

HOUSE BILL No. 5689

February 16, 2006, Introduced by Reps. Casperson, Nofs, Stahl, Schuitmaker, LaJoy, Stewart, David Law, Accavitti, Moolenaar, Wenke, Jones, Green, Moore, Marleau, Booher, Hunter, Huizenga, Mayes, Farrah, Steil, Dillon, Caswell, Palsrok, McDowell, Farhat, Kahn, Proos, Clemente, Polidori, Wojno, Hune, Hildenbrand, Gaffney, Walker, Nitz, Alma Smith, Brandenburg, Rocca, Pearce, Emmons, Vander Veen, Ball, Caul, Newell, Gosselin, Sheen, Taub, Shaffer and Pastor 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% of the federal poverty income standards **FOR**
 14 **TAX YEARS THAT BEGIN BEFORE JANUARY 1, 2006, 125% OF THE FEDERAL**
 15 **POVERTY INCOME STANDARDS FOR TAX YEARS THAT BEGIN ON AND AFTER**
 16 **JANUARY 1, 2006 AND BEFORE JANUARY 1, 2007, AND THE PERCENTAGE**
 17 **UNDER SECTION 527B FOR TAX YEARS THAT BEGIN ON AND AFTER JANUARY**
 18 **1, 2007** as defined and determined annually by the United States
 19 office of 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 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

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
 9 household income does not exceed the maximum specified in the
 10 following 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 exemption over 5, add \$2,441.00 to the maximum income
18						
19 Maximum Income	\$7,060	\$9,501	\$11,943	\$14,382	\$16,824	

20 (d) For the 1988 tax year for the purposes of subdivision
 21 (c), the total cost incurred by a claimant for heating fuel from
 22 a heating fuel provider shall not exceed \$1,190.00. For tax years
 23 after the 1988 tax year, the maximum cost incurred by a claimant
 24 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~~ **DEPARTMENT OF HUMAN SERVICES** is
5 making direct vendor payments to an enrolled heating fuel
6 provider, the enrolled heating fuel provider that accepts the
7 direct payments shall provide the information necessary to
8 determine the credit before February 1 of each year. If an
9 enrolled heating fuel provider refuses or fails to provide to a
10 customer the information required to determine the credit, or if
11 the claimant is not a customer of an enrolled heating fuel
12 provider, a claimant may determine the credit provided in
13 subsection (1)(c)(ii) based on his or her own 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~~ **DEPARTMENT OF HUMAN**
23 **SERVICES** has identified the enrolled heating fuel provider or is
24 making direct vendor payments to an enrolled heating fuel
25 provider, the department shall send the energy draft directly to
26 the claimant's enrolled heating fuel provider, as identified by
27 the claimant. If the department establishes a program or pilot

1 program for the direct payment of energy drafts to enrolled
2 heating fuel providers, enrolled heating fuel providers may
3 submit to the department, in a manner prescribed by the
4 department, the names of their customers who are claimants. If a
5 claimant whose name has been submitted meets the standards
6 established by the department, the department shall send that
7 claimant's energy draft directly to the claimant's enrolled
8 heating fuel provider. If the enrolled heating fuel provider
9 submits names of claimants who are not its customers and the
10 energy drafts of any of those claimants are sent to the enrolled
11 heating fuel provider, the enrolled heating fuel provider shall
12 return the energy drafts or pay the value of the energy drafts to
13 the department plus interest on the amount of the energy drafts
14 at the rate calculated under section 23 **OF 1941 PA 122, MCL**
15 **205.23**, for deficiencies in tax payments. Except as provided in
16 subsection (5), after July 31, a refundable credit for a prior
17 tax year may be paid in the form of a negotiable warrant. The
18 energy draft shall be negotiable only through the claimant's
19 enrolled heating fuel provider upon remittance by the claimant.

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

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

27 (6) If a claimant whose energy draft exceeds his or her

1 outstanding bills does not request a payment from an enrolled
2 heating fuel provider under subsection (5), an energy draft
3 remitted to an enrolled heating fuel provider shall be applied
4 upon receipt to the claimant's designated account. The energy
5 draft may be used to cover outstanding bills that the claimant
6 has incurred with the enrolled heating fuel provider and to cover
7 subsequent heating costs until the full amount of the energy
8 draft is used or until 1 year after the date on which the energy
9 draft is first applied to the claimant's designated account. If a
10 credit amount remains from this energy draft after the 1-year
11 period, or if prior to the end of the 1-year period a claimant is
12 no longer a customer of the enrolled heating fuel provider, the
13 heating fuel provider shall remit the remaining unused portion to
14 the claimant in the form of a fully negotiable check within 14
15 days after the end of the 1-year period or within 14 days after
16 termination of service, whichever is sooner.

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

1 shall issue the warrant within 14 days after receiving the energy
2 draft from the claimant.

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

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

27 (10) If an enrolled heating fuel provider does not issue a

1 payment or a negotiable check within 14 days or as otherwise
2 provided in subsection (5) or (6), beginning on the fifteenth day
3 or the fifteenth day after the expiration of the 9-month period
4 under subsection (5), the amount due to the claimant is increased
5 by adding interest computed on the basis of the rate of interest
6 prescribed for delayed refunds of excess tax payments in section
7 30(3) of 1941 PA 122, MCL 205.30. The enrolled heating fuel
8 provider shall pay the interest and shall not bill the interest
9 to or be reimbursed for the interest by the department.

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

20 (12) A claimant who is eligible for the credit provided by
21 this section shall be referred by the department to the
22 appropriate state agency for determination of eligibility for
23 home weatherization assistance and shall accept weatherization
24 assistance if eligible and if assistance is available. A heating
25 fuel provider that is required by the Michigan public service
26 commission to participate in the residential conservation
27 services home energy analysis program shall annually contact each

1 claimant to whom it provides heating fuel, and whose usage
2 exceeds 200,000 cubic feet of natural gas or 18,000 kilowatt
3 hours of electricity annually, and shall offer to provide a home
4 energy analysis at no cost to the claimant. A heating fuel
5 provider that is not required to participate in the residential
6 conservation services program shall not be required to conduct a
7 home energy analysis for its customers.

8 (13) If an enrolled heating fuel provider is regulated by
9 the Michigan public service commission, the Michigan public
10 service commission may use an enforcement method authorized by
11 law or rule to enforce the requirements prescribed by this
12 section on the enrolled heating fuel provider. If an enrolled
13 heating fuel provider is not regulated by the Michigan public
14 service commission, the ~~family independence agency~~ **DEPARTMENT**
15 **OF HUMAN SERVICES** may use an enforcement method authorized by law
16 or rule to enforce the requirements prescribed by this section on
17 the enrolled heating fuel provider.

18 (14) The department shall mail a home heating credit return
19 to every person who received assistance through ~~family~~
20 ~~independence programs~~ **THE DEPARTMENT OF HUMAN SERVICES** pursuant
21 to the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b,
22 during the tax year.

23 (15) The department shall complete a study by August 1 of
24 1985, and of each subsequent year, of the actual heating costs of
25 each claimant who received a credit from the department under
26 this section for the immediately preceding tax year.

27 (16) The department may promulgate rules necessary to

1 administer this section pursuant to the administrative procedures
2 act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

3 (17) The department shall provide a simplified procedure for
4 claiming the credit under this section for claimants for whom, at
5 the time of filing, the ~~family independence agency~~ **DEPARTMENT**
6 **OF HUMAN SERVICES** is making direct vendor payments to an enrolled
7 heating fuel provider.

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

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

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

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

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

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

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

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

1 claimant.

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

7 (23) As used in this section:

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

11 (b) "Enrolled heating fuel provider" means a heating fuel
12 provider that is enrolled with the ~~family independence agency~~
13 **DEPARTMENT OF HUMAN SERVICES** as a heating fuel provider.

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

17 Enacting section 1. This amendatory act does not take effect
18 unless Senate Bill No.____ or House Bill No. 5690(request no.
19 05815'06) of the 93rd Legislature is enacted into law.