

HOUSE BILL No. 5691

May 29, 2012, Introduced by Reps. Howze, Liss, Talabi, Irwin, Durhal, Stallworth, Stapleton, Rutledge, Santana, Jackson, Tlaib, Bledsoe, Stanley, Walsh, Gilbert, Kowall, Wayne Schmidt, Dillon, Hobbs, Ananich and Oakes 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 2011 PA
38.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 527a. (1) Subject to subsections (18) and (19), a
2 claimant may claim a credit for heating fuel costs for the
3 claimant's homestead in this state. An adult foster care home,
4 nursing home, home for the aged, or substance abuse center is not
5 a homestead for purposes of this section. The credit shall be
6 determined in the following manner:

7 (a) Subject to subsections (18) and (19), the following
8 table shall be used for the computation of a credit as computed
9 under subdivision (c):

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

4 (b) The amounts in the table in subdivision (a) shall be
5 adjusted each year as necessary by the department so that a
6 claimant with total household resources of less than 110% of the
7 federal poverty income standards as defined and determined
8 annually by the United States office of management and budget is
9 not denied a credit.

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

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

24 (ii) Subject to subsection (2), for a claimant whose total
25 household resources do not exceed the maximum specified in the
26 following table, as adjusted, that corresponds with the number of

1 exemptions claimed in the return filed under this part, subtract
 2 11% of claimant's total household resources from the total cost
 3 incurred by a claimant for heating fuel from a heating fuel
 4 provider during the 12 consecutive monthly billing periods ending
 5 in October of the tax year, and multiply the resulting amount by
 6 70%:

7	Exemptions	0 or 1	2	3	4	5	For each
8							exemption
9							over 5,
10							add
11							\$2,441.00
12							to the
13							maximum
14							total
15							household
16							resources
17	Maximum						
18	Total						
19	Household						
20	Resources	\$7,060	\$9,501	\$11,943	\$14,382	\$16,824	

21 (d) The maximum cost incurred by a claimant for heating fuel
 22 during a tax year shall be adjusted by multiplying the maximum
 23 cost for the immediately preceding tax year by the percentage by
 24 which the average all urban Detroit consumer price index for
 25 fuels and other utilities for the 12 months ending August 31 of
 26 the tax year for which the credit is claimed exceeds that index's
 27 average for the 12 months ending on August 31 of the previous tax
 28 year, but not more than 10%. That product shall be added to the

1 maximum cost of the immediately preceding tax year and then
2 rounded to the nearest whole dollar. That dollar amount is the
3 new maximum cost for the current tax year. If the claimant
4 received any credits to his or her heating bill during the tax
5 year, as provided for in subsection (6), the credits shall be
6 treated as costs incurred by the claimant.

7 (e) The maximum total household resources specified in
8 subdivision (c)(ii) shall be adjusted by multiplying the
9 respective maximum total household resources for the immediately
10 preceding tax year by the percentage by which the average all
11 urban Detroit consumer price index for all items for the 12
12 months ending August 31 of the tax year for which the credit is
13 claimed exceeds that index's average for the 12 months ending on
14 August 31 of the immediately preceding tax year, but not more
15 than 10%. That product shall be added to the immediately
16 preceding tax year's respective maximum total household resources
17 and then rounded to the nearest whole dollar. That dollar amount
18 is the new maximum level for total household resources for the
19 then current tax year.

20 (2) An enrolled heating fuel provider shall notify each of
21 its customers, not later than December 15 of each year, of the
22 availability, upon request, of the information necessary for
23 determining the credit under this section. For a claimant for
24 whom, at the time of filing, the department of human services is
25 making direct vendor payments to an enrolled heating fuel
26 provider, the enrolled heating fuel provider that accepts the
27 direct payments shall provide the information necessary to

1 determine the credit before February 1 of each year. If an
2 enrolled heating fuel provider refuses or fails to provide to a
3 customer the information required to determine the credit, or if
4 the claimant is not a customer of an enrolled heating fuel
5 provider, a claimant may determine the credit provided in
6 subsection (1)(c)(ii) based on his or her own records.

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

10 (4) The allowable amount of the credit under this section
11 shall be remitted to the claimant, other than a claimant whose
12 heating costs are included in his or her rent, in the form of an
13 energy draft that states the name of the claimant and is issued
14 by the department. For a claimant for whom, at the time of
15 filing, the department of human services has identified the
16 enrolled heating fuel provider or is making direct vendor
17 payments to an enrolled heating fuel provider, the department
18 shall send the energy draft directly to the claimant's enrolled
19 heating fuel provider, as identified by the claimant. If the
20 department establishes a program or pilot program for the direct
21 payment of energy drafts to enrolled heating fuel providers,
22 enrolled heating fuel providers may submit to the department, in
23 a manner prescribed by the department, the names of their
24 customers who are claimants. If a claimant whose name has been
25 submitted meets the standards established by the department, the
26 department shall send that claimant's energy draft directly to
27 the claimant's enrolled heating fuel provider. If the enrolled

1 heating fuel provider submits names of claimants who are not its
2 customers and the energy drafts of any of those claimants are
3 sent to the enrolled heating fuel provider, the enrolled heating
4 fuel provider shall return the energy drafts or pay the value of
5 the energy drafts to the department plus interest on the amount
6 of the energy drafts at the rate calculated under section 23 of
7 1941 PA 122, MCL 205.23, for deficiencies in tax payments. Except
8 as provided in subsection (5), after July 31, a refundable credit
9 for a prior tax year may be paid in the form of a negotiable
10 warrant. The energy draft shall be negotiable only through the
11 claimant's enrolled heating fuel provider upon remittance by the
12 claimant.

13 (5) If a claimant received home heating assistance from the
14 department of human services, a governmental agency, or a
15 nonprofit organization 12 months prior to remitting an energy
16 draft to the claimant's enrolled heating fuel provider and the
17 amount of the energy draft is greater than the total of
18 outstanding bills incurred by the claimant with the enrolled
19 heating fuel provider as of the date that the energy draft was
20 remitted to the enrolled heating fuel provider, the enrolled
21 heating fuel provider shall first apply the full amount of the
22 energy draft to the claimant's outstanding bills and then apply
23 any remaining amount to subsequent bills of the claimant until
24 the full amount of the energy draft is used up or the expiration
25 of 9 months after the date on which the energy draft was first
26 applied to cover the claimant's outstanding bills. If there is
27 any remaining energy draft amount at the end of the 9-month

1 period, or if before the end of the 9-month period the claimant
2 is no longer a customer of the enrolled heating fuel provider,
3 the enrolled heating fuel provider shall remit the remaining
4 amount to the claimant in the form of a fully negotiable check
5 within 14 days after the end of the 9-month period or 14 days
6 after the termination of services, whichever occurs sooner. If
7 the claimant did not receive home heating assistance from the
8 department of human services, a governmental agency, or a
9 nonprofit organization 12 months prior to remitting an energy
10 draft, the claimant, by checking the appropriate box to be
11 included on the energy draft or application for participation
12 with an enrolled heating fuel provider, may request from the
13 enrolled heating fuel provider a payment equal to the amount of
14 the energy draft less the amount of the outstanding bills. The
15 enrolled heating fuel provider shall issue the payment within 14
16 days after the claimant's request. For purposes of this
17 subsection, home heating assistance does not include the credit
18 allowed under this section.

19 (6) If a claimant whose energy draft exceeds his or her
20 outstanding bills does not request a payment from an enrolled
21 heating fuel provider under subsection (5), an energy draft
22 remitted to an enrolled heating fuel provider shall be applied
23 upon receipt to the claimant's designated account. The energy
24 draft may be used to cover outstanding bills that the claimant
25 has 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 a
2 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 enrolled heating fuel provider, the
5 heating fuel provider shall remit the remaining unused portion to
6 the claimant in the form of a fully negotiable check within 14
7 days after the end of the 1-year period or within 14 days after
8 termination 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 energy
14 draft to the department and request issuance of a negotiable
15 warrant if the energy draft is impractical because the claimant
16 has already purchased his or her energy supply for the year and
17 does not have an outstanding obligation to an enrolled heating
18 fuel provider. The department may honor that request if it agrees
19 that the use of the energy draft is impractical. The department
20 shall issue the warrant within 14 days after receiving the energy
21 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
26 accompanied by the energy drafts for which reimbursement is
27 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 460.148 of the Michigan administrative code or if the
10 utility accepts the claimant's energy draft. The acceptance of an
11 energy draft by a utility is considered a request by the claimant
12 for the winter protection program. The energy draft shall be
13 coded by the department to denote claimants who are 65 years of
14 age or older. If the claimant is a claimant whose heating cost is
15 included in his or her rent payments, the amount of the claim not
16 used as an offset against the state income tax, after examination
17 and review, shall be approved for payment, without interest, to
18 the claimant.

19 (10) If an enrolled heating fuel provider does not issue a
20 payment or a negotiable check within 14 days or as otherwise
21 provided in subsection (5) or (6), beginning on the fifteenth day
22 or the fifteenth day after the expiration of the 9-month period
23 under subsection (5), the amount due to the claimant is increased
24 by adding interest computed on the basis of the rate of interest
25 prescribed for delayed refunds of excess tax payments in section
26 30(3) of 1941 PA 122, MCL 205.30. The enrolled heating fuel
27 provider shall pay the interest and shall not bill the interest

1 to or be reimbursed for the interest by the department.

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

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

27 (13) If an enrolled heating fuel provider is regulated by

1 the Michigan public service commission, the Michigan public
2 service commission may use an enforcement method authorized by
3 law or rule to enforce the requirements prescribed by this
4 section on the enrolled heating fuel provider. If an enrolled
5 heating fuel provider is not regulated by the Michigan public
6 service commission, the department of human services may use an
7 enforcement method authorized by law or rule to enforce the
8 requirements prescribed by this section on the enrolled heating
9 fuel provider.

10 (14) The department shall mail a home heating credit return
11 to every person who received assistance through the department of
12 human services pursuant to the social welfare act, 1939 PA 280,
13 MCL 400.1 to 400.119b, during the tax year. **THE DEPARTMENT SHALL**
14 **MAIL A HOME HEATING CREDIT CONTINUATION AFFIDAVIT TO EVERY PERSON**
15 **WHO RECEIVED THE HOME HEATING CREDIT EXEMPTION UNDER THIS SECTION**
16 **IN THE IMMEDIATELY PRECEDING TAX YEAR. THE HOME HEATING CREDIT**
17 **AFFIDAVIT SHALL BE IN A FORM PRESCRIBED BY THE DEPARTMENT.**

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

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

25 (17) The department shall provide a simplified procedure for
26 claiming the credit under this section for claimants for whom, at
27 the time of filing, the department of human services is making

1 direct vendor payments to an enrolled heating fuel provider. ANY
2 CONTRARY PROVISION OF THIS SECTION NOTWITHSTANDING, IF A CLAIMANT
3 SUBMITS A HOME HEATING CREDIT CONTINUATION AFFIDAVIT TO THE
4 DEPARTMENT ATTESTING THAT THE CLAIMANT'S INCOME HAS NOT INCREASED
5 ABOVE THE MAXIMUM INCOME LEVELS PRESCRIBED IN SUBSECTION
6 (1) (C) (ii), AS ADJUSTED UNDER SUBSECTION (1) (E), UPON WHICH THE
7 CLAIMANT'S CREDIT WAS BASED IN THE IMMEDIATELY PRECEDING TAX
8 YEAR, THE DEPARTMENT SHALL CONTINUE TO GRANT THE CREDIT AND MAKE
9 PAYMENTS UNDER THIS SECTION AND THE CLAIMANT SHALL NOT BE
10 REQUIRED TO FILE A HOME HEATING CREDIT RETURN UNDER THIS SECTION.

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

1 preceding fiscal year for the low income home energy assistance
2 program block grant minus the sum of the amount certified by the
3 director of the department of human services for administration
4 of the low income home energy assistance program block grant, the
5 amount certified by the director of the department of human
6 services for crisis assistance programs, and the amount certified
7 by the director of the department of human services for
8 weatherization. Except as otherwise provided in this subsection,
9 the amount used for weatherization each fiscal year shall not
10 exceed \$9,000,000.00 less the amount used for weatherization from
11 the emergency contingency funds received in the immediately
12 preceding year. For the 2004-2005 state fiscal year only, the
13 amount used for weatherization shall not exceed \$9,000,000.00 and
14 shall not be reduced by the amount used for weatherization from
15 the emergency contingency funds received in the immediately
16 preceding year. The amounts under this subsection that require
17 certification by the director of the department of human services
18 or by the state treasurer and the director of the department of
19 technology, management, and budget shall be certified on or
20 before December 30 of the tax year for the 1996 tax year, and on
21 or before November 1 of the tax year for the 1997 tax year and
22 each tax year after the 1997 tax year. As used in this
23 subsection, "full home heating credit amount" means the amount
24 certified by the state treasurer and the director of the
25 department of technology, management, and budget to be the
26 estimated amount of the credits that would have been provided
27 under this section for the tax year if no reduction as provided

1 in this subsection were made for that tax year.

2 (19) For tax years after the 1994 tax year, a claimant who
3 claims a credit under this section shall not report the credit
4 amount on the claimant's income tax return filed under this part
5 as an offset against the tax imposed by this part, but shall
6 claim the credit on a separate form prescribed by the department.
7 For tax years after the 1995 tax year, a credit claimed under
8 this section shall not be allowed unless the claim for the credit
9 is filed with the department on or before the September 30
10 immediately following the tax year for which the credit is
11 claimed.

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

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

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

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

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

1 PA 122, MCL 205.30a, or any arrearage or other debt of the
2 claimant.

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

8 (23) As used in this section:

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

12 (b) "Enrolled heating fuel provider" means a heating fuel
13 provider that is enrolled with the department of human services
14 as a heating fuel provider.

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