



HOUSE BILL No. 5725

March 28, 1996, Introduced by Reps. Hill, Llewellyn, Lowe, Green, Weeks, Kukuk, Ryan, London, Bush, McBryde, Oxender, Brackenridge, Hammerstrom, Law, Gernaat, Middleton, Bodem, Bankes, Byl, LeTarte, Fitzgerald, Jellema, DeLange, Whyman, Rhead and Gustafson and referred to the Committee on Tax Policy.

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. 245 of the Public Acts of 1995, 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. 245 of the Public Acts of 1995,
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 1994, a claimant
6 may claim a credit against the state income tax for heating fuel
7 costs for the claimant's homestead in this state. For the 1995
8 ~~tax year~~ THROUGH 2000 TAX YEARS and subject to subsection (18),
9 a claimant may claim a credit for heating fuel costs for the

1 claimant's homestead in this state. An adult foster care home,
 2 nursing home, home for the aged, or substance abuse center is not
 3 a homestead for purposes of this section. The credit shall be
 4 determined in the following manner:

5 (a) For the 1988 tax year through the 1994 tax year and,
 6 subject to subsection (18), for the 1995 ~~tax year~~ THROUGH 2000
 7 TAX YEARS, the following table shall be used for the computation
 8 of a credit as computed under subdivision (c):

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

14 (b) For tax years after the 1988 tax year, the amounts in
 15 the table in subdivision (a) shall be adjusted each year as nec-
 16 essary by the department so that a claimant with a household
 17 income less than 110% of the federal poverty income standards as
 18 defined and determined annually by the United States office of
 19 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
 23 the 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 subdi-
 26 vision shall not exceed the actual number of persons living in
 27 the household plus the additional personal exemptions allowed

1 under section 30, and any dependency exemptions for a person or
 2 persons living in the household under a custodial arrangement,
 3 even if the exemptions may not be claimed for other income tax
 4 purposes. For a claimant whose heating costs are included in his
 5 or her rent, multiply the result of the preceding calculation by
 6 50%.

7 (ii) Subject to subsection (2), for a claimant whose house-
 8 hold income does not exceed the maximum specified in the follow-
 9 ing table, as adjusted, that corresponds with the number of
 10 exemptions claimed in the return filed under this act, subtract
 11 11% of claimant's household income from the total cost incurred
 12 by a claimant for heating fuel from a heating fuel provider
 13 during the 12 consecutive monthly billing periods ending in
 14 October of the tax year, and multiply the resulting amount by
 15 70%:

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

26 (d) For the 1988 tax year for the purposes of subdivision
 27 (c), the total cost incurred by a claimant for heating fuel from

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

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

1 (2) An enrolled heating fuel provider shall notify each of
2 its customers, not later than December 15 of each year or, ~~in~~
3 FOR 1995 only, ~~14 days after the effective date of subsection~~
4 ~~(18), whichever is later~~ JANUARY 10, 1996, of the availability,
5 upon request, of the information necessary for determining the
6 credit under this section. For a claimant for whom, at the time
7 of filing, the department of social services is making direct
8 vendor payments to an enrolled heating fuel provider, the
9 enrolled heating fuel provider that accepts the direct payments
10 shall mail the information necessary to determine the credit
11 before February 1 of each year. If an enrolled heating fuel pro-
12 vider refuses or fails to provide to a customer the information
13 required to determine the credit, or if the claimant is not a
14 customer of an enrolled heating fuel provider, a claimant may
15 determine the credit provided in subsection (1)(c)(ii) based on
16 his or her own records.

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

20 (4) 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 that is due shall be remitted to the claimant, other than a
24 claimant whose heating costs are included in his or her rent, in
25 the form of an energy draft that states the name of the claimant
26 and is issued by the department. For a claimant for whom, at the
27 time of filing, the department of social services is making

1 direct vendor payments to an enrolled heating fuel provider, the
2 department shall send the energy draft directly to the claimant's
3 enrolled heating fuel provider, as identified by the claimant.
4 After July 31, a refundable credit for a prior tax year may be
5 paid in the form of a negotiable warrant. The energy draft shall
6 be negotiable only through the claimant's enrolled heating fuel
7 provider upon remittance by the claimant.

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

18 (6) If a claimant whose energy draft exceeds his or her out-
19 standing bills does not request a payment from an enrolled heat-
20 ing fuel provider under subsection (5), an energy draft remitted
21 to an enrolled heating fuel provider shall be applied upon
22 receipt to the claimant's designated account. The energy draft
23 may be used to cover outstanding bills that the claimant has
24 incurred with the enrolled heating fuel provider and to cover
25 subsequent heating costs until the full amount of the energy
26 draft is used or until 1 year after the date on which the energy
27 draft is first applied to the claimant's designated account. If

1 a credit amount remains from this energy draft after the 1-year
2 period, or if prior to the end of the 1-year period a claimant is
3 no longer a customer of the heating fuel provider, the heating
4 fuel provider shall remit the remaining unused portion to the
5 claimant in the form of a fully negotiable check within 14 days
6 after the end of the 1-year period or within 14 days after termi-
7 nation of service, whichever is sooner.

8 (7) A claimant who is no longer a resident of this state,
9 who is not a customer of an enrolled heating fuel provider, or
10 whose heating fuel provider refuses to accept an energy draft
11 shall return the energy draft to the department and request the
12 issuance of a negotiable warrant. A claimant may return an
13 energy draft to the department and request issuance of a negotia-
14 ble warrant if the energy draft is impractical because the claim-
15 ant has already purchased his or her energy supply for the year
16 and does not have an outstanding obligation to an enrolled heat-
17 ing fuel provider. The department may honor that request if it
18 agrees that the use of the energy draft is impractical. The
19 department shall issue the warrant within 14 days after receiving
20 the energy draft from the claimant.

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

26 (9) A claimant whose heating fuel is provided by a utility
27 regulated by the Michigan public service commission is protected

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

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

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

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

26 (13) If an enrolled heating fuel provider is regulated by
27 the Michigan public service commission, the Michigan public

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

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

15 (15) The department shall complete a study by August 1 of
16 1985, and of each subsequent year, of the actual heating costs of
17 each claimant who received a credit from the department under
18 this section for the immediately preceding tax year.

19 (16) The department may promulgate rules necessary to admin-
20 ister this section pursuant to the administrative procedures act
21 of 1969, Act No. 306 of the Public Acts of 1969, being sections
22 24.201 to 24.328 of the Michigan Compiled Laws.

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

1 (18) For the 1995 ~~tax year~~ THROUGH 2000 TAX YEARS, the
2 credit under this section is allowed only if there has been a
3 federal appropriation for THE federal fiscal year ~~1995-96~~ of
4 the total amount of federal low income home heating energy
5 assistance block grant funds and if the federal low income home
6 heating energy assistance block grant allotment for this state is
7 at least \$25,400,000.00. If the federal low income home heating
8 energy assistance block grant allotment for this state is less
9 than \$75,400,000.00, each individual credit claimed under this
10 section shall be reduced by multiplying the credit amount by a
11 fraction the numerator of which is Michigan's ~~1995-96 fiscal~~
12 ~~year~~ federal low income home heating energy assistance block
13 grant allotment FOR THE FEDERAL FISCAL YEAR minus \$400,000.00 and
14 the denominator of which is \$75,000,000.00.

15 (19) For the 1995 ~~tax year~~ THROUGH 2000 TAX YEARS only, a
16 claimant who claims a credit under this section shall not report
17 the credit amount on the claimant's income tax return filed under
18 this act as an offset against the tax imposed by this act, but
19 shall claim the credit on a separate form prescribed by the
20 department.

21 (20) As used in this section:

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

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

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