

# HOUSE BILL No. 4139

February 9, 1989, Introduced by Reps. Jondahl, DeMars, Emerson, Nye, Harrison, Middaugh, Dunaskiss, Hoffman, Gubow, Martin, Miller, Gilmer, Johnson, Hertel, DeBeaussaert, Pitoniak, Rocca, Runco, Brown, Kilpatrick, Leland, Joe Young, Sr., Bennett and Gire and referred to the Committee on Taxation.

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. 516 of the Public Acts of 1988, 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. 516 of the Public Acts of 1988,  
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 1988~~ AFTER  
6 1984, a claimant may claim a credit against the state income tax  
7 for heating fuel costs for the claimant's homestead in this  
8 state. An adult foster care home, nursing home, home for the  
9 aged, or substance abuse center shall not be considered a

1 homestead for purposes of this section. The credit shall be  
2 determined in the following manner:

3 (a) For the 1988 tax year, the following table shall be used  
4 for the computation of a credit as computed under subdivision  
5 (c):

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

11 (b) FOR TAX YEARS SUBSEQUENT TO THE 1988 TAX YEAR, THE  
12 CREDIT AMOUNTS IN SUBDIVISION (A) SHALL BE ADJUSTED BY MULTIPLY-  
13 ING EACH AMOUNT FOR THE PREVIOUS TAX YEAR BY THE PERCENTAGE BY  
14 WHICH THE AVERAGE ALL URBAN DETROIT CONSUMER PRICE INDEX FOR ALL  
15 ITEMS FOR THE 12 MONTHS ENDING AUGUST 31 OF THE TAX YEAR FOR  
16 WHICH THE CREDIT IS CLAIMED EXCEEDS THAT INDEX'S AVERAGE FOR THE  
17 12 MONTHS ENDING ON AUGUST 31 OF THE PREVIOUS TAX YEAR, BUT NOT  
18 MORE THAN 10%. THAT PRODUCT SHALL BE ADDED TO THE PREVIOUS TAX  
19 YEAR'S RESPECTIVE CREDIT AMOUNT AND THEN ROUNDED TO THE NEAREST  
20 WHOLE DOLLAR. THAT DOLLAR AMOUNT IS THE CREDIT AMOUNT FOR THE  
21 CURRENT TAX YEAR. For tax years subsequent to the 1988 tax year,  
22 the amounts in the table in subdivision (a) shall be FURTHER  
23 adjusted each year as necessary by the department ~~such~~ SO that  
24 a claimant with A household income less than 110% of the federal  
25 poverty income standards as defined and determined annually by

1 the United States office of management and budget is not denied a  
2 credit.

3 (c) A claimant shall receive the greater of the credit  
4 amount as determined in subparagraph (i) or (ii):

5 (i) Subtract 3.5% of the claimant's household income from  
6 the amount specified in subdivision (a) that corresponds with the  
7 number of exemptions claimed in the return filed under this act,  
8 except that the number of exemptions for purposes of this subdivi-  
9 sion shall not exceed the actual number of persons living in  
10 the household plus the additional personal exemptions allowed  
11 under section 30, and any dependency exemptions for a person or  
12 persons living in the household under a custodial arrangement,  
13 even if the exemptions may not be claimed for other income tax  
14 purposes.

15 (ii) Subject to subdivision ~~(f)~~ (H), for a claimant whose  
16 household income does not exceed the maximum specified in the  
17 following table, as adjusted, that corresponds with the number of  
18 exemptions claimed in the return filed under this act, subtract  
19 13% of claimant's household income from the total cost incurred  
20 by a claimant for heating fuel from a heating fuel provider  
21 during the 12 consecutive monthly billing periods ending in  
22 October of the tax year, and multiply the resulting amount by  
23 70%:

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

11 (D) For the 1988 tax year FOR THE PURPOSES OF SUBDIVISION  
 12 (C), the total cost incurred by a claimant for heating fuel from  
 13 a heating fuel provider ~~, for purposes of this subdivision,~~  
 14 shall not exceed \$1,190.00. For tax years subsequent to the 1988  
 15 tax year, the maximum cost incurred by a claimant for heating  
 16 fuel during a tax year shall be adjusted by multiplying the maxi-  
 17 mum cost for the preceding tax year by the percentage by which  
 18 the average all urban Detroit consumer price index for fuels and  
 19 other utilities for the 12 months ending August 31 of the tax  
 20 year for which the credit is claimed exceeds that index's average  
 21 for the 12 months ending on August 31 of the previous tax year,  
 22 but not more than 10%. That product shall be added to the maxi-  
 23 mum cost of the preceding tax year and then rounded to the near-  
 24 est whole dollar. ~~, which whole~~ THAT dollar amount is the new  
 25 maximum cost for the current tax year. If the claimant received  
 26 any credits to his or her heating bill during the tax year, as

1 provided for in subsection (4), the credits shall be treated as  
2 costs incurred by the claimant.

3 (E) For tax years subsequent to the 1988 tax year, the maxi-  
4 mum income amounts SPECIFIED IN SUBDIVISION (C)(ii) shall be  
5 adjusted by multiplying the respective maximum income amounts for  
6 the previous tax year by the percentage by which the average all  
7 urban Detroit consumer price index for all items for the 12  
8 months ending August 31 of the tax year for which the credit is  
9 claimed exceeds that index's average for the 12 months ending on  
10 August 31 of the previous tax year, but not more than 10%. That  
11 product shall be added to the previous tax year's respective max-  
12 imum income level and then rounded to the nearest whole dollar.  
13 ~~, which whole~~ THAT dollar amount is the new maximum income  
14 level for the then current tax year.

15 (F) ~~(d)~~ As used in this section:

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

19 (ii) "Enrolled heating fuel provider" means a heating fuel  
20 provider that is enrolled with the department of social services  
21 as a heating fuel provider.

22 (G) ~~(e)~~ An enrolled heating fuel provider shall notify  
23 each of its customers, not later than December 15 of each year,  
24 of the availability, upon request, of the information necessary  
25 for determining the credit under this section.

26 (H) ~~(f)~~ If an enrolled heating fuel provider refuses or  
27 fails to provide to a customer the information required for

1 determining the credit, or if the claimant is not a customer of  
2 an enrolled heating fuel provider, a claimant may determine the  
3 credit provided in subdivision (c)(ii) based on his or her own  
4 records.

5 (2) A credit claimed on a return covering a period of less  
6 than 12 months shall be calculated based on subsection (1)(c)(i)  
7 and shall be reduced proportionately.

8 (3) If the allowable amount of the credit under this section  
9 exceeds the state income tax otherwise due for the tax year, the  
10 amount of credit not used as an offset against the state income  
11 tax shall be remitted to the claimant, other than a claimant  
12 whose heating costs are included in his or her rent, in the form  
13 of an appropriate energy draft that states the name of the claim-  
14 ant and is issued by the department. After July 31, a refundable  
15 credit for a prior tax year may be paid in the form of a negotia-  
16 ble warrant. The energy draft shall be negotiable only through  
17 an enrolled heating fuel provider upon remittance by the claimant  
18 to the claimant's enrolled heating fuel provider. If, when a  
19 claimant remits an energy draft to an enrolled heating fuel pro-  
20 vider, the amount of the energy draft is greater than the total  
21 of outstanding bills incurred by the claimant with the enrolled  
22 heating fuel provider, the claimant, ~~may request,~~ by checking  
23 the appropriate box to be included on the energy draft, MAY  
24 REQUEST from the enrolled heating fuel provider a payment in an  
25 amount equal to the amount of the energy draft less the amount of  
26 the outstanding bills. The enrolled heating fuel provider shall  
27 issue the payment within 14 days after the claimant's request.

1 (4) If a claimant whose energy draft exceeds his or her  
2 outstanding bills does not request a payment from an enrolled  
3 heating fuel provider under subsection (3), an energy draft  
4 remitted to an enrolled heating fuel provider shall be applied  
5 upon receipt to the claimant's designated account. The energy  
6 draft may be used to cover outstanding bills that the claimant  
7 has incurred with the enrolled heating fuel provider ~~—~~ and to  
8 cover subsequent heating costs until the full amount of the  
9 energy draft is used or until 1 year after the date on which the  
10 energy draft is first applied to the claimant's designated  
11 account. If a credit amount remains from this energy draft after  
12 the 1-year period, or if prior to the end of the 1-year period a  
13 claimant is no longer a customer of the heating fuel provider,  
14 the enrolled heating fuel provider shall remit the remaining  
15 unused portion to the claimant in the form of a fully negotiable  
16 check within 14 days after the end of the 1-year period or within  
17 14 days after termination of service, whichever is sooner. A  
18 claimant who is no longer a resident of the state of Michigan, a  
19 claimant who is not a customer of an enrolled heating fuel pro-  
20 vider, or a claimant whose heating fuel provider refuses to  
21 accept an energy draft shall return the energy draft to the  
22 department and request the issuance of a negotiable warrant. A  
23 claimant may return an energy draft to the department and request  
24 issuance of a negotiable warrant if the energy draft is impracti-  
25 cal because the claimant has already purchased his or her energy  
26 supply for the year and does not have an outstanding obligation  
27 to an enrolled heating fuel provider. The department may honor

1 that request if it agrees that the use of the energy draft is  
2 impractical. The department shall issue the warrant within 14  
3 days of receiving the energy draft from the claimant. The  
4 enrolled heating fuel provider shall bill the department for  
5 credit amounts that have been applied to claimant accounts pursu-  
6 ant to this subsection, and the department shall pay the bills  
7 within 14 days of receipt. The billing shall be accompanied by  
8 the energy drafts for which reimbursement is claimed. A claimant  
9 whose heating fuel is provided by a utility regulated by the  
10 Michigan public service commission shall be protected against the  
11 discontinuance of his or her heating fuel service during a period  
12 beginning December 1 of the tax year for which the credit is  
13 claimed and ending March 31 of the following year if the claimant  
14 participates in the winter protection program set forth in  
15 R 460.2162(2) to (6) of the Michigan administrative code. The  
16 acceptance of an energy draft by a utility shall be considered an  
17 application by the claimant for the winter protection program.  
18 The energy draft shall be coded by the department to denote  
19 claimants who are age 65 or older. If the claimant is a renter  
20 whose heating cost is included in his or her rent payments, the  
21 amount of the claim not used as an offset against the state  
22 income tax, after examination and review, shall be approved for  
23 payment, without interest, to the claimant.

24 (5) If an enrolled heating fuel provider does not issue a  
25 payment or a negotiable check within 14 days as provided in sub-  
26 section (3) or (4), beginning on the fifteenth day, the amount  
27 due to the claimant is increased by adding interest computed on



1 the basis of the rate of interest prescribed FOR DELAYED REFUNDS  
2 OF EXCESS TAX PAYMENTS in section 30(3) of Act No. 122 of the  
3 Public Acts of 1941, being section 205.30 of the Michigan  
4 Compiled Laws. ~~, for delayed refunds of excess tax payments.~~

5 The enrolled heating fuel provider shall pay the interest and  
6 shall not bill the interest to or be reimbursed for the interest  
7 by the department.

8 (6) Only the renter or lessee shall claim a credit on prop-  
9 erty that is rented or leased as a homestead.

10 (7) Only 1 credit may be claimed for a household.

11 (8) The credit under this section ~~shall be~~ IS in addition  
12 to other credits to which the claimant is entitled under this  
13 act.

14 (9) A person who is a full-time student at a school, commu-  
15 nity college, or college or university and who is claimed as a  
16 dependent by another person, or a person who is a current recipi-  
17 ent of general assistance or aid to families with dependent chil-  
18 dren from the department of social services pursuant to the  
19 social welfare act, Act No. 280 of the Public Acts of 1939, as  
20 amended, being sections 400.1 to 400.121 of the Michigan Compiled  
21 Laws, is not eligible for the credit provided by this section.  
22 As used in this subsection, "current recipient" means a person  
23 who receives either general assistance or aid to families with  
24 dependent children during the entire qualifying period from  
25 January 1 through April 15 in the year following the year for  
26 which the claim is made.

1 (10) A claimant who shares a homestead with other eligible  
2 claimants shall prorate the credit by the number of claimants  
3 sharing the homestead.

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

19 (12) If an enrolled heating fuel provider is regulated by  
20 the Michigan public service commission, the public service com-  
21 mission may use an enforcement method authorized by law or rule  
22 to enforce the requirements prescribed by this section on the  
23 enrolled heating fuel provider. If an enrolled heating fuel pro-  
24 vider is not regulated by the public service commission, the  
25 department of social services may use an enforcement method  
26 authorized by law or rule to enforce the requirements prescribed  
27 by this section on the enrolled heating fuel provider.

1 (13) The department shall complete a study by August 1 of  
2 1985, and of each subsequent year, of the actual heating costs of  
3 each claimant who received a credit from the department under  
4 this section for the preceding tax year.

5 (14) The department may promulgate rules necessary to admin-  
6 ister this section pursuant to the administrative procedures act  
7 of 1969, Act No. 306 of the Public Acts of 1969, as amended,  
8 being sections 24.201 to 24.328 of the Michigan Compiled Laws.

9 ~~(15) The director of social services shall submit a revised~~  
10 ~~state plan required by section 2605 of the low income home energy~~  
11 ~~assistance act of 1981, 42 U.S.C. 8624, to the legislature by~~  
12 ~~March 1, 1989. The revised plan shall allocate the available~~  
13 ~~federal low income energy assistance program block grant money,~~  
14 ~~including the private oil company overcharge settlement money~~  
15 ~~appropriated in Act No. 322 of the Public Acts of 1988, to fund~~  
16 ~~the credit allowed by this section in the same percentage as was~~  
17 ~~actually used to fund the credit in fiscal year 1987-88, unless~~  
18 ~~the appropriations committees of the house of representatives and~~  
19 ~~senate approve an alternate plan as recommended by the director~~  
20 ~~of social services.~~