

# HOUSE BILL No. 5556

January 18, 2006, Introduced by Reps. Angerer, Alma Smith, Dillon, Byrnes, Sheltroun, Lipsey, Wojno, Polidori, Miller, Anderson, Meisner, Gleason, McDowell, Espinoza, Bieda, Whitmer, Hopgood, Kathleen Law, Brown, Hood, Plakas, Sak, Donigan, Vagnozzi, Clack, Farrah, Zelenko, Clemente, Ball and Cheeks and referred to the Committee on Energy and Technology.

A bill to amend 1967 PA 281, entitled  
"Income tax act of 1967,"  
by amending section 527a (MCL 206.527a), as amended by 2004 PA  
335.

## 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 1996  
4 tax year and each tax year after the 1996 tax year and subject to  
5 subsections (18) and (19), a claimant may claim a credit for  
6 heating fuel costs for the claimant's homestead in this state. An  
7 adult foster care home, nursing home, home for the aged, or  
8 substance abuse center is not a homestead for purposes of this

1 section. The credit shall be determined in the following manner:

2 (a) For the 1988 tax year through the 1994 tax year and,  
 3 subject to subsections (18) and (19), for the 1996 tax year and  
 4 each tax year after the 1996 tax year, the following table shall  
 5 be used for the computation of a credit as computed under  
 6 subdivision (c):

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

10 (b) For tax years after the 1988 tax year, the amounts in  
 11 the table in subdivision (a) shall be adjusted each year as  
 12 necessary by the department so that a claimant with a household  
 13 income less than 110% **FOR YEARS THAT END BEFORE JANUARY 1, 2006**  
 14 **AND 125% FOR YEARS THAT BEGIN ON AND AFTER JANUARY 1, 2006** of the  
 15 federal poverty income standards as defined and determined  
 16 annually by the United States office of management and budget is  
 17 not denied a credit.

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

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

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

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

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

23 (d) For the 1988 tax year for the purposes of subdivision  
 24 (c), the total cost incurred by a claimant for heating fuel from  
 25 a heating fuel provider shall not exceed \$1,190.00. For tax years  
 26 after the 1988 tax year, the maximum cost incurred by a claimant  
 27 for heating fuel during a tax year shall be adjusted by

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

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

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

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

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

17 (4) The allowable amount of the credit under this section  
18 shall be remitted to the claimant, other than a claimant whose  
19 heating costs are included in his or her rent, in the form of an  
20 energy draft that states the name of the claimant and is issued  
21 by the department. For a claimant for whom, at the time of  
22 filing, the family independence agency has identified the  
23 enrolled heating fuel provider or is making direct vendor  
24 payments to an enrolled heating fuel provider, the department  
25 shall send the energy draft directly to the claimant's enrolled  
26 heating fuel provider, as identified by the claimant. If the  
27 department establishes a program or pilot program for the direct

1 payment of energy drafts to enrolled heating fuel providers,  
2 enrolled heating fuel providers may submit to the department, in  
3 a manner prescribed by the department, the names of their  
4 customers who are claimants. If a claimant whose name has been  
5 submitted meets the standards established by the department, the  
6 department shall send that claimant's energy draft directly to  
7 the claimant's enrolled heating fuel provider. If the enrolled  
8 heating fuel provider submits names of claimants who are not its  
9 customers and the energy drafts of any of those claimants are  
10 sent to the enrolled heating fuel provider, the enrolled heating  
11 fuel provider shall return the energy drafts or pay the value of  
12 the energy drafts to the department plus interest on the amount  
13 of the energy drafts at the rate calculated under section 23 for  
14 deficiencies in tax payments. Except as provided in subsection  
15 (5), after July 31, a refundable credit for a prior tax year may  
16 be paid in the form of a negotiable warrant. The energy draft  
17 shall be negotiable only through the claimant's enrolled heating  
18 fuel provider upon remittance by the claimant.

19 (5) If a claimant received home heating assistance from the  
20 family independence agency, a governmental agency, or a nonprofit  
21 organization 12 months prior to remitting an energy draft to the  
22 claimant's enrolled heating fuel provider and the amount of the  
23 energy draft is greater than the total of outstanding bills  
24 incurred by the claimant with the enrolled heating fuel provider  
25 as of the date that the energy draft was remitted to the enrolled  
26 heating fuel provider, the enrolled heating fuel provider shall  
27 first apply the full amount of the energy draft to the claimant's

1 outstanding bills and then apply any remaining amount to  
2 subsequent bills of the claimant until the full amount of the  
3 energy draft is used up or the expiration of 9 months after the  
4 date on which the energy draft was first applied to cover the  
5 claimant's outstanding bills. If there is any remaining energy  
6 draft amount at the end of the 9-month period, or if before the  
7 end of the 9-month period the claimant is no longer a customer of  
8 the enrolled heating fuel provider, the enrolled heating fuel  
9 provider shall remit the remaining amount to the claimant in the  
10 form of a fully negotiable check within 14 days after the end of  
11 the 9-month period or 14 days after the termination of services,  
12 whichever occurs sooner. If the claimant did not receive home  
13 heating assistance from the family independence agency, a  
14 governmental agency, or a nonprofit organization 12 months prior  
15 to remitting an energy draft, the claimant, by checking the  
16 appropriate box to be included on the energy draft or application  
17 for participation with an enrolled heating fuel provider, may  
18 request from the enrolled heating fuel provider a payment equal  
19 to the amount of the energy draft less the amount of the  
20 outstanding bills. The enrolled heating fuel provider shall issue  
21 the payment within 14 days after the claimant's request. For  
22 purposes of this subsection, home heating assistance does not  
23 include the credit allowed under this section.

24 (6) If a claimant whose energy draft exceeds his or her  
25 outstanding bills does not request a payment from an enrolled  
26 heating fuel provider under subsection (5), an energy draft  
27 remitted to an enrolled heating fuel provider shall be applied

1 upon receipt to the claimant's designated account. The energy  
2 draft may be used to cover outstanding bills that the claimant  
3 has incurred with the enrolled heating fuel provider and to cover  
4 subsequent heating costs until the full amount of the energy  
5 draft is used or until 1 year after the date on which the energy  
6 draft is first applied to the claimant's designated account. If a  
7 credit amount remains from this energy draft after the 1-year  
8 period, or if prior to the end of the 1-year period a claimant is  
9 no longer a customer of the enrolled heating fuel provider, the  
10 heating fuel provider shall remit the remaining unused portion to  
11 the claimant in the form of a fully negotiable check within 14  
12 days after the end of the 1-year period or within 14 days after  
13 termination of service, whichever is sooner.

14 (7) A claimant who is no longer a resident of this state,  
15 who is not a customer of an enrolled heating fuel provider, or  
16 whose heating fuel provider refuses to accept an energy draft  
17 shall return the energy draft to the department and request the  
18 issuance of a negotiable warrant. A claimant may return an energy  
19 draft to the department and request issuance of a negotiable  
20 warrant if the energy draft is impractical because the claimant  
21 has already purchased his or her energy supply for the year and  
22 does not have an outstanding obligation to an enrolled heating  
23 fuel provider. The department may honor that request if it agrees  
24 that the use of the energy draft is impractical. The department  
25 shall issue the warrant within 14 days after receiving the energy  
26 draft from the claimant.

27 (8) The enrolled heating fuel provider shall bill the



1 department for credit amounts that have been applied to claimant  
2 accounts pursuant to subsection (6), and the department shall pay  
3 the bills within 14 days of receipt. The billing shall be  
4 accompanied by the energy drafts for which reimbursement is  
5 claimed.

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

24 (10) If an enrolled heating fuel provider does not issue a  
25 payment or a negotiable check within 14 days or as otherwise  
26 provided in subsection (5) or (6), beginning on the fifteenth day  
27 or the fifteenth day after the expiration of the 9-month period

1 under subsection (5), the amount due to the claimant is increased  
2 by adding interest computed on the basis of the rate of interest  
3 prescribed for delayed refunds of excess tax payments in section  
4 30(3) of 1941 PA 122, MCL 205.30. The enrolled heating fuel  
5 provider shall pay the interest and shall not bill the interest  
6 to or be reimbursed for the interest by the department.

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

17 (12) A claimant who is eligible for the credit provided by  
18 this section shall be referred by the department to the  
19 appropriate state agency for determination of eligibility for  
20 home weatherization assistance and shall accept weatherization  
21 assistance if eligible and if assistance is available. A heating  
22 fuel provider that is required by the Michigan public service  
23 commission to participate in the residential conservation  
24 services home energy analysis program shall annually contact each  
25 claimant to whom it provides heating fuel, and whose usage  
26 exceeds 200,000 cubic feet of natural gas or 18,000 kilowatt  
27 hours of electricity annually, and shall offer to provide a home

1 energy analysis at no cost to the claimant. A heating fuel  
2 provider that is not required to participate in the residential  
3 conservation services program shall not be required to conduct a  
4 home energy analysis for its customers.

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

15 (14) The department shall mail a home heating credit return  
16 to every person who received assistance through family  
17 independence programs pursuant to the social welfare act, 1939 PA  
18 280, MCL 400.1 to 400.119b, during the tax year.

19 (15) The department shall complete a study by August 1 of  
20 1985, and of each subsequent year, of the actual heating costs of  
21 each claimant who received a credit from the department under  
22 this section for the immediately preceding tax year.

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

26 (17) The department shall provide a simplified procedure for  
27 claiming the credit under this section for claimants for whom, at

1 the time of filing, the family independence agency is making  
2 direct vendor payments to an enrolled heating fuel provider.

3 (18) For the 2001 tax year and each tax year after the 2001  
4 tax year, the credit under this section is allowed only if there  
5 has been a federal appropriation for the federal fiscal year  
6 beginning in the tax year of federal low income home energy  
7 assistance program block grant funds of any amount. If the amount  
8 of federal low income home energy assistance program block grant  
9 funds available for the home heating credit is less than the full  
10 home heating credit amount, each individual credit claimed under  
11 this section shall be reduced by multiplying the credit amount by  
12 a fraction, the numerator of which is the amount available for  
13 the home heating credit and the denominator of which is the full  
14 home heating credit amount. As used in this subsection, "amount  
15 available for the home heating credit" means the sum of the  
16 federal low income home energy assistance program block grant  
17 allotment for this state for the federal fiscal year beginning in  
18 the tax year and the amount as certified by the director of the  
19 family independence agency carried forward from the immediately  
20 preceding fiscal year for the low income home energy assistance  
21 program block grant minus the sum of the amount certified by the  
22 director of the family independence agency for administration of  
23 the low income home energy assistance program block grant, the  
24 amount certified by the director of the family independence  
25 agency for crisis assistance programs, and the amount certified  
26 by the director of the family independence agency for  
27 weatherization. Except as otherwise provided in this subsection,

1 the amount used for weatherization each fiscal year shall not  
2 exceed \$9,000,000.00 less the amount used for weatherization from  
3 the emergency contingency funds received in the immediately  
4 preceding year. For the 2004-2005 state fiscal year only, the  
5 amount used for weatherization shall not exceed \$9,000,000.00 and  
6 shall not be reduced by the amount used for weatherization from  
7 the emergency contingency funds received in the immediately  
8 preceding year. The amounts under this subsection that require  
9 certification by the director of the family independence agency  
10 or by the state treasurer and the director of the department of  
11 management and budget shall be certified on or before December 30  
12 of the tax year for the 1996 tax year, and on or before November  
13 1 of the tax year for the 1997 tax year and each tax year after  
14 the 1997 tax year. As used in this subsection, "full home heating  
15 credit amount" means the amount certified by the state treasurer  
16 and the director of the department of management and budget to be  
17 the estimated amount of the credits that would have been provided  
18 under this section for the tax year if no reduction as provided  
19 in this subsection were made for that tax year.

20 (19) For tax years after the 1994 tax year, a claimant who  
21 claims a credit under this section shall not report the credit  
22 amount on the claimant's income tax return filed under this act  
23 as an offset against the tax imposed by this act, but shall claim  
24 the credit on a separate form prescribed by the department. For  
25 tax years after the 1995 tax year, a credit claimed under this  
26 section shall not be allowed unless the claim for the credit is  
27 filed with the department on or before the September 30

1 immediately following the tax year for which the credit is  
2 claimed.

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

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

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

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

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

21 (22) The department shall meet with interested parties  
22 including enrolled heating fuel providers and advocacy groups to  
23 identify and implement methods of improving the processing of  
24 claims for the credit allowed under this section and payments  
25 attributable to those credits.

26 (23) As used in this section:

27 (a) "Claimant whose heating costs are included in his or her

1 rent" means a claimant whose rent includes the cost of heat at  
2 the time the claim for the credit under this section is filed.

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

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