

By: Senator(s) Williams

To: Finance

SENATE BILL NO. 2894

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.

