

By: Representative Lamar

To: Ways and Means

HOUSE BILL NO. 1687

1 AN ACT TO AMEND SECTION 27-7-22.41, MISSISSIPPI CODE OF 1972,
 2 WHICH PROVIDES AN INCOME TAX CREDIT, INSURANCE PREMIUM TAX CREDIT
 3 AND AD VALOREM TAX CREDIT FOR CONTRIBUTIONS MADE BY CERTAIN
 4 TAXPAYERS TO CERTAIN ELIGIBLE CHARITABLE ORGANIZATIONS, TO REVISE
 5 THE DEFINITION OF "ELIGIBLE CHARITABLE ORGANIZATION"; TO INCREASE
 6 THE MAXIMUM AGGREGATE AMOUNT OF TAX CREDITS THAT MAY BE ALLOCATED
 7 BY THE DEPARTMENT OF REVENUE UNDER THIS SECTION DURING A CALENDAR
 8 YEAR; TO DELETE PROVISIONS THAT REQUIRE A CERTAIN PORTION OF TAX
 9 CREDITS THAT MAY BE ALLOCATED UNDER THIS SECTION TO BE AVAILABLE
 10 SOLELY FOR ALLOCATION FOR CONTRIBUTIONS TO CERTAIN ELIGIBLE
 11 CHARITABLE ORGANIZATIONS; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 27-7-22.41, Mississippi Code of 1972, is
 14 amended as follows:

15 27-7-22.41. (1) For the purposes of this section, the
 16 following words and phrases shall have the meanings ascribed in
 17 this section unless the context clearly indicates otherwise:

18 (a) "Department" means the Department of Revenue.

19 (b) "Eligible charitable organization" means an
 20 organization that is exempt from federal income taxation under
 21 Section 501(c)(3) of the Internal Revenue Code and is:



22 (i) Licensed by or under contract with the
23 Mississippi Department of Child Protection Services and provides
24 services for:

25 1. The prevention and diversion of children
26 from custody with the Department of Child Protection Services,

27 2. The safety, care and well-being of
28 children in custody with the Department of Child Protection
29 Services, or

30 3. The express purpose of creating permanency
31 for children through adoption; or

32 (ii) Certified by the department as an educational
33 services charitable organization that is accredited by a regional
34 accrediting agency and provides services to:

35 1. Children in a foster care placement
36 program established by the Department of Child Protection
37 Services, children placed under the Safe Families for Children
38 model, or children at significant risk of entering a foster care
39 placement program established by the Department of Child
40 Protection Services,

41 2. Children who have a chronic illness
42 or physical, intellectual, developmental or emotional disability,
43 or

44 3. Children eligible for free or reduced
45 price meals programs under Section 37-11-7, or selected for



46 participation in the Promise Neighborhoods Program sponsored by
47 the U.S. Department of Education.

48 (2) (a) The tax credit authorized in this section shall be
49 available only to a taxpayer who is a business enterprise engaged
50 in commercial, industrial or professional activities and operating
51 as a corporation, limited liability company, partnership or sole
52 proprietorship. Except as otherwise provided in this section, a
53 credit is allowed against the taxes imposed by Sections 27-7-5,
54 27-15-103, 27-15-109 and 27-15-123, for voluntary cash
55 contributions made by a taxpayer during the taxable year to an
56 eligible charitable organization. From and after January 1, 2022,
57 for a taxpayer that is not operating as a corporation, a credit is
58 also allowed against ad valorem taxes assessed and levied on real
59 property for voluntary cash contributions made by the taxpayer
60 during the taxable year to an eligible charitable organization.
61 The amount of credit that may be utilized by a taxpayer in a
62 taxable year shall be limited to (i) an amount not to exceed fifty
63 percent (50%) of the total tax liability of the taxpayer for the
64 taxes imposed by such sections of law and (ii) an amount not to
65 exceed fifty percent (50%) of the total tax liability of the
66 taxpayer for ad valorem taxes assessed and levied on real
67 property. Any tax credit claimed under this section but not used
68 in any taxable year may be carried forward for five (5)
69 consecutive years from the close of the tax year in which the
70 credits were earned.



71 (b) A contribution to an eligible charitable
72 organization for which a credit is claimed under this section does
73 not qualify for and shall not be included in any credit that may
74 be claimed under Section 27-7-22.39.

75 (c) A contribution for which a credit is claimed under
76 this section may not be used as a deduction by the taxpayer for
77 state income tax purposes.

78 (3) Taxpayers taking a credit authorized by this section
79 shall provide the name of the eligible charitable organization and
80 the amount of the contribution to the department on forms provided
81 by the department.

82 (4) An eligible charitable organization shall provide the
83 department with a written certification that it meets all criteria
84 to be considered an eligible charitable organization. An eligible
85 charitable organization must also provide the department with
86 written documented proof of its license and/or written contract
87 with the Mississippi Department of Child Protection Services. The
88 organization shall also notify the department of any changes that
89 may affect eligibility under this section.

90 (5) The eligible charitable organization's written
91 certification must be signed by an officer of the organization
92 under penalty of perjury. The written certification shall include
93 the following:

94 (a) Verification of the organization's status under
95 Section 501(c) (3) of the Internal Revenue Code;



96 (b) A statement that the organization does not provide,
97 pay for or provide coverage of abortions and does not financially
98 support any other entity that provides, pays for or provides
99 coverage of abortions;

100 (c) Any other information that the department requires
101 to administer this section.

102 (6) The department shall review each written certification
103 and determine whether the organization meets all the criteria to
104 be considered an eligible charitable organization and notify the
105 organization of its determination. The department may also
106 periodically request recertification from the organization. The
107 department shall compile and make available to the public a list
108 of eligible charitable organizations.

109 (7) Tax credits authorized by this section that are earned
110 by a partnership, limited liability company, S corporation or
111 other similar pass-through entity, shall be allocated among all
112 partners, members or shareholders, respectively, either in
113 proportion to their ownership interest in such entity or as the
114 partners, members or shareholders mutually agree as provided in an
115 executed document.

116 (8) (a) A taxpayer shall apply for credits with the
117 department on forms prescribed by the department. In the
118 application the taxpayer shall certify to the department the
119 dollar amount of the contributions made or to be made during the
120 calendar year. Within thirty (30) days after the receipt of an



121 application, the department shall allocate credits based on the
122 dollar amount of contributions as certified in the application.
123 However, if the department cannot allocate the full amount of
124 credits certified in the application due to the limit on the
125 aggregate amount of credits that may be awarded under this section
126 in a calendar year, the department shall so notify the applicant
127 within thirty (30) days with the amount of credits, if any, that
128 may be allocated to the applicant in the calendar year. Once the
129 department has allocated credits to a taxpayer, if the
130 contribution for which a credit is allocated has not been made as
131 of the date of the allocation, then the contribution must be made
132 not later than sixty (60) days from the date of the allocation.
133 If the contribution is not made within such time period, the
134 allocation shall be cancelled and returned to the department for
135 reallocation. Upon final documentation of the contributions, if
136 the actual dollar amount of the contributions is lower than the
137 amount estimated, the department shall adjust the tax credit
138 allowed under this section.

139 (b) A taxpayer who applied for a tax credit under this
140 section during calendar year 2020, but who was unable to be
141 awarded the credit due to the limit on the aggregate amount of
142 credits authorized for calendar year 2020, shall be given priority
143 for tax credits authorized to be allocated to taxpayers under this
144 section by Section 27-7-22.39.



145 (c) For the purposes of using a tax credit against ad
146 valorem taxes assessed and levied on real property, a taxpayer
147 shall present to the appropriate tax collector the tax credit
148 documentation provided to the taxpayer by the Department of
149 Revenue, and the tax collector shall apply the tax credit against
150 such ad valorem taxes. The tax collector shall forward the tax
151 credit documentation to the Department of Revenue along with the
152 amount of the tax credit applied against ad valorem taxes, and the
153 department shall disburse funds to the tax collector for the
154 amount of the tax credit applied against ad valorem taxes. Such
155 payments by the Department of Revenue shall be made from current
156 tax collections.

157 (9) The aggregate amount of tax credits that may be
158 allocated by the department under this section during a calendar
159 year shall not exceed Five Million Dollars (\$5,000,000.00), and
160 not more than fifty percent (50%) of tax credits allocated during
161 a calendar year may be allocated for contributions to eligible
162 charitable organizations described in subsection (1)(b)(ii) of
163 this section. However, for calendar year 2021, the aggregate
164 amount of tax credits that may be allocated by the department
165 under this section during a calendar year shall not exceed Ten
166 Million Dollars (\$10,000,000.00), and for calendar year 2022, and
167 for each calendar year thereafter, the aggregate amount of tax
168 credits that may be allocated by the department under this section
169 during a calendar year shall not exceed * * * Twenty-four Million



170 Dollars (\$24,000,000.00). For calendar year 2021, and for each
171 calendar year thereafter, fifty percent (50%) of the tax credits
172 allocated during a calendar year shall be allocated for
173 contributions to eligible charitable organizations described in
174 subsection (1)(b)(i) of this section and fifty percent (50%) of
175 the tax credits allocated during a calendar year shall be
176 allocated for contributions to eligible charitable organizations
177 described in subsection (1)(b)(ii) of this section. * * * For
178 calendar year 2021, and for each calendar year thereafter, for
179 credits allocated during a calendar year for contributions to
180 eligible charitable organizations described in subsection
181 (1)(b)(i) of this section, no more than twenty-five percent (25%)
182 of such credits may be allocated for contributions to a single
183 eligible charitable organization. Except as otherwise provided in
184 this section, for calendar year 2021, and for each calendar year
185 thereafter, for credits allocated during a calendar year for
186 contributions to eligible charitable organizations described in
187 subsection (1)(b)(ii) of this section, no more than five percent
188 (5%) of such credits may be allocated for contributions to a
189 single eligible charitable organization. * * *

190 **SECTION 2.** This act shall take effect and be in force from
191 and after January 1, 2022.

