

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

House Bill No. 1613

BY: Committee

**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
125 taxpayer shall certify to the department the dollar amount of the
126 contributions made or to be made during the calendar year. Within
127 thirty (30) days after the receipt of an application, the
128 department shall allocate credits based on the dollar amount of
129 contributions as certified in the application. However, if the
130 department cannot allocate the full amount of credits certified in
131 the application due to the limit on the aggregate amount of
132 credits that may be awarded under this section in a calendar year,
133 the department shall so notify the applicant within thirty (30)
134 days with the amount of credits, if any, that may be allocated to
135 the applicant in the calendar year. Once the department has
136 allocated credits to a taxpayer, if the contribution for which a
137 credit is allocated has not been made as of the date of the
138 allocation, then the contribution must be made not later than



139 sixty (60) days from the date of the allocation. If the
140 contribution is not made within such time period, the allocation
141 shall be cancelled and returned to the department for
142 reallocation. Upon final documentation of the contributions, if
143 the actual dollar amount of the contributions is lower than the
144 amount estimated, the department shall adjust the tax credit
145 allowed under this section.

146 (9) The aggregate amount of tax credits that may be
147 allocated by the department under this section during a calendar
148 year shall not exceed Five Million Dollars (\$5,000,000.00), and
149 not more than fifty percent (50%) of tax credits allocated during
150 a calendar year may be allocated for contributions to eligible
151 charitable organizations described in subsection (1)(b)(ii) of
152 this section.

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

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

157 27-7-22.39. (1) As used in this section:

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

161 (b) "Qualifying charitable organization" means a
162 charitable organization that is exempt from federal income
163 taxation under Section 501(c)(3) of the Internal Revenue Code or



164 is a designated community action agency that receives community
165 services block grant program monies pursuant to 42 USC 9901. The
166 organization must spend at least fifty percent (50%) of its budget
167 on services to residents of this state who receive temporary
168 assistance for needy families benefits or low-income residents of
169 this state and their households or to children who have a chronic
170 illness or physical, intellectual, developmental or emotional
171 disability who are residents of this state. A charitable
172 organization that is exempt from federal income tax under Section
173 501(c)(3) of the Internal Revenue Code and that meets all other
174 requirements of this paragraph except that it does not spend at
175 least fifty percent (50%) of its overall budget in Mississippi may
176 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
203 percent (100%) of the voluntary cash contributions from the
204 taxpayer will be spent on services to * * * qualified individuals
205 in Mississippi. For the purposes of this paragraph, "qualified
206 individual" means a child in a foster care placement program
207 established by the Department of Child Protection Services, a
208 child placed under the Safe Families for Children model, or a
209 child at significant risk of entering a foster care placement
210 program established by the Department of Child Protection
211 Services.

212 (d) "Services" means:



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

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

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

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

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

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



237 cash contribution by the taxpayer is to a qualifying foster care
238 charitable organization, the credit shall not exceed:

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

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

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

250 (a) Contribute to a qualifying charitable organization,
251 other than a qualifying foster care charitable organization, and
252 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.

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

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



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

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

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

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

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

300 (c) A statement that the organization plans to continue
301 spending at least fifty percent (50%) of its budget on services to
302 residents of this state who receive temporary assistance for needy
303 families benefits, who are low-income residents of this state, who
304 are children who have a chronic illness or physical, intellectual,
305 developmental or emotional disability or who are children in a
306 foster care placement program established by the Department of
307 Child Protection Services, children placed under the Safe Families
308 for Children model or children at significant risk of entering a
309 foster care placement program established by the Department of
310 Child Protection Services. A charitable organization that is



311 exempt from federal income tax under Section 501(c)(3) of the
312 Internal Revenue Code and that meets all other requirements for a
313 qualifying charitable organization or qualifying foster care
314 charitable organization except that it does not spend at least
315 fifty percent (50%) of its overall budget in Mississippi shall
316 submit a statement that it spends at least fifty percent (50%) of
317 its Mississippi budget on services to qualified individuals in
318 Mississippi and that one hundred percent (100%) of the voluntary
319 cash contributions it receives from Mississippi taxpayers will be
320 spent on services to * * * qualified individuals in Mississippi.

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

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

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

331 (11) The department shall review each written certification
332 and determine whether the organization meets all the criteria to
333 be considered a qualifying charitable organization and notify the
334 organization of its determination. The department may also
335 periodically request recertification from the organization. The



336 department shall compile and make available to the public a list
337 of the qualifying charitable organizations.

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

341 (13) A taxpayer shall apply for credits with the department
342 on forms prescribed by the department. In the application the
343 taxpayer shall certify to the department the dollar amount of the
344 contributions made or to be made during the calendar year. Within
345 thirty (30) days after the receipt of an application, the
346 department shall allocate credits based on the dollar amount of
347 contributions as certified in the application. However, if the
348 department cannot allocate the full amount of credits certified in
349 the application due to the limit on the aggregate amount of
350 credits that may be awarded under this section in a calendar year,
351 the department shall so notify the applicant within thirty (30)
352 days with the amount of credits, if any, that may be allocated to
353 the applicant in the calendar year. Once the department has
354 allocated credits to a taxpayer, if the contribution for which a
355 credit is allocated has not been made as of the date of the
356 allocation, then the contribution must be made not later than
357 sixty (60) days from the date of the allocation. If the
358 contribution is not made within such time period, the allocation
359 shall be cancelled and returned to the department for
360 reallocation. Upon final documentation of the contributions, if



361 the actual dollar amount of the contributions is lower than the
362 amount estimated, the department shall adjust the tax credit
363 allowed under this section.

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

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

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

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

382 (b) There shall be allowed as a credit against the tax
383 imposed by this chapter the amount of Five Thousand Dollars
384 (\$5,000.00) for each dependent child legally adopted by a taxpayer
385 under the laws of this state through the Mississippi Department of



386 Child Protection Services during calendar year 2018 or during any
387 calendar year thereafter. A taxpayer claiming a credit under this
388 paragraph (b) may not claim a credit under paragraph (a) of this
389 subsection for the adoption of the same child.

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

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

401 27-7-22.32. There shall be allowed as a credit against the
402 tax imposed by this chapter the amount of the qualified adoption
403 expenses paid or incurred, not to exceed Two Thousand Five Hundred
404 Dollars (\$2,500.00), for each dependent child legally adopted by a
405 taxpayer under the laws of this state during calendar year 2006 or
406 during any calendar year thereafter. The tax credit under this
407 section may be claimed for the taxable year in which the adoption
408 becomes final under the laws of this state. Any tax credit
409 claimed under this section but not used in any taxable year may be
410 carried forward for the three (3) succeeding tax years. A tax



411 credit is allowed under this section for any child for which an
412 exemption is claimed during the same taxable year under Section
413 27-7-21(e). For the purposes of this section, the term "qualified
414 adoption expenses" means and has the same definition as that term
415 has in 26 USCS 36C.

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

418 **SECTION 6.** Nothing in this act shall affect or defeat any
419 claim, assessment, appeal, suit, right or cause of action for
420 taxes due or accrued under the income tax laws or insurance
421 premium tax laws before the date on which this act becomes
422 effective, whether such claims, assessments, appeals, suits or
423 actions have been begun before the date on which this act becomes
424 effective or are begun thereafter; and the provisions of the
425 income tax laws and insurance premium tax laws are expressly
426 continued in full force, effect and operation for the purpose of
427 the assessment, collection and enrollment of liens for any taxes
428 due or accrued and the execution of any warrant under such laws
429 before the date on which this act becomes effective, and for the
430 imposition of any penalties, forfeitures or claims for failure to
431 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.

