

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5798

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 527a (MCL 206.527a), as amended by 2001 PA
169.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 527a. (1) For tax years 1985 through 1994, a claimant
2 may claim a credit against the state income tax for heating fuel
3 costs for the claimant's homestead in this state. ~~For the 1995~~
4 ~~tax year and subject to subsection (18), a claimant may claim a~~
5 ~~credit for heating fuel costs for the claimant's homestead in~~
6 ~~this state.~~ For the 1996 tax year and each tax year after the
7 1996 tax year and subject to subsections (18) and (19), ~~(20),~~
8 ~~and (21),~~ a claimant may claim a credit for heating fuel costs
9 for the claimant's homestead in this state. An adult foster care
10 home, nursing home, home for the aged, or substance abuse center

1 is not a homestead for purposes of this section. The credit
2 shall be determined in the following manner:

3 (a) For the 1988 tax year through the 1994 tax year ~~→~~
4 ~~subject to subsection (18), for the 1995 tax year;~~ and, subject
5 to subsections **(18) and** (19), ~~—(20), and (21)—~~ for the 1996 tax
6 year and each tax year after the 1996 tax year, the following
7 table shall be used for the computation of a credit as computed
8 under subdivision (c):

9 Exemptions	0 or 1	2	3	4	5	6 or more
10 Credit	\$272	\$326	\$379	\$450	\$525	\$601 + \$76
11						for each
12						exemption
13						over 6

14 (b) For tax years after the 1988 tax year, the amounts in the
15 table in subdivision (a) shall be adjusted each year as necessary
16 by the department so that a claimant with a household income less
17 than 110% of the federal poverty income standards as defined and
18 determined annually by the United States office of management and
19 budget is not denied a credit.

20 (c) A claimant shall receive the greater of the credit amount
21 as determined in subparagraph (i) or (ii):

22 (i) Subtract 3.5% of the claimant's household income from the
23 amount specified in subdivision (a) that corresponds with the
24 number of exemptions claimed in the return filed under this act,
25 except that the number of exemptions for purposes of this
26 subdivision shall not exceed the actual number of persons living
27 in the household plus the additional personal exemptions allowed

1 under section 30, and any dependency exemptions for a person or
 2 persons living in the household under a custodial arrangement,
 3 even if the exemptions may not be claimed for other income tax
 4 purposes. For a claimant whose heating costs are included in his
 5 or her rent, multiply the result of the preceding calculation by
 6 50%.

7 (ii) Subject to subsection (2), for a claimant whose
 8 household income does not exceed the maximum specified in the
 9 following table, as adjusted, that corresponds with the number of
 10 exemptions claimed in the return filed under this act, subtract
 11 11% of claimant's household income from the total cost incurred
 12 by a claimant for heating fuel from a heating fuel provider
 13 during the 12 consecutive monthly billing periods ending in
 14 October of the tax year, and multiply the resulting amount by
 15 70%:

16 Exemptions 0 or 1	2	3	4	5	For each
17					exemption
18					over 5,
19					add
20					\$2,441.00
21					to the
22					maximum
23					income
24 Maximum					
25 Income	\$7,060	\$9,501	\$11,943	\$14,382	\$16,824

26 (d) For the 1988 tax year for the purposes of subdivision
 27 (c), the total cost incurred by a claimant for heating fuel from

1 a heating fuel provider shall not exceed \$1,190.00. For tax
2 years after the 1988 tax year, the maximum cost incurred by a
3 claimant for heating fuel during a tax year shall be adjusted by
4 multiplying the maximum cost for the immediately preceding tax
5 year by the percentage by which the average all urban Detroit
6 consumer price index for fuels and other utilities for the 12
7 months ending August 31 of the tax year for which the credit is
8 claimed exceeds that index's average for the 12 months ending on
9 August 31 of the previous tax year, but not more than 10%. That
10 product shall be added to the maximum cost of the immediately
11 preceding tax year and then rounded to the nearest whole dollar.
12 That dollar amount is the new maximum cost for the current tax
13 year. If the claimant received any credits to his or her heating
14 bill during the tax year, as provided for in subsection (6), the
15 credits shall be treated as costs incurred by the claimant.

16 (e) For tax years after the 1988 tax year, the maximum income
17 amounts specified in subdivision (c)(ii) shall be adjusted by
18 multiplying the respective maximum income amounts for the
19 immediately preceding tax year by the percentage by which the
20 average all urban Detroit consumer price index for all items for
21 the 12 months ending August 31 of the tax year for which the
22 credit is claimed exceeds that index's average for the 12 months
23 ending on August 31 of the immediately preceding tax year, but
24 not more than 10%. That product shall be added to the
25 immediately preceding tax year's respective maximum income level
26 and then rounded to the nearest whole dollar. That dollar amount
27 is the new maximum income level for the then current tax year.

1 (2) An enrolled heating fuel provider shall notify each of
2 its customers, not later than December 15 of each year or, for
3 1995 only, not later than January 10, 1996 or for 1996 only, not
4 later than January 15, 1996, of the availability, upon request,
5 of the information necessary for determining the credit under
6 this section. For a claimant for whom, at the time of filing,
7 the family independence agency is making direct vendor payments
8 to an enrolled heating fuel provider, the enrolled heating fuel
9 provider that accepts the direct payments shall ~~mail~~ **provide**
10 the information necessary to determine the credit before
11 February 1 of each year. If an enrolled heating fuel provider
12 refuses or fails to provide to a customer the information
13 required to determine the credit, or if the claimant is not a
14 customer of an enrolled heating fuel provider, a claimant may
15 determine the credit provided in subsection (1)(c)(ii) based on
16 his or her own records.

17 (3) A credit claimed on a return that covers a period of less
18 than 12 months shall be calculated based on subsection (1)(c)(i)
19 and shall be reduced proportionately.

20 (4) ~~If the~~ **The** allowable amount of the credit under this
21 section ~~exceeds the state income tax otherwise due for the tax~~
22 ~~year, the amount of credit not used as an offset against the~~
23 ~~state income tax that is due~~ shall be remitted to the claimant,
24 other than a claimant whose heating costs are included in his or
25 her rent, in the form of an energy draft that states the name of
26 the claimant and is issued by the department. For a claimant for
27 whom, at the time of filing, the family independence agency **has**

1 identified the enrolled heating fuel provider or is making direct
2 vendor payments to an enrolled heating fuel provider, the
3 department shall send the energy draft directly to the claimant's
4 enrolled heating fuel provider, as identified by the claimant.
5 ~~After~~ If the department establishes a program or pilot program
6 for the direct payment of energy drafts to enrolled heating fuel
7 providers, enrolled heating fuel providers may submit to the
8 department, in a manner prescribed by the department, the names of
9 their customers who are claimants. If a claimant whose name has
10 been submitted meets the standards established by the department,
11 the department shall send that claimant's energy draft directly
12 to the claimant's enrolled heating fuel provider. If the
13 enrolled heating fuel provider submits names of claimants who are
14 not its customers and the energy drafts of any of those claimants
15 are sent to the enrolled heating fuel provider, the enrolled
16 heating fuel provider shall return the energy drafts or pay the
17 value of the energy drafts to the department plus interest on the
18 amount of the energy drafts at the rate calculated under section
19 23 for deficiencies in tax payments. Except as provided in
20 subsection (5), after July 31, a refundable credit for a prior
21 tax year may be paid in the form of a negotiable warrant. The
22 energy draft shall be negotiable only through the claimant's
23 enrolled heating fuel provider upon remittance by the claimant.
24 (5) If ~~when~~ a claimant ~~remits~~ received home heating
25 assistance from the family independence agency, a governmental
26 agency, or a nonprofit organization 12 months prior to remitting
27 an energy draft to the claimant's enrolled heating fuel provider

1 ~~—~~ and the amount of the energy draft is greater than the total
2 of outstanding bills incurred by the claimant with the enrolled
3 heating fuel provider as of the date that the energy draft was
4 remitted to the enrolled heating fuel provider, the enrolled
5 heating fuel provider shall first apply the full amount of the
6 energy draft to the claimant's outstanding bills and then apply
7 any remaining amount to subsequent bills of the claimant until
8 the full amount of the energy draft is used up or the expiration
9 of 9 months after the date on which the energy draft was first
10 applied to cover the claimant's outstanding bills. If there is
11 any remaining energy draft amount at the end of the 9-month
12 period, or if before the end of the 9-month period the claimant
13 is no longer a customer of the enrolled heating fuel provider,
14 the enrolled heating fuel provider shall remit the remaining
15 amount to the claimant in the form of a fully negotiable check
16 within 14 days after the end of the 9-month period or 14 days
17 after the termination of services, whichever occurs sooner. If
18 the claimant did not receive home heating assistance from the
19 family independence agency, a governmental agency, or a nonprofit
20 organization 12 months prior to remitting an energy draft, the
21 claimant, by checking the appropriate box to be included on the
22 energy draft or application for participation with an enrolled
23 heating fuel provider, may request from the enrolled heating fuel
24 provider a payment equal to the amount of the energy draft less
25 the amount of the outstanding bills. The enrolled heating fuel
26 provider shall issue the payment within 14 days after the
27 claimant's request. For purposes of this subsection, home

1 heating assistance does not include the credit allowed under this
2 section.

3 (6) If a claimant whose energy draft exceeds his or her
4 outstanding bills does not request a payment from an enrolled
5 heating fuel provider under subsection (5), an energy draft
6 remitted to an enrolled heating fuel provider shall be applied
7 upon receipt to the claimant's designated account. The energy
8 draft may be used to cover outstanding bills that the claimant
9 has incurred with the enrolled heating fuel provider and to cover
10 subsequent heating costs until the full amount of the energy
11 draft is used or until 1 year after the date on which the energy
12 draft is first applied to the claimant's designated account. If
13 a credit amount remains from this energy draft after the 1-year
14 period, or if prior to the end of the 1-year period a claimant is
15 no longer a customer of the **enrolled** heating fuel provider, the
16 heating fuel provider shall remit the remaining unused portion to
17 the claimant in the form of a fully negotiable check within 14
18 days after the end of the 1-year period or within 14 days after
19 termination of service, whichever is sooner.

20 (7) A claimant who is no longer a resident of this state, who
21 is not a customer of an enrolled heating fuel provider, or whose
22 heating fuel provider refuses to accept an energy draft shall
23 return the energy draft to the department and request the
24 issuance of a negotiable warrant. A claimant may return an
25 energy draft to the department and request issuance of a
26 negotiable warrant if the energy draft is impractical because the
27 claimant has already purchased his or her energy supply for the

1 year and does not have an outstanding obligation to an enrolled
2 heating fuel provider. The department may honor that request if
3 it agrees that the use of the energy draft is impractical. The
4 department shall issue the warrant within 14 days after receiving
5 the energy draft from the claimant.

6 (8) The enrolled heating fuel provider shall bill the
7 department for credit amounts that have been applied to claimant
8 accounts pursuant to subsection (6), and the department shall pay
9 the bills within 14 days of receipt. The billing shall be
10 accompanied by the energy drafts for which reimbursement is
11 claimed.

12 (9) A claimant whose heating fuel is provided by a utility
13 regulated by the Michigan public service commission is protected
14 against the discontinuance of his or her heating fuel service
15 from the date of filing a claim for the credit under this section
16 through the date of issuance of an energy draft and during a
17 period beginning December 1 of the tax year for which the credit
18 is claimed and ending March 31 of the following year if the
19 claimant participates in the winter protection program set forth
20 in ~~R 460.2162(2) to (6)~~ **R 460.2174** of the Michigan
21 administrative code or if the utility accepts the claimant's
22 energy draft. The acceptance of an energy draft by a utility is
23 considered a request by the claimant for the winter protection
24 program. The energy draft shall be coded by the department to
25 denote claimants who are 65 years of age or older. If the
26 claimant is a claimant whose heating cost is included in his or
27 her rent payments, the amount of the claim not used as an offset

1 against the state income tax, after examination and review, shall
2 be approved for payment, without interest, to the claimant.

3 (10) If an enrolled heating fuel provider does not issue a
4 payment or a negotiable check within 14 days **or as otherwise**
5 provided in subsection (5) or (6), beginning on the fifteenth day
6 **or the fifteenth day after the expiration of the 9-month period**
7 **under subsection (5)**, the amount due to the claimant is increased
8 by adding interest computed on the basis of the rate of interest
9 prescribed for delayed refunds of excess tax payments in section
10 30(3) of 1941 PA 122, MCL 205.30. The enrolled heating fuel
11 provider shall pay the interest and shall not bill the interest
12 to or be reimbursed for the interest by the department.

13 (11) Only the renter or lessee shall claim a credit on
14 property that is rented or leased as a homestead. Only 1 credit
15 may be claimed for a household. The credit under this section is
16 in addition to other credits to which the claimant is entitled
17 under this act. A person who is a full-time student at a school,
18 community college, or college or university and who is claimed as
19 a dependent by another person is not eligible for the credit
20 provided by this section. A claimant who shares a homestead with
21 other eligible claimants shall prorate the credit by the number
22 of claimants sharing the homestead.

23 (12) A claimant who is eligible for the credit provided by
24 this section shall be referred by the department to the
25 appropriate state agency for determination of eligibility for
26 home weatherization assistance and shall accept weatherization
27 assistance if eligible and if assistance is available. A heating

1 fuel provider that is required by the Michigan public service
2 commission to participate in the residential conservation
3 services home energy analysis program shall annually contact each
4 claimant to whom it provides heating fuel, and whose usage
5 exceeds 200,000 cubic feet of natural gas or 18,000 kilowatt
6 hours of electricity annually, and shall offer to provide a home
7 energy analysis at no cost to the claimant. A heating fuel
8 provider that is not required to participate in the residential
9 conservation services program shall not be required to conduct a
10 home energy analysis for its customers.

11 (13) If an enrolled heating fuel provider is regulated by the
12 Michigan public service commission, the Michigan public service
13 commission may use an enforcement method authorized by law or
14 rule to enforce the requirements prescribed by this section on
15 the enrolled heating fuel provider. If an enrolled heating fuel
16 provider is not regulated by the Michigan public service
17 commission, the family independence agency may use an enforcement
18 method authorized by law or rule to enforce the requirements
19 prescribed by this section on the enrolled heating fuel
20 provider.

21 (14) The department shall mail a home heating credit return
22 to every person who received assistance through family
23 independence programs pursuant to the social welfare act, 1939 PA
24 280, MCL 400.1 to 400.119b, during the tax year.

25 (15) The department shall complete a study by August 1 of
26 1985, and of each subsequent year, of the actual heating costs of
27 each claimant who received a credit from the department under

1 this section for the immediately preceding tax year.

2 (16) The department may promulgate rules necessary to
3 administer this section pursuant to the administrative procedures
4 act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

5 (17) The department shall provide a simplified procedure for
6 claiming the credit under this section for claimants for whom, at
7 the time of filing, the family independence agency is making
8 direct vendor payments to an enrolled heating fuel provider.

9 ~~(18) For the 1995 tax year, the credit under this section is~~
10 ~~allowed only if there has been a federal appropriation for~~
11 ~~federal fiscal year 1995-96 of the total amount of federal low~~
12 ~~income home heating energy assistance block grant funds and if~~
13 ~~the federal low income home heating energy assistance block grant~~
14 ~~allotment for this state is at least \$25,400,000.00. If the~~
15 ~~federal low income home heating energy assistance block grant~~
16 ~~allotment for this state is less than \$75,400,000.00, each~~
17 ~~individual credit claimed under this section shall be reduced by~~
18 ~~multiplying the credit amount by a fraction the numerator of~~
19 ~~which is Michigan's 1995-96 fiscal year federal low income home~~
20 ~~heating energy assistance block grant allotment minus \$400,000.00~~
21 ~~and the denominator of which is \$75,000,000.00.~~

22 ~~—— (19) For the 1996 tax year through the 2000 tax year, the~~
23 ~~credit under this section is allowed only if there has been a~~
24 ~~federal appropriation for the federal fiscal year beginning in~~
25 ~~the tax year of the total amount of federal low income home~~
26 ~~energy assistance program block grant funds and if the amount~~
27 ~~available for the home heating credit is not less than~~

~~1 \$20,000,000.00. If the amount available for the home heating
2 credit is less than the full home heating credit amount, each
3 individual credit claimed under this section shall be reduced by
4 multiplying the credit amount by a fraction, the numerator of
5 which is the amount available for the home heating credit and the
6 denominator of which is the full home heating credit amount. As
7 used in this subsection, "amount available for the home heating
8 credit" means the sum of the federal low income home energy
9 assistance program block grant allotment for this state for the
10 federal fiscal year beginning in the tax year and the amount as
11 certified by the director of the family independence agency
12 carried forward from the immediately preceding fiscal year for
13 the low income home energy assistance program block grant minus
14 the sum of the amount certified by the director of the family
15 independence agency for administration of the low income home
16 energy assistance program block grant and the amount certified by
17 the director of the family independence agency for crisis
18 assistance programs. The amounts under this subsection that
19 require certification by the director of the family independence
20 agency or by the state treasurer and the director of the
21 department of management and budget shall be certified on or
22 before December 30 of the tax year for the 1996 tax year, and on
23 or before November 1 of the tax year for the 1997 through 2000
24 tax years. As used in this subsection, "full home heating credit
25 amount" means \$62,000,000.00 for the 1996 tax year and for the
26 1997 through 2000 tax years the amount certified by the state
27 treasurer and the director of the department of management and~~

1 ~~budget to be the estimated amount of the credits that would have~~
2 ~~been provided under this section for the tax year if no reduction~~
3 ~~as provided in this subsection were made for that tax year.~~

4 **(18)** ~~—(20)—~~ For the 2001 tax year and each tax year after the
5 2001 tax year, the credit under this section is allowed only if
6 there has been a federal appropriation for the federal fiscal
7 year beginning in the tax year of federal low income home energy
8 assistance program block grant funds of any amount. If the
9 amount of federal low income home energy assistance program block
10 grant funds available for the home heating credit is less than
11 the full home heating credit amount, each individual credit
12 claimed under this section shall be reduced by multiplying the
13 credit amount by a fraction, the numerator of which is the amount
14 available for the home heating credit and the denominator of
15 which is the full home heating credit amount. As used in this
16 subsection, "amount available for the home heating credit" means
17 the sum of the federal low income home energy assistance program
18 block grant allotment for this state for the federal fiscal year
19 beginning in the tax year and the amount as certified by the
20 director of the family independence agency carried forward from
21 the immediately preceding fiscal year for the low income home
22 energy assistance program block grant minus the sum of the amount
23 certified by the director of the family independence agency for
24 administration of the low income home energy assistance program
25 block grant, ~~and~~ the amount certified by the director of the
26 family independence agency for crisis assistance programs, **and**
27 **the amount certified by the director of the family independence**

1 agency for weatherization. Except as otherwise provided in this
2 subsection, the amount used for weatherization each fiscal year
3 shall not exceed \$9,000,000.00 less the amount used for
4 weatherization from the emergency contingency funds received in
5 the immediately preceding year. For the 2004-2005 state fiscal
6 year only, the amount used for weatherization shall not exceed
7 \$9,000,000.00 and shall not be reduced by the amount used for
8 weatherization from the emergency contingency funds received in
9 the immediately preceding year. The amounts under this subsection
10 that require certification by the director of the family
11 independence agency or by the state treasurer and the director of
12 the department of management and budget shall be certified on or
13 before December 30 of the tax year for the 1996 tax year, and on
14 or before November 1 of the tax year for the 1997 tax year and
15 each tax year after the 1997 tax year. As used in this
16 subsection, "full home heating credit amount" means the amount
17 certified by the state treasurer and the director of the
18 department of management and budget to be the estimated amount of
19 the credits that would have been provided under this section for
20 the tax year if no reduction as provided in this subsection were
21 made for that tax year.

22 (19) ~~—(21)—~~ For tax years after the 1994 tax year, a claimant
23 who claims a credit under this section shall not report the
24 credit amount on the claimant's income tax return filed under
25 this act as an offset against the tax imposed by this act, but
26 shall claim the credit on a separate form prescribed by the
27 department. For tax years after the 1995 tax year, a credit

1 claimed under this section shall not be allowed unless the claim
2 for the credit is filed with the department on or before the
3 September 30 immediately following the tax year for which the
4 credit is claimed.

5 **(20)** ~~—(22)—~~ The state treasurer shall notify all of the
6 following each state fiscal year that the federal low income home
7 energy assistance program block grant allotment for this state
8 for that fiscal year is less than the full home heating credit
9 amount:

10 (a) The chairpersons and vice-chairpersons of the senate and
11 house of representatives appropriations committees.

12 (b) The senate and house of representatives committees on
13 taxation and finance related issues.

14 (c) The senate and house of representatives committees on
15 energy and technology related issues.

16 **(21)** ~~—(23)—~~ Notwithstanding section 30a of 1941 PA 122, MCL
17 205.30a, the credit allowed under this section is exempt from
18 interception, execution, levy, attachment, garnishment, or other
19 legal process to collect a debt. No portion of the credit
20 allowed or any rights existing under this section shall be
21 applied as an offset to any liability of the claimant under
22 section 30a of 1941 PA 122, MCL 205.30a, or any arrearage or
23 other debt of the claimant.

24 **(22)** The department shall meet with interested parties
25 including enrolled heating fuel providers and advocacy groups to
26 identify and implement methods of improving the processing of
27 claims for the credit allowed under this section and payments

1 attributable to those credits.

2 (23) —(24)— As used in this section:

3 (a) "Claimant whose heating costs are included in his or her
4 rent" means a claimant whose rent includes the cost of heat at
5 the time the claim for the credit under this section is filed.

6 (b) "Enrolled heating fuel provider" means a heating fuel
7 provider that is enrolled with the family independence agency as
8 a heating fuel provider.

9 (c) "Heating fuel provider" means an individual or entity
10 that provides a claimant with heating fuel or electricity for
11 heating purposes.

12 Enacting section 1. This amendatory act is effective for
13 tax years that begin after December 31, 2003.