

By: Posey

To: Finance

SENATE BILL NO. 3143

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; AND FOR
6 RELATED PURPOSES.

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

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

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

19 SECTION 3. (1) As used in this section, the following words
20 and phrases shall have the meanings ascribed to herein unless the
21 context clearly indicates otherwise:

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

25 (b) "Commission" means the Mississippi Commission on
26 Wildlife, Fisheries and Parks.

27 (c) "Department" means the Mississippi Department of
28 Wildlife, Fisheries and Parks.

29 (d) "State Tax Commission" means the Mississippi State
30 Tax Commission.

31 (e) "Project" means the habitat enhanced and/or
32 restored by activities for which tax credits are claimed.

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

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

43 SECTION 4. (1) Tax credits provided by this act shall apply
44 to taxable years beginning on or after January 1, 2000, and all
45 taxable years thereafter.

46 (2) Any taxpayer claiming a tax credit for a project under
47 this act may not claim this tax credit on the same project under
48 another state or federal act.

49 SECTION 5. (1) The commission is charged with the
50 responsibility of promulgating and administering the rules related
51 to this act.

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

54 (3) The commission may charge a reasonable application fee,
55 not to exceed One Hundred Dollars (\$100.00) for the processing of
56 tax credit applications. All fees collected shall be deposited in
57 the Game and Fish Fund.

58 (4) Length of agreements may be based on cost-share rates;
59 agreements shall be a minimum of three (3) years and a maximum of
60 ten (10) years.

61 SECTION 6. (1) For any taxpayer, a credit against the taxes

62 imposed pursuant to this act shall be allowed in the amount of
63 fifty percent (50%) of all expenditures up to a maximum of Five
64 Thousand Dollars (\$5,000.00) made in each tax year by such
65 taxpayer for activities to benefit fish and wildlife.

66 (2) To claim the benefits of this section, a taxpayer must
67 obtain a certification from the department certifying to the State
68 Tax Commission that the taxpayer has met all the requirements and
69 qualifications set forth in Section 8 of this act.

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

73 (4) Any unused credit may be carried over for a maximum of
74 nine (9) consecutive taxable years following the taxable year in
75 which the credit originated.

76 (5) The State Tax Commission shall promulgate such rules and
77 regulations as may be deemed necessary to carry out the tax credit
78 provisions of this act.

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

87 (2) The activities include, but are not limited to,
88 restoration and enhancement practices for:

- 89 (a) Upland wildlife habitat;
- 90 (b) Wetland wildlife habitat;
- 91 (c) Threatened and endangered species habitat;
- 92 (d) Fisheries habitat; and
- 93 (e) Other activities approved by the department, in
94 consultation with the Mississippi Fish and Wildlife Incentives

95 Committee.

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

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

101 (3) After review of the committee's comments, the department
102 may issue tax credit approval certificates for those applications
103 proposing projects that meet the requirements of this act and
104 rules promulgated thereunder.

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

107 (5) A taxpayer must file the certificate of tax credit
108 approval with his income tax return for the first year in which
109 the taxpayer claims a tax credit under this act.

110 (6) A taxpayer must file the certificate of completion with
111 the first tax return filed after issuance of the certificate of
112 completion.

113 (7) Any taxpayer claiming a tax credit under this act may
114 not claim a tax credit under any other act for any costs related
115 to the same project.

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

119 (2) Project costs incurred after issuance of a tax credit
120 approval certificate may be claimed for tax credit, subject to
121 limitations in Section 6.

122 (3) All projects must be completed and properly functioning
123 within two (2) years of the date of the certificate of tax credit
124 approval, except if the department determines that failure to
125 comply with this subsection is the result of conditions beyond the
126 control of the taxpayer, an additional year to comply with this
127 subsection may be granted by the department.

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

132 (5) (a) If the taxpayer terminates the project prior to
133 expiration of the minimum project life, the taxpayer shall provide
134 written notification to the department and the State Tax
135 Commission. In addition, the taxpayer shall file an amended tax
136 return and repay the amount of tax credit claimed which was not
137 allowable.

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

140 (6) Upon the termination of the project, the taxpayer shall
141 not be allowed any further tax credits provided in this act and
142 the State Tax Commission shall recapture the pro rata share of any
143 tax credits claimed under this act for the period of termination.

144 (7) The pro rata share for recapture of the disallowed tax
145 credits shall be determined by dividing the period of time from
146 termination of the project until the expiration of the agreement
147 for the project by the required duration of the project times the
148 tax credit claimed.

149 (8) (a) The taxpayer claiming a credit under this act shall
150 maintain the required records for the required duration of the
151 project plus three (3) years.

152 (b) The State Tax Commission may make necessary
153 assessments to recapture disallowed tax credits for a period of
154 three (3) years from the date of expiration of the agreement for
155 the project.

156 SECTION 10. (1) The State Tax Commission shall compile the
157 total amount of tax credits used pursuant to the provisions of
158 this act for each calendar year.

159 (2) When the total amount of tax credits used pursuant to
160 the provisions of this act exceeds One Million Dollars

161 (\$1,000,000.00) in any calendar year, the tax credits established
162 by this act shall expire on December 31 of the calendar year
163 following the calendar year in which the tax credits used pursuant
164 to the provisions of this act exceed One Million Dollars
165 (\$1,000,000.00). However, any taxpayer having been issued a
166 certificate of tax credit approval on or prior to this day may
167 complete the project and shall be entitled to the tax credits
168 provided under this act without regard to the fact that the
169 availability of the tax credits have otherwise expired.

170 SECTION 11. The provisions of this act shall be codified in
171 Chapter 7 of Title 27, Mississippi Code of 1972.

172 SECTION 12. This act shall take effect and be in force from
173 and after January 1, 2000.