HOUSE BILL NO. 1685

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

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

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

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

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

(3) (a) The tax credit authorized in this section 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 section, 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 an eligible charitable organization. For a taxpayer that is not operating as a corporation, 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 an eligible charitable organization. The amount of credit that may be utilized by a taxpayer in a taxable year shall be limited to (i) 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 (ii) 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 section 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.

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

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

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

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

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

(b) 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;
(c) Any other information that the department requires to administer this section.

(7) The department shall review each written certification and determine whether the organization meets all the criteria to be considered an eligible charitable 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 eligible charitable organizations.

(8) Tax credits authorized by this section 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.

(9) (a) 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 section 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 section.

(b) 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.

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

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

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

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

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

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

1. The prevention and diversion of children
from custody with the Department of Child Protection Services,
2. The safety, care and well-being of children in custody with the Department of Child Protection Services, or

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

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

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

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

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

   (2) (a) The tax credit authorized in this section 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 section, 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 an eligible charitable organization. From and after January 1, 2022, for a taxpayer that is not operating as a corporation, 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 an eligible charitable organization. The amount of credit that may be utilized by a taxpayer in a taxable year shall be limited to (i) 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 (ii) 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 section 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.

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

(c) A contribution for which a credit is claimed under this section may not be used as a deduction by the taxpayer for state income tax purposes.
(3) Taxpayers taking a credit authorized by this section shall provide the name of the eligible charitable organization and the amount of the contribution to the department on forms provided by the department.

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

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

(a) Verification of the organization's status under Section 501(c)(3) of the Internal Revenue Code;
(b) 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;
(c) Any other information that the department requires to administer this section.
(6) The department shall review each written certification and determine whether the organization meets all the criteria to be considered an eligible charitable 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 eligible charitable organizations.

(7) Tax credits authorized by this section 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.

(8) (a) 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 section 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 section.

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

(c) 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.

(9) The aggregate amount of tax credits that may be
allocated by the department under this section during a calendar
year shall not exceed Five Million Dollars ($5,000,000.00), and
not more than fifty percent (50%) of tax credits allocated during
a calendar year may be allocated for contributions to eligible
charitable organizations described in subsection (1)(b)(ii) of
this section. However, for calendar year 2021, the aggregate
amount of tax credits that may be allocated by the department
under this section during a calendar year shall not exceed Ten
Million Dollars ($10,000,000.00), and for calendar year 2022, and
for each calendar year thereafter, the aggregate amount of tax
credits that may be allocated by the department under this section
during a calendar year shall not exceed Sixteen Million Dollars
($16,000,000.00). For calendar year 2021, and for each calendar
year thereafter, fifty percent (50%) of the tax credits allocated
during a calendar year shall be allocated for contributions to
eligible charitable organizations described in subsection
(1)(b)(i) of this section and fifty percent (50%) of the tax
credits allocated during a calendar year shall be allocated for
contributions to eligible charitable organizations described in
subsection (1)(b)(ii) of this section. For calendar year 2022, and for each calendar year thereafter, of the amount of tax credits that may be allocated for contributions to eligible charitable organizations described in subsection (1)(b)(ii) of this section, fifteen percent (15%) of the tax credits shall be available solely for allocation for contributions to eligible charitable organizations described in subsection (1)(b)(ii)2; however, any such tax credits not allocated before April 1 of a calendar year may be allocated for contributions to eligible charitable organizations described in subsection (1)(b)(ii)1 of this section. For calendar year 2021, and for each calendar year thereafter, for credits allocated during a calendar year for contributions to eligible charitable organizations described in subsection (1)(b)(i) of this section, no more than twenty-five percent (25%) of such credits may be allocated for contributions to a single eligible charitable organization. Except as otherwise provided in this section, for calendar year 2021, and for each calendar year thereafter, for credits allocated during a calendar year for contributions to eligible charitable organizations described in subsection (1)(b)(ii) of this section, no more than five percent (5%) of such credits may be allocated for contributions to a single eligible charitable organization. However, for calendar year 2022, of the additional amount of tax credits authorized under this section, as amended by Chapter 480, Laws of 2021, for allocation for contributions to eligible
charitable organizations described in subsection (1)(b)(ii) of this section, Two Million Dollars ($2,000,000.00) of the tax credits shall be available solely for allocation for contributions to Magnolia Speech School; however, any such tax credits not allocated before April 1, 2022, may be allocated for contributions to eligible charitable organizations described in subsection (1)(b)(ii) of this section.

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

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