

HOUSE BILL No. 4460

March 22, 2011, Introduced by Reps. Segal, Tlaib, Santana, Bauer, Lindberg, Oakes and Liss and referred to the Committee on Tax Policy.

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 credit shall be determined in the following manner:
10 (a) For the 1988 tax year through the 1994 tax year and,

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

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

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

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

16 (i) Subtract 3.5% of the claimant's household income from the
 17 amount specified in subdivision (a) that corresponds with the
 18 number of exemptions claimed in the return filed under this act,
 19 except that the number of exemptions for purposes of this
 20 subdivision shall not exceed the actual number of persons living
 21 in the household plus the additional personal exemptions allowed
 22 under section 30, and any dependency exemptions for a person or
 23 persons living in the household under a custodial arrangement,
 24 even if the exemptions may not be claimed for other income tax
 25 purposes. For a claimant whose heating costs are included in his
 26 or her rent, multiply the result of the preceding calculation by

1 50%.

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

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

21 (d) For the 1988 tax year for the purposes of subdivision
 22 (c), the total cost incurred by a claimant for heating fuel from
 23 a heating fuel provider shall not exceed \$1,190.00. For tax years
 24 after the 1988 tax year, the maximum cost incurred by a claimant
 25 for heating fuel during a tax year shall be adjusted by
 26 multiplying the maximum cost for the immediately preceding tax
 27 year by the percentage by which the average all urban Detroit

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

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

23 (2) An enrolled heating fuel provider shall notify each of
24 its customers, not later than December 15 of each year or, for
25 1995 only, not later than January 10, 1996 or for 1996 only, not
26 later than January 15, 1996, of the availability, upon request,
27 of the information necessary for determining the credit under

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

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

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

1 submit to the department, in a manner prescribed by the
2 department, the names of their customers who are claimants. If a
3 claimant whose name has been submitted meets the standards
4 established by the department, the department shall send that
5 claimant's energy draft directly to the claimant's enrolled
6 heating fuel provider. If the enrolled heating fuel provider
7 submits names of claimants who are not its customers and the
8 energy drafts of any of those claimants are sent to the enrolled
9 heating fuel provider, the enrolled heating fuel provider shall
10 return the energy drafts or pay the value of the energy drafts to
11 the department plus interest on the amount of the energy drafts
12 at the rate calculated under section 23 **OF 1941 PA 122, MCL**
13 **205.25**, for deficiencies in tax payments. Except as provided in
14 subsection (5), after July 31, a refundable credit for a prior
15 tax year may be paid in the form of a negotiable warrant. The
16 energy draft shall be negotiable only through the claimant's
17 enrolled heating fuel provider upon remittance by the claimant.

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

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

25 (6) If a claimant whose energy draft exceeds his or her
26 outstanding bills does not request a payment from an enrolled
27 heating fuel provider under subsection (5), an energy draft

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

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

1 (8) The enrolled heating fuel provider shall bill the
2 department for credit amounts that have been applied to claimant
3 accounts pursuant to subsection (6), and the department shall pay
4 the bills within 14 days of receipt. The billing shall be
5 accompanied by the energy drafts for which reimbursement is
6 claimed.

7 (9) A claimant whose heating fuel is provided by a utility
8 regulated by the Michigan public service commission is protected
9 against the discontinuance of his or her heating fuel service
10 from the date of filing a claim for the credit under this section
11 through the date of issuance of an energy draft and during a
12 period beginning December 1 of the tax year for which the credit
13 is claimed and ending March 31 of the following year if the
14 claimant participates in the winter protection program set forth
15 in R ~~460.2174~~ **460.148** of the Michigan administrative code or if
16 the utility accepts the claimant's energy draft. The acceptance
17 of an energy draft by a utility is considered a request by the
18 claimant for the winter protection program. The energy draft
19 shall be coded by the department to denote claimants who are 65
20 years of age or older. If the claimant is a claimant whose
21 heating cost is included in his or her rent payments, the amount
22 of the claim not used as an offset against the state income tax,
23 after examination and review, shall be approved for payment,
24 without interest, to the claimant.

25 (10) If an enrolled heating fuel provider does not issue a
26 payment or a negotiable check within 14 days or as otherwise
27 provided in subsection (5) or (6), beginning on the fifteenth day

1 or the fifteenth day after the expiration of the 9-month period
2 under subsection (5), the amount due to the claimant is increased
3 by adding interest computed on the basis of the rate of interest
4 prescribed for delayed refunds of excess tax payments in section
5 30(3) of 1941 PA 122, MCL 205.30. The enrolled heating fuel
6 provider shall pay the interest and shall not bill the interest
7 to or be reimbursed for the interest by the department.

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

18 (12) A claimant who is eligible for the credit provided by
19 this section shall be referred by the department to the
20 appropriate state agency for determination of eligibility for
21 home weatherization assistance and shall accept weatherization
22 assistance if eligible and if assistance is available. A heating
23 fuel provider that is required by the Michigan public service
24 commission to participate in the residential conservation
25 services home energy analysis program shall annually contact each
26 claimant to whom it provides heating fuel, and whose usage
27 exceeds 200,000 cubic feet of natural gas or 18,000 kilowatt

1 hours of electricity annually, and shall offer to provide a home
2 energy analysis at no cost to the claimant. A heating fuel
3 provider that is not required to participate in the residential
4 conservation services program shall not be required to conduct a
5 home energy analysis for its customers.

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

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

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

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

1 (17) The department shall provide a simplified procedure for
2 claiming the credit under this section for claimants for whom, at
3 the time of filing, the ~~family independence agency~~ **DEPARTMENT OF**
4 **HUMAN SERVICES** is making direct vendor payments to an enrolled
5 heating fuel provider.

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

1 block grant, the amount certified by the director of the ~~family~~
2 ~~independence agency~~ **DEPARTMENT OF HUMAN SERVICES** for crisis
3 assistance programs, and the amount certified by the director of
4 the ~~family independence agency~~ **DEPARTMENT OF HUMAN SERVICES** for
5 weatherization. ~~Except as otherwise provided in this subsection,~~
6 ~~the amount used for weatherization each fiscal year shall not~~
7 ~~exceed \$9,000,000.00 less the amount used for weatherization from~~
8 ~~the emergency contingency funds received in the immediately~~
9 ~~preceding year. For the 2004 2005 state fiscal year only, the~~
10 ~~amount used for weatherization shall not exceed \$9,000,000.00 and~~
11 ~~shall not be reduced by the amount used for weatherization from~~
12 ~~the emergency contingency funds received in the immediately~~
13 ~~preceding year.~~ **FOR THE 2011-2012 FISCAL YEAR AND EACH FISCAL**
14 **YEAR THEREAFTER, THE AMOUNT USED FOR WEATHERIZATION EACH FISCAL**
15 **YEAR SHALL NOT BE LESS THAN \$5,000,000.00 OF THE TOTAL FEDERAL**
16 **LOW INCOME HOME ENERGY ASSISTANCE PROGRAM BLOCK GRANT FUNDS**
17 **RECEIVED AND SHALL NOT BE REDUCED BY THE AMOUNT USED FOR**
18 **WEATHERIZATION FROM THE EMERGENCY CONTINGENCY FUNDS RECEIVED IN**
19 **THE IMMEDIATELY PRECEDING YEAR.** The amounts under this subsection
20 that require certification by the director of the ~~family~~
21 ~~independence agency~~ **DEPARTMENT OF HUMAN SERVICES** or by the state
22 treasurer and the director of the department of **TECHNOLOGY,**
23 management, and budget shall be certified on or before December
24 30 of the tax year ~~for the 1996 tax year, and on or before~~
25 ~~November 1 of the tax year for the 1997 tax year and each tax~~
26 ~~year after the 1997 tax year~~ **THEREAFTER.** As used in this
27 subsection, "full home heating credit amount" means the amount

1 certified by the state treasurer and the director of the
2 department of **TECHNOLOGY**, management, and budget to be the
3 estimated amount of the credits that would have been provided
4 under this section for the tax year if no reduction as provided
5 in this subsection were made for that tax year.

6 (19) For tax years after the 1994 tax year, a claimant who
7 claims a credit under this section shall not report the credit
8 amount on the claimant's income tax return filed under this act
9 as an offset against the tax imposed by this act, but shall claim
10 the credit on a separate form prescribed by the department. For
11 tax years after the 1995 tax year, a credit claimed under this
12 section shall not be allowed unless the claim for the credit is
13 filed with the department on or before the September 30
14 immediately following the tax year for which the credit is
15 claimed.

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

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

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

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

26 (21) Notwithstanding section 30a of 1941 PA 122, MCL
27 205.30a, the credit allowed under this section is exempt from

1 interception, execution, levy, attachment, garnishment, or other
2 legal process to collect a debt. No portion of the credit allowed
3 or any rights existing under this section shall be applied as an
4 offset to any liability of the claimant under section 30a of 1941
5 PA 122, MCL 205.30a, or any arrearage or other debt of the
6 claimant.

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

12 (23) As used in this section:

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

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

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