

SENATE BILL No. 485

May 10, 2005, Introduced by Senators OLSHOVE, CHERRY, BASHAM, JACOBS, TOY and SCHAUER 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 2004 PA
335.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 527a. (1) For tax years 1985 through 1994, a claimant
2 may claim a credit against the state income tax for heating fuel
3 costs for the claimant's homestead in this state. For the 1996
4 tax year and each tax year after the 1996 tax year and subject to
5 subsections (18) and (19), a claimant may claim a credit for
6 heating fuel costs for the claimant's homestead in this state. An
7 adult foster care home, nursing home, home for the aged, or
8 substance abuse center is not a homestead for purposes of this
9 section. ~~The~~ **EXCEPT AS PROVIDED IN SUBSECTION (22), THE** credit

1 shall be determined in the following manner:

2 (a) For the 1988 tax year through the 1994 tax year and,
 3 subject to subsections (18) and (19), for the 1996 tax year and
 4 each tax year after the 1996 tax year, the following table shall
 5 be used for the computation of a credit as computed under
 6 subdivision (c):

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

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

16 (c) ~~A~~ **EXCEPT AS PROVIDED IN SUBSECTION (22),** A claimant
 17 shall receive the greater of the credit amount as determined in
 18 subparagraph (i) or (ii):

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

1 even if the exemptions may not be claimed for other income tax
 2 purposes. For a claimant whose heating costs are included in his
 3 or her rent, multiply the result of the preceding calculation by
 4 50%.

5 (ii) Subject to subsection (2) **AND EXCEPT AS PROVIDED IN**
 6 **SUBSECTION (22)**, for a claimant whose household income does not
 7 exceed the maximum specified in the following table, as adjusted,
 8 that corresponds with the number of exemptions claimed in the
 9 return filed under this act, subtract 11% of claimant's household
 10 income from the total cost incurred by a claimant for heating
 11 fuel from a heating fuel provider during the 12 consecutive
 12 monthly billing periods ending in October of the tax year, and
 13 multiply the resulting amount by 70%:

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

17 (d) For the 1988 tax year for the purposes of subdivision
 18 (c), the total cost incurred by a claimant for heating fuel from
 19 a heating fuel provider shall not exceed \$1,190.00. For tax years
 20 after the 1988 tax year, the maximum cost incurred by a claimant
 21 for heating fuel during a tax year shall be adjusted by
 22 multiplying the maximum cost for the immediately preceding tax
 23 year by the percentage by which the average all urban Detroit
 24 consumer price index for fuels and other utilities for the 12

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

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

22 (2) An enrolled heating fuel provider shall notify each of
23 its customers, not later than December 15 of each year or, for
24 1995 only, not later than January 10, 1996 or for 1996 only, not
25 later than January 15, 1996, of the availability, upon request,
26 of the information necessary for determining the credit under
27 this section. For a claimant for whom, at the time of filing, the

1 family independence agency is making direct vendor payments to an
2 enrolled heating fuel provider, the enrolled heating fuel
3 provider that accepts the direct payments shall provide the
4 information necessary to determine the credit before February 1
5 of each year. If an enrolled heating fuel provider refuses or
6 fails to provide to a customer the information required to
7 determine the credit, or if the claimant is not a customer of an
8 enrolled heating fuel provider, a claimant may determine the
9 credit provided in subsection (1)(c)(ii) based on his or her own
10 records.

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

14 (4) The allowable amount of the credit under this section
15 shall be remitted to the claimant, other than a claimant whose
16 heating costs are included in his or her rent, in the form of an
17 energy draft that states the name of the claimant and is issued
18 by the department. For a claimant for whom, at the time of
19 filing, the family independence agency has identified the
20 enrolled heating fuel provider or is making direct vendor
21 payments to an enrolled heating fuel provider, the department
22 shall send the energy draft directly to the claimant's enrolled
23 heating fuel provider, as identified by the claimant. If the
24 department establishes a program or pilot program for the direct
25 payment of energy drafts to enrolled heating fuel providers,
26 enrolled heating fuel providers may submit to the department, in
27 a manner prescribed by the department, the names of their

1 customers who are claimants. If a claimant whose name has been
2 submitted meets the standards established by the department, the
3 department shall send that claimant's energy draft directly to
4 the claimant's enrolled heating fuel provider. If the enrolled
5 heating fuel provider submits names of claimants who are not its
6 customers and the energy drafts of any of those claimants are
7 sent to the enrolled heating fuel provider, the enrolled heating
8 fuel provider shall return the energy drafts or pay the value of
9 the energy drafts to the department plus interest on the amount
10 of the energy drafts at the rate calculated under section 23 for
11 deficiencies in tax payments. Except as provided in subsection
12 (5), after July 31, a refundable credit for a prior tax year may
13 be paid in the form of a negotiable warrant. The energy draft
14 shall be negotiable only through the claimant's enrolled heating
15 fuel provider upon remittance by the claimant.

16 (5) If a claimant received home heating assistance from the
17 ~~family independence agency~~ **DEPARTMENT OF HUMAN SERVICES**, a
18 governmental agency, or a nonprofit organization 12 months prior
19 to remitting an energy draft to the claimant's enrolled heating
20 fuel provider and the amount of the energy draft is greater than
21 the total of outstanding bills incurred by the claimant with the
22 enrolled heating fuel provider as of the date that the energy
23 draft was remitted to the enrolled heating fuel provider, the
24 enrolled heating fuel provider shall first apply the full amount
25 of the energy draft to the claimant's outstanding bills and then
26 apply any remaining amount to subsequent bills of the claimant
27 until the full amount of the energy draft is used up or the

1 expiration of 9 months after the date on which the energy draft
2 was first applied to cover the claimant's outstanding bills. If
3 there is any remaining energy draft amount at the end of the 9-
4 month period, or if before the end of the 9-month period the
5 claimant is no longer a customer of the enrolled heating fuel
6 provider, the enrolled heating fuel provider shall remit the
7 remaining amount to the claimant in the form of a fully
8 negotiable check within 14 days after the end of the 9-month
9 period or 14 days after the termination of services, whichever
10 occurs sooner. If the claimant did not receive home heating
11 assistance from the ~~family independence agency~~ **DEPARTMENT OF**
12 **HUMAN SERVICES**, a governmental agency, or a nonprofit
13 organization 12 months prior to remitting an energy draft, the
14 claimant, by checking the appropriate box to be included on the
15 energy draft or application for participation with an enrolled
16 heating fuel provider, may request from the enrolled heating fuel
17 provider a payment equal to the amount of the energy draft less
18 the amount of the outstanding bills. The enrolled heating fuel
19 provider shall issue the payment within 14 days after the
20 claimant's request. For purposes of this subsection, home heating
21 assistance does not include the credit allowed under this
22 section.

23 (6) If a claimant whose energy draft exceeds his or her
24 outstanding bills does not request a payment from an enrolled
25 heating fuel provider under subsection (5), an energy draft
26 remitted to an enrolled heating fuel provider shall be applied
27 upon receipt to the claimant's designated account. The energy

1 draft may be used to cover outstanding bills that the claimant
2 has incurred with the enrolled heating fuel provider and to cover
3 subsequent heating costs until the full amount of the energy
4 draft is used or until 1 year after the date on which the energy
5 draft is first applied to the claimant's designated account. If a
6 credit amount remains from this energy draft after the 1-year
7 period, or if prior to the end of the 1-year period a claimant is
8 no longer a customer of the enrolled heating fuel provider, the
9 heating fuel provider shall remit the remaining unused portion to
10 the claimant in the form of a fully negotiable check within 14
11 days after the end of the 1-year period or within 14 days after
12 termination of service, whichever is sooner.

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

26 (8) The enrolled heating fuel provider shall bill the
27 department for credit amounts that have been applied to claimant

1 accounts pursuant to subsection (6), and the department shall pay
2 the bills within 14 days of receipt. The billing shall be
3 accompanied by the energy drafts for which reimbursement is
4 claimed.

5 (9) A claimant whose heating fuel is provided by a utility
6 regulated by the Michigan public service commission is protected
7 against the discontinuance of his or her heating fuel service
8 from the date of filing a claim for the credit under this section
9 through the date of issuance of an energy draft and during a
10 period beginning December 1 of the tax year for which the credit
11 is claimed and ending March 31 of the following year if the
12 claimant participates in the winter protection program set forth
13 in R 460.2174 of the Michigan administrative code or if the
14 utility accepts the claimant's energy draft. The acceptance of an
15 energy draft by a utility is considered a request by the claimant
16 for the winter protection program. The energy draft shall be
17 coded by the department to denote claimants who are 65 years of
18 age or older. If the claimant is a claimant whose heating cost is
19 included in his or her rent payments, the amount of the claim not
20 used as an offset against the state income tax, after examination
21 and review, shall be approved for payment, without interest, to
22 the claimant.

23 (10) If an enrolled heating fuel provider does not issue a
24 payment or a negotiable check within 14 days or as otherwise
25 provided in subsection (5) or (6), beginning on the fifteenth day
26 or the fifteenth day after the expiration of the 9-month period
27 under subsection (5), the amount due to the claimant is increased

1 by adding interest computed on the basis of the rate of interest
2 prescribed for delayed refunds of excess tax payments in section
3 30(3) of 1941 PA 122, MCL 205.30. The enrolled heating fuel
4 provider shall pay the interest and shall not bill the interest
5 to or be reimbursed for the interest by the department.

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

16 (12) A claimant who is eligible for the credit provided by
17 this section shall be referred by the department to the
18 appropriate state agency for determination of eligibility for
19 home weatherization assistance and shall accept weatherization
20 assistance if eligible and if assistance is available. A heating
21 fuel provider that is required by the Michigan public service
22 commission to participate in the residential conservation
23 services home energy analysis program shall annually contact each
24 claimant to whom it provides heating fuel, and whose usage
25 exceeds 200,000 cubic feet of natural gas or 18,000 kilowatt
26 hours of electricity annually, and shall offer to provide a home
27 energy analysis at no cost to the claimant. A heating fuel

1 provider that is not required to participate in the residential
2 conservation services program shall not be required to conduct a
3 home energy analysis for its customers.

4 (13) If an enrolled heating fuel provider is regulated by
5 the Michigan public service commission, the Michigan public
6 service commission may use an enforcement method authorized by
7 law or rule to enforce the requirements prescribed by this
8 section on the enrolled heating fuel provider. If an enrolled
9 heating fuel provider is not regulated by the Michigan public
10 service commission, the ~~family independence agency~~ **DEPARTMENT**
11 **OF HUMAN SERVICES** may use an enforcement method authorized by law
12 or rule to enforce the requirements prescribed by this section on
13 the enrolled heating fuel provider.

14 (14) The department shall mail a home heating credit return
15 to every person who received assistance through ~~family~~
16 ~~independence programs~~ **THE DEPARTMENT OF HUMAN SERVICES** pursuant
17 to the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b,
18 during the tax year.

19 (15) The department shall complete a study by August 1 of
20 1985, and of each subsequent year, of the actual heating costs of
21 each claimant who received a credit from the department under
22 this section for the immediately preceding tax year.

23 (16) The department may promulgate rules necessary to
24 administer this section pursuant to the administrative procedures
25 act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

26 (17) The department shall provide a simplified procedure for
27 claiming the credit under this section for claimants for whom, at

1 the time of filing, the ~~family independence agency~~ **DEPARTMENT**
2 **OF HUMAN SERVICES** is making direct vendor payments to an enrolled
3 heating fuel provider.

4 (18) For the 2001 tax year and each tax year after the 2001
5 tax year, the credit under this section is allowed only if there
6 has been a federal appropriation for the federal fiscal year
7 beginning in the tax year of federal low income home energy
8 assistance program block grant funds of any amount. ~~If~~ **EXCEPT**
9 **AS PROVIDED IN SUBSECTION (22), IF** the amount of federal low
10 income home energy assistance program block grant funds available
11 for the home heating credit is less than the full home heating
12 credit amount, each individual credit claimed under this section
13 shall be reduced by multiplying the credit amount by a fraction,
14 the numerator of which is the amount available for the home
15 heating credit and the denominator of which is the full home
16 heating credit amount. As used in this subsection, "amount
17 available for the home heating credit" means the sum of the
18 federal low income home energy assistance program block grant
19 allotment for this state for the federal fiscal year beginning in
20 the tax year and the amount as certified by the director of the
21 ~~family independence agency~~ **DEPARTMENT OF HUMAN SERVICES** carried
22 forward from the immediately preceding fiscal year for the low
23 income home energy assistance program block grant minus the sum
24 of the amount certified by the director of the ~~family~~
25 ~~independence agency~~ **DEPARTMENT OF HUMAN SERVICES** for
26 administration of the low income home energy assistance program
27 block grant, the amount certified by the director of the ~~family~~

1 ~~independence agency~~ **DEPARTMENT OF HUMAN SERVICES** for crisis
2 assistance programs, and the amount certified by the director of
3 the ~~family independence agency~~ **DEPARTMENT OF HUMAN SERVICES** for
4 weatherization. Except as otherwise provided in this subsection,
5 the amount used for weatherization each fiscal year shall not
6 exceed \$9,000,000.00 less the amount used for weatherization from
7 the emergency contingency funds received in the immediately
8 preceding year. For the 2004-2005 state fiscal year only, the
9 amount used for weatherization shall not exceed \$9,000,000.00 and
10 shall not be reduced by the amount used for weatherization from
11 the emergency contingency funds received in the immediately
12 preceding year. The amounts under this subsection that require
13 certification by the director of the ~~family independence agency~~
14 **DEPARTMENT OF HUMAN SERVICES** or by the state treasurer and the
15 director of the department of management and budget shall be
16 certified on or before December 30 of the tax year for the 1996
17 tax year, and on or before November 1 of the tax year for the
18 1997 tax year and each tax year after the 1997 tax year. As used
19 in this subsection, "full home heating credit amount" means the
20 amount certified by the state treasurer and the director of the
21 department of management and budget to be the estimated amount of
22 the credits that would have been provided under this section for
23 the tax year if no reduction as provided in this subsection were
24 made for that tax year.

25 (19) For tax years after the 1994 tax year, a claimant who
26 claims a credit under this section shall not report the credit
27 amount on the claimant's income tax return filed under this act

1 as an offset against the tax imposed by this act, but shall claim
2 the credit on a separate form prescribed by the department. For
3 tax years after the 1995 tax year, a credit claimed under this
4 section shall not be allowed unless the claim for the credit is
5 filed with the department on or before the September 30
6 immediately following the tax year for which the credit is
7 claimed.

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

12 (a) The chairpersons and vice-chairpersons of the senate and
13 house of representatives appropriations committees.

14 (b) The senate and house of representatives committees on
15 taxation and finance related issues.

16 (c) The senate and house of representatives committees on
17 energy and technology related issues.

18 (21) Notwithstanding section 30a of 1941 PA 122, MCL
19 205.30a, the credit allowed under this section is exempt from
20 interception, execution, levy, attachment, garnishment, or other
21 legal process to collect a debt. No portion of the credit allowed
22 or any rights existing under this section shall be applied as an
23 offset to any liability of the claimant under section 30a of 1941
24 PA 122, MCL 205.30a, or any arrearage or other debt of the
25 claimant.

26 (22) EXCEPT AS PROVIDED IN SUBSECTION (3), FOR TAX YEARS
27 THAT BEGIN AFTER DECEMBER 31, 2004, FOR A CLAIMANT WITH HOUSEHOLD

1 INCOME EQUAL TO OR LESS THAN THE FEDERAL POVERTY INCOME STANDARD
2 AS DEFINED AND DETERMINED ANNUALLY BY THE UNITED STATES OFFICE OF
3 MANAGEMENT AND BUDGET, THE CREDIT UNDER THIS SECTION SHALL NOT BE
4 LESS THAN \$200.00.

5 (23) ~~—(22)—~~ The department shall meet with interested
6 parties including enrolled heating fuel providers and advocacy
7 groups to identify and implement methods of improving the
8 processing of claims for the credit allowed under this section
9 and payments attributable to those credits.

10 (24) ~~—(23)—~~ As used in this section:

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

14 (b) "Enrolled heating fuel provider" means a heating fuel
15 provider that is enrolled with the ~~family independence agency~~
16 **DEPARTMENT OF HUMAN SERVICES** as a heating fuel provider.

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