

By: Representative White

To: Ways and Means

HOUSE BILL NO. 1192

1 AN ACT TO BRING FORWARD SECTION 27-7-22.41, MISSISSIPPI CODE
2 OF 1972, WHICH PROVIDES AN INCOME TAX CREDIT, INSURANCE PREMIUM
3 TAX CREDIT AND AD VALOREM TAX CREDIT FOR CONTRIBUTIONS MADE BY
4 CERTAIN TAXPAYERS TO CERTAIN ELIGIBLE CHARITABLE ORGANIZATIONS,
5 FOR THE PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

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

9 27-7-22.41. (1) For the purposes of this section, the
10 following words and phrases shall have the meanings ascribed in
11 this section unless the context clearly indicates otherwise:

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

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

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



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

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

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

26 (ii) Certified by the department as an educational
27 services charitable organization that is accredited by a regional
28 accrediting organization and provides services to:

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

35 2. Children who have a chronic illness or
36 physical, intellectual, developmental or emotional disability, or

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

41 (2) (a) The tax credit authorized in this section shall be
42 available only to a taxpayer who is a business enterprise engaged
43 in commercial, industrial or professional activities and operating



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

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



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

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

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

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

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

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



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

96 (d) Any other information that the department requires
97 to administer this section.

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

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

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



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

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

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



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

153 (9) The aggregate amount of tax credits that may be
154 allocated by the department under this section during a calendar
155 year shall not exceed Five Million Dollars (\$5,000,000.00), and
156 not more than fifty percent (50%) of tax credits allocated during
157 a calendar year may be allocated for contributions to eligible
158 charitable organizations described in subsection (1)(b)(ii) of
159 this section. However, for calendar year 2021, the aggregate
160 amount of tax credits that may be allocated by the department
161 under this section during a calendar year shall not exceed Ten
162 Million Dollars (\$10,000,000.00), for calendar year 2022, the
163 aggregate amount of tax credits that may be allocated by the
164 department under this section during a calendar year shall not
165 exceed Sixteen Million Dollars (\$16,000,000.00), and for calendar
166 year 2023, and for each calendar year thereafter, 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
169 Eighteen Million Dollars (\$18,000,000.00). For calendar year
170 2021, and for each calendar year thereafter, fifty percent (50%)
171 of the tax credits allocated during a calendar year shall be
172 allocated for contributions to eligible charitable organizations
173 described in subsection (1)(b)(i) of this section and fifty
174 percent (50%) of the tax credits allocated during a calendar year
175 shall be allocated for contributions to eligible charitable
176 organizations described in subsection (1)(b)(ii) of this section.
177 For calendar year 2021, and for each calendar year thereafter, for
178 credits allocated during a calendar year for contributions to
179 eligible charitable organizations described in subsection
180 (1)(b)(i) of this section, no more than twenty-five percent (25%)
181 of such credits may be allocated for contributions to a single
182 eligible charitable organization. Except as otherwise provided in
183 this section, for calendar year 2021, and for each calendar year
184 thereafter, for credits allocated during a calendar year for
185 contributions to eligible charitable organizations described in
186 subsection (1)(b)(ii) of this section, no more than four and
187 one-half percent (4-1/2%) of such credits may be allocated for
188 contributions to a single eligible charitable organization.

189 **SECTION 2.** This act shall take effect and be in force from
190 and after January 1, 2025.

