

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.

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

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

42 SECTION 4. (1) For the taxable years beginning on or after
43 January 2001, for individuals and corporations who have joined a
44 Scenic Stream Stewardship Plan, there shall be allowed as a credit
45 against the income tax liability imposed by the State of
46 Mississippi an amount equal to fifty percent (50%) of the fair
47 market value of any land or interest in land located in
48 Mississippi which is conveyed for conservation purposes,
49 biodiversity preservation, or watershed protection. The land
50 eligible for the tax credit is limited to riparian buffer zones
51 not to exceed two hundred (200) feet from the upper natural bank
52 of the stream. Only easements on those lands classified and
53 appraised for agricultural or forestry use are eligible for the
54 tax credit. Such conveyance must be made as unconditional
55 donations in perpetuity by the landowner or taxpayer to a public
56 or private conservation agency eligible to hold such land and
57 interests for conservation or preservation purposes. The fair
58 market value of qualified donations made under this section shall
59 be substantiated by a "qualified appraisal" prepared by a
60 "qualified appraiser," as those terms are defined under applicable
61 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.