

SENATE BILL NO. 55

January 23, 2019, Introduced by Senators RUNESTAD, ZORN, ALEXANDER, BIZON, MCMORROW, DALEY, MACDONALD, WOJNO, BULLOCK, JOHNSON, LUCIDO, BARRETT, BAYER, HOLLIER, HORN, CHANG and HERTEL and referred to the Committee on Finance.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 261. (1) For tax years beginning on and after January 1,
2 2019 and subject to the applicable limitations in this section, a
3 taxpayer may credit against the tax imposed by this part an amount
4 equal to 50% of the sum of the cash amount and, if food items are
5 contributed in conjunction with a program in which a vendor makes a

1 matching contribution of similar items, the value of those food
2 items the taxpayer contributes during the tax year to a shelter for
3 homeless persons, food kitchen, food bank, or other entity located
4 in this state, the primary purpose of which is to provide overnight
5 accommodation, food, or meals to persons who are indigent if a
6 contribution to that entity is tax deductible for the donor under
7 the internal revenue code.

8 (2) For tax years beginning on and after January 1, 2019, a
9 taxpayer may claim an additional credit against the tax imposed by
10 this part for the tax year an amount, subject to the applicable
11 limitations under this section, equal to 50% of the amount the
12 taxpayer contributes during the tax year to a community foundation.
13 For a taxpayer other than a resident estate or trust, the credit
14 allowed under this subsection shall not exceed \$100.00, or \$200.00
15 for a joint return. For a resident estate or trust, the credit
16 allowed under this subsection shall not exceed 10% of the
17 taxpayer's tax liability for the tax year before claiming any
18 credits allowed by this part or \$5,000.00, whichever is less. For a
19 resident estate or trust, the amount used to calculate the credits
20 under this section shall not have been deducted in arriving at
21 federal taxable income.

22 (3) The maximum credit allowed under subsection (1) for total
23 contributions made, including the value of food items contributed
24 in conjunction with a program in which a vendor makes a matching
25 contribution of similar items in the tax year to shelters for
26 homeless persons, food kitchens, food banks, and, except for
27 community foundations, other entities is as follows:

28 (a) For a taxpayer other than a resident estate or trust, the
29 credit shall not exceed \$100.00, or \$200.00 for a joint return.

1 (b) For a resident estate or trust, the credit shall not
2 exceed 10% of the taxpayer's tax liability for the tax year before
3 claiming any credits allowed by this part or \$5,000.00, whichever
4 is less.

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

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

13 (6) A taxpayer may claim a credit under this section for
14 contributions to a community foundation made before the expiration
15 of the 18-month period after a community foundation was
16 incorporated or established during which the community foundation
17 must build an endowment value of \$100,000.00 as provided in
18 subsection (8)(g). If the community foundation does not reach the
19 required \$100,000.00 endowment value during that 18-month period,
20 contributions to the community foundation made after the date on
21 which the 18-month period expires shall not be used to calculate a
22 credit under this section. At any time after the expiration of the
23 18-month period under subsection (8)(g) that the community
24 foundation has an endowment value of \$100,000.00, the community
25 foundation may apply to the department for certification under this
26 section.

27 (7) On or before July 1 of each year, the department shall
28 report to the house committee on tax policy and the senate finance
29 committee the total amount of tax credits claimed under this

1 section for the immediately preceding tax year.

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

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

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

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

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

20 (e) Is not a supporting organization as described in section
21 509(a)(3) of the internal revenue code and the regulations of the
22 United States Department of Treasury, 26 CFR 1.509(a)-4 and
23 1.509(a)-5.

24 (f) Meets the requirements for treatment as a single entity
25 contained in the regulations of the United States Department of
26 Treasury, 26 CFR 1.170A-9(f)(11).

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

1 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.