

SUBSTITUTE FOR  
HOUSE BILL NO. 5798

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

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (5) If ~~when~~ a claimant ~~remits~~ **received home heating**  
10 **assistance from the family independence agency, a governmental**  
11 **agency, or a nonprofit organization 12 months prior to remitting**  
12 an energy draft to the claimant's enrolled heating fuel provider  
13 ~~and~~ **and** the amount of the energy draft is greater than the total  
14 of outstanding bills incurred by the claimant with the enrolled  
15 heating fuel provider **as of the date that the energy draft was**  
16 **remitted to the enrolled heating fuel provider, the enrolled**  
17 **heating fuel provider shall first apply the full amount of the**  
18 **energy draft to the claimant's outstanding bills and then apply**  
19 **any remaining amount to subsequent bills of the claimant until**  
20 **the full amount of the energy draft is used up or the expiration**  
21 **of 9 months after the date on which the energy draft was first**  
22 **applied to cover the claimant's outstanding bills. If there is**  
23 **any remaining energy draft amount at the end of the 9-month**  
24 **period, or if before the end of the 9-month period the claimant**  
25 **is no longer a customer of the enrolled heating fuel provider,**  
26 **the heating fuel provider shall remit the remaining amount to the**  
27 **claimant in the form of a fully negotiable check within 14 days**

1 after the end of the 9-month period or 14 days after the  
2 termination of services, whichever occurs sooner. If the  
3 claimant did not receive home heating assistance from the family  
4 independence agency, a governmental agency, or a nonprofit  
5 organization 12 months prior to remitting an energy draft, the  
6 claimant, by checking the appropriate box to be included on the  
7 energy draft, may request from the enrolled heating fuel provider  
8 a payment equal to the amount of the energy draft less the amount  
9 of the outstanding bills. The enrolled heating fuel provider  
10 shall issue the payment within 14 days after the claimant's  
11 request. **For purposes of this subsection, home heating**  
12 **assistance does not include the credit allowed under this**  
13 **section.**

14 (6) If a claimant whose energy draft exceeds his or her  
15 outstanding bills does not request a payment from an enrolled  
16 heating fuel provider under subsection (5), an energy draft  
17 remitted to an enrolled heating fuel provider shall be applied  
18 upon receipt to the claimant's designated account. The energy  
19 draft may be used to cover outstanding bills that the claimant  
20 has 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

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  
3 termination of service, whichever is sooner.

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

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

25 (9) A claimant whose heating fuel is provided by a utility  
26 regulated by the Michigan public service commission is protected  
27 against the discontinuance of his or her heating fuel service



1 from the date of filing a claim for the credit under this section  
2 through the date of issuance of an energy draft and during a  
3 period beginning December 1 of the tax year for which the credit  
4 is claimed and ending March 31 of the following year if the  
5 claimant participates in the winter protection program set forth  
6 in ~~R 460.2162(2) to (6)~~ **R 460.2174** of the Michigan  
7 administrative code or if the utility accepts the claimant's  
8 energy draft. The acceptance of an energy draft by a utility is  
9 considered a request by the claimant for the winter protection  
10 program. The energy draft shall be coded by the department to  
11 denote claimants who are 65 years of age or older. If the  
12 claimant is a claimant whose heating cost is included in his or  
13 her rent payments, the amount of the claim not used as an offset  
14 against the state income tax, after examination and review, shall  
15 be approved for payment, without interest, to the claimant.

16 (10) If an enrolled heating fuel provider does not issue a  
17 payment or a negotiable check within 14 days **or as otherwise**  
18 provided in subsection (5) or (6), beginning on the fifteenth day  
19 **or the fifteenth day after the expiration of the 9-month period**  
20 **under subsection (5)**, the amount due to the claimant is increased  
21 by adding interest computed on the basis of the rate of interest  
22 prescribed for delayed refunds of excess tax payments in section  
23 30(3) of 1941 PA 122, MCL 205.30. The enrolled heating fuel  
24 provider shall pay the interest and shall not bill the interest  
25 to or be reimbursed for the interest by the department.

26 (11) Only the renter or lessee shall claim a credit on  
27 property that is rented or leased as a homestead. Only 1 credit

1 may be claimed for a household. The credit under this section is  
2 in addition to other credits to which the claimant is entitled  
3 under this act. A person who is a full-time student at a school,  
4 community college, or college or university and who is claimed as  
5 a dependent by another person is not eligible for the credit  
6 provided by this section. A claimant who shares a homestead with  
7 other eligible claimants shall prorate the credit by the number  
8 of claimants sharing the homestead.

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

24 (13) If an enrolled heating fuel provider is regulated by the  
25 Michigan public service commission, the Michigan public service  
26 commission may use an enforcement method authorized by law or  
27 rule to enforce the requirements prescribed by this section on

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

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

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

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

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

22 ~~(18) For the 1995 tax year, the credit under this section is~~  
23 ~~allowed only if there has been a federal appropriation for~~  
24 ~~federal fiscal year 1995-96 of the total amount of federal low~~  
25 ~~income home heating energy assistance block grant funds and if~~  
26 ~~the federal low income home heating energy assistance block grant~~  
27 ~~allotment for this state is at least \$25,400,000.00. If the~~

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

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

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

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

1 which is the full home heating credit amount. As used in this  
2 subsection, "amount available for the home heating credit" means  
3 the sum of the federal low income home energy assistance program  
4 block grant allotment for this state for the federal fiscal year  
5 beginning in the tax year and the amount as certified by the  
6 director of the family independence agency carried forward from  
7 the immediately preceding fiscal year for the low income home  
8 energy assistance program block grant minus the sum of the amount  
9 certified by the director of the family independence agency for  
10 administration of the low income home energy assistance program  
11 block grant, ~~and~~ the amount certified by the director of the  
12 family independence agency for crisis assistance programs, **and**  
13 **the amount certified by the director of the family independence**  
14 **agency for weatherization. Except as otherwise provided in this**  
15 **subsection, the amount used for weatherization each fiscal year**  
16 **shall not exceed \$9,000,000.00 less the amount used for**  
17 **weatherization from the emergency contingency funds received in**  
18 **the immediately preceding year. For the 2004-2005 state fiscal**  
19 **year only, the amount used for weatherization shall not exceed**  
20 **\$9,000,000.00 and shall not be reduced by the amount used for**  
21 **weatherization from the emergency contingency funds received in**  
22 **the immediately preceding year.** The amounts under this subsection  
23 that require certification by the director of the family  
24 independence agency or by the state treasurer and the director of  
25 the department of management and budget shall be certified on or  
26 before December 30 of the tax year for the 1996 tax year, and on  
27 or before November 1 of the tax year for the 1997 tax year and

1 each tax year after the 1997 tax year. As used in this  
2 subsection, "full home heating credit amount" means the amount  
3 certified by the state treasurer and the director of the  
4 department of management and budget to be the estimated amount of  
5 the credits that would have been provided under this section for  
6 the tax year if no reduction as provided in this subsection were  
7 made for that tax year.

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

18       **(20)** ~~-(22)-~~ The state treasurer shall notify all of the  
19 following each state fiscal year that the federal low income home  
20 energy assistance program block grant allotment for this state  
21 for that fiscal year is less than the full home heating credit  
22 amount:

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

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

27       (c) The senate and house of representatives committees on

1 energy and technology related issues.

2       **(21)** ~~—(23)—~~ Notwithstanding section 30a of 1941 PA 122, MCL  
3 205.30a, the credit allowed under this section is exempt from  
4 interception, execution, levy, attachment, garnishment, or other  
5 legal process to collect a debt. No portion of the credit  
6 allowed or any rights existing under this section shall be  
7 applied as an offset to any liability of the claimant under  
8 section 30a of 1941 PA 122, MCL 205.30a, or any arrearage or  
9 other debt of the claimant.

10       **(22)** ~~—(24)—~~ As used in this section:

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

14       (b) "Enrolled heating fuel provider" means a heating fuel  
15 provider that is enrolled with the family independence agency as  
16 a heating fuel provider.

17       (c) "Heating fuel provider" means an individual or entity  
18 that provides a claimant with heating fuel or electricity for  
19 heating purposes.

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