

HOUSE BILL No. 5824

April 9, 2002, Introduced by Reps. Pestka, Raczkowski, Hansen, Zelenko, Lockwood, Rich Brown, Minore, Jacobs, Rivet, Thomas, McConico, Bob Brown, Plakas, Neumann, Quarles, Wojno, O'Neil, Switalski, Sheltroun, Bernero, Schauer, Spade, Gosselin, Woodward, Whitmer, Mans, Dennis, Anderson and Adamini and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending sections 30, 520, and 527a (MCL 206.30, 206.520, and 206.527a), section 30 as amended by 2000 PA 400, section 520 as amended by 1995 PA 245, 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

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

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 1995, the maximum amounts
24 allowed under this subparagraph shall be adjusted by the percen-
25 tage increase in the United States consumer price index for the
26 immediately preceding calendar year. The department shall
27 annualize the amounts provided in this subparagraph and

1 subparagraph (iv) as necessary for tax years that end after
2 September 30, 1994. As used in this subparagraph, "senior
3 citizen" means that term as defined in section 514.

4 (vi) The amount determined to be the section 22 amount eli-
5 gible for the elderly and the permanently and totally disabled
6 credit provided in section 22 of the internal revenue code.

7 (g) Adjustments resulting from the application of section
8 271.

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

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

13 (j) Deduct political contributions as described in section 4
14 of the Michigan campaign finance act, 1976 PA 388, MCL 169.204,
15 or ~~section 301 of title III of the federal election campaign act~~
16 ~~of 1971, Public Law 92-225,~~ 2 U.S.C. 431, not in excess of
17 \$50.00 per annum, or \$100.00 per annum for a joint return.

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

21 (l) Deduct the following payments made by the taxpayer in
22 the tax year:

23 (i) The amount of payment made under an advance tuition pay-
24 ment contract as provided in the Michigan education trust act,
25 1986 PA 316, MCL 390.1421 to 390.1444.

1 (ii) The amount of payment made under a contract with a
2 private sector investment manager that meets all of the following
3 criteria:

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

8 (B) The contract applies only for a state institution of
9 higher education as defined in the Michigan education trust act,
10 1986 PA 316, MCL 390.1421 to 390.1444, or a community or junior
11 college in Michigan.

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

15 (D) The contract is entered into after either of the
16 following:

17 (I) The purchaser has had his or her offer to enter into an
18 advance tuition payment contract rejected by the board of direc-
19 tors of the Michigan education trust, if the board determines
20 that the trust cannot accept an unlimited number of enrollees
21 upon an actuarially sound basis.

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

25 (m) If an advance tuition payment contract under the
26 Michigan education trust act, 1986 PA 316, MCL 390.1421 to
27 390.1444, or another contract for which the payment was

1 deductible under subdivision (l) is terminated and the qualified
2 beneficiary under that contract does not attend a university,
3 college, junior or community college, or other institution of
4 higher education, add the amount of a refund received by the tax-
5 payer as a result of that termination or the amount of the deduc-
6 tion taken under subdivision (l) for payment made under that con-
7 tract, whichever is less.

8 (n) Deduct from the taxable income of a purchaser the amount
9 included as income to the purchaser under the internal revenue
10 code after the advance tuition payment contract entered into
11 under the Michigan education trust act, 1986 PA 316, MCL 390.1421
12 to 390.1444, is terminated because the qualified beneficiary
13 attends an institution of postsecondary education other than
14 either a state institution of higher education or an institution
15 of postsecondary education located outside this state with which
16 a state institution of higher education has reciprocity.

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

20 (p) Deduct a net operating loss deduction for the taxable
21 year as determined under section 172 of the internal revenue code
22 subject to the modifications under section 172(b)(2) of the
23 internal revenue code and subject to the allocation and appor-
24 tionment provisions of chapter 3 of this act for the taxable year
25 in which the loss was incurred.

26 (q) For a tax year beginning after 1986, deduct, to the
27 extent included in adjusted gross income, benefits from a

1 discriminatory self-insurance medical expense reimbursement
2 plan.

3 (r) After September 30, 1994 and before the 1997 tax year, a
4 taxpayer who is a senior citizen may deduct, to the extent
5 included in adjusted gross income, interest and dividends
6 received in the tax year not to exceed \$1,000.00 for a single
7 return or \$2,000.00 for a joint return. However, for tax years
8 before the 1997 tax year, the deduction under this subdivision
9 shall not be taken if the taxpayer takes a deduction for retire-
10 ment benefits under subdivision (e) or a deduction under
11 subdivision (f)(i), (ii), (iv), or (v). For tax years after the
12 1996 tax year, a taxpayer who is a senior citizen may deduct to
13 the extent included in adjusted gross income, interest, divi-
14 dends, and capital gains received in the tax year not to exceed
15 \$3,500.00 for a single return and \$7,000.00 for a joint return
16 for the 1997 tax year, and \$7,500.00 for a single return and
17 \$15,000.00 for a joint return for tax years after the 1997 tax
18 year. For tax years after the 1996 tax year, the maximum amounts
19 allowed under this subdivision shall be reduced by the amount of
20 a deduction claimed for retirement benefits under subdivision (e)
21 or a deduction claimed under subdivision (f)(i), (ii), (iv), or
22 (v). For the 1995 tax year, for the 1996 tax year, and for each
23 tax year after the 1998 tax year, the maximum amounts allowed
24 under this subdivision shall be adjusted by the percentage
25 increase in the United States consumer price index for the imme-
26 diately preceding calendar year. THE RESULTING ADJUSTED MAXIMUM
27 AMOUNT SHALL BE ROUNDED TO THE NEAREST \$100.00 INCREMENT. The

1 department shall annualize the amounts provided in this
2 subdivision as necessary for tax years that end after
3 September 30, 1994. As used in this subdivision, "senior
4 citizen" means that term as defined in section 514.

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

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

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

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

16 (t) Add the amount paid by the state on behalf of the tax-
17 payer in the tax year to repay the outstanding principal on a
18 loan taken on which the taxpayer defaulted that was to fund an
19 advance tuition payment contract entered into under the Michigan
20 education trust act, 1986 PA 316, MCL 390.1421 to 390.1444, if
21 the cost of the advance tuition payment contract was deducted
22 under subdivision (l) and was financed with a Michigan education
23 trust secured loan.

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

26 (v) For tax years that begin on and after January 1, 1994,
27 deduct, to the extent included in adjusted gross income, any

1 amount, and any interest earned on that amount, received in the
2 tax year by a taxpayer who is a Holocaust victim as a result of a
3 settlement of claims against any entity or individual for any
4 recovered asset pursuant to the German act regulating unresolved
5 property claims, also known as Gesetz zur Regelung offener
6 Vermögensfragen, as a result of the settlement of the action
7 entitled In re: Holocaust victims assets, CV-96-4849, CV-96-6161,
8 and CV-97-0461 (E.D. NY), or as a result of any similar action if
9 the income and interest are not commingled in any way with and
10 are kept separate from all other funds and assets of the
11 taxpayer. As used in this subdivision:

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

15 (ii) "Recovered asset" means any asset of any type and any
16 interest earned on that asset including, but not limited to, bank
17 deposits, insurance proceeds, or artwork owned by a Holocaust
18 victim during the period from 1920 to 1945, withheld from that
19 Holocaust victim from and after 1945, and not recovered,
20 returned, or otherwise compensated to the Holocaust victim until
21 after 1993.

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

25 (i) The total of all contributions made on and after October
26 1, 2000 by the taxpayer in the tax year to education savings
27 accounts pursuant to the Michigan education savings program act,

1 2000 PA 161, MCL 390.1471 to 390.1486, not to exceed \$5,000.00
2 for a single return or \$10,000.00 for a joint return per tax
3 year. A deduction under this subparagraph is not allowed for
4 contributions to an education savings account in the tax year in
5 which the initial withdrawal is made from that account or any
6 subsequent year.

7 (ii) The amount under section 30f.

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

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

21 (z) For tax years that begin after December 31, 2000,
22 deduct, to the extent included in adjusted gross income, an
23 amount equal to the qualified charitable distribution made in the
24 tax year by a taxpayer to a charitable organization. The amount
25 allowed under this subdivision shall be equal to the amount
26 deductible by the taxpayer under section 170(c) of the internal
27 revenue code with respect to the qualified charitable

1 distribution in the tax year in which the taxpayer makes the
2 distribution to the qualified charitable organization, reduced by
3 both the amount of the deduction for retirement or pension bene-
4 fits claimed by the taxpayer under subdivision (f)(i), (ii),
5 (iv), or (v) and by 2 times the total amount of credits claimed
6 under sections 260 and 261 for the tax year. As used in this
7 subdivision, "qualified charitable distribution" means a distri-
8 bution of assets to a qualified charitable organization by a tax-
9 payer not more than 60 days after the date on which the taxpayer
10 received the assets as a distribution from a retirement or pen-
11 sion plan described in subsection (8)(a). A distribution is to a
12 qualified charitable organization if the distribution is made in
13 any of the following circumstances:

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

18 (ii) To a charitable remainder annuity trust or a charitable
19 remainder unitrust as defined in section 664(d) of the internal
20 revenue code; to a pooled income fund as defined in section
21 642(c)(5) of the internal revenue code; or for the issuance of a
22 charitable gift annuity as defined in section 501(m)(5) of the
23 internal revenue code. A trust, fund, or annuity described in
24 this subparagraph is a qualified charitable organization only if
25 no person holds any interest in the trust, fund, or annuity other
26 than 1 or more of the following:

1 (A) The taxpayer who received the distribution from the
2 retirement or pension plan.

3 (B) The spouse of an individual described in
4 sub-subparagraph (A).

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

7 (2) The following personal exemptions multiplied by the
8 number of personal or dependency exemptions allowable on the
9 taxpayer's federal income tax return pursuant to the internal
10 revenue code shall be subtracted in the calculation that deter-
11 mines taxable income:

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

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

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

15 (d) For a tax year beginning after 1989 and before
16 1995..... \$ 2,100.00.

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

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

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

23 (a) For tax years beginning after 1989 and before 2000,
24 \$900.00 in each of the following circumstances:

25 (i) The taxpayer is a paraplegic, a quadriplegic, a hemiple-
26 gic, a person who is blind as defined in section 504, or a person

1 who is totally and permanently disabled as defined in section
2 522.

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

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

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

8 (b) For tax years beginning after 1999, \$1,800.00 for each
9 taxpayer and every dependent of the taxpayer who is 65 years of
10 age or older. When a dependent of a taxpayer files an annual
11 return under this act, the taxpayer or dependent of the taxpayer,
12 but not both, may claim the additional exemption allowed under
13 this subdivision. As used in this subdivision and subdivision
14 (c), "dependent" means that term as defined in section 30e.

15 (c) For tax years beginning after 1999, \$1,800.00 for each
16 taxpayer and every dependent of the taxpayer who is a deaf person
17 as defined in section 2 of the deaf persons' interpreters act,
18 1982 PA 204, MCL 393.502; a paraplegic, a quadriplegic, or a
19 hemiplegic; a person who is blind as defined in section 504; or a
20 person who is totally and permanently disabled as defined in sec-
21 tion 522. When a dependent of a taxpayer files an annual return
22 under this act, the taxpayer or dependent of the taxpayer, but
23 not both, may claim the additional exemption allowed under this
24 subdivision.

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

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

9 (5) A nonresident or a part-year resident is allowed that
10 proportion of an exemption or deduction allowed under subsection
11 (2), (3), or (4) that the taxpayer's portion of adjusted gross
12 income from Michigan sources bears to the taxpayer's total
13 adjusted gross income.

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

19 (7) For each tax year after the 1997 tax year, the personal
20 exemption allowed under subsection (2) shall be adjusted by
21 multiplying the exemption for the tax year beginning in 1997 by a
22 fraction, the numerator of which is the United States consumer
23 price index for the state fiscal year ending in the tax year
24 prior to the tax year for which the adjustment is being made and
25 the denominator of which is the United States consumer price
26 index for the 1995-96 state fiscal year. The resultant product
27 shall be rounded to the nearest \$100.00 increment. The personal

1 exemption for the tax year shall be determined by adding \$200.00
2 to that rounded amount. As used in this section, "United States
3 consumer price index" means the United States consumer price
4 index for all urban consumers as defined and reported by the
5 United States department of labor, bureau of labor statistics.
6 For each year after the 2000 tax year, the exemptions allowed
7 under subsection (3) shall be adjusted by multiplying the exemp-
8 tion amount under subsection (3) for the tax year beginning in
9 2000 by a fraction, the numerator of which is the United States
10 consumer price index for the state fiscal year ending the tax
11 year prior to the tax year for which the adjustment is being made
12 and the denominator of which is the United States consumer price
13 index for the 1998-1999 state fiscal year. The resultant product
14 shall be rounded to the nearest \$100.00 increment.

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

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

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

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

1 (iii) Employee annuities or tax-sheltered annuities
2 purchased under section 403(b) of the internal revenue code by
3 organizations exempt under section 501(c)(3) of the internal rev-
4 enue code, or by public school systems.

5 (iv) Distributions from a 401(k) plan attributable to
6 employee contributions mandated by the plan or attributable to
7 employer contributions.

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

10 (i) Plans of the United States, state governments other than
11 this state, and political subdivisions, agencies, or instrumen-
12 talities of this state.

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

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

18 (c) Retirement or pension benefits received by a surviving
19 spouse if those benefits qualified for a deduction prior to the
20 decedent's death. Benefits received by a surviving child are not
21 deductible.

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

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

1 (A) Deferred compensation plans under section 457 of the
2 internal revenue code.

3 (B) Distributions from plans under section 401(k) of the
4 internal revenue code other than plans described in
5 subdivision (a)(iv).

6 (C) Distributions from plans under section 403(b) of the
7 internal revenue code other than plans described in
8 subdivision (a)(iii).

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

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

14 Sec. 520. (1) Subject to the limitations and the defini-
15 tions in this chapter, a claimant may claim against the tax due
16 under this act for the tax year a credit for the property taxes
17 on the taxpayer's homestead deductible for federal income tax
18 purposes pursuant to section 164 of the internal revenue code, or
19 that would have been deductible if the claimant had not elected
20 the zero bracket amount or if the claimant had been subject to
21 the federal income tax. The property taxes used for the credit
22 computation shall not be greater than the amount levied for 1 tax
23 year.

24 (2) A person who rents or leases a homestead may claim a
25 similar credit computed under this section and section 522 based
26 upon 17% of the gross rent paid for tax years before the 1994 tax
27 year, or 20% of the gross rent paid for tax years after the 1993

1 tax year. A person who rents or leases a homestead subject to a
2 service charge in lieu of ad valorem taxes as provided by
3 section 15a of the state housing development authority act of
4 1966, ~~Act No. 346 of the Public Acts of 1966, being~~
5 ~~section 125.1415a of the Michigan Compiled Laws~~ 1966 PA 346,
6 MCL 125.1415A, may claim a similar credit computed under this
7 section and section 522 based upon 10% of the gross rent paid.

8 (3) If the credit claimed under this section and section 522
9 exceeds the tax liability for the tax year or if there is no tax
10 liability for the tax year, the amount of the claim not used as
11 an offset against the tax liability shall, after examination and
12 review, be approved for payment, without interest, to the
13 claimant. In determining the amount of the payment under this
14 subsection, withholdings and other credits shall be used first to
15 offset any tax liabilities.

16 (4) If the homestead is an integral part of a multipurpose
17 or multidwelling building that is federally aided housing or
18 state aided housing, a claimant who is a senior citizen entitled
19 to a payment under subsection (2) may assign the right to that
20 payment to a mortgagor if the mortgagor reduces the rent charged
21 and collected on the claimant's homestead in an amount equal to
22 the tax credit payment provided in this chapter. The assignment
23 of the claim is valid only if the Michigan state housing develop-
24 ment authority, by affidavit, verifies that the claimant's rent
25 has been so reduced.

26 (5) Only the renter or lessee shall claim a credit on
27 property that is rented or leased as a homestead.

1 (6) A person who discriminates in the charging or collection
2 of rent on a homestead by increasing the rent charged or col-
3 lected because the renter or lessee claims and receives a credit
4 or payment under this chapter is guilty of a misdemeanor.
5 Discrimination against a renter who claims and receives the
6 credit under this section and section 522 by a reduction of the
7 rent on the homestead of a person who does not claim and receive
8 the credit is a misdemeanor. If discriminatory rents are charged
9 or collected, each charge or collection of the higher or lower
10 payment is a separate offense. Each acceptance of a payment of
11 rent is a separate offense.

12 (7) A person who received aid to families with dependent
13 children, state family assistance, or state disability assistance
14 pursuant to the social welfare act, ~~Act No. 280 of the Public~~
15 ~~Acts of 1939, as amended, being sections 400.1 to 400.119b of the~~
16 ~~Michigan Compiled Laws~~ 1939 PA 280, MCL 400.1 TO 400.119B, in
17 the tax year for which the person is filing a return shall have a
18 credit that is authorized and computed under this section and
19 section 522 reduced by an amount equal to the product of the
20 claimant's credit multiplied by the quotient of the sum of the
21 claimant's aid to families with dependent children, state family
22 assistance, and state disability assistance for the tax year
23 divided by the claimant's household income. The reduction of
24 credit shall not exceed the sum of the aid to families with
25 dependent children, state family assistance, and state disability
26 assistance for the tax year. For the purposes of this
27 subsection, aid to families with dependent children does not

1 include child support payments that offset or reduce payments
2 made to the claimant.

3 (8) A credit under subsection (1) or (2) shall be reduced by
4 10% for each claimant whose household income exceeds \$73,650.00
5 and by an additional 10% for each increment of \$1,000.00 of
6 household income in excess of \$73,650.00. FOR TAX YEARS THAT
7 BEGIN AFTER DECEMBER 31, 2001, THE REDUCED CREDIT AMOUNT UNDER
8 THIS SUBSECTION SHALL BE ROUNDED TO THE NEAREST \$100.00
9 INCREMENT.

10 (9) If the credit authorized and calculated under this sec-
11 tion and section 522 and adjusted under subsection (7) or (8)
12 does not provide to a senior citizen who rents or leases a home-
13 stead that amount attributable to rent that constitutes more than
14 40% of the household income of the senior citizen, the senior
15 citizen may claim a credit based upon the amount of household
16 income attributable to rent as provided by this section.

17 (10) A senior citizen whose gross rent paid for the tax year
18 is more than the percentage of household income specified in sub-
19 section (9) for the respective tax year may claim a credit for
20 the amount of rent paid that constitutes more than the percentage
21 of the household income of the senior citizen specified in sub-
22 section (9) and that was not provided to the senior citizen by
23 the credit computed pursuant to this section and section 522 and
24 adjusted pursuant to subsection (7) or (8).

25 (11) The department may promulgate rules to implement sub-
26 sections (9) to (16) and may prescribe a table to allow a
27 claimant to determine the credit provided under this section and

1 section 522 in the instruction booklet that accompanies the
2 respective income tax or property tax credit forms used by
3 claimants.

4 (12) A senior citizen may claim the credit under subsections
5 (9) to (16) on the same form as the property tax credit permitted
6 by subsection (2). The department shall adjust the forms
7 accordingly.

8 (13) A senior citizen who moves to a different rented or
9 leased homestead shall determine, for 2 tax years after the move,
10 both his or her qualification to claim a credit under subsections
11 (9) to (16) and the amount of a credit under subsections (9) to
12 (16) on the basis of the annualized final monthly rental payment
13 at his or her previous homestead, if this annualized rental is
14 less than the senior citizen's actual annual rental payments.

15 (14) For a return of less than 12 months, the claim for a
16 credit under subsections (9) to (16) shall be reduced
17 proportionately.

18 (15) The Michigan state housing development authority shall
19 report on the effect of the credit provided by subsections (9) to
20 (16) on the price of rented and leased homesteads. If the
21 authority determines that the price of rented and leased home-
22 steads has increased as a result of the credit provided by sub-
23 sections (9) to (16), the authority shall make recommendations to
24 the legislature to remedy this situation. The report shall be
25 made to the chairpersons of the house and senate committees that
26 have primary responsibility for taxation legislation 2 years

1 after the credit provided by subsections (9) to (16) is in
2 effect.

3 (16) The total credit allowed by this section and section
4 522 shall not exceed \$1,200.00 per year.

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

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

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 as
 10 defined and determined annually by the United States office of
 11 management and budget is not denied a credit.

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

14 (i) Subtract 3.5% of the claimant's household income from
 15 the amount specified in subdivision (a) that corresponds with the
 16 number of exemptions claimed in the return filed under this act,
 17 except that the number of exemptions for purposes of this subdi-
 18 vision shall not exceed the actual number of persons living in
 19 the household plus the additional personal exemptions allowed
 20 under section 30, and any dependency exemptions for a person or
 21 persons living in the household under a custodial arrangement,
 22 even if the exemptions may not be claimed for other income tax
 23 purposes. For a claimant whose heating costs are included in his
 24 or her rent, multiply the result of the preceding calculation by
 25 50%.

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

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

20 (d) For the 1988 tax year for the purposes of subdivision
 21 (c), the total cost incurred by a claimant for heating fuel from
 22 a heating fuel provider shall not exceed \$1,190.00. For tax
 23 years after the 1988 tax year, the maximum cost incurred by a
 24 claimant for heating fuel during a tax year shall be adjusted by
 25 multiplying the maximum cost for the immediately preceding tax
 26 year by the percentage by which the average all urban Detroit

1 consumer price index for fuels and other utilities for the 12
2 months ending August 31 of the tax year for which the credit is
3 claimed exceeds that index's average for the 12 months ending on
4 August 31 of the previous tax year, but not more than 10%. That
5 product shall be added to the maximum cost of the immediately
6 preceding tax year and then rounded to the nearest whole dollar
7 FOR TAX YEARS THAT BEGIN BEFORE JANUARY 1, 2002 AND SHALL BE
8 ROUNDED TO THE NEAREST \$100.00 INCREMENT FOR TAX YEARS THAT BEGIN
9 AFTER DECEMBER 31, 2001. That dollar amount is the new maximum
10 cost for the current tax year. If the claimant received any
11 credits to his or her heating bill during the tax year, as pro-
12 vided for in subsection (6), the credits shall be treated as
13 costs incurred by the claimant.

14 (e) For tax years after the 1988 tax year, the maximum
15 income amounts specified in subdivision (c)(ii) shall be adjusted
16 by multiplying the respective maximum income amounts for the
17 immediately preceding tax year by the percentage by which the
18 average all urban Detroit consumer price index for all items for
19 the 12 months ending August 31 of the tax year for which the
20 credit is claimed exceeds that index's average for the 12 months
21 ending on August 31 of the immediately preceding tax year, but
22 not more than 10%. That product shall be added to the immedi-
23 ately preceding tax year's respective maximum income level and
24 then rounded to the nearest whole dollar FOR TAX YEARS THAT BEGIN
25 BEFORE JANUARY 1, 2002 AND SHALL BE ROUNDED TO THE NEAREST
26 \$100.00 INCREMENT FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31,

1 2001. That dollar amount is the new maximum income level for the
2 then current tax year.

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

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

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

1 time of filing, the family independence agency is making direct
2 vendor payments to an enrolled heating fuel provider, the depart-
3 ment shall send the energy draft directly to the claimant's
4 enrolled heating fuel provider, as identified by the claimant.
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 remits an energy draft to the
10 claimant's enrolled heating fuel provider, the amount of the
11 energy draft is greater than the total of outstanding bills
12 incurred by the claimant with the enrolled heating fuel provider,
13 the claimant, by checking the appropriate box to be included on
14 the energy draft, may request from the enrolled heating fuel pro-
15 vider a payment equal to the amount of the energy draft less the
16 amount of the outstanding bills. The enrolled heating fuel pro-
17 vider shall issue the payment within 14 days after the claimant's
18 request.

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

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

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

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

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

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

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

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

26 (13) If an enrolled heating fuel provider is regulated by
27 the Michigan public service commission, the Michigan public

1 service commission may use an enforcement method authorized by
2 law or rule to enforce the requirements prescribed by this sec-
3 tion on the enrolled heating fuel provider. If an enrolled heat-
4 ing fuel provider is not regulated by the Michigan public service
5 commission, the family independence agency may use an enforcement
6 method authorized by law or rule to enforce the requirements pre-
7 scribed by this section on the enrolled heating fuel provider.

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

12 (15) The department shall complete a study by August 1 of
13 1985, and of each subsequent year, of the actual heating costs of
14 each claimant who received a credit from the department under
15 this section for the immediately preceding tax year.

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

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

23 (18) For the 1995 tax year, the credit under this section is
24 allowed only if there has been a federal appropriation for fed-
25 eral fiscal year 1995-96 of the total amount of federal low
26 income home heating energy assistance block grant funds and if
27 the federal low income home heating energy assistance block grant

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

9 (19) For the 1996 tax year through the 2000 tax year, the
10 credit under this section is allowed only if there has been a
11 federal appropriation for the federal fiscal year beginning in
12 the tax year of the total amount of federal low income home
13 energy assistance program block grant funds and if the amount
14 available for the home heating credit is not less than
15 \$20,000,000.00. If the amount available for the home heating
16 credit is less than the full home heating credit amount, 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 the amount available for the home heating credit and the
20 denominator of which is the full home heating credit amount. As
21 used in this subsection, "amount available for the home heating
22 credit" means the sum of the federal low income home energy
23 assistance program block grant allotment for this state for the
24 federal fiscal year beginning in the tax year and the amount as
25 certified by the director of the family independence agency car-
26 ried forward from the immediately preceding fiscal year for the
27 low income home energy assistance program block grant minus the

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

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

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

26 (21) For tax years after the 1994 tax year, a claimant who
27 claims a credit under this section shall not report the credit

1 amount on the claimant's income tax return filed under this act
2 as an offset against the tax imposed by this act, but shall claim
3 the credit on a separate form prescribed by the department. For
4 tax years after the 1995 tax year, a credit claimed under this
5 section shall not be allowed unless the claim for the credit is
6 filed with the department on or before the September 30 immedi-
7 ately following the tax year for which the credit is claimed.

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

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

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

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

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

26 (24) As used in this section:

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

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

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