

# SENATE BILL No. 1046

January 22, 2008, Introduced by Senators JANSEN, BIRKHOLZ, PAPPAGEORGE, RICHARDVILLE, KAHN, BISHOP, SANBORN, ANDERSON, BASHAM, HARDIMAN, ALLEN, SWITALSKI, KUIPERS and VAN WOERKOM and referred to the Committee on Energy Policy and Public Utilities.

A bill to permit the establishment and maintenance of low-income energy efficiency accounts; to provide for certain tax deductions and tax credits; to prescribe the requirements of and restrictions on low-income energy efficiency accounts; to provide for the promulgation of rules; and to provide penalties and remedies.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the "low-  
2 income energy efficiency account program act".

3       Sec. 2. As used in this act:

4       (a) "Account holder" means a person who is the owner of an  
5 account or the family if the account is a family account.

6       (b) "Commission" means the Michigan public service commission  
7 in the department of labor and economic growth.

1 (c) "Contributor" means a person that makes a contribution to  
2 an account reserve fund and is not an account holder.

3 (d) "Federal poverty level" means the poverty guidelines  
4 published annually in the federal register by the United States  
5 department of health and human services under its authority to  
6 revise the poverty line under section 673(2) of subtitle B of title  
7 VI of the omnibus budget reconciliation act of 1981, Public Law 97-  
8 35, 42 USC 9902.

9 (e) "Fiduciary organization" or "organization" means a  
10 charitable organization exempt from taxation under section  
11 501(c)(3) of the internal revenue code, 26 USC 501, that is  
12 approved by the commission to manage a reserve fund. A fiduciary  
13 organization may also be a program site.

14 (f) "Financial institution" means a state chartered bank,  
15 state chartered savings bank, savings and loan association, credit  
16 union, or trust company; or a national banking association or  
17 federal savings and loan association or credit union.

18 (g) "Low-income energy efficiency account" or "account" means  
19 an account established pursuant to section 4.

20 (h) "Low-income energy efficiency account reserve fund" or  
21 "reserve fund" means an account established and managed by a  
22 fiduciary organization housed at a financial institution. The  
23 reserve fund holds money that will be used to match participant  
24 savings based on a participant savings plan agreement.

25 (i) "Program" means the account program established in section  
26 3.

27 (j) "Program site" means a charitable organization exempt from

1 taxation under section 501(c)(3) or 501(c)(14) of the internal  
2 revenue code, 26 USC 501, that is approved by the commission to  
3 implement the account program.

4       Sec. 3. (1) The account program is established within the  
5 commission. The program shall provide eligible individuals and  
6 families with an opportunity to establish accounts to be used for  
7 energy efficiency purchases as provided in section 4.

8       (2) The commission shall establish policies and procedures for  
9 the program.

10       (3) In reviewing the qualifications of fiduciary organizations  
11 and program sites, the commission shall consider all of the  
12 following factors:

13       (a) The not-for-profit status of the organization.

14       (b) The fiscal accountability of the organization.

15       (c) The ability of the organization to provide or raise money  
16 for matching contributions.

17       (d) The significance and quality of proposed auxiliary  
18 services to support the goals of the program.

19       (e) The ability to maintain and manage necessary program data  
20 for tracking account holders and participants in the program and  
21 for development of reports as required under section 9.

22       (4) The commission shall select fiduciary organizations to  
23 provide technical assistance and support to program sites and  
24 establish and manage reserve accounts on a not-for-profit basis. In  
25 reviewing the qualifications of fiduciary organizations, the  
26 commission shall consider the ability of the fiduciary  
27 organizations to do all of the following:

1 (a) Administer 1 or more reserve funds to provide matching  
2 funds for account holders pursuant to participant savings plan  
3 agreements.

4 (b) Administer any money appropriated by this state for the  
5 purposes of this act.

6 (c) Collaborate with program sites on a regional basis.

7 (d) Provide technical assistance and support to program sites  
8 to assist them to effectively administer programs.

9 (e) Work in conjunction with approved program sites to hold,  
10 manage, and disburse match funds for accounts as provided in  
11 section 5.

12 (f) Maintain and manage necessary program data for tracking  
13 account holders and participants in the program and for development  
14 reports as required under section 9.

15 (5) The commission shall select program sites to administer  
16 the accounts on a not-for-profit basis. In reviewing the  
17 qualifications of program sites, the commission shall consider the  
18 ability of the program site to do all of the following:

19 (a) Develop and implement participant savings plan agreements  
20 to be used with account holders that include at least all of the  
21 following:

22 (i) The purpose for which the account holder's account is  
23 established.

24 (ii) The schedule of deposits that the account holder will make  
25 to the account.

26 (iii) The agreed-upon amount of matching funds and the projected  
27 date when those matching funds will be provided.

1           (b) Develop a partnership with all account holders with whom  
2 the program site has a participant savings plan agreement to assist  
3 the account holder to effectively make financial decisions relating  
4 to the use of the funds available through the account and to offer  
5 support services to maximize the opportunities provided by the  
6 account program.

7           (6) The commission shall work cooperatively with financial  
8 institutions, fiduciary organizations, program sites, and  
9 contributors to implement the programs under this act.

10           Sec. 4. (1) An individual or family whose household income is  
11 less than or equal to 200% of the federal poverty level for an  
12 individual or for that family's family size may apply to a program  
13 site to establish an account.

14           (2) A program site may approve applications to the extent that  
15 the program site has match funds available to meet match  
16 commitments in participant savings plan agreements.

17           (3) A program site may reject an application made under  
18 subsection (1) if approving the application would result in the  
19 establishment of an account by 1 or more of the members of a family  
20 that has established an account for the same person for the same  
21 purpose.

22           (4) If the program site approves the individual's or the  
23 family's application to establish an account, the individual shall  
24 do all of the following:

25           (a) Establish the account with a financial institution.

26           (b) Enter into a participant savings plan agreement with a  
27 program site.

1 (c) Declare, with the approval of the program site, the  
2 purpose for which the account is established.

3 (d) Any other criteria required by the program site.

4 (5) An account may be established only to pay qualified  
5 expenses as provided in subsection (6).

6 (6) An account shall be established for the purchase of energy  
7 efficient windows, insulation, and other energy efficient products  
8 for the primary residence of an individual account holder.

9 (7) An account established under this section shall be an  
10 account that requires 2 signatures for withdrawals. The 2 required  
11 signatures shall be those of the account holder and an  
12 administrator of the program site with which the account holder has  
13 a participant savings plan agreement.

14 Sec. 5. (1) A program site shall enter into a participant  
15 savings plan agreement with each account holder who is approved to  
16 establish an account.

17 (2) The program site shall provide matching funds for  
18 contributions to an account by an account holder pursuant to a  
19 participant savings plan agreement.

20 (3) Matching fund distributions shall be made on behalf of an  
21 account holder pursuant to participant savings plan agreements at  
22 the same time that an account holder withdraws money to pay  
23 qualified expenses. Matching distributions shall be at least a  
24 match of \$1.00 for every \$1.00 withdrawn from an account by an  
25 account holder to pay expenses for a purpose described in section  
26 4(6) or for a purpose approved by the commission.

27 (4) Matching distributions under this section shall be made by

1 check to the order of the account holder and the entity the account  
2 holder is paying.

3       Sec. 6. (1) Money withdrawn during a calendar year from an  
4 account by an account holder for a purpose under section 4 shall be  
5 matched by the program site as provided in the participant savings  
6 plan agreement between the account holder and the program site.

7       (2) An account holder shall name at least 1 contingent  
8 beneficiary at the time the account is established and may change  
9 beneficiaries at any time. If an account holder dies, the account  
10 shall be transferred to a contingent beneficiary. If the named  
11 beneficiary is deceased or otherwise cannot accept the transfer,  
12 the money shall be transferred to the estate of the beneficiary.

13       (3) A financial institution is not responsible for verifying  
14 whether or not withdrawals from accounts held at that financial  
15 institution are made in accordance with and for a purpose allowed  
16 under section 4.

17       Sec. 7. (1) An individual who is not an account holder and who  
18 is subject to the tax imposed by the income tax act of 1967, 1967  
19 PA 281, MCL 206.1 to 206.532, may claim a credit under section 277  
20 of the income tax act of 1967, 1967 PA 281, MCL 206.277, equal to  
21 75% of the contributions made to the reserve fund of a fiduciary  
22 organization against the tax imposed by the income tax act of 1967,  
23 1967 PA 281, MCL 206.1 to 206.532.

24       (2) The administrator of a fiduciary organization that  
25 administers 1 or more reserve funds, with the cooperation of the  
26 participating financial institutions, shall submit the names of  
27 contributors and the total amount that each contributor contributes

1 to an account reserve fund for each calendar year to the  
2 commission. The commission shall determine the date by which the  
3 information shall be submitted to the commission.

4 Sec. 8. (1) The total of all credits under section 277 of the  
5 income tax act of 1967, 1967 PA 281, MCL 206.277, shall not exceed  
6 \$1,000,000.00 per calendar year.

7 (2) A taxpayer that makes a contribution to a reserve fund as  
8 provided under section 7 shall apply to the commission for  
9 certification that the contribution qualifies for a credit under  
10 section 277 of the income tax act of 1967, 1967 PA 281, MCL  
11 206.277. An application shall be approved or denied not more than  
12 45 days after receipt of the application. If the application is not  
13 approved or denied 45 days after the application is received by the  
14 agency, the application is considered approved and the commission  
15 shall issue a certificate under this subsection. If the commission  
16 approves an application under this section, the commission shall  
17 issue a certificate that states that the taxpayer is eligible to  
18 claim a credit based on the contribution and the amount of the  
19 credit. If an application is denied under this section, a taxpayer  
20 is not prohibited from subsequently applying under this section for  
21 another contribution.

22 (3) In reviewing applications for credits, the commission  
23 shall consider all of the following criteria:

24 (a) The funds available to match contributions are deposited  
25 into a reserve fund in the same year that the credit will be  
26 claimed.

27 (b) The approval of the credit will not exceed the annual

1 maximum amount under subsection (1).

2 (c) The overall benefit to the program of the contribution for  
3 which a credit is requested.

4 (4) A taxpayer shall not claim a credit in excess of the  
5 amount approved under subsection (2).

6 (5) A taxpayer shall attach the certificate received pursuant  
7 to subsection (2) to the return filed under the income tax act of  
8 1967, 1967 PA 281, MCL 206.1 to 206.532, on which a credit allowed  
9 under section 277 of the income tax act of 1967, 1967 PA 281, MCL  
10 206.277, is claimed.

11 Sec. 9. (1) A fiduciary organization selected to administer an  
12 account program under this act shall file an annual report with the  
13 commission of the fiduciary organization's account program  
14 activity. The report shall be filed no later than September 30 each  
15 year. The report shall include, but is not limited to, all of the  
16 following:

17 (a) The number of accounts administered by the fiduciary  
18 organization.

19 (b) The amount of deposits and matching deposits for each  
20 account.

21 (c) The number of withdrawals made.

22 (d) The number of terminated accounts and the reasons for  
23 termination.

24 (e) Any other information the commission may require for the  
25 purpose of making a return on investment analysis.

26 (2) The commission shall file a report not later than December  
27 31 each year with the clerk of the house of representatives and the

1 secretary of the senate that includes all of the information under  
2 subsection (1) and copies of any changes in policies or procedures  
3 used to administer this act that occurred during the year.

4 Sec. 10. The Michigan public service commission may promulgate  
5 rules as needed to implement this act under the administrative  
6 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

7 Sec. 11. This act takes effect January 1, 2009.

8 Enacting section 1. This act does not take effect unless  
9 Senate Bill No. 1047 of  
10 the 94th Legislature is enacted into law.