

By: Representatives Lamar, Stamps

To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
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; TO REVISE THE PERCENTAGE OF TAX CREDITS
12 THAT MAY BE ALLOCATED DURING A CALENDAR YEAR FOR CONTRIBUTIONS TO
13 CERTAIN ELIGIBLE CHARITABLE ORGANIZATIONS; AND FOR RELATED
14 PURPOSES.

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

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

18 27-7-22.41. (1) For the purposes of this section, the
19 following words and phrases shall have the meanings ascribed in
20 this section unless the context clearly indicates otherwise:

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

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



25 (i) Licensed by or under contract with the
26 Mississippi Department of Child Protection Services and provides
27 services for:

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

30 2. The safety, care and well-being of
31 children in custody with the Department of Child Protection
32 Services, or

33 3. The express purpose of creating permanency
34 for children through adoption; or

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

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

44 2. Children who have a chronic illness
45 or physical, intellectual, developmental or emotional disability,
46 or

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



49 participation in the Promise Neighborhoods Program sponsored by
50 the U.S. Department of Education.

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



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

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

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

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

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

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



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

103 (c) Any other information that the department requires
104 to administer this section.

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

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

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



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

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



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

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



173 Dollars (\$24,000,000.00). For calendar year 2021, and for each
174 calendar year thereafter, fifty percent (50%) of the tax credits
175 allocated during a calendar year shall be allocated for
176 contributions to eligible charitable organizations described in
177 subsection (1)(b)(i) of this section and fifty percent (50%) of
178 the tax credits allocated during a calendar year shall be
179 allocated for contributions to eligible charitable organizations
180 described in subsection (1)(b)(ii) of this section. * * * For
181 calendar year 2021, and for each calendar year thereafter, for
182 credits allocated during a calendar year for contributions to
183 eligible charitable organizations described in subsection
184 (1)(b)(i) of this section, no more than twenty-five percent (25%)
185 of such credits may be allocated for contributions to a single
186 eligible charitable organization. Except as otherwise provided in
187 this section, for calendar year 2021, and for each calendar year
188 thereafter, for credits allocated during a calendar year for
189 contributions to eligible charitable organizations described in
190 subsection (1)(b)(ii) of this section, no more than * * * three
191 and one-half percent (3 1/2%) of such credits may be allocated for
192 contributions to a single eligible charitable organization. * * *

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

