

# Legislative Analysis



## HOMELESS SHELTER/FOOD BANK AND COMMUNITY FOUNDATION INCOME TAX CREDITS

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

House Bill 4530 (H-1) as reported from committee  
Sponsor: Rep. Jasper R. Martus

Analysis available at  
<http://www.legislature.mi.gov>

House Bill 4531 (H-1) as reported from committee  
Sponsor: Rep. Will Snyder

Committee: Tax Policy  
Complete to 9-17-23

### SUMMARY:

Taken together, House Bills 4530 and 4531 would amend the Income Tax Act to create nonrefundable credits for donations or contributions to a homeless shelter, food bank, food kitchen, or other similar organization or to the endowment fund of a community foundation.

**House Bill 4530** would allow taxpayers to claim, for tax years beginning on and after January 1, 2024, a credit for food item contributions and cash donations to a shelter for homeless persons, food kitchen, food bank, or other entity located in Michigan that has the *primary purpose* of providing overnight accommodation, food, or meals to *persons who are indigent* as long as a contribution to that entity is deductible under section 170 of the federal Internal Revenue Code.<sup>1</sup> The credit would be equal to 50% of the sum of the cash donation and value of food item contributions, up to a maximum of \$100, or \$200 for a joint return, for taxpayers other than a resident estate or trust. For a resident estate or trust, the credit would be capped at 10% of the taxpayer's tax liability for the tax year, up to \$5,000. The amount used to calculate a resident estate or trust credit would not be deducted in arriving at federal taxable income.

*Primary purpose* would mean the predominant purpose to which all operations of the entity are directed, as stated in a mission statement, organizational document, or other document that describes the entity's operations, or as established from other business records of the entity.

*Persons who are indigent* would mean persons whose household income is less than 140% of the applicable *federal poverty level*.

*Federal poverty level* would mean the poverty guidelines published annually in the Federal Register by the U.S. Department of Health and Human Services under its authority to revise the poverty line under 42 USC 9902.<sup>2</sup>

If the amount of the credits allowed under the bill exceeded the tax liability of the taxpayer for the tax year, the portion exceeding the tax liability could not be refunded.

<sup>1</sup> <https://www.law.cornell.edu/uscode/text/26/170>

<sup>2</sup> The 2023 poverty guidelines can be found here: <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>.

To claim the credit, a taxpayer would have to receive a written acknowledgment from the entity the contribution was made to that includes all of the following:

- The date of the contribution.
- The amount of cash contributed or, if food items are contributed in conjunction with a program in which a vendor makes a matching contribution of similar items, an estimate of the value of those food items.
- An attestation that the primary purpose of the entity is to provide overnight accommodation, food, or meals to persons who are indigent.
- An attestation that contributions to the entity are deductible under section 170 of the Internal Revenue Code.
- An attestation that the entity is in compliance with the Elliott-Larsen Civil Rights Act.

The Department of Treasury would be able to require that the taxpayer submit a copy of the acknowledgment.

The Department of Treasury would have to report the total amount of credits claimed under the bill during the immediately preceding tax year to the House Committee on Tax Policy and the Senate Finance Committee on or before July 1 annually.

Proposed MCL 206.260

**House Bill 4531** would allow a taxpayer to claim, for tax years beginning on and after January 1, 2024, a credit equal to 50% of the amount the taxpayer contributed during the tax year to the endowment fund of a *community foundation*.

*Community foundation* would mean 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 of Treasury certifies for that tax year as meeting the requirements of a community foundation as provided in section 3 of the Michigan Community Foundation Act.<sup>3</sup> However, for purposes of the bill, the organization would only need to have assets of at least \$1.0 million to qualify for certification by the department.

The maximum credit allowed under the bill would be as follows:

- For a taxpayer other than a resident estate or trust, the credit could not exceed \$100, or \$200 for a joint return.
- For a resident estate or trust, the credit could not exceed 10% of the taxpayer's tax liability for the tax year before claiming any credits allowed by Part 1 of the act or \$5,000, whichever is less, and the amount used to calculate the credits could not have been deducted in arriving at federal taxable income.

If the amount of the credits allowed under the bill exceeded the tax liability of the taxpayer for the tax year, the portion exceeding the tax liability could not be refunded.

To claim the credit, the taxpayer would have to receive a gift acknowledgment from the community foundation indicating that the contribution was made to its endowment fund.

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<sup>3</sup> In section 3 of that act: <http://legislature.mi.gov/doc.aspx?mcl-123-903>

The Department of Treasury would have to report the total amount of credits claimed under the bill during the immediately preceding tax year to the House Committee on Tax Policy and the Senate Finance Committee on or before July 1 annually.

Proposed MCL 206.261

Neither bill can take effect unless both bills are enacted.

## **BACKGROUND:**

The homeless shelter/food bank and community foundation credits were repealed by 2011 PA 38 as part of a bill package that replaced the Michigan Business Tax with the Corporate Income Tax and made general revisions to the personal income tax part of the Income Tax Act.<sup>4</sup> The repeal of the credits was effective beginning with the 2012 tax year. House Bills 4530 and 4531 would reinstate the credits with minor changes that include enacting the credits as two separate sections of the Income Tax Act rather than as the single section they were before being repealed.

According to committee testimony, these organizations saw a decline in contributions and donations after the repeal of the credits in 2011. Supporters argue that the bills will help to encourage donations, particularly among first-time and younger donors who may become life-long contributors.

House Bill 4531 (H-1) is substantively identical to Senate Bill 127 (H-1), as those bills were reported from House committee.

## **FISCAL IMPACT:**

As written, the bills would be expected to reduce net income tax revenue by potentially \$25 million or more on a full-year basis, assuming contribution levels similar to those in tax year 2011, the last year in which the credits were allowed under the individual income tax. In tax year 2011, the homeless shelter/food bank credit reduced revenue by about \$19.7 million and the community foundation credit reduced revenue by about \$3.3 million. To the extent that the credit increases an existing refund, the full impact would be borne by the general fund. However, if the credit reduces a taxpayer's existing liability, the revenue loss would affect both the School Aid Fund (approximately 25%) and the general fund (approximately 75%).

## **POSITIONS:**

Representatives of the following entities testified in support of House Bill 4531 (6-21-23):

- Council of Michigan Foundations
- Community Foundation for Southeast Michigan
- Capital Region Community Foundation
- Grand Traverse Regional Community Foundation
- Community Foundation of Greater Flint

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<sup>4</sup> HFA analysis of 2011 PA 38: <http://www.legislature.mi.gov/documents/2011-2012/billanalysis/House/pdf/2011-HLA-4361-6.pdf>

The following entities indicated support for both bills:

- Michigan League for Public Policy (6-21-23)
- Kalamazoo Community Foundation (6-21-23)
- Michigan Nonprofit Association (6-21-23)
- Flint Center for Educational Excellence (9-13-23)

The Food Bank Council of Michigan indicated support for House Bill 4530. (6-21-23)

The following entities indicated support for House Bill 4531 (6-21-23):

- Allegan County Community Foundation
- Charlevoix County Community Foundation
- Lapeer County Community Foundation
- Lenawee Community Foundation
- Community Foundation of Muskegon County
- Battle Creek Community Foundation

The Department of Treasury indicated a neutral position on both bills if funded. (6-21-23)

Legislative Analyst: Alex Stegbauer  
Fiscal Analysts: Jim Stansell  
Ben Gielczyk

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.