

By: Representative Byrd

To: Ways and Means

HOUSE BILL NO. 628

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"; AND FOR
6 RELATED PURPOSES.

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

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

10 27-7-22.41. (1) For the purposes of this section, the
11 following words and phrases shall have the meanings ascribed in
12 this section unless the context clearly indicates otherwise:

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

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

17 (i) Licensed by or under contract with the
18 Mississippi Department of Child Protection Services and provides
19 services for:



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

22 2. The safety, care and well-being of
23 children in custody with the Department of Child Protection
24 Services, or

25 3. The express purpose of creating permanency
26 for children through adoption; or

27 (ii) Certified by the department as an educational
28 services charitable organization that is accredited by a regional
29 accrediting organization or the State Board of Education and
30 provides services to:

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

37 2. Children who have a chronic illness or
38 physical, intellectual, developmental or emotional disability, or

39 3. Children eligible for free or reduced
40 price meals programs under Section 37-11-7, or selected for
41 participation in the Promise Neighborhoods Program sponsored by
42 the U.S. Department of Education.

43 (2) (a) The tax credit authorized in this section shall be
44 available only to a taxpayer who is a business enterprise engaged



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

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



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

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

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

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

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

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



95 (c) A statement that the funds generated from the tax
96 credit shall be used for educational resources, staff and
97 expenditures and/or other purposes described in this section.

98 (d) Any other information that the department requires
99 to administer this section.

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

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

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



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

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

(c) For the purposes of using a tax credit against ad valorem taxes assessed and levied on real property, a taxpayer



shall present to the appropriate tax collector the tax credit documentation provided to the taxpayer by the Department of Revenue, and the tax collector shall apply the tax credit against such ad valorem taxes. The tax collector shall forward the tax credit documentation to the Department of Revenue along with the amount of the tax credit applied against ad valorem taxes, and the department shall disburse funds to the tax collector for the amount of the tax credit applied against ad valorem taxes. Such payments by the Department of Revenue shall be made from current tax collections.

(9) The aggregate amount of tax credits that may be allocated by the department under this section during a calendar year shall not exceed Five Million Dollars (\$5,000,000.00), and not more than fifty percent (50%) of tax credits allocated during a calendar year may be allocated for contributions to eligible charitable organizations described in subsection (1)(b)(ii) of this section. However, for calendar year 2021, the aggregate amount of tax credits that may be allocated by the department under this section during a calendar year shall not exceed Ten Million Dollars (\$10,000,000.00), for calendar year 2022, the aggregate amount of tax credits that may be allocated by the department under this section during a calendar year shall not exceed Sixteen Million Dollars (\$16,000,000.00), and for calendar year 2023, and for each calendar year thereafter, the aggregate amount of tax credits that may be allocated by the department



under this section during a calendar year shall not exceed
Eighteen Million Dollars (\$18,000,000.00). For calendar year
2021, and for each calendar year thereafter, fifty percent (50%)
of the tax credits allocated during a calendar year shall be
allocated for contributions to eligible charitable organizations
described in subsection (1)(b)(i) of this section and fifty
percent (50%) of the tax credits allocated during a calendar year
shall be allocated for contributions to eligible charitable
organizations described in subsection (1)(b)(ii) of this section.
For calendar year 2021, and for each calendar year thereafter, for
credits allocated during a calendar year for contributions to
eligible charitable organizations described in subsection
(1)(b)(i) of this section, no more than twenty-five percent (25%)
of such credits may be allocated for contributions to a single
eligible charitable organization. Except as otherwise provided in
this section, for calendar year 2021, and for each calendar year
thereafter, for credits allocated during a calendar year for
contributions to eligible charitable organizations described in
subsection (1)(b)(ii) of this section, no more than four and
one-half percent (4-1/2%) of such credits may be allocated for
contributions to a single eligible charitable organization.

SECTION 2. This act shall take effect and be in force from
and after January 1, 2023.

