

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 150

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 261 (MCL 206.261), as amended by 2007 PA 94.

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, FOR THE 2008 TAX YEAR**
9 **AND EACH TAX YEAR AFTER 2008, IF THE FOOD ITEMS ARE CONTRIBUTED IN**

1 **CONJUNCTION WITH A PROGRAM IN WHICH A VENDOR MAKES A MATCHING**
2 **CONTRIBUTION OF SIMILAR ITEMS, THE VALUE OF THOSE FOOD ITEMS** the
3 taxpayer contributes during the tax year to a shelter for homeless
4 persons, food kitchen, food bank, or other entity located in this
5 state, the primary purpose of which is to provide overnight
6 accommodation, food, or meals to persons who are indigent if a
7 contribution to that entity is tax deductible for the donor under
8 the internal revenue code.

9 (2) For a taxpayer other than a resident estate or trust, the
10 credit allowed by this section for a contribution to a community
11 foundation shall not exceed \$100.00, or \$200.00 for a husband and
12 wife filing a joint return for tax years before the 2000 tax year
13 and \$100.00 or \$200.00 for a husband and wife filing a joint return
14 for tax years after the 1999 tax year. For the 1992 tax year and
15 each tax year after 1992, a taxpayer may claim an additional credit
16 under this section not to exceed \$100.00, or \$200.00 for a husband
17 and wife filing a joint return, for total cash contributions made
18 **AND, FOR THE 2008 TAX YEAR AND EACH TAX YEAR AFTER 2008, INCLUDING**
19 **THE VALUE OF FOOD ITEMS CONTRIBUTED AS DESCRIBED IN SUBSECTION (1)**
20 in the tax year to shelters for homeless persons, food kitchens,
21 food banks, and, except for community foundations, other entities
22 allowed under subsection (1). For a resident estate or trust, the
23 credit allowed by this section for a contribution to a community
24 foundation shall not exceed 10% of the taxpayer's tax liability for
25 the tax year before claiming any credits allowed by this act or
26 \$5,000.00, whichever is less. For the 1992 tax year and each tax
27 year after 1992, a resident estate or trust may claim an additional

1 credit under this section not to exceed 10% of the taxpayer's tax
2 liability for the tax year before claiming any credits allowed by
3 this act or \$5,000.00, whichever is less, for total cash
4 contributions made **AND, FOR THE 2008 TAX YEAR AND EACH TAX YEAR**
5 **AFTER 2008, INCLUDING THE VALUE OF FOOD ITEMS CONTRIBUTED AS**
6 **DESCRIBED IN SUBSECTION (1)** in the tax year to shelters for
7 homeless persons, food kitchens, food banks, and, except for
8 community foundations, other entities allowed under subsection (1).
9 For a resident estate or trust, the amount used to calculate the
10 credits under this section shall not have been deducted in arriving
11 at federal taxable income.

12 (3) **FOR THE 2008 TAX YEAR AND EACH TAX YEAR AFTER 2008 AND**
13 **SUBJECT TO THE APPLICABLE LIMITATIONS IN THIS SECTION, WHEN**
14 **CALCULATING THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION A**
15 **TAXPAYER MAY INCLUDE AS A CASH CONTRIBUTION AN AMOUNT EQUAL TO THE**
16 **VALUE OF FOOD ITEMS CONTRIBUTED AS DESCRIBED IN SUBSECTION (1) IN**
17 **THE TAX YEAR TO A SHELTER FOR HOMELESS PERSONS, FOOD KITCHEN, FOOD**
18 **BANK, OR OTHER ENTITY LOCATED IN THIS STATE AS DESCRIBED IN**
19 **SUBSECTION (1).**

20 (4) ~~(3)~~—The credits allowed under this section are
21 nonrefundable so that a taxpayer shall not claim under this section
22 a total credit amount that reduces the taxpayer's tax liability to
23 less than zero.

24 (5) ~~(4)~~—As used in this section, "community foundation" means
25 an organization that applies for certification on or before May 15
26 of the tax year for which the taxpayer is claiming the credit and
27 that the department certifies for that tax year as meeting all of

1 the following requirements:

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

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

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

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

15 (e) Is not a supporting organization as an organization is
16 described in section 509(a)(3) of the internal revenue code and the
17 regulations of the United States department of treasury, 26 CFR
18 1.509(a)-4 and 1.509(a)-5.

19 (f) Meets the requirements for treatment as a single entity
20 contained in the regulations of the United States department of
21 treasury, 26 CFR 1.170A-9(e)(11).

22 (g) Except as provided in subsection ~~(6)~~-(7), is incorporated
23 or established as a trust at least 6 months before the beginning of
24 the tax year for which the credit under this section is claimed and
25 that has an endowment value of at least \$100,000.00 before the
26 expiration of 18 months after the community foundation is
27 incorporated or established.

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

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

9 (j) For community foundations that have an endowment value of
10 \$1,000,000.00 or more only, the community foundation is subject to
11 an annual independent financial audit and provides copies of that
12 audit to the department not more than 3 months after the completion
13 of the audit. For community foundations that have an endowment
14 value of less than \$1,000,000.00, the community foundation is
15 subject to an annual review and an audit every third year.

16 (k) In addition to all other criteria listed in this
17 subsection for a community foundation that is incorporated or
18 established after ~~the effective date of the amendatory act that~~
19 ~~added this subdivision~~ **JUNE 22, 2000**, operates in a county of this
20 state that was not served by a community foundation when the
21 community foundation was incorporated or established or operates as
22 a geographic component of an existing certified community
23 foundation.

24 (6) ~~(5)~~—An entity other than a community foundation may
25 request that the department determine if a contribution to that
26 entity qualifies for the credit under this section. The department
27 shall make a determination and respond to a request no later than

1 30 days after the department receives the request.

2 (7) ~~(6)~~—A taxpayer may claim a credit under this section for
3 contributions to a community foundation made before the expiration
4 of the 18-month period after a community foundation was
5 incorporated or established during which the community foundation
6 must build an endowment value of \$100,000.00 as provided in
7 subsection ~~(4)(g)~~ **(5) (G)**. If the community foundation does not
8 reach the required \$100,000.00 endowment value during that 18-month
9 period, contributions to the community foundation made after the
10 date on which the 18-month period expires shall not be used to
11 calculate a credit under this section. At any time after the
12 expiration of the 18-month period under subsection ~~(4)(g)~~ **(5) (G)**
13 that the community foundation has an endowment value of
14 \$100,000.00, the community foundation may apply to the department
15 for certification under this section.

16 (8) ~~(7)~~—On or before July 1 of each year, the department shall
17 report to the house committee on tax policy and the senate finance
18 committee the total amount of tax credits claimed under this
19 section and under section 38c of the **FORMER** single business tax
20 act, 1975 PA 228, ~~MCL 208.38c~~, or section 425 of the Michigan
21 business tax act, 2007 PA 36, MCL 208.1425, for the immediately
22 preceding tax year.