To: Ways and Means

MISSISSIPPI LEGISLATURE REGULAR SESSION 2001
By: Representative McBride

HOUSE BILL NO. 281

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

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

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

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

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

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

(b) "Commission" means the Mississippi Commission on Wildlife, Fisheries and Parks.
(c) "Department" means the Mississippi Department of Wildlife, Fisheries and Parks.
(d) "State Tax Commission" means the Mississippi State Tax Commission.
(e) "Project" means the habitat enhanced or restored, or both, by activities for which tax credits are claimed.
(f) "Project cost" means the expenditure for a project not including any expenditure for matching state and/or federal conservation cost-share programs.
(g) "Mississippi Fish and Wildlife Incentives Committee" means the committee made up of the directors or their designees of the department, Mississippi Forestry Commission, Mississippi Museum of Natural Science and up to four (4) other directors, appointed by the commission, of statewide not-for-profit conservation organizations with expertise in the four (4) areas of habitat development appointed by the commission.

SECTION 4. (1) Tax credits provided by Sections 1 through 10 of this act shall apply to taxable years beginning on or after January 1, 2001, and all taxable years thereafter.
(2) Any taxpayer claiming a tax credit for a project under Sections 1 through 10 of this act may not claim this tax credit on the same project under another state or federal law.

SECTION 5. (1) The commission is charged with the responsibility of promulgating and administering the rules related to Sections 1 through 10 of this act.
(2) The proposed rules shall be developed in consultation with the Mississippi Fish and Wildlife Incentives Committee.
(3) The commission may charge a reasonable application fee, not to exceed One Hundred Dollars ($100.00), for the processing of tax credit applications. All fees collected shall be deposited in the Fisheries and Wildlife Fund created in Section 49-5-21.
(4) The length of agreements may be based on cost-share rates and shall be a minimum of three (3) years and a maximum of ten (10) years.

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

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

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

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

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

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

(2) The projects include, but are not limited to, restoration and enhancement practices for:
(a) Upland wildlife habitat;
(b) Wetland wildlife habitat;
(c) Threatened and endangered species habitat;
(d) Fisheries habitat; and
(e) Other activities approved by the department, in consultation with the Mississippi Fish and Wildlife Incentives Committee.

SECTION 8. (1) A taxpayer wishing to obtain a tax credit shall submit an application to the department.
(2) Upon receipt of the application, the department shall make the application available to the Mississippi Fish and Wildlife Incentives Committee for review and comment.
(3) After review of the committee's comments, the department may issue a tax credit approval certificate for an application proposing a project that meets the requirements of Sections 1 through 10 of this act and rules promulgated thereunder.
(4) Upon completion and proper functioning of the project, the department shall issue a certificate of completion.
(5) A taxpayer must file the tax credit approval certificate with his income tax return for the first year in which the taxpayer claims a tax credit under Sections 1 through 10 of this act.
(6) A taxpayer must file the certificate of completion with the first income tax return filed after issuance of the certificate of completion.
(7) Any taxpayer claiming a tax credit under Sections 1 through 10 of this act may not claim a tax credit under any other act for any costs related to the same project.

SECTION 9. (1) Project activities must meet or exceed those standards as established by the commission and the project must be maintained for the duration of the agreement.
(2) Project costs incurred after issuance of a tax credit approval certificate may be claimed for a tax credit, subject to limitations in Section 6 of this act.

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

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

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

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

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

(7) The pro rata share for recapture of the disallowed tax credits shall be determined by dividing the period of time from termination of the project until the expiration of the agreement for the project by the required duration of the project, multiplied by the tax credit claimed.
(8) (a) The taxpayer claiming a credit under Sections 1 through 10 of this act shall maintain the required records for the required duration of the project plus three (3) years.

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

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

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

SECTION 11. Section 49-5-21, Mississippi Code of 1972, is amended as follows:

49-5-21. (1) The department shall transfer all funds under its control into a special fund in the State Treasury to be segregated and known as the "Fisheries and Wildlife Fund," which fund can only be expended as authorized by the Legislature for the purposes for which the department was created. All funds derived from the sale of licenses, fees, fines and other revenues received by the department as provided by law, shall be deposited in the Fisheries and Wildlife Fund. Fees collected under Section 5 of House Bill No. ______, 2001 Regular Session, shall be deposited into
the Fisheries and Wildlife Fund. The interest obtained thereon
from any investment or deposit made pursuant to Section 27-105-33,
Mississippi Code of 1972, shall be credited by the State Treasurer
to the Fisheries and Wildlife Fund and shall not be paid into the
General Fund of Mississippi.

(2) The department may expend such sums as are authorized by
the Legislature from the Fisheries and Wildlife Fund for paying
salaries of its employees, operating and maintaining equipment and
for any other purpose the department is authorized to expend funds
by law, which amount shall be available for expenditure.

The money herein authorized shall be paid by the State
Treasurer out of the Fisheries and Wildlife Fund on warrants
issued by the Executive Director of the Department of Finance and
Administration upon requisition signed by the Executive Director
of the Mississippi Department of Wildlife, Fisheries and Parks.

(3) The department shall prepare and submit annually to the
Legislature a budget for its proposed operation. The budget
required shall reflect all anticipated revenues from all sources,
including all grants and matching funds, together with all
proposed expenditures. The budget shall be prepared in the same
manner as is now required of other departments of this state. The
department shall be subject to budgetary control and audit in the
same manner as is provided by law for other departments and
agencies. Nothing in this section shall be construed as requiring
legislative appropriation of such Fisheries and Wildlife Fund, but
it is intended that expenditure of such funds shall be under
authority of the budget approved as herein provided and as
authorized by the Legislature.

SECTION 12. Sections 1 through 10 of this act shall be
codified in Chapter 7, Title 27, Mississippi Code of 1972.

SECTION 13. This act shall take effect and be in force from