his objections, to the house in which it originated. *That house* shall enter *such* objections *in full in* its journal and reconsider the bill. *** If two-thirds of the members elected to *and serving in that house* pass the bill notwithstanding *the objections of the governor*, it shall be sent with the objections to the other house ** *for reconsideration.* The bill shall become law if passed by two-thirds of the members elected to *and serving in that house.* ** The vote *of each house* shall be entered in the journal *with the votes and names of the members voting thereon.* ** If any bill is not returned by the governor within *such 14-day period, the legislature continuing in session, it shall become* * law ** *as if he had signed it.* ***

This is a revision of Sec. 36, Article V, of the present constitution to clarify and change existing language regarding the executive veto. It provides as follows: (1) The governor shall have 14 days in which to consider a bill; and his 14-day period for consideration and approval will not be affected by whether or not the legislature adjourns its session. (2) If during that period he signs the bill, it becomes law. (3) If during that period he does not sign the bill, and the legislature has adjourned its session, the bill does not become law. (4) If during that period he does not approve, he must send it back to the house of origin, if the legislature is still in session, for consideration of his veto. (5) If during that period he neither approves nor returns the bill with a veto message, the legislature continuing in session, it becomes a law as if he had signed it.

The time for consideration by the governor has been extended from 10 to 14 days in accordance with testimony by former governors that some additional time is desirable.

The two-thirds vote of the legislature to override the governor's veto is retained.

Referendum on certain bills.

Sec. 34. Any bill passed by the legislature and approved by the governor, except *a bill appropriating money*, may *** *provide that it will not become* * law unless approved by a majority of the electors voting thereon.

No change from Sec. 38, Article V, of the present constitution except for improvement in phraseology.

Publication of laws.

Sec. 35. All laws enacted at any session of the legislature shall be published in book form within 60 days after * final adjournment of the session, and shall be distributed in the manner ** provided by law. The *prompt* publication of * judicial decisions **** shall be provided * by law. All laws and judicial decisions shall be free for publication by any person.

Exhibit 11

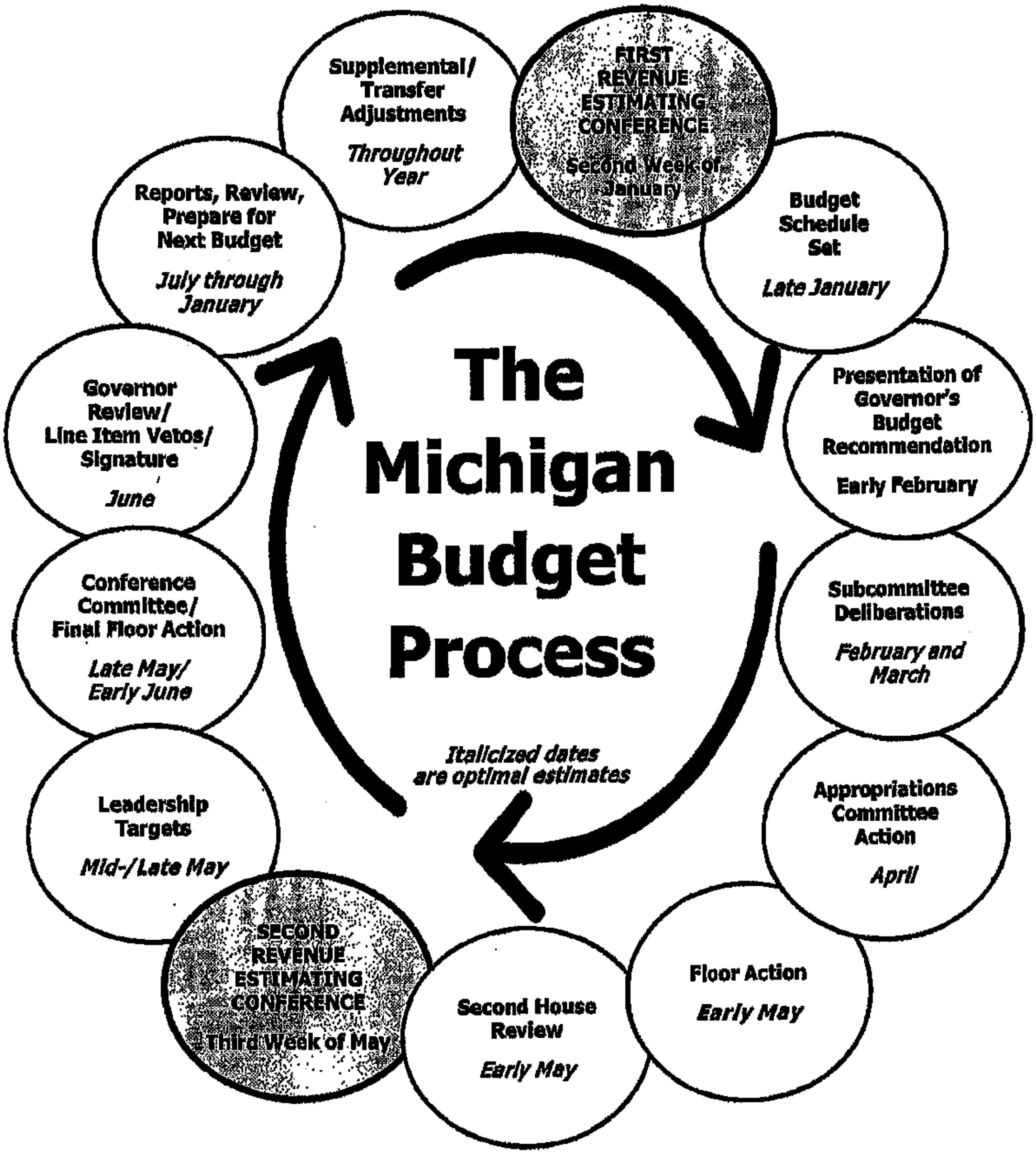
A Legislator's Guide to

Michigan's Budget Process

House Fiscal Agency
Mary Ann Cleary, Director

January 2019

Figure 1



The Michigan Budget Process
FIRST REVENUE ESTIMATING CONFERENCE
Second Week of January
Budget Schedule Set
Late January
Presentation of Governor's Budget Recommendation
Early February
Subcommittee Deliberations
February and March
Appropriations Committee Action
April
Floor Action
Early May
Second House Review
Early May
SECOND REVENUE ESTIMATING CONFERENCE
Third Week of May
Leadership Targets
Mid-/Late May
Conference Committee/ Final Floor Action
Late May/ Early June
Governor Review/ Line Item Vetos/ Signature
June
Reports, Review, Prepare for Next Budget
July through January
Supplemental/ Transfer Adjustments
Throughout Year
Italicized dates are optimal estimates

Exhibit 12

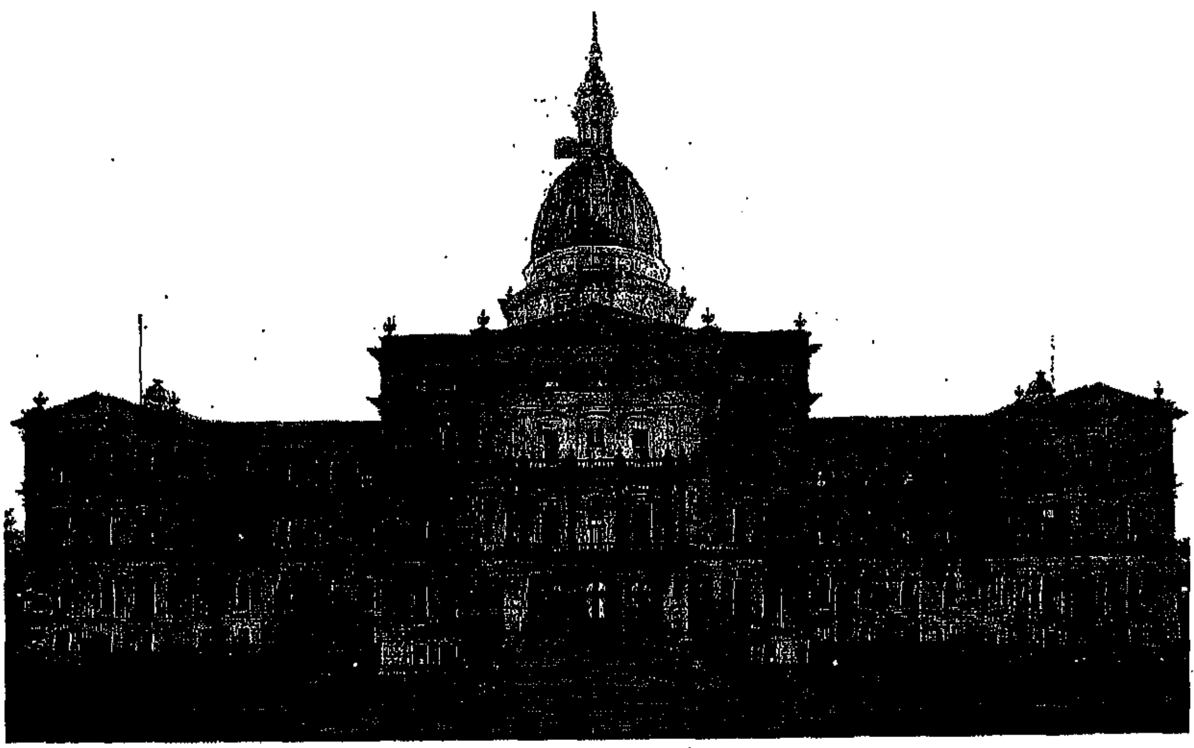
Senate Fiscal Agency

sfa

MICHIGAN'S ECONOMIC OUTLOOK AND BUDGET REVIEW

FY 2022-23, FY 2023-24, and FY 2024-25

May 16, 2023



Kathryn R. Summers, Director – Lansing, Michigan – (517) 373-2768
www.senate.michigan.gov/sfa

Federal Tax Reform Interactions with Corporate and Individual Income Tax Revenue. In December 2017, the Federal government adopted tax reform legislation that made numerous changes to both the Federal IIT and the Federal corporate income tax. Many of the Federal changes were expected to affect Michigan tax revenue. For example, the personal exemption was set to zero and Michigan personal exemptions were based on the allowed Federal exemptions, suggesting that Federal tax reform might have eliminated the Michigan personal exemption and substantially increased taxpayers' Michigan tax liabilities. Other Federal changes eliminated certain deductions or exemptions, thereby increasing the income taxpayers would use in computing their Michigan liabilities. The forecast includes estimates of these impacts, as well as the impact of Public Acts 38 and 39 of 2018, which were enacted in response to the effect Federal tax reform was estimated to have on Michigan revenue.

Individual Income Tax. Individual income tax net collection will decrease an estimated 8.5% in FY 2022-23, to $12.7 billion. Fiscal year 2022-23 withholding, which represents the majority of gross IIT revenue, will increase 1.1%. Quarterly estimates and annual payments will fall 22.5% and 27.3%, respectively, as the timing issues associated with the adoption of the Flow-Through Entity tax are resolved. As economic growth resumes, withholding will continue to grow 2.2% in FY 2023-24 and 3.5% in FY 2024-25. Compared with the January 2023 consensus revenue estimates, the revised estimate for FY 2022-23 IIT revenue is $745.4 million lower, and the revised estimate for FY 2023-24 is $1,568.8 million lower, reflecting slower employment and wage growth forecasts and tax law changes.

Because GF/GP revenue increased in FY 2021-22 by an amount greater than 1.425 times the rate of inflation, Public Act 180 of 2015 requires a reduction in the IIT rate, which will reduce GF/GP revenue beginning in FY 2022-23. Based on the FY 2021-22 Annual Comprehensive Financial Report, the IIT rate for tax year 2023 is 4.05%, which will reduce General Fund revenue by $527.6 million in FY 2022-23 and $186.6 million in FY 2023-24. Based on an opinion from the Attorney General, the rate reduction is a temporary rate reduction for tax year 2023, although the reduction will affect both FY 2022-23 and 2023-24. School Aid Fund revenue will not be affected because the income tax earmark to the School Aid Fund automatically adjusts to hold the SAF harmless for changes in the tax rate. Since the tax rate cut came after the beginning of the year, a portion of the payments received this year will be at the old rate (4.25%) and a portion will be at the new rate (4.05%). The Treasury is not requiring employers to adopt new withholding tables and because the SAF earmark is based on gross collections rather than net collections, taxpayers who over-withheld will receive refunds, which reduce only GF revenue. Public Act 4 of 2023 adopted an increase in the Earned Income Tax Credit (EITC) and changes to taxation on certain retirement income. The increase in the EITC will reduce GF/GP by $768.0 million in FY 2023-24 and $384.0 million in FY 2024-25. The changes affecting retirement income will reduce IIT revenue in FY 2023-24 by $281.0 million ($224.1 million GF/GP and $56.9 million SAF) and will reduce IIT revenue in FY 2024-25 by $350.0 million ($275.9 million GF/GP and $74.1 million SAF).

Sales Tax. The forecast predicts Michigan sales tax revenue will rise 0.3% in FY 2022-23, 0.1% in FY 2023-24, and 2.1% in FY 2024-25. Compared with the January 2023 consensus revenue estimates, the FY 2022-23 sales tax estimate is unchanged while the revised sales tax estimate for FY 2023-24 is down $6.4 million and the revised estimate for FY 2024-25 is up $63.3 million. The changes primarily reflect revised estimates of consumer spending due to changes in personal income, declining savings balances, and a shift from the current goods-heavy consumption (largely subject to sales and use taxes) to a more normal split between goods and services (which are largely exempt from sales and use taxes), as well as new tax exemptions. Most sales tax revenue is earmarked to the SAF (73.3%) and the remainder goes to local government revenue sharing payments, the Comprehensive Transportation Fund, and the General Fund. To reflect the significant portion of sales tax revenue earmarked in statute for revenue sharing that has been diverted to the General Fund, this report allocates all of the statutory revenue sharing earmark to the General Fund and shows the appropriation

Exhibit 13

SENATE FISCAL AGENCY sfa

MEMORANDUM

DATE: May 19, 2023

TO: Members of the Michigan Senate

FROM: Kathryn R. Summers, Director

RE: May Consensus Revenue Year-End Balance Estimates Based on Senate Budgets

Based on the revised consensus revenue estimates agreed to on May 19, 2023, the enacted fiscal year (FY) 2022-23 appropriations, pending supplementals, and projected State appropriations based on Senate-passed FY 2023-24 budgets, the Senate Fiscal Agency (SFA) has revised its estimates of the year-end balances in the FY 2022-23, FY 2023-24, and FY 2024-25 General Fund/General Purpose (GF/GP) and School Aid Fund (SAF) budgets. This memorandum provides a brief summary of these revised estimates, and Table 1 below compiles the balances into a summary table.

Table 1

SFA ESTIMATES OF YEAR-END BALANCES USING CREC REVENUE ESTIMATES (Fiscal Year, millions of dollars)

	FY 2022-23	FY 2023-24	FY 2024-25
General Fund/General Purpose	$2,592.7	$923.1	$1,289.4
School Aid Fund	$3,903.5	$2,101.3	$2,646.7

FY 2022-23 Year-End Balance Estimates

The initial FY 2022-23 budget approved by the Legislature was based on the May 2022 consensus revenue estimate. The revisions to the consensus revenue estimates agreed to in January 2023 reflected an increase from the May 2022 estimate for both GF/GP and SAF revenue, allowing continued surpluses in both the GF/GP and SAF budgets. The May 2023 consensus estimate of FY 2022-23 GF/GP revenue was decreased by $989.9 million from the January 2023 consensus revenue estimate due to changes in tax policy and earmarks of Corporate Income Tax (CIT) revenue, while consensus SAF revenue was increased by $106.5 million. The consensus estimates coupled with enacted appropriations and SFA projected expenditures for May 2023 result in a projected year-end balance of $2.6 billion GF/GP and $3.9 billion SAF.

The FY 2022-23 GF/GP revenue is decreased by $989.9 million from the January consensus revenue estimate. In addition to the estimated decrease in ongoing revenue, the SFA's FY 2022-23 estimated GF/GP revenue total of $20.2 billion includes $7.5 billion of surplus revenue carried forward from FY 2021-22; a negative adjustment totaling $525.6 million to reflect statutory State revenue sharing payments; and a $2.6 million reduction from redirection of restricted revenue.

The projected level of FY 2022-23 GF/GP expenditures includes initial ongoing appropriations of $12.0 billion; initial one-time appropriations of $3.3 billion; enacted supplemental appropriations of $2.5 billion; caseload and cost reductions from the May 2023consensus of $439.8 million in the Department of Health and Human Services (DHHS); and numerous other one-time and ongoing spending items. Comparing estimated GF/GP revenue to year-to-date GF/GP appropriations, adjusted for SFA assumptions, results in a projected year-end GF/GP balance of $2.6 billion.

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Table 1

GENERAL FUND/GENERAL PURPOSE (GF/GP)
REVENUE, EXPENDITURES, AND YEAR-END BALANCE ESTIMATES
(millions of dollars)

	FY 2022-23 Year-To-Date	SFA Estimates: FY 2023-24 SFA Estimate	SFA Estimates: FY 2024-25 SFA Estimate
Revenue:			
Beginning Balance	$7,463.5	$2,592.7	$923.1
Ongoing Revenue:			
CREC Forecast Revenue Estimate (January 2023)	$14,777.9	$15,092.2	$15,545.5
CREC Forecast Revenue Change (May 2023)	(989.9)	(1,853.9)	(1,629.1)
Subtotal: Unadjusted CREC Forecast (May 2023)	$13,788.0	$13,238.3	$13,916.4
SFA Adjustments: Restore temporary revenue losses to baseline (May 2023)	1,080.8	1,162.4	550.0
Adjusted CREC Forecast Ongoing Revenue Estimate (May 2023)	$14,868.8	$14,400.7	$14,466.4
Other Ongoing Revenue Adjustments:			
Adjustments (PPT hold harmless)	($75.0)	($75.0)	($75.0)
CIT Housing Earmark - built into ongoing revenues	0.0	0.0	0.0
Sales tax removal for delivery and installation - built into ongoing revenues	0.0	0.0	0.0
Senate Bill 127 Community Foundation Endowment Fund	0.0	(3.3)	(3.3)
Senate Bill 128 food bank donations	0.0	(18.7)	(18.7)
Retirement income tax changes (HB 4001) - built into ongoing revenues	0.0	0.0	0.0
EITC (HB 4001) - built into ongoing revenues	0.0	0.0	0.0
Liquor Purchase Revolving Fund - authorized distribution agent adjustment	(18.5)	(19.1)	(19.7)
Revenue Sharing Payments	(525.6)	(551.8)	(551.8)
Subtotal Ongoing Revenue	$14,249.7	$13,732.8	$13,797.9
Non-ongoing Revenue:			
Legal Settlements/Redirection of Restricted Revenue	($2.6)	($2.6)	($2.6)
Moving forward one-year impact of EITC (SB 144)	(384.0)	0.0	0.0
Three-year CIT SOAR earmark	(50.0)	(50.0)	(50.0)
Three-year CIT RAP earmark	(500.0)	(500.0)	(500.0)
Income tax reduction (ie, trigger) - 4/10/23: AG opinion 1-year impact	(530.8)	(228.4)	0.0
Revenue Sharing One-Time Payments	(4.9)	(26.7)	0.0
Subtotal Non-Ongoing Revenue	($1,472.3)	($807.7)	($552.6)
Total Estimated GF/GP Revenue Including Beginning Balance	**$20,240.9**	**$15,517.9**	**$14,168.4**
Total Estimated GF/GP Revenue Excluding Beginning Balance	**$12,777.4**	**$12,925.2**	**$13,245.3**
Expenditures:			
Ongoing Appropriations:			
Initial Senate Appropriations	$11,963.6	$12,859.0	$12,857.4
Ongoing reserve for audit, legal, statutory, and other costs	0.0	100.0	100.0
Ongoing Community District Trust Fund GF payment	0.0	28.2	32.8
Subtotal Ongoing Appropriations	$11,963.6	$12,987.2	$12,990.2
One-Time and Other Appropriations:			
Estimated One-Time Appropriations	$3,292.3	$2,148.8	$0.0
BSF Deposit	0.0	200.0	0.0
Fund shift Corrections payroll with revenue loss SFRF	0.0	(700.0)	0.0
Enacted Supplementals	2,530.4	0.0	0.0
Exec Rec Supplementals (2023-2 and 2023-3)	816.7	0.0	0.0
Remove Exec Rec supplementals to show baseline	(816.7)	0.0	0.0
Restore FMAP and caseload savings from exec rec Supplementals	(517.5)	0.0	0.0
CREC forecast of adjustments in FMAP, caseloads, child care	77.7	(61.3)	(111.2)
Senate supplemental items	29.3	0.0	0.0
Reserve for audit, legal, statutory, other costs	200.0	20.0	0.0
Treasury boilerplate appropriation	50.0	0.0	0.0
Additional K-12 GF for Community District Trust Fund (moved to ongoing)	22.4	0.0	0.0
Subtotal One-Time and Other Appropriations	$5,684.6	$1,607.6	($111.2)
Total Estimated GF/GP Expenditures	**$17,648.2**	**$14,594.8**	**$12,879.0**
PROJECTED YEAR-END GF/GP BALANCE (Total)	$2,592.7	$923.1	$1,289.4
PROJECTED YEAR-END GF/GP BALANCE (Ongoing)	$2,286.1	$745.6	$807.7
PROJECTED YEAR-END GF/GP BALANCE (One-Time)	$306.6	$177.5	$481.7

MICHIGAN'S MAJOR TAXES: REVENUE ESTIMATES, TAX RATES, AND YIELDS FOR FY 2021-22 & FY 2022-23
(dollars in millions)

Tax	Revenue Estimates (a) FY 2021-22 Net Revenue	Revenue Estimates (a) FY 2022-23 Net Revenue	Current Tax Rate	Examples of Revenue Impact Due To Change in Rate (i) Rate Change	FY '22 Rev Change Eff. 1/1/22	FY '23 Rev Change Eff. 1/1/22	History of Tax Rate Changes:
Individual Income Tax: Gross Collections Refunds **Net Income Tax**	 $16,727.2 (3,244.2) $13,483.0	 $15,699.4 (2,479.2) $13,220.2	4.25%	0.1%	$224.1	$336.4	1967: 2.6% 1971: 3.9% 2004:3.9% 7/1 1975: 4.6% 1982: 5.6% 4/1 1982: 4.6% 10/1 1983: 6.35% 2007:4.35% 10/1 1984: 5.35% 9/1 1986: 4.6% 2012:4.25% 10/1 1994: 4.4% 5/1 2000: 4.2% 2002: 4.1% 2003: 4.0%
Sales Tax (b)	$10,299.6	$10,232.5	6.0%	1% of: (b) first 4% of 6% last 2% of 6%	 $1,312.0 1,238.4	 $1,737.3 1,641.8	1933: 3.0% 1960: 4.0% 1994: 6.0% 5/1
Use Tax (c)	$2,604.3	$2,590.7	6.0%	1.0%	$325.5	$431.8	1937: 3.0% 1960: 4.0% 1994: 6.0% 5/1
Corporate Income Tax	$1,822.6	$1,582.1	6.0%	1.0%	$227.8	$263.7	Rate has not changed.
Tobacco Tax **Cigarettes** **Other Tobacco Products**	$830.7 $724.0 $106.7	$819.4 $711.7 $107.7	 $2.00/pack 32% whole-sale price	 $0.10/pack 2.0%	 $26.9 $5.0	 $35.2 $6.7	1947: 3 cents/pk 1959: 4 cents/pk 1961: 5 cents/pk 1962: 7 cents/pk 1970: 11 cents/pk 1982: 21 cents/pk 1987: 25 cents/pk 1993: 75 cents/pk 2002: $1.25/pk 8/1 2004: $2/pk 7/1
Liquor Tax (d)	$79.0	$80.0	4.0%	1.0%	$14.7	$19.9	1959: Liquor excise tax established - 4.0% 1962: Liquor specific tax established - 4.0% 1972: Liquor specific tax established - 1.85%, repealed 10/1/2012 1985: Liquor specific tax established - 4.0%
Beer Tax (e)	$41.6	$42.4	$6.30/barrel (e)	$1/barrel (e)	$4.9	$6.7	1933: $1.25/barrel 1959: $2.50/barrel 1962: $6.61/barrel 1966: $6.30/barrel
Wine Tax (f)	$10.4	$10.6	(f)	$0.01/liter	$0.6	$0.8	1937: $0.50/gallon 1981: w/ 16% alcohol 13.5 cents/liter 1981: w/ >16% alcohol 20 cents/liter 1989: mixed-spirit drinks 48 cents/liter
Casino Gaming Tax (g)	$110.0	$113.4	8.1%	1.0%	$10.2	$14.0	1999: 8.1% of adj. gross receipts 2004: 12.1% of adj. gross receipts 9/1 FY07: 8.1%-12.1% FY09: 8.1% 2/09
Real Estate Transfer Tax	$527.0	$496.9	0.75%	0.25%	$131.8	$165.6	Rate has not changed.
State Education Property Tax	$2,396.0	$2,563.2	6 mills	1 mill	$399.3	$427.2	1994: 6 mills 2003: 5 mills (one-year reduction only) 2004: 6 mills
Gasoline Tax (h)	$1,196.0	$1,226.5	$0.272/gal.	$0.01/gal.	$33.0	$45.1	1983: 13 cents/gal. 2017: 26.3 cents/gal. 1984: 15 cents/gal. 2022: 27.2 cents/gal. 1997: 19 cents/gal.

(a) Consensus Revenue Estimates, May 20, 2022.
(b) The first 4 percentage points of the 6% sales tax rate are assessed on the entire sales tax base (including residential utilities), whereas the last 2 percentage points of the 6% sales tax rate are not assessed on residential utilities.
(c) Combined State and local revenue, and thus includes portion of the Use Tax directed to the Local Community Stabilization Authority. The LCSA portion is set in statute and would not be affected by a rate change. Thus the estimated impact of a rate change only reflects the impact on State revenue.
(d) There are three taxes on liquor, each with a rate of 4.0% and they are earmarked to the General Fund, School Aid Fund, and the Convention Facility Fund. One tax, assessed at 1.85% on sales for off-site consumption and earmarked to the Liquor Purchase Revolving Fund, was repealed effective October 1, 2012.
(e) The beer tax of $6.30/barrel is equivalent to 1.9 cents per 12 ounce can of beer. Increasing the rate by $1/barrel would increase the tax/can to 2.2 cents.
(f) Tax on wine is as follows: Wine containing 16% or less of alcohol: 13.5 cents/liter; and wine containing more than 16% alcohol: 20 cents/liter.
(g) Includes only the regular casino gaming tax and excludes the taxes on Internet wagering, sports betting and fantasy games.
(h) Tax rate is adjusted each year for inflation. Estimates assume no inflation adjustment to current tax rate.
(i) Senate Fiscal Agency estimate.

OTHER TAX ITEMS:	**FY 2020-21**	**FY 2021-22**
Income Tax Personal Ex.		
Level (Tax Year)	$4,900	$5,000
Cost per $100 change	$30.0	$30.0
Property Tax Credit		
Maximum Credit	$1,500	$1,500
Cost per $100 change	$9.4	$9.4

Updated: 5/23/22

Exhibit 14

MICHIGAN'S INDIVIDUAL INCOME TAX 2020

Michigan Department of Treasury
Office of Revenue and Tax Analysis
Tax Analysis Division
November 2022

IV. INCIDENCE OF THE INDIVIDUAL INCOME TAX

For tax year 2020, about 5.0 million MI-1040 returns were filed, 77,300 more than for 2019 (see Exhibit 5 below). An additional 33,200 "credit-only" returns were filed for 2020. These "credit-only" returns refer to returns from taxpayers who did not file an MI-1040 form, but who did claim a refundable tax credit, such as a property tax credit or a home heating credit by filing the appropriate forms. Of those "credit-only" returns, 9,200 claimed only a home heating credit, 9,500 claimed only a property tax credit, and 7,200 claimed both refundable credits.

The personal income tax generated $9.4 billion in net revenue for tax year 2020, which is total revenue after all credits and refunds are paid. Income tax revenues increased $378.2 million (4.2%) from 2019, reflecting increased AGI, and decreased refundable credits from the prior year.

Exhibit 5
Fifteen-Year History of Income Tax Rates and Revenue

Year	Number of 1040s Filed	Adjusted Gross Income	Average AGI	Nominal Rate	Average Effective Rate	Revenue
2006	4,487,257	272,454,940,745	60,717	3.90%	2.03%	5,521,426,800
2007	4,560,672	292,321,301,678	64,096	4.01%	1.99%	5,803,415,000
2008	4,481,511	257,476,490,543	57,453	4.35%	2.24%	5,757,103,800
2009	4,395,979	240,741,775,266	54,268	4.35%	2.03%	4,883,682,400
2010	4,459,933	254,568,181,316	57,079	4.35%	2.07%	5,264,953,200
2011	4,491,741	264,777,026,191	58,948	4.35%	2.11%	5,594,565,100
2012	4,514,771	288,509,600,808	63,903	4.33%	2.42%	6,994,868,100
2013	4,560,975	289,850,295,303	63,550	4.25%	2.36%	6,840,270,600
2014	4,609,070	322,151,626,296	69,895	4.25%	2.30%	7,419,330,100
2015	4,662,493	335,592,845,275	71,977	4.25%	2.39%	8,009,012,200
2016	4,737,731	340,468,742,136	71,863	4.25%	2.39%	8,133,885,300
2017	4,775,673	369,384,403,541	77,347	4.25%	2.37%	8,738,816,000
2018	4,817,752	390,810,568,520	81,119	4.25%	2.32%	9,062,404,900
2019	4,875,471	385,283,987,497	79,025	4.25%	2.35%	9,046,522,000
2020	4,952,798	402,044,569,726	81,175	4.25%	2.34%	9,424,548,300

Source: Office of Revenue and Tax Analysis, Michigan Department of Treasury.

[7]The AGI above is reduced by returns reporting a negative AGI totaling a negative $8.3 billion. The data for negative AGI returns are included throughout this report unless otherwise noted.

Exhibit 15

State Notes

TOPICS OF LEGISLATIVE INTEREST

Spring 2015

A History of the Michigan Individual Income Tax Rate
By Elizabeth Pratt, Fiscal Analyst, and David Zin, Chief Economist

The Michigan individual income tax is now the largest source of State tax revenue, with net revenue of approximately $8.0 billion in fiscal year (FY) 2013-14, representing 39% of combined State General Fund and School Aid Fund revenue. In FY 2013-14, the individual income tax provided 62.7% of General Fund/General Purpose revenue and 20.5% of School Aid Fund revenue.

The amount of individual income tax revenue depends on the tax rate, tax base (the Federal adjusted gross income and the additions and subtractions required by Michigan), and the availability of tax exemptions and credits. The structure of the tax is limited by the Michigan Constitution of 1963, which states in Article IX, Section 7: "No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions." Thus, the Michigan individual income tax is a flat rate tax. It has been levied at a rate of 4.25% since October 1, 2012.

The individual income tax rate frequently is debated by policymakers concerned with the level of taxation and State spending. Since the advent of the tax in 1967, the tax rate has been changed frequently. This article will review the history of the income tax rate, with a focus on the changes made during the last decade.

Individual Income Tax Revenue

The revenue from the individual income tax funds a significant portion of the State budget. In recent years it has provided well over one-third of combined General Fund/General Purpose (GF/GP) and School Aid Fund (SAF) revenue. Figure 1 illustrates the full history of the individual income tax while Table 1 shows the recent history of income tax revenue, with comparisons to combined GF/GP and SAF revenue. Individual income tax collections vary significantly with economic conditions, such as during the recession of 2008-2009, and changes in tax policy, such as the rate reductions implemented from 2000 through 2005. Revenue from the individual income tax has increased in its significance to the State budget over the last decade.

Figure 1

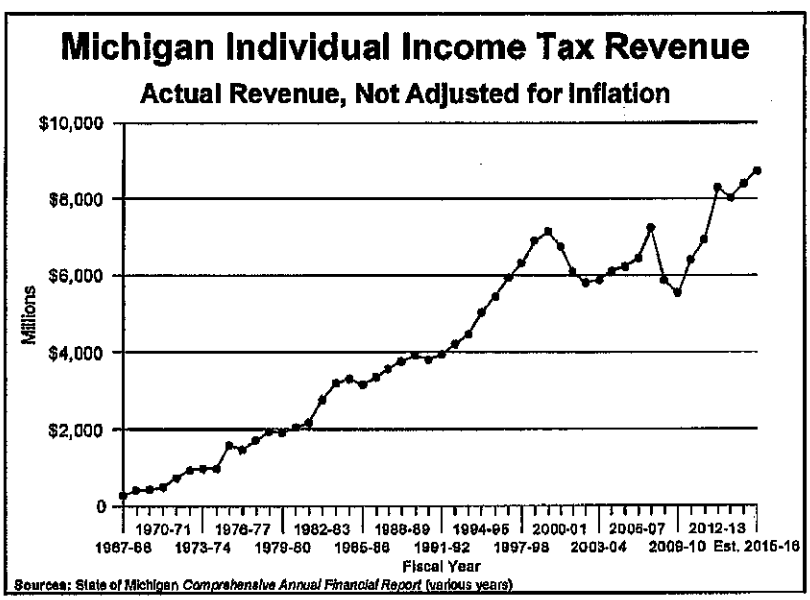

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Table 1

Individual Income Tax Revenue as a Percent of Total General Fund/General Purpose and School Aid Fund Revenue Not Adjusted for Inflation			
Fiscal Year	Income Tax Revenue	Total GF/GP and SAF Revenue	Income Tax as a Percent of Total
1997-98	$6,316.1	$18,437.9	34.3%
1998-99	6,907.9	19,637.0	35.2%
1999-2000	7,144.2	20,569.9	34.7%
2000-01	6,749.4	19,896.5	33.9%
2001-02	6,096.0	19,483.0	31.3%
2002-03	5,811.8	19,611.3	29.6%
2003-04	5,873.4	19,584.6	30.0%
2004-05	6,108.9	20,168.3	30.3%
2005-06	6,226.3	20,313.8	30.7%
2006-07	6,442.7	20,417.4	31.6%
2007-08	7,226.0	21,849.9	33.1%
2008-09	5,856.8	19,209.4	30.5%
2009-10	5,531.3	18,495.5	29.9%
2010-11	6,417.1	20,061.2	32.0%
2011-12	6,921.0	20,125.4	34.4%
2012-13	8,271.8	20,832.2	39.7%
2013-14	8,020.1	20,539.0	39.0%
Est. 2014-15	8,393.5	21,390.5	39.2%
Est. 2015-16	8,719.7	21,976.9	39.7%

Sources: Michigan Comprehensive Annual Financial Reports, Senate Fiscal Agency, and Consensus Revenue Estimates as of January 16, 2015

Revenue from the individual income tax is determined by the interaction of the tax rate and base. The individual income tax base depends on the Federal definition of adjusted gross income; adjustments to income, including deductions (such as the limited exclusion of pension benefits) and additions; credits; and personal exemptions. As a result, the revenue generated by the tax will reflect a variety of economic factors, such as inflation or changes in economic growth. Individual income tax revenue also is sensitive to the tax rate. Based on current estimates, an increase of 0.1% in the individual income tax rate effective January 1, 2015, would increase State revenue by $224.2 million in FY 2015-16. Figure 2 illustrates the history of Michigan's individual income tax revenue, adjusted for the effect of inflation. All of the major swings in revenue shown in Figure 2 reflect either changes in the tax, such as changes in the rate or base, or changes in the economy other than those associated with inflation.[1]

The revenue from the individual income tax primarily has been deposited in the State General Fund; however, there have been earmarks in effect since the inception of the tax. From FY 1967-68 through FY 1995-96, there were allocations made from income tax revenue to revenue sharing for counties, cities, villages, and townships. Initially, 17.0% of the net revenue was allocated to revenue sharing and the remainder to GF/GP revenue; however, the percentage and distribution of the allocation for revenue sharing were amended frequently as the revenue sharing earmark percentage was reduced in response to increases in the income tax rate and State budget difficulties resulted in payment limits, reductions, and

[1] A comprehensive review of changes to the individual income tax was published by the Michigan Department of Treasury. Please see "Michigan's Individual Income Tax 2012", Michigan Department of Treasury, Office of Revenue and Tax Analysis, Tax Analysis Division, July 2014, available as a link from http://michigan.gov/treasury/0,1607,7-121-44402_44404---,00.html under "Tax Reports".

Exhibit 16

account, the current balance of these accounts, an estimate of the revenue needed in order to fund each revision specified by subsection (4), and an estimate of the revenue needed to be deposited in the working capital reserve account in order for appropriations to be made from the working capital reserve account. The information required by this subsection shall be itemized according to revenue source and accounting procedure deviation.

(4) The accounting procedures of this state for which a revision is required and a transfer shall be made pursuant to subsection (1) shall include:

(a) The accounting on an accrual basis of expenditures which are based on billings paid by the department of social services for the medical assistance program established under title XIX of the social security act, 42 U.S.C. 1396 to 1396p, and for the general assistance medical program established under Act No. 280 of the Public Acts of 1939, being sections 400.1 to 400.121 of the Michigan Compiled Laws.

(b) The accounting on an accrual basis of cost settlement payments for the prevention of utility shutoffs by the department of social services for the voluntary heating fuel program.

21.425 Conditional effective date. [M.S.A. 3.117(5)]

Sec. 5. This act shall not take effect unless House Bill No. 4092 of the 82nd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 29, 1983.

Compiler's note: House Bill No. 4092, referred to in §21.425, was approved by the Governor on March 29, 1983, and became P.A. 1983, No. 15, Imd. Eff. Mar. 29, 1983.

[No. 15]

(HB 4092)

AN ACT to amend sections 51, 301, 351, and 481 of Act No. 281 of the Public Acts of 1967, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts," section 51 as amended by Act No. 155 of the Public Acts of 1982, section 301 as amended by Act No. 515 of the Public Acts of 1982, section 351 as amended by Act No. 169 of the Public Acts of 1982, and section 481 as amended by Act No. 452 of the Public Acts of 1980, being sections 206.51, 206.301, 206.351, and 206.481 of the Michigan Compiled Laws; and to add section 496.

The People of the State of Michigan enact:

Sections amended and added; income tax act of 1967.

Section 1. Sections 51, 301, 351, and 481 of Act No. 281 of the Public Acts of 1967, section 51 as amended by Act No. 155 of the Public Acts of 1982, section 301 as amended by Act No. 515 of the Public Acts of 1982, section 351 as amended by Act No. 169 of the Public Acts of 1982, and section 481 as amended by Act No. 452 of the Public Acts of 1980, being sections 206.51, 206.301, 206.351, and 206.481 of the Michigan Compiled Laws, are amended and section 496 is added to read as follows:

206.51 Tax rates on taxable income of person other than a corporation; "taxable income" and "person other than a corporation" defined; computation of taxable income of nonresident; resident beneficiary of trust; tax credit; taxable income of nonresident beneficiary of resident estate or trust; including items of income and deductions from trust in taxable income; intention of section; imposition of applicable annualized rate; applicability of rate provided by subsection (1)(d)(ii); additional tax rate; reductions; rate limitation; certification of unemployment rates. [M.S.A. 7.557(151)]

Sec. 51. (1) For receiving, earning, or otherwise acquiring income from any source whatsoever, there is levied and imposed a tax at the following rates for the following periods upon the taxable income of every person, other than a corporation:

(a) Through March 31, 1982: 4.6%.

(b) From April 1, 1982 through September 30, 1982: 4.6% plus a temporary emergency surcharge of 1% of the taxable income of every person other than a corporation.

(c) From October 1, 1982 through December 31, 1982: 4.6%.

(d) January 1, 1983 and thereafter, 3.9% plus the following rates for the specified periods:

(*i*) Except as provided by subsection (12), 2.2%, as adjusted pursuant to subsection (11), or the following rate for the respective period, whichever is the lesser:

(A) From January 1, 1984 through December 31, 1984: 1.95%.

(B) From January 1, 1985 and thereafter: 1.2%.

(*ii*) 0.25% until the first of the month following the month in which the state treasurer makes the certification required by subsection (10), or through September 30, 1986, whichever date is earlier.

(2) As used in this section, "taxable income" means taxable income as defined in this act subject to the applicable source and attribution rules contained in this act.

(3) As used in this section, a person other than a corporation means in addition to a resident or nonresident individual:

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

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

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

(4) As used in this section, the taxable income of a nonresident shall be computed in the same manner as in the case of a resident, subject to the allocation and apportionment provisions of this act.

(5) A resident beneficiary of a trust whose taxable income includes all or part of an accumulation distribution by a trust, as defined in section 665 of the internal revenue code, shall be allowed a credit against the tax otherwise due under this act. The credit shall be all or a proportionate part of any tax paid by the trust under this act for any preceding taxable year which would not have been payable if the trust had in fact made distribution to its beneficiaries at the times and in the amounts specified in section 666 of the internal revenue code. The credit shall not reduce the

tax otherwise due from the beneficiary to an amount less than would have been due if the accumulation distribution were excluded taxable income.

(6) Taxable income of a nonresident who is a beneficiary of a resident estate or trust shall not include the beneficiary's share of estate or trust income.

(7) The taxable income of a resident who is required to include income from a trust in his or her federal income tax return under the provisions of subpart E of subchapter J of the internal revenue code, sections 671 through 679, shall include items of income and deductions from the trust in taxable income to the extent required by this act with respect to property owned outright.

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

(9) The rates provided in subsection (1), as limited by subsection (12), shall be annualized as necessary by the department for tax years that end after March 31, 1982 and the applicable annualized rate shall be imposed upon the taxable income of every person, other than a corporation, for these tax years.

(10) The rate provided by subsection (1)(d)(*ii*) shall not apply after the month in which the requirements of section 4(2) of the state accounting and fiscal responsibility account act for appropriation of collections deposited in the state accounting and fiscal responsibility account have been met, as certified by the state treasurer. The state treasurer shall make this certification on the date that the requirements of section 4(2) of the state accounting and fiscal responsibility account act for appropriation of the collections therein have been met.

(11) If the seasonally adjusted average state unemployment rate for each of the last 2 quarters of a state fiscal year is less than 14.5%, the 2.2% additional tax rate imposed pursuant to subsection (1)(d)(*i*) for a tax year commencing in the immediately following calendar year shall be reduced by 0.1 percentage point for each 0.5 percentage point that the seasonally adjusted average state unemployment rate of these 2 quarters, averaged together, is below 14.5%. However, if the seasonally adjusted average state unemployment rate for each of these 2 last quarters is 9.0% or less but greater than 6.5%, an additional rate under subsection (1)(d)(*i*) shall be reduced by 1.5 percentage points for a tax year commencing in the immediately following calendar year. However, if the seasonally adjusted average state unemployment rate for each of these last 2 quarters was 4% or less, an additional rate under subsection (1)(d)(*i*) shall not be imposed for a tax year commencing in the immediately following calendar year. An additional tax rate imposed pursuant to subsection (1)(d)(*i*) for a tax year commencing in 1984 or any calendar year thereafter shall not exceed the additional tax rate imposed pursuant to subsection (1)(d)(*i*) for a tax year commencing in the immediately preceding calendar year, or 0.7%, whichever is the greater rate.

(12) For any full calendar year in which the state sales and use tax rates are set by law at greater than 4%, an additional rate under subsection (1)(d)(*i*) shall not exceed a percentage rate that would equal the difference between the rate effective in that calendar year under subsection (1)(d)(*i*) without regard to this subsection minus a percentage rate to be determined each year by the department that would have produced the same collections under this act in the state fiscal year immediately preceding the calendar year for which a rate limitation is being determined as produced or would have been produced from any portion of state sales and use tax rates over 4% that was collected, or would have been collected if effective, in the

same state fiscal year immediately preceding the calendar year for which this rate limitation is being determined and that, for the calendar year for which a rate limitation is being determined, are dedicated to the general purpose account of the state general fund. However, the rate limitation set by this subsection shall not be less than 4.6%.

(13) All unemployment rates used in determinations under subsection (11) shall be certified in a timely fashion by the director of the Michigan employment security commission to the state treasurer and shall be calculated by the same method and under the same basis as was in effect and used on December 31, 1982.

206.301 Estimated tax; filing return; due dates; payment; tax credit; estimated annual return and payment instead of quarterly returns and payments; farmer or commercial fisherman; option in filing estimated and annual returns; computation of estimated tax payments. [M.S.A. 7.557(1301)]

Sec. 301. (1) Every individual on a calendar year basis, if his or her annual tax can reasonably be expected to exceed the amount withheld under section 351 and the credits allowed by sections 257, 260, and chapter 9 by more than $100.00, shall file with the department a return of estimated tax under this act on or before April 15, June 15, and September 15 in his or her tax year and January 15 in the following year and, subject to subsection (3), shall pay an amount equal to 1/4 the taxpayer's estimated tax under this act after first deducting the amount estimated to be withheld under section 351.

(2) In the case of a taxpayer on other than a calendar year basis, there shall be substituted for the due dates provided in subsection (1) the appropriate due dates which in the taxpayer's fiscal year corresponds to the calendar year.

(3) With respect to a taxpayer filing an estimated tax return for his or her first tax year of less than 12 months, the amount paid with each return shall be that fraction of the estimated tax which is obtained by dividing the total amount of estimated tax by the number of payments to be made with respect to the tax year.

(4) There shall be allowed as a credit against the tax imposed by this act the amounts paid the department pursuant to this section.

(5) Any person subject to this section, instead of the quarterly returns and payments, may file an estimated annual return and pay an estimated annual tax for the succeeding tax year. The return and payment shall be made at the same time he or she files the annual return for the previous full tax year.

(6) A farmer or commercial fisherman who elects under the internal revenue code to file an annual federal income tax return by March 1 in the year following the taxpayer's tax year and does not make a quarterly estimate or payment, or who does not make a quarterly estimate or payment and files a tentative annual return with a tentative payment by January 15 in the year following the taxpayer's tax year and a final return by April 15 in the year following the taxpayer's tax year, shall have the same option in filing the estimated and annual returns for the tax imposed by this act.

(7) Notwithstanding section 302, payments of estimated tax shall be computed on the basis of the annualized rate established pursuant to section 51(9) for the appropriate tax year to which the estimated tax payment is applicable.

206.351 Deducting and withholding tax on compensation; computation of amount; withholding tables; disposition of taxes withheld; employer as trustee; liability; nonresident employees; liability of corporate officers for

failure of corporation to file return or remit tax; effect of dissolution; assessment and collection; providing department with copy of certain exemption certificates; withholding rates and tables.
[M.S.A. 7.557(1351)]

Sec. 351. (1) Every employer in this state required under the provisions of the internal revenue code to withhold a tax on the compensation of an individual except as otherwise provided shall deduct and withhold a tax in an amount computed by applying, except as provided by subsection (7), the rate prescribed in section 51 to the remainder of the compensation after deducting therefrom the same proportion of the total amount of personal and dependency exemptions of the individual allowed under this act that the period of time covered by the compensation is of 1 year. The commissioner may prescribe withholding tables which may be used by employers in computing the amount of tax required to be withheld.

(2) The taxes withheld under this section shall accrue to the state on the last day of the month in which they are withheld but shall be returned and paid to the department by the employer within 15 days after the end of any month or as provided in section 355.

(3) Every employer required by this section to deduct and withhold taxes on compensation holds the amount of tax withheld as a trustee for the state and is liable for the payment thereof to the state and is not liable to any individual for the amount of the payment.

(4) Employers in this state shall not be required to deduct and withhold a tax on the compensation paid to nonresident individual employees, who, under the provisions of section 256, are entitled to claim a tax credit equal to or in excess of the tax estimated to be due for the taxable year, or are exempted from liability for the tax imposed by this act. In each taxable year, the nonresident individual shall furnish the employer, on a form approved by the department, a verified statement of nonresidence.

(5) If the employer is a corporation and does not for any reason file the returns or pay the tax due as required under this act, any of the officers of the corporation having control, supervision of, or charged with the responsibility for making the returns and payments shall be personally liable for a failure to file or pay. The dissolution of a corporation shall not discharge a corporate officer's liability for the failure of the corporation to file a return or remit the tax that was due before dissolution. The sum due for any liability imposed upon a corporate officer under this subsection may be assessed and collected as provided in sections 23 and 24 of Act No. 122 of the Public Acts of 1941, as amended, being sections 205.23 and 205.24 of the Michigan Compiled Laws.

(6) Every employer required to withhold a tax under this act shall, by the 15th day of the following month, provide the department with a copy of any exemption certificate on which the employee is claiming more than 9 personal or dependency exemptions or claims a status exempting the employee from withholding as prescribed by this section.

(7) Subject to the deductions and exceptions provided by this section, for the period that commences on the effective date of this subsection and ends on December 31, 1983, the department shall prescribe withholding rates and tables sufficient to withhold the following amounts:

(a) A tax computed by applying 4.6% to the compensation of the individual.

(b) A tax computed by applying to the compensation of the individual paid in the period for which this subsection is applicable, a rate equal to the product of 1.75%

multiplied by the quotient of 365 divided by the number of days in the period for which this subsection is applicable.

206.481 Remittances by state disbursing authority to cities, villages, townships, and counties. [M.S.A. 7.557(1481)]

Sec. 481. (1) Beginning January 1, 1974, the state disbursing authority shall remit to cities, villages, townships, and counties in accordance with Act No. 140 of the Public Acts of 1971, as amended, being sections 141.901 to 141.921 of the Michigan Compiled Laws, a portion of an amount measured by 12.1% of the gross collections before refunds under section 51. Except as provided by subsection (6) for the state fiscal year beginning October 1, 1980, the portion to be remitted shall be in the same ratio as 2.6% bears to the income tax rate levied in section 51 in effect during the quarter the collections of which are being remitted. An appropriation for each distribution is hereby made from like taxes collected during the quarter in which the distribution is required to be made.

(2) Before July 1, 1976:

(a) Fifty percent of the amount determined by subsection (1) shall be distributed to counties in accordance with Act No. 140 of the Public Acts of 1971, as amended.

(b) Fifty percent of the amount determined by subsection (1) shall be distributed to cities, villages, and townships in accordance with Act No. 140 of the Public Acts of 1971, as amended.

(3) Beginning July 1, 1976:

(a) Forty-seven percent of the amount determined by subsection (1) shall be distributed to counties in accordance with Act No. 140 of the Public Acts of 1971, as amended.

(b) Fifty-three percent of the amount determined by subsection (1) shall be distributed to cities, villages, and townships in accordance with Act No. 140 of the Public Acts of 1971, as amended.

(4) Beginning July 1, 1977:

(a) Forty-three percent of the amount determined by subsection (1) shall be distributed to counties in accordance with Act No. 140 of the Public Acts of 1971, as amended.

(b) Fifty-seven percent of the amount determined by subsection (1) shall be distributed to cities, villages, and townships in accordance with Act No. 140 of the Public Acts of 1971, as amended.

(5) Beginning July 1, 1978:

(a) Thirty-nine percent of the amount determined by subsection (1) shall be distributed to counties in accordance with Act No. 140 of the Public Acts of 1971, as amended.

(b) Sixty-one percent of the amount determined by subsection (1) shall be distributed to cities, villages, and townships in accordance with Act No. 140 of the Public Acts of 1971, as amended.

(6) Beginning July 1, 1979:

(a) Thirty-five percent of the amount determined by subsection (1) shall be distributed to counties in accordance with Act No. 140 of the Public Acts of 1971, as amended. For the state fiscal year beginning October 1, 1980, $7,000,000.00 shall be deducted from the amount to be distributed under this subdivision and shall be paid to the general fund of the state. The deduction provided by this subdivision shall be made in equal installments at the time payments to counties are made under Act No. 140 of the Public Acts of 1971, as amended.

(b) Sixty-five percent of the amount determined by subsection (1) shall be distributed to cities, villages, and townships in accordance with Act No. 140 of the Public Acts of 1971, as amended.

(7) If it is determined that the federal government shall pay any of the costs for public welfare grants in respect to general relief which are appropriated by the legislature under section 18 of Act No. 280 of the Public Acts of 1939, as amended, being section 400.18 of the Michigan Compiled Laws, the percentage of the amount determined by subsection (1) to be distributed to counties in any year in accordance with subsections (2)(a), (3)(a), (4)(a), (5)(a), and (6)(a) shall be computed as follows commencing with July 1 after the date federal assumption of costs takes place:

(a) Subtract the percentage designated for counties in that year from 50%.

(b) Multiply the difference obtained in subdivision (a) by the percentage obtained by dividing the amount of federal payments by the state appropriation for that year for general relief.

(c) Add the product obtained in subdivision (b) to the percentage designated for distribution to counties in that year.

(d) The difference between the amount that would be distributed using the percentage obtained in subdivision (c) and the amount to be distributed to counties from the income tax in any year shall be appropriated from the general fund and paid to counties with the August payment of the following year as provided under section 11 of Act No. 140 of the Public Acts of 1971.

(8) Any overpayments, underpayments, or errors may be adjusted on the subsequent payment date.

(9) The revenue received from the rate imposed by section 51(1)(d)(*ii*) shall be credited to the state accounting and fiscal responsibility account in the general fund and shall be subject to the conditions for transfer and appropriation of money in that account as provided in the state accounting and fiscal responsibility account act.

(10) The balance in the general fund shall be disbursed only on appropriation of the legislature.

206.496 Appropriation. [M.S.A. 7.557(1496)]

Sec. 496. There is appropriated to the department for the 1982-1983 state fiscal year from the revenue derived from this act the sum of $100,000.00 for the purpose of administering and enforcing the requirements of the amendatory act which added this section.

Legislative finding and purpose.

Section 2. Because a severe economic recession has caused an actual deficit in state funds, the legislature finds that this amendatory act is necessary to, and it is the purpose of this amendatory act to, meet the actual deficiencies existing in state funds at the time of this enactment.

This act is ordered to take immediate effect.
Approved March 29, 1983.

Exhibit 17

Legislative Analysis

Phone: (517) 373-8080
http://www.house.mi.gov/hfa

Analysis available at
http://www.legislature.mi.gov

INCOME TAX ACT CHANGES

House Bill 4001 CR-1
Sponsor: Rep. Angela Witwer
House Committee: Tax Policy [Discharged]
Senate Committee: Committee of the Whole
Revised 2-8-23

SUMMARY:

House Bill 4001 would amend the Income Tax Act to provide for the phase-out of the three-tier system of taxing retirement and pension benefits, change the tax treatment of police and firefighter retirement income, provide for the issuance of income tax rebates to Michigan taxpayers, increase the value of the state earned income tax credit (EITC), increase the percentage of gross income tax collections earmarked to the School Aid Fund, provide for the deposit of certain revenue collected under the act into various state funds, and create the Michigan Taxpayer Rebate Fund and the Revitalization and Placemaking Fund.

Retirement Tax Phase-Out

The three-tier system for taxing retirement income was created in the Income Tax Act by 2011 PA 38. Prior to that act, federally taxable Social Security, military, federal, and state and local government retirement income were fully exempt from state taxation. Private retirement income (e.g., from private pensions, 401(k)s, etc.) was exempt up to a specific threshold that was adjusted annually for inflation. In addition, defined benefit plans (i.e., pensions) from public employment were fully exempt. Seniors also were able to claim a deduction for interest, dividends, and capital gains received from investments, up to a cap that was adjusted annually for inflation.

Currently, retirement income in Michigan is subject to taxation based on the birth year of the taxpayer (or their spouse) as follows:

- **Tier 1**: Taxpayers born before 1946 continue to be taxed under the same system that existed prior to the changes made by 2011 PA 38. For the 2022 tax year, the deduction of private retirement income was capped at $56,961 for single filers and $113,922 for joint returns. The deduction for investment income was capped at $12,697 for single filers and $25,394 for joint returns. These taxpayers remain able to claim other personal exemptions for which they are eligible.
- **Tier 2**: Taxpayers born from 1946 to 1952 are able to take a limited deduction ($20,000 for single filers/$40,000 for joint returns) against all types of income.[1] These taxpayers remain able to claim other personal exemptions for which they are eligible.
- **Tier 3**: Taxpayers born after 1952 are not able to exempt any retirement income, except for Social Security income, until reaching age 67. After turning 67, these taxpayers who choose to take the $20,000/$40,000 deduction against all income will have that deduction reduced by the taxable portion of Social Security and any personal exemptions claimed.

[1] These provisions apply at age 67, which all taxpayers in Tier 2 have already reached.

House Bill 4001 would provide for the phase-out of the three-tier system by the 2026 tax year, as follows:

- For the 2023 tax year, a taxpayer born after 1945 and before 1959 would be able to elect to deduct retirement or pensions benefits up to 25% of the maximum deduction available to taxpayers in Tier 1 for private retirement income.
- For the 2024 tax year, taxpayers born after 1945 and before 1963 would be able to elect to deduct retirement and pension benefits up to 50% the maximum deduction described above.
- For the 2025 tax year, taxpayers born after 1945 and before 1967 would be able to elect to deduct retirement and pension benefits up to 75% the maximum deduction described above.
- For the 2026 tax year, all taxpayers would be able to elect to claim the maximum deduction of retirement and pension benefits described above.

The bill also would allow taxpayers with retirement or pension benefits received for service as a public police or fire department employee, a county corrections officer, or a state police trooper or state police sergeant to claim the tax treatment of retirement income available to taxpayers currently in Tier 1, beginning with the 2023 tax year.

As currently, the deduction available for joint returns would be based on the older spouse's date of birth. If the older spouse died, the surviving spouse could continue qualifying with the older spouse's birth year as long as they did not remarry.

School Aid Fund Earmark

The bill also would change the percentage of income tax collection that is deposited in the State School Aid Fund (SAF). Currently, the act requires a percentage of gross individual income tax revenue (i.e., income tax revenue before refunds) to be deposited in the SAF. That percentage is 1.012% divided by the tax rate (currently 4.25%), or about 23.8%.

For fiscal year (FY) 2023-24, the bill would increase this earmark to the SAF to 1.015% divided by the tax rate. For FY 2024-25, the earmark would be 1.023% divided by the income tax rate. For FY 2025-26, the earmark would be 1.033% divided by the tax rate. Beginning in FY 2026-27, the earmark would be 1.040% divided by the tax rate. The percentage of gross collections earmarked to the SAF is shown in the chart below (for a 4.25% tax rate).

FY 2022-23 (current)	23.812%
FY 2023-24	23.882%
FY 2024-25	24.071%
FY 2025-26	24.306%
FY 2026-27 and beyond	24.471%

Michigan Taxpayer Rebate Fund
The bill also would create the Michigan Taxpayer Rebate Fund in the state treasury. The fund could receive money and other assets from any source. The state treasurer would direct the investment of the fund and credit to the fund any interest and earnings from fund investments.

If the bill takes effect before April 18, 2023, the fund would be used to issue a rebate of $180 to each ***eligible taxpayer*** for the 2022 tax year. If the eligible taxpayer was married and did not file a joint return for the 2022 tax year, the rebate would be $90. If the eligible taxpayer was married and filed a joint return, the rebate would be $90 for each spouse.

> ***Eligible taxpayer*** would mean an individual taxpayer who was a resident of this state as of December 31, 2022, and who filed an income tax return for the 2022 tax year on or before October 18, 2023. The term would include a spouse who filed a joint state income tax return for the 2022 tax year, even if only one spouse on the joint return was a Michigan resident as of December 31, 2022. It would also include a ***claimant*** who did not file a state income tax return for the 2022 tax year but filed a claim for the homestead property tax credit or the home heating credit for the 2022 tax year on or before October 18, 2022. It would not include a nonresident individual or an individual for whom a dependency exemption is allowable to another taxpayer for the 2022 tax year.
>
> ***Claimant*** means an individual who filed a claim for the homestead property tax credit or the home heating credit and, if the claim was for the homestead credit, was domiciled in Michigan at least six months of the previous calendar year.

The rebate would be an advance refund payment of a refundable credit against tax liability for the 2023 tax year. The credit amount available to an eligible taxpayer would equal the amount of the rebate, and the credit amount when claimed for the 2023 tax year would be reduced by the amount of the advance refund issued.

The Department of Treasury would have to issue the advance refund payment automatically as soon as practical under procedures established by the department. The payment would be disbursed electronically to the direct deposit account authorized by the taxpayer for the 2022 tax year. If the taxpayer did not authorize direct deposit, the refund would be issued as a negotiable check sent by first-class mail. No advance refunds would be issued after December 31, 2023.

The advance refund payment would be exempt from interception, execution, levy, attachment, garnishment or any other legal process to collect a debt. It could not be applied as an offset to a liability of the taxpayer under 1941 PA 122 or any arrearage or other debt.

Money in the fund at the end of each fiscal year would remain in the fund, except that money in the fund after all rebates have been issued would lapse to the general fund at the end of that fiscal year.

Earned Income Tax Credit Increase
House Bill 4001 would also increase value of the state EITC. The state EITC is a refundable individual income tax credit which is now capped at 6% of the federal EITC. (The state credit was previously capped at 20% of the federal credit until it was reduced to 6% by 2011 PA 38.)

The bill would increase the state EITC cap to 30% of the federal credit, beginning in the 2023 tax year.

In addition, the bill would allow taxpayers that claim the credit for the 2022 tax year to claim an additional one-time credit equal to 24% of the taxpayer's federal EITC. The credit to which each taxpayer is entitled would be calculated by the Department of Treasury and would have to be refunded as soon as practical.

Distribution of Corporate Income Tax Revenue

The bill also would amend the distribution of revenue collected under Part 2 of the Income Tax Act, which includes the corporate income tax and various other business taxes. Currently, the act provides that revenue collected under Part 2 be deposited into the general fund.

If the bill takes effect before April 18, 2023, $800.0 million of the revenue would be deposited into the Michigan Taxpayer Rebate Fund (see above) for FY 2021-22 only. The remaining revenue collected for that fiscal year would be deposited in the general fund.

The bill also would provide for the distribution of this revenue to various funds in future fiscal years. For FY 2022-23 through FY 2024-25, up to $1.2 billion would initially be deposited into the general fund. After this amount, deposits would be made in the following order:

- Up to $50.0 million to the Michigan Housing and Community Development Fund.
- Up to $50.0 million to the Revitalization and Placemaking Fund (see below).
- Up to $500.0 million to the Strategic Outreach and Attraction Reserve (SOAR) Fund.
- Any remaining balance to the general fund.

For each fiscal year beginning with FY 2025-26, $50.0 million of the revenue collected under Part 2 would be deposited in the Michigan Housing and Community Development Fund. The remaining revenue would be deposited in the general fund.

Revitalization and Placemaking Fund

The bill would create the Revitalization and Placemaking Fund in the state treasury. The fund could receive money and other assets from any source. The state treasurer would direct the investment of the fund and credit to the fund any interest and earnings from fund investments. Money in the fund at the end of each fiscal year would remain in the fund.

Beginning with FY 2022-23, the Michigan Strategic Fund (MSF) would expend money from the fund, upon appropriation, to create and operate the Revitalization and Placemaking Grants Program. The program would invest in projects that enable population and tax revenue growth by doing the following:

- Rehabilitating vacant and blighted buildings and historic structures.
- Rehabilitating and developing vacant properties.
- Developing permanent place-based infrastructure associated with social zones and traditional downtowns, outdoor dining, and place-based public spaces.

Residential projects for which grant funds are used would have to comply with other program guidelines and eligibility requirements as determined by MSF.

MSF would have to prepare and submit a report to the House and Senate appropriations committees by December 31 annually detailing the amount of revenue received by the fund and expenditures from it during the prior state fiscal year and the fund balance at the end of the prior fiscal year.

MCL 206.30 et seq.

FISCAL IMPACT:

Using information provided by the Department of Treasury, the phase-in of the exemption against retirement income and changes to the treatment of police and fire retirement pension benefits would reduce general fund revenue by about $58 million in FY 2022-23, $233 million in FY 2023-24, $408 million in FY 2024-25, and about $515 million in FY 2025-26. The revenue reduction would be expected to grow over time as new retirees become eligible and distributions from retirement accounts increase. It should be noted that, because of the changes to the School Aid Fund earmarks, the School Aid Fund will be held harmless against the revenue loss, with the full reduction coming from general fund revenue.

In addition, an increase in the earned income tax credit from the current 6% of the federal EITC to 30% of the federal EITC beginning with TY 2022 would be expected to reduce individual income tax revenue by about $385 million per year beginning in FY 2022-23. Because the expanded EITC affects net income tax refunds, the full impact would likely be borne be the general fund.

Earmarks of corporate income tax (CIT) revenue are expected to reduce general fund revenue by $800 million in FY 2021-22, *up to* $600 million in FY 2022-23 through FY 2024-25, and *up to* $50 million per year thereafter beginning with FY 2025-26. The CIT earmark estimates in Table 1 below are based on January 2023 Consensus Revenue Estimating Conference (CREC) projections for CIT revenue. CIT revenue is not estimated to reach $1.8 billion in FY 2022-23 and FY 2023-24, which would be necessary for the entire SOAR Fund deposit to be realized.

Based on January 2023 CREC revenue estimates and preliminary final revenue, the FY 2021-22 earmark of CIT revenue would reduce FY 2021-22 GF/GP revenue to an amount below capped GF/GP revenue, which would result in no income tax rate reduction.

From the $800.0 million of CIT revenue earmarked in FY 2021-22 to the Michigan Taxpayer Rebate Fund, the bill would authorize the Department of Treasury to distribute a tax rebate of $180 to each eligible taxpayer. Under the provisions of the bill, both a joint return and single return would receive $180. Any amount remaining in the fund not distributed as a rebate would lapse to the general fund.

According to the Department of Treasury, the EITC provisions requiring the department to distribute refunds to taxpayers for the 2022 tax year via check will cost approximately $925,000. Costs include mailing, printing, and issuing checks to taxpayers, as well as processing returns, handling correspondence with taxpayers, and any other activities necessary to administer the changes. The provisions could require up to two additional full-time equated positions.

The department indicated that the retirement tax phase-in component would increase annual administrative costs by approximately $225,000 to accommodate 2.0 FTEs over four years beginning in FY 2023-24. Additionally, the tax rebates are expected to increase administrative costs by $2.2 million on a one-time basis for temporary staff, information technology system changes, and tax rebate check processing. Of that total, approximately $2.0 million would support check processing.

Table 1: Estimated Impact on GF/GP Revenue (in millions)

	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Retirement Income Tax Exemption Phase-in	--	($58.0)	($233.0)	($408.0)	($515.0)
Earned Income Tax Credit Increase	--	(385.0)	(385.0)	(385.0)	(385.0)
CIT Earmarks:*					
Strategic Outreach and Attraction Reserve Fund	--	(460.0)	(465.0)	(500.0)	--
Michigan Taxpayer Rebate Fund	(800.0)	--	--	--	--
Revitalization and Placemaking Fund	--	(50.0)	(50.0)	(50.0)	--
MI Housing and Community Development Fund	--	(50.0)	(50.0)	(50.0)	(50.0)
TOTAL	**($800.0)**	**($1,003.0)**	**($1,183.0)**	**($1,393.0)**	**($950.0)**

**CIT Earmark estimates are based on January 2023 Consensus Revenue Estimating Conference revenue estimates.*

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.