SENATE BILL NO. 749

November 30, 2021, Introduced by Senators MCCANN, CHANG, GEISS, IRWIN, SANTANA, WOJNO, BAYER, BRINKS, POLEHANKI, ALEXANDER, BULLOCK, MOSS and HOLLIER and referred to the Committee on Finance.

A bill to amend 1967 PA 281, entitled

"Income tax act of 1967,"

by amending section 527a (MCL 206.527a), as amended by 2018 PA 309.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 527a. (1) Subject to subsections (18) and (19), 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) Subject to subsections (18) and (19), 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) The amounts in the table in subdivision (a) shall be adjusted each year as necessary by the department so that a claimant with total household resources of 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 total household resources from the amount specified in subdivision (a) that corresponds with the number of exemptions claimed in the return filed under this part, except that the number of exemptions for purposes of this subdivision shall not exceed the actual number of ~~persons~~ **individuals** living in the household plus the additional personal exemptions allowed under section 30, and any dependency exemptions for ~~a person or persons~~ **individuals** 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 total household resources do 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 part, subtract 11% of claimant's total household resources 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 total household resources
Maximum Total Household Resources	$7,060	$9,501	$11,943	$14,382	$16,824	

(d) 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) The maximum total household resources specified in subdivision (c)(*ii*) shall be adjusted by multiplying the respective maximum total household resources 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 total household resources and then rounded to the nearest whole dollar. That dollar amount is the new maximum level for total household resources 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, 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 health and human services is making direct vendor payments to an enrolled heating fuel provider, the enrolled heating fuel provider that accepts the direct payments shall provide 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) The allowable amount of the credit under this section 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 health and human services has identified the enrolled heating fuel provider or 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. If the department establishes a program or pilot program for the direct payment of energy drafts to enrolled heating fuel providers, enrolled heating fuel providers may submit to the department, in a manner prescribed by the department, the names of their customers who are claimants. If a claimant whose name has been submitted meets the standards established by the department, the department shall send that claimant's energy draft directly to the claimant's enrolled heating fuel provider. If the enrolled heating fuel provider submits names of claimants who are not its customers and the energy drafts of any of those claimants are sent to the enrolled heating fuel provider, the enrolled heating fuel provider shall return the energy drafts

or pay the value of the energy drafts to the department plus interest on the amount of the energy drafts at the rate calculated under section 23 of 1941 PA 122, MCL 205.23, for deficiencies in tax payments. Except as provided in subsection (5), 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 a claimant received home heating assistance from the department of health and human services, a governmental agency, or a nonprofit organization 12 months prior to remitting an energy draft to the claimant's enrolled heating fuel provider and the amount of the energy draft is greater than the total of outstanding bills incurred by the claimant with the enrolled heating fuel provider as of the date that the energy draft was remitted to the enrolled heating fuel provider, the enrolled heating fuel provider shall first apply the full amount of the energy draft to the claimant's outstanding bills and then apply any remaining amount to subsequent bills of the claimant until the full amount of the energy draft is used up or the expiration of 9 months after the date on which the energy draft was first applied to cover the claimant's outstanding bills. If there is any remaining energy draft amount at the end of the 9-month period, or if before the end of the 9-month period the claimant is no longer a customer of the enrolled heating fuel provider, the enrolled heating fuel provider shall remit the remaining amount to the claimant in the form of a fully negotiable check within 14 days after the end of the 9-month period or 14 days after the termination of services, whichever occurs sooner. If the claimant did not receive home heating

assistance from the department of health and human services, a governmental agency, or a nonprofit organization 12 months prior to remitting an energy draft, the claimant, by checking the appropriate box to be included on the energy draft or application for participation with an enrolled heating fuel provider, 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. For purposes of this subsection, home heating assistance does not include the credit allowed under this section.

(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 enrolled 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 ~~460.148~~ **460.131** 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 or as otherwise provided in subsection (5) or (6), beginning on the fifteenth day or the fifteenth day after the expiration of the 9-month period under subsection (5), 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 part. ~~A person~~ **An individual** 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~~ **individual** 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. For all rental properties that are weatherized pursuant to this section, each agency that determines eligibility for weatherization assistance shall require that not less than 25% of the total cost of the weatherization services for that property shall be contributed by the property owner unless the property owner is also eligible for weatherization assistance or is a nonprofit organization, governmental agency, or municipal corporation.

(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 health and human 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~~ **individual** who received assistance through the department of health and human services 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 department of health and human services is making direct vendor payments to an enrolled heating fuel provider.

(18) ~~For the 2001 tax year and each tax year after the 2001 tax year, the~~ **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 department of health and human services 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 department of health and human services for administration of the low income home energy assistance program block grant, the amount certified by the director of the department of health and human services for crisis assistance programs, and the amount certified by the director of the department of health and human services for weatherization. For the 2014-2015 fiscal year and ~~continuing through the 2021-2022~~ **each** fiscal year **thereafter**, the amount used for weatherization each fiscal year shall be determined as provided under this subsection. ~~If the total federal low income home energy assistance program block grant received for the current fiscal year is greater than or equal to 90% of the amount of block grant funds received in the immediately preceding fiscal year, then the~~ **The** amount of federal low income home energy assistance program block grant funds used for weatherization for ~~that~~ **each** fiscal year shall be at least ~~$6,000,000.00 but not greater than 15%~~ **10%** of the total federal low income home energy assistance program block grant funds received for that fiscal year. ~~If the total federal low income home energy assistance block grant received for the current fiscal year is less than 90% of the amount of block grant funds received in the immediately preceding fiscal year, then the amount of federal low income home energy assistance program block grant funds used for weatherization for that fiscal year shall be at least $5,000,000.00 but not greater than 15% of the total federal low income home~~

~~energy assistance program block grant funds received for that fiscal year.~~ The amounts under this subsection that require certification by the director of the department of health and human services or by the state treasurer and the director of the department of technology, management, and budget shall be certified on or before December 30 of the tax year and each tax year thereafter. 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 technology, 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.

(19) ~~For tax years after the 1994 tax year, a~~ **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 part as an offset against the tax imposed by this part, but shall claim the credit on a separate form prescribed by the department. ~~For tax years after the 1995 tax year, a~~ **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. For tax years after the 2017 tax year, a credit claimed under this section is not allowed unless the claimant provides the department with all of the information, as requested by the department of health and human services, necessary to comply with the requirements of the federal appropriation of the federal low income home energy assistance program block grant. The department shall disclose the information provided under this subsection to the department of health and human services or the United States Department of Health

and Human Services or its successor. The confidentiality restrictions provided in section 28(1)(f) of 1941 PA 122, MCL 205.28, do not apply to the disclosure required by this subsection.

(20) 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.

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

(22) By July 1, 2018 and by each July 1 thereafter, the department of health and human services shall submit a report on the operation and effectiveness of the home heating and weatherization assistance programs under this section and any recommendations regarding the home heating and weatherization assistance programs to all of the following:

(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) 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 health and human 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.