

By: Representative Hood

To: Ways and Means

HOUSE BILL NO. 655

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.



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

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

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

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

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

91 (b) A statement that the organization does not provide,
92 pay for or provide coverage of abortions and does not financially
93 support any other entity that provides, pays for or provides
94 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



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

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

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



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

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



170 under this section during a calendar year shall not exceed
171 Eighteen Million Dollars (\$18,000,000.00). For calendar year
172 2021, and for each calendar year thereafter, fifty percent (50%)
173 of the tax credits allocated during a calendar year shall be
174 allocated for contributions to eligible charitable organizations
175 described in subsection (1)(b)(i) of this section and fifty
176 percent (50%) of the tax credits allocated during a calendar year
177 shall be allocated for contributions to eligible charitable
178 organizations described in subsection (1)(b)(ii) of this section.
179 For calendar year 2021, and for each calendar year thereafter, for
180 credits allocated during a calendar year for contributions to
181 eligible charitable organizations described in subsection
182 (1)(b)(i) of this section, no more than twenty-five percent (25%)
183 of such credits may be allocated for contributions to a single
184 eligible charitable organization. Except as otherwise provided in
185 this section, for calendar year 2021, and for each calendar year
186 thereafter, for credits allocated during a calendar year for
187 contributions to eligible charitable organizations described in
188 subsection (1)(b)(ii) of this section, no more than four and
189 one-half percent (4-1/2%) of such credits may be allocated for
190 contributions to a single eligible charitable organization.

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

