

Senate Amendments to House Bill No. 1613

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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 either the
38 United States Department of Education's Promise Neighborhoods
39 program, or an organization that is exempt from federal income
40 taxation under Section 501(c)(3) of the Internal Revenue Code and
41 is:

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

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

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

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

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

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

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

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

65 (2) (a) The tax credit authorized in this section shall be
66 available only to a taxpayer who is a business enterprise engaged
67 in commercial, industrial or professional activities and operating
68 as a corporation, limited liability company, partnership or sole
69 proprietorship. Except as otherwise provided in this section, a
70 credit is allowed against the taxes imposed by Sections 27-7-5,
71 27-15-103, 27-15-109 and 27-15-123, for voluntary cash
72 contributions made by a taxpayer during the taxable year to an

73 eligible charitable organization. The amount of credit that may
74 be utilized by a taxpayer in a taxable year shall be limited to an
75 amount not to exceed fifty percent (50%) of the total tax
76 liability of the taxpayer for the taxes imposed by such sections
77 of law. Any tax credit claimed under this section but not used in
78 any taxable year may be carried forward for five (5) consecutive
79 years from the close of the tax year in which the credits were
80 earned.

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

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

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

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

97 (5) The eligible charitable organization's written
98 certification must be signed by an officer of the organization

99 under penalty of perjury. The written certification shall include
100 the following:

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

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

107 (c) Any other information that the department requires
108 to administer this section.

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

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

123 (8) A taxpayer shall apply for credits with the department
124 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.

(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.

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

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

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

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

(b) "Qualifying charitable organization" means a charitable organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code or is a designated community action agency that receives community services block grant program monies pursuant to 42 USC 9901. The organization must spend at least fifty percent (50%) of its budget on services to residents of this state who receive temporary assistance for needy families benefits or low-income residents of this state and their households or to children who have a chronic illness or physical, intellectual, developmental or emotional disability who are residents of this state. A charitable organization that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code and that meets all other requirements of this paragraph except that it does not spend at least fifty percent (50%) of its overall budget in Mississippi may be a qualifying charitable organization if it spends at least

177 fifty percent (50%) of its Mississippi budget on services to
178 qualified individuals in Mississippi and it certifies to the
179 department that one hundred percent (100%) of the voluntary cash
180 contributions from the taxpayer will be spent on services to * * *
181 qualified individuals in Mississippi. Taxpayers choosing to make
182 donations through an umbrella charitable organization that
183 collects donations on behalf of member charities shall designate
184 that the donation be directed to a member charitable organization
185 that would qualify under this section on a stand-alone basis.
186 Qualifying charitable organization does not include any entity
187 that provides, pays for or provides coverage of abortions or that
188 financially supports any other entity that provides, pays for or
189 provides coverage of abortions.

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

percent (100%) of the voluntary cash contributions from the taxpayer will be spent on services to * * * qualified individuals in Mississippi. For the purposes of this paragraph, "qualified individual" means a child in a foster care placement program established by the Department of Child Protection Services, a child placed under the Safe Families for Children model, or a child at significant risk of entering a foster care placement program established by the Department of Child Protection Services.

(d) "Services" means:

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

(ii) Job-training or education services or funding for parents, foster parents or guardians.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) The 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 or verification that the organization is a designated community action agency that receives community services block grant program monies pursuant to 42 USC 9901.

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

(i) Receive temporary assistance for needy families benefits;

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

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

(iv) Are 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.

(c) A statement that the organization plans to continue spending at least fifty percent (50%) of its budget on services to residents of this state who receive temporary assistance for needy families benefits, who are low-income residents of this state, who

are children who have a chronic illness or physical, intellectual, developmental or emotional disability or who are 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. A charitable organization that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code and that meets all other requirements for a qualifying charitable organization or qualifying foster care charitable organization except that it does not spend at least fifty percent (50%) of its overall budget in Mississippi shall submit a statement that it spends at least fifty percent (50%) of its Mississippi budget on services to qualified individuals in Mississippi and that one hundred percent (100%) of the voluntary cash contributions it receives from Mississippi taxpayers will be spent on services to * * * qualified individuals in Mississippi.

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

(e) 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.

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

(11) The department shall review each written certification and determine whether the organization meets all the criteria to be considered a qualifying 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 the qualifying charitable organizations.

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

(13) 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.

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

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

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

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

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

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

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

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

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

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

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

SECTION 6. 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 or insurance premium 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 and insurance premium 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.

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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.

SS26\HB1613A.2J

Liz Welch
Secretary of the Senate