

By: Representative Lamar

To: Ways and Means

HOUSE BILL NO. 1904

1 AN ACT AUTHORIZE AN INCOME TAX CREDIT, INSURANCE PREMIUM TAX
2 CREDIT AND AD VALOREM TAX CREDIT FOR VOLUNTARY CASH CONTRIBUTIONS
3 BY TAXPAYERS TO STUDENT SCHOLARSHIP ORGANIZATIONS; TO DEFINE THE
4 TERM "STUDENT SCHOLARSHIP ORGANIZATION" AND OTHER TERMS FOR THE
5 PURPOSES OF THIS ACT; TO LIMIT THE AMOUNT OF THE TAX CREDIT; TO
6 PROVIDE THAT UNUSED PORTIONS OF A TAX CREDIT MAY BE CARRIED
7 FORWARD FOR FIVE CONSECUTIVE YEARS FROM THE CLOSE OF THE TAX YEAR
8 IN WHICH THE CREDIT WAS EARNED; TO PROVIDE THE CRITERIA THAT AN
9 ORGANIZATION MUST MEET IN ORDER FOR A CONTRIBUTION TO THE
10 ORGANIZATION TO QUALIFY FOR A TAX CREDIT AUTHORIZED BY THIS ACT;
11 AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** (1) For the purposes of this section, the
14 following words and phrases shall have the meanings ascribed in
15 this section unless the context clearly indicates otherwise:

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

17 (b) "Eligible student" means a student who is a
18 Mississippi resident who, immediately prior to receiving a
19 scholarship or tuition grant from a student scholarship
20 organization and enrolling in a qualified school or program, was
21 enrolled in and attended for at least six (6) weeks a Mississippi
22 public school or who is eligible to enroll in a qualified first



23 grade, kindergarten program, or pre-kindergarten program;
24 provided, however, that if a student is deemed an eligible student
25 pursuant to this paragraph, he or she shall continue to qualify as
26 such until he or she graduates, reaches the age of twenty (20)
27 years, or returns to a public school, whichever occurs first; and
28 provided, further, that the public school enrollment and six-week
29 attendance requirements shall be waived in the case of a student
30 who, based on the school attendance zone of his or her primary
31 residence, is or would be assigned to a public school that the
32 State Department of Education determines to be a low-performing
33 school, who is the subject of officially documented cases of
34 school-based physical violence or student related verbal abuse
35 threatening physical harm, or who was enrolled in a homeschool
36 program for at least one (1) year immediately prior to receiving a
37 scholarship or tuition grant. For the purposes of this paragraph,
38 a child is "home schooled" if the child is being educated by
39 private teachers, parents, guardians or custodians in a legitimate
40 home instruction program, as described in the Mississippi
41 Compulsory School Attendance Law (Section 37-13-91).

42 (c) "Nonpublic school" means an institution for the
43 teaching of children, consisting of a physical plant (whether
44 owned or leased), instructional staff members and students, and
45 which is in session each school year and maintains educational
46 standards equivalent to the standards established by the State
47 Department of Education for the state schools as outlined in the



Approval Requirements of the State Board of Education for Nonpublic Schools. The term "nonpublic school" includes, but is not limited to, private, church and parochial schools.

(d) "Qualified school or program" means a nonpublic pre-kindergarten program, primary school, or secondary school that:

(i) Is accredited or in the process of becoming accredited by the State Department of Education or a state or regionally recognized accrediting organization; and

(ii) Is located in this state, adheres to the provisions of the federal Civil Rights Act of 1964, and satisfies any requirements that may be prescribed by law for private schools in this state.

(e) "Student scholarship organization" means a charitable organization in this state that:

(i) Is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and obligates for scholarships or tuition grants at least ninety percent (90%) of its annual revenue received from donations for scholarships or tuition grants to allow students to attend any qualified school or program of their parents' choice; and

(ii) Provides educational scholarships or tuition grants to eligible students without limiting availability to only students of one (1) school or program.



(2) (a) (i) The tax credit authorized in this subsection shall be available only to a taxpayer who is a business enterprise engaged in commercial, industrial or professional activities and operating as a corporation, limited liability company, partnership or sole proprietorship. Except as otherwise provided in this subsection, a credit is allowed against the taxes imposed by Sections 27-7-5, 27-15-103, 27-15-109 and 27-15-123, for voluntary cash contributions made by a taxpayer during the taxable year to a student scholarship organization. A credit is also allowed against ad valorem taxes assessed and levied on real property for voluntary cash contributions made by the taxpayer during the taxable year to a student scholarship organization. The amount of credit that may be utilized by a taxpayer in a taxable year shall be limited to an amount not to exceed fifty percent (50%) of the total tax liability of the taxpayer for the taxes imposed by such sections of law and an amount not to exceed fifty percent (50%) of the total tax liability of the taxpayer for ad valorem taxes assessed and levied on real property. Any tax credit claimed under this subsection but not used in any taxable year may be carried forward for five (5) consecutive years from the close of the tax year in which the credits were earned. A tax credit cannot be claimed under this subsection for a voluntary cash contribution to a student scholarship organization if a taxpayer designates the voluntary cash contribution for the direct benefit



96 of any particular individual, whether or not such individual is a
97 dependent of the taxpayer.

98 (ii) A contribution to a student scholarship
99 organization for which a credit is claimed under this subsection
100 does not qualify for and shall not be included in any credit that
101 may be claimed under subsection (3) of this section.

102 (iii) A taxpayer cannot claim a credit for a
103 contribution that is used as a deduction by the taxpayer for state
104 income tax purposes.

105 (b) Taxpayers taking a credit authorized by this
106 subsection shall provide the name of the student scholarship
107 organization and the amount of the contribution to the department
108 on forms provided by the department.

109 (c) A student scholarship organization shall provide
110 the department with a written certification that it meets all
111 criteria to be considered a student scholarship organization. The
112 organization shall also notify the department of any changes that
113 may affect eligibility under this section.

114 (d) The student scholarship organization's written
115 certification must be signed by an officer of the organization
116 under penalty of perjury. The written certification shall include
117 the following:

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



(ii) 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;

(iii) A statement that the funds generated from a voluntary cash contribution shall be used for tuition and fees for a qualified school or program;

(iv) A statement that in soliciting contributions, the student scholarship organization shall not represent, or direct a qualified school or program to represent, that, in exchange for contributing to the student scholarship organization, a taxpayer shall receive a scholarship for the direct benefit of any particular individual, whether or not such individual is a dependent of the taxpayer or business enterprise; and

(v) Any other information that the department requires to administer this section.

In addition, a student scholarship organization shall file an annual report with the department showing any fees or assessments retained by the student scholarship organization during the applicable calendar year.

(e) The department shall review each written certification and determine whether the organization meets all the criteria to be considered a student scholarship organization and notify the organization of its determination. The department may also periodically request recertification from the organization.



The department shall compile and make available to the public a list of student scholarship organizations.

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

(g) (i) A taxpayer shall apply for credits with the department on forms prescribed by the department. In the application the taxpayer shall certify to the department the dollar amount of the contributions made or to be made during the calendar year. Within thirty (30) days after the receipt of an 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 subsection 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 subsection.

(ii) 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.

(h) The aggregate amount of tax credits that may be allocated by the department under this subsection during a calendar year shall not exceed Forty Million Dollars (\$40,000,000.00).

(3) (a) (i) Except as otherwise provided in this subsection, a credit is allowed against the taxes imposed by this



chapter for voluntary cash contributions by an individual taxpayer during the taxable year to a student scholarship organization. A credit is also allowed against ad valorem taxes assessed and levied on real property for voluntary cash contributions made by an individual taxpayer during the taxable year to a student scholarship organization. The amount of credit that may be utilized by a taxpayer in a taxable year shall be limited to an amount not to exceed fifty percent (50%) of the total tax liability of the taxpayer for the taxes imposed by this chapter and an amount not to exceed fifty percent (50%) of the total tax liability of the taxpayer for ad valorem taxes assessed and levied on real property. Any tax credit claimed under this subsection but not used in any taxable year may be carried forward for five (5) consecutive years from the close of the tax year in which the credits were earned. A tax credit cannot be claimed under this subsection for a voluntary cash contribution to a student scholarship organization if a taxpayer designates the voluntary cash contribution for the direct benefit of any particular individual, whether or not such individual is a dependent of the taxpayer.

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



(iii) A contribution to a student scholarship organization for which a credit is claimed under this subsection does not qualify for and shall not be included in any credit that may be claimed under subsection (2) of this section.

(iv) A taxpayer cannot claim a credit for a contribution that is used as a deduction by the taxpayer for state income tax purposes.

(b) Taxpayers taking a credit authorized by this subsection shall provide the name of the student scholarship organization and the amount of the contribution to the department on forms provided by the department.

(c) A student scholarship organization shall provide the department with a written certification that it meets all criteria to be considered a student scholarship organization. The organization shall also notify the department of any changes that may affect eligibility under this section.

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

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

(ii) A statement that the organization does not provide, pay for or provide coverage of abortions and does not



243 financially support any other entity that provides, pays for or
244 provides coverage of abortions;

245 (iii) A statement that the funds generated from a
246 voluntary cash contribution shall be used for tuition and fees for
247 a qualified school or program;

248 (iv) A statement that in soliciting contributions,
249 the student scholarship organization shall not represent, or
250 direct a qualified school to represent, that, in exchange for
251 contributing to the student scholarship organization, a taxpayer
252 shall receive a scholarship for the direct benefit of any
253 particular individual, whether or not such individual is a
254 dependent of the taxpayer or business enterprise; and

255 (v) Any other information that the department
256 requires to administer this section.

257 In addition, a student scholarship organization shall file an
258 annual report with the department showing any fees or assessments
259 retained by the student scholarship organization during the
260 applicable calendar year.

261 (e) The department shall review each written
262 certification and determine whether the organization meets all the
263 criteria to be considered a student scholarship organization and
264 notify the organization of its determination. The department may
265 also periodically request recertification from the organization.
266 The department shall compile and make available to the public a
267 list of student scholarship organizations.



(f) (i) A taxpayer shall apply for credits with the department on forms prescribed by the department. In the application the taxpayer shall certify to the department the dollar amount of the contributions made or to be made during the calendar year. Within thirty (30) days after the receipt of an 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 subsection 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 subsection.

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



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

303 (g) The aggregate amount of tax credits that may be
304 allocated by the department under this subsection during a
305 calendar year shall not exceed Ten Million Dollars
306 (\$10,000,000.00).

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

