

By: Representatives Gunn, Lamar, Stamps

To: Ways and Means

HOUSE BILL NO. 1685

1 AN ACT TO CREATE THE PREGNANCY RESOURCE ACT; TO AUTHORIZE AN
 2 INCOME TAX CREDIT, INSURANCE PREMIUM TAX CREDIT AND AD VALOREM TAX
 3 CREDIT FOR VOLUNTARY CASH CONTRIBUTIONS BY CERTAIN TAXPAYERS TO
 4 ELIGIBLE CHARITABLE ORGANIZATIONS; TO LIMIT THE AMOUNT OF THE TAX
 5 CREDIT; TO PROVIDE THAT UNUSED PORTIONS OF A TAX CREDIT MAY BE
 6 CARRIED FORWARD FOR FIVE CONSECUTIVE YEARS FROM THE CLOSE OF THE
 7 TAX YEAR IN WHICH THE CREDIT WAS EARNED; TO PROVIDE THAT
 8 CONTRIBUTIONS FOR WHICH TAX CREDITS ARE CLAIMED UNDER THIS ACT MAY
 9 NOT BE USED AS DEDUCTIONS FOR STATE TAX PURPOSES; TO PROVIDE THE
 10 CRITERIA THAT AN ELIGIBLE CHARITABLE ORGANIZATION MUST MEET IN
 11 ORDER FOR A CONTRIBUTION TO THE ORGANIZATION TO QUALIFY FOR THE
 12 TAX CREDIT AUTHORIZED BY THIS ACT; TO BRING FORWARD SECTION
 13 27-7-22.41, MISSISSIPPI CODE OF 1972, WHICH PROVIDES AN INCOME TAX
 14 CREDIT, INSURANCE PREMIUM TAX CREDIT AND AD VALOREM TAX CREDIT FOR
 15 CONTRIBUTIONS MADE BY CERTAIN TAXPAYERS TO CERTAIN ELIGIBLE
 16 CHARITABLE ORGANIZATIONS, FOR THE PURPOSES OF POSSIBLE AMENDMENT;
 17 AND FOR RELATED PURPOSES.

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

19 **SECTION 1.** (1) This section shall be known and may be cited
 20 as the "Pregnancy Resource Act."

21 (2) For the purposes of this section, the following words
 22 and phrases shall have the meanings ascribed in this section
 23 unless the context clearly indicates otherwise:

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



25 (b) "Eligible charitable organization" means an
26 organization that is exempt from federal income taxation under
27 Section 501(c) (3) of the Internal Revenue Code and is a pregnancy
28 resource center or crisis pregnancy center eligible to receive
29 funding disbursed by the Choose Life Advisory Committee under
30 Section 27-19-56.70, 27-19-56.277 and/or 27-19-56.412.

31 (3) (a) The tax credit authorized in this section shall be
32 available only to a taxpayer who is a business enterprise engaged
33 in commercial, industrial or professional activities and operating
34 as a corporation, limited liability company, partnership or sole
35 proprietorship. Except as otherwise provided in this section, a
36 credit is allowed against the taxes imposed by Sections 27-7-5,
37 27-15-103, 27-15-109 and 27-15-123, for voluntary cash
38 contributions made by a taxpayer during the taxable year to an
39 eligible charitable organization. For a taxpayer that is not
40 operating as a corporation, a credit is also allowed against ad
41 valorem taxes assessed and levied on real property for voluntary
42 cash contributions made by the taxpayer during the taxable year to
43 an eligible charitable organization. The amount of credit that
44 may be utilized by a taxpayer in a taxable year shall be limited
45 to (i) an amount not to exceed fifty percent (50%) of the total
46 tax liability of the taxpayer for the taxes imposed by such
47 sections of law and (ii) an amount not to exceed fifty percent
48 (50%) of the total tax liability of the taxpayer for ad valorem
49 taxes assessed and levied on real property. Any tax credit



50 claimed under this section but not used in any taxable year may be
51 carried forward for five (5) consecutive years from the close of
52 the tax year in which the credits were earned.

53 (b) A contribution for which a credit is claimed under
54 this section may not be used as a deduction by the taxpayer for
55 state income tax purposes.

56 (4) Taxpayers taking a credit authorized by this section
57 shall provide the name of the eligible charitable organization and
58 the amount of the contribution to the department on forms provided
59 by the department.

60 (5) An eligible charitable organization shall provide the
61 department with a written certification that it meets all criteria
62 to be considered an eligible charitable organization. The
63 organization shall also notify the department of any changes that
64 may affect eligibility under this section.

65 (6) The eligible charitable organization's written
66 certification must be signed by an officer of the organization
67 under penalty of perjury. The written certification shall include
68 the following:

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

71 (b) A statement that the organization does not provide,
72 pay for or provide coverage of abortions and does not financially
73 support any other entity that provides, pays for or provides
74 coverage of abortions;



75 (c) Any other information that the department requires
76 to administer this section.

77 (7) The department shall review each written certification
78 and determine whether the organization meets all the criteria to
79 be considered an eligible charitable organization and notify the
80 organization of its determination. The department may also
81 periodically request recertification from the organization. The
82 department shall compile and make available to the public a list
83 of eligible charitable organizations.

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

91 (9) (a) A taxpayer shall apply for credits with the
92 department on forms prescribed by the department. In the
93 application the taxpayer shall certify to the department the
94 dollar amount of the contributions made or to be made during the
95 calendar year. Within thirty (30) days after the receipt of an
96 application, the department shall allocate credits based on the
97 dollar amount of contributions as certified in the application.
98 However, if the department cannot allocate the full amount of
99 credits certified in the application due to the limit on the



100 aggregate amount of credits that may be awarded under this section
101 in a calendar year, the department shall so notify the applicant
102 within thirty (30) days with the amount of credits, if any, that
103 may be allocated to the applicant in the calendar year. Once the
104 department has allocated credits to a taxpayer, if the
105 contribution for which a credit is allocated has not been made as
106 of the date of the allocation, then the contribution must be made
107 not later than sixty (60) days from the date of the allocation.
108 If the contribution is not made within such time period, the
109 allocation shall be cancelled and returned to the department for
110 reallocation. Upon final documentation of the contributions, if
111 the actual dollar amount of the contributions is lower than the
112 amount estimated, the department shall adjust the tax credit
113 allowed under this section.

114 (b) For the purposes of using a tax credit against ad
115 valorem taxes assessed and levied on real property, a taxpayer
116 shall present to the appropriate tax collector the tax credit
117 documentation provided to the taxpayer by the Department of
118 Revenue, and the tax collector shall apply the tax credit against
119 such ad valorem taxes. The tax collector shall forward the tax
120 credit documentation to the Department of Revenue along with the
121 amount of the tax credit applied against ad valorem taxes, and the
122 department shall disburse funds to the tax collector for the
123 amount of the tax credit applied against ad valorem taxes. Such



124 payments by the Department of Revenue shall be made from current
125 tax collections.

126 (10) The aggregate amount of tax credits that may be
127 allocated by the department under this section during a calendar
128 year shall not exceed Two Million Dollars (\$2,000,000.00). For
129 credits allocated during a calendar year for contributions to
130 eligible charitable organizations, no more than fifty percent
131 (50%) of such credits may be allocated for contributions to a
132 single eligible charitable organization.

133 **SECTION 2.** Section 27-7-22.41, Mississippi Code of 1972, is
134 brought forward as follows:

135 27-7-22.41. (1) For the purposes of this section, the
136 following words and phrases shall have the meanings ascribed in
137 this section unless the context clearly indicates otherwise:

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

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

142 (i) Licensed by or under contract with the
143 Mississippi Department of Child Protection Services and provides
144 services for:

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



147 2. The safety, care and well-being of
148 children in custody with the Department of Child Protection
149 Services, or

150 3. The express purpose of creating permanency
151 for children through adoption; or

152 (ii) Certified by the department as an educational
153 services charitable organization and provides services to:

154 1. Children in a foster care placement
155 program established by the Department of Child Protection
156 Services, children placed under the Safe Families for Children
157 model, or children at significant risk of entering a foster care
158 placement program established by the Department of Child
159 Protection Services,

160 2. Children who have a chronic illness
161 or physical, intellectual, developmental or emotional disability,
162 or

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

167 (2) (a) The tax credit authorized in this section shall be
168 available only to a taxpayer who is a business enterprise engaged
169 in commercial, industrial or professional activities and operating
170 as a corporation, limited liability company, partnership or sole
171 proprietorship. Except as otherwise provided in this section, a



172 credit is allowed against the taxes imposed by Sections 27-7-5,
173 27-15-103, 27-15-109 and 27-15-123, for voluntary cash
174 contributions made by a taxpayer during the taxable year to an
175 eligible charitable organization. From and after January 1, 2022,
176 for a taxpayer that is not operating as a corporation, a credit is
177 also allowed against ad valorem taxes assessed and levied on real
178 property for voluntary cash contributions made by the taxpayer
179 during the taxable year to an eligible charitable organization.
180 The amount of credit that may be utilized by a taxpayer in a
181 taxable year shall be limited to (i) an amount not to exceed fifty
182 percent (50%) of the total tax liability of the taxpayer for the
183 taxes imposed by such sections of law and (ii) an amount not to
184 exceed fifty percent (50%) of the total tax liability of the
185 taxpayer for ad valorem taxes assessed and levied on real
186 property. Any tax credit claimed under this section but not used
187 in any taxable year may be carried forward for five (5)
188 consecutive years from the close of the tax year in which the
189 credits were earned.

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

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



197 (3) Taxpayers taking a credit authorized by this section
198 shall provide the name of the eligible charitable organization and
199 the amount of the contribution to the department on forms provided
200 by the department.

201 (4) An eligible charitable organization shall provide the
202 department with a written certification that it meets all criteria
203 to be considered an eligible charitable organization. An eligible
204 charitable organization must also provide the department with
205 written documented proof of its license and/or written contract
206 with the Mississippi Department of Child Protection Services. The
207 organization shall also notify the department of any changes that
208 may affect eligibility under this section.

209 (5) The eligible charitable organization's written
210 certification must be signed by an officer of the organization
211 under penalty of perjury. The written certification shall include
212 the following:

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

215 (b) A statement that the organization does not provide,
216 pay for or provide coverage of abortions and does not financially
217 support any other entity that provides, pays for or provides
218 coverage of abortions;

219 (c) Any other information that the department requires
220 to administer this section.



221 (6) The department shall review each written certification
222 and determine whether the organization meets all the criteria to
223 be considered an eligible charitable organization and notify the
224 organization of its determination. The department may also
225 periodically request recertification from the organization. The
226 department shall compile and make available to the public a list
227 of eligible charitable organizations.

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

235 (8) (a) A taxpayer shall apply for credits with the
236 department on forms prescribed by the department. In the
237 application the taxpayer shall certify to the department the
238 dollar amount of the contributions made or to be made during the
239 calendar year. Within thirty (30) days after the receipt of an
240 application, the department shall allocate credits based on the
241 dollar amount of contributions as certified in the application.
242 However, if the department cannot allocate the full amount of
243 credits certified in the application due to the limit on the
244 aggregate amount of credits that may be awarded under this section
245 in a calendar year, the department shall so notify the applicant



246 within thirty (30) days with the amount of credits, if any, that
247 may be allocated to the applicant in the calendar year. Once the
248 department has allocated credits to a taxpayer, if the
249 contribution for which a credit is allocated has not been made as
250 of the date of the allocation, then the contribution must be made
251 not later than sixty (60) days from the date of the allocation.
252 If the contribution is not made within such time period, the
253 allocation shall be cancelled and returned to the department for
254 reallocation. Upon final documentation of the contributions, if
255 the actual dollar amount of the contributions is lower than the
256 amount estimated, the department shall adjust the tax credit
257 allowed under this section.

258 (b) A taxpayer who applied for a tax credit under this
259 section during calendar year 2020, but who was unable to be
260 awarded the credit due to the limit on the aggregate amount of
261 credits authorized for calendar year 2020, shall be given priority
262 for tax credits authorized to be allocated to taxpayers under this
263 section by Section 27-7-22.39.

264 (c) For the purposes of using a tax credit against ad
265 valorem taxes assessed and levied on real property, a taxpayer
266 shall present to the appropriate tax collector the tax credit
267 documentation provided to the taxpayer by the Department of
268 Revenue, and the tax collector shall apply the tax credit against
269 such ad valorem taxes. The tax collector shall forward the tax
270 credit documentation to the Department of Revenue along with the



271 amount of the tax credit applied against ad valorem taxes, and the
272 department shall disburse funds to the tax collector for the
273 amount of the tax credit applied against ad valorem taxes. Such
274 payments by the Department of Revenue shall be made from current
275 tax collections.

276 (9) The aggregate amount of tax credits that may be
277 allocated by the department under this section during a calendar
278 year shall not exceed Five Million Dollars (\$5,000,000.00), and
279 not more than fifty percent (50%) of tax credits allocated during
280 a calendar year may be allocated for contributions to eligible
281 charitable organizations described in subsection (1)(b)(ii) of
282 this section. However, for calendar year 2021, the aggregate
283 amount of tax credits that may be allocated by the department
284 under this section during a calendar year shall not exceed Ten
285 Million Dollars (\$10,000,000.00), and for calendar year 2022, and
286 for each calendar year thereafter, the aggregate amount of tax
287 credits that may be allocated by the department under this section
288 during a calendar year shall not exceed Sixteen Million Dollars
289 (\$16,000,000.00). For calendar year 2021, and for each calendar
290 year thereafter, fifty percent (50%) of the tax credits allocated
291 during a calendar year shall be allocated for contributions to
292 eligible charitable organizations described in subsection
293 (1)(b)(i) of this section and fifty percent (50%) of the tax
294 credits allocated during a calendar year shall be allocated for
295 contributions to eligible charitable organizations described in



296 subsection (1)(b)(ii) of this section. For calendar year 2022,
297 and for each calendar year thereafter, of the amount of tax
298 credits that may be allocated for contributions to eligible
299 charitable organizations described in subsection (1)(b)(ii) of
300 this section, fifteen percent (15%) of the tax credits shall be
301 available solely for allocation for contributions to eligible
302 charitable organizations described in subsection (1)(b)(ii)2;
303 however, any such tax credits not allocated before April 1 of a
304 calendar year may be allocated for contributions to eligible
305 charitable organizations described in subsection (1)(b)(ii)1 of
306 this section. For calendar year 2021, and for each calendar year
307 thereafter, for credits allocated during a calendar year for
308 contributions to eligible charitable organizations described in
309 subsection (1)(b)(i) of this section, no more than twenty-five
310 percent (25%) of such credits may be allocated for contributions
311 to a single eligible charitable organization. Except as otherwise
312 provided in this section, for calendar year 2021, and for each
313 calendar year thereafter, for credits allocated during a calendar
314 year for contributions to eligible charitable organizations
315 described in subsection (1)(b)(ii) of this section, no more than
316 five percent (5%) of such credits may be allocated for
317 contributions to a single eligible charitable organization.
318 However, for calendar year 2022, of the additional amount of tax
319 credits authorized under this section, as amended by Chapter 480,
320 Laws of 2021, for allocation for contributions to eligible



321 charitable organizations described in subsection (1)(b)(ii) of
322 this section, Two Million Dollars (\$2,000,000.00) of the tax
323 credits shall be available solely for allocation for contributions
324 to Magnolia Speech School; however, any such tax credits not
325 allocated before April 1, 2022, may be allocated for contributions
326 to eligible charitable organizations described in subsection
327 (1)(b)(ii) of this section.

328 **SECTION 3.** Nothing in this act shall affect or defeat any
329 claim, assessment, appeal, suit, right or cause of action for
330 taxes due or accrued under the income tax laws, insurance premium
331 tax laws or ad valorem tax laws before the date on which this act
332 becomes effective, whether such claims, assessments, appeals,
333 suits or actions have been begun before the date on which this act
334 becomes effective or are begun thereafter; and the provisions of
335 the income tax laws, insurance premium tax laws and ad valorem tax
336 laws are expressly continued in full force, effect and operation
337 for the purpose of the assessment, collection and enrollment of
338 liens for any taxes due or accrued and the execution of any
339 warrant under such laws before the date on which this act becomes
340 effective, and for the imposition of any penalties, forfeitures or
341 claims for failure to comply with such laws.

342 **SECTION 4.** This act shall take effect and be in force from
343 and after January 1, 2022.

