

By: Representative McBride

To: Ways and Means

HOUSE BILL NO. 281

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, 2001, 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 law.

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

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

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

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

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

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

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



94 (a) Upland wildlife habitat;
95 (b) Wetland wildlife habitat;
96 (c) Threatened and endangered species habitat;
97 (d) Fisheries habitat; and
98 (e) Other activities approved by the department, in
99 consultation with the Mississippi Fish and Wildlife Incentives
100 Committee.

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

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

106 (3) After review of the committee's comments, the department
107 may issue a tax credit approval certificate for an application
108 proposing a project that meets the requirements of Sections 1
109 through 10 of this act and rules promulgated thereunder.

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

180 49-5-21. (1) The department shall transfer all funds under
181 its control into a special fund in the State Treasury to be
182 segregated and known as the "Fisheries and Wildlife Fund," which
183 fund can only be expended as authorized by the Legislature for the
184 purposes for which the department was created. All funds derived
185 from the sale of licenses, fees, fines and other revenues received
186 by the department as provided by law, shall be deposited in the
187 Fisheries and Wildlife Fund. Fees collected under Section 5 of
188 House Bill No. _____, 2001 Regular Session, shall be deposited into



189 the Fisheries and Wildlife Fund. The interest obtained thereon
190 from any investment or deposit made pursuant to Section 27-105-33,
191 Mississippi Code of 1972, shall be credited by the State Treasurer
192 to the Fisheries and Wildlife Fund and shall not be paid into the
193 General Fund of Mississippi.

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

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

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

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

219 SECTION 13. This act shall take effect and be in force from
220 and after January 1, 2001.

