

By: Representatives Baker, McNeal, Sykes

To: Ways and Means

HOUSE BILL NO. 1613

1 AN ACT TO CREATE THE CHILDREN'S PROMISE ACT; TO AUTHORIZE AN
2 INCOME TAX CREDIT FOR VOLUNTARY CASH CONTRIBUTIONS BY BUSINESS
3 ENTERPRISES TO ELIGIBLE CHARITABLE ORGANIZATIONS; TO LIMIT THE
4 AMOUNT OF THE CREDIT; TO PROVIDE THAT UNUSED PORTIONS OF A CREDIT
5 MAY BE CARRIED FORWARD FOR FIVE CONSECUTIVE YEARS FROM THE CLOSE
6 OF THE TAX YEAR IN WHICH THE CREDIT WAS EARNED; TO PROVIDE THAT
7 CONTRIBUTIONS FOR WHICH CREDITS ARE CLAIMED UNDER THIS ACT MAY NOT
8 BE USED AS DEDUCTIONS FOR STATE TAX PURPOSES; TO PROVIDE THE
9 CRITERIA THAT AN ELIGIBLE CHARITABLE ORGANIZATION MUST MEET IN
10 ORDER FOR A CONTRIBUTION TO THE ORGANIZATION TO QUALIFY FOR THE
11 CREDIT AUTHORIZED BY THIS ACT; TO AMEND SECTION 27-7-22.39,
12 MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES INCOME TAX CREDITS FOR
13 VOLUNTARY CASH CONTRIBUTIONS TO QUALIFYING CHARITABLE
14 ORGANIZATIONS AND QUALIFYING FOSTER CARE CHARITABLE ORGANIZATIONS,
15 TO REVISE THE DEFINITIONS OF THE TERMS "QUALIFYING CHARITABLE
16 ORGANIZATION", "QUALIFYING FOSTER CARE CHARITABLE ORGANIZATION"
17 AND "SERVICES" FOR THE PURPOSES OF SUCH SECTION OF LAW, TO REVISE
18 CERTAIN PROVISIONS REGARDING CERTIFICATIONS THAT CHARITABLE
19 ORGANIZATIONS MUST FILE WITH THE DEPARTMENT OF REVENUE; TO
20 INCREASE THE MAXIMUM AGGREGATE AMOUNT OF THE INCOME TAX CREDITS
21 THAT MAY BE AWARDED IN A CALENDAR YEAR; TO EXTEND THE DATE OF THE
22 REPEALER ON SUCH SECTION; TO AMEND SECTION 27-7-22.32, MISSISSIPPI
23 CODE OF 1972, WHICH AUTHORIZES AN INCOME TAX CREDIT FOR EXPENSES
24 INCURRED FOR THE ADOPTION OF A CHILD, TO EXTEND THE REVERTER ON
25 THE PROVISION OF LAW THAT PROVIDES THAT THE MAXIMUM AMOUNT OF THE
26 TAX CREDIT CANNOT EXCEED \$5,000.00 FOR A CHILD AND THE PROVISION
27 THAT AUTHORIZES AN INCOME TAX CREDIT FOR CHILDREN ADOPTED THROUGH
28 THE MISSISSIPPI DEPARTMENT OF CHILD PROTECTION SERVICES; AND FOR
29 RELATED PURPOSES.

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



31 **SECTION 1.** This act shall be known and may be cited as the
32 Children's Promise Act.

33 **SECTION 2.** (1) For the purposes of this section, the
34 following words and phrases shall have the meanings ascribed in
35 this section unless the context clearly indicates otherwise:

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

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

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

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

45 2. The safety, care and well-being of
46 children in custody with the Department of Child Protection
47 Services, or

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

50 (ii) Certified by the department as a job
51 training, workforce development or educational services charitable
52 organization and provides services to:

53 1. Children in a foster care placement
54 program established by the Department of Child Protection
55 Services, children placed under the Safe Families for Children



56 model, or children at significant risk of entering a foster care
57 placement program established by the Department of Child
58 Protection Services,

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

61 3. Children eligible for free or reduced
62 price meals programs under Section 37-11-7.

63 (2) (a) The tax credit authorized in this section shall be
64 available only to a taxpayer who is a business enterprise engaged
65 in commercial, industrial or professional activities and operating
66 as a corporation, limited liability company, partnership or sole
67 proprietorship. Except as otherwise provided in this section, a
68 credit is allowed against the taxes imposed by Sections 27-7-5,
69 27-15-103, 27-15-109 and 27-15-123, for voluntary cash
70 contributions made by a taxpayer during the taxable year to an
71 eligible charitable organization. The amount of credit that may
72 be utilized by a taxpayer in a taxable year shall be limited to an
73 amount not to exceed fifty percent (50%) of the total tax
74 liability of the taxpayer for the taxes imposed by such sections
75 of law. Any tax credit claimed under this section but not used in
76 any taxable year may be carried forward for five (5) consecutive
77 years from the close of the tax year in which the credits were
78 earned.

79 (b) A contribution to an eligible charitable
80 organization for which a credit is claimed under this section does



81 not qualify for and shall not be included in any credit that may
82 be claimed under Section 27-7-22.39.

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

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

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

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

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

101 (b) A statement that the organization does not provide,
102 pay for or provide coverage of abortions and does not financially
103 support any other entity that provides, pays for or provides
104 coverage of abortions;



105 (c) Any other information that the department requires
106 to administer this section.

107 (6) The department shall review each written certification
108 and determine whether the organization meets all the criteria to
109 be considered an eligible charitable organization and notify the
110 organization of its determination. The department may also
111 periodically request recertification from the organization. The
112 department shall compile and make available to the public a list
113 of eligible charitable organizations.

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

121 (8) A taxpayer shall apply for credits with the department
122 on forms prescribed by the department. In the application the
123 taxpayer shall certify to the department the dollar amount of the
124 contributions made or to be made during the calendar year. Within
125 thirty (30) days after the receipt of an application, the
126 department shall allocate credits based on the dollar amount of
127 contributions as certified in the application. However, if the
128 department cannot allocate the full amount of credits certified in
129 the application due to the limit on the aggregate amount of



130 credits that may be awarded under this section in a calendar year,
131 the department shall so notify the applicant within thirty (30)
132 days with the amount of credits, if any, that may be allocated to
133 the applicant in the calendar year. Once the department has
134 allocated credits to a taxpayer, if the contribution for which a
135 credit is allocated has not been made as of the date of the
136 allocation, then the contribution must be made not later than
137 sixty (60) days from the date of the allocation. If the
138 contribution is not made within such time period, the allocation
139 shall be cancelled and returned to the department for
140 reallocation. Upon final documentation of the contributions, if
141 the actual dollar amount of the contributions is lower than the
142 amount estimated, the department shall adjust the tax credit
143 allowed under this section.

144 (9) The aggregate amount of tax credits that may be
145 allocated by the department under this section during a calendar
146 year shall not exceed Fifteen Million Dollars (\$15,000,000.00),
147 and not more than fifty percent (50%) of tax credits allocated
148 during a calendar year may be allocated for contributions to
149 eligible charitable organizations described in subsection
150 (1)(b)(ii) of this section.

151 (10) The department shall not allocate any credits under
152 this section after January 1, 2025.

153 **SECTION 3.** Section 27-7-22.39, Mississippi Code of 1972, is
154 amended as follows:



155 27-7-22.39. (1) As used in this section:

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

159 (b) "Qualifying charitable organization" means a
160 charitable organization that is exempt from federal income
161 taxation under Section 501(c)(3) of the Internal Revenue Code or
162 is a designated community action agency that receives community
163 services block grant program monies pursuant to 42 USC 9901. The
164 organization must spend at least fifty percent (50%) of its budget
165 on services to residents of this state who receive temporary
166 assistance for needy families benefits or low-income residents of
167 this state and their households or to children who have a chronic
168 illness or physical, intellectual, developmental or emotional
169 disability who are residents of this state. A charitable
170 organization that is exempt from federal income tax under Section
171 501(c)(3) of the Internal Revenue Code and that meets all other
172 requirements of this paragraph except that it does not spend at
173 least fifty percent (50%) of its overall budget in Mississippi may
174 be a qualifying charitable organization if it spends at least
175 fifty percent (50%) of its Mississippi budget on services to
176 qualified individuals in Mississippi and it certifies to the
177 department that one hundred percent (100%) of the voluntary cash
178 contributions from the taxpayer will be spent on services to



179 * * * qualified individuals in Mississippi. Taxpayers choosing
180 to make donations through an umbrella charitable organization that
181 collects donations on behalf of member charities shall designate
182 that the donation be directed to a member charitable organization
183 that would qualify under this section on a stand-alone basis.
184 Qualifying charitable organization does not include any entity
185 that provides, pays for or provides coverage of abortions or that
186 financially supports any other entity that provides, pays for or
187 provides coverage of abortions.

188 (c) "Qualifying foster care charitable organization"
189 means a qualifying charitable organization that each operating
190 year provides services to at least one hundred (100) qualified
191 individuals in this state and spends at least fifty percent (50%)
192 of its budget on services to qualified individuals in this state.
193 A charitable organization that is exempt from federal income tax
194 under Section 501(c)(3) of the Internal Revenue Code and that
195 meets all other requirements of this paragraph except that it does
196 not spend at least fifty percent (50%) of its overall budget in
197 Mississippi may be a qualifying foster care charitable
198 organization if it spends at least fifty percent (50%) of its
199 Mississippi budget on services to qualified individuals in
200 Mississippi and it certifies to the department that one hundred
201 percent (100%) of the voluntary cash contributions from the
202 taxpayer will be spent on services to * * * qualified individuals
203 in Mississippi. For the purposes of this paragraph, "qualified



204 individual" means a child in a foster care placement program
205 established by the Department of Child Protection Services, a
206 child placed under the Safe Families for Children model, or a
207 child at significant risk of entering a foster care placement
208 program established by the Department of Child Protection
209 Services.

210 (d) "Services" means cash assistance, medical care,
211 child care, food, clothing, shelter, job-placement, educational
212 services or funding, and job-training services or any other
213 assistance that is reasonably necessary to meet immediate basic
214 needs or to provide for job-training or educational services or
215 funding, and that is provided and used in this state.

216 (2) Except as provided in subsections (3) and (4) of this
217 section, a credit is allowed against the taxes imposed by this
218 chapter for voluntary cash contributions by the taxpayer during
219 the taxable year to a qualifying charitable organization, other
220 than a qualifying foster care charitable organization, not to
221 exceed:

222 (a) The lesser of Four Hundred Dollars (\$400.00) or the
223 amount of the contribution in any taxable year for a single
224 individual or a head of household.

225 (b) The lesser of Eight Hundred Dollars (\$800.00) or
226 the amount of the contribution in any taxable year for a married
227 couple filing a joint return.



228 (3) A separate credit is allowed against the taxes imposed
229 by this chapter for voluntary cash contributions during the
230 taxable year to a qualifying foster care charitable organization.
231 A contribution to a qualifying foster care charitable organization
232 does not qualify for, and shall not be included in, any credit
233 amount under subsection (2) of this section. If the voluntary
234 cash contribution by the taxpayer is to a qualifying foster care
235 charitable organization, the credit shall not exceed:

236 (a) The lesser of Five Hundred Dollars (\$500.00) or the
237 amount of the contribution in any taxable year for a single
238 individual or a head of household.

239 (b) The lesser of One Thousand Dollars (\$1,000.00) or
240 the amount of the contribution in any taxable year for a married
241 couple filing a joint return.

242 (4) Subsections (2) and (3) of this section provide separate
243 credits against taxes imposed by this chapter depending on the
244 recipients of the contributions. A taxpayer, including a married
245 couple filing a joint return, in the same taxable year, may either
246 or both:

247 (a) Contribute to a qualifying charitable organization,
248 other than a qualifying foster care charitable organization, and
249 claim a credit under subsection (2) of this section.

250 (b) Contribute to a qualifying foster care charitable
251 organization and claim a credit under subsection (3) of this
252 section.



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

257 (6) If the allowable tax credit exceeds the taxes otherwise
258 due under this chapter on the claimant's income, or if there are
259 no taxes due under this chapter, the taxpayer may carry forward
260 the amount of the claim not used to offset the taxes under this
261 chapter for not more than five (5) consecutive taxable years'
262 income tax liability.

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

266 (8) Taxpayers taking a credit authorized by this section
267 shall provide the name of the qualifying charitable organization
268 and the amount of the contribution to the department on forms
269 provided by the department.

270 (9) A qualifying charitable organization shall provide the
271 department with a written certification that it meets all criteria
272 to be considered a qualifying charitable organization. The
273 organization shall also notify the department of any changes that
274 may affect the qualifications under this section.

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



278 (a) Verification of the organization's status under
279 Section 501(c) (3) of the Internal Revenue Code or verification
280 that the organization is a designated community action agency that
281 receives community services block grant program monies pursuant to
282 42 USC 9901.

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

286 (i) Receive temporary assistance for needy
287 families benefits;

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

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

291 (iv) Are children in a foster care placement
292 program established by the Department of Child Protection
293 Services, children placed under the Safe Families for Children
294 model or children at significant risk of entering a foster care
295 placement program established by the Department of Child
296 Protection Services.

297 (c) A statement that the organization plans to continue
298 spending at least fifty percent (50%) of its budget on services to
299 residents of this state who receive temporary assistance for needy
300 families benefits, who are low-income residents of this state, who
301 are children who have a chronic illness or physical, intellectual,
302 developmental or emotional disability or who are children in a



303 foster care placement program established by the Department of
304 Child Protection Services, children placed under the Safe Families
305 for Children model or children at significant risk of entering a
306 foster care placement program established by the Department of
307 Child Protection Services. A charitable organization that is
308 exempt from federal income tax under Section 501(c)(3) of the
309 Internal Revenue Code and that meets all other requirements for a
310 qualifying charitable organization or qualifying foster care
311 charitable organization except that it does not spend at least
312 fifty percent (50%) of its overall budget in Mississippi shall
313 submit a statement that it spends at least fifty percent (50%) of
314 its Mississippi budget on services to qualified individuals in
315 Mississippi and that one hundred percent (100%) of the voluntary
316 cash contributions it receives from Mississippi taxpayers will be
317 spent on services to * * * qualified individuals in Mississippi.

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

322 (e) A statement that the organization does not provide,
323 pay for or provide coverage of abortions and does not financially
324 support any other entity that provides, pays for or provides
325 coverage of abortions.

326 (f) Any other information that the department requires
327 to administer this section.



328 (11) The department shall review each written certification
329 and determine whether the organization meets all the criteria to
330 be considered a qualifying charitable organization and notify the
331 organization of its determination. The department may also
332 periodically request recertification from the organization. The
333 department shall compile and make available to the public a list
334 of the qualifying charitable organizations.

335 (12) The aggregate amount of tax credits that may be awarded
336 under this section in any calendar year shall not exceed * * *
337 Three Million Dollars (\$3,000,000.00).

338 (13) A taxpayer shall apply for credits with the department
339 on forms prescribed by the department. In the application the
340 taxpayer shall certify to the department the dollar amount of the
341 contributions made or to be made during the calendar year. Within
342 thirty (30) days after the receipt of an application, the
343 department shall allocate credits based on the dollar amount of
344 contributions as certified in the application. However, if the
345 department cannot allocate the full amount of credits certified in
346 the application due to the limit on the aggregate amount of
347 credits that may be awarded under this section in a calendar year,
348 the department shall so notify the applicant within thirty (30)
349 days with the amount of credits, if any, that may be allocated to
350 the applicant in the calendar year. Once the department has
351 allocated credits to a taxpayer, if the contribution for which a
352 credit is allocated has not been made as of the date of the



353 allocation, then the contribution must be made not later than
354 sixty (60) days from the date of the allocation. If the
355 contribution is not made within such time period, the allocation
356 shall be cancelled and returned to the department for
357 reallocation. Upon final documentation of the contributions, if
358 the actual dollar amount of the contributions is lower than the
359 amount estimated, the department shall adjust the tax credit
360 allowed under this section.

361 (* * *14) This section shall be repealed from and after
362 January 1, * * * 2021.

363 **SECTION 4.** Section 27-7-22.32, Mississippi Code of 1972, is
364 amended as follows:

365 **[Through December 31, * * * 2020, this section shall read as**
366 **follows:]**

367 27-7-22.32. (1) (a) There shall be allowed as a credit
368 against the tax imposed by this chapter the amount of the
369 qualified adoption expenses paid or incurred, not to exceed Two
370 Thousand Five Hundred Dollars (\$2,500.00), for each dependent
371 child legally adopted by a taxpayer under the laws of this state
372 during calendar year 2006 or during any calendar year thereafter
373 through calendar year 2017, and not to exceed Five Thousand
374 Dollars (\$5,000.00) for each dependent child legally adopted by a
375 taxpayer under the laws of this state during any calendar year
376 thereafter. A taxpayer claiming a credit under this paragraph (a)



377 may not claim a credit under paragraph (b) of this subsection for
378 the adoption of the same child.

379 (b) There shall be allowed as a credit against the tax
380 imposed by this chapter the amount of Five Thousand Dollars
381 (\$5,000.00) for each dependent child legally adopted by a taxpayer
382 under the laws of this state through the Mississippi Department of
383 Child Protection Services during calendar year 2018 or during any
384 calendar year thereafter. A taxpayer claiming a credit under this
385 paragraph (b) may not claim a credit under paragraph (a) of this
386 subsection for the adoption of the same child.

387 (2) The tax credit under this section may be claimed for the
388 taxable year in which the adoption becomes final under the laws of
389 this state. Any tax credit claimed under this section but not
390 used in any taxable year may be carried forward for the five (5)
391 succeeding tax years. A tax credit is allowed under this section
392 for any child for which an exemption is claimed during the same
393 taxable year under Section 27-7-21(e). For the purposes of this
394 section, the term "qualified adoption expenses" means and has the
395 same definition as that term has in 26 USCS 36C.

396 **[From and after January 1, * * * 2021, this section shall**
397 **read as follows:]**

398 27-7-22.32. There shall be allowed as a credit against the
399 tax imposed by this chapter the amount of the qualified adoption
400 expenses paid or incurred, not to exceed Two Thousand Five Hundred
401 Dollars (\$2,500.00), for each dependent child legally adopted by a



402 taxpayer under the laws of this state during calendar year 2006 or
403 during any calendar year thereafter. The tax credit under this
404 section may be claimed for the taxable year in which the adoption
405 becomes final under the laws of this state. Any tax credit
406 claimed under this section but not used in any taxable year may be
407 carried forward for the three (3) succeeding tax years. A tax
408 credit is allowed under this section for any child for which an
409 exemption is claimed during the same taxable year under Section
410 27-7-21(e). For the purposes of this section, the term "qualified
411 adoption expenses" means and has the same definition as that term
412 has in 26 USCS 36C.

413 **SECTION 5.** Section 2 of this act shall be codified as a new
414 section in Chapter 7, Title 27, Mississippi Code of 1972.

415 **SECTION 6.** Nothing in this act shall affect or defeat any
416 claim, assessment, appeal, suit, right or cause of action for
417 taxes due or accrued under the income tax laws or insurance
418 premium tax laws before the date on which this act becomes
419 effective, whether such claims, assessments, appeals, suits or
420 actions have been begun before the date on which this act becomes
421 effective or are begun thereafter; and the provisions of the
422 income tax laws and insurance premium tax laws are expressly
423 continued in full force, effect and operation for the purpose of
424 the assessment, collection and enrollment of liens for any taxes
425 due or accrued and the execution of any warrant under such laws
426 before the date on which this act becomes effective, and for the



427 imposition of any penalties, forfeitures or claims for failure to
428 comply with such laws.

429 **SECTION 7.** This act shall take effect and be in force from
430 and after January 1, 2019.

