

By: Representative Watson

To: Ways and Means

HOUSE BILL NO. 1604

1 AN ACT TO AUTHORIZE AN INCOME TAX CREDIT FOR TAXPAYERS WHO
 2 INCUR COSTS AND EXPENSES FOR THE REHABILITATION OF ELIGIBLE
 3 PROPERTY WHICH IS A CERTIFIED HISTORIC STRUCTURE OR A STRUCTURE IN
 4 A CERTIFIED HISTORIC DISTRICT IN AN AMOUNT EQUAL TO 25% OF THE
 5 TOTAL COSTS AND EXPENSES OF REHABILITATION INCURRED, IF THE COSTS
 6 AND EXPENSES ASSOCIATED WITH REHABILITATION EXCEED 50% OF THE
 7 TOTAL BASIS IN THE PROPERTY AND THE REHABILITATION IS CONSISTENT
 8 WITH THE STANDARDS OF THE SECRETARY OF THE UNITED STATES
 9 DEPARTMENT OF THE INTERIOR AS DETERMINED BY THE MISSISSIPPI
 10 DEPARTMENT OF ARCHIVES AND HISTORY; TO PROVIDE THAT IF THE AMOUNT
 11 OF THE TAX CREDIT EXCEEDS THE TOTAL STATE INCOME TAX LIABILITY FOR
 12 THE YEAR IN WHICH THE REHABILITATED PROPERTY IS PLACED IN SERVICE,
 13 THE AMOUNT THAT EXCEEDS THE TOTAL STATE INCOME TAX LIABILITY MAY
 14 BE CARRIED BACK TO EACH OF THE THREE TAX YEARS PRECEDING THE TAX
 15 YEAR IN WHICH THE ORIGINAL CREDIT IS CLAIMED AND CARRIED FORWARD
 16 FOR THE TEN SUCCEEDING TAX YEARS; TO ALLOW THE TAXPAYER TO
 17 TRANSFER, SELL OR ASSIGN SUCH CREDITS; TO PROVIDE THE MANNER IN
 18 WHICH SUCH CREDIT MAY BE CLAIMED; TO PROVIDE FOR THE MISSISSIPPI
 19 DEVELOPMENT AUTHORITY TO DETERMINE THE AMOUNT OF THE ELIGIBLE TAX
 20 CREDIT, CONSISTENT WITH THE STANDARDS OF THE SECRETARY OF THE
 21 UNITED STATES DEPARTMENT OF THE INTERIOR; TO REQUIRE THAT THE
 22 EXPENDITURES HAVE A POSITIVE ECONOMIC, FISCAL OR TAX IMPACT ON THE
 23 STATE OR LOCAL GOVERNMENTS; TO PROVIDE FOR A DECEMBER 31, 2010,
 24 REPEAL DATE ON THE INCOME TAX CREDIT AUTHORIZED UNDER THIS ACT;
 25 AND FOR RELATED PURPOSES.

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

27 **SECTION 1.** (1) As used in this section:

28 (a) "Certified historic structure" means a property
 29 located in Mississippi and listed individually on the National
 30 Register of Historic Places.

31 (b) "Eligible property" means property located in
 32 Mississippi and offered or used for residential or business
 33 purposes.

34 (c) "Structure in a certified historic district" means
 35 a structure (and its structural components) located in Mississippi
 36 which (i) is listed in the National Register of Historic Places or
 37 (ii) is located in a registered historic district and is certified
 38 by the Secretary of the United States Department of the Interior

39 as being of historic significance to the district; or a structure
40 (and its structural components) certified by the Mississippi
41 Department of Archives and History as contributing to the historic
42 significance of a certified historic district listed on the
43 National Register of Historic Places or a local district that has
44 been certified by the United States Department of the Interior.

45 (2) Any taxpayer incurring costs and expenses for the
46 rehabilitation of eligible property, which is a certified historic
47 structure or a structure in a certified historic district, shall
48 be entitled to a credit against the taxes imposed pursuant to this
49 chapter in an amount equal to twenty-five percent (25%) of the
50 total costs and expenses of rehabilitation incurred after January
51 1, 2005, which shall include, but not be limited to, qualified
52 rehabilitation expenditures as defined under Section 47(c)(2)(A)
53 of the Internal Revenue Code of 1986, as amended, and the related
54 regulations thereunder, if the costs and expenses associated with
55 rehabilitation exceed fifty percent (50%) of the total basis in
56 the property and the rehabilitation is consistent with the
57 standards of the Secretary of the United States Department of the
58 Interior as determined by the Mississippi Department of Archives
59 and History.

60 (3) (a) If the amount of the tax credit established by this
61 section exceeds the total state income tax liability for the year
62 in which the rehabilitated property is placed in service, the
63 amount that exceeds the total state income tax liability may be
64 carried back to each of the three (3) tax years preceding the tax
65 year in which the original credit is claimed and carried forward
66 for the ten (10) succeeding tax years.

67 (b) Not-for-profit entities, including, but not limited
68 to, nonprofit corporations organized under Section 79-11-101
69 et seq. shall be ineligible for the credit authorized by this
70 section. Eligible taxpayers may transfer, sell or assign the
71 credits. Credits granted to a partnership, a limited liability

72 company taxed as a partnership or multiple owners of property
73 shall be passed through to the partners, members or owners on a
74 pro rata basis or pursuant to an executed agreement among the
75 partners, members or owners documenting an alternative
76 distribution method.

77 (c) The transferee, buyer or assignee of a tax credit
78 may use acquired credits to offset up to one hundred percent
79 (100%) of the taxes imposed pursuant to this chapter. In order to
80 transfer, sell or assign the credit authorized by this section,
81 the transferor, seller or assignor shall notify the Mississippi
82 Development Authority in writing within thirty (30) calendar days
83 following the effective date of the transfer, sale or assignment,
84 and shall provide any information as may be required by the
85 Mississippi Development Authority to carry out the provisions of
86 this subsection.

87 (4) To claim the credit authorized pursuant to this section,
88 the taxpayer shall apply to the Mississippi Development Authority
89 which shall determine the amount of eligible rehabilitation costs
90 and expenses and whether the rehabilitation is consistent with the
91 standards of the Secretary of the United States Department of the
92 Interior. If the Mississippi Development Authority makes a
93 determination that the expenditure of eligible rehabilitation
94 costs has a positive economic, fiscal or tax impact, either direct
95 or indirect, on the state or on local governments, the Mississippi
96 Development Authority shall issue a certificate evidencing the
97 eligible credit if the taxpayer is found to be eligible for the
98 tax credit. The taxpayer shall attach the certificate to all
99 income tax returns on which the credit is claimed.

100 (5) This section shall stand repealed on December 31, 2010.

101 **SECTION 2.** This act shall take effect and be in force from
102 and after January 1, 2005.