

By: Senator(s) Robertson, Little, Harvey, King, Dearing, Posey, Hyde-Smith, Mettetal, Moffatt, Williamson, White, Dickerson, Burton, Kirby, Gordon, Nunnelee, Walden, Johnson (19th), Browning, Stogner, Minor, Lee, Chaney, Huggins, Hewes

To: Universities and Colleges; Insurance

SENATE BILL NO. 2729

1 AN ACT TO CREATE THE COMMUNITY AND JUNIOR COLLEGES PROPERTY  
2 AND CASUALTY FUND; TO REQUIRE EACH COMMUNITY AND JUNIOR COLLEGE TO  
3 PARTICIPATE IN A PLAN OF INSURANCE ADMINISTERED BY THE TORT CLAIMS  
4 BOARD WHICH SHALL PROVIDE INSURANCE COVERAGE ON BUILDINGS AND  
5 CONTENTS; TO REQUIRE EACH COMMUNITY AND JUNIOR COLLEGE TO MAKE  
6 PAYMENTS AS DETERMINED BY THE TORT CLAIMS BOARD TO PROVIDE  
7 SUFFICIENT FUNDS FOR 25% OF THE DEDUCTIBLE AMOUNT OF THE PLAN; TO  
8 PROVIDE THAT THE REMAINING PORTION OF THE DEDUCTIBLE SHALL BE PAID  
9 FROM FUNDS APPROPRIATED BY THE LEGISLATURE; TO AMEND SECTION  
10 11-46-19, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE TORT CLAIMS  
11 BOARD TO ADMINISTER SUCH PROPERTY AND CASUALTY INSURANCE PLAN; AND  
12 FOR RELATED PURPOSES.

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

14 **SECTION 1.** There is hereby created in the State Treasury a  
15 special fund to be known as the "Community and Junior Colleges  
16 Property and Casualty Fund." All such monies as the Mississippi  
17 Tort Claims Board shall receive and collect under the provisions  
18 of this section and all such funds as the Legislature may  
19 appropriate for use by the board in administering the provisions  
20 of this section shall be deposited in the fund. All interest  
21 earned from the investment of monies in the fund shall be credited  
22 to the fund. Monies remaining in such fund at the end of a fiscal  
23 year shall not lapse into the State General Fund.

24 (2) From and after July 1, 2003, each community and junior  
25 college shall participate in a plan of insurance administered by  
26 the Tort Claims Board and consisting of one or more policies of  
27 property insurance covering the buildings and contents of the  
28 community and junior colleges. The plan shall provide insurance  
29 on buildings and contents in an amount and manner to be determined  
30 by the Tort Claims Board. The plan shall have a deductible in an  
31 amount not less than Three Hundred Thousand Dollars (\$300,000.00)  
32 nor more than Five Hundred Thousand Dollars (\$500,000.00). Each



33 community and junior college shall make premium payments to the  
34 Community and Junior Colleges Property and Casualty Fund in such  
35 amounts, times and manner as determined by the Tort Claims Board  
36 to provide sufficient funds for the payment of twenty-five percent  
37 (25%) of the deductible amount. The remaining portion of the  
38 deductible shall be paid from funds appropriated by the  
39 Legislature and deposited into the Community and Junior Colleges  
40 Property and Casualty Fund for the specific purpose of deductible  
41 payments.

42 (3) Policies of property insurance purchased by the Tort  
43 Claims Board for the protection of buildings and contents of  
44 community and junior colleges shall be purchased pursuant to the  
45 competitive bidding procedures provided in the Mississippi Public  
46 Purchasing Law, Section 31-7-13.

47 **SECTION 2.** Section 11-46-19, Mississippi Code of 1972, is  
48 amended as follows:

49 11-46-19. (1) The board shall have the following powers:

50 (a) To provide oversight over the Tort Claims Fund;

51 (b) To approve any award made from the Tort Claims  
52 Fund;

53 (c) To pay all necessary expenses attributable to the  
54 operation of the Tort Claims Fund from such fund;

55 (d) To assign litigated claims against governmental  
56 entities other than political subdivisions to competent attorneys  
57 unless such governmental entity has a staff attorney who is  
58 competent to represent the governmental entity and is approved by  
59 the board; the board shall give primary consideration to attorneys  
60 practicing in the jurisdiction where the claim arose in assigning  
61 cases; attorneys hired to represent a governmental entity other  
62 than a political subdivision shall be paid according to the  
63 department fee schedule;

64 (e) To approve all claimants' attorney fees in claims  
65 against the state;



66 (f) To employ on a full-time basis a staff attorney who  
67 shall possess the minimum qualifications required to be a member  
68 of the Mississippi Bar, and such other staff as it may deem  
69 necessary to carry out the purposes of this chapter; the employees  
70 in the positions approved by the board shall be hired by the  
71 director, shall be employees of the department, and shall be  
72 compensated from the Tort Claims Fund;

73 (g) To contract with one or more reputable insurance  
74 consulting firms as may be necessary;

75 (h) To purchase any policies of liability insurance and  
76 to administer any plan of self-insurance or policies of liability  
77 insurance required for the protection of the state against claims  
78 and suits brought under this chapter;

79 (i) To expend money from the Tort Claims Fund for the  
80 purchase of any policies of liability insurance and the payment of  
81 any award or settlement of a claim against the state under the  
82 provisions of this chapter or of a claim against any school  
83 district, junior college or community college district, or state  
84 agency, arising from the operation of school buses or other  
85 vehicles, under the provisions of Section 37-41-42;

86 (j) To cancel, modify or replace any policy or policies  
87 of liability insurance procured by the board;

88 (k) To issue certificates of coverage to governmental  
89 entities, including any political subdivision participating in any  
90 plan of liability protection approved by the board;

91 (l) To review and approve or reject any plan of  
92 liability insurance or self-insurance reserves proposed or  
93 provided by political subdivisions if such plan is intended to  
94 serve as security for risks of claims and suits against them for  
95 which immunity has been waived under this chapter;

96 (m) To administer disposition of claims against the  
97 Tort Claims Fund;



98           (n) To withhold issuance of any warrants payable from  
99 funds of a participating state entity should such entity fail to  
100 make required contributions to the Tort Claims Fund in the time  
101 and manner prescribed by the board;

102           (o) To develop a comprehensive statewide list of  
103 attorneys who are qualified to represent the state and any  
104 employee thereof named as a defendant in a claim brought under  
105 this chapter against the state or such employee;

106           (p) To develop a schedule of fees for paying attorneys  
107 defending claims against the state or an employee thereof;

108           (q) To adopt and promulgate such reasonable rules and  
109 regulations and to do and perform all such acts as are necessary  
110 to carry out its powers and duties under this chapter;

111           (r) To establish and assess premiums to be paid by  
112 governmental entities required to participate in the Tort Claims  
113 Fund;

114           (s) To contract with a third-party administrator to  
115 process claims against the state under this chapter;

116           (t) To annually submit its budget request to the  
117 Legislature as a state agency; \* \* \*

118           (u) To dispose of salvage obtained in settlement or  
119 payment of any claim at fair market value by such means and upon  
120 such terms as the board may think best;

121           (v) To administer an insurance plan and purchase any  
122 policies of insurance to cover buildings and contents of community  
123 and junior colleges for the protection of such buildings and  
124 contents from damage and/or destruction as required by Section 1  
125 of Senate Bill No. 2729, 2003 Regular Session; and

126           (w) To determine the amount of premium to be paid by  
127 each community and junior college for the purchase of property  
128 insurance protection, to deposit such amounts collected for  
129 premium payments in the Community and Junior College Property and



130 Casualty Fund, and to expend monies from the fund for the purchase  
131 of such insurance protection.

132 (2) Policies of liability insurance purchased for the  
133 protection of governmental entities against claims and suits  
134 brought under this chapter shall be purchased pursuant to the  
135 competitive bidding procedures set forth in Section 31-7-13.

136 (3) The department shall have the following powers and  
137 duties:

138 (a) To annually report to the Legislature concerning  
139 each comprehensive plan of liability protection established  
140 pursuant to Section 11-46-17(2). Such report shall include a  
141 comprehensive analysis of the cost of the plan, a breakdown of the  
142 cost to participating state entities, and such other information  
143 as the department may deem necessary.

144 (b) To provide the board with any staff and meeting  
145 facilities as may be necessary to carry out the duties of the  
146 board as provided in this chapter.

147 (c) To submit the board's budget request for the  
148 initial year of operation of the board in order to authorize  
149 expenditures for the 1993-1994 fiscal year and for the  
150 appropriation of such general funds as shall be required for the  
151 commencement of its activities.

152 **SECTION 3.** This act shall take effect and be in force from  
153 and after July 1, 2003.

