

HOUSE BILL No. 5394

March 5, 2014, Introduced by Reps. Potvin, Brown, Brunner, Howrylak, Bumstead, Lamonte, Rendon, Townsend, Muxlow, Schmidt, MacMaster, Crawford, Zemke, Geiss, Dillon, Knezek, LaVoy, Haines, Driskell, Irwin, Singh, Schor and Kosowski 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 253 and 254.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 253. (1) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2013
2 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 SUM OF THE CASH AMOUNT AND, IF FOOD ITEMS ARE CONTRIBUTED IN
5 CONJUNCTION WITH A PROGRAM IN WHICH A VENDOR MAKES A MATCHING
6 CONTRIBUTION OF SIMILAR ITEMS, THE VALUE OF THOSE FOOD ITEMS THE
7 TAXPAYER CONTRIBUTES DURING THE TAX YEAR TO A SHELTER FOR HOMELESS
8 PERSONS, FOOD KITCHEN, FOOD BANK, OR OTHER ENTITY LOCATED IN THIS
9 STATE, THE PRIMARY PURPOSE OF WHICH IS TO PROVIDE OVERNIGHT
10 ACCOMMODATION, FOOD, OR MEALS TO PERSONS WHO ARE INDIGENT IF A

1 CONTRIBUTION TO THAT ENTITY IS TAX DEDUCTIBLE FOR THE DONOR UNDER
2 THE INTERNAL REVENUE CODE.

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

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

DESCRIBED IN SUBSECTION (1).

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

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

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

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

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

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

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

1 (F) MEETS THE REQUIREMENTS FOR TREATMENT AS A SINGLE ENTITY
2 CONTAINED IN THE REGULATIONS OF THE UNITED STATES DEPARTMENT OF
3 TREASURY, 26 CFR 1.170A-9(F)(11).

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

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

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

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

25 (K) IN ADDITION TO ALL OTHER CRITERIA LISTED IN THIS
26 SUBSECTION FOR A COMMUNITY FOUNDATION THAT IS INCORPORATED OR
27 ESTABLISHED AFTER JUNE 22, 2000, OPERATES IN A COUNTY OF THIS STATE

1 THAT WAS NOT SERVED BY A COMMUNITY FOUNDATION WHEN THE COMMUNITY
2 FOUNDATION WAS INCORPORATED OR ESTABLISHED OR OPERATES AS A
3 GEOGRAPHIC COMPONENT OF AN EXISTING CERTIFIED COMMUNITY FOUNDATION.

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

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

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

27 SEC. 254. (1) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31,

1 2013, A TAXPAYER MAY CREDIT AGAINST THE TAX IMPOSED BY THIS ACT FOR
2 THE TAX YEAR, AN AMOUNT, SUBJECT TO THE APPLICABLE LIMITATIONS
3 PROVIDED BY THIS SECTION, EQUAL TO 50% OF THE AGGREGATE AMOUNT OF
4 CHARITABLE CONTRIBUTIONS MADE BY THE TAXPAYER DURING THE TAX YEAR
5 TO ANY OF THE FOLLOWING:

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

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

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

14 (D) EITHER A MUNICIPALITY OF THIS STATE OR A NONPROFIT
15 CORPORATION AFFILIATED WITH BOTH A MUNICIPALITY AND AN ART
16 INSTITUTE LOCATED IN THE MUNICIPALITY, OF MONEY OR ARTWORK, WHETHER
17 OR NOT CREATED BY THE PERSONAL EFFORT OF THE TAXPAYER, IF FOR THE
18 PURPOSE OF BENEFITING AN ART INSTITUTE LOCATED IN THAT
19 MUNICIPALITY.

20 (E) A PUBLIC LIBRARY.

21 (F) A PUBLIC BROADCAST STATION AS DEFINED BY SECTION 397 OF
22 SUBPART E OF PART IV OF TITLE III OF THE COMMUNICATIONS ACT OF
23 1934, 47 USC 397, THAT IS NOT AFFILIATED WITH AN INSTITUTION OF
24 HIGHER EDUCATION AND THAT IS LOCATED WITHIN THIS STATE.

25 (G) AN INSTITUTION OF HIGHER LEARNING LOCATED WITHIN THIS
26 STATE.

27 (H) THE MICHIGAN COLLEGES FOUNDATION.

1 (I) THE STATE MUSEUM.

2 (J) THE DEPARTMENT OF STATE FOR THE PURPOSE OF PRESERVATION OF
3 THE STATE ARCHIVES.

4 (K) A NONPROFIT CORPORATION, FUND, FOUNDATION, TRUST, OR
5 ASSOCIATION ORGANIZED AND OPERATED EXCLUSIVELY FOR THE BENEFIT OF
6 INSTITUTIONS OF HIGHER LEARNING LOCATED WITHIN THIS STATE. A TAX
7 CREDIT FOR A CONTRIBUTION DESCRIBED IN THIS SUBDIVISION IS
8 PERMITTED ONLY IF THE DONEE CORPORATION, FUND, FOUNDATION, TRUST,
9 OR ASSOCIATION IS CONTROLLED OR APPROVED AND REVIEWED BY THE
10 GOVERNING BOARD OF THE INSTITUTION BENEFITING FROM THE CHARITABLE
11 CONTRIBUTION. THE NONPROFIT CORPORATION, FUND, FOUNDATION, TRUST,
12 OR ASSOCIATION SHALL PROVIDE COPIES OF ITS ANNUAL INDEPENDENTLY
13 AUDITED FINANCIAL STATEMENTS TO THE AUDITOR GENERAL OF THIS STATE
14 AND CHAIRPERSONS OF THE SENATE AND HOUSE APPROPRIATIONS COMMITTEES.

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

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

24 (4) AS USED IN THIS SECTION:

25 (A) "INSTITUTION OF HIGHER LEARNING" MEANS ONLY AN EDUCATIONAL
26 INSTITUTION LOCATED WITHIN THIS STATE THAT MEETS ALL OF THE
27 FOLLOWING REQUIREMENTS:

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

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

5 (iii) IT AWARDS ASSOCIATE, BACHELORS, MASTERS, OR DOCTORAL
6 DEGREES OR A COMBINATION OF THOSE DEGREES OR HIGHER EDUCATION
7 CREDITS ACCEPTABLE FOR THOSE DEGREES GRANTED BY OTHER INSTITUTIONS
8 OF HIGHER LEARNING.

9 (iv) IT IS RECOGNIZED BY THE STATE BOARD OF EDUCATION AS AN
10 INSTITUTION OF HIGHER LEARNING AND APPEARS AS AN INSTITUTION OF
11 HIGHER LEARNING IN THE ANNUAL PUBLICATION OF THE DEPARTMENT OF
12 EDUCATION ENTITLED "THE DIRECTORY OF INSTITUTIONS OF HIGHER
13 EDUCATION".

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

16 (C) "CONTRIBUTIONS MADE BY THE TAXPAYER" MEANS, BUT IS NOT
17 LIMITED TO, THE FAIR MARKET VALUE OF ARTWORK CREATED BY THE
18 PERSONAL EFFORT OF THE TAXPAYER THAT IS DONATED TO AND ACCEPTED AS
19 A DONATION BY A QUALIFIED ORGANIZATION. THE FAIR MARKET VALUE OF A
20 PIECE OF ARTWORK SHALL BE DETERMINED AT THE TIME OF THE DONATION BY
21 INDEPENDENT APPRAISAL.

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