

By: Senator(s) Harkins

To: Finance

SENATE BILL NO. 3102

1 AN ACT TO AMEND SECTION 27-7-26, MISSISSIPPI CODE OF 1972, TO
 2 REVISE THE METHOD BY WHICH A PARTNERSHIP, S CORPORATION OR SIMILAR
 3 PASS-THROUGH ENTITY MAY ELECT TO BECOME AN ELECTING PASS-THROUGH
 4 ENTITY FOR INCOME TAX PURPOSES, AND BY WHICH SUCH ELECTION MAY BE
 5 REVOKED; TO INCLUDE EACH OWNER'S, MEMBER'S, PARTNER'S OR
 6 SHAREHOLDER'S PRO RATA OR DISTRIBUTIVE SHARE OF THE ELECTING
 7 PASS-THROUGH ENTITY'S INCOME IN THE COMPUTATION OF SUCH INDIVIDUAL
 8 TAXPAYER'S GROSS INCOME TAX LIABILITY; TO PROVIDE THAT THE
 9 INDIVIDUAL TAXPAYER'S CREDIT SHALL BE EQUAL TO HIS OR HER PRO RATA
 10 OR DISTRIBUTIVE SHARE OF TAX DUE BEFORE APPLICATION OF ANY
 11 ENTITY-LEVEL CREDITS BY THE ELECTING PASS-THROUGH ENTITY; TO
 12 PROVIDE THAT, IF AN OWNER'S, MEMBER'S, PARTNER'S OR SHAREHOLDER'S
 13 CREDIT EXCEEDS HIS OR HER INCOME TAX LIABILITY, SUCH EXCESS SHALL
 14 BE CREDITED OR REFUNDED TO SUCH PERSON; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** Section 27-7-26, Mississippi Code of 1972, is
 17 amended as follows:

18 27-7-26. (1) (a) For calendar year 2022, and for each
 19 calendar year thereafter, any partnership, S corporation or
 20 similar pass-through entity may elect to be taxed as an electing
 21 pass-through entity and pay the tax imposed under this chapter at
 22 the entity level. For the purposes of this section, the term
 23 "electing pass-through entity" means a partnership, S corporation



24 or similar pass-through entity that has made an election pursuant
25 to this section.

26 (b) A partnership, S corporation or similar
27 pass-through entity desiring to be taxed as an electing
28 pass-through entity shall submit the appropriate form to the
29 Department of Revenue at any time during the tax year or on or
30 before the fifteenth day of the third month following the close of
31 that taxable year for which the entity elects to be taxed as an
32 electing pass-through entity. This election shall be binding for
33 that taxable year and all taxable years thereafter and shall not
34 be revoked unless the electing pass-through entity submits the
35 appropriate form to the department at any time during a subsequent
36 taxable year or on or before the fifteenth day of the third month
37 following the close of that taxable year for which the entity
38 elects to no longer be taxed as an electing pass-through entity.
39 Both the election to become an electing pass-through entity and
40 the revocation of that election shall be accomplished by a vote
41 satisfying such threshold required for taking official action as
42 may be specified within the entity's governing documents, within
43 the time prescribed in this subsection. If the entity's governing
44 documents do not contain any such provisions governing the
45 approval of official actions, such election shall be accomplished
46 by * * * a vote by or written consent of the owners, members,
47 partners or shareholders holding greater than fifty percent (50%)
48 of the voting control of the entity, and also, if the entity has a



49 governing body, by a vote by or written consent of the members of
50 the governing body, within the time prescribed in this subsection.

51 (c) Each owner, member, partner or shareholder of an
52 electing pass-through entity shall report his or her pro rata or
53 distributive share of the income of the electing pass-through
54 entity * * *, and such share shall be used in computing the
55 taxpayer's gross income tax liability. Each owner, member,
56 partner or shareholder of an electing pass-through entity shall be
57 allowed a credit against the taxes imposed under this chapter in
58 an amount equal to his or her pro rata or distributive share of
59 tax * * * due before application of any entity-level credits by
60 the electing pass-through entity with respect to the corresponding
61 taxable year. If an owner's, member's, partner's or shareholder's
62 credit exceeds his or her income tax liability, such excess shall
63 be credited or refunded to such person.

64 (2) The adjusted basis of the owners, members or partners of
65 an electing pass-through entity in their ownership interests in
66 the electing pass-through entity shall be calculated without
67 regard to the election under this section.

68 **SECTION 2.** This act shall take effect and be in force from
69 and after January 1, 2023.

