

# HOUSE BILL No. 5330

February 13, 2014, Introduced by Reps. Irwin, LaVoy, Schor, Lamonte, Zemke, Kandrevas, Driskell, Howrylak, Tlaib, Roberts, Yanez, Barnett, Hovey-Wright, Durhal and Oakes and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled  
"Income tax act of 1967,"  
(MCL 206.1 to 206.713) by adding sections 260, 261, and 269.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 260. (1) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31,  
2        2013, A TAXPAYER MAY CREDIT AGAINST THE TAX IMPOSED BY THIS ACT FOR  
3        THE TAX YEAR, AN AMOUNT, SUBJECT TO THE APPLICABLE LIMITATIONS  
4        PROVIDED BY THIS SECTION, EQUAL TO 50% OF THE AGGREGATE AMOUNT OF  
5        CHARITABLE CONTRIBUTIONS MADE BY THE TAXPAYER DURING THE TAX YEAR  
6        TO ANY OF THE FOLLOWING:

7        (A) THIS STATE PURSUANT TO THE FAXON-MCNAMEE ART IN PUBLIC  
8        PLACES ACT, 1980 PA 105, MCL 18.71 TO 18.81, OF AN ARTWORK CREATED  
9        BY THE TAXPAYER, FOR DISPLAY IN A PUBLIC PLACE.

1 (B) THE STATE ART IN PUBLIC PLACES FUND CREATED PURSUANT TO  
2 THE FAXON-MCNAMEE ART IN PUBLIC PLACES ACT, 1980 PA 105, MCL 18.71  
3 TO 18.81.

4 (C) A MUNICIPALITY IN THIS STATE OF AN ARTWORK CREATED BY THE  
5 PERSONAL EFFORT OF THE TAXPAYER FOR DISPLAY IN A PUBLIC PLACE.

6 (D) EITHER A MUNICIPALITY OF THIS STATE OR A NONPROFIT  
7 CORPORATION AFFILIATED WITH BOTH A MUNICIPALITY AND AN ART  
8 INSTITUTE LOCATED IN THE MUNICIPALITY, OF MONEY OR ARTWORK, WHETHER  
9 OR NOT CREATED BY THE PERSONAL EFFORT OF THE TAXPAYER, IF FOR THE  
10 PURPOSE OF BENEFITING AN ART INSTITUTE LOCATED IN THAT  
11 MUNICIPALITY.

12 (E) A PUBLIC LIBRARY.

13 (F) A PUBLIC BROADCAST STATION AS DEFINED BY SECTION 397 OF  
14 SUBPART E OF PART IV OF TITLE III OF THE COMMUNICATIONS ACT OF  
15 1934, 47 USC 397, THAT IS NOT AFFILIATED WITH AN INSTITUTION OF  
16 HIGHER EDUCATION AND THAT IS LOCATED WITHIN THIS STATE.

17 (G) AN INSTITUTION OF HIGHER LEARNING LOCATED WITHIN THIS  
18 STATE.

19 (H) THE MICHIGAN COLLEGES FOUNDATION.

20 (I) THE STATE MUSEUM.

21 (J) THE DEPARTMENT OF STATE FOR THE PURPOSE OF PRESERVATION OF  
22 THE STATE ARCHIVES.

23 (K) A NONPROFIT CORPORATION, FUND, FOUNDATION, TRUST, OR  
24 ASSOCIATION ORGANIZED AND OPERATED EXCLUSIVELY FOR THE BENEFIT OF  
25 INSTITUTIONS OF HIGHER LEARNING LOCATED WITHIN THIS STATE. A TAX  
26 CREDIT FOR A CONTRIBUTION DESCRIBED IN THIS SUBDIVISION IS  
27 PERMITTED ONLY IF THE DONEE CORPORATION, FUND, FOUNDATION, TRUST,

1 OR ASSOCIATION IS CONTROLLED OR APPROVED AND REVIEWED BY THE  
2 GOVERNING BOARD OF THE INSTITUTION BENEFITING FROM THE CHARITABLE  
3 CONTRIBUTION. THE NONPROFIT CORPORATION, FUND, FOUNDATION, TRUST,  
4 OR ASSOCIATION SHALL PROVIDE COPIES OF ITS ANNUAL INDEPENDENTLY  
5 AUDITED FINANCIAL STATEMENTS TO THE AUDITOR GENERAL OF THIS STATE  
6 AND CHAIRPERSONS OF THE SENATE AND HOUSE APPROPRIATIONS COMMITTEES.

7 (2) FOR A TAXPAYER OTHER THAN A RESIDENT ESTATE OR TRUST, THE  
8 AMOUNT ALLOWABLE AS A CREDIT UNDER THIS SECTION FOR A TAX YEAR  
9 SHALL NOT EXCEED \$100.00, OR FOR A JOINT RETURN AS PROVIDED IN  
10 SECTION 311, \$200.00.

11 (3) FOR A RESIDENT ESTATE OR TRUST, THE AMOUNT ALLOWABLE AS A  
12 CREDIT UNDER THIS SECTION FOR A TAX YEAR SHALL NOT EXCEED 10% OF  
13 THE TAX LIABILITY FOR THE YEAR AS DETERMINED WITHOUT REGARD TO THIS  
14 SECTION OR \$5,000.00, WHICHEVER IS LESS AND SHALL NOT HAVE BEEN  
15 DEDUCTED IN ARRIVING AT FEDERAL TAXABLE INCOME.

16 (4) AS USED IN THIS SECTION:

17 (A) "INSTITUTION OF HIGHER LEARNING" MEANS ONLY AN EDUCATIONAL  
18 INSTITUTION LOCATED WITHIN THIS STATE THAT MEETS ALL OF THE  
19 FOLLOWING REQUIREMENTS:

20 (i) IT MAINTAINS A REGULAR FACULTY AND CURRICULUM AND HAS A  
21 REGULARLY ENROLLED BODY OF STUDENTS IN ATTENDANCE AT THE PLACE  
22 WHERE ITS EDUCATIONAL ACTIVITIES ARE CARRIED ON.

23 (ii) IT REGULARLY OFFERS EDUCATION ABOVE THE TWELFTH GRADE.

24 (iii) IT AWARDS ASSOCIATE, BACHELORS, MASTERS, OR DOCTORAL  
25 DEGREES OR A COMBINATION OF THOSE DEGREES OR HIGHER EDUCATION  
26 CREDITS ACCEPTABLE FOR THOSE DEGREES GRANTED BY OTHER INSTITUTIONS  
27 OF HIGHER LEARNING.

1           (iv) IT IS RECOGNIZED BY THE STATE BOARD OF EDUCATION AS AN  
2     INSTITUTION OF HIGHER LEARNING AND APPEARS AS AN INSTITUTION OF  
3     HIGHER LEARNING IN THE ANNUAL PUBLICATION OF THE DEPARTMENT OF  
4     EDUCATION ENTITLED "THE DIRECTORY OF INSTITUTIONS OF HIGHER  
5     EDUCATION".

6           (B) "PUBLIC LIBRARY" MEANS THAT TERM AS DEFINED IN SECTION 2  
7     OF THE STATE AID TO PUBLIC LIBRARIES ACT, 1977 PA 89, MCL 397.552.

8           (C) "CONTRIBUTIONS MADE BY THE TAXPAYER" MEANS, BUT IS NOT  
9     LIMITED TO, THE FAIR MARKET VALUE OF ARTWORK CREATED BY THE  
10    PERSONAL EFFORT OF THE TAXPAYER THAT IS DONATED TO AND ACCEPTED AS  
11    A DONATION BY A QUALIFIED ORGANIZATION. THE FAIR MARKET VALUE OF A  
12    PIECE OF ARTWORK SHALL BE DETERMINED AT THE TIME OF THE DONATION BY  
13    INDEPENDENT APPRAISAL.

14          (D) "ARTWORK" MEANS AN ORIGINAL, VISUAL CREATION OF QUALITY  
15    EXECUTED IN ANY SIZE OR SHAPE, IN ANY MEDIA, USING ANY KIND OR TYPE  
16    OF MATERIALS.

17          SEC. 261. (1) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2013  
18    AND SUBJECT TO THE APPLICABLE LIMITATIONS IN THIS SECTION, A  
19    TAXPAYER MAY CREDIT AGAINST THE TAX IMPOSED BY THIS ACT 50% OF THE  
20    SUM OF THE CASH AMOUNT AND, IF FOOD ITEMS ARE CONTRIBUTED IN  
21    CONJUNCTION WITH A PROGRAM IN WHICH A VENDOR MAKES A MATCHING  
22    CONTRIBUTION OF SIMILAR ITEMS, THE VALUE OF THOSE FOOD ITEMS THE  
23    TAXPAYER CONTRIBUTES DURING THE TAX YEAR TO A SHELTER FOR HOMELESS  
24    PERSONS, FOOD KITCHEN, FOOD BANK, OR OTHER ENTITY LOCATED IN THIS  
25    STATE, THE PRIMARY PURPOSE OF WHICH IS TO PROVIDE OVERNIGHT  
26    ACCOMMODATION, FOOD, OR MEALS TO PERSONS WHO ARE INDIGENT IF A  
27    CONTRIBUTION TO THAT ENTITY IS TAX DEDUCTIBLE FOR THE DONOR UNDER

1 THE INTERNAL REVENUE CODE.

2 (2) FOR A TAXPAYER OTHER THAN A RESIDENT ESTATE OR TRUST, THE  
3 CREDIT ALLOWED BY THIS SECTION FOR A CONTRIBUTION TO A COMMUNITY  
4 FOUNDATION SHALL NOT EXCEED \$100.00, OR \$200.00 FOR A JOINT RETURN.  
5 A TAXPAYER MAY CLAIM AN ADDITIONAL CREDIT UNDER THIS SECTION NOT TO  
6 EXCEED \$100.00, OR \$200.00 FOR A JOINT RETURN, FOR TOTAL CASH  
7 CONTRIBUTIONS MADE, INCLUDING THE VALUE OF FOOD ITEMS CONTRIBUTED  
8 AS DESCRIBED IN SUBSECTION (1) IN THE TAX YEAR TO SHELTERS FOR  
9 HOMELESS PERSONS, FOOD KITCHENS, FOOD BANKS, AND, EXCEPT FOR  
10 COMMUNITY FOUNDATIONS, OTHER ENTITIES ALLOWED UNDER SUBSECTION (1).  
11 A RESIDENT ESTATE OR TRUST MAY CLAIM A CREDIT UNDER THIS SECTION  
12 NOT TO EXCEED 10% OF THE TAXPAYER'S TAX LIABILITY FOR THE TAX YEAR  
13 BEFORE CLAIMING ANY CREDITS ALLOWED BY THIS ACT OR \$5,000.00,  
14 WHICHEVER IS LESS, FOR TOTAL CASH CONTRIBUTIONS MADE, INCLUDING THE  
15 VALUE OF FOOD ITEMS CONTRIBUTED AS DESCRIBED IN SUBSECTION (1) IN  
16 THE TAX YEAR TO SHELTERS FOR HOMELESS PERSONS, FOOD KITCHENS, FOOD  
17 BANKS, AND, EXCEPT FOR COMMUNITY FOUNDATIONS, OTHER ENTITIES  
18 ALLOWED UNDER SUBSECTION (1). FOR A RESIDENT ESTATE OR TRUST, THE  
19 AMOUNT USED TO CALCULATE THE CREDITS UNDER THIS SECTION SHALL NOT  
20 HAVE BEEN DEDUCTED IN ARRIVING AT FEDERAL TAXABLE INCOME.

21 (3) SUBJECT TO THE APPLICABLE LIMITATIONS IN THIS SECTION,  
22 WHEN CALCULATING THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS  
23 SECTION A TAXPAYER MAY INCLUDE AS A CASH CONTRIBUTION AN AMOUNT  
24 EQUAL TO THE VALUE OF FOOD ITEMS CONTRIBUTED AS DESCRIBED IN  
25 SUBSECTION (1) IN THE TAX YEAR TO A SHELTER FOR HOMELESS PERSONS,  
26 FOOD KITCHEN, FOOD BANK, OR OTHER ENTITY LOCATED IN THIS STATE AS  
27 DESCRIBED IN SUBSECTION (1).

1           (4) THE CREDITS ALLOWED UNDER THIS SECTION ARE NONREFUNDABLE  
2 SO THAT A TAXPAYER SHALL NOT CLAIM UNDER THIS SECTION A TOTAL  
3 CREDIT AMOUNT THAT REDUCES THE TAXPAYER'S TAX LIABILITY TO LESS  
4 THAN ZERO.

5           (5) AS USED IN THIS SECTION, "COMMUNITY FOUNDATION" MEANS AN  
6 ORGANIZATION THAT APPLIES FOR CERTIFICATION ON OR BEFORE MAY 15 OF  
7 THE TAX YEAR FOR WHICH THE TAXPAYER IS CLAIMING THE CREDIT AND THAT  
8 THE DEPARTMENT CERTIFIES FOR THAT TAX YEAR AS MEETING ALL OF THE  
9 FOLLOWING REQUIREMENTS:

10           (A) QUALIFIES FOR EXEMPTION FROM FEDERAL INCOME TAXATION UNDER  
11 SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE.

12           (B) SUPPORTS A BROAD RANGE OF CHARITABLE ACTIVITIES WITHIN THE  
13 SPECIFIC GEOGRAPHIC AREA OF THIS STATE THAT IT SERVES, SUCH AS A  
14 MUNICIPALITY OR COUNTY.

15           (C) MAINTAINS AN ONGOING PROGRAM TO ATTRACT NEW ENDOWMENT  
16 FUNDS BY SEEKING GIFTS AND BEQUESTS FROM A WIDE RANGE OF POTENTIAL  
17 DONORS IN THE COMMUNITY OR AREA SERVED.

18           (D) IS PUBLICLY SUPPORTED AS DEFINED BY THE REGULATIONS OF THE  
19 UNITED STATES DEPARTMENT OF TREASURY, 26 CFR 1.170A-9(E)(10). TO  
20 MAINTAIN CERTIFICATION, THE COMMUNITY FOUNDATION SHALL SUBMIT  
21 DOCUMENTATION TO THE DEPARTMENT ANNUALLY THAT DEMONSTRATES  
22 COMPLIANCE WITH THIS SUBDIVISION.

23           (E) IS NOT A SUPPORTING ORGANIZATION AS AN ORGANIZATION IS  
24 DESCRIBED IN SECTION 509(A)(3) OF THE INTERNAL REVENUE CODE AND THE  
25 REGULATIONS OF THE UNITED STATES DEPARTMENT OF TREASURY, 26 CFR  
26 1.509(A)-4 AND 1.509(A)-5.

27           (F) MEETS THE REQUIREMENTS FOR TREATMENT AS A SINGLE ENTITY

1 CONTAINED IN THE REGULATIONS OF THE UNITED STATES DEPARTMENT OF  
2 TREASURY, 26 CFR 1.170A-9(E)(11).

3 (G) EXCEPT AS PROVIDED IN SUBSECTION (7), IS INCORPORATED OR  
4 ESTABLISHED AS A TRUST AT LEAST 6 MONTHS BEFORE THE BEGINNING OF  
5 THE TAX YEAR FOR WHICH THE CREDIT UNDER THIS SECTION IS CLAIMED AND  
6 THAT HAS AN ENDOWMENT VALUE OF AT LEAST \$100,000.00 BEFORE THE  
7 EXPIRATION OF 18 MONTHS AFTER THE COMMUNITY FOUNDATION IS  
8 INCORPORATED OR ESTABLISHED.

9 (H) HAS AN INDEPENDENT GOVERNING BODY REPRESENTING THE GENERAL  
10 PUBLIC'S INTEREST AND THAT IS NOT APPOINTED BY A SINGLE OUTSIDE  
11 ENTITY.

12 (I) PROVIDES EVIDENCE TO THE DEPARTMENT THAT THE COMMUNITY  
13 FOUNDATION HAS, BEFORE THE EXPIRATION OF 6 MONTHS AFTER THE  
14 COMMUNITY FOUNDATION IS INCORPORATED OR ESTABLISHED, AND MAINTAINS  
15 CONTINUALLY DURING THE TAX YEAR FOR WHICH THE CREDIT UNDER THIS  
16 SECTION IS CLAIMED, AT LEAST 1 PART-TIME OR FULL-TIME EMPLOYEE.

17 (J) FOR COMMUNITY FOUNDATIONS THAT HAVE AN ENDOWMENT VALUE OF  
18 \$1,000,000.00 OR MORE ONLY, THE COMMUNITY FOUNDATION IS SUBJECT TO  
19 AN ANNUAL INDEPENDENT FINANCIAL AUDIT AND PROVIDES COPIES OF THAT  
20 AUDIT TO THE DEPARTMENT NOT MORE THAN 3 MONTHS AFTER THE COMPLETION  
21 OF THE AUDIT. FOR COMMUNITY FOUNDATIONS THAT HAVE AN ENDOWMENT  
22 VALUE OF LESS THAN \$1,000,000.00, THE COMMUNITY FOUNDATION IS  
23 SUBJECT TO AN ANNUAL REVIEW AND AN AUDIT EVERY THIRD YEAR.

24 (K) IN ADDITION TO ALL OTHER CRITERIA LISTED IN THIS  
25 SUBSECTION FOR A COMMUNITY FOUNDATION THAT IS INCORPORATED OR  
26 ESTABLISHED AFTER JUNE 22, 2000, OPERATES IN A COUNTY OF THIS STATE  
27 THAT WAS NOT SERVED BY A COMMUNITY FOUNDATION WHEN THE COMMUNITY

1 FOUNDATION WAS INCORPORATED OR ESTABLISHED OR OPERATES AS A  
2 GEOGRAPHIC COMPONENT OF AN EXISTING CERTIFIED COMMUNITY FOUNDATION.

3 (6) AN ENTITY OTHER THAN A COMMUNITY FOUNDATION MAY REQUEST  
4 THAT THE DEPARTMENT DETERMINE IF A CONTRIBUTION TO THAT ENTITY  
5 QUALIFIES FOR THE CREDIT UNDER THIS SECTION. THE DEPARTMENT SHALL  
6 MAKE A DETERMINATION AND RESPOND TO A REQUEST NO LATER THAN 30 DAYS  
7 AFTER THE DEPARTMENT RECEIVES THE REQUEST.

8 (7) A TAXPAYER MAY CLAIM A CREDIT UNDER THIS SECTION FOR  
9 CONTRIBUTIONS TO A COMMUNITY FOUNDATION MADE BEFORE THE EXPIRATION  
10 OF THE 18-MONTH PERIOD AFTER A COMMUNITY FOUNDATION WAS  
11 INCORPORATED OR ESTABLISHED DURING WHICH THE COMMUNITY FOUNDATION  
12 MUST BUILD AN ENDOWMENT VALUE OF \$100,000.00 AS PROVIDED IN  
13 SUBSECTION (5) (G). IF THE COMMUNITY FOUNDATION DOES NOT REACH THE  
14 REQUIRED \$100,000.00 ENDOWMENT VALUE DURING THAT 18-MONTH PERIOD,  
15 CONTRIBUTIONS TO THE COMMUNITY FOUNDATION MADE AFTER THE DATE ON  
16 WHICH THE 18-MONTH PERIOD EXPIRES SHALL NOT BE USED TO CALCULATE A  
17 CREDIT UNDER THIS SECTION. AT ANY TIME AFTER THE EXPIRATION OF THE  
18 18-MONTH PERIOD UNDER SUBSECTION (5) (G) THAT THE COMMUNITY  
19 FOUNDATION HAS AN ENDOWMENT VALUE OF \$100,000.00, THE COMMUNITY  
20 FOUNDATION MAY APPLY TO THE DEPARTMENT FOR CERTIFICATION UNDER THIS  
21 SECTION.

22 (8) ON OR BEFORE JULY 1 OF EACH YEAR, THE DEPARTMENT SHALL  
23 REPORT TO THE HOUSE COMMITTEE ON TAX POLICY AND THE SENATE FINANCE  
24 COMMITTEE THE TOTAL AMOUNT OF TAX CREDITS CLAIMED UNDER THIS  
25 SECTION FOR THE IMMEDIATELY PRECEDING TAX YEAR.

26 SEC. 269. (1) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31,  
27 2013, A TAXPAYER MAY CLAIM A CREDIT AGAINST THE TAX IMPOSED BY THIS



1 ACT, SUBJECT TO THE APPLICABLE LIMITATIONS PROVIDED BY THIS  
2 SECTION, IN AN AMOUNT EQUAL TO 50% OF THE FAIR MARKET VALUE OF AN  
3 AUTOMOBILE DONATED BY THE TAXPAYER TO A QUALIFIED ORGANIZATION THAT  
4 INTENDS TO PROVIDE THE AUTOMOBILE TO A QUALIFIED RECIPIENT.

5 (2) THE VALUE OF A PASSENGER VEHICLE SHALL BE DETERMINED BY  
6 THE QUALIFIED ORGANIZATION OR BY USING THE VALUE OF THE AUTOMOBILE  
7 IN THE APPROPRIATE GUIDE PUBLISHED BY THE NATIONAL AUTOMOTIVE  
8 DEALERS ASSOCIATION, WHICHEVER IS LESS.

9 (3) FOR A TAXPAYER OTHER THAN A RESIDENT ESTATE OR TRUST, THE  
10 AMOUNT ALLOWABLE AS A CREDIT UNDER THIS SECTION FOR A TAX YEAR  
11 SHALL NOT EXCEED \$50.00, OR FOR A JOINT RETURN AS PROVIDED IN  
12 SECTION 311, \$100.00.

13 (4) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE TAX  
14 LIABILITY OF THE TAXPAYER FOR THE TAX YEAR, THAT AMOUNT THAT  
15 EXCEEDS THE TAX LIABILITY SHALL NOT BE REFUNDED.

16 (5) AS USED IN THIS SECTION, "QUALIFIED ORGANIZATION" AND  
17 "QUALIFIED RECIPIENT" MEAN THOSE TERMS AS DEFINED IN SECTION 4Y OF  
18 THE USE TAX ACT, 1937 PA 94, MCL 205.94Y.