

By: Senator(s) Horhn

To: Finance

SENATE BILL NO. 3104

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; AND FOR RELATED PURPOSES.

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

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

21 (a) "Certified historic structure" means a property  
 22 located in Mississippi and listed individually on the National  
 23 Register of Historic Places.

24 (b) "Eligible property" means property located in  
 25 Mississippi and offered or used for residential or business  
 26 purposes.

27 (c) "Structure in a certified historic district" means  
 28 a structure (and its structural components) located in Mississippi  
 29 which is:

30 (i) Listed on the National Register of Historic  
 31 places;

32 (ii) Located in a registered historic district and  
 33 certified by the United States Secretary of Interior as being of  
 34 historic significance to the district; or

35 (iii) Certified by the Mississippi Department of  
36 Archives and History as contributing to the historic significance  
37 of a certified historic district listed on the National Register  
38 of Historic Places or a local district that has been certified by  
39 the United States Department of the Interior.

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

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

62 (b) Not-for-profit entities, including, but not limited  
63 to, nonprofit corporations organized under Section 79-11-101  
64 et seq. shall be ineligible for the credit authorized by this  
65 section. Eligible taxpayers may transfer, sell or assign the  
66 credits. Credits granted to a partnership, a limited liability  
67 company taxed as a partnership or multiple owners of property

68 shall be passed through to the partners, members or owners on a  
69 pro rata basis or pursuant to an executed agreement among the  
70 partners, members or owners documenting an alternative  
71 distribution method.

72 (c) The transferee, buyer or assignee of a tax credit  
73 may use acquired credits to offset up to one hundred percent  
74 (100%) of the taxes imposed pursuant to this chapter. In order to  
75 transfer, sell or assign the credit authorized by this section,  
76 the transferor, seller or assignor shall notify the Mississippi  
77 Development Authority in writing within thirty (30) calendar days  
78 following the effective date of the transfer, sale or assignment,  
79 and shall provide any information as may be required by the  
80 Mississippi Development Authority to carry out the provisions of  
81 this section.

82 (4) To claim the credit authorized pursuant to this section,  
83 the taxpayer shall apply to the Mississippi Development Authority  
84 which, in consultation with the Mississippi Department of Archives  
85 and History, shall determine the amount of eligible rehabilitation  
86 costs and expenses and whether the rehabilitation is consistent  
87 with the standards of the Secretary of the United States  
88 Department of the Interior. The Mississippi Development Authority  
89 shall issue a certificate evidencing the eligible credit if the  
90 taxpayer is found to be eligible for the tax credit. The taxpayer  
91 shall attach the certificate to all income tax returns on which  
92 the credit is claimed.

93 (5) This section shall be repealed from and after January 1,  
94 2010.

95 **SECTION 2.** The provisions of Section 1 of this act shall be  
96 codified in Chapter 7, Title 27, Mississippi Code of 1972.

97 **SECTION 3.** This act shall take effect and be in force from  
98 and after January 1, 2005.