SENATE BILL NO. 55

January 23, 2019, Introduced by Senators RUNESTAD, ZORN, ALEXANDER, BIZON, MCMORROW, DALEY, MACDONALD, WOJNO, BULLOCK, JOHNSON, LUCIDO, BARRETT, BAYER, HOLLIER, HORN, CHANG and HERTEL and referred to the Committee on Finance.

A bill to amend 1967 PA 281, entitled "Income tax act of 1967,"

(MCL 206.1 to 206.713) by adding section 261.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 261. (1) For tax years beginning on and after January 1, 2019 and subject to the applicable limitations in this section, a taxpayer may credit against the tax imposed by this part an amount equal to 50% of the sum of the cash amount and, if food items are contributed in conjunction with a program in which a vendor makes a
matching contribution of similar items, the value of those food items the taxpayer contributes during the tax year to a shelter for homeless persons, food kitchen, food bank, or other entity located in this state, the primary purpose of which is to provide overnight accommodation, food, or meals to persons who are indigent if a contribution to that entity is tax deductible for the donor under the internal revenue code.

(2) For tax years beginning on and after January 1, 2019, a taxpayer may claim an additional credit against the tax imposed by this part for the tax year an amount, subject to the applicable limitations under this section, equal to 50% of the amount the taxpayer contributes during the tax year to a community foundation. For a taxpayer other than a resident estate or trust, the credit allowed under this subsection shall not exceed $100.00, or $200.00 for a joint return. For a resident estate or trust, the credit allowed under this subsection shall not exceed 10% of the taxpayer's tax liability for the tax year before claiming any credits allowed by this part or $5,000.00, whichever is less. For a resident estate or trust, the amount used to calculate the credits under this section shall not have been deducted in arriving at federal taxable income.

(3) The maximum credit allowed under subsection (1) for total contributions made, including the value of food items contributed in conjunction with a program in which a vendor makes a matching contribution of similar items in the tax year to shelters for homeless persons, food kitchens, food banks, and, except for community foundations, other entities is as follows:

(a) For a taxpayer other than a resident estate or trust, the credit shall not exceed $100.00, or $200.00 for a joint return.
(b) For a resident estate or trust, the credit shall not exceed 10% of the taxpayer's tax liability for the tax year before claiming any credits allowed by this part or $5,000.00, whichever is less.

(4) If the amount of the credits allowed under this section exceeds the tax liability of the taxpayer for the tax year, the portion that exceeds the tax liability shall not be refunded.

(5) An entity other than a community foundation may request that the department determine if a contribution to that entity qualifies for the credit under this section. The department shall make a determination and respond to a request no later than 30 days after the department receives the request.

(6) A taxpayer may claim a credit under this section for contributions to a community foundation made before the expiration of the 18-month period after a community foundation was incorporated or established during which the community foundation must build an endowment value of $100,000.00 as provided in subsection (8)(g). If the community foundation does not reach the required $100,000.00 endowment value during that 18-month period, contributions to the community foundation made after the date on which the 18-month period expires shall not be used to calculate a credit under this section. At any time after the expiration of the 18-month period under subsection (8)(g) that the community foundation has an endowment value of $100,000.00, the community foundation may apply to the department for certification under this section.

(7) On or before July 1 of each year, the department shall report to the house committee on tax policy and the senate finance committee the total amount of tax credits claimed under this
section for the immediately preceding tax year.

(8) As used in this section, "community foundation" means an organization that applies for certification on or before May 15 of the tax year for which the taxpayer is claiming the credit and that the department certifies for that tax year as meeting all of the following requirements:

(a) Qualifies for exemption from federal income taxation under section 501(c)(3) of the internal revenue code.

(b) Supports a broad range of charitable activities within the specific geographic area of this state that it serves, such as a municipality or county.

(c) Maintains an ongoing program to attract new endowment funds by seeking gifts and bequests from a wide range of potential donors in the community or area served.

(d) Is publicly supported as defined by the regulations of the United States Department of Treasury, 26 CFR 1.170A-9(f)(10). To maintain certification, the community foundation shall submit documentation to the department annually that demonstrates compliance with this subdivision.

(e) Is not a supporting organization as described in section 509(a)(3) of the internal revenue code and the regulations of the United States Department of Treasury, 26 CFR 1.509(a)-4 and 1.509(a)-5.

(f) Meets the requirements for treatment as a single entity contained in the regulations of the United States Department of Treasury, 26 CFR 1.170A-9(f)(11).

(g) Except as provided in subsection (6), is incorporated or established as a trust at least 6 months before the beginning of the tax year for which the credit under this section is claimed and
has an endowment value of at least $100,000.00 before the expiration of 18 months after the community foundation is incorporated or established.

(h) Has an independent governing body representing the general public's interest and that is not appointed by a single outside entity.

(i) Provides evidence to the department that the community foundation has, before the expiration of 6 months after the community foundation is incorporated or established, and maintains continually during the tax year for which the credit under this section is claimed, at least 1 part-time or full-time employee.

(j) For community foundations that have an endowment value of $1,000,000.00 or more only, the community foundation is subject to an annual independent financial audit and provides copies of that audit to the department not more than 3 months after the completion of the audit. For community foundations that have an endowment value of less than $1,000,000.00, the community foundation is subject to an annual review and an audit every third year.

(k) In addition to all other criteria listed in this subsection for a community foundation that is incorporated or established after June 22, 2000, operates in a county of this state that was not served by a community foundation when the community foundation was incorporated or established or operates as a geographic component of an existing certified community foundation.