

## Senate Amendments to House Bill No. 1988

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:

5           **SECTION 1.** Section 27-7-22.41, Mississippi Code of 1972, is  
6 brought forward as follows:

7           27-7-22.41. (1) For the purposes of this section, the  
8 following words and phrases shall have the meanings ascribed in  
9 this section unless the context clearly indicates otherwise:

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

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

14                           (i) Licensed by or under contract with the  
15 Mississippi Department of Child Protection Services and provides  
16 services for:

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

19                                   2. The safety, care and well-being of  
20 children in custody with the Department of Child Protection  
21 Services, or

22                   3. The express purpose of creating permanency  
23 for children through adoption; or

24                   (ii) Certified by the department as an educational  
25 services charitable organization that is accredited by a regional  
26 accrediting organization and provides services to:

27                   1. Children in a foster care placement  
28 program established by the Department of Child Protection  
29 Services, children placed under the Safe Families for Children  
30 model, or children at significant risk of entering a foster care  
31 placement program established by the Department of Child  
32 Protection Services,

33                   2. Children who have a chronic illness or  
34 physical, intellectual, developmental or emotional disability, or

35                   3. Children eligible for free or reduced  
36 price meals programs under Section 37-11-7, or selected for  
37 participation in the Promise Neighborhoods Program sponsored by  
38 the U.S. Department of Education.

39           (2) (a) The tax credit authorized in this section shall be  
40 available only to a taxpayer who is a business enterprise engaged  
41 in commercial, industrial or professional activities and operating  
42 as a corporation, limited liability company, partnership or sole  
43 proprietorship. Except as otherwise provided in this section, a  
44 credit is allowed against the taxes imposed by Sections 27-7-5,  
45 27-15-103, 27-15-109 and 27-15-123, for voluntary cash  
46 contributions made by a taxpayer during the taxable year to an  
47 eligible charitable organization. From and after January 1, 2022,

48 for a taxpayer that is not operating as a corporation, a credit is  
49 also allowed against ad valorem taxes assessed and levied on real  
50 property for voluntary cash contributions made by the taxpayer  
51 during the taxable year to an eligible charitable organization.  
52 The amount of credit that may be utilized by a taxpayer in a  
53 taxable year shall be limited to (i) an amount not to exceed fifty  
54 percent (50%) of the total tax liability of the taxpayer for the  
55 taxes imposed by such sections of law and (ii) an amount not to  
56 exceed fifty percent (50%) of the total tax liability of the  
57 taxpayer for ad valorem taxes assessed and levied on real  
58 property. Any tax credit claimed under this section but not used  
59 in any taxable year may be carried forward for five (5)  
60 consecutive years from the close of the tax year in which the  
61 credits were earned.

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

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

69 (3) Taxpayers taking a credit authorized by this section  
70 shall provide the name of the eligible charitable organization and  
71 the amount of the contribution to the department on forms provided  
72 by the department.

73           (4) An eligible charitable organization shall provide the  
74 department with a written certification that it meets all criteria  
75 to be considered an eligible charitable organization. An eligible  
76 charitable organization must also provide the department with  
77 written documented proof of its license and/or written contract  
78 with the Mississippi Department of Child Protection Services. The  
79 organization shall also notify the department of any changes that  
80 may affect eligibility under this section.

81           (5) The eligible charitable organization's written  
82 certification must be signed by an officer of the organization  
83 under penalty of perjury. The written certification shall include  
84 the following:

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

87                   (b) A statement that the organization does not provide,  
88 pay for or provide coverage of abortions and does not financially  
89 support any other entity that provides, pays for or provides  
90 coverage of abortions;

91                   (c) A statement that the funds generated from the tax  
92 credit shall be used for educational resources, staff and  
93 expenditures and/or other purposes described in this section.

94                   (d) Any other information that the department requires  
95 to administer this section.

96           (6) The department shall review each written certification  
97 and determine whether the organization meets all the criteria to  
98 be considered an eligible charitable organization and notify the

99 organization of its determination. The department may also  
100 periodically request recertification from the organization. The  
101 department shall compile and make available to the public a list  
102 of eligible charitable organizations.

103 (7) Tax credits authorized by this section that are earned  
104 by a partnership, limited liability company, S corporation or  
105 other similar pass-through entity, shall be allocated among all  
106 partners, members or shareholders, respectively, either in  
107 proportion to their ownership interest in such entity or as the  
108 partners, members or shareholders mutually agree as provided in an  
109 executed document.

110 (8) (a) A taxpayer shall apply for credits with the  
111 department on forms prescribed by the department. In the  
112 application the taxpayer shall certify to the department the  
113 dollar amount of the contributions made or to be made during the  
114 calendar year. Within thirty (30) days after the receipt of an  
115 application, the department shall allocate credits based on the  
116 dollar amount of contributions as certified in the application.  
117 However, if the department cannot allocate the full amount of  
118 credits certified in the application due to the limit on the  
119 aggregate amount of credits that may be awarded under this section  
120 in a calendar year, the department shall so notify the applicant  
121 within thirty (30) days with the amount of credits, if any, that  
122 may be allocated to the applicant in the calendar year. Once the  
123 department has allocated credits to a taxpayer, if the  
124 contribution for which a credit is allocated has not been made as

125 of the date of the allocation, then the contribution must be made  
126 not later than sixty (60) days from the date of the allocation.  
127 If the contribution is not made within such time period, the  
128 allocation shall be cancelled and returned to the department for  
129 reallocation. Upon final documentation of the contributions, if  
130 the actual dollar amount of the contributions is lower than the  
131 amount estimated, the department shall adjust the tax credit  
132 allowed under this section.

133 (b) A taxpayer who applied for a tax credit under this  
134 section during calendar year 2020, but who was unable to be  
135 awarded the credit due to the limit on the aggregate amount of  
136 credits authorized for calendar year 2020, shall be given priority  
137 for tax credits authorized to be allocated to taxpayers under this  
138 section by Section 27-7-22.39.

139 (c) For the purposes of using a tax credit against ad  
140 valorem taxes assessed and levied on real property, a taxpayer  
141 shall present to the appropriate tax collector the tax credit  
142 documentation provided to the taxpayer by the Department of  
143 Revenue, and the tax collector shall apply the tax credit against  
144 such ad valorem taxes. The tax collector shall forward the tax  
145 credit documentation to the Department of Revenue along with the  
146 amount of the tax credit applied against ad valorem taxes, and the  
147 department shall disburse funds to the tax collector for the  
148 amount of the tax credit applied against ad valorem taxes. Such  
149 payments by the Department of Revenue shall be made from current  
150 tax collections.

151           (9) The aggregate amount of tax credits that may be  
152 allocated by the department under this section during a calendar  
153 year shall not exceed Five Million Dollars (\$5,000,000.00), and  
154 not more than fifty percent (50%) of tax credits allocated during  
155 a calendar year may be allocated for contributions to eligible  
156 charitable organizations described in subsection (1)(b)(ii) of  
157 this section. However, for calendar year 2021, the aggregate  
158 amount of tax credits that may be allocated by the department  
159 under this section during a calendar year shall not exceed Ten  
160 Million Dollars (\$10,000,000.00), for calendar year 2022, the  
161 aggregate amount of tax credits that may be allocated by the  
162 department under this section during a calendar year shall not  
163 exceed Sixteen Million Dollars (\$16,000,000.00), and for calendar  
164 year 2023, and for each calendar year thereafter, the aggregate  
165 amount of tax credits that may be allocated by the department  
166 under this section during a calendar year shall not exceed  
167 Eighteen Million Dollars (\$18,000,000.00). For calendar year  
168 2021, and for each calendar year thereafter, fifty percent (50%)  
169 of the tax credits allocated during a calendar year shall be  
170 allocated for contributions to eligible charitable organizations  
171 described in subsection (1)(b)(i) of this section and fifty  
172 percent (50%) of the tax credits allocated during a calendar year  
173 shall be allocated for contributions to eligible charitable  
174 organizations described in subsection (1)(b)(ii) of this section.  
175 For calendar year 2021, and for each calendar year thereafter, for  
176 credits allocated during a calendar year for contributions to

177 eligible charitable organizations described in subsection  
178 (1)(b)(i) of this section, no more than twenty-five percent (25%)  
179 of such credits may be allocated for contributions to a single  
180 eligible charitable organization. Except as otherwise provided in  
181 this section, for calendar year 2021, and for each calendar year  
182 thereafter, for credits allocated during a calendar year for  
183 contributions to eligible charitable organizations described in  
184 subsection (1)(b)(ii) of this section, no more than four and  
185 one-half percent (4-1/2%) of such credits may be allocated for  
186 contributions to a single eligible charitable organization.

187 **SECTION 2.** This act shall take effect and be in force from  
188 and after July 1, 2024, and shall stand repealed on June 30, 2024.

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

1 AN ACT TO BRING FORWARD SECTION 27-7-22.41, MISSISSIPPI CODE  
2 OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED  
3 PURPOSES.

SS08\HB1988A.1J

Amanda White  
Secretary of the Senate