

# SENATE BILL No. 1037

February 7, 2006, Introduced by Senators GEORGE, KUIPERS, BIRKHOLZ, GOSCHKA, ALLEN and TOY and referred to the Committee on Finance.

A bill to amend 1967 PA 281, entitled  
"Income tax act of 1967,"  
by amending sections 260, 261, and 269 (MCL 206.260, 206.261, and 206.269), section 260 as amended by 1996 PA 484, section 261 as amended by 2000 PA 195, and section 269 as added by 2004 PA 313.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 260. (1) A taxpayer may credit against the tax imposed by  
2 this act for the tax year, an amount, subject to the applicable  
3 limitations provided by this section, equal to 50% of the aggregate  
4 amount of charitable contributions made by the taxpayer during the  
5 tax year **AND THROUGH APRIL 15 OF THE FOLLOWING TAX YEAR** to any of  
6 the following:

7       (a) This state pursuant to the Faxon-McNamee art in public  
8 places act, ~~Act No. 105 of the Public Acts of 1980, being sections~~

1 ~~18.71 to 18.81 of the Michigan Compiled Laws 1980 PA 105, MCL~~  
2 **18.71 TO 18.81**, of an artwork created by the taxpayer, for display  
3 in a public place.

4 (b) The state art in public places fund created pursuant to  
5 ~~Act No. 105 of the Public Acts of 1980~~ **THE FAXON-MCNAMEE ART IN**  
6 **PUBLIC PLACES ACT, 1980 PA 105, MCL 18.71 TO 18.81.**

7 (c) A municipality in this state of an artwork created by the  
8 personal effort of the taxpayer for display in a public place.

9 (d) Either a municipality of this state or a nonprofit  
10 corporation affiliated with both a municipality and an art  
11 institute located in the municipality, of money or artwork, whether  
12 or not created by the personal effort of the taxpayer, if for the  
13 purpose of benefiting an art institute located in that  
14 municipality.

15 (e) A public library.

16 (f) A public broadcast station as defined by ~~section 397 of~~  
17 ~~subpart d of title III of the communications act of 1934, 47 U.S.C.~~  
18 **47 USC 397**, that is not affiliated with an institution of higher  
19 education and that is located within this state.

20 (g) An institution of higher learning located within this  
21 state.

22 (h) The Michigan colleges foundation.

23 (i) The state museum.

24 (j) The department of state for the purpose of preservation of  
25 the state archives.

26 (k) A nonprofit corporation, fund, foundation, trust, or  
27 association organized and operated exclusively for the benefit of

1 institutions of higher learning located within this state. A tax  
2 credit for a contribution described in this subdivision is  
3 permitted only if the donee corporation, fund, foundation, trust,  
4 or association is controlled or approved and reviewed by the  
5 governing board of the institution benefiting from the charitable  
6 contribution. The nonprofit corporation, fund, foundation, trust,  
7 or association shall provide copies of its annual independently  
8 audited financial statements to the auditor general of this state  
9 and chairpersons of the senate and house appropriations committees.

10 (2) For a taxpayer other than a resident estate or trust, the  
11 amount allowable as a credit under this section for a tax year  
12 shall not exceed \$100.00, or for a husband and wife filing a joint  
13 return as provided in section 311, \$200.00.

14 (3) For a resident estate or trust, the amount allowable as a  
15 credit under this section for a tax year shall not exceed 10% of  
16 the tax liability for the year as determined without regard to this  
17 section or \$5,000.00, whichever is less and shall not have been  
18 deducted in arriving at federal taxable income.

19 **(4) A CHARITABLE CONTRIBUTION MADE UNDER THIS SECTION SHALL BE**  
20 **USED TO CALCULATE A CREDIT AMOUNT FOR ONLY 1 TAX YEAR.**

21 (5) ~~—(4)—~~ As used in this section:

22 (a) "Institution of higher learning" means only an educational  
23 institution located within this state that meets all of the  
24 following requirements:

25 (i) It maintains a regular faculty and curriculum and has a  
26 regularly enrolled body of students in attendance at the place  
27 where its educational activities are carried on.

1 (ii) It regularly offers education above the twelfth grade.

2 (iii) It awards associate, bachelors, masters, or doctoral  
3 degrees or a combination of those degrees or higher education  
4 credits acceptable for those degrees granted by other institutions  
5 of higher learning.

6 (iv) It is recognized by the state board of education as an  
7 institution of higher learning and appears as an institution of  
8 higher learning in the annual publication of the department of  
9 education **LABOR AND ECONOMIC GROWTH** entitled ~~"The~~ "Directory of  
10 **MICHIGAN** Institutions of Higher Education".

11 (b) "Public library" means that term as defined in section 2  
12 of the state aid to public libraries act, ~~Act No. 89 of the Public~~  
13 ~~Acts of 1977, being section 397.552 of the Michigan Compiled Laws~~  
14 **1977 PA 89, MCL 397.552.**

15 (c) "Contributions made by the taxpayer" means, but is not  
16 limited to, the fair market value of artwork created by the  
17 personal effort of the taxpayer that is donated to and accepted as  
18 a donation by a qualified organization. The fair market value of a  
19 piece of artwork shall be determined at the time of the donation by  
20 independent appraisal.

21 (d) "Artwork" means an original, visual creation of quality  
22 executed in any size or shape, in any media, using any kind or type  
23 of materials.

24 (6) ~~—(5)—~~ The sum of the credits allowed by section 257 and  
25 this section shall not exceed the tax liability of the taxpayer.

26 Sec. 261. (1) For the 1989 tax year and each tax year after  
27 1989 and subject to the applicable limitations in this section, a

1 taxpayer may credit against the tax imposed by this act 50% of the  
2 amount the taxpayer contributes during the tax year **AND THROUGH**  
3 **APRIL 15 OF THE FOLLOWING TAX YEAR** to an endowment fund of a  
4 community foundation or for the 1992 tax year and each tax year  
5 after 1992 and subject to the applicable limitations in this  
6 section, a taxpayer may credit against the tax imposed by this act  
7 50% of the cash amount the taxpayer contributes during the tax year  
8 **AND THROUGH APRIL 15 OF THE FOLLOWING TAX YEAR** to a shelter for  
9 homeless persons, food kitchen, food bank, or other entity located  
10 in this state, the primary purpose of which is to provide overnight  
11 accommodation, food, or meals to persons who are indigent if a  
12 contribution to that entity is tax deductible for the donor under  
13 the internal revenue code.

14 (2) For a taxpayer other than a resident estate or trust, the  
15 credit allowed by this section for a contribution to a community  
16 foundation shall not exceed \$100.00, or \$200.00 for a husband and  
17 wife filing a joint return for tax years before the 2000 tax year  
18 and \$100.00 or \$200.00 for a husband and wife filing a joint return  
19 for tax years after the 1999 tax year. For the 1992 tax year and  
20 each tax year after 1992, a taxpayer may claim an additional credit  
21 under this section not to exceed \$100.00, or \$200.00 for a husband  
22 and wife filing a joint return, for total cash contributions made  
23 in the tax year to shelters for homeless persons, food kitchens,  
24 food banks, and, except for community foundations, other entities  
25 allowed under subsection (1). For a resident estate or trust, the  
26 credit allowed by this section for a contribution to a community  
27 foundation shall not exceed 10% of the taxpayer's tax liability for

1 the tax year before claiming any credits allowed by this act or  
2 \$5,000.00, whichever is less. For the 1992 tax year and each tax  
3 year after 1992, a resident estate or trust may claim an additional  
4 credit under this section not to exceed 10% of the taxpayer's tax  
5 liability for the tax year before claiming any credits allowed by  
6 this act or \$5,000.00, whichever is less, for total cash  
7 contributions made in the tax year to shelters for homeless  
8 persons, food kitchens, food banks, and, except for community  
9 foundations, other entities allowed under subsection (1). For a  
10 resident estate or trust, the amount used to calculate the credits  
11 under this section shall not have been deducted in arriving at  
12 federal taxable income.

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

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

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

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

27 (c) Maintains an ongoing program to attract new endowment

1 funds by seeking gifts and bequests from a wide range of potential  
2 donors in the community or area served.

3 (d) Is publicly supported as defined by the regulations of the  
4 United States department of treasury, ~~-26 C.F.R.-~~ **26 CFR** 1.170A-  
5 9(e)(10). To maintain certification, the community foundation shall  
6 submit documentation to the department annually that demonstrates  
7 compliance with this subdivision.

8 (e) Is not a supporting organization as an organization is  
9 described in section 509(a)(3) of the internal revenue code and the  
10 regulations of the United States department of treasury, ~~-26 C.F.R.-~~  
11 **26 CFR** 1.509(a)-4 and 1.509(a)-5.

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

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

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

24 (i) Provides evidence to the department that the community  
25 foundation has, before the expiration of 6 months after the  
26 community foundation is incorporated or established, and maintains  
27 continually during the tax year for which the credit under this

1 section is claimed, at least 1 part-time or full-time employee.

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

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

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

22 (6) A taxpayer may claim a credit under this section for  
23 contributions to a community foundation made before the expiration  
24 of the 18-month period after a community foundation was  
25 incorporated or established during which the community foundation  
26 must build an endowment value of \$100,000.00 as provided in  
27 subsection (4)(g). If the community foundation does not reach the



1 required \$100,000.00 endowment value during that 18-month period,  
 2 contributions to the community foundation made after the date on  
 3 which the 18-month period expires shall not be used to calculate a  
 4 credit under this section. At any time after the expiration of the  
 5 18-month period under subsection (4)(g) that the community  
 6 foundation has an endowment value of \$100,000.00, the community  
 7 foundation may apply to the department for certification under this  
 8 section.

9       **(7) A CHARITABLE CONTRIBUTION MADE UNDER THIS SECTION SHALL BE**  
 10 **USED TO CALCULATE A CREDIT AMOUNT FOR ONLY 1 TAX YEAR.**

11       **(8) —(7)—** On or before July 1 of each year, the department  
 12 shall report to the house committee on tax policy and the senate  
 13 finance committee the total amount of tax credits claimed under  
 14 this section and under section 38c of the single business tax act,  
 15 1975 PA 228, MCL 208.38c, for the immediately preceding tax year.

16       Sec. 269. (1) For tax years that begin after December 31, 2004  
 17 and before January 1, 2010, a taxpayer may claim a credit against  
 18 the tax imposed by this act, subject to the applicable limitations  
 19 provided by this section, in an amount equal to 50% of the fair  
 20 market value of an automobile donated **DURING THE TAX YEAR AND**  
 21 **THROUGH APRIL 15 OF THE FOLLOWING TAX YEAR** by the taxpayer to a  
 22 qualified organization that intends to provide the automobile to a  
 23 qualified recipient.

24       (2) The value of a passenger vehicle shall be determined by  
 25 the qualified organization or by using the value of the automobile  
 26 in the appropriate guide published by the national automotive  
 27 dealers association, whichever is less.

1           (3) For a taxpayer other than a resident estate or trust, the  
2 amount allowable as a credit under this section for a tax year  
3 shall not exceed \$50.00, or for a husband and wife filing a joint  
4 return as provided in section 311, \$100.00.

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

8           **(5) A CHARITABLE CONTRIBUTION MADE UNDER THIS SECTION SHALL BE**  
9 **USED TO CALCULATE A CREDIT AMOUNT FOR ONLY 1 TAX YEAR.**

10          (6) ~~—(5)—~~ As used in this section, "qualified organization"  
11 and "qualified recipient" mean those terms as defined in section 4y  
12 of the use tax act, 1937 PA 94, MCL 205.94y.