

SUBSTITUTE FOR
SENATE BILL NO. 405

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 2018, A TAXPAYER MAY CREDIT AGAINST THE TAX IMPOSED BY THIS PART
3 FOR THE TAX YEAR AN AMOUNT, SUBJECT TO THE APPLICABLE LIMITATIONS
4 UNDER THIS SECTION, EQUAL TO 50% OF THE AGGREGATE AMOUNT OF
5 CHARITABLE CONTRIBUTIONS MADE BY THE TAXPAYER DURING THE TAX YEAR
6 TO ANY OF THE FOLLOWING IF A CONTRIBUTION TO THAT ENTITY IS TAX
7 DEDUCTIBLE FOR THE DONOR UNDER THE INTERNAL REVENUE CODE:

8 (A) A SHELTER FOR HOMELESS PERSONS, FOOD KITCHEN, FOOD BANK,
9 OR OTHER ENTITY LOCATED IN THIS STATE, THE PRIMARY PURPOSE OF WHICH

1 IS TO PROVIDE OVERNIGHT ACCOMMODATION, FOOD, OR MEALS TO PERSONS
2 WHO ARE INDIGENT.

3 (B) A ZOOLOGICAL PARK ACCREDITED BY THE AMERICAN ASSOCIATION
4 OF ZOOS AND AQUARIUMS.

5 (C) A MUSEUM.

6 (2) FOR TAX YEARS BEGINNING ON AND AFTER JANUARY 1, 2018, A
7 TAXPAYER MAY CLAIM AN ADDITIONAL CREDIT AGAINST THE TAX IMPOSED BY
8 THIS PART FOR THE TAX YEAR AN AMOUNT, SUBJECT TO THE APPLICABLE
9 LIMITATIONS UNDER THIS SECTION, EQUAL TO 50% OF THE AMOUNT THE
10 TAXPAYER CONTRIBUTES DURING THE TAX YEAR TO A COMMUNITY FOUNDATION.
11 FOR A TAXPAYER OTHER THAN A RESIDENT ESTATE OR TRUST, THE CREDIT
12 ALLOWED UNDER THIS SUBSECTION SHALL NOT EXCEED \$100.00, OR \$200.00
13 FOR A JOINT RETURN. FOR A RESIDENT ESTATE OR TRUST, THE CREDIT
14 ALLOWED UNDER THIS SUBSECTION SHALL NOT EXCEED 10% OF THE
15 TAXPAYER'S TAX LIABILITY FOR THE TAX YEAR BEFORE CLAIMING ANY
16 CREDITS ALLOWED BY THIS PART OR \$5,000.00, WHICHEVER IS LESS. FOR A
17 RESIDENT ESTATE OR TRUST, THE AMOUNT USED TO CALCULATE THE CREDITS
18 UNDER THIS SECTION SHALL NOT HAVE BEEN DEDUCTED IN ARRIVING AT
19 FEDERAL TAXABLE INCOME.

20 (3) THE MAXIMUM CREDIT ALLOWED UNDER SUBSECTION (1) FOR TOTAL
21 CONTRIBUTIONS MADE, INCLUDING THE VALUE OF FOOD ITEMS CONTRIBUTED
22 IN CONJUNCTION WITH A PROGRAM IN WHICH A VENDOR MAKES A MATCHING
23 CONTRIBUTION OF SIMILAR ITEMS IN THE TAX YEAR TO SHELTERS FOR
24 HOMELESS PERSONS, FOOD KITCHENS, FOOD BANKS, AND, EXCEPT FOR
25 COMMUNITY FOUNDATIONS, OTHER ENTITIES IS AS FOLLOWS:

26 (A) FOR A TAXPAYER OTHER THAN A RESIDENT ESTATE OR TRUST, THE
27 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) (A) (vii). IF THE COMMUNITY FOUNDATION DOES NOT REACH
19 THE REQUIRED \$100,000.00 ENDOWMENT VALUE DURING THAT 18-MONTH
20 PERIOD, CONTRIBUTIONS TO THE COMMUNITY FOUNDATION MADE AFTER THE
21 DATE ON WHICH THE 18-MONTH PERIOD EXPIRES SHALL NOT BE USED TO
22 CALCULATE A CREDIT UNDER THIS SECTION. AT ANY TIME AFTER THE
23 EXPIRATION OF THE 18-MONTH PERIOD UNDER SUBSECTION (8) (A) (vii) THAT
24 THE COMMUNITY FOUNDATION HAS AN ENDOWMENT VALUE OF \$100,000.00, THE
25 COMMUNITY FOUNDATION MAY APPLY TO THE DEPARTMENT FOR CERTIFICATION
26 UNDER THIS SECTION.

27 (7) ON OR BEFORE JULY 1 OF EACH YEAR, THE DEPARTMENT SHALL

1 REPORT TO THE HOUSE COMMITTEE ON TAX POLICY AND THE SENATE FINANCE
2 COMMITTEE THE TOTAL AMOUNT OF TAX CREDITS CLAIMED UNDER THIS
3 SECTION FOR THE IMMEDIATELY PRECEDING TAX YEAR.

4 (8) AS USED IN THIS SECTION:

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

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

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

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

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

22 (v) IS NOT A SUPPORTING ORGANIZATION AS DESCRIBED IN SECTION
23 509(A) (3) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS OF THE
24 UNITED STATES DEPARTMENT OF TREASURY, 26 CFR 1.509(A) -4 AND
25 1.509(A) -5.

26 (vi) MEETS THE REQUIREMENTS FOR TREATMENT AS A SINGLE ENTITY
27 CONTAINED IN THE REGULATIONS OF THE UNITED STATES DEPARTMENT OF

1 TREASURY, 26 CFR 1.170A-9(F)(11).

2 (vii) EXCEPT AS PROVIDED IN SUBSECTION (6), IS INCORPORATED OR
3 ESTABLISHED AS A TRUST AT LEAST 6 MONTHS BEFORE THE BEGINNING OF
4 THE TAX YEAR FOR WHICH THE CREDIT UNDER SUBSECTION (2) IS CLAIMED
5 AND HAS AN ENDOWMENT VALUE OF AT LEAST \$100,000.00 BEFORE THE
6 EXPIRATION OF 18 MONTHS AFTER THE COMMUNITY FOUNDATION IS
7 INCORPORATED OR ESTABLISHED.

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

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

16 (x) FOR COMMUNITY FOUNDATIONS THAT HAVE AN ENDOWMENT VALUE OF
17 \$1,000,000.00 OR MORE ONLY, THE COMMUNITY FOUNDATION IS SUBJECT TO
18 AN ANNUAL INDEPENDENT FINANCIAL AUDIT AND PROVIDES COPIES OF THAT
19 AUDIT TO THE DEPARTMENT NOT MORE THAN 3 MONTHS AFTER THE COMPLETION
20 OF THE AUDIT. FOR COMMUNITY FOUNDATIONS THAT HAVE AN ENDOWMENT
21 VALUE OF LESS THAN \$1,000,000.00, THE COMMUNITY FOUNDATION IS
22 SUBJECT TO AN ANNUAL REVIEW AND AN AUDIT EVERY THIRD YEAR.

23 (xi) IN ADDITION TO ALL OTHER CRITERIA LISTED IN THIS
24 SUBDIVISION FOR A COMMUNITY FOUNDATION THAT IS INCORPORATED OR
25 ESTABLISHED AFTER JUNE 22, 2000, OPERATES IN A COUNTY OF THIS STATE
26 THAT WAS NOT SERVED BY A COMMUNITY FOUNDATION WHEN THE COMMUNITY
27 FOUNDATION WAS INCORPORATED OR ESTABLISHED OR OPERATES AS A

1 GEOGRAPHIC COMPONENT OF AN EXISTING CERTIFIED COMMUNITY FOUNDATION.

2 (B) "MUSEUM" MEANS AN INSTITUTION GENERALLY KNOWN AS A MUSEUM
3 OR ARCHIVE LOCATED IN THIS STATE THAT IS OR DOES EACH OF THE
4 FOLLOWING:

5 (i) ESTABLISHED PRIMARILY FOR ARTISTIC, EDUCATIONAL,
6 SCIENTIFIC, HISTORIC, OR PRESERVATION PURPOSES.

7 (ii) EXHIBITS, CARES FOR, STUDIES, ARCHIVES, OR CATALOGS
8 PROPERTY.

9 (iii) OPERATED BY A NONPROFIT CORPORATION, COLLEGE,
10 UNIVERSITY, OR PUBLIC AGENCY.