

HOUSE BILL No. 5577

January 29, 2002, Introduced by Reps. Whitmer, Neumann, Murphy, Kolb, McConico, Zelenko, Bernero, Bogardus, Jacobs, Minore, Plakas, Dennis, Gielegem, Anderson, Rich Brown, Frank, Lipsey and Basham and referred to the Committee on Tax Policy.

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 (19), (20), and (21), a
8 claimant may claim a credit for heating fuel costs for the
9 claimant's homestead in this state. An adult foster care home,
10 nursing home, home for the aged, or substance abuse center is not

1 a homestead for purposes of this section. The credit shall be
2 determined in the following manner:

3 (a) For the 1988 tax year through the 1994 tax year; subject
4 to subsection (18), for the 1995 tax year; and subject to
5 subsections (19), (20), and (21) for the 1996 tax year and each
6 tax year after the 1996 tax year, the following table shall be
7 used for the computation of a credit as computed under subdivi-
8 sion (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~~ THE amounts
15 in the table in subdivision (a) shall be adjusted each year as
16 necessary by the department so that a claimant with a household
17 income less than 110% of the federal poverty income standards as
18 defined and determined annually by the United States office of
19 management and budget is not denied a credit.

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

22 (i) Subtract 3.5% of the claimant's household income from
23 the 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

1 in the household plus the additional personal exemptions allowed
 2 under section 30, and any dependency exemptions for a person or
 3 persons living in the household under a custodial arrangement,
 4 even if the exemptions may not be claimed for other income tax
 5 purposes. For a claimant whose heating costs are included in his
 6 or her rent, multiply the result of the preceding calculation by
 7 50%.

8 (ii) Subject to subsection (2), for a claimant whose house-
 9 hold income does not exceed the maximum specified in the follow-
 10 ing table, as adjusted, that corresponds with the number of
 11 exemptions claimed in the return filed under this act, subtract
 12 11% of claimant's household income from the total cost incurred
 13 by a claimant for heating fuel from a heating fuel provider
 14 during the 12 consecutive monthly billing periods ending in
 15 October of the tax year, and multiply the resulting amount by
 16 70%:

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

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

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

1 and then rounded to the nearest whole dollar. That dollar amount
2 is the new maximum income level for the 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) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2001 AND
9 FOR PURPOSES OF THIS SECTION ONLY, HOUSEHOLD INCOME DOES NOT
10 INCLUDE ANY AMOUNT PAID IN A YEAR BY A TAXPAYER AS SUPPORT AS
11 THAT TERM IS DEFINED IN SECTION 2 OF THE SUPPORT AND PARENTING
12 TIME ENFORCEMENT ACT, 1982 PA 295, MCL 552.602.

13 (23) ~~(22)~~ The state treasurer shall notify all of the fol-
14 lowing each state fiscal year that the federal low income home
15 energy assistance program block grant allotment for this state
16 for that fiscal year is less than the full home heating credit
17 amount:

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

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

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

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

1 allowed or any rights existing under this section shall be
2 applied as an offset to any liability of the claimant under sec-
3 tion 30a of 1941 PA 122, MCL 205.30a, or any arrearage or other
4 debt of the claimant.

5 (25) ~~-(24)-~~ As used in this section:

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

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

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