

HOUSE BILL No. 5235

October 9, 1991, Introduced by Reps. Ostling, Johnson and Gilmer
and referred to the Committee on Taxation.

A bill to amend section 527a of Act No. 281 of the Public Acts of 1967, entitled
"Income tax act of 1967,"
as amended by Act No. 75 of the Public Acts of 1989, being section 206.527a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 527a of Act No. 281 of the Public Acts
2 of 1967, as amended by Act No. 75 of the Public Acts of 1989,
3 being section 206.527a of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 527a. (1) For tax years 1985 through ~~1991~~ 1992, a
6 claimant may claim a credit against the state income tax for
7 heating fuel costs for the claimant's homestead in this state.
8 An adult foster care home, nursing home, home for the aged, or
9 substance abuse center shall not be considered a homestead for

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

3 (a) For the 1988 tax year through the ~~+99+~~ 1992 tax year,
4 the following table shall be used for the computation of a credit
5 as computed under subdivision (c):

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

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

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

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

1 even if the exemptions may not be claimed for other income tax
 2 purposes. FOR A CLAIMANT WHOSE HEATING COSTS ARE INCLUDED IN HIS
 3 OR HER RENT, MULTIPLY THE RESULT OF THE PRECEDING CALCULATION BY
 4 50%.

5 (ii) Subject to subdivision ~~(h)~~ (G), for a claimant whose
 6 household income does not exceed the maximum specified in the
 7 following table, as adjusted, that corresponds with the number of
 8 exemptions claimed in the return filed under this act, subtract
 9 ~~11%~~ 14% of claimant's household income from the total cost
 10 incurred by a claimant for heating fuel from a heating fuel pro-
 11 vider during the 12 consecutive monthly billing periods ending in
 12 October of the tax year, and multiply the resulting amount by
 13 ~~70%~~ 30%:

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

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

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

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

26 ~~(f) As used in this section:~~

1 ~~(i) "Heating fuel provider" means an individual or entity~~
2 ~~that provides a claimant with heating fuel or electricity for~~
3 ~~heating purposes.~~

4 ~~(ii) "Enrolled heating fuel provider" means a heating fuel~~
5 ~~provider that is enrolled with the department of social services~~
6 ~~as a heating fuel provider.~~

7 (F) ~~(g)~~ An enrolled heating fuel provider shall notify
8 each of its customers, not later than December 15 of each year,
9 of the availability, upon request, of the information necessary
10 for determining the credit under this section.

11 (G) ~~(h)~~ If an enrolled heating fuel provider refuses or
12 fails to provide to a customer the information required for
13 determining the credit, or if the claimant is not a customer of
14 an enrolled heating fuel provider, a claimant may determine the
15 credit provided in subdivision (c)(ii) based on his or her own
16 records.

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

20 (3) If the allowable amount of the credit under this section
21 exceeds the state income tax otherwise due for the tax year, the
22 amount of credit not used as an offset against the state income
23 tax shall be remitted to the claimant, other than a claimant
24 whose heating costs are included in his or her rent, in the form
25 of an appropriate energy draft that states the name of the claim-
26 ant and is issued by the department. After July 31, a refundable
27 credit for a prior tax year may be paid in the form of a

1 negotiable warrant. The energy draft shall be negotiable only
2 through an enrolled heating fuel provider upon remittance by the
3 claimant to the claimant's enrolled heating fuel provider. If,
4 when a claimant remits an energy draft to an enrolled heating
5 fuel provider, the amount of the energy draft is greater than the
6 total of outstanding bills incurred by the claimant with the
7 enrolled heating fuel provider, the claimant, by checking the
8 appropriate box to be included on the energy draft, may request
9 from the enrolled heating fuel provider a payment in an amount
10 equal to the amount of the energy draft less the amount of the
11 outstanding bills. The enrolled heating fuel provider shall
12 issue the payment within 14 days after the claimant's request.

13 (4) If a claimant whose energy draft exceeds his or her out-
14 standing bills does not request a payment from an enrolled heat-
15 ing fuel provider under subsection (3), an energy draft remitted
16 to an enrolled heating fuel provider shall be applied upon
17 receipt to the claimant's designated account. The energy draft
18 may be used to cover outstanding bills that the claimant has
19 incurred with the enrolled heating fuel provider and to cover
20 subsequent heating costs until the full amount of the energy
21 draft is used or until 1 year after the date on which the energy
22 draft is first applied to the claimant's designated account. If
23 a credit amount remains from this energy draft after the 1-year
24 period, or if prior to the end of the 1-year period a claimant is
25 no longer a customer of the heating fuel provider, the enrolled
26 heating fuel provider shall remit the remaining unused portion to
27 the claimant in the form of a fully negotiable check within 14

1 days after the end of the 1-year period or within 14 days after
2 termination of service, whichever is sooner. A claimant who is
3 no longer a resident of the state of Michigan, a claimant who is
4 not a customer of an enrolled heating fuel provider, or a claim-
5 ant whose heating fuel provider refuses to accept an energy draft
6 shall return the energy draft to the department and request the
7 issuance of a negotiable warrant. A claimant may return an
8 energy draft to the department and request issuance of a negotia-
9 ble warrant if the energy draft is impractical because the claim-
10 ant has already purchased his or her energy supply for the year
11 and does not have an outstanding obligation to an enrolled heat-
12 ing fuel provider. The department may honor that request if it
13 agrees that the use of the energy draft is impractical. The
14 department shall issue the warrant within 14 days of receiving
15 the energy draft from the claimant. The enrolled heating fuel
16 provider shall bill the department for credit amounts that have
17 been applied to claimant accounts pursuant to this subsection,
18 and the department shall pay the bills within 14 days of
19 receipt. The billing shall be accompanied by the energy drafts
20 for which reimbursement is claimed. A claimant whose heating
21 fuel is provided by a utility regulated by the Michigan public
22 service commission shall be protected against the discontinuance
23 of his or her heating fuel service during a period beginning
24 December 1 of the tax year for which the credit is claimed and
25 ending March 31 of the following year if the claimant partici-
26 pates in the winter protection program set forth in R 460.2162(2)
27 to (6) of the Michigan administrative code. The acceptance of an

1 energy draft by a utility shall be considered an application by
2 the claimant for the winter protection program. The energy draft
3 shall be coded by the department to denote claimants who are
4 ~~age~~ 65 YEARS OF AGE or older. If the claimant is a ~~renter~~
5 CLAIMANT whose heating cost is included in his or her rent pay-
6 ments, the amount of the claim not used as an offset against the
7 state income tax, after examination and review, shall be approved
8 for payment, without interest, to the claimant.

9 (5) If an enrolled heating fuel provider does not issue a
10 payment or a negotiable check within 14 days as provided in sub-
11 section (3) or (4), beginning on the fifteenth day, the amount
12 due to the claimant is increased by adding interest computed on
13 the basis of the rate of interest prescribed for delayed refunds
14 of excess tax payments in section 30(3) of Act No. 122 of the
15 Public Acts of 1941, being section 205.30 of the Michigan
16 Compiled Laws. The enrolled heating fuel provider shall pay the
17 interest and shall not bill the interest to or be reimbursed for
18 the interest by the department.

19 (6) Only the renter or lessee shall claim a credit on prop-
20 erty that is rented or leased as a homestead.

21 (7) Only 1 credit may be claimed for a household.

22 (8) The credit under this section is in addition to other
23 credits to which the claimant is entitled under this act.

24 (9) A person who is a full-time student at a school, commu-
25 nity college, or college or university and who is claimed as a
26 dependent by another person ~~, or a person who is a current~~
27 ~~recipient of general assistance or aid to families with dependent~~

~~1 children from the department of social services pursuant to the~~
~~2 social welfare act, Act No. 280 of the Public Acts of 1939, as~~
~~3 amended, being sections 400.1 to 400.121 of the Michigan Compiled~~
~~4 Laws,~~ is not eligible for the credit provided by this section.
~~5 As used in this subsection, "current recipient" means a person~~
~~6 who receives either general assistance or aid to families with~~
~~7 dependent children during the entire qualifying period from~~
~~8 January 1 through April 15 in the year following the year for~~
~~9 which the claim is made.~~

10 (10) A claimant who shares a homestead with other eligible
11 claimants shall prorate the credit by the number of claimants
12 sharing the homestead.

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

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

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

14 (13) ~~(14)~~ The department may promulgate rules necessary to
15 administer this section pursuant to the administrative procedures
16 act of 1969, Act No. 306 of the Public Acts of 1969, as amended,
17 being sections 24.201 to 24.328 of the Michigan Compiled Laws.

18 (14) ~~(15)~~ The credit under this section shall not be
19 effective in a year unless the Michigan state plan for that year
20 required by section 2605 of the low-income home energy assistance
21 act of 1981, TITLE XXVI OF PUBLIC LAW 97-35, 42 U.S.C. 8624,
22 allocates the available federal low-income energy assistance pro-
23 gram block grant money, including the private-oil company over-
24 charge settlement money, to fund the credit allowed by this sec-
25 tion in not less than the same percentage as was actually used to
26 fund the credit in the prior fiscal year, unless the
27 appropriation committees of the house of representatives and

1 senate approve an alternative plan as recommended by the director
2 of the department of social services.

3 (15) AS USED IN THIS SECTION:

4 (A) "A CLAIMANT WHOSE HEATING COSTS ARE INCLUDED IN HIS OR
5 HER RENT" MEANS A CLAIMANT WHOSE RENT INCLUDES THE COST OF HEAT
6 AT THE TIME THE CLAIM FOR THE CREDIT UNDER THIS SECTION IS
7 FILED.

8 (B) "ENROLLED HEATING FUEL PROVIDER" MEANS A HEATING FUEL
9 PROVIDER THAT IS ENROLLED WITH THE DEPARTMENT OF SOCIAL SERVICES
10 AS A HEATING FUEL PROVIDER.

11 (C) "HEATING FUEL PROVIDER" MEANS AN INDIVIDUAL OR ENTITY
12 THAT PROVIDES A CLAIMANT WITH HEATING FUEL OR ELECTRICITY FOR
13 HEATING PURPOSES.

14 Section 2. This amendatory act shall be effective for the
15 1991 tax year and each tax year after 1991.