

By: Senator(s) Posey

To: Finance

SENATE BILL NO. 3096

1 AN ACT TO AUTHORIZE AN INCOME TAX CREDIT FOR LANDOWNERS IN
2 THE AMOUNT OF 50% OF ALL EXPENDITURES BY SUCH TAXPAYER FOR
3 ACTIVITIES TO BENEFIT FISH AND WILDLIFE THAT QUALIFY UNDER THIS
4 ACT DURING THE TAXABLE YEAR, NOT TO EXCEED THE LESSER OF
5 \$10,000.00 OR THE AMOUNT OF TAX IMPOSED UPON THE TAXPAYER FOR THE
6 TAXABLE YEAR; TO CREATE THE MISSISSIPPI FISH AND WILDLIFE
7 INCENTIVES COMMITTEE TO ASSIST THE DEPARTMENT OF WILDLIFE
8 FISHERIES AND PARKS IN DEVELOPING AND PRIORITIZING A LIST OF
9 APPROVED ACTIVITIES AND TO REVIEW AND COMMENT UPON APPLICATIONS
10 FOR THE TAX CREDIT; TO PROVIDE THE TYPES OF ACTIVITIES FOR WHICH
11 THE TAX CREDIT IS AVAILABLE; TO PROVIDE THAT TAXPAYERS SHALL APPLY
12 TO THE DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS FOR THE CREDIT
13 AND THAT THE DEPARTMENT SHALL ISSUE CERTIFICATES OF APPROVAL FOR
14 THE TAX CREDIT AND CERTIFICATES OF COMPLETION FOR THE APPROVED
15 PROJECT; TO PROVIDE THAT THE CERTIFICATES MUST BE FILED WITH THE
16 TAXPAYER'S TAX RETURN; TO PROVIDE THE STANDARDS THAT PROJECTS MUST
17 MEET IN ORDER TO BE ELIGIBLE FOR THE CREDIT; TO AUTHORIZE RECOVERY
18 OF THE CREDIT OR A PORTION THEREOF UNDER CERTAIN CIRCUMSTANCES; TO
19 PLACE LIMITATIONS ON THE TOTAL AMOUNT OF CREDITS THAT MAY BE
20 ISSUED IN ANY CALENDAR YEAR; AND FOR RELATED PURPOSES.

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

22 **SECTION 1.** This Act may be cited as the "Mississippi Fish
23 and Wildlife Incentives Program."

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

33 **SECTION 3.** As used in this act:

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

36 (b) "Project" means the habitat enhanced and/or
37 restored by activities for which tax credits are claimed.

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

41 **SECTION 4.** (1) Tax credits provided by this act shall apply
42 to taxable years beginning on or after January 1, 2007.

43 (2) Any taxpayer claiming a tax credit for a project under
44 this act may not claim other tax credits on the same project under
45 another state or federal act.

46 **SECTION 5.** (1) There is hereby created the Mississippi Fish
47 and Wildlife Incentives Committee which shall be composed as
48 follows:

49 (a) The Director of the Mississippi Department of
50 Wildlife, Fisheries and Parks, or his designee;

51 (b) The Director of the Mississippi Forestry
52 Commission, or his designee;

53 (c) The Director of the Mississippi Museum of Natural
54 Science, or his designee;

55 (d) The Director of the Mississippi Agricultural and
56 Forestry Experiment Station, or his designee; and

57 (e) Three (3) directors of not-for-profit conservation
58 organizations with expertise in the four (4) areas of habitat
59 development, or their designees, appointed by the commission.

60 (2) The commission may appoint not more than two (2) members
61 from the following federal agencies:

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

64 (b) The United States Department of Agriculture's Farm
65 Services Agency;

66 (c) The United States Department of Agriculture's
67 Forest Service; and

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

69 (3) The committee shall:

70 (a) Assist the commission in developing and
71 prioritizing a list of approved activities;

72 (b) Review and comment upon applications made available
73 by the commission; and

74 (c) Perform such other duties as are required by this
75 act.

76 **SECTION 6.** (1) The commission shall promulgate rules and
77 regulations for the administration of this act. The rules shall
78 be developed in consultation with the Mississippi Fish and
79 Wildlife Incentives Committee.

80 (2) Length of agreements under this act may be based on
81 cost-share rates and agreements shall be for a minimum of three
82 (3) years and a maximum of ten (10) years.

83 **SECTION 7.** (1) For any taxpayer, a credit against the taxes
84 imposed pursuant to Chapter 7, Title 27, Mississippi Code of 1972,
85 shall be allowed in the amount of fifty percent (50%) of all
86 expenditures by such taxpayer for activities to benefit fish and
87 wildlife that qualify under this act during the taxable year, not
88 to exceed the lesser of Five Thousand Dollars (\$5,000.00) or the
89 amount of tax imposed upon the taxpayer for the taxable year
90 reduced by the sum or all other credits allowable to the taxpayer
91 under Chapter 7, Title 27, Mississippi Code of 1972, except for
92 credit for tax payments made by or on behalf of the taxpayer.

93 (2) To claim the credits authorized by this section, a
94 taxpayer shall obtain a certification from the commission
95 certifying to the State Tax Commission that the taxpayer has met
96 all the requirements and qualifications set forth in Section 9 of
97 this act.

98 (3) Any tax credit claimed under this act but not used in
99 any taxable year may be carried forward for two (2) consecutive
100 taxable years.

101 (4) The State Tax Commission shall promulgate such rules and
102 regulations as it considers necessary to carry out the tax credit
103 provisions of this act.

104 **SECTION 8.** (1) The commission shall consult with the
105 Mississippi Fish and Wildlife Incentives Committee in developing
106 and prioritizing a list of approved activities and in developing
107 such list shall attempt to achieve landowner and public purposes.
108 Emphasis shall be placed on low-maintenance, self-sustaining
109 activities. The activities shall consist of building structures
110 for fish and wildlife purposes, establishment of habitat by
111 mechanical or other means, maintenance and management practices.

112 (2) The activities shall include, but not be limited to:

113 (a) Upland Wildlife Habitat: planting field borders
114 and filter strips to grass/legume mixtures; establishing openings;
115 planting, fertilizing, and seedbed preparation for food, cover and
116 nesting; establishing native prairie and grassland; fencing for
117 habitat protection; prescribed burning, strip disking and mowing;
118 flushing bars; restoration of wildlife habitat and corridors; and
119 forest stand improvement to include site preparation, tree
120 planting, direct seeding, firebreaks, release and site preparation
121 for natural regeneration.

122 (b) Wetland Wildlife Habitat: installation of water
123 control structures in agricultural fields, moist soil areas and
124 forested wetlands to provide beneficial habitat for wetland
125 wildlife; application of water on agricultural fields, moist soil
126 areas and forested wetlands during drought conditions to benefit
127 wetland wildlife; restoration of hydrology; restoration of
128 wildlife habitat and corridors; fencing for habitat protection;
129 forest stand improvement to include site preparation, tree
130 planting, direct seeding, firebreaks, release and site preparation
131 for natural regeneration; strip disking and mowing; establishing
132 openings; and planting, fertilizing and seedbed preparation for
133 food, cover and nesting.

134 (c) Threatened and Endangered Species Habitat: removal
135 of barriers for aquatic species; establishment, management,
136 maintenance, enhancement and restoration of grassed waterways and
137 riparian areas; fencing for habitat protection; stream bank
138 stabilization; installation of instream deflectors; restoration of
139 threatened and endangered species habitat and corridors; placement
140 of fish screens; control or eradication of invasive exotic or
141 competing animal and plant species; and forest stand improvement
142 to include site preparation, tree planting, direct seeding,
143 firebreaks, release and site preparation for natural regeneration.

144 (d) Fisheries Habitat: removal of fish barriers;
145 establishment, management, maintenance, enhancement and
146 restoration of grassed waterways and riparian areas; stream bank
147 stabilization; installation of low-water weirs and instream
148 deflectors; fencing for habitat protection; development and
149 placement of fish structure and gravel spawning beds; and
150 augmentation of flows.

151 (e) Other activities approved by the commission, in
152 consultation with the Mississippi Fish and Wildlife Incentives
153 Committee.

154 **SECTION 9.** (1) A taxpayer wishing to obtain a tax credit
155 shall submit an application accompanied by an application fee to
156 the commission. The application fee shall be an amount set by the
157 commission not to exceed One Hundred Dollars (\$100.00).

158 (2) Upon receipt of the application, the commission shall
159 make the application available to the Mississippi Fish and
160 Wildlife Incentives Committee for its review and comment.

161 (3) After review of the comments of the Mississippi Fish and
162 Wildlife Incentives Committee, the commission may issue a tax
163 credit approval certificate for those applications proposing
164 projects that meet the requirements of this act and rules
165 promulgated thereunder.

166 (4) Upon completion and proper functioning of the project,
167 the commission shall issue a certificate of completion to the
168 taxpayer.

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

172 (6) A taxpayer must file the certificate of completion with
173 the first tax return filed after issuance of the certificate of
174 completion.

175 (7) Any taxpayer claiming a tax credit under this act may
176 not claim a tax credit under any other provision of law for any
177 costs related to the same project.

178 **SECTION 10.** (1) (a) Project activities shall meet or
179 exceed those standards as established by the commission and the
180 project must be maintained for the period of time that the
181 commission specifies in an agreement with the taxpayer.

182 (b) Project costs incurred after issuance of a tax
183 credit approval certificate may be claimed for tax credit, subject
184 to limitations in Section 7 of this act.

185 (c) All projects must be completed and properly
186 functioning within two (2) years of the date of the certificate of
187 tax credit approval, unless the commission determines that failure
188 to comply with this subsection is the result of conditions beyond
189 the control of the taxpayer, in which case the commission may
190 grant the taxpayer an additional year to comply with this
191 subsection.

192 (d) If the taxpayer does not complete the project
193 within the allowable time period, all credits claimed must be
194 repaid to the State Tax Commission, and the project will be
195 disallowed as a project for tax credit purposes.

196 (2) (a) If the taxpayer terminates the project prior to
197 expiration of the minimum project life, the taxpayer shall provide
198 written notification to the commission and the State Tax

199 Commission and shall file an amended tax return and repay the
200 amount of tax credit claimed which was not allowable.

201 (b) If the commission determines that the taxpayer has
202 terminated the project, it shall notify the State Tax Commission.

203 (c) Upon the termination of the project prior to the
204 expiration of the minimum project life, the taxpayer shall not be
205 allowed any further tax credits provided in this act and the State
206 Tax Commission shall recapture the pro-rata share of any tax
207 credits claimed under this act for the period of termination. The
208 pro-rata share for recapture of the disallowed tax credits shall
209 be determined by dividing the period of time from termination of
210 the project until the expiration of the agreement for the project
211 by the required duration of the project times the tax credit
212 claimed.

213 (3) The taxpayer claiming a credit under this act shall
214 maintain the records required by this act and the rules and
215 regulations promulgated thereunder for the required duration of
216 the project and for three (3) years thereafter.

217 **SECTION 11.** (1) The State Tax Commission shall compile a
218 list of the total amount of tax credits used pursuant to the
219 provisions of this act for each calendar year.

220 (2) When the total amount of tax credits utilized pursuant
221 to the provisions of this act exceeds One Million Dollars
222 (\$1,000,000.00) in any calendar year, the State Tax Commission
223 shall notify the commission and the commission shall cease issuing
224 approval certificates; however, any taxpayer who has been issued a
225 certificate of tax credit approval on or prior to the notification
226 of the commission may complete the project and shall be entitled
227 to the tax credits provided under this act.

228 **SECTION 12.** This act shall take effect and be in force from
229 and after January 1, 2007.