

**SUBSTITUTE FOR
HOUSE BILL NO. 5824**

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending sections 30 and 527a (MCL 206.30 and 206.527a),
section 30 as amended by 2000 PA 400 and section 527a as amended
by 2001 PA 169.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 30. (1) "Taxable income" means, for a person other
2 than a corporation, estate, or trust, adjusted gross income as
3 defined in the internal revenue code subject to the following
4 adjustments under this section:

5 (a) Add gross interest income and dividends derived from
6 obligations or securities of states other than Michigan, in the
7 same amount that has been excluded from adjusted gross income
8 less related expenses not deducted in computing adjusted gross

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1 income because of section 265(a)(1) of the internal revenue
2 code.

3 (b) Add taxes on or measured by income to the extent the
4 taxes have been deducted in arriving at adjusted gross income.

5 (c) Add losses on the sale or exchange of obligations of the
6 United States government, the income of which this state is pro-
7 hibited from subjecting to a net income tax, to the extent that
8 the loss has been deducted in arriving at adjusted gross income.

9 (d) Deduct, to the extent included in adjusted gross income,
10 income derived from obligations, or the sale or exchange of obli-
11 gations, of the United States government that this state is pro-
12 hibited by law from subjecting to a net income tax, reduced by
13 any interest on indebtedness incurred in carrying the obligations
14 and by any expenses incurred in the production of that income to
15 the extent that the expenses, including amortizable bond premi-
16 ums, were deducted in arriving at adjusted gross income.

17 (e) Deduct, to the extent included in adjusted gross income,
18 compensation, including retirement benefits, received for serv-
19 ices in the armed forces of the United States.

20 (f) Deduct the following to the extent included in adjusted
21 gross income:

22 (i) Retirement or pension benefits received from a federal
23 public retirement system or from a public retirement system of or
24 created by this state or a political subdivision of this state.

25 (ii) Retirement or pension benefits received from a public
26 retirement system of or created by another state or any of its
27 political subdivisions if the income tax laws of the other state

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1 permit a similar deduction or exemption or a reciprocal deduction
2 or exemption of a retirement or pension benefit received from a
3 public retirement system of or created by this state or any of
4 the political subdivisions of this state.

5 (iii) Social security benefits as defined in section 86 of
6 the internal revenue code.

7 (iv) Before October 1, 1994, retirement or pension benefits
8 from any other retirement or pension system as follows:

9 (A) For a single return, the sum of not more than
10 \$7,500.00.

11 (B) For a joint return, the sum of not more than
12 \$10,000.00.

13 (v) After September 30, 1994, retirement or pension benefits
14 not deductible under subparagraph (i) or subdivision (e) from any
15 other retirement or pension system or benefits from a retirement
16 annuity policy in which payments are made for life to a senior
17 citizen, to a maximum of \$30,000.00 for a single return and
18 \$60,000.00 for a joint return. The maximum amounts allowed under
19 this subparagraph shall be reduced by the amount of the deduction
20 for retirement or pension benefits claimed under subparagraph (i)
21 or subdivision (e) and for tax years after the 1996 tax year by
22 the amount of a deduction claimed under subdivision (r). For the
23 1995 tax year and each tax year after THE 1995 TAX YEAR THROUGH
24 THE 2001 TAX YEAR, the maximum amounts allowed under this sub-
25 paragraph shall be adjusted by the percentage increase in the
26 United States consumer price index for the immediately preceding
27 calendar year. FOR EACH TAX YEAR THAT BEGINS AFTER DECEMBER 31,

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1 2001, THE MAXIMUM AMOUNT ALLOWED UNDER THIS SUBPARAGRAPH FOR A
2 PERSON FILING A SINGLE RETURN SHALL BE THE MAXIMUM AMOUNT FOR THE
3 TAX YEAR BEGINNING IN 2001, ADJUSTED BY MULTIPLYING THAT MAXIMUM
4 AMOUNT BY A FRACTION, THE NUMERATOR OF WHICH IS THE UNITED STATES
5 CONSUMER PRICE INDEX FOR THE STATE FISCAL YEAR ENDING IN THE TAX
6 YEAR PRIOR TO THE TAX YEAR FOR WHICH THE ADJUSTMENT IS BEING MADE
7 AND THE DENOMINATOR OF WHICH IS THE UNITED STATES CONSUMER PRICE
8 INDEX FOR THE 1999-2000 STATE FISCAL YEAR. THE RESULTANT PRODUCT
9 SHALL THEN BE ROUNDED TO THE NEAREST \$100.00 INCREMENT AND, FOR A
10 JOINT RETURN, MULTIPLIED BY 2. The department shall annualize the
11 amounts provided in this subparagraph and subparagraph (iv) as
12 necessary for tax years that end after September 30, 1994. As
13 used in this subparagraph, "senior citizen" means that term as
14 defined in section 514.

15 (v) The amount determined to be the section 22 amount eli-
16 gible for the elderly and the permanently and totally disabled
17 credit provided in section 22 of the internal revenue code.

18 (g) Adjustments resulting from the application of section
19 271.

20 (h) Adjustments with respect to estate and trust income as
21 provided in section 36.

22 (i) Adjustments resulting from the allocation and apportion-
23 ment provisions of chapter 3.

24 (j) Deduct political contributions as described in section 4
25 of the Michigan campaign finance act, 1976 PA 388, MCL 169.204,
26 or ~~section 301 of title III of the federal election campaign act~~

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1 ~~of 1971, Public Law 92-225,~~ 2 U.S.C. 431, not in excess of
2 \$50.00 per annum, or \$100.00 per annum for a joint return.

3 (k) Deduct, to the extent included in adjusted gross income,
4 wages not deductible under section 280C of the internal revenue
5 code.

6 (l) Deduct the following payments made by the taxpayer in
7 the tax year:

8 (i) The amount of payment made under an advance tuition pay-
9 ment contract as provided in the Michigan education trust act,
10 1986 PA 316, MCL 390.1421 to 390.1444.

11 (ii) The amount of payment made under a contract with a pri-
12 vate sector investment manager that meets all of the following
13 criteria:

14 (A) The contract is certified and approved by the board of
15 directors of the Michigan education trust to provide equivalent
16 benefits and rights to purchasers and beneficiaries as an advance
17 tuition payment contract as described in subparagraph (i).

18 (B) The contract applies only for a state institution of
19 higher education as defined in the Michigan education trust act,
20 1986 PA 316, MCL 390.1421 to 390.1444, or a community or junior
21 college in Michigan.

22 (C) The contract provides for enrollment by the contract's
23 qualified beneficiary in not less than 4 years after the date on
24 which the contract is entered into.

25 (D) The contract is entered into after either of the
26 following:

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1 (I) The purchaser has had his or her offer to enter into an
2 advance tuition payment contract rejected by the board of
3 directors of the Michigan education trust, if the board deter-
4 mines that the trust cannot accept an unlimited number of enroll-
5 ees upon an actuarially sound basis.

6 (II) The board of directors of the Michigan education trust
7 determines that the trust can accept an unlimited number of
8 enrollees upon an actuarially sound basis.

9 (m) If an advance tuition payment contract under the
10 Michigan education trust act, 1986 PA 316, MCL 390.1421 to
11 390.1444, or another contract for which the payment was deducti-
12 ble under subdivision (l) is terminated and the qualified benefi-
13 ciary under that contract does not attend a university, college,
14 junior or community college, or other institution of higher edu-
15 cation, add the amount of a refund received by the taxpayer as a
16 result of that termination or the amount of the deduction taken
17 under subdivision (l) for payment made under that contract,
18 whichever is less.

19 (n) Deduct from the taxable income of a purchaser the amount
20 included as income to the purchaser under the internal revenue
21 code after the advance tuition payment contract entered into
22 under the Michigan education trust act, 1986 PA 316, MCL 390.1421
23 to 390.1444, is terminated because the qualified beneficiary
24 attends an institution of postsecondary education other than
25 either a state institution of higher education or an institution
26 of postsecondary education located outside this state with which
27 a state institution of higher education has reciprocity.

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1 (o) Add, to the extent deducted in determining adjusted
2 gross income, the net operating loss deduction under section 172
3 of the internal revenue code.

4 (p) Deduct a net operating loss deduction for the taxable
5 year as determined under section 172 of the internal revenue code
6 subject to the modifications under section 172(b)(2) of the
7 internal revenue code and subject to the allocation and appor-
8 tionment provisions of chapter 3 of this act for the taxable year
9 in which the loss was incurred.

10 (q) For a tax year beginning after 1986, deduct, to the
11 extent included in adjusted gross income, benefits from a dis-
12 criminatory self-insurance medical expense reimbursement plan.

13 (r) After September 30, 1994 and before the 1997 tax year, a
14 taxpayer who is a senior citizen may deduct, to the extent
15 included in adjusted gross income, interest and dividends
16 received in the tax year not to exceed \$1,000.00 for a single
17 return or \$2,000.00 for a joint return. However, for tax years
18 before the 1997 tax year, the deduction under this subdivision
19 shall not be taken if the taxpayer takes a deduction for retire-
20 ment benefits under subdivision (e) or a deduction under
21 subdivision (f)(i), (ii), (iv), or (v). For tax years after the
22 1996 tax year, a taxpayer who is a senior citizen may deduct to
23 the extent included in adjusted gross income, interest, divi-
24 dends, and capital gains received in the tax year not to exceed
25 \$3,500.00 for a single return and \$7,000.00 for a joint return
26 for the 1997 tax year, and \$7,500.00 for a single return and
27 \$15,000.00 for a joint return for tax years after the 1997 tax

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1 year. For tax years after the 1996 tax year, the maximum amounts
2 allowed under this subdivision shall be reduced by the amount of
3 a deduction claimed for retirement benefits under subdivision (e)
4 or a deduction claimed under subdivision (f)(i), (ii), (iv), or
5 (v). For the 1995 tax year, for the 1996 tax year, and for each
6 tax year after the 1998 tax year THROUGH THE 2001 TAX YEAR, the
7 maximum amounts allowed under this subdivision shall be adjusted
8 by the percentage increase in the United States consumer price
9 index for the immediately preceding calendar year. FOR EACH TAX
10 YEAR THAT BEGINS AFTER DECEMBER 31, 2001, THE MAXIMUM AMOUNT
11 ALLOWED UNDER THIS SUBDIVISION FOR A PERSON FILING A SINGLE
12 RETURN SHALL BE THE MAXIMUM AMOUNT FOR THE TAX YEAR BEGINNING IN
13 2001, ADJUSTED BY MULTIPLYING THAT MAXIMUM AMOUNT BY A FRACTION,
14 THE NUMERATOR OF WHICH IS THE UNITED STATES CONSUMER PRICE INDEX
15 FOR THE STATE FISCAL YEAR ENDING IN THE TAX YEAR PRIOR TO THE TAX
16 YEAR FOR WHICH THE ADJUSTMENT IS BEING MADE AND THE DENOMINATOR
17 OF WHICH IS THE UNITED STATES CONSUMER PRICE INDEX FOR THE
18 1999-2000 STATE FISCAL YEAR. THE RESULTANT PRODUCT SHALL THEN BE
19 ROUNDED TO THE NEAREST \$100.00 INCREMENT AND, FOR A JOINT RETURN,
20 MULTIPLIED BY 2. The department shall annualize the amounts pro-
21 vided in this subdivision as necessary for tax years that end
22 after September 30, 1994. As used in this subdivision, "senior
23 citizen" means that term as defined in section 514.

24 (s) Deduct, to the extent included in adjusted gross income,
25 all of the following:

26 (i) The amount of a refund received in the tax year based on
27 taxes paid under this act.

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1 (ii) The amount of a refund received in the tax year based
2 on taxes paid under the city income tax act, 1964 PA 284,
3 MCL 141.501 to 141.787.

4 (iii) The amount of a credit received in the tax year based
5 on a claim filed under sections 520 and 522 to the extent that
6 the taxes used to calculate the credit were not used to reduce
7 adjusted gross income for a prior year.

8 (t) Add the amount paid by the state on behalf of the tax-
9 payer in the tax year to repay the outstanding principal on a
10 loan taken on which the taxpayer defaulted that was to fund an
11 advance tuition payment contract entered into under the Michigan
12 education trust act, 1986 PA 316, MCL 390.1421 to 390.1444, if
13 the cost of the advance tuition payment contract was deducted
14 under subdivision (l) and was financed with a Michigan education
15 trust secured loan.

16 (u) For the 1998 tax year and each tax year after the 1998
17 tax year, deduct the amount calculated under section 30d.

18 (v) For tax years that begin on and after January 1, 1994,
19 deduct, to the extent included in adjusted gross income, any
20 amount, and any interest earned on that amount, received in the
21 tax year by a taxpayer who is a Holocaust victim as a result of a
22 settlement of claims against any entity or individual for any
23 recovered asset pursuant to the German act regulating unresolved
24 property claims, also known as Gesetz zur Regelung offener
25 Vermögensfragen, as a result of the settlement of the action
26 entitled In re: Holocaust victims assets, CV-96-4849, CV-96-6161,
27 and CV-97-0461 (E.D. NY), or as a result of any similar action if

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1 the income and interest are not commingled in any way with and
2 are kept separate from all other funds and assets of the
3 taxpayer. As used in this subdivision:

4 (i) "Holocaust victim" means a person, or the heir or bene-
5 ficiary of that person, who was persecuted by Nazi Germany or any
6 Axis regime during any period from 1933 to 1945.

7 (ii) "Recovered asset" means any asset of any type and any
8 interest earned on that asset including, but not limited to, bank
9 deposits, insurance proceeds, or artwork owned by a Holocaust
10 victim during the period from 1920 to 1945, withheld from that
11 Holocaust victim from and after 1945, and not recovered,
12 returned, or otherwise compensated to the Holocaust victim until
13 after 1993.

14 (w) For tax years that begin after December 31, 1999,
15 deduct, to the extent not deducted in determining adjusted gross
16 income, both of the following:

17 (i) The total of all contributions made on and after October
18 1, 2000 by the taxpayer in the tax year to education savings
19 accounts pursuant to the Michigan education savings program act,
20 2000 PA 161, MCL 390.1471 to 390.1486, not to exceed \$5,000.00
21 for a single return or \$10,000.00 for a joint return per tax
22 year. A deduction under this subparagraph is not allowed for
23 contributions to an education savings account in the tax year in
24 which the initial withdrawal is made from that account or any
25 subsequent year.

26 (ii) The amount under section 30f.

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1 (x) For tax years that begin after December 31, 1999, add to
2 the extent not included in adjusted gross income the amount of
3 money withdrawn by the taxpayer in the tax year from education
4 savings accounts if the withdrawal was not a qualified withdrawal
5 as provided in the Michigan education savings program act, 2000
6 PA 161, MCL 390.1471 to 390.1486.

7 (y) For tax years that begin after December 31, 1999,
8 deduct, to the extent included in adjusted gross income, the
9 amount of a distribution from individual retirement accounts that
10 qualify under section 408 of the internal revenue code if the
11 distribution is used to pay qualified higher education expenses
12 as that term is defined in the Michigan education savings program
13 act, 2000 PA 161, MCL 390.1471 to 390.1486.

14 (z) For tax years that begin after December 31, 2000,
15 deduct, to the extent included in adjusted gross income, an
16 amount equal to the qualified charitable distribution made in the
17 tax year by a taxpayer to a charitable organization. The amount
18 allowed under this subdivision shall be equal to the amount
19 deductible by the taxpayer under section 170(c) of the internal
20 revenue code with respect to the qualified charitable distribu-
21 tion in the tax year in which the taxpayer makes the distribu-
22 tion to the qualified charitable organization, reduced by both the
23 amount of the deduction for retirement or pension benefits
24 claimed by the taxpayer under subdivision (f)(i), (ii), (iv), or
25 (v) and by 2 times the total amount of credits claimed under sec-
26 tions 260 and 261 for the tax year. As used in this subdivision,
27 "qualified charitable distribution" means a distribution of

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1 assets to a qualified charitable organization by a taxpayer not
2 more than 60 days after the date on which the taxpayer received
3 the assets as a distribution from a retirement or pension plan
4 described in subsection (8)(a). A distribution is to a qualified
5 charitable organization if the distribution is made in any of the
6 following circumstances:

7 (i) To an organization described in section 501(c)(3) of the
8 internal revenue code except an organization that is controlled
9 by a political party, an elected official or a candidate for an
10 elective office.

11 (ii) To a charitable remainder annuity trust or a charitable
12 remainder unitrust as defined in section 664(d) of the internal
13 revenue code; to a pooled income fund as defined in section
14 642(c)(5) of the internal revenue code; or for the issuance of a
15 charitable gift annuity as defined in section 501(m)(5) of the
16 internal revenue code. A trust, fund, or annuity described in
17 this subparagraph is a qualified charitable organization only if
18 no person holds any interest in the trust, fund, or annuity other
19 than 1 or more of the following:

20 (A) The taxpayer who received the distribution from the
21 retirement or pension plan.

22 (B) The spouse of an individual described in
23 sub-subparagraph (A).

24 (C) An organization described in section 501(c)(3) of the
25 internal revenue code.

26 (2) The following personal exemptions multiplied by the
27 number of personal or dependency exemptions allowable on the

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1 taxpayer's federal income tax return pursuant to the internal
2 revenue code shall be subtracted in the calculation that deter-
3 mines taxable income:

4 (a) For a tax year beginning during 1987..... \$ 1,600.00.

5 (b) For a tax year beginning during 1988..... \$ 1,800.00.

6 (c) For a tax year beginning during 1989..... \$ 2,000.00.

7 (d) For a tax year beginning after 1989 and before
8 1995..... \$ 2,100.00.

9 (e) For a tax year beginning during 1995 or 1996... \$ 2,400.00.

10 (f) Except as otherwise provided in subsection (7),
11 for a tax year beginning after 1996..... \$ 2,500.00.

12 (3) A single additional exemption determined as follows
13 shall be subtracted in the calculation that determines taxable
14 income in each of the following circumstances:

15 (a) For tax years beginning after 1989 and before 2000,
16 \$900.00 in each of the following circumstances:

17 (i) The taxpayer is a paraplegic, a quadriplegic, a hemiple-
18 gic, a person who is blind as defined in section 504, or a person
19 who is totally and permanently disabled as defined in section
20 522.

21 (ii) The taxpayer is a deaf person as defined in section 2
22 of the deaf persons' interpreters act, 1982 PA 204, MCL 393.502.

23 (iii) The taxpayer is 65 years of age or older.

24 (iv) The return includes unemployment compensation that
25 amounts to 50% or more of adjusted gross income.

26 (b) For tax years beginning after 1999, \$1,800.00 for each
27 taxpayer and every dependent of the taxpayer who is 65 years of

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1 age or older. When a dependent of a taxpayer files an annual
2 return under this act, the taxpayer or dependent of the taxpayer,
3 but not both, may claim the additional exemption allowed under
4 this subdivision. As used in this subdivision and subdivision
5 (c), "dependent" means that term as defined in section 30e.

6 (c) For tax years beginning after 1999, \$1,800.00 for each
7 taxpayer and every dependent of the taxpayer who is a deaf person
8 as defined in section 2 of the deaf persons' interpreters act,
9 1982 PA 204, MCL 393.502; a paraplegic, a quadriplegic, or a
10 hemiplegic; a person who is blind as defined in section 504; or a
11 person who is totally and permanently disabled as defined in sec-
12 tion 522. When a dependent of a taxpayer files an annual return
13 under this act, the taxpayer or dependent of the taxpayer, but
14 not both, may claim the additional exemption allowed under this
15 subdivision.

16 (d) For tax years beginning after 1999, \$1,800.00 if the
17 taxpayer's return includes unemployment compensation that amounts
18 to 50% or more of adjusted gross income.

19 (4) For a tax year beginning after 1987, an individual with
20 respect to whom a deduction under section 151 of the internal
21 revenue code is allowable to another federal taxpayer during the
22 tax year is not considered to have an allowable federal exemption
23 for purposes of subsection (2), but may subtract \$500.00 in the
24 calculation that determines taxable income for a tax year begin-
25 ning in 1988, \$1,000.00 for a tax year beginning after 1988 and
26 before 2000, and \$1,500.00 for a tax year beginning after 1999.

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1 (5) A nonresident or a part-year resident is allowed that
2 proportion of an exemption or deduction allowed under subsection
3 (2), (3), or (4) that the taxpayer's portion of adjusted gross
4 income from Michigan sources bears to the taxpayer's total
5 adjusted gross income.

6 (6) For a tax year beginning after 1987, in calculating tax-
7 able income, a taxpayer shall not subtract from adjusted gross
8 income the amount of prizes won by the taxpayer under the
9 McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239,
10 MCL 432.1 to 432.47.

11 (7) For each tax year after the 1997 tax year, the personal
12 exemption allowed under subsection (2) shall be adjusted by
13 multiplying the exemption for the tax year beginning in 1997 by a
14 fraction, the numerator of which is the United States consumer
15 price index for the state fiscal year ending in the tax year
16 prior to the tax year for which the adjustment is being made and
17 the denominator of which is the United States consumer price
18 index for the 1995-96 state fiscal year. The resultant product
19 shall be rounded to the nearest \$100.00 increment. The personal
20 exemption for the tax year shall be determined by adding \$200.00
21 to that rounded amount. As used in this section, "United States
22 consumer price index" means the United States consumer price
23 index for all urban consumers as defined and reported by the
24 United States department of labor, bureau of labor statistics.
25 For each year after the 2000 tax year, the exemptions allowed
26 under subsection (3) shall be adjusted by multiplying the
27 exemption amount under subsection (3) for the tax year beginning

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1 in 2000 by a fraction, the numerator of which is the United
2 States consumer price index for the state fiscal year ending the
3 tax year prior to the tax year for which the adjustment is being
4 made and the denominator of which is the United States consumer
5 price index for the 1998-1999 state fiscal year. The resultant
6 product shall be rounded to the nearest \$100.00 increment.

7 (8) As used in subsection (1)(f), "retirement or pension
8 benefits" means distributions from all of the following:

9 (a) Except as provided in subdivision (d), qualified pension
10 trusts and annuity plans that qualify under section 401(a) of the
11 internal revenue code, including all of the following:

12 (i) Plans for self-employed persons, commonly known as Keogh
13 or HR 10 plans.

14 (ii) Individual retirement accounts that qualify under sec-
15 tion 408 of the internal revenue code if the distributions are
16 not made until the participant has reached 59-1/2 years of age,
17 except in the case of death, disability, or distributions
18 described by section 72(t)(2)(A)(iv) of the internal revenue
19 code.

20 (iii) Employee annuities or tax-sheltered annuities pur-
21 chased under section 403(b) of the internal revenue code by
22 organizations exempt under section 501(c)(3) of the internal rev-
23 enue code, or by public school systems.

24 (iv) Distributions from a 401(k) plan attributable to
25 employee contributions mandated by the plan or attributable to
26 employer contributions.

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1 (b) The following retirement and pension plans not qualified
2 under the internal revenue code:

3 (i) Plans of the United States, state governments other than
4 this state, and political subdivisions, agencies, or instrumen-
5 talities of this state.

6 (ii) Plans maintained by a church or a convention or associ-
7 ation of churches.

8 (iii) All other unqualified pension plans that prescribe
9 eligibility for retirement and predetermine contributions and
10 benefits if the distributions are made from a pension trust.

11 (c) Retirement or pension benefits received by a surviving
12 spouse if those benefits qualified for a deduction prior to the
13 decedent's death. Benefits received by a surviving child are not
14 deductible.

15 (d) Retirement and pension benefits do not include:

16 (i) Amounts received from a plan that allows the employee to
17 set the amount of compensation to be deferred and does not pre-
18 scribe retirement age or years of service. These plans include,
19 but are not limited to, all of the following:

20 (A) Deferred compensation plans under section 457 of the
21 internal revenue code.

22 (B) Distributions from plans under section 401(k) of the
23 internal revenue code other than plans described in
24 subdivision (a)(iv).

25 (C) Distributions from plans under section 403(b) of the
26 internal revenue code other than plans described in
27 subdivision (a)(iii).

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1 (ii) Premature distributions paid on separation, withdrawal,
2 or discontinuance of a plan prior to the earliest date the recip-
3 ient could have retired under the provisions of the plan.

4 (iii) Payments received as an incentive to retire early
5 unless the distributions are from a pension trust.

6 Sec. 527a. (1) For tax years 1985 through 1994, a claimant
7 may claim a credit against the state income tax for heating fuel
8 costs for the claimant's homestead in this state. For the 1995
9 tax year and subject to subsection (18), a claimant may claim a
10 credit for heating fuel costs for the claimant's homestead in
11 this state. For the 1996 tax year and each tax year after the
12 1996 tax year and subject to subsections (19), (20), and (21), a
13 claimant may claim a credit for heating fuel costs for the
14 claimant's homestead in this state. An adult foster care home,
15 nursing home, home for the aged, or substance abuse center is not
16 a homestead for purposes of this section. The credit shall be
17 determined in the following manner:

18 (a) For the 1988 tax year through the 1994 tax year; subject
19 to subsection (18), for the 1995 tax year; and subject to
20 subsections (19), (20), and (21) for the 1996 tax year and each
21 tax year after the 1996 tax year, the following table shall be
22 used for the computation of a credit as computed under subdivi-
23 sion (c):

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

6 (b) For tax years after the 1988 tax year, the amounts in
7 the table in subdivision (a) shall be adjusted each year as nec-
8 essary by the department so that a claimant with a household
9 income less than 110% of the ~~federal poverty~~ income standards
10 ~~as defined and determined annually by the United States office~~
11 ~~of management and budget~~ UNDER THE FEDERAL POVERTY GUIDELINES
12 UPDATED ANNUALLY IN THE FEDERAL REGISTER BY THE UNITED STATES
13 DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER AUTHORITY OF
14 SECTION 673 OF SUBTITLE B OF TITLE VI OF THE OMNIBUS BUDGET REC-
15 ONCILIATION ACT OF 1981, PUBLIC LAW 97-35, 42 U.S.C. 9902, is not
16 denied a credit.

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

19 (i) Subtract 3.5% of the claimant's household income from
20 the amount specified in subdivision (a) that corresponds with the
21 number of exemptions claimed in the return filed under this act,
22 except that the number of exemptions for purposes of this subdi-
23 vision shall not exceed the actual number of persons living in
24 the household plus the additional personal exemptions allowed
25 under section 30, and any dependency exemptions for a person or
26 persons living in the household under a custodial arrangement,

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1 even if the exemptions may not be claimed for other income tax
2 purposes. For a claimant whose heating costs are included in his
3 or her rent, multiply the result of the preceding calculation by
4 50%.

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

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

24 (d) For the 1988 ~~tax year~~ THROUGH 2001 TAX YEARS for the
25 purposes of subdivision (c), the total cost incurred by a
26 claimant for heating fuel from a heating fuel provider shall not

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1 exceed \$1,190.00. For ~~tax years after the 1988 tax year~~ 1988
2 THROUGH 2001 TAX YEARS, the maximum cost incurred by a claimant
3 for heating fuel during a tax year shall be adjusted by multiply-
4 ing the maximum cost for the immediately preceding tax year by
5 the percentage by which the average all urban Detroit consumer
6 price index for fuels and other utilities for the 12 months
7 ending August 31 of the tax year for which the credit is claimed
8 exceeds that index's average for the 12 months ending on August
9 31 of the previous tax year, but not more than 10%. That product
10 shall be added to the maximum cost of the immediately preceding
11 tax year and then rounded to the nearest whole dollar. FOR EACH
12 TAX YEAR THAT BEGINS AFTER DECEMBER 31, 2001, FOR PURPOSES OF
13 SUBDIVISION (C), THE MAXIMUM COST INCURRED BY A CLAIMANT FOR
14 HEATING FUEL DURING A TAX YEAR FOR A PERSON FILING A SINGLE
15 RETURN SHALL BE THE MAXIMUM COST FOR THE TAX YEAR BEGINNING IN
16 2001, ADJUSTED BY MULTIPLYING THAT MAXIMUM COST BY A FRACTION,
17 THE NUMERATOR OF WHICH IS THE UNITED STATES CONSUMER PRICE INDEX
18 FOR THE STATE FISCAL YEAR ENDING IN THE TAX YEAR PRIOR TO THE TAX
19 YEAR FOR WHICH THE ADJUSTMENT IS BEING MADE AND THE DENOMINATOR
20 OF WHICH IS THE UNITED STATES CONSUMER PRICE INDEX FOR THE
21 1999-2000 STATE FISCAL YEAR. THE RESULTANT PRODUCT SHALL THEN BE
22 ROUNDED TO THE NEAREST \$100.00 INCREMENT AND, FOR A JOINT RETURN,
23 MULTIPLIED BY 2. That dollar amount is the new maximum cost for
24 the current tax year. If the claimant received any credits to
25 his or her heating bill during the tax year, as provided for in
26 subsection (6), the credits shall be treated as costs incurred by
27 the claimant.

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1 (e) For tax years after the 1988 ~~tax year~~ THROUGH 2001 TAX
2 YEARS, the maximum income amounts specified in
3 subdivision (c)(ii) shall be adjusted by multiplying the respec-
4 tive maximum income amounts for the immediately preceding tax
5 year by the percentage by which the average all urban Detroit
6 consumer price index for all items for the 12 months ending
7 August 31 of the tax year for which the credit is claimed exceeds
8 that index's average for the 12 months ending on August 31 of the
9 immediately preceding tax year, but not more than 10%. That pro-
10 duct shall be added to the immediately preceding tax year's
11 respective maximum income level and then rounded to the nearest
12 whole dollar. FOR EACH TAX YEAR THAT BEGINS AFTER DECEMBER 31,
13 2001, FOR PURPOSES OF SUBDIVISION (C)(ii), THE MAXIMUM INCOME
14 AMOUNTS FOR THE TAX YEAR FOR A PERSON FILING A SINGLE RETURN
15 SHALL BE THE MAXIMUM INCOME AMOUNT FOR THE TAX YEAR BEGINNING IN
16 2001, ADJUSTED BY MULTIPLYING THAT MAXIMUM INCOME AMOUNT BY A
17 FRACTION, THE NUMERATOR OF WHICH IS THE UNITED STATES CONSUMER
18 PRICE INDEX FOR THE STATE FISCAL YEAR ENDING IN THE TAX YEAR
19 PRIOR TO THE TAX YEAR FOR WHICH THE ADJUSTMENT IS BEING MADE AND
20 THE DENOMINATOR OF WHICH IS THE UNITED STATES CONSUMER PRICE
21 INDEX FOR THE 1999-2000 STATE FISCAL YEAR. THE RESULTANT PRODUCT
22 SHALL THEN BE ROUNDED TO THE NEAREST \$100.00 INCREMENT AND, FOR A
23 JOINT RETURN, MULTIPLIED BY 2. That dollar amount is the new max-
24 imum income level for the then current tax year.

25 (2) An enrolled heating fuel provider shall notify each of
26 its customers, not later than December 15 of each year or, for
27 1995 only, not later than January 10, 1996 or for 1996 only, not

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

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

16 (4) If the allowable amount of the credit under this section
17 exceeds the state income tax otherwise due for the tax year, the
18 amount of credit not used as an offset against the state income
19 tax that is due shall be remitted to the claimant, other than a
20 claimant whose heating costs are included in his or her rent, in
21 the form of an energy draft that states the name of the claimant
22 and is issued by the department. For a claimant for whom, at the
23 time of filing, the family independence agency is making direct
24 vendor payments to an enrolled heating fuel provider, the depart-
25 ment shall send the energy draft directly to the claimant's
26 enrolled heating fuel provider, as identified by the claimant.
27 After July 31, a refundable credit for a prior tax year may be

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1 paid in the form of a negotiable warrant. The energy draft shall
2 be negotiable only through the claimant's enrolled heating fuel
3 provider upon remittance by the claimant.

4 (5) If, when a claimant remits an energy draft to the
5 claimant's enrolled heating fuel provider, the amount of the
6 energy draft is greater than the total of outstanding bills
7 incurred by the claimant with the enrolled heating fuel provider,
8 the claimant, by checking the appropriate box to be included on
9 the energy draft, may request from the enrolled heating fuel pro-
10 vider a payment equal to the amount of the energy draft less the
11 amount of the outstanding bills. The enrolled heating fuel pro-
12 vider shall issue the payment within 14 days after the claimant's
13 request.

14 (6) If a claimant whose energy draft exceeds his or her out-
15 standing bills does not request a payment from an enrolled heat-
16 ing fuel provider under subsection (5), an energy draft remitted
17 to an enrolled heating fuel provider shall be applied upon
18 receipt to the claimant's designated account. The energy draft
19 may be used to cover outstanding bills that the claimant has
20 incurred with the enrolled heating fuel provider and to cover
21 subsequent heating costs until the full amount of the energy
22 draft is used or until 1 year after the date on which the energy
23 draft is first applied to the claimant's designated account. If
24 a credit amount remains from this energy draft after the 1-year
25 period, or if prior to the end of the 1-year period a claimant is
26 no longer a customer of the heating fuel provider, the heating
27 fuel provider shall remit the remaining unused portion to the

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1 claimant in the form of a fully negotiable check within 14 days
2 after the end of the 1-year period or within 14 days after termi-
3 nation of service, whichever is sooner.

4 (7) A claimant who is no longer a resident of this state,
5 who is not a customer of an enrolled heating fuel provider, or
6 whose heating fuel provider refuses to accept an energy draft
7 shall return the energy draft to the department and request the
8 issuance of a negotiable warrant. A claimant may return an
9 energy draft to the department and request issuance of a negotia-
10 ble warrant if the energy draft is impractical because the claim-
11 ant has already purchased his or her energy supply for the year
12 and does not have an outstanding obligation to an enrolled heat-
13 ing fuel provider. The department may honor that request if it
14 agrees that the use of the energy draft is impractical. The
15 department shall issue the warrant within 14 days after receiving
16 the energy draft from the claimant.

17 (8) The enrolled heating fuel provider shall bill the
18 department for credit amounts that have been applied to claimant
19 accounts pursuant to subsection (6), and the department shall pay
20 the bills within 14 days of receipt. The billing shall be accom-
21 panied by the energy drafts for which reimbursement is claimed.

22 (9) A claimant whose heating fuel is provided by a utility
23 regulated by the Michigan public service commission is protected
24 against the discontinuance of his or her heating fuel service
25 from the date of filing a claim for the credit under this section
26 through the date of issuance of an energy draft and during a
27 period beginning December 1 of the tax year for which the credit

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1 is claimed and ending March 31 of the following year if the
2 claimant participates in the winter protection program set forth
3 in R 460.2162(2) to (6) of the Michigan administrative code or if
4 the utility accepts the claimant's energy draft. The acceptance
5 of an energy draft by a utility is considered a request by the
6 claimant for the winter protection program. The energy draft
7 shall be coded by the department to denote claimants who are 65
8 years of age or older. If the claimant is a claimant whose heat-
9 ing cost is included in his or her rent payments, the amount of
10 the claim not used as an offset against the state income tax,
11 after examination and review, shall be approved for payment,
12 without interest, to the claimant.

13 (10) If an enrolled heating fuel provider does not issue a
14 payment or a negotiable check within 14 days as provided in sub-
15 section (5) or (6), beginning on the fifteenth day, the amount
16 due to the claimant is increased by adding interest computed on
17 the basis of the rate of interest prescribed for delayed refunds
18 of excess tax payments in section 30(3) of 1941 PA 122,
19 MCL 205.30. The enrolled heating fuel provider shall pay the
20 interest and shall not bill the interest to or be reimbursed for
21 the interest by the department.

22 (11) Only the renter or lessee shall claim a credit on prop-
23 erty that is rented or leased as a homestead. Only 1 credit may
24 be claimed for a household. The credit under this section is in
25 addition to other credits to which the claimant is entitled under
26 this act. A person who is a full-time student at a school,
27 community college, or college or university and who is claimed as

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1 a dependent by another person is not eligible for the credit
2 provided by this section. A claimant who shares a homestead with
3 other eligible claimants shall prorate the credit by the number
4 of claimants sharing the homestead.

5 (12) A claimant who is eligible for the credit provided by
6 this section shall be referred by the department to the appropri-
7 ate state agency for determination of eligibility for home weath-
8 erization assistance and shall accept weatherization assistance
9 if eligible and if assistance is available. A heating fuel pro-
10 vider that is required by the Michigan public service commission
11 to participate in the residential conservation services home
12 energy analysis program shall annually contact each claimant to
13 whom it provides heating fuel, and whose usage exceeds 200,000
14 cubic feet of natural gas or 18,000 kilowatt hours of electricity
15 annually, and shall offer to provide a home energy analysis at no
16 cost to the claimant. A heating fuel provider that is not
17 required to participate in the residential conservation services
18 program shall not be required to conduct a home energy analysis
19 for its customers.

20 (13) If an enrolled heating fuel provider is regulated by
21 the Michigan public service commission, the Michigan public serv-
22 ice commission may use an enforcement method authorized by law or
23 rule to enforce the requirements prescribed by this section on
24 the enrolled heating fuel provider. If an enrolled heating fuel
25 provider is not regulated by the Michigan public service commis-
26 sion, the family independence agency may use an enforcement
27 method authorized by law or rule to enforce the requirements

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1 prescribed by this section on the enrolled heating fuel
2 provider.

3 (14) The department shall mail a home heating credit return
4 to every person who received assistance through family indepen-
5 dence programs pursuant to the social welfare act, 1939 PA 280,
6 MCL 400.1 to 400.119b, during the tax year.

7 (15) The department shall complete a study by August 1 of
8 1985, and of each subsequent year, of the actual heating costs of
9 each claimant who received a credit from the department under
10 this section for the immediately preceding tax year.

11 (16) The department may promulgate rules necessary to admin-
12 ister this section pursuant to the administrative procedures act
13 of 1969, 1969 PA 306, MCL 24.201 to 24.328.

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

18 (18) For the 1995 tax year, the credit under this section is
19 allowed only if there has been a federal appropriation for fed-
20 eral fiscal year 1995-96 of the total amount of federal low
21 income home heating energy assistance block grant funds and if
22 the federal low income home heating energy assistance block grant
23 allotment for this state is at least \$25,400,000.00. If the fed-
24 eral low income home heating energy assistance block grant allot-
25 ment for this state is less than \$75,400,000.00, each individual
26 credit claimed under this section shall be reduced by multiplying
27 the credit amount by a fraction the numerator of which is

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1 Michigan's 1995-96 fiscal year federal low income home heating
2 energy assistance block grant allotment minus \$400,000.00 and the
3 denominator of which is \$75,000,000.00.

4 (19) For the 1996 tax year through the 2000 tax year, the
5 credit under this section is allowed only if there has been a
6 federal appropriation for the federal fiscal year beginning in
7 the tax year of the total amount of federal low income home
8 energy assistance program block grant funds and if the amount
9 available for the home heating credit is not less than
10 \$20,000,000.00. If the amount available for the home heating
11 credit is less than the full home heating credit amount, each
12 individual credit claimed under this section shall be reduced by
13 multiplying the credit amount by a fraction, the numerator of
14 which is the amount available for the home heating credit and the
15 denominator of which is the full home heating credit amount. As
16 used in this subsection, "amount available for the home heating
17 credit" means the sum of the federal low income home energy
18 assistance program block grant allotment for this state for the
19 federal fiscal year beginning in the tax year and the amount as
20 certified by the director of the family independence agency car-
21 ried forward from the immediately preceding fiscal year for the
22 low income home energy assistance program block grant minus the
23 sum of the amount certified by the director of the family inde-
24 pendence agency for administration of the low income home energy
25 assistance program block grant and the amount certified by the
26 director of the family independence agency for crisis assistance
27 programs. The amounts under this subsection that require

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1 certification by the director of the family independence agency
2 or by the state treasurer and the director of the department of
3 management and budget shall be certified on or before December 30
4 of the tax year for the 1996 tax year, and on or before November
5 1 of the tax year for the 1997 through 2000 tax years. As used
6 in this subsection, "full home heating credit amount" means
7 \$62,000,000.00 for the 1996 tax year and for the 1997 through
8 2000 tax years the amount certified by the state treasurer and
9 the director of the department of management and budget to be the
10 estimated amount of the credits that would have been provided
11 under this section for the tax year if no reduction as provided
12 in this subsection were made for that tax year.

13 (20) For the 2001 tax year and each tax year after the 2001
14 tax year, the credit under this section is allowed only if there
15 has been a federal appropriation for the federal fiscal year
16 beginning in the tax year of federal low income home energy
17 assistance program block grant funds of any amount. If the
18 amount of federal low income home energy assistance program block
19 grant funds available for the home heating credit is less than
20 the full home heating credit amount, each individual credit
21 claimed under this section shall be reduced by multiplying the
22 credit amount by a fraction, the numerator of which is the amount
23 available for the home heating credit and the denominator of
24 which is the full home heating credit amount. As used in this
25 subsection, "amount available for the home heating credit" means
26 the sum of the federal low income home energy assistance program
27 block grant allotment for this state for the federal fiscal year

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

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

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1 filed with the department on or before the September 30
2 immediately following the tax year for which the credit is
3 claimed.

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

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

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

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

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

22 (24) As used in this section:

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

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1 (b) "Enrolled heating fuel provider" means a heating fuel
2 provider that is enrolled with the family independence agency as
3 a heating fuel provider.

4 (c) "Heating fuel provider" means an individual or entity
5 that provides a claimant with heating fuel or electricity for
6 heating purposes.