

Act No. 245
Public Acts of 1995
Approved by the Governor
December 25, 1995
Filed with the Secretary of State
December 27, 1995

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1995**

Introduced by Reps. Hill, Ryan, Perricone, Bush, Hammerstrom, Byl, Jellema, Bodem London, Rhead, Goschka, Llewellyn, Gustafson, Middleton, Oxender, McManus, Green, Whyman, Gnodtke, Alley, Dolan, Gernaat, Brackenridge, Bobier, McBryde, Johnson, Nye, Kaza, Voorhees, Kukuk, LeTarte, Gilmer, Lowe, Middaugh, DeLange, Cropsey, Dalman, Munsell and Sikkema
Reps. Baade, Bankes, Ciaramitaro, Crissman, DeMars, Dobb, Fitzgerald, Geiger, Horton, Jersevic, Law, Martinez, McNutt, Palamara, Randall, Rocca, Willard and Yokich named co-sponsors
Reps. Bullard, Jaye, Profit and Walberg named co-sponsors

ENROLLED HOUSE BILL No. 4994

AN ACT to amend sections 510, 512, 520, and 527a of Act No. 281 of the Public Acts of 1967, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts," section 510 as amended by Act No. 261 of the Public Acts of 1988, section 512 as amended by Act No. 254 of the Public Acts of 1987, section 520 as amended by Act No. 328 of the Public Acts of 1993, and section 527a as amended by Act No. 181 of the Public Acts of 1991, being sections 206.510, 206.512, 206.520, and 206.527a of the Michigan Compiled Laws; and to add section 252.

The People of the State of Michigan enact:

Section 1. Sections 510, 512, 520, and 527a of Act No. 281 of the Public Acts of 1967, section 510 as amended by Act No. 261 of the Public Acts of 1988, section 512 as amended by Act No. 254 of the Public Acts of 1987, section 520 as amended by Act No. 328 of the Public Acts of 1993, and section 527a as amended by Act No. 181 of the Public Acts of 1991, being sections 206.510, 206.512, 206.520, and 206.527a of the Michigan Compiled Laws, are amended and section 252 is added to read as follows:

Sec. 252. (1) For the 1995 tax year only, a taxpayer may claim a credit against the tax imposed under this act equal to 2.67% of the tax imposed on the taxpayer's taxable income attributable to the period of January 1, 1995 through September 30, 1995. The annualized credit percentage is 2% for taxpayers whose 1995 tax year is the 1995 calendar year. The department shall annualize the credit percentage as necessary for all other taxpayers.

(2) The credit allowed under this section shall be taken before any other credit under this act.

(3) The credit allowed under this section shall be known as "the Headlee amendment refund".

Sec. 510. (1) "Income" means the sum of federal adjusted gross income as defined in the internal revenue code plus all income specifically excluded or exempt from the computations of the federal adjusted gross income except that

beginning with the 1988 tax year, a deduction for a carryback or carryover of a net operating loss shall not exceed federal modified taxable income as defined in section 172(b)(2) of the internal revenue code. Also, a person who is enrolled in an accident or health insurance plan may deduct from income the amount that person paid in premiums in the tax year for that insurance plan for the person's family. Income does not include any of the following:

- (a) The first \$300.00 of gifts in cash or kind from nongovernmental sources.
 - (b) The first \$300.00 received from awards, prizes, lottery, bingo, or other gambling winnings.
 - (c) Surplus foods.
 - (d) Relief in kind supplied by a governmental agency.
 - (e) Payments or credits under this act.
 - (f) A governmental grant that has to be used by the claimant for rehabilitation of the claimant's homestead.
 - (g) Stipends received by a person 60 years of age or older who is acting as a foster grandparent under the foster grandparent program authorized pursuant to section 211 of part B of title II of the domestic volunteer service act of 1973, Public Law 93-113, 42 U.S.C. 5011, or who is acting as a senior companion pursuant to section 213 of part C of title II of the domestic volunteer service act of 1973, Public Law 93-113, 42 U.S.C. 5013.
 - (h) Amounts deducted from monthly social security or railroad retirement benefits for medicare premiums.
 - (i) Contributions by an employer to life, accident, or health insurance plans.
 - (j) Energy assistance grants and energy assistance tax credits.
- (2) "Owner" means a natural person who owns or is purchasing a homestead under a mortgage or land contract, who owns or is purchasing a dwelling situated on the leased lands of another, or who is a tenant-stockholder of a cooperative housing corporation.

Sec. 512. (1) "Paraplegic, hemiplegic, or quadriplegic" means an individual, or either 1 of 2 persons filing a joint tax return under this act, who is a paraplegic, hemiplegic, or quadriplegic at the end of the tax year.

(2) "Property taxes" means general ad valorem taxes due and payable for periods after December 31, 1972, levied on a homestead within this state including property tax administration fees, but does not include special assessments unless assessed in the entire city, village, or township, and based on state equalized valuation or taxation value, penalties, or interest.

(3) "Qualified person" means a claimant and any person, domiciled in Michigan, who can be claimed as a dependent under the internal revenue code and who does not file a claim under this act for the same tax year. The term does not include the additional exemptions allowed for age or blindness.

(4) "Renter" means a person who rents or leases a homestead.

Sec. 520. (1) Subject to the limitations and the definitions in this chapter, a claimant may claim against the tax due under this act for the tax year a credit for the property taxes on the taxpayer's homestead deductible for federal income tax purposes pursuant to section 164 of the internal revenue code, or that would have been deductible if the claimant had not elected the zero bracket amount or if the claimant had been subject to the federal income tax. The property taxes used for the credit computation shall not be greater than the amount levied for 1 tax year.

(2) A person who rents or leases a homestead may claim a similar credit computed under this section and section 522 based upon 17% of the gross rent paid for tax years before the 1994 tax year, or 20% of the gross rent paid for tax years after the 1993 tax year. A person who rents or leases a homestead subject to a service charge in lieu of ad valorem taxes as provided by section 15a of the state housing development authority act of 1966, Act No. 346 of the Public Acts of 1966, being section 125.1415a of the Michigan Compiled Laws, may claim a similar credit computed under this section and section 522 based upon 10% of the gross rent paid.

(3) If the credit claimed under this section and section 522 exceeds the tax liability for the tax year or if there is no tax liability for the tax year, the amount of the claim not used as an offset against the tax liability shall, after examination and review, be approved for payment, without interest, to the claimant. In determining the amount of the payment under this subsection, withholdings and other credits shall be used first to offset any tax liabilities.

(4) If the homestead is an integral part of a multipurpose or multidwelling building that is federally aided housing or state aided housing, a claimant who is a senior citizen entitled to a payment under subsection (2) may assign the right to that payment to a mortgagor if the mortgagor reduces the rent charged and collected on the claimant's homestead in an amount equal to the tax credit payment provided in this chapter. The assignment of the claim is valid only if the Michigan state housing development authority, by affidavit, verifies that the claimant's rent has been so reduced.

(5) Only the renter or lessee shall claim a credit on property that is rented or leased as a homestead.

(6) A person who discriminates in the charging or collection of rent on a homestead by increasing the rent charged or collected because the renter or lessee claims and receives a credit or payment under this chapter is guilty of a misdemeanor. Discrimination against a renter who claims and receives the credit under this section and section 522 by

a reduction of the rent on the homestead of a person who does not claim and receive the credit is a misdemeanor. If discriminatory rents are charged or collected, each charge or collection of the higher or lower payment is a separate offense. Each acceptance of a payment of rent is a separate offense.

(7) A person who received aid to families with dependent children, state family assistance, or state disability assistance pursuant to the social welfare act, Act No. 280 of the Public Acts of 1939, as amended, being sections 400.1 to 400.119b of the Michigan Compiled Laws, in the tax year for which the person is filing a return shall have a credit that is authorized and computed under this section and section 522 reduced by an amount equal to the product of the claimant's credit multiplied by the quotient of the sum of the claimant's aid to families with dependent children, state family assistance, and state disability assistance for the tax year divided by the claimant's household income. The reduction of credit shall not exceed the sum of the aid to families with dependent children, state family assistance, and state disability assistance for the tax year. For the purposes of this subsection, aid to families with dependent children does not include child support payments that offset or reduce payments made to the claimant.

(8) A credit under subsection (1) or (2) shall be reduced by 10% for each claimant whose household income exceeds \$73,650.00 and by an additional 10% for each increment of \$1,000.00 of household income in excess of \$73,650.00.

(9) If the credit authorized and calculated under this section and section 522 and adjusted under subsection (7) or (8) does not provide to a senior citizen who rents or leases a homestead that amount attributable to rent that constitutes more than 40% of the household income of the senior citizen, the senior citizen may claim a credit based upon the amount of household income attributable to rent as provided by this section.

(10) A senior citizen whose gross rent paid for the tax year is more than the percentage of household income specified in subsection (9) for the respective tax year may claim a credit for the amount of rent paid that constitutes more than the percentage of the household income of the senior citizen specified in subsection (9) and that was not provided to the senior citizen by the credit computed pursuant to this section and section 522 and adjusted pursuant to subsection (7) or (8).

(11) The department may promulgate rules to implement subsections (9) to (16) and may prescribe a table to allow a claimant to determine the credit provided under this section and section 522 in the instruction booklet that accompanies the respective income tax or property tax credit forms used by claimants.

(12) A senior citizen may claim the credit under subsections (9) to (16) on the same form as the property tax credit permitted by subsection (2). The department shall adjust the forms accordingly.

(13) A senior citizen who moves to a different rented or leased homestead shall determine, for 2 tax years after the move, both his or her qualification to claim a credit under subsections (9) to (16) and the amount of a credit under subsections (9) to (16) on the basis of the annualized final monthly rental payment at his or her previous homestead, if this annualized rental is less than the senior citizen's actual annual rental payments.

(14) For a return of less than 12 months, the claim for a credit under subsections (9) to (16) shall be reduced proportionately.

(15) The Michigan state housing development authority shall report on the effect of the credit provided by subsections (9) to (16) on the price of rented and leased homesteads. If the authority determines that the price of rented and leased homesteads has increased as a result of the credit provided by subsections (9) to (16), the authority shall make recommendations to the legislature to remedy this situation. The report shall be made to the chairpersons of the house and senate committees that have primary responsibility for taxation legislation 2 years after the credit provided by subsections (9) to (16) is in effect.

(16) The total credit allowed by this section and section 522 shall not exceed \$1,200.00 per year.

Sec. 527a. (1) For tax years 1985 through 1994, a claimant may claim a credit against the state income tax for heating fuel costs for the claimant's homestead in this state. For the 1995 tax year and subject to subsection (18), a claimant may claim a credit for heating fuel costs for the claimant's homestead in this state. An adult foster care home, nursing home, home for the aged, or substance abuse center is not a homestead for purposes of this section. The credit shall be determined in the following manner:

(a) For the 1988 tax year through the 1994 tax year and, subject to subsection (18), for the 1995 tax year, the following table shall be used for the computation of a credit as computed under subdivision (c):

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

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

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

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

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

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

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

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

(2) An enrolled heating fuel provider shall notify each of its customers, not later than December 15 of each year or, in 1995 only, 14 days after the effective date of subsection (18), whichever is later, of the availability, upon request, of the information necessary for determining the credit under this section. For a claimant for whom, at the time of filing, the department of social services is making direct vendor payments to an enrolled heating fuel provider, the enrolled heating fuel provider that accepts the direct payments shall mail the information necessary to determine the credit before February 1 of each year. If an enrolled heating fuel provider refuses or fails to provide to a customer the information required to determine the credit, or if the claimant is not a customer of an enrolled heating fuel provider, a claimant may determine the credit provided in subsection (1)(c)(ii) based on his or her own records.

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

(4) If the allowable amount of the credit under this section exceeds the state income tax otherwise due for the tax year, the amount of credit not used as an offset against the state income tax that is due shall be remitted to the claimant, other than a claimant whose heating costs are included in his or her rent, in the form of an energy draft that states the name of the claimant and is issued by the department. For a claimant for whom, at the time of filing, the department of social services is making direct vendor payments to an enrolled heating fuel provider, the department shall send the energy draft directly to the claimant's enrolled heating fuel provider, as identified by the claimant. After July 31, a refundable credit for a prior tax year may be paid in the form of a negotiable warrant. The energy draft shall be negotiable only through the claimant's enrolled heating fuel provider upon remittance by the claimant.

(5) If, when a claimant remits an energy draft to the claimant's enrolled heating fuel provider, the amount of the energy draft is greater than the total of outstanding bills incurred by the claimant with the enrolled heating fuel provider, the claimant, by checking the appropriate box to be included on the energy draft, may request from the enrolled heating fuel provider a payment equal to the amount of the energy draft less the amount of the outstanding bills. The enrolled heating fuel provider shall issue the payment within 14 days after the claimant's request.

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

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

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

(9) A claimant whose heating fuel is provided by a utility regulated by the Michigan public service commission is protected against the discontinuance of his or her heating fuel service from the date of filing a claim for the credit under this section through the date of issuance of an energy draft and during a period beginning December 1 of the tax year for which the credit is claimed and ending March 31 of the following year if the claimant participates in the winter protection program set forth in R 460.2162(2) to (6) of the Michigan administrative code or if the utility accepts the claimant's energy draft. The acceptance of an energy draft by a utility is considered a request by the claimant for the winter protection program. The energy draft shall be coded by the department to denote claimants who are 65 years of age or older. If the claimant is a claimant whose heating cost is included in his or her rent payments, the amount of the claim not used as an offset against the state income tax, after examination and review, shall be approved for payment, without interest, to the claimant.

(10) If an enrolled heating fuel provider does not issue a payment or a negotiable check within 14 days as provided in subsection (5) or (6), beginning on the fifteenth day, the amount due to the claimant is increased by adding interest computed on the basis of the rate of interest prescribed for delayed refunds of excess tax payments in section 30(3) of Act No. 122 of the Public Acts of 1941, being section 205.30 of the Michigan Compiled Laws. The enrolled heating fuel provider shall pay the interest and shall not bill the interest to or be reimbursed for the interest by the department.

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

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

(13) If an enrolled heating fuel provider is regulated by the Michigan public service commission, the Michigan public service commission may use an enforcement method authorized by law or rule to enforce the requirements prescribed by this section on the enrolled heating fuel provider. If an enrolled heating fuel provider is not regulated by the Michigan public service commission, the department of social services may use an enforcement method authorized by law or rule to enforce the requirements prescribed by this section on the enrolled heating fuel provider.

(14) The department shall mail a home heating credit return to every person who received aid to families with dependent children, state family assistance, or state disability assistance pursuant to the social welfare act, Act No. 280 of the Public Acts of 1939, being sections 400.1 to 400.119b of the Michigan Compiled Laws, during the tax year.

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

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

(17) The department shall provide a simplified procedure for claiming the credit under this section for claimants for whom, at the time of filing, the department of social services is making direct vendor payments to an enrolled heating fuel provider.

(18) For the 1995 tax year, the credit under this section is allowed only if there has been a federal appropriation for federal fiscal year 1995-96 of the total amount of federal low income home heating energy assistance block grant funds and if the federal low income home heating energy assistance block grant allotment for this state is at least \$25,400,000.00. If the federal low income home heating energy assistance block grant allotment for this state is less than \$75,400,000.00, each individual credit claimed under this section shall be reduced by multiplying the credit amount by a fraction the numerator of which is Michigan's 1995-96 fiscal year federal low income home heating energy assistance block grant allotment minus \$400,000.00 and the denominator of which is \$75,000,000.00.

(19) For the 1995 tax year only, a claimant who claims a credit under this section shall not report the credit amount on the claimant's income tax return filed under this act as an offset against the tax imposed by this act, but shall claim the credit on a separate form prescribed by the department.

(20) As used in this section:

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

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

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

Section 2. This amendatory act is effective January 1, 1995.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.