

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1345**

A bill to amend 1975 PA 228, entitled "Single business tax act," by amending sections 35, 35a, 37c, and 38c (MCL 208.35, 208.35a, 208.37c, and 208.38c), section 35 as amended by 1998 PA 240, section 35a as amended by 2000 PA 44, section 37c as amended by 1999 PA 100, and section 38c as amended by 1997 PA 190.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 35. (1) The following are exempt from the tax imposed
2 by this act:

3 (a) For tax years beginning after 1976 and before January 1,
4 1989, the first \$40,000.00; for tax years beginning in 1989, the
5 first \$41,000.00; for tax years beginning in 1990, the first
6 \$42,000.00; for tax years beginning in 1991, the first
7 \$43,000.00; for tax years beginning in 1992, the first
8 \$44,000.00; and for tax years beginning after 1992, the first

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1 \$45,000.00 of the tax base of every person. This exemption shall
2 be increased by \$12,000.00 for each partner of a partnership or
3 shareholder of a subchapter S corporation or professional corpo-
4 ration in excess of 1 who is a full-time employee of the taxpay-
5 er, whose business income from that business is at least
6 \$12,000.00, and who owns at least 10% of that business. The
7 total increase in the exemption shall be not more than
8 \$48,000.00. For a taxpayer whose business activity is for a
9 fractional part of a year, the exemption provided in this subdi-
10 vision including the increase in the exemption shall be prorated
11 for the period of the taxpayer's business activity. This exemp-
12 tion shall be reduced by \$2.00 for each \$1.00 that business
13 income exceeds the amount of the exemption. For the purposes of
14 computing the exemption, "business income" means that term as
15 defined in section 3 plus compensation and director's fees of
16 shareholders of a corporation and any carryback or carryover of a
17 net operating loss or capital loss to the extent deducted in
18 arriving at federal taxable income. In calculating eligibility
19 for the exemption provided in this subdivision, a person who is
20 not a corporation may elect to average its business income for
21 the current year and the previous 4 taxable years. Business
22 income as defined in this subdivision shall not be less than
23 zero. For the purposes of this subdivision, tax base shall be
24 after allocation and apportionment provided in chapter 3 and the
25 adjustments provided in sections 23 and 23b. This subdivision
26 does not apply to an adjusted tax base under section 22a.

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1 (b) The United States, this state, other states, and the
2 agencies, political subdivisions, and enterprises of each.

3 (c) A person who is exempt from federal income tax under the
4 internal revenue code, and, for tax years that begin after
5 December 31, 1995, a partnership, limited liability company,
6 joint venture, general partnership, limited partnership, unincor-
7 porated association, or other group or combination of entities
8 acting as a unit if the activities of the entity are exclusively
9 related to the charitable, educational, or other purpose or func-
10 tion that is the basis for the exemption under the internal reve-
11 nue code from federal income taxation of the partners or members
12 and if all of the partners or members of the entity are exempt
13 from federal income tax under the internal revenue code, except
14 the following:

15 (i) An organization included under section 501(c)(12) or
16 501(c)(16) of the internal revenue code.

17 (ii) An organization exempt under section 501(c)(4) of the
18 internal revenue code that would be exempt under section
19 501(c)(12) of the internal revenue code but for its failure to
20 meet the requirements in section 501(c)(12) that 85% or more of
21 its income must consist of amounts collected from members.

22 (iii) The adjusted tax base attributable to the activities
23 giving rise to the unrelated taxable business income of an exempt
24 person.

25 (d) Before August 3, 1987, a foreign or alien insurance com-
26 pany subject to the provisions of the premium tax under sections
27 440 to 446 of the insurance code of 1956, 1956 PA 218, as those

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1 sections were in effect on December 27, 1987. This exemption
2 does not apply to the tax base derived from a business activity
3 other than insurance carrier services.

4 (e) Before August 3, 1987, that portion of the payroll of a
5 domestic insurer or of a marketing corporation that constitutes
6 insurance sales commissions paid to employees and salaries of
7 employees primarily concerned with the adjustment of claims.
8 This exemption does not apply to a marketing corporation that is
9 not controlled, directly or indirectly, by stock ownership or
10 common management, by the domestic insurer or insurers from which
11 it derives all or substantially all of its gross income, exclu-
12 sive of income from investments.

13 (f) Beginning August 3, 1987 and after being apportioned
14 under section 62, the first \$130,000,000.00 of disability insur-
15 ance premiums written in Michigan, or, for the 1991 tax year
16 only, the first \$162,500,000.00 of disability insurance premiums
17 written in Michigan, other than credit insurance and disability
18 income insurance premiums, of each insurer subject to tax under
19 this act. This exemption shall be reduced by \$2.00 for each
20 \$1.00 by which the insurer's gross premiums from insurance car-
21 rier services in this state and outside this state exceed
22 \$180,000,000.00, or, for the 1991 tax year only,
23 \$225,000,000.00.

24 (g) A nonprofit cooperative housing corporation. As used in
25 this subdivision, "nonprofit cooperative housing corporation"
26 means a cooperative housing corporation that is engaged in
27 providing housing services to its stockholders and members and

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1 that does not pay dividends or interest upon stock or membership
2 investment but that does distribute all earnings to its stock-
3 holders or members. This exemption does not apply to a business
4 activity of a nonprofit cooperative housing corporation other
5 than providing housing services to its stockholders and members.

6 (h) That portion of the tax base attributable to the produc-
7 tion of agricultural goods by a person whose primary activity is
8 the production of agricultural goods. "Production of agricul-
9 tural goods" means commercial farming including, but not limited
10 to, cultivation of the soil; growing and harvesting of an agri-
11 cultural, horticultural, or floricultural commodity; dairying;
12 raising of livestock, bees, fish, fur-bearing animals, or poul-
13 try; or turf or tree farming, but not including the marketing at
14 retail of agricultural goods except for sales of nursery stock
15 grown by the seller and sold to a nursery dealer licensed under
16 section 9 of the insect pest and plant disease act, 1931 PA 189,
17 MCL 286.209.

18 (i) Except as provided in subsection (3), a farmers' cooper-
19 ative corporation organized within the limitations of section 98
20 of 1931 PA 327, MCL 450.98, that was at any time exempt under
21 subdivision (c) because the corporation was exempt from federal
22 income taxes under section 521 of the internal revenue code and
23 that would continue to be exempt under section 521 of the inter-
24 nal revenue code except for either of the following activities:

25 (i) The corporation's repurchase from nonproducer customers
26 of portions or components of commodities the corporation markets
27 to those nonproducer customers and the corporation's subsequent

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1 manufacturing or marketing of the repurchased portions or
2 components of the commodities.

3 (ii) The corporation's incidental or emergency purchases of
4 commodities from nonproducers to facilitate the manufacturing or
5 marketing of commodities purchased from producers.

6 (j) That portion of the tax base attributable to the direct
7 and indirect marketing activities of a farmers' cooperative cor-
8 poration organized within the limitations of section 98 of 1931
9 PA 327, MCL 450.98, if those marketing activities are provided on
10 behalf of the members of that corporation and are related to the
11 members' direct sales of their products to third parties, or, for
12 livestock, are related to the members' direct or indirect sales
13 of that product to third parties. Marketing activities for a
14 product that is not livestock are not exempt under this subdivi-
15 sion if the farmers' cooperative corporation takes physical pos-
16 session of the product. As used in this subdivision, "marketing
17 activities" includes, but is not limited to, activities under the
18 agricultural commodities marketing act, 1965 PA 232, MCL 290.651
19 to 290.674, and the agricultural marketing and bargaining act,
20 1972 PA 344, MCL 290.701 to 290.726; dissemination of market
21 information; establishment of price and other terms of trade;
22 promotion; and research relating to members' products.

23 (K) THAT PORTION OF THE TAX BASE ATTRIBUTABLE TO THE SERV-
24 ICES PROVIDED BY AN ATTORNEY-IN-FACT TO A RECIPROCAL INSURER PUR-
25 SUANT TO CHAPTER 72 OF THE INSURANCE CODE OF 1956, 1956 PA 218,
26 MCL 500.7200 TO 500.7234.

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1 (2) An affiliated group, a controlled group of corporations
2 as defined by section 1563 of the internal revenue code, or an
3 entity under common control as defined by the internal revenue
4 code is entitled to only 1 exemption allowed by subsection (1)(a)
5 whether or not a combined or consolidated return is filed.

6 (3) Subsection (1)(i) does not exempt a farmers' cooperative
7 corporation if the total dollar value of the corporation's inci-
8 dental and emergency purchases described in subsection (1)(i)(ii)
9 are equal to or greater than either of the following:

10 (a) For tax years that end before January 1, 1995, 5% of the
11 total dollar value of the corporation's repurchases described in
12 subsection (1)(i)(i).

13 (b) For tax years that end after December 31, 1994, 5% of
14 the corporation's total purchases.

15 (4) For tax years that end after December 31, 1990 and
16 except as otherwise provided in this section, a farmers' coopera-
17 tive corporation shall exclude from adjusted tax base the revenue
18 and expenses attributable to business transacted with farmer or
19 farmer cooperative corporation patrons to whom net earnings are
20 allocated in the form of patronage dividends as defined in sec-
21 tion 1388 of the internal revenue code. In computing the
22 adjusted tax base of a farmers' cooperative corporation, each of
23 the additions and deductions under sections 9, 23, and 23b shall
24 be multiplied by a fraction, the numerator of which is the gross
25 profit of the nonpatronage sourced business of the farmers' coop-
26 erative corporation and the denominator of which is the gross
27 profits of the farmers' cooperative corporation. As used in this

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1 subsection only, "farmers' cooperative corporation" means a
2 farmers' cooperative corporation organized within the limitations
3 of section 98 of 1931 PA 327, MCL 450.98.

4 (5) As used in subsection (1)(c), "exclusively" means that
5 term as applied for purposes of section 501(c)(3) of the internal
6 revenue code.

7 Sec. 35a. (1) For a tax year beginning after December 31,
8 1999, a taxpayer may claim a credit against the tax imposed by
9 this act of equal to the percentage determined under subsection
10 (2) multiplied by the result of subtracting the sum of the
11 amounts calculated under subdivisions (d), (e), and (f) from the
12 sum of the amounts calculated under subdivisions (a), (b), and
13 (c):

14 (a) Calculate the cost, including fabrication and installa-
15 tion, paid or accrued in the taxable year of tangible assets of a
16 type that are, or under the internal revenue code will become,
17 eligible for depreciation, amortization, or accelerated capital
18 cost recovery for federal income tax purposes, provided that the
19 assets are physically located in this state for use in a business
20 activity in this state and are not mobile tangible assets.

21 (b) Calculate the cost, including fabrication and installa-
22 tion, paid or accrued in the taxable year of mobile tangible
23 assets of a type that are, or under the internal revenue code
24 will become, eligible for depreciation, amortization, or acceler-
25 ated capital cost recovery for federal income tax purposes. This
26 amount shall be multiplied by the apportionment factor for the
27 tax year as prescribed in chapter 3.

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1 (c) For tangible assets, other than mobile tangible assets,
2 purchased or acquired for use outside of this state in a tax year
3 beginning after December 31, 1996 and physically located in this
4 state in a tax year beginning after December 31, 1999 and after
5 the assets are purchased or acquired for use in a business activ-
6 ity, calculate the federal basis used for determining gain or
7 loss as of the date the tangible assets were physically located
8 in this state for use in a business activity plus the cost of
9 fabrication and installation of the tangible assets in this
10 state.

11 (d) If the cost of tangible assets described in subdivision
12 (a) was paid or accrued in a tax year beginning after December
13 31, 1999, calculate the gross proceeds or benefit derived from
14 the sale or other disposition of the tangible assets minus the
15 gain, multiplied by the apportionment factor for the taxable year
16 as prescribed in chapter 3, and plus the loss, multiplied by the
17 apportionment factor for the taxable year as prescribed in chap-
18 ter 3 from the sale or other disposition reflected in federal
19 taxable income and minus the gain from the sale or other disposi-
20 tion added to the tax base in section 9(6).

21 (e) If the cost of tangible assets described in subdivision
22 (b) was paid or accrued in a tax year beginning after December
23 31, 1999, calculate the gross proceeds or benefit derived from
24 the sale or other disposition of the tangible assets minus the
25 gain and plus the loss from the sale or other disposition
26 reflected in federal taxable income and minus the gain from the
27 sale or other disposition added to the tax base in section 9(6).

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1 This amount shall be multiplied by the apportionment factor for
2 the tax year as prescribed in chapter 3.

3 (f) For assets purchased or acquired in a tax year beginning
4 after December 31, 1996 that were eligible for a deduction under
5 subdivision (a) or (c) and that were transferred out of this
6 state, calculate the federal basis used for determining gain or
7 loss as of the date of the transfer.

8 (2) The amount calculated under subsection (1) shall be
9 multiplied by a percentage determined by dividing the tax rate
10 for the tax year in which the credit is claimed by 2.3% and
11 multiplying that result by the following percentage as
12 applicable:

13 (a) For taxpayers with adjusted gross receipts for the tax
14 year of \$1,000,000.00 or less, 2.3%.

15 (b) For taxpayers with adjusted gross receipts for the tax
16 year of more than \$1,000,000.00 but \$2,500,000.00 or less, 1.5%.

17 (c) For taxpayers with adjusted gross receipts for the tax
18 year of more than \$2,500,000.00 but \$5,000,000.00 or less, 1.0%.

19 (d) For taxpayers with adjusted gross receipts for the tax
20 year of more than \$5,000,000.00, 0.85%.

21 (3) For a tax year in which the amount calculated under sub-
22 section (1) and multiplied by the percentage determined under
23 subsection (2) is negative, the absolute value of that amount is
24 added to the taxpayer's tax liability for the tax year.

25 (4) If the credit allowed under this section for the tax
26 year and any unused carryforward of the credit allowed under this
27 section exceed the tax liability of the taxpayer for the tax

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1 year, the excess shall not be refunded, but may be carried
2 forward as an offset to the tax liability in subsequent tax years
3 for 9 taxable years or until the excess credit is used up, which-
4 ever occurs first.

5 (5) Notwithstanding any other provision of this act, the
6 credit provided in this section shall be taken before any other
7 credit under this act and the credits under other sections of
8 this act shall be calculated using the tax liability after the
9 calculation of the credit under this section and, to the extent
10 provided by law, after the calculation of credits under other
11 sections of this act.

12 (6) A taxpayer that reduces the adjusted tax base under sec-
13 tion 31(2) shall not claim a credit under this section.

14 (7) A taxpayer that reduces the adjusted tax base under sec-
15 tion 31(4) shall reduce the credit under this section by a per-
16 centage not to exceed 100% determined by dividing the applicable
17 tax rate under section 31(1) by the percentage determined under
18 subsection (2) and multiplying the result by the percentage
19 reduction to the adjusted tax base claimed by the taxpayer for
20 the tax year under section 31(4).

21 (8) A member of an affiliated group as defined in this act,
22 a controlled group of corporations as defined in section 1563 of
23 the internal revenue code and further described in 26
24 C.F.R. 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity
25 under common control as defined by the internal revenue code
26 shall determine adjusted gross receipts for purposes of
27 subsection (2) on a consolidated basis.

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1 (9) A TAXPAYER THAT CALCULATES ITS TAX BASE UNDER SECTION
2 22A IS NOT ELIGIBLE FOR THE CREDIT ALLOWED UNDER THIS SECTION.

3 (10) ~~(9)~~ As used in subsection (2), "adjusted gross
4 receipts" means the sum of the following:

5 (a) Gross receipts apportioned or allocated to Michigan with
6 the apportionment fraction calculated pursuant to chapter 3.

7 (b) Adjustments provided in section 23b(a) to (g).

8 (c) Adjustments provided in subsection (1)(d) to (f).

9 Sec. 37c. (1) For tax years beginning after December 31,
10 1994 and for a period of time not to exceed 20 years as deter-
11 mined by the Michigan economic growth authority, a taxpayer that
12 is an authorized business may credit against the tax imposed by
13 section 31 the amount certified each year by the Michigan eco-
14 nomic growth authority.

15 (2) The credit under this section for an authorized business
16 for the tax year as determined under the Michigan economic growth
17 authority act, 1995 PA 24, MCL 207.801 TO 207.810, shall not
18 exceed the payroll of the authorized business attributable to
19 employees who perform qualified new jobs multiplied by the tax
20 rate.

21 (3) A taxpayer shall not claim a credit under this section
22 unless the Michigan economic growth authority has issued a cer-
23 tificate to the taxpayer. The taxpayer shall attach the certifi-
24 cate to the return filed under this act on which a credit under
25 this section is claimed.

26 (4) The certificate required by subsection (3) shall state
27 all of the following:

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1 (a) The taxpayer is an authorized business.

2 (b) The amount of the credit under this section for the
3 authorized business for the designated tax year.

4 (c) The taxpayer's federal employer identification number or
5 the Michigan treasury number assigned to the taxpayer.

6 (5) If the credit allowed under this section exceeds the tax
7 liability of the taxpayer for the tax year, the excess shall be
8 refunded to the taxpayer.

9 (6) A TAXPAYER THAT CLAIMS A CREDIT UNDER THIS SECTION OR
10 SECTION 37D THAT HAS AN AGREEMENT WITH THE MICHIGAN ECONOMIC
11 GROWTH AUTHORITY BASED ON QUALIFIED NEW JOBS AS DEFINED IN SEC-
12 TION 3(J)(ii) OF THE MICHIGAN ECONOMIC GROWTH AUTHORITY ACT, 1995
13 PA 24, MCL 207.803, THAT REMOVES FROM THIS STATE 51% OR MORE OF
14 THOSE QUALIFIED NEW JOBS WITHIN 3 YEARS AFTER THE FIRST YEAR IN
15 WHICH THE TAXPAYER CLAIMS A CREDIT DESCRIBED IN THIS SUBSECTION
16 SHALL PAY TO THE DEPARTMENT NO LATER THAN 12 MONTHS AFTER THOSE
17 QUALIFIED NEW JOBS ARE REMOVED FROM THE STATE AN AMOUNT EQUAL TO
18 THE TOTAL OF ALL CREDITS DESCRIBED IN THIS SUBSECTION THAT WERE
19 CLAIMED BY THE TAXPAYER.

20 (7) ~~(6)~~ An affiliated group as defined in this act, a con-
21 trolled group of corporations as defined in section 1563 of the
22 internal revenue code and further described in 26
23 C.F.R. 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity
24 under common control as defined by the internal revenue code
25 shall claim only 1 credit under this section for each tax year
26 for each expansion or location evidenced by a written agreement
27 whether or not a combined or consolidated return is filed.

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1 (8) ~~-(7)-~~ A credit shall not be claimed by a taxpayer under
2 this section if the taxpayer's initial certification as required
3 in subsection (3) is issued after December 31, 2003.

4 (9) ~~-(8)-~~ As used in this section:

5 (a) "Authority" or "Michigan economic growth authority"
6 means the Michigan economic growth authority created in the
7 Michigan economic growth authority act, 1995 PA 24, MCL 207.801
8 to 207.810.

9 (b) "Authorized business", "facility", "full-time job", and
10 "written agreement" mean those terms as defined in the Michigan
11 economic growth authority act, 1995 PA 24, MCL 207.801 to
12 207.810.

13 (c) "Payroll" means the total salaries and wages before
14 deducting any personal or dependency exemptions.

15 (d) "Qualified new jobs" means ~~the~~ 1 OR MORE OF THE
16 FOLLOWING:

17 (i) THE average number of full-time jobs at a facility of an
18 authorized business for a tax year in excess of the average
19 number of full-time jobs the authorized business maintained in
20 this state prior to the expansion or location as that is deter-
21 mined under the Michigan economic growth authority act, 1995 PA
22 24, MCL 207.801 to 207.810.

23 (ii) AFTER JULY 1, 2000, THE AVERAGE NUMBER OF FULL-TIME
24 JOBS AT A FACILITY CREATED BY AN ELIGIBLE BUSINESS WITHIN 120
25 DAYS BEFORE BECOMING AN AUTHORIZED BUSINESS, THAT IS IN EXCESS OF
26 THE AVERAGE NUMBER OF FULL-TIME JOBS THAT THE BUSINESS MAINTAINED
27 IN THIS STATE 120 DAYS BEFORE BECOMING AN AUTHORIZED BUSINESS, AS

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1 DETERMINED UNDER THE MICHIGAN ECONOMIC GROWTH AUTHORITY ACT, 1995
2 PA 24, MCL 207.801 TO 207.810.

3 (e) "Tax rate" means the rate imposed under sections 51 and
4 51b to 51e of the income tax act of 1967, 1967 PA 281, MCL 206.51
5 and 206.51b to 206.51e, for the tax year in which the tax year of
6 the taxpayer for which the credit is being computed begins.

7 Sec. 38c. (1) For the 1989 tax year and each tax year after
8 the 1989 tax year and subject to the APPLICABLE limitations in
9 this section, a taxpayer who does not claim a credit under
10 section 261 of the income tax act of 1967, 1967 PA 281,
11 MCL 206.261, may credit against the tax imposed by this act 50%
12 of the amount the taxpayer contributes during the taxable year to
13 an endowment fund of a community foundation.

14 (2) The credit allowed by this section shall not exceed 5%
15 of the taxpayer's tax liability for the tax year before claiming
16 any credits allowed by this act or \$5,000.00, whichever is less.

17 (3) The credit allowed by this section is nonrefundable so
18 that a taxpayer shall not claim under this section a total credit
19 amount that reduces the taxpayer's tax liability to less than
20 zero.

21 (4) As used in this section, "community foundation" means an
22 organization that applies for certification on or before
23 ~~April 1~~ MAY 15 of the tax year for which the taxpayer is claim-
24 ing the credit and that the department certifies for that tax
25 year as meeting all of the following requirements:

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

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

4 (c) Maintains an ongoing program to attract new endowment
5 funds by seeking gifts and bequests from a wide range of poten-
6 tial donors in the community or area served.

7 (d) Is publicly supported as defined by the regulations of
8 the United States department of treasury, 26
9 C.F.R. 1.170A-9(e)(10). TO MAINTAIN CERTIFICATION, THE COMMUNITY
10 FOUNDATION SHALL SUBMIT DOCUMENTATION TO THE DEPARTMENT ANNUALLY
11 THAT DEMONSTRATES COMPLIANCE WITH THIS SUBDIVISION.

12 (e) Is not a supporting organization as ~~defined under~~ AN
13 ORGANIZATION IS DESCRIBED IN section 509(a)(3) of the internal
14 revenue code and the regulations of the United States department
15 of treasury, 26 C.F.R. 1.509(a)-4 and 1.509(a)-5.

16 (f) Meets the requirements for treatment as a single entity
17 contained in the regulations of the United States department of
18 treasury, 26 C.F.R. 1.170A-9(e)(11).

19 (g) ~~Is~~ EXCEPT AS PROVIDED IN SUBSECTION (6), IS incorpo-
20 rated or established as a trust ~~before September 1 of the year~~
21 ~~immediately preceding the tax year for which the credit is~~
22 ~~claimed.~~ AT LEAST 6 MONTHS BEFORE THE BEGINNING OF THE TAX YEAR
23 FOR WHICH THE CREDIT UNDER THIS SECTION IS CLAIMED AND THAT HAS
24 AN ENDOWMENT VALUE OF AT LEAST \$100,000.00 BEFORE THE EXPIRATION
25 OF 18 MONTHS AFTER THE COMMUNITY FOUNDATION IS INCORPORATED OR
26 ESTABLISHED.

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

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

9 (J) FOR COMMUNITY FOUNDATIONS THAT HAVE AN ENDOWMENT VALUE
10 OF \$1,000,000.00 OR MORE ONLY, THE COMMUNITY FOUNDATION IS
11 SUBJECT TO AN ANNUAL INDEPENDENT FINANCIAL AUDIT AND PROVIDES
12 COPIES OF THAT AUDIT TO THE DEPARTMENT NOT MORE THAN 3 MONTHS
13 AFTER THE COMPLETION OF THE AUDIT. FOR COMMUNITY FOUNDATIONS
14 THAT HAVE AN ENDOWMENT VALUE OF LESS THAN \$1,000,000.00, THE COM-
15 MUNITY FOUNDATION IS SUBJECT TO AN ANNUAL REVIEW AND AN AUDIT
16 EVERY THIRD YEAR.

17 (K) IN ADDITION TO ALL OTHER CRITERIA LISTED IN THIS SUBSEC-
18 TION FOR A COMMUNITY FOUNDATION THAT IS INCORPORATED OR ESTAB-
19 LISHED AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
20 THIS SUBDIVISION, OPERATES IN A COUNTY OF THIS STATE THAT WAS NOT
21 SERVED BY A COMMUNITY FOUNDATION WHEN THE COMMUNITY FOUNDATION
22 WAS INCORPORATED OR ESTABLISHED OR OPERATES AS A GEOGRAPHIC COM-
23 PONENT OF AN EXISTING CERTIFIED COMMUNITY FOUNDATION.

24 (5) On or before July 1 of each year, the department shall
25 report to the house of representatives committee on taxation and
26 the senate committee on finance the total amount of tax credits
27 claimed under this section and under section 261 of the income

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1 tax act of 1967, 1967 PA 281, MCL 206.261, for the immediately
2 preceding tax year.

3 (6) A TAXPAYER MAY CLAIM A CREDIT UNDER THIS SECTION FOR
4 CONTRIBUTIONS TO A COMMUNITY FOUNDATION MADE BEFORE THE EXPIRA-
5 TION 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 (4)(G). IF THE COMMUNITY FOUNDATION DOES NOT REACH
9 THE REQUIRED \$100,000.00 ENDOWMENT VALUE DURING THAT 18-MONTH
10 PERIOD, CONTRIBUTIONS TO THE COMMUNITY FOUNDATION MADE AFTER THE
11 DATE ON WHICH THE 18-MONTH PERIOD EXPIRES SHALL NOT BE USED TO
12 CALCULATE A CREDIT UNDER THIS SECTION. AT ANY TIME AFTER THE
13 EXPIRATION OF THE 18-MONTH PERIOD UNDER SUBSECTION (4)(G) THAT
14 THE COMMUNITY FOUNDATION HAS AN ENDOWMENT VALUE OF \$100,000.00,
15 THE COMMUNITY FOUNDATION MAY APPLY TO THE DEPARTMENT FOR CERTIFI-
16 CATION UNDER THIS SECTION.

17 Enacting section 1. This amendatory act does not take
18 effect unless Senate Bill No. 1046 of the 90th Legislature is
19 enacted into law.