

# SENATE BILL No. 1415

September 12, 2006, Introduced by Senators ALLEN, BIRKHOLZ, KUIPERS, GEORGE, GARCIA, GOSCHKA and BROWN and referred to the Committee on Finance.

A bill to amend 1967 PA 281, entitled  
"Income tax act of 1967,"  
by amending section 261 (MCL 206.261), as amended by 2000 PA 195.

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

1           Sec. 261. (1) For the 1989 tax year and each tax year after  
2 1989 and subject to the applicable limitations in this section, a  
3 taxpayer may credit against the tax imposed by this act 50% of the  
4 amount the taxpayer contributes during the tax year to an endowment  
5 fund of a community foundation or for the 1992 tax year and each  
6 tax year after 1992 and subject to the applicable limitations in  
7 this section, a taxpayer may credit against the tax imposed by this  
8 act 50% of the **SUM OF THE** cash amount **AND OF THE VALUE OF FOOD**  
9 **ITEMS** the taxpayer contributes during the tax year to a shelter for

1 homeless persons, food kitchen, food bank, or other entity located  
2 in this state, the primary purpose of which is to provide overnight  
3 accommodation, food, or meals to persons who are indigent if a  
4 contribution to that entity is tax deductible for the donor under  
5 the internal revenue code.

6 (2) For a taxpayer other than a resident estate or trust, the  
7 credit allowed by this section for a contribution to a community  
8 foundation shall not exceed \$100.00, or \$200.00 for a husband and  
9 wife filing a joint return for tax years before the 2000 tax year  
10 and \$100.00 or \$200.00 for a husband and wife filing a joint return  
11 for tax years after the 1999 tax year. For the 1992 tax year and  
12 each tax year after 1992, a taxpayer may claim an additional credit  
13 under this section not to exceed \$100.00, or \$200.00 for a husband  
14 and wife filing a joint return, for total cash contributions made  
15 **AND THE VALUE OF FOOD ITEMS CONTRIBUTED** in the tax year to shelters  
16 for homeless persons, food kitchens, food banks, and, except for  
17 community foundations, other entities allowed under subsection (1).  
18 For a resident estate or trust, the credit allowed by this section  
19 for a contribution to a community foundation shall not exceed 10%  
20 of the taxpayer's tax liability for the tax year before claiming  
21 any credits allowed by this act or \$5,000.00, whichever is less.  
22 For the 1992 tax year and each tax year after 1992, a resident  
23 estate or trust may claim an additional credit under this section  
24 not to exceed 10% of the taxpayer's tax liability for the tax year  
25 before claiming any credits allowed by this act or \$5,000.00,  
26 whichever is less, for total cash contributions made **AND THE VALUE**  
27 **OF FOOD ITEMS CONTRIBUTED** in the tax year to shelters for homeless

1 persons, food kitchens, food banks, and, except for community  
2 foundations, other entities allowed under subsection (1). For a  
3 resident estate or trust, the amount used to calculate the credits  
4 under this section shall not have been deducted in arriving at  
5 federal taxable income.

6 (3) The credits allowed under this section are nonrefundable  
7 so that a taxpayer shall not claim under this section a total  
8 credit amount that reduces the taxpayer's tax liability to less  
9 than zero.

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

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

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

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

23 (d) Is publicly supported as defined by the regulations of the  
24 United States department of treasury, 26 ~~C.F.R.~~ **CFR** 1.170A-  
25 9(e)(10). To maintain certification, the community foundation shall  
26 submit documentation to the department annually that demonstrates  
27 compliance with this subdivision.

1 (e) Is not a supporting organization as an organization is  
2 described in section 509(a) (3) of the internal revenue code and the  
3 regulations of the United States department of treasury, 26 ~~C.F.R.~~  
4 **CFR** 1.509(a)-4 and 1.509(a)-5.

5 (f) Meets the requirements for treatment as a single entity  
6 contained in the regulations of the United States department of  
7 treasury, 26 ~~C.F.R.~~ **CFR** 1.170A-9(e) (11).

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

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

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

22 (j) For community foundations that have an endowment value of  
23 \$1,000,000.00 or more only, the community foundation is subject to  
24 an annual independent financial audit and provides copies of that  
25 audit to the department not more than 3 months after the completion  
26 of the audit. For community foundations that have an endowment  
27 value of less than \$1,000,000.00, the community foundation is

1 subject to an annual review and an audit every third year.

2 (k) In addition to all other criteria listed in this  
3 subsection for a community foundation that is incorporated or  
4 established after the effective date of the amendatory act that  
5 added this subdivision, operates in a county of this state that was  
6 not served by a community foundation when the community foundation  
7 was incorporated or established or operates as a geographic  
8 component of an existing certified community foundation.

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

14 (6) A taxpayer may claim a credit under this section for  
15 contributions to a community foundation made before the expiration  
16 of the 18-month period after a community foundation was  
17 incorporated or established during which the community foundation  
18 must build an endowment value of \$100,000.00 as provided in  
19 subsection (4)(g). If the community foundation does not reach the  
20 required \$100,000.00 endowment value during that 18-month period,  
21 contributions to the community foundation made after the date on  
22 which the 18-month period expires shall not be used to calculate a  
23 credit under this section. At any time after the expiration of the  
24 18-month period under subsection (4)(g) that the community  
25 foundation has an endowment value of \$100,000.00, the community  
26 foundation may apply to the department for certification under this  
27 section.

1           (7) On or before July 1 of each year, the department shall  
2 report to the house committee on tax policy and the senate finance  
3 committee the total amount of tax credits claimed under this  
4 section and under section 38c of the single business tax act, 1975  
5 PA 228, MCL 208.38c, for the immediately preceding tax year.