

By: Representative Shanks

To: Ways and Means

HOUSE BILL NO. 749

1 AN ACT TO AMEND SECTION 27-7-22.39, MISSISSIPPI CODE OF 1972,
 2 TO EXTEND THE DATE OF THE REPEALER ON THE STATUTE THAT AUTHORIZES
 3 SEPARATE INCOME TAX CREDITS AND REAL PROPERTY AD VALOREM TAX
 4 CREDITS FOR VOLUNTARY CASH CONTRIBUTIONS TO QUALIFYING CHARITABLE
 5 ORGANIZATIONS AND QUALIFYING FOSTER CARE CHARITABLE ORGANIZATIONS;
 6 AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 27-7-22.39, Mississippi Code of 1972, is
 9 amended as follows:

10 27-7-22.39. (1) As used in this section:

11 (a) "Low-income residents" means persons whose
 12 household income is less than one hundred fifty percent (150%) of
 13 the federal poverty level.

14 (b) "Qualifying charitable organization" means a
 15 charitable organization that is exempt from federal income
 16 taxation under Section 501(c)(3) of the Internal Revenue Code or
 17 is a designated community action agency that receives community
 18 services block grant program monies pursuant to 42 USC 9901. The
 19 organization must spend at least fifty percent (50%) of its budget
 20 on services to residents of this state who receive temporary



21 assistance for needy families benefits or low-income residents of
22 this state and their households or to children who have a chronic
23 illness or physical, intellectual, developmental or emotional
24 disability who are residents of this state. A charitable
25 organization that is exempt from federal income tax under Section
26 501(c)(3) of the Internal Revenue Code and that meets all other
27 requirements of this paragraph except that it does not spend at
28 least fifty percent (50%) of its overall budget in Mississippi may
29 be a qualifying charitable organization if it spends at least
30 fifty percent (50%) of its Mississippi budget on services to
31 qualified individuals in Mississippi and it certifies to the
32 department that one hundred percent (100%) of the voluntary cash
33 contributions from the taxpayer will be spent on services to
34 qualified individuals in Mississippi. Taxpayers choosing to make
35 donations through an umbrella charitable organization that
36 collects donations on behalf of member charities shall designate
37 that the donation be directed to a member charitable organization
38 that would qualify under this section on a stand-alone basis.
39 Qualifying charitable organization does not include any entity
40 that provides, pays for or provides coverage of abortions or that
41 financially supports any other entity that provides, pays for or
42 provides coverage of abortions.

43 (c) "Qualifying foster care charitable organization"
44 means a qualifying charitable organization that each operating
45 year provides services to at least one hundred (100) qualified



46 individuals in this state and spends at least fifty percent (50%)
47 of its budget on services to qualified individuals in this state.
48 A charitable organization that is exempt from federal income tax
49 under Section 501(c)(3) of the Internal Revenue Code and that
50 meets all other requirements of this paragraph except that it does
51 not spend at least fifty percent (50%) of its overall budget in
52 Mississippi may be a qualifying foster care charitable
53 organization if it spends at least fifty percent (50%) of its
54 Mississippi budget on services to qualified individuals in
55 Mississippi and it certifies to the department that one hundred
56 percent (100%) of the voluntary cash contributions from the
57 taxpayer will be spent on services to qualified individuals in
58 Mississippi. For the purposes of this paragraph, "qualified
59 individual" means a child in a foster care placement program
60 established by the Department of Child Protection Services, a
61 child placed under the Safe Families for Children model, or a
62 child at significant risk of entering a foster care placement
63 program established by the Department of Child Protection
64 Services.

65 (d) "Services" means:

66 (i) Cash assistance, medical care, child care,
67 food, clothing, shelter, and job-placement services or any other
68 assistance that is reasonably necessary to meet immediate basic
69 needs and that is provided and used in this state;



70 (ii) Job-training or education services or funding
71 for parents, foster parents or guardians; or

72 (iii) Job-training or education services or
73 funding provided as part of a foster care independent living
74 program.

75 (2) (a) Except as provided in subsections (3) and (4) of
76 this section, a credit is allowed against the taxes imposed by
77 this chapter for voluntary cash contributions by the taxpayer
78 during the taxable year to a qualifying charitable organization,
79 other than a qualifying foster care charitable organization, not
80 to exceed:

81 (i) Through calendar year 2022, the lesser of Four
82 Hundred Dollars (\$400.00) or the amount of the contribution in any
83 taxable year for a single individual or a head of household; and
84 for calendar year 2023 and each calendar year thereafter, the
85 lesser of One Thousand Two Hundred Dollars (\$1,200.00) or the
86 amount of the contribution in any taxable year for a single
87 individual or a head of household.

88 (ii) Through calendar year 2022, the lesser of
89 Eight Hundred Dollars (\$800.00) or the amount of the contribution
90 in any taxable year for a married couple filing a joint return;
91 and for calendar year 2023 and each calendar year thereafter, the
92 lesser of Two Thousand Four Hundred Dollars (\$2,400.00) or the
93 amount of the contribution in any taxable year for a married
94 couple filing a joint return.



95 (b) From and after January 1, 2023, a credit is also
96 allowed against ad valorem taxes assessed and levied on real
97 property for voluntary cash contributions made by the individual
98 taxpayer during the taxable year to a qualifying charitable
99 organization, other than a qualifying foster care charitable
100 organization. The amount of credit that may be utilized by a
101 taxpayer in a taxable year shall be limited to an amount not to
102 exceed fifty percent (50%) of the total tax liability of the
103 taxpayer for ad valorem taxes assessed and levied on real
104 property. Any tax credit claimed under this paragraph but not
105 used in any taxable year may be carried forward for five (5)
106 consecutive years from the close of the tax year in which the
107 credits were earned.

108 (3) (a) A separate credit is allowed against the taxes
109 imposed by this chapter for voluntary cash contributions during
110 the taxable year to a qualifying foster care charitable
111 organization. A contribution to a qualifying foster care
112 charitable organization does not qualify for, and shall not be
113 included in, any credit amount under subsection (2) of this
114 section. If the voluntary cash contribution by the taxpayer is to
115 a qualifying foster care charitable organization, the credit shall
116 not exceed:

117 (i) Through calendar year 2022, the lesser of Five
118 Hundred Dollars (\$500.00) or the amount of the contribution in any
119 taxable year for a single individual or a head of household; and



120 for calendar year 2023 and each calendar year thereafter, the
121 lesser of One Thousand Five Hundred Dollars (\$1,500.00) or the
122 amount of the contribution in any taxable year for a single
123 individual or a head of household.

124 (ii) Through calendar year 2022, the lesser of One
125 Thousand Dollars (\$1,000.00) or the amount of the contribution in
126 any taxable year for a married couple filing a joint return; and
127 for calendar year 2023 and each calendar year thereafter, the
128 lesser of Three Thousand Dollars (\$3,000.00) or the amount of the
129 contribution in any taxable year for a married couple filing a
130 joint return.

131 (b) From and after January 1, 2023, a credit is also
132 allowed against ad valorem taxes assessed and levied on real
133 property for voluntary cash contributions made by the individual
134 taxpayer during the taxable year to a qualifying foster care
135 charitable organization. The amount of credit that may be
136 utilized by a taxpayer in a taxable year shall be limited to an
137 amount not to exceed fifty percent (50%) of the total tax
138 liability of the taxpayer for ad valorem taxes assessed and levied
139 on real property. Any tax credit claimed under this paragraph but
140 not used in any taxable year may be carried forward for five (5)
141 consecutive years from the close of the tax year in which the
142 credits were earned.

143 (4) Subsections (2) and (3) of this section provide separate
144 credits against taxes imposed by this chapter depending on the



145 recipients of the contributions. A taxpayer, including a married
146 couple filing a joint return, in the same taxable year, may either
147 or both:

148 (a) Contribute to a qualifying charitable organization,
149 other than a qualifying foster care charitable organization, and
150 claim a credit under subsection (2) of this section.

151 (b) Contribute to a qualifying foster care charitable
152 organization and claim a credit under subsection (3) of this
153 section.

154 (5) A husband and wife who file separate returns for a
155 taxable year in which they could have filed a joint return may
156 each claim only one-half (1/2) of the tax credit that would have
157 been allowed for a joint return.

158 (6) Except as otherwise provided in subsections (2) and (3)
159 of this section, if the allowable tax credit exceeds the taxes
160 otherwise due under this chapter on the claimant's income, or if
161 there are no taxes due under this chapter, the taxpayer may carry
162 forward the amount of the claim not used to offset the taxes under
163 this chapter for not more than five (5) consecutive taxable years'
164 income tax liability.

165 (7) The credit allowed by this section is in lieu of a
166 deduction pursuant to Section 170 of the Internal Revenue Code and
167 taken for state tax purposes.

168 (8) Taxpayers taking a credit authorized by this section
169 shall provide the name of the qualifying charitable organization



170 and the amount of the contribution to the department on forms
171 provided by the department.

172 (9) A qualifying charitable organization shall provide the
173 department with a written certification that it meets all criteria
174 to be considered a qualifying charitable organization. The
175 organization shall also notify the department of any changes that
176 may affect the qualifications under this section.

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

180 (a) Verification of the organization's status under
181 Section 501(c)(3) of the Internal Revenue Code or verification
182 that the organization is a designated community action agency that
183 receives community services block grant program monies pursuant to
184 42 USC 9901.

185 (b) Financial data indicating the organization's budget
186 for the organization's prior operating year and the amount of that
187 budget spent on services to residents of this state who either:

188 (i) Receive temporary assistance for needy
189 families benefits;

190 (ii) Are low-income residents of this state;

191 (iii) Are children who have a chronic illness or
192 physical, intellectual, developmental or emotional disability; or

193 (iv) Are children in a foster care placement
194 program established by the Department of Child Protection



195 Services, children placed under the Safe Families for Children
196 model or children at significant risk of entering a foster care
197 placement program established by the Department of Child
198 Protection Services.

199 (c) A statement that the organization plans to continue
200 spending at least fifty percent (50%) of its budget on services to
201 residents of this state who receive temporary assistance for needy
202 families benefits, who are low-income residents of this state, who
203 are children who have a chronic illness or physical, intellectual,
204 developmental or emotional disability or who are children in a
205 foster care placement program established by the Department of
206 Child Protection Services, children placed under the Safe Families
207 for Children model or children at significant risk of entering a
208 foster care placement program established by the Department of
209 Child Protection Services. A charitable organization that is
210 exempt from federal income tax under Section 501(c)(3) of the
211 Internal Revenue Code and that meets all other requirements for a
212 qualifying charitable organization or qualifying foster care
213 charitable organization except that it does not spend at least
214 fifty percent (50%) of its overall budget in Mississippi shall
215 submit a statement that it spends at least fifty percent (50%) of
216 its Mississippi budget on services to qualified individuals in
217 Mississippi and that one hundred percent (100%) of the voluntary
218 cash contributions it receives from Mississippi taxpayers will be
219 spent on services to qualified individuals in Mississippi.



220 (d) In the case of a foster care charitable
221 organization, a statement that each operating year it provides
222 services to at least one hundred (100) qualified individuals in
223 this state.

224 (e) A statement that the organization does not provide,
225 pay for or provide coverage of abortions and does not financially
226 support any other entity that provides, pays for or provides
227 coverage of abortions.

228 (f) Any other information that the department requires
229 to administer this section.

230 (11) The department shall review each written certification
231 and determine whether the organization meets all the criteria to
232 be considered a qualifying charitable organization and notify the
233 organization of its determination. The department may also
234 periodically request recertification from the organization. The
235 department shall compile and make available to the public a list
236 of the qualifying charitable organizations.

237 (12) The aggregate amount of tax credits that may be awarded
238 under this section in any calendar year shall not exceed Three
239 Million Dollars (\$3,000,000.00). However, for calendar year 2021,
240 and for each calendar year thereafter, the aggregate amount of tax
241 credits that may be awarded under this section in any calendar
242 year shall not exceed One Million Dollars (\$1,000,000.00). In
243 addition, any tax credits not awarded under this section before
244 June 1, 2020, may be allocated during calendar year 2020 under



245 Section 27-7-22.41 for contributions by taxpayers to eligible
246 charitable organizations described in Section
247 27-7-22.41(1)(b)(ii) as provided under such section,
248 notwithstanding any limitation on the percentage of tax credits
249 that may be allocated for such contributions.

250 (13) A taxpayer shall apply for credits with the department
251 on forms prescribed by the department. In the application the
252 taxpayer shall certify to the department the dollar amount of the
253 contributions made or to be made during the calendar year. Within
254 thirty (30) days after the receipt of an application, the
255 department shall allocate credits based on the dollar amount of
256 contributions as certified in the application. However, if the
257 department cannot allocate the full amount of credits certified in
258 the application due to the limit on the aggregate amount of
259 credits that may be awarded under this section in a calendar year,
260 the department shall so notify the applicant within thirty (30)
261 days with the amount of credits, if any, that may be allocated to
262 the applicant in the calendar year. Once the department has
263 allocated credits to a taxpayer, if the contribution for which a
264 credit is allocated has not been made as of the date of the
265 allocation, then the contribution must be made not later than
266 sixty (60) days from the date of the allocation. If the
267 contribution is not made within such time period, the allocation
268 shall be cancelled and returned to the department for
269 reallocation. Upon final documentation of the contributions, if



270 the actual dollar amount of the contributions is lower than the
271 amount estimated, the department shall adjust the tax credit
272 allowed under this section.

273 (14) This section shall be repealed from and after January
274 1, * * * 2028.

275 **SECTION 2.** This act shall take effect and be in force from
276 and after July 1, 2024.

