

By: Senator(s) Posey

To: Finance; Wildlife and  
Fisheries

## SENATE BILL NO. 3032

1 AN ACT TO PROVIDE AN INCOME TAX CREDIT FOR SCENIC STREAMS  
2 CONSERVATION EASEMENTS; TO PLACE GEOGRAPHIC LIMITATIONS ON LANDS  
3 ELIGIBLE FOR SUCH CREDIT; TO PROHIBIT A TAXPAYER FROM CLAIMING  
4 OTHER CREDITS RELATED TO THE SAME EASEMENT; TO PROVIDE THAT THE  
5 CREDIT MAY NOT EXCEED THE AMOUNT OF INCOME TAXES DUE; 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 Scenic  
9 Streams Stewardship Plan Tax Credit Act."

10 SECTION 2. The purpose of this act is to encourage riparian  
11 landowners along streams which are nominated to Mississippi's  
12 Scenic Streams Stewardship Program to conserve and stabilize  
13 stream banks, and the associated stream and riparian habitat by  
14 granting easements which would provide stream buffer zones in  
15 perpetuity. This state income tax credit is meant to accompany,  
16 complement and be in addition to the deductions allowed under the  
17 Federal Tax Code of 1986 which gives tax deductions for qualified  
18 conservation easements. Terms used in this act correspond with  
19 those given by the federal law for qualified conservation  
20 easements.

21 SECTION 3. For the purposes of this article:

22 (a) "Interest in real property" means any right in real  
23 property, including access thereto or improvements thereon, or  
24 water, including, but not limited to, a fee simple easement,  
25 including conservation easement, provided such interest complies  
26 with the requirements of the United States Internal Revenue Code  
27 Section 170(h), partial interest, mineral right, remainder or  
28 future interest, or other interest or right in real property.

(b) "Land" or "lands" means real property, with or without improvements thereon; rights-of-way, water and riparian rights, easements, privileges and all other rights or interests of any land or description in, relating to or connected with real property.

(c) "Public or private conservation agency" means any Mississippi governmental body, or any private not-for-profit charitable corporation or trust authorized to do business in the state and organized and operated for natural resources, land conservation or historic preservation purposes, and having tax exempt status as a public charity under the United States Internal Revenue Code of 1986, as amended and having the power to acquire, hold and maintain land and/or interests in land for such purposes.

SECTION 4. (1) For the taxable years beginning on or after January 2001, for individuals and corporations who have joined a Scenic Stream Stewardship Plan, there shall be allowed as a credit against the income tax liability imposed by the State of Mississippi an amount equal to fifty percent (50%) of the fair market value of any land or interest in land located in Mississippi which is conveyed for conservation purposes, biodiversity preservation, or watershed protection. The land eligible for the tax credit is limited to riparian buffer zones not to exceed two hundred (200) feet from the upper natural bank of the stream. Only easements on those lands classified and appraised for agricultural or forestry use are eligible for the tax credit. Such conveyance must be made as unconditional donations in perpetuity by the landowner or taxpayer to a public or private conservation agency eligible to hold such land and interests for conservation or preservation purposes. The fair market value of qualified donations made under this section shall be substantiated by a "qualified appraisal" prepared by a "qualified appraiser," as those terms are defined under applicable federal laws and regulations governing charitable contributions.

62           (2) The amount of the credit that may be claimed by a  
63 taxpayer shall not exceed Ten Thousand Dollars (\$10,000.00) for  
64 the 2001 taxable year and for taxable years thereafter. In  
65 addition, in any one taxable year the credit used may not exceed  
66 the amount of individual, fiduciary, or corporate income tax  
67 otherwise due. Any portion of the credit which is unused in any  
68 one (1) taxable year may be carried over for a maximum of five (5)  
69 consecutive taxable years following the taxable year in which the  
70 credit originated.

71           (3) Qualified donations shall include the conveyance in  
72 perpetuity of a fee interest in real property, or a less-than-fee  
73 interest in real property, such as a conservation restriction, or  
74 a watershed preservation restriction, provided that such  
75 less-than-fee interest qualifies as a charitable deduction under  
76 Section 170(h) of the United States Internal Revenue Code of 1986,  
77 as amended, and shall also include conservation easements under  
78 the Mississippi Conservation Easement Act of 1986, Section 89-19-1  
79 et seq., Mississippi Code of 1972. Dedications of land for open  
80 space for the purpose of fulfilling density requirements to obtain  
81 subdivision or building permits shall not be considered as  
82 qualified donations under this act.

83           (4) Qualified donations shall be eligible for the tax credit  
84 if such donations are made to the State of Mississippi, an  
85 instrumentality thereof, or a charitable organization described in  
86 Section 501(c)(3) of the United States Internal Revenue Code of  
87 1986, as amended, if such charitable organization (a) meets the  
88 requirements of Section 509(a)(2), or (b) meets the requirements  
89 of Section 509(a)(3) and is controlled by an organization  
90 described in Section 509(a)(2).

91           (5) The preservation, or similar use of such property shall  
92 be assured in perpetuity.

93           (6) The Department of Wildlife, Fisheries and Parks shall  
94 certify that the easement meets the requirements of this act.

95        SECTION 5.    (1)   Any taxpayer claiming a tax credit under  
96   this act shall not claim a credit under any similar Mississippi  
97   law for costs related to the same project.   To the extent a credit  
98   is taken in accordance with this act, no subtraction allowed for  
99   the gain on the sale of (a) land dedicated to a conservation  
100   purpose, or (b) an easement dedicated to a conservation purpose  
101   shall be allowed for three (3) years following the year in which  
102   the credit is taken.

103        (2)   Any tax credits which arise under this act from the  
104   donation of land or an interest in land made by a pass-through tax  
105   entity such as a trust, estate, partnership, limited liability  
106   company or partnership, limited partnership, subchapter S  
107   corporation or other fiduciary shall be used either by such entity  
108   if it is the taxpayer on behalf of such entity, or by the member,  
109   manager, partner, shareholder or beneficiary, or as set forth in  
110   the agreement of the entity.   Such tax credits shall not be  
111   claimed by both the entity and the member, manager partner,  
112   shareholder or beneficiary for the same donation.

113        SECTION 6.   This act shall take effect and be in force from  
114   and after July 1, 2001.