

# SENATE BILL No. 987

November 12, 2009, Introduced by Senators KUIPERS, VAN WOERKOM, CHERRY, WHITMER, McMANUS, CROPSEY, BISHOP, SANBORN, GILBERT, JELINEK, NOFS, GEORGE, STAMAS, ALLEN, BASHAM, PAPPAGEORGE, JANSEN, HARDIMAN, KAHN, BIRKHOLZ, BROWN, RICHARDVILLE, CLARKE, SWITALSKI, CLARK-COLEMAN, GLEASON, ANDERSON, HUNTER, BARCIA, OLSHOVE, SCOTT, BRATER, PATTERSON, PRUSI and THOMAS 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 2008 PA 207.

## 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  
10 conjunction with a program in which a vendor makes a matching

1 contribution of similar items, the value of those food items the  
2 taxpayer contributes during the tax year to a shelter for homeless  
3 persons, food kitchen, food bank, **STATE VETERANS HOME CREATED UNDER**  
4 **1885 PA 152, MCL 36.1 TO 36.12**, 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, **STATE VETERANS HOMES CREATED UNDER 1885 PA 152, MCL**  
22 **36.1 TO 36.12**, and, except for community foundations, other  
23 entities allowed under subsection (1). For a resident estate or  
24 trust, the credit allowed by this section for a contribution to a  
25 community foundation shall not exceed 10% of the taxpayer's tax  
26 liability for the tax year before claiming any credits allowed by  
27 this act or \$5,000.00, whichever is less. For the 1992 tax year and

1 each tax year after 1992, a resident estate or trust may claim an  
2 additional credit under this section not to exceed 10% of the  
3 taxpayer's tax liability for the tax year before claiming any  
4 credits allowed by this act or \$5,000.00, whichever is less, for  
5 total cash contributions made and, for the 2008 tax year and each  
6 tax year after 2008, including the value of food items contributed  
7 as described in subsection (1) in the tax year to shelters for  
8 homeless persons, food kitchens, food banks, **STATE VETERANS HOMES**  
9 **CREATED UNDER 1885 PA 152, MCL 36.1 TO 36.12**, and, except for  
10 community foundations, other entities allowed under subsection (1).  
11 For a resident estate or trust, the amount used to calculate the  
12 credits under this section shall not have been deducted in arriving  
13 at federal taxable income.

14 (3) For the 2008 tax year and each tax year after 2008 and  
15 subject to the applicable limitations in this section, when  
16 calculating the amount of the credit allowed under this section a  
17 taxpayer may include as a cash contribution an amount equal to the  
18 value of food items contributed as described in subsection (1) in  
19 the tax year to a shelter for homeless persons, food kitchen, food  
20 bank, **A STATE VETERANS HOME CREATED UNDER 1885 PA 152, MCL 36.1 TO**  
21 **36.12**, or other entity located in this state as described in  
22 subsection (1).

23 (4) The credits allowed under this section are nonrefundable  
24 so that a taxpayer shall not claim under this section a total  
25 credit amount that reduces the taxpayer's tax liability to less  
26 than zero.

27 (5) As used in this section, "community foundation" means an

1 organization that applies for certification on or before May 15 of  
2 the tax year for which the taxpayer is claiming the credit and that  
3 the department certifies for that tax year as meeting all of the  
4 following requirements:

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

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

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

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

18 (e) Is not a supporting organization as an organization is  
19 described in section 509(a)(3) of the internal revenue code and the  
20 regulations of the United States department of treasury, 26 CFR  
21 1.509(a)-4 and 1.509(a)-5.

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

25 (g) Except as provided in subsection (7), is incorporated or  
26 established as a trust at least 6 months before the beginning of  
27 the tax year for which the credit under this section is claimed and

1 that has an endowment value of at least \$100,000.00 before the  
2 expiration of 18 months after the community foundation is  
3 incorporated or established.

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

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

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

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

25 (6) An entity other than a community foundation may request  
26 that the department determine if a contribution to that entity  
27 qualifies for the credit under this section. The department shall

1 make a determination and respond to a request no later than 30 days  
2 after the department receives the request.

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

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

23 Enacting section 1. This amendatory act takes effect January  
24 1, 2010.