

Act No. 169
Public Acts of 2001
Approved by the Governor
November 26, 2001
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**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2001**

Introduced by Reps. Cassis, Gilbert, Birkholz, Pappageorge, Voorhees, Bradstreet, Middaugh, Kooiman, Allen, DeVuyst, Vander Roest, Vander Veen, Ruth Johnson, Bishop, Rocca, Woronchak, Sanborn, Gosselin, Julian, Schauer, Shackleton, Wojno, Toy, Van Woerkom, Richardville, Faunce, Garcia and Vear

ENROLLED HOUSE BILL No. 4481

AN ACT to amend 1967 PA 281, 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," by amending section 527a (MCL 206.527a), as amended by 1996 PA 484.

The People of the State of Michigan enact:

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. For the 1996 tax year and each tax year after the 1996 tax year and subject to subsections (19), (20), and (21), 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; subject to subsection (18), for the 1995 tax year; and subject to subsections (19), (20), and (21) for the 1996 tax year and each tax year after the 1996 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, for 1995 only, not later than January 10, 1996 or for 1996 only, not later than January 15, 1996, 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 family independence agency 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 family independence agency 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 1941 PA 122, MCL 205.30. 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 family independence agency 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 assistance through family independence programs pursuant to the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, 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, 1969 PA 306, MCL 24.201 to 24.328.

(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 family independence agency 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 1996 tax year through the 2000 tax year, the credit under this section is allowed only if there has been a federal appropriation for the federal fiscal year beginning in the tax year of the total amount of federal low income home energy assistance program block grant funds and if the amount available for the home heating credit is not less than \$20,000,000.00. If the amount available for the home heating credit is less than the full home heating credit amount, each individual credit claimed under this section shall be reduced by multiplying the credit amount by a fraction, the numerator of which is the amount available for the home heating credit and the denominator of which is the full home heating credit amount. As used in this subsection, "amount available for the home heating credit" means the sum of the federal low income home energy assistance program block grant allotment for this state for the federal fiscal year beginning in the tax year and the amount as certified by the director of the family independence agency carried forward from the immediately preceding fiscal year for the low income home energy assistance program block grant minus the sum of the amount certified by the director of the family independence agency for administration of the low income home energy assistance program block grant and the amount certified by the director of the family independence agency for crisis assistance programs. The amounts under this subsection that require certification by the director of the family independence agency or by the state treasurer and the director of the department of management and budget shall be certified on or before December 30 of the tax year for the 1996 tax year, and on or before November 1 of the tax year for the 1997 through 2000 tax years. As used in this subsection, "full home heating credit amount" means \$62,000,000.00 for the 1996 tax year and for the 1997 through 2000 tax years the amount certified by the state treasurer and the director of the department of management and budget to be the estimated amount of the credits that would have been provided under this section for the tax year if no reduction as provided in this subsection were made for that tax year.

(20) For the 2001 tax year and each tax year after the 2001 tax year, the credit under this section is allowed only if there has been a federal appropriation for the federal fiscal year beginning in the tax year of federal low income home energy assistance program block grant funds of any amount. If the amount of federal low income home energy assistance program block grant funds available for the home heating credit is less than the full home heating credit amount, each individual credit claimed under this section shall be reduced by multiplying the credit amount by a fraction, the numerator of which is the amount available for the home heating credit and the denominator of which is the full home heating credit amount. As used in this subsection, "amount available for the home heating credit" means the sum of the federal low income home energy assistance program block grant allotment for this state for the federal fiscal year beginning in the tax year and the amount as certified by the director of the family independence agency carried forward from the immediately preceding fiscal year for the low income home energy assistance program block grant minus the sum of the amount certified by the director of the family independence agency for administration of the low income home energy assistance program block grant and the amount certified by the director of the family independence agency for crisis assistance programs. The amounts under this subsection that require certification by the director of the family independence agency or by the state treasurer and the director of the department of management and budget shall be certified on or before December 30 of the tax year for the 1996 tax year, and on or before November 1 of the tax year for the 1997 tax year and each tax year after the 1997 tax year. As used in this subsection, "full home heating credit amount" means the amount certified by the state treasurer and the director of the department of management and budget to be the estimated amount of the credits that would have been provided under this section for the tax year if no reduction as provided in this subsection were made for that tax year.

(21) For tax years after the 1994 tax year, 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. For tax years after the 1995 tax year, a credit claimed under this section shall not be allowed unless the claim for the credit is filed with the department on or before the September 30 immediately following the tax year for which the credit is claimed.

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

- (a) The chairpersons and vice-chairpersons of the senate and house of representatives appropriations committees.
- (b) The senate and house of representatives committees on taxation and finance related issues.
- (c) The senate and house of representatives committees on energy and technology related issues.

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

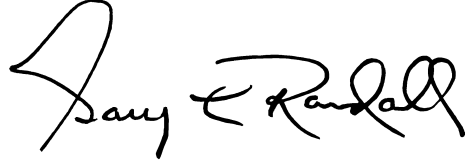
(24) As used in this section:

(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.

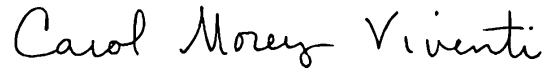
(b) "Enrolled heating fuel provider" means a heating fuel provider that is enrolled with the family independence agency as a heating fuel provider.

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.