

By: Senator(s) Posey

To: Finance; Wildlife and
Fisheries

SENATE BILL NO. 2198

1 AN ACT TO CREATE THE MISSISSIPPI FISH AND WILDLIFE INCENTIVES
2 PROGRAM TO ENCOURAGE LANDOWNERS TO ENHANCE AND RESTORE WILDLIFE
3 HABITATS BY GRANTING TAXPAYERS AN INCOME TAX CREDIT FOR CERTAIN
4 COSTS THEY INCUR ON APPROVED WILDLIFE HABITAT ENHANCEMENT AND
5 RESTORATION PROJECTS; TO PROVIDE THAT THE AMOUNT OF THE CREDIT
6 THAT CAN BE USED BY A TAXPAYER IN A TAXABLE YEAR MAY NOT EXCEED
7 THE AMOUNT OF INCOME TAXES DUE THE STATE FROM THE TAXPAYER; TO
8 PROVIDE THAT EXCESS CREDITS MAY BE CARRIED FORWARD FOR THE
9 SUCCEEDING NINE YEARS; TO PROVIDE THAT THE COMMISSION ON WILDLIFE,
10 FISHERIES AND PARKS SHALL PROMULGATE RULES AND REGULATIONS TO
11 GOVERN THE PROGRAM; TO PROVIDE THAT THE COMMISSION ON WILDLIFE,
12 FISHERIES AND PARKS SHALL ESTABLISH A LIST OF APPROVED PROJECTS;
13 TO CREATE THE MISSISSIPPI FISH AND WILDLIFE INCENTIVES COMMITTEE
14 TO ASSIST THE COMMISSION ON WILDLIFE, FISHERIES AND PARKS
15 REGARDING CERTAIN ASPECTS OF THIS PROGRAM; TO PRESCRIBE THE MANNER
16 OF APPLYING FOR SUCH CREDIT; TO PROVIDE FOR THE DURATION OF
17 PROJECTS ELIGIBLE FOR SUCH CREDIT; AND FOR RELATED PURPOSES.

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

19 SECTION 1. This act may be cited as the "Mississippi Fish
20 and Wildlife Incentives Program."

21 SECTION 2. The Legislature finds that fish and wildlife
22 resources and the habitats that support them have significant
23 benefit to Mississippi's environment, economy and overall quality
24 of life and that the majority of lands suitable for fish and
25 wildlife habitat are held by private owners. The Legislature
26 finds that the State of Mississippi should encourage private
27 landowners to enhance and restore upland wildlife habitat, wetland
28 wildlife habitat, threatened and endangered species habitat and
29 fisheries habitat through cost effective approaches.

30 SECTION 3. As used in this act:

31 (a) "Application" means a written plan for the
32 development and maintenance of a project that is eligible for a
33 tax credit under this act.

34 (b) "Commission" means the Mississippi Commission on
35 Wildlife, Fisheries and Parks.

36 (c) "Committee" means the Mississippi Fish and Wildlife
37 Incentives Committee.

38 (d) "Project" means the habitat enhanced or restored by
39 activities for which a tax credit may be claimed under this act.

40 (e) "Project cost" means the expenditure for a project,
41 not including any expenditure for matching state or federal
42 conservation cost-share programs.

43 SECTION 4. (1) For any taxpayer, a credit against the taxes
44 imposed pursuant to this chapter shall be allowed in the amount of
45 fifty percent (50%) of all expenditures on a project. The maximum
46 amount of the credit that may be claimed in any one (1) taxable
47 year shall be the lesser of:

48 (a) Five Thousand Dollars (\$5,000.00); or

49 (b) The total amount of the credit allowed for the
50 project divided by the agreed upon duration of the project.

51 (2) To obtain the tax credit authorized in this section, a
52 taxpayer shall apply to the commission as provided for in this act
53 and meet all other requirements of this act.

54 (3) The amount of the tax credit that may be used in a
55 taxable year shall not exceed the amount of taxes due the State of
56 Mississippi under this chapter. Any amount allowable as a credit
57 pursuant to this section that exceeds the taxpayer's tax liability
58 shall not be refundable but may be carried forward for the
59 succeeding nine (9) years.

60 (4) The State Tax Commission may promulgate any rules and
61 regulations it considers necessary to carry out the provisions of
62 this section.

63 SECTION 5. (1) There is hereby created the Mississippi Fish
64 and Wildlife Incentives Committee. The committee shall consist of
65 the directors of the Mississippi Department of Wildlife, Fisheries
66 and Parks, the Mississippi Forestry Commission, the Mississippi

67 Museum of Natural Science and the Mississippi Agricultural and
68 Forestry Experiment Station, or their designees, and not more than
69 three (3) directors of not-for-profit conservation organizations
70 with expertise in the four (4) areas of habitat development
71 appointed by the commission. The commission may appoint not more
72 than two (2) members from among the following federal agencies:

73 (a) The United States Department of Agriculture's
74 Natural Resources Conservation Service;

75 (b) The United States Department of Agriculture's Farm
76 Services Agency;

77 (c) The United States Department of Agriculture's
78 Forest Service; and

79 (d) The United States Fish and Wildlife Service.

80 (2) The committee shall:

81 (a) Consult with the commission to develop rules and
82 regulations governing the program created under this act;

83 (b) Consult with the commission to develop and
84 prioritize a list of projects that qualify for the tax credit
85 authorized under this act; and

86 (c) Review and comment upon applications for the tax
87 credit authorized pursuant to this act that are received by the
88 commission.

89 SECTION 6. (1) The commission shall develop, in
90 consultation with the committee, rules and regulations to govern
91 the program created under this act.

92 (2) The commission, in consultation with the committee,
93 shall develop and prioritize a list of approved projects. In
94 developing and prioritizing projects the commission shall attempt
95 to achieve landowner and public purposes and emphasis shall be
96 placed on low maintenance, self-sustaining projects. The projects
97 shall consist of building structures for fish and wildlife
98 purposes, establishment of habitat by mechanical or other means,
99 and maintenance and management practices. Projects shall include,

100 but not be limited to, the following:

101 (a) Upland Wildlife Habitat: planting field borders
102 and filter strips to grass/legume mixtures; establishing openings;
103 planting, fertilizing and seed bed preparation for food, cover and
104 nesting; establishing native prairie and grassland; fencing for
105 habitat protection; prescribed burning, strip disking and mowing;
106 flushing bars; restoration of wildlife habitat and corridors;
107 forest stand improvement to include site preparation, tree
108 planting, direct seeding, firebreaks, release and site preparation
109 for natural regeneration.

110 (b) Wetland Wildlife Habitat: installation of water
111 control structures in agricultural fields, moist soil areas and
112 forested wetlands to provide beneficial habitat for wetland
113 wildlife; application of water on agricultural fields, moist soil
114 areas and forested wetlands during drought conditions to benefit
115 wetland wildlife; restoration of hydrology; restoration of
116 wildlife habitat and corridors, fencing for habitat protection;
117 forest stand improvement to include site preparation, tree
118 planting, direct seeding, firebreaks, release and site preparation
119 for natural regeneration; strip disking and mowing; establishing
120 openings; planting, fertilizing and seed bed preparation for food,
121 cover and nesting.

122 (c) Threatened and Endangered Species Habitat: removal
123 of barriers for aquatic species; establishment, management,
124 maintenance, enhancement and restoration of grassed waterways and
125 riparian areas; fencing for habitat protection; stream bank
126 stabilization; installation of instream deflectors; restoration of
127 threatened and endangered species habitat and corridors; placement
128 of fish screens; control or eradication of invasive exotic or
129 competing animal and plant species; forest stand improvement to
130 include site preparation, tree planting, direct seeding,
131 firebreaks, release and site preparation for natural regeneration.

132 (d) Fisheries Habitat: removal of fish barriers;

133 establishment, management, maintenance, enhancement and
134 restoration of grassed waterways and riparian areas; stream bank
135 stabilization; installation of low water weirs and instream
136 deflectors; fencing for habitat protection; development and
137 placement of fish structures and gravel spawning beds;
138 augmentation of flows.

139 (e) Other activities approved by the commission, in
140 consultation with the Mississippi Fish and Wildlife Incentives
141 Committee.

142 (3) The commission shall establish a reasonable application
143 fee in an amount not to exceed One Hundred Dollars (\$100.00), for
144 the processing of applications for the tax credit authorized by
145 this act.

146 SECTION 7. (1) A taxpayer desiring to obtain the tax credit
147 authorized under this act shall pay the application fee to the
148 commission and submit an application for the tax credit to the
149 commission. Upon receipt of the fee and the application the
150 commission shall forward the application to the committee for
151 comment and review. The commission shall review the comments of
152 the committee and issue a certificate approving the tax credit if
153 the project meets the requirements of this act and the rules and
154 regulations promulgated thereunder. The certificate approving the
155 tax credit shall be filed by the taxpayer with the first tax
156 return he files after claiming the tax credit authorized under
157 this act.

158 (2) Upon completion of the project, the commission shall
159 issue to the taxpayer a certificate of completion. The taxpayer
160 shall file the certificate of completion with the first tax return
161 the taxpayer files after he receives the certificate of
162 completion.

163 (3) A taxpayer claiming the tax credit authorized under this
164 act shall not claim a tax credit that is authorized under any
165 other provision of law for any costs related to the project.

166 SECTION 8. (1) The project and activities related to the
167 project shall meet or exceed such standards as may be established
168 by the commission.

169 (2) Project costs incurred by the taxpayer after the
170 issuance of a certificate approving the tax credit may be claimed
171 by the taxpayer subject to the limitations provided for in this
172 act.

173 (3) Projects must be completed and properly functioning
174 within two (2) years of the date that the certificate approving
175 the tax credit is issued; provided, however, that if the
176 commission determines that the failure to complete the project
177 within the two-year time period is the result of conditions beyond
178 the control of the taxpayer, the commission may grant the taxpayer
179 an additional year to comply. If the project is not completed
180 within the time allowed in this subsection, the taxpayer shall pay
181 to the State Tax Commission an amount equal to the tax credits
182 that the taxpayer received and the taxpayer shall not receive any
183 additional tax credit for costs associated with the project.

184 (4) The duration of a project shall be for such period of
185 time as may be agreed upon by the commission and the taxpayer;
186 provided, however, that the duration of a project shall be not
187 less than three (3) years nor more than ten (10) years. If the
188 taxpayer terminates the project prior to the agreed upon duration
189 of the project, the taxpayer shall provide written notification to
190 the commission and the State Tax Commission.

191 (5) If the commission determines that the taxpayer has
192 terminated the project, the commission shall notify the State Tax
193 Commission.

194 (6) Upon termination of a project prior to the agreed upon
195 duration of the project, the taxpayer shall not be allowed to
196 claim any further tax credits authorized under this act for the
197 cost of such project.

198 SECTION 9. (1) The tax credit authorized by this act shall

199 apply to taxable years beginning on or after January 1, 1999.

200 (2) The State Tax Commission shall keep a record of the
201 total amount of tax credits utilized under this act for each
202 calendar year. When the total amount of tax credits utilized
203 pursuant to this act exceeds One Million Dollars (\$1,000,000.00)
204 in any one (1) calendar year, no further tax credits shall be
205 granted pursuant to this act after December 31 of the year
206 following the year in which the tax credits utilized pursuant to
207 this act exceeded One Million Dollars (\$1,000,000.00); provided,
208 however, that any taxpayer who has been issued a certificate
209 approving a tax credit by the commission prior to such date shall
210 be entitled to receive and utilize the tax credit authorized by
211 this act.

212 SECTION 10. The provisions of this act shall be codified in
213 Chapter 7 of Title 27, Mississippi Code of 1972.

214 SECTION 11. This act shall take effect and be in force from
215 and after January 1, 1999.