

By: McBride, Eaton, Barbour, Ellzey,  
Frierson, Green, Grist, Nettles, Pierce

To: Ways and Means

## HOUSE BILL NO. 1668

1 AN ACT TO PROVIDE AN INCOME TAX CREDIT FOR CERTAIN TAXPAYERS  
2 WHO INCUR COSTS FOR CERTAIN APPROVED FISH AND WILDLIFE  
3 CONSERVATION PRACTICES; TO LIMIT THE AMOUNT OF SUCH TAX CREDIT; TO  
4 ESTABLISH REQUIREMENTS FOR SUCH PRACTICES; TO PROVIDE FOR A  
5 TECHNICAL ADVISORY COMMITTEE; TO SET AN APPLICATION FEE; TO AMEND  
6 SECTION 49-5-21, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT SUCH  
7 APPLICATION FEE MAY BE DEPOSITED INTO THE FISHERIES AND WILDLIFE  
8 FUND; AND FOR RELATED PURPOSES.

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

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

12 SECTION 2. The Mississippi Legislature finds that fish and  
13 wildlife resources and the habitats that support them have  
14 significant benefit to the state's environment, economy and  
15 overall quality of life. The majority of lands suitable for fish  
16 and wildlife habitat are held by private owners. The State of  
17 Mississippi should encourage these landowners to enhance and  
18 restore upland wildlife habitat, wetland wildlife habitat,  
19 threatened and endangered species habitat, fisheries habitat and  
20 other activities through cost effective approaches.

21 SECTION 3. (1) As used in Sections 1 through 10 of this  
22 act, the following words and phrases shall have the meanings  
23 ascribed in this section unless the context clearly indicates  
24 otherwise:

25 (a) "Application" means a written plan for development  
26 and maintenance of the project, including all requirements as the  
27 commission may adopt by rule.

28 (b) "Commission" means the Mississippi Commission on  
29 Wildlife, Fisheries and Parks.

30 (c) "Department" means the Mississippi Department of  
31 Wildlife, Fisheries and Parks.

32 (d) "State Tax Commission" means the Mississippi State  
33 Tax Commission.

34 (e) "Project" means the habitat enhanced or restored,  
35 or both, by activities for which tax credits are claimed.

36 (f) "Project cost" means the expenditure for a project  
37 not including any expenditure for matching state and/or federal  
38 conservation cost-share programs.

39 (g) "Mississippi Fish and Wildlife Incentives  
40 Committee" means the committee made up of the directors or their  
41 designees of the department, Mississippi Forestry Commission,  
42 Mississippi Museum of Natural Science and up to four (4) other  
43 directors, appointed by the commission, of statewide  
44 not-for-profit conservation organizations with expertise in the  
45 four (4) areas of habitat development appointed by the commission.

46 SECTION 4. (1) Tax credits provided by Sections 1 through  
47 10 of this act shall apply to taxable years beginning on or after  
48 January 1, 2000, and all taxable years thereafter.

49 (2) Any taxpayer claiming a tax credit for a project under  
50 Sections 1 through 10 of this act may not claim this tax credit on  
51 the same project under another state or federal act.

52 SECTION 5. (1) The commission is charged with the  
53 responsibility of promulgating and administering the rules related  
54 to Sections 1 through 10 of this act.

55 (2) The proposed rules shall be developed in consultation  
56 with the Mississippi Fish and Wildlife Incentives Committee.

57 (3) The commission may charge a reasonable application fee,  
58 not to exceed One Hundred Dollars (\$100.00), for the processing of  
59 tax credit applications. All fees collected shall be deposited in  
60 the Fisheries and Wildlife Fund created in Section 49-5-21.

61 (4) The length of agreements may be based on cost-share  
62 rates and shall be a minimum of three (3) years and a maximum of

63 ten (10) years.

64 SECTION 6. (1) For any taxpayer, a credit against the taxes  
65 imposed pursuant to this chapter shall be allowed in the amount of  
66 fifty percent (50%) of all expenditures, not to exceed a maximum  
67 of Five Thousand Dollars (\$5,000.00) made in each tax year, by  
68 such taxpayer for activities to benefit fish and wildlife.

69 (2) To the tax credit authorized in this section, a taxpayer  
70 must obtain a certification from the department certifying to the  
71 State Tax Commission that the taxpayer has met all the  
72 requirements and qualifications set forth in Section 8 of this  
73 act.

74 (3) The amount of tax credit that may be used by a taxpayer  
75 for a taxable year may not exceed the lesser of the amount of  
76 individual or corporate income tax otherwise due.

77 (4) Any unused credit may be carried forward for a maximum  
78 of nine (9) consecutive taxable years following the taxable year  
79 in which the credit originated.

80 (5) The State Tax Commission shall promulgate such rules and  
81 regulations as may be deemed necessary to carry out the tax credit  
82 provisions of Sections 1 through 10 of this act.

83 SECTION 7. (1) The department, in consultation with the  
84 Mississippi Fish and Wildlife Incentives Committee, in developing  
85 and prioritizing a list of approved projects, shall attempt to  
86 achieve landowner and public purposes. Emphasis shall be placed  
87 on low maintenance, self-sustaining projects. The projects shall  
88 consist of building structures for fish and wildlife purposes,  
89 establishment of habitat by mechanical or other means, maintenance  
90 and management practices.

91 (2) The projects include, but are not limited to,  
92 restoration and enhancement practices for:

- 93 (a) Upland wildlife habitat;
- 94 (b) Wetland wildlife habitat;
- 95 (c) Threatened and endangered species habitat;

96 (d) Fisheries habitat; and  
97 (e) Other activities approved by the department, in  
98 consultation with the Mississippi Fish and Wildlife Incentives  
99 Committee.

100 SECTION 8. (1) A taxpayer wishing to obtain a tax credit  
101 shall submit an application to the department.

102 (2) Upon receipt of the application, the department shall  
103 make the application available to the Mississippi Fish and  
104 Wildlife Incentives Committee for review and comment.

105 (3) After review of the committee's comments, the department  
106 may issue tax credit approval certificates for those applications  
107 proposing projects that meet the requirements of Sections 1  
108 through 10 of this act and rules promulgated thereunder.

109 (4) Upon completion and proper functioning of the project,  
110 the department shall issue a certificate of completion.

111 (5) A taxpayer must file the tax credit approval certificate  
112 with his income tax return for the first year in which the  
113 taxpayer claims a tax credit under Sections 1 through 10 of this  
114 act.

115 (6) A taxpayer must file the certificate of completion with  
116 the first income tax return filed after issuance of the  
117 certificate of completion.

118 (7) Any taxpayer claiming a tax credit under Sections 1  
119 through 10 of this act may not claim a tax credit under any other  
120 act for any costs related to the same project.

121 SECTION 9. (1) Project activities shall meet or exceed  
122 those standards as established by the commission and the project  
123 must be maintained for the duration of the agreement.

124 (2) Project costs incurred after issuance of a tax credit  
125 approval certificate may be claimed for tax credit, subject to  
126 limitations in Section 6 of this act.

127 (3) All projects must be completed and properly functioning  
128 within two (2) years of the approval date of the tax credit

129 certificate. However, if the department determines that failure  
130 to comply with this subsection (3) is the result of conditions  
131 beyond the control of the taxpayer, the department may grant an  
132 additional year to comply with this subsection (3).

133 (4) If the taxpayer does not complete the project within the  
134 three-year period, all credits claimed by the taxpayer must be  
135 repaid to the State Tax Commission and the project will be  
136 disallowed as a project for tax credit purposes.

137 (5) (a) If the taxpayer terminates the project before the  
138 expiration of the minimum project life, the taxpayer shall provide  
139 written notification to the department and the State Tax  
140 Commission. In addition, the taxpayer shall file an amended tax  
141 return and repay the amount of tax credit claimed which was not  
142 allowable.

143 (b) If the department determines that the taxpayer has  
144 terminated the project, it shall notify the State Tax Commission.

145 (6) Upon the termination of the project, the taxpayer shall  
146 not be allowed any further tax credits provided in Sections 1  
147 through 10 of this act and the State Tax Commission shall  
148 recapture the pro rata share of any tax credits claimed under this  
149 act for the period of termination.

150 (7) The pro rata share for recapture of the disallowed tax  
151 credits shall be determined by dividing the period of time from  
152 termination of the project until the expiration of the agreement  
153 for the project by the required duration of the project,  
154 multiplied by the tax credit claimed.

155 (8) (a) The taxpayer claiming a credit under Sections 1  
156 through 10 of this act shall maintain the required records for the  
157 required duration of the project plus three (3) years.

158 (b) The State Tax Commission may make necessary  
159 assessments to recapture disallowed tax credits for a period of  
160 three (3) years from the date of expiration of the agreement for  
161 the project.

162        SECTION 10. (1) The State Tax Commission shall compile the  
163 total amount of tax credits used pursuant to the provisions of  
164 Sections 1 through 10 of this act for each calendar year.

165        (2) When the total amount of tax credits used under Sections  
166 1 through 10 of this act exceeds One Million Dollars  
167 (\$1,000,000.00) in any calendar year, the tax credits established  
168 by Sections 1 through 10 of this act shall expire on December 31  
169 of the calendar year following the calendar year in which the tax  
170 credits used under this act exceed One Million Dollars  
171 (\$1,000,000.00). However, any taxpayer having been issued a tax  
172 credit approval certificate on or before such date may complete  
173 the project and shall be entitled to the tax credits provided  
174 under Sections 1 through 10 of this act without regard to the fact  
175 that the availability of the tax credits has otherwise expired.

176        SECTION 11. Sections 1 through 10 of this act shall be  
177 codified in Chapter 7, Title 27, Mississippi Code of 1972.

178        SECTION 12. Section 49-5-21, Mississippi Code of 1972, is  
179 amended as follows:[HS1]

180        49-5-21. (1) The Department of Wildlife, Fisheries and  
181 Parks of the State of Mississippi is hereby directed and required  
182 to transfer all funds under its control into a special fund in the  
183 State Treasury to be segregated and known as the "Fisheries and  
184 Wildlife Fund," which fund can only be expended as authorized by  
185 the Legislature for the purposes for which the Department of  
186 Wildlife, Fisheries and Parks was created. All funds derived  
187 from the sale of licenses, fees, fines and other revenues being  
188 received by the Department of Wildlife, Fisheries and Parks as is  
189 now provided by law, shall be deposited in the Fisheries and  
190 Wildlife Fund, with the State Treasurer. Fees collected under  
191 Section 3 of House Bill No. \_\_\_\_\_, 2000 Regular Session, shall be  
192 deposited into the Fisheries and Wildlife Fund. The interest  
193 obtained thereon from any investment or deposit made pursuant to  
194 Section 27-105-33, Mississippi Code of 1972, shall be credited by

195 the State Treasurer to the said Fisheries and Wildlife Fund and  
196 shall not be paid into the General Fund of Mississippi.

197 (2) The Department of Wildlife, Fisheries and Parks is  
198 hereby authorized to expend such sums as are authorized by the  
199 Legislature from the Fisheries and Wildlife Fund in the State  
200 Treasury for paying salaries of its employees, operating and  
201 maintaining equipment and for any other purpose for which they are  
202 now authorized to expend funds by law, which amount shall be  
203 available for expenditure.

204 The money herein authorized shall be paid by the State  
205 Treasurer out of the Fisheries and Wildlife Fund on warrants  
206 issued by the State Auditor; and the State Auditor shall issue his  
207 warrant upon requisition signed by the Executive Director of the  
208 Department of Wildlife, Fisheries and Parks.

209 (3) The Department of Wildlife, Fisheries and Parks is  
210 hereby directed and required to prepare and submit annually to the  
211 Legislature a budget for its proposed operation. The budget  
212 herein required shall reflect all anticipated revenues from all  
213 sources, including all grants and matching funds, together with  
214 all proposed expenditures. The budget shall be prepared in the  
215 same manner as is now required of other departments of this state.

216 The Department of Wildlife, Fisheries and Parks shall be subject  
217 to budgetary control and audit in the same manner as is provided  
218 by law for other departments and agencies. Nothing in this  
219 section shall be construed as requiring legislative appropriation  
220 of such Fisheries and Wildlife Fund, but it is intended that  
221 expenditure of such funds shall be under authority of the budget  
222 approved as herein provided and as authorized by the Legislature.

223 SECTION 13. This act shall take effect and be in force from  
224 and after January 1, 2000.