

By: Representatives McNeal, Sykes, Barnett

To: Ways and Means

HOUSE BILL NO. 1566
(As Sent to Governor)

1 AN ACT TO AUTHORIZE SEPARATE INCOME TAX CREDITS FOR VOLUNTARY
2 CASH CONTRIBUTIONS TO QUALIFYING CHARITABLE ORGANIZATIONS AND
3 QUALIFYING FOSTER CARE CHARITABLE ORGANIZATIONS; TO LIMIT THE
4 AMOUNT OF SUCH CREDITS; TO ALLOW EXCESS AMOUNTS OF THE CREDIT TO
5 BE CARRIED FORWARD FOR FIVE CONSECUTIVE YEARS; TO PROVIDE THAT THE
6 CREDITS AUTHORIZED BY THIS ACT ARE IN LIEU OF CHARITABLE
7 DEDUCTIONS TAKEN UNDER TO THE INTERNAL REVENUE CODE AND UTILIZED
8 FOR STATE TAX PURPOSES; TO PROVIDE THE CRITERIA THAT A CHARITABLE
9 ORGANIZATION MUST MEET IN ORDER FOR A CONTRIBUTION TO THE
10 ORGANIZATION TO QUALIFY FOR THE CREDIT; TO AMEND SECTION
11 27-7-22.32, MISSISSIPPI CODE OF 1972, TO REVISE THE AMOUNT OF THE
12 TAX CREDIT AUTHORIZED FOR EXPENSES INCURRED FOR THE ADOPTION OF A
13 CHILD AND TO REVISE THE NUMBER OF YEARS THAT THE UNUSED PORTION OF
14 THE TAX CREDIT MAY BE CARRIED FORWARD; AND FOR RELATED PURPOSES.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

16 **SECTION 1.** (1) As used in this section:

17 (a) "Low-income residents" means persons whose
18 household income is less than one hundred fifty percent (150%) of
19 the federal poverty level.

20 (b) "Qualifying charitable organization" means a
21 charitable organization that is exempt from federal income
22 taxation under Section 501(c)(3) of the Internal Revenue Code or
23 is a designated community action agency that receives community
24 services block grant program monies pursuant to 42 USC 9901. The



25 organization must spend at least fifty percent (50%) of its budget
26 on services to residents of this state who receive temporary
27 assistance for needy families benefits or low-income residents of
28 this state and their households or to children who have a chronic
29 illness or physical, intellectual, developmental or emotional
30 disability who are residents of this state. A charitable
31 organization that is exempt from federal income tax under Section
32 501(c)(3) of the Internal Revenue Code and that meets all other
33 requirements of this paragraph except that it does not spend at
34 least fifty percent (50%) of its overall budget in Mississippi may
35 be a qualifying charitable organization if it spends at least
36 fifty percent (50%) of its Mississippi budget on services to
37 qualified individuals in Mississippi and it certifies to the
38 department that one hundred percent (100%) of the voluntary cash
39 contributions from the taxpayer will be spent on services to
40 Mississippi residents. Taxpayers choosing to make donations
41 through an umbrella charitable organization that collects
42 donations on behalf of member charities shall designate that the
43 donation be directed to a member charitable organization that
44 would qualify under this section on a stand-alone basis.
45 Qualifying charitable organization does not include any entity
46 that provides, pays for or provides coverage of abortions or that
47 financially supports any other entity that provides, pays for or
48 provides coverage of abortions.



49 (c) "Qualifying foster care charitable organization"
50 means a qualifying charitable organization that each operating
51 year provides services to at least one hundred (100) qualified
52 individuals in this state and spends at least fifty percent (50%)
53 of its budget on services to qualified individuals in this state.
54 A charitable organization that is exempt from federal income tax
55 under Section 501(c)(3) of the Internal Revenue Code and that
56 meets all other requirements of this paragraph except that it does
57 not spend at least fifty percent (50%) of its overall budget in
58 Mississippi may be a qualifying foster care charitable
59 organization if it spends at least fifty percent (50%) of its
60 Mississippi budget on services to qualified individuals in
61 Mississippi and it certifies to the department that one hundred
62 percent (100%) of the voluntary cash contributions from the
63 taxpayer will be spent on services to Mississippi residents. For
64 the purposes of this paragraph, "qualified individual" means a
65 child in a foster care placement program established by the
66 Department of Child Protection Services, a child placed under the
67 Safe Families for Children model, or a child at significant risk
68 of entering a foster care placement program established by the
69 Department of Child Protection Services.

70 (d) "Services" means cash assistance, medical care,
71 child care, food, clothing, shelter, job-placement, and
72 job-training services or any other assistance that is reasonably



73 necessary to meet immediate basic needs and that is provided and
74 used in this state.

75 (2) Except as provided in subsections (3) and (4) of this
76 section, a credit is allowed against the taxes imposed by this
77 chapter for voluntary cash contributions by the taxpayer during
78 the taxable year to a qualifying charitable organization, other
79 than a qualifying foster care charitable organization, not to
80 exceed:

81 (a) The lesser of Four Hundred Dollars (\$400.00) or the
82 amount of the contribution in any taxable year for a single
83 individual or a head of household.

84 (b) The lesser of Eight Hundred Dollars (\$800.00) or
85 the amount of the contribution in any taxable year for a married
86 couple filing a joint return.

87 (3) A separate credit is allowed against the taxes imposed
88 by this chapter for voluntary cash contributions during the
89 taxable year to a qualifying foster care charitable organization.
90 A contribution to a qualifying foster care charitable organization
91 does not qualify for, and shall not be included in, any credit
92 amount under subsection (2) of this section. If the voluntary
93 cash contribution by the taxpayer is to a qualifying foster care
94 charitable organization, the credit shall not exceed:

95 (a) The lesser of Five Hundred Dollars (\$500.00) or the
96 amount of the contribution in any taxable year for a single
97 individual or a head of household.



98 (b) The lesser of One Thousand Dollars (\$1,000.00) or
99 the amount of the contribution in any taxable year for a married
100 couple filing a joint return.

101 (4) Subsections (2) and (3) of this section provide separate
102 credits against taxes imposed by this chapter depending on the
103 recipients of the contributions. A taxpayer, including a married
104 couple filing a joint return, in the same taxable year, may either
105 or both:

106 (a) Contribute to a qualifying charitable organization,
107 other than a qualifying foster care charitable organization, and
108 claim a credit under subsection (2) of this section.

109 (b) Contribute to a qualifying foster care charitable
110 organization and claim a credit under subsection (3) of this
111 section.

112 (5) A husband and wife who file separate returns for a
113 taxable year in which they could have filed a joint return may
114 each claim only one-half (1/2) of the tax credit that would have
115 been allowed for a joint return.

116 (6) If the allowable tax credit exceeds the taxes otherwise
117 due under this chapter on the claimant's income, or if there are
118 no taxes due under this chapter, the taxpayer may carry forward
119 the amount of the claim not used to offset the taxes under this
120 chapter for not more than five (5) consecutive taxable years'
121 income tax liability.



122 (7) The credit allowed by this section is in lieu of a
123 deduction pursuant to Section 170 of the Internal Revenue Code and
124 taken for state tax purposes.

125 (8) Taxpayers taking a credit authorized by this section
126 shall provide the name of the qualifying charitable organization
127 and the amount of the contribution to the department on forms
128 provided by the department.

129 (9) A qualifying charitable organization shall provide the
130 department with a written certification that it meets all criteria
131 to be considered a qualifying charitable organization. The
132 organization shall also notify the department of any changes that
133 may affect the qualifications under this section.

134 (10) The charitable organization's written certification
135 must be signed by an officer of the organization under penalty of
136 perjury. The written certification shall include the following:

137 (a) Verification of the organization's status under
138 Section 501(c)(3) of the Internal Revenue Code or verification
139 that the organization is a designated community action agency that
140 receives community services block grant program monies pursuant to
141 42 USC 9901.

142 (b) Financial data indicating the organization's budget
143 for the organization's prior operating year and the amount of that
144 budget spent on services to residents of this state who either:

145 (i) Receive temporary assistance for needy
146 families benefits;



147 (ii) Are low-income residents of this state;
148 (iii) Are children who have a chronic illness or
149 physical, intellectual, developmental or emotional disability; or
150 (iv) Are children in a foster care placement
151 program established by the Department of Child Protection
152 Services.

153 (c) A statement that the organization plans to continue
154 spending at least fifty percent (50%) of its budget on services to
155 residents of this state who receive temporary assistance for needy
156 families benefits, who are low-income residents of this state, who
157 are children who have a chronic illness or physical, intellectual,
158 developmental or emotional disability or who are children in a
159 foster care placement program established by the Department of
160 Child Protection Services. A charitable organization that is
161 exempt from federal income tax under Section 501(c)(3) of the
162 Internal Revenue Code and that meets all other requirements for a
163 qualifying charitable organization or qualifying foster care
164 charitable organization except that it does not spend at least
165 fifty percent (50%) of its overall budget in Mississippi shall
166 submit a statement that it spends at least fifty percent (50%) of
167 its Mississippi budget on services to qualified individuals in
168 Mississippi and that one hundred percent (100%) of the voluntary
169 cash contributions it receives from Mississippi taxpayers will be
170 spent on services to Mississippi residents.



171 (d) In the case of a foster care charitable
172 organization, a statement that each operating year it provides
173 services to at least one hundred (100) qualified individuals in
174 this state.

175 (e) A statement that the organization does not provide,
176 pay for or provide coverage of abortions and does not financially
177 support any other entity that provides, pays for or provides
178 coverage of abortions.

179 (f) Any other information that the department requires
180 to administer this section.

181 (11) The department shall review each written certification
182 and determine whether the organization meets all the criteria to
183 be considered a qualifying charitable organization and notify the
184 organization of its determination. The department may also
185 periodically request recertification from the organization. The
186 department shall compile and make available to the public a list
187 of the qualifying charitable organizations.

188 (12) The aggregate amount of tax credits that may be awarded
189 under this section in any calendar year shall not exceed One
190 Million Dollars (\$1,000,000.00).

191 (13) This section shall be repealed from and after January
192 1, 2020.

193 **SECTION 2.** Section 27-7-22.32, Mississippi Code of 1972, is
194 amended as follows:



195 **[Through December 31, * * * 2019, this section shall read as**
196 **follows:]**

197 27-7-22.32. (1) (a) There shall be allowed as a credit
198 against the tax imposed by this chapter the amount of the
199 qualified adoption expenses paid or incurred, not to exceed Two
200 Thousand Five Hundred Dollars (\$2,500.00), for each dependent
201 child legally adopted by a taxpayer under the laws of this state
202 during calendar year 2006 or during any calendar year thereafter
203 through calendar year 2017, and not to exceed Five Thousand
204 Dollars (\$5,000.00) for each dependent child legally adopted by a
205 taxpayer under the laws of this state during any calendar year
206 thereafter. A taxpayer claiming a credit under this paragraph (a)
207 may not claim a credit under paragraph (b) of this subsection for
208 the adoption of the same child.

209 (b) There shall be allowed as a credit against the tax
210 imposed by this chapter the amount of Five Thousand Dollars
211 (\$5,000.00) for each dependent child legally adopted by a taxpayer
212 under the laws of this state through the Mississippi Department of
213 Child Protection Services during calendar year 2018 or during any
214 calendar year thereafter. A taxpayer claiming a credit under this
215 paragraph (b) may not claim a credit under paragraph (a) of this
216 subsection for the adoption of the same child.

217 (2) The tax credit under this section may be claimed for the
218 taxable year in which the adoption becomes final under the laws of
219 this state. Any tax credit claimed under this section but not



220 used in any taxable year may be carried forward for the * * * five
221 (5) succeeding tax years. A tax credit is allowed under this
222 section for any child for which an exemption is claimed during the
223 same taxable year under Section 27-7-21(e). For the purposes of
224 this section, the term "qualified adoption expenses" means and has
225 the same definition as that term has in 26 USCS 36C.

226 **[From and after January 1, * * * 2020, this section shall**
227 **read as follows:]**

228 27-7-22.32. There shall be allowed as a credit against the
229 tax imposed by this chapter the amount of the qualified adoption
230 expenses paid or incurred, not to exceed Two Thousand Five Hundred
231 Dollars (\$2,500.00), for each dependent child legally adopted by a
232 taxpayer under the laws of this state during calendar year 2006 or
233 during any calendar year thereafter. The tax credit under this
234 section may be claimed for the taxable year in which the adoption
235 becomes final under the laws of this state. Any tax credit
236 claimed under this section but not used in any taxable year may be
237 carried forward for the three (3) succeeding tax years. A tax
238 credit is allowed under this section for any child for which an
239 exemption is claimed during the same taxable year under Section
240 27-7-21(e). For the purposes of this section, the term "qualified
241 adoption expenses" means and has the same definition as that term
242 has in 26 USCS 36C.

243 **SECTION 3.** Section 1 of this act shall be codified as a new
244 section in Chapter 7, Title 27, Mississippi Code of 1972.



245 **SECTION 4.** Nothing in this act shall affect or defeat any
246 claim, assessment, appeal, suit, right or cause of action for
247 taxes due or accrued under the income tax laws before the date on
248 which this act becomes effective, whether such claims,
249 assessments, appeals, suits or actions have been begun before the
250 date on which this act becomes effective or are begun thereafter;
251 and the provisions of the income tax laws are expressly continued
252 in full force, effect and operation for the purpose of the
253 assessment, collection and enrollment of liens for any taxes due
254 or accrued and the execution of any warrant under such laws before
255 the date on which this act becomes effective, and for the
256 imposition of any penalties, forfeitures or claims for failure to
257 comply with such laws.

258 **SECTION 5.** This act shall take effect and be in force from
259 and after January 1, 2018.

