

By: Representatives Baker, McNeal, Sykes

To: Ways and Means

HOUSE BILL NO. 1613  
(As Sent to Governor)

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 Five Million Dollars (\$5,000,000.00), and  
147 not more than fifty percent (50%) of tax credits allocated during  
148 a calendar year may be allocated for contributions to eligible  
149 charitable organizations described in subsection (1)(b)(ii) of  
150 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:

211 (i) Cash assistance, medical care, child care,  
212 food, clothing, shelter, and job-placement \* \* \* services or any  
213 other assistance that is reasonably necessary to meet immediate  
214 basic needs and that is provided and used in this state \* \* \*;

215 (ii) Job-training or education services or funding  
216 for parents, foster parents or guardians; or

217 (iii) Job-training or education services or  
218 funding provided as part of a foster care independent living  
219 program.

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

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



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

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

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

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

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

251 (a) Contribute to a qualifying charitable organization,  
252 other than a qualifying foster care charitable organization, and  
253 claim a credit under subsection (2) of this section.



254           (b) Contribute to a qualifying foster care charitable  
255 organization and claim a credit under subsection (3) of this  
256 section.

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

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

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

270           (8) Taxpayers taking a credit authorized by this section  
271 shall provide the name of the qualifying charitable organization  
272 and the amount of the contribution to the department on forms  
273 provided by the department.

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



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

282 (a) Verification of the organization's status under  
283 Section 501(c)(3) of the Internal Revenue Code or verification  
284 that the organization is a designated community action agency that  
285 receives community services block grant program monies pursuant to  
286 42 USC 9901.

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

290 (i) Receive temporary assistance for needy  
291 families benefits;

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

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

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

301 (c) A statement that the organization plans to continue  
302 spending at least fifty percent (50%) of its budget on services to  
303 residents of this state who receive temporary assistance for needy



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

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

326 (e) A statement that the organization does not provide,  
327 pay for or provide coverage of abortions and does not financially



328 support any other entity that provides, pays for or provides  
329 coverage of abortions.

330 (f) Any other information that the department requires  
331 to administer this section.

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

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

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



353 days with the amount of credits, if any, that may be allocated to  
354 the applicant in the calendar year. Once the department has  
355 allocated credits to a taxpayer, if the contribution for which a  
356 credit is allocated has not been made as of the date of the  
357 allocation, then the contribution must be made not later than  
358 sixty (60) days from the date of the allocation. If the  
359 contribution is not made within such time period, the allocation  
360 shall be cancelled and returned to the department for  
361 reallocation. Upon final documentation of the contributions, if  
362 the actual dollar amount of the contributions is lower than the  
363 amount estimated, the department shall adjust the tax credit  
364 allowed under this section.

365 ( \* \* \*14) This section shall be repealed from and after  
366 January 1, \* \* \* 2021.

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

369 **[Through December 31, \* \* \* 2020, this section shall read as**  
370 **follows:]**

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



378 Dollars (\$5,000.00) for each dependent child legally adopted by a  
379 taxpayer under the laws of this state during any calendar year  
380 thereafter. A taxpayer claiming a credit under this paragraph (a)  
381 may not claim a credit under paragraph (b) of this subsection for  
382 the adoption of the same child.

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

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

400 **[From and after January 1, \* \* \* 2021, this section shall**  
401 **read as follows:]**





402           27-7-22.32. There shall be allowed as a credit against the  
403 tax imposed by this chapter the amount of the qualified adoption  
404 expenses paid or incurred, not to exceed Two Thousand Five Hundred  
405 Dollars (\$2,500.00), for each dependent child legally adopted by a  
406 taxpayer under the laws of this state during calendar year 2006 or  
407 during any calendar year thereafter. The tax credit under this  
408 section may be claimed for the taxable year in which the adoption  
409 becomes final under the laws of this state. Any tax credit  
410 claimed under this section but not used in any taxable year may be  
411 carried forward for the three (3) succeeding tax years. A tax  
412 credit is allowed under this section for any child for which an  
413 exemption is claimed during the same taxable year under Section  
414 27-7-21(e). For the purposes of this section, the term "qualified  
415 adoption expenses" means and has the same definition as that term  
416 has in 26 USCS 36C.

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

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



427 continued in full force, effect and operation for the purpose of  
428 the assessment, collection and enrollment of liens for any taxes  
429 due or accrued and the execution of any warrant under such laws  
430 before the date on which this act becomes effective, and for the  
431 imposition of any penalties, forfeitures or claims for failure to  
432 comply with such laws.

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

