

HOUSE BILL No. 5798

April 22, 2004, Introduced by Reps. Rivet, Middaugh, Bradstreet, McConico, Murphy, Hopgood, Woodward, Casperson, Stahl, Garfield, Bisbee, DeRoche, Hune, Plakas, Palsrok, Howell, O'Neil, Sak, Accavitti, Farrah, Huizenga, Nitz, LaJoy and Sheltroun and referred to the Committee on Energy and Technology.

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

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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	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 the
10 information necessary to determine the credit before February 1
11 of each year. If an enrolled heating fuel provider refuses or
12 fails to provide to a customer the information required to
13 determine the credit, or if the claimant is not a customer of an
14 enrolled heating fuel provider, a claimant may determine the
15 credit provided in subsection (1)(c)(ii) based on his or her own
16 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 is

1 making direct vendor payments to an enrolled heating fuel
2 provider, the department shall send the energy draft directly to
3 the claimant's enrolled heating fuel provider, as identified by
4 the claimant. ~~After~~ **Except as provided in subsection (5),**
5 **after** July 31, a refundable credit for a prior tax year may be
6 paid in the form of a negotiable warrant. The energy draft shall
7 be negotiable only through the claimant's enrolled heating fuel
8 provider upon remittance by the claimant.

9 (5) If ~~when~~ a claimant **who was enrolled in shut-off**
10 **protection sponsored by a provider of service under section 10t**
11 **of 1939 PA 3, MCL 460.10t, and who received home heating**
12 **assistance from the family independence agency, a governmental**
13 **agency, or a nonprofit organization during the immediately**
14 **preceding heating season** remits an energy draft to the claimant's
15 enrolled heating fuel provider ~~and~~ **and** the amount of the energy
16 draft is greater than the total of outstanding bills incurred by
17 the claimant with the enrolled heating fuel provider **as of the**
18 **date that the energy draft was remitted to the enrolled heating**
19 **fuel provider, the enrolled heating fuel provider shall first**
20 **apply the full amount of the energy draft to the claimant's**
21 **outstanding bills and then apply any remaining amount to**
22 **subsequent bills of the claimant until the full amount of the**
23 **energy draft is used up or the expiration of 6 months after the**
24 **date on which the energy draft was first applied to cover the**
25 **claimant's outstanding bills. If there is any remaining energy**
26 **draft amount at the end of the 6-month period, or if before the**
27 **end of the 6-month period the claimant is no longer a customer of**

1 the enrolled heating fuel provider, the heating fuel provider
2 shall remit the remaining amount to the claimant in the form of a
3 fully negotiable check within 14 days after the end of the
4 6-month period or 14 days after the termination of services,
5 whichever occurs sooner. If the claimant was not enrolled in
6 shut-off protection sponsored by a provider of service under
7 section 10t of 1939 PA 3, MCL 460.10t, and did not receive home
8 heating assistance from the family independence agency, a
9 governmental agency, or a nonprofit organization during the
10 immediately preceding heating season, the claimant, by checking
11 the appropriate box to be included on the energy draft, may
12 request from the enrolled heating fuel provider a payment equal
13 to the amount of the energy draft less the amount of the
14 outstanding bills. The enrolled heating fuel provider shall
15 issue the payment within 14 days after the claimant's request.
16 **For purposes of this subsection, home heating assistance does not**
17 **include the credit allowed under this section.**

18 (6) If a claimant whose energy draft exceeds his or her
19 outstanding bills does not request a payment from an enrolled
20 heating fuel provider under subsection (5), an energy draft
21 remitted to an enrolled heating fuel provider shall be applied
22 upon receipt to the claimant's designated account. The energy
23 draft may be used to cover outstanding bills that the claimant
24 has incurred with the enrolled heating fuel provider and to cover
25 subsequent heating costs until the full amount of the energy
26 draft is used or until 1 year after the date on which the energy
27 draft is first applied to the claimant's designated account. If

1 a credit amount remains from this energy draft after the 1-year
2 period, or if prior to the end of the 1-year period a claimant is
3 no longer a customer of the heating fuel provider, the heating
4 fuel provider shall remit the remaining unused portion to the
5 claimant in the form of a fully negotiable check within 14 days
6 after the end of the 1-year period or within 14 days after
7 termination of service, whichever is sooner.

8 (7) A claimant who is no longer a resident of this state, who
9 is not a customer of an enrolled heating fuel provider, or whose
10 heating fuel provider refuses to accept an energy draft shall
11 return the energy draft to the department and request the
12 issuance of a negotiable warrant. ~~A~~ **Subject to the 6-month**
13 **period under subsection (5),** a claimant may return an energy
14 draft to the department and request issuance of a negotiable
15 warrant if the energy draft is impractical because the claimant
16 has already purchased his or her energy supply for the year and
17 does not have an outstanding obligation to an enrolled heating
18 fuel provider. The department may honor that request if it
19 agrees that the use of the energy draft is impractical. The
20 department shall issue the warrant within 14 days after
21 ~~receiving the energy draft from the claimant~~ **the expiration of**
22 **the 6-month period under subsection (5).**

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

1 claimed.

2 (9) A claimant whose heating fuel is provided by a utility
3 regulated by the Michigan public service commission is protected
4 against the discontinuance of his or her heating fuel service
5 from the date of filing a claim for the credit under this section
6 through the date of issuance of an energy draft and during a
7 period beginning December 1 of the tax year for which the credit
8 is claimed and ending March 31 of the following year if the
9 claimant participates in the winter protection program set forth
10 in ~~R 460.2162(2) to (6)~~ **R 460.2172** of the Michigan
11 administrative code or if the utility accepts the claimant's
12 energy draft. The acceptance of an energy draft by a utility is
13 considered a request by the claimant for the winter protection
14 program. The energy draft shall be coded by the department to
15 denote claimants who are 65 years of age or older. If the
16 claimant is a claimant whose heating cost is included in his or
17 her rent payments, the amount of the claim not used as an offset
18 against the state income tax, after examination and review, shall
19 be approved for payment, without interest, to the claimant.

20 (10) If an enrolled heating fuel provider does not issue a
21 payment or a negotiable check within 14 days **or as otherwise**
22 **provided in subsection (5) or (6), beginning on the fifteenth day**
23 **or the fifteenth day after the expiration of the 6-month period**
24 **under subsection (5)**, the amount due to the claimant is increased
25 by adding interest computed on the basis of the rate of interest
26 prescribed for delayed refunds of excess tax payments in section
27 30(3) of 1941 PA 122, MCL 205.30. The enrolled heating fuel

1 provider shall pay the interest and shall not bill the interest
2 to or be reimbursed for the interest by the department.

3 (11) Only the renter or lessee shall claim a credit on
4 property that is rented or leased as a homestead. Only 1 credit
5 may be claimed for a household. The credit under this section is
6 in addition to other credits to which the claimant is entitled
7 under this act. A person who is a full-time student at a school,
8 community college, or college or university and who is claimed as
9 a dependent by another person is not eligible for the credit
10 provided by this section. A claimant who shares a homestead with
11 other eligible claimants shall prorate the credit by the number
12 of claimants sharing the homestead.

13 (12) A claimant who is eligible for the credit provided by
14 this section shall be referred by the department to the
15 appropriate state agency for determination of eligibility for
16 home weatherization assistance and shall accept weatherization
17 assistance if eligible and if assistance is available. A heating
18 fuel provider that is required by the Michigan public service
19 commission to participate in the residential conservation
20 services home energy analysis program shall annually contact each
21 claimant to whom it provides heating fuel, and whose usage
22 exceeds 200,000 cubic feet of natural gas or 18,000 kilowatt
23 hours of electricity annually, and shall offer to provide a home
24 energy analysis at no cost to the claimant. A heating fuel
25 provider that is not required to participate in the residential
26 conservation services program shall not be required to conduct a
27 home energy analysis for its customers.

1 (13) If an enrolled heating fuel provider is regulated by the
2 Michigan public service commission, the Michigan public service
3 commission may use an enforcement method authorized by law or
4 rule to enforce the requirements prescribed by this section on
5 the enrolled heating fuel provider. If an enrolled heating fuel
6 provider is not regulated by the Michigan public service
7 commission, the family independence agency may use an enforcement
8 method authorized by law or rule to enforce the requirements
9 prescribed by this section on the enrolled heating fuel
10 provider.

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

15 (15) The department shall complete a study by August 1 of
16 1985, and of each subsequent year, of the actual heating costs of
17 each claimant who received a credit from the department under
18 this section for the immediately preceding tax year.

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

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

26 ~~(18) For the 1995 tax year, the credit under this section is~~
27 ~~allowed only if there has been a federal appropriation for~~

~~1 federal fiscal year 1995-96 of the total amount of federal low
2 income home heating energy assistance block grant funds and if
3 the federal low income home heating energy assistance block grant
4 allotment for this state is at least \$25,400,000.00. If the
5 federal low income home heating energy assistance block grant
6 allotment for this state is less than \$75,400,000.00, each
7 individual credit claimed under this section shall be reduced by
8 multiplying the credit amount by a fraction the numerator of
9 which is Michigan's 1995-96 fiscal year federal low income home
10 heating energy assistance block grant allotment minus \$400,000.00
11 and the denominator of which is \$75,000,000.00.~~

~~12 (19) For the 1996 tax year through the 2000 tax year, the
13 credit under this section is allowed only if there has been a
14 federal appropriation for the federal fiscal year beginning in
15 the tax year of the total amount of federal low income home
16 energy assistance program block grant funds and if the amount
17 available for the home heating credit is not less than
18 \$20,000,000.00. If the amount available for the home heating
19 credit is less than the full home heating credit amount, each
20 individual credit claimed under this section shall be reduced by
21 multiplying the credit amount by a fraction, the numerator of
22 which is the amount available for the home heating credit and the
23 denominator of which is the full home heating credit amount. As
24 used in this subsection, "amount available for the home heating
25 credit" means the sum of the federal low income home energy
26 assistance program block grant allotment for this state for the
27 federal fiscal year beginning in the tax year and the amount as~~

1 ~~certified by the director of the family independence agency~~
2 ~~carried forward from the immediately preceding fiscal year for~~
3 ~~the low income home energy assistance program block grant minus~~
4 ~~the sum of the amount certified by the director of the family~~
5 ~~independence agency for administration of the low income home~~
6 ~~energy assistance program block grant and the amount certified by~~
7 ~~the director of the family independence agency for crisis~~
8 ~~assistance programs. The amounts under this subsection that~~
9 ~~require certification by the director of the family independence~~
10 ~~agency or by the state treasurer and the director of the~~
11 ~~department of management and budget shall be certified on or~~
12 ~~before December 30 of the tax year for the 1996 tax year, and on~~
13 ~~or before November 1 of the tax year for the 1997 through 2000~~
14 ~~tax years. As used in this subsection, "full home heating credit~~
15 ~~amount" means \$62,000,000.00 for the 1996 tax year and for the~~
16 ~~1997 through 2000 tax years the amount certified by the state~~
17 ~~treasurer and the director of the department of management and~~
18 ~~budget to be the estimated amount of the credits that would have~~
19 ~~been provided under this section for the tax year if no reduction~~
20 ~~as provided in this subsection were made for that tax year.~~

21 (18) ~~-(20)-~~ For the 2001 tax year and each tax year after the
22 2001 tax year, the credit under this section is allowed only if
23 there has been a federal appropriation for the federal fiscal
24 year beginning in the tax year of federal low income home energy
25 assistance program block grant funds of any amount. If the
26 amount of federal low income home energy assistance program block
27 grant funds available for the home heating credit is less than

1 the full home heating credit amount, each individual credit
2 claimed under this section shall be reduced by multiplying the
3 credit amount by a fraction, the numerator of which is the amount
4 available for the home heating credit and the denominator of
5 which is the full home heating credit amount. As used in this
6 subsection, "amount available for the home heating credit" means
7 the sum of the federal low income home energy assistance program
8 block grant allotment for this state for the federal fiscal year
9 beginning in the tax year and the amount as certified by the
10 director of the family independence agency carried forward from
11 the immediately preceding fiscal year for the low income home
12 energy assistance program block grant minus the sum of the amount
13 certified by the director of the family independence agency for
14 administration of the low income home energy assistance program
15 block grant and the amount certified by the director of the
16 family independence agency for crisis assistance programs. The
17 amounts under this subsection that require certification by the
18 director of the family independence agency or by the state
19 treasurer and the director of the department of management and
20 budget shall be certified on or before December 30 of the tax
21 year for the 1996 tax year, and on or before November 1 of the
22 tax year for the 1997 tax year and each tax year after the 1997
23 tax year. As used in this subsection, "full home heating credit
24 amount" means the amount certified by the state treasurer and the
25 director of the department of management and budget to be the
26 estimated amount of the credits that would have been provided
27 under this section for the tax year if no reduction as provided

1 in this subsection were made for that tax year.

2 **(19)** ~~-(21)-~~ For tax years after the 1994 tax year, a claimant
3 who claims a credit under this section shall not report the
4 credit amount on the claimant's income tax return filed under
5 this act as an offset against the tax imposed by this act, but
6 shall claim the credit on a separate form prescribed by the
7 department. For tax years after the 1995 tax year, a credit
8 claimed under this section shall not be allowed unless the claim
9 for the credit is filed with the department on or before the
10 September 30 immediately following the tax year for which the
11 credit is claimed.

12 **(20)** ~~-(22)-~~ The state treasurer shall notify all of the
13 following each state fiscal year that the federal low income home
14 energy assistance program block grant allotment for this state
15 for that fiscal year is less than the full home heating credit
16 amount:

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

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

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

23 **(21)** ~~-(23)-~~ Notwithstanding section 30a of 1941 PA 122, MCL
24 205.30a, the credit allowed under this section is exempt from
25 interception, execution, levy, attachment, garnishment, or other
26 legal process to collect a debt. No portion of the credit
27 allowed or any rights existing under this section shall be

1 applied as an offset to any liability of the claimant under
2 section 30a of 1941 PA 122, MCL 205.30a, or any arrearage or
3 other debt of the claimant.

4 **(22)** ~~—(24)—~~ As used in this section:

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

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

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

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