

By: Representatives Peranich, Franks

To: Ways and Means

HOUSE BILL NO. 299

1 AN ACT TO CREATE A SPECIAL FUND IN THE STATE TREASURY TO BE
 2 KNOWN AS THE "MISSISSIPPI WINDSTORM UNDERWRITING ASSOCIATION
 3 REINSURANCE ASSISTANCE FUND"; TO PROVIDE THAT MONIES IN THE
 4 SPECIAL FUND MAY BE USED BY THE DEPARTMENT OF INSURANCE, UPON
 5 APPROPRIATION BY THE LEGISLATURE, FOR THE PURPOSE OF ASSISTING THE
 6 MISSISSIPPI WINDSTORM UNDERWRITING ASSOCIATION IN DEFRAYING
 7 EXPENSES AND COSTS FOR REINSURANCE; TO PROVIDE THAT THE
 8 MISSISSIPPI WINDSTORM UNDERWRITING ASSOCIATION MAY USE SUCH FUNDS
 9 FOR THE PURPOSE OF DEFRAYING EXPENSES AND COSTS FOR REINSURANCE;
 10 TO PROVIDE THAT ANY MONIES IN EXCESS OF \$50,000,000.00 REMAINING
 11 IN THE SPECIAL FUND AT THE END OF A FISCAL YEAR THAT HAVE NOT BEEN
 12 APPROPRIATED WILL LAPSE INTO THE STATE GENERAL FUND; TO REQUIRE
 13 THE COMMISSIONER OF INSURANCE TO FILE A REPORT WITH THE JOINT
 14 LEGISLATIVE BUDGET COMMITTEE NOT LATER THAN SEPTEMBER 1 OF EACH
 15 YEAR, RECOMMENDING THE AMOUNT OF ASSISTANCE, IF ANY, NEEDED BY THE
 16 MISSISSIPPI WINDSTORM UNDERWRITING ASSOCIATION FOR REINSURANCE
 17 EXPENSES AND COSTS; TO AMEND SECTION 27-65-75, MISSISSIPPI CODE OF
 18 1972, TO PROVIDE THAT A PORTION OF THE STATE SALES TAX REVENUE
 19 COLLECTED IN HANCOCK, HARRISON, JACKSON, PEARL RIVER, STONE AND
 20 GEORGE COUNTIES SHALL BE DEPOSITED INTO THE MISSISSIPPI WINDSTORM
 21 UNDERWRITING ASSOCIATION REINSURANCE ASSISTANCE FUND; AND FOR
 22 RELATED PURPOSES.

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

24 **SECTION 1.** (1) (a) There is created in the State Treasury
 25 a special fund to be designated as the "Mississippi Windstorm
 26 Underwriting Association Reinsurance Assistance Fund." The fund
 27 shall consist of monies deposited therein as provided under
 28 Section 27-65-75(21) and monies from any other source designated
 29 for deposit into such fund. Unexpended amounts remaining in the
 30 fund at the end of a fiscal year shall not lapse into the State
 31 General Fund, and any interest earned or investment earnings on
 32 amounts in the fund shall be deposited to the credit of the fund;
 33 however, any monies in excess of Fifty Million Dollars
 34 (\$50,000,000.00) remaining in the fund at the end of a fiscal year
 35 that have not been appropriated shall lapse into the State General
 36 Fund.

37 (b) Monies in the special fund may be used by the
38 Department of Insurance, upon appropriation by the Legislature,
39 only for the purpose of assisting the Mississippi Windstorm
40 Underwriting Association ("association") in defraying expenses and
41 costs for reinsurance under Section 83-34-1 et seq. The
42 association may use any such funds received from the Department of
43 Insurance for the sole purpose of defraying expenses and costs for
44 reinsurance. Monies in the fund used for the purposes described
45 in this paragraph (b) shall be in addition to other funds
46 available from any other source for such purposes.

47 (c) Monies in the special fund may not be used,
48 expended or transferred for any other purpose except upon
49 amendment to this section by a bill enacted by the Legislature
50 with a vote of not less than two-thirds (2/3) of the members of
51 each house present and voting.

52 (2) (a) The Commissioner of Insurance shall file a report
53 with the Joint Legislative Budget Committee not later than
54 September 1 of each year, recommending the amount of assistance,
55 if any, needed by the Mississippi Windstorm Underwriting
56 Association for reinsurance expenses and costs. The Commissioner
57 of Insurance also shall provide a copy of the report to the
58 Attorney General and the Executive Director of the Mississippi
59 Development Authority.

60 (b) The Mississippi Windstorm Underwriting Association
61 shall prepare and file detailed reports with the Clerk of the
62 House of Representatives, Secretary of the Senate, Commissioner of
63 Insurance, Attorney General and Executive Director of the
64 Mississippi Development Authority regarding the receipt and
65 expenditure of monies by the association under this section.

66 **SECTION 2.** Section 27-65-75, Mississippi Code of 1972, is
67 amended as follows:

68 27-65-75. On or before the fifteenth day of each month, the
69 revenue collected under the provisions of this chapter during the
70 preceding month shall be paid and distributed as follows:

71 (1) (a) On or before August 15, 1992, and each succeeding
72 month thereafter through July 15, 1993, eighteen percent (18%) of
73 the total sales tax revenue collected during the preceding month
74 under the provisions of this chapter, except that collected under
75 the provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
76 business activities within a municipal corporation shall be
77 allocated for distribution to the municipality and paid to the
78 municipal corporation. On or before August 15, 1993, and each
79 succeeding month thereafter, eighteen and one-half percent
80 (18-1/2%) of the total sales tax revenue collected during the
81 preceding month under the provisions of this chapter, except that
82 collected under the provisions of Sections 27-65-15, 27-65-19(3)
83 and 27-65-21, on business activities within a municipal
84 corporation shall be allocated for distribution to the
85 municipality and paid to the municipal corporation.

86 A municipal corporation, for the purpose of distributing the
87 tax under this subsection, shall mean and include all incorporated
88 cities, towns and villages.

89 Monies allocated for distribution and credited to a municipal
90 corporation under this subsection may be pledged as security for a
91 loan if the distribution received by the municipal corporation is
92 otherwise authorized or required by law to be pledged as security
93 for such a loan.

94 In any county having a county seat that is not an
95 incorporated municipality, the distribution provided under this
96 subsection shall be made as though the county seat was an
97 incorporated municipality; however, the distribution to the
98 municipality shall be paid to the county treasury in which the
99 municipality is located, and those funds shall be used for road,
100 bridge and street construction or maintenance in the county.

101 (b) On or before August 15, 2006, and each succeeding
102 month thereafter, eighteen and one-half percent (18-1/2%) of the
103 total sales tax revenue collected during the preceding month under
104 the provisions of this chapter, except that collected under the
105 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
106 business activities on the campus of a state institution of higher
107 learning or community or junior college whose campus is not
108 located within the corporate limits of a municipality, shall be
109 allocated for distribution to the state institution of higher
110 learning or community or junior college and paid to the state
111 institution of higher learning or community or junior college.

112 (2) On or before September 15, 1987, and each succeeding
113 month thereafter, from the revenue collected under this chapter
114 during the preceding month, One Million One Hundred Twenty-five
115 Thousand Dollars (\$1,125,000.00) shall be allocated for
116 distribution to municipal corporations as defined under subsection
117 (1) of this section in the proportion that the number of gallons
118 of gasoline and diesel fuel sold by distributors to consumers and
119 retailers in each such municipality during the preceding fiscal
120 year bears to the total gallons of gasoline and diesel fuel sold
121 by distributors to consumers and retailers in municipalities
122 statewide during the preceding fiscal year. The State Tax
123 Commission shall require all distributors of gasoline and diesel
124 fuel to report to the commission monthly the total number of
125 gallons of gasoline and diesel fuel sold by them to consumers and
126 retailers in each municipality during the preceding month. The
127 State Tax Commission shall have the authority to promulgate such
128 rules and regulations as is necessary to determine the number of
129 gallons of gasoline and diesel fuel sold by distributors to
130 consumers and retailers in each municipality. In determining the
131 percentage allocation of funds under this subsection for the
132 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
133 State Tax Commission may consider gallons of gasoline and diesel

134 fuel sold for a period of less than one (1) fiscal year. For the
135 purposes of this subsection, the term "fiscal year" means the
136 fiscal year beginning July 1 of a year.

137 (3) On or before September 15, 1987, and on or before the
138 fifteenth day of each succeeding month, until the date specified
139 in Section 65-39-35, the proceeds derived from contractors' taxes
140 levied under Section 27-65-21 on contracts for the construction or
141 reconstruction of highways designated under the highway program
142 created under Section 65-3-97 shall, except as otherwise provided
143 in Section 31-17-127, be deposited into the State Treasury to the
144 credit of the State Highway Fund to be used to fund that highway
145 program. The Mississippi Department of Transportation shall
146 provide to the State Tax Commission such information as is
147 necessary to determine the amount of proceeds to be distributed
148 under this subsection.

149 (4) On or before August 15, 1994, and on or before the
150 fifteenth day of each succeeding month through July 15, 1999, from
151 the proceeds of gasoline, diesel fuel or kerosene taxes as
152 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
153 (\$4,000,000.00) shall be deposited in the State Treasury to the
154 credit of a special fund designated as the "State Aid Road Fund,"
155 created by Section 65-9-17. On or before August 15, 1999, and on
156 or before the fifteenth day of each succeeding month, from the
157 total amount of the proceeds of gasoline, diesel fuel or kerosene
158 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million
159 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
160 one-fourth percent (23-1/4%) of those funds, whichever is the
161 greater amount, shall be deposited in the State Treasury to the
162 credit of the "State Aid Road Fund," created by Section 65-9-17.
163 Those funds shall be pledged to pay the principal of and interest
164 on state aid road bonds heretofore issued under Sections 19-9-51
165 through 19-9-77, in lieu of and in substitution for the funds
166 previously allocated to counties under this section. Those funds

167 may not be pledged for the payment of any state aid road bonds
168 issued after April 1, 1981; however, this prohibition against the
169 pledging of any such funds for the payment of bonds shall not
170 apply to any bonds for which intent to issue those bonds has been
171 published, for the first time, as provided by law before March 29,
172 1981. From the amount of taxes paid into the special fund under
173 this subsection and subsection (9) of this section, there shall be
174 first deducted and paid the amount necessary to pay the expenses
175 of the Office of State Aid Road Construction, as authorized by the
176 Legislature for all other general and special fund agencies. The
177 remainder of the fund shall be allocated monthly to the several
178 counties in accordance with the following formula:

179 (a) One-third (1/3) shall be allocated to all counties
180 in equal shares;

181 (b) One-third (1/3) shall be allocated to counties
182 based on the proportion that the total number of rural road miles
183 in a county bears to the total number of rural road miles in all
184 counties of the state; and

185 (c) One-third (1/3) shall be allocated to counties
186 based on the proportion that the rural population of the county
187 bears to the total rural population in all counties of the state,
188 according to the latest federal decennial census.

189 For the purposes of this subsection, the term "gasoline,
190 diesel fuel or kerosene taxes" means such taxes as defined in
191 paragraph (f) of Section 27-5-101.

192 The amount of funds allocated to any county under this
193 subsection for any fiscal year after fiscal year 1994 shall not be
194 less than the amount allocated to the county for fiscal year 1994.

195 Any reference in the general laws of this state or the
196 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
197 construed to refer and apply to subsection (4) of Section
198 27-65-75.

199 (5) One Million Six Hundred Sixty-six Thousand Six Hundred
200 Sixty-six Dollars (\$1,666,666.00) each month shall be paid into
201 the special fund known as the "State Public School Building Fund"
202 created and existing under the provisions of Sections 37-47-1
203 through 37-47-67. Those payments into that fund are to be made on
204 the last day of each succeeding month hereafter.

205 (6) An amount each month beginning August 15, 1983, through
206 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
207 of 1983, shall be paid into the special fund known as the
208 Correctional Facilities Construction Fund created in Section 6 of
209 Chapter 542, Laws of 1983.

210 (7) On or before August 15, 1992, and each succeeding month
211 thereafter through July 15, 2000, two and two hundred sixty-six
212 one-thousandths percent (2.266%) of the total sales tax revenue
213 collected during the preceding month under the provisions of this
214 chapter, except that collected under the provisions of Section
215 27-65-17(2) shall be deposited by the commission into the School
216 Ad Valorem Tax Reduction Fund created under Section 37-61-35. On
217 or before August 15, 2000, and each succeeding month thereafter,
218 two and two hundred sixty-six one-thousandths percent (2.266%) of
219 the total sales tax revenue collected during the preceding month
220 under the provisions of this chapter, except that collected under
221 the provisions of Section 27-65-17(2), shall be deposited into the
222 School Ad Valorem Tax Reduction Fund created under Section
223 37-61-35 until such time that the total amount deposited into the
224 fund during a fiscal year equals Forty-two Million Dollars
225 (\$42,000,000.00). Thereafter, the amounts diverted under this
226 subsection (7) during the fiscal year in excess of Forty-two
227 Million Dollars (\$42,000,000.00) shall be deposited into the
228 Education Enhancement Fund created under Section 37-61-33 for
229 appropriation by the Legislature as other education needs and
230 shall not be subject to the percentage appropriation requirements
231 set forth in Section 37-61-33.

232 (8) On or before August 15, 1992, and each succeeding month
233 thereafter, nine and seventy-three one-thousandths percent
234 (9.073%) of the total sales tax revenue collected during the
235 preceding month under the provisions of this chapter, except that
236 collected under the provisions of Section 27-65-17(2), shall be
237 deposited into the Education Enhancement Fund created under
238 Section 37-61-33.

239 (9) On or before August 15, 1994, and each succeeding month
240 thereafter, from the revenue collected under this chapter during
241 the preceding month, Two Hundred Fifty Thousand Dollars
242 (\$250,000.00) shall be paid into the State Aid Road Fund.

243 (10) On or before August 15, 1994, and each succeeding month
244 thereafter through August 15, 1995, from the revenue collected
245 under this chapter during the preceding month, Two Million Dollars
246 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
247 Valorem Tax Reduction Fund established in Section 27-51-105.

248 (11) Notwithstanding any other provision of this section to
249 the contrary, on or before February 15, 1995, and each succeeding
250 month thereafter, the sales tax revenue collected during the
251 preceding month under the provisions of Section 27-65-17(2) and
252 the corresponding levy in Section 27-65-23 on the rental or lease
253 of private carriers of passengers and light carriers of property
254 as defined in Section 27-51-101 shall be deposited, without
255 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
256 established in Section 27-51-105.

257 (12) Notwithstanding any other provision of this section to
258 the contrary, on or before August 15, 1995, and each succeeding
259 month thereafter, the sales tax revenue collected during the
260 preceding month under the provisions of Section 27-65-17(1) on
261 retail sales of private carriers of passengers and light carriers
262 of property, as defined in Section 27-51-101 and the corresponding
263 levy in Section 27-65-23 on the rental or lease of these vehicles,

264 shall be deposited, after diversion, into the Motor Vehicle Ad
265 Valorem Tax Reduction Fund established in Section 27-51-105.

266 (13) On or before July 15, 1994, and on or before the
267 fifteenth day of each succeeding month thereafter, that portion of
268 the avails of the tax imposed in Section 27-65-22 that is derived
269 from activities held on the Mississippi State Fairgrounds Complex,
270 shall be paid into a special fund that is created in the State
271 Treasury and shall be expended upon legislative appropriation
272 solely to defray the costs of repairs and renovation at the Trade
273 Mart and Coliseum.

274 (14) On or before August 15, 1998, and each succeeding month
275 thereafter through July 15, 2005, that portion of the avails of
276 the tax imposed in Section 27-65-23 that is derived from sales by
277 cotton compresses or cotton warehouses and that would otherwise be
278 paid into the General Fund, shall be deposited in an amount not to
279 exceed Two Million Dollars (\$2,000,000.00) into the special fund
280 created under Section 69-37-39.

281 (15) Notwithstanding any other provision of this section to
282 the contrary, on or before September 15, 2000, and each succeeding
283 month thereafter, the sales tax revenue collected during the
284 preceding month under the provisions of Section 27-65-19(1)(f) and
285 (g)(i)2, shall be deposited, without diversion, into the
286 Telecommunications Ad Valorem Tax Reduction Fund established in
287 Section 27-38-7.

288 (16) On or before August 15, 2000, and each succeeding month
289 thereafter, the sales tax revenue collected during the preceding
290 month under the provisions of this chapter on the gross proceeds
291 of sales of a project as defined in Section 57-30-1 shall be
292 deposited, after all diversions except the diversion provided for
293 in subsection (1) of this section, into the Sales Tax Incentive
294 Fund created in Section 57-30-3.

295 (17) Notwithstanding any other provision of this section to
296 the contrary, on or before April 15, 2002, and each succeeding

297 month thereafter, the sales tax revenue collected during the
298 preceding month under Section 27-65-23 on sales of parking
299 services of parking garages and lots at airports shall be
300 deposited, without diversion, into the special fund created under
301 Section 27-5-101(d).

302 (18) On or before August 15, 2007, and each succeeding month
303 thereafter through July 15, 2008, from the sales tax revenue
304 collected during the preceding month under the provisions of this
305 chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)
306 shall be deposited into the Special Funds Transfer Fund created in
307 Section 4 of Chapter 556, Laws of 2003.

308 (19) (a) On or before August 15, 2005, and each succeeding
309 month thereafter, the sales tax revenue collected during the
310 preceding month under the provisions of this chapter on the gross
311 proceeds of sales of a business enterprise located within a
312 redevelopment project area under the provisions of Sections
313 57-91-1 through 57-91-11, and the revenue collected on the gross
314 proceeds of sales from sales made to a business enterprise located
315 in a redevelopment project area under the provisions of Sections
316 57-91-1 through 57-91-11 (provided that such sales made to a
317 business enterprise are made on the premises of the business
318 enterprise), shall, except as otherwise provided in this
319 subsection (19), be deposited, after all diversions, into the
320 Redevelopment Project Incentive Fund as created in Section
321 57-91-9.

322 (b) For a municipality participating in the Economic
323 Redevelopment Act created in Sections 57-91-1 through 57-91-11,
324 the diversion provided for in subsection (1) of this section
325 attributable to the gross proceeds of sales of a business
326 enterprise located within a redevelopment project area under the
327 provisions of Sections 57-91-1 through 57-91-11, and attributable
328 to the gross proceeds of sales from sales made to a business
329 enterprise located in a redevelopment project area under the

330 provisions of Sections 57-91-1 through 57-91-11 (provided that
331 such sales made to a business enterprise are made on the premises
332 of the business enterprise), shall be deposited into the
333 Redevelopment Project Incentive Fund as created in Section
334 57-91-9, as follows:

335 (i) For the first six (6) years in which payments
336 are made to a developer from the Redevelopment Project Incentive
337 Fund, one hundred percent (100%) of the diversion shall be
338 deposited into the fund;

339 (ii) For the seventh year in which such payments
340 are made to a developer from the Redevelopment Project Incentive
341 Fund, eighty percent (80%) of the diversion shall be deposited
342 into the fund;

343 (iii) For the eighth year in which such payments
344 are made to a developer from the Redevelopment Project Incentive
345 Fund, seventy percent (70%) of the diversion shall be deposited
346 into the fund;

347 (iv) For the ninth year in which such payments are
348 made to a developer from the Redevelopment Project Incentive Fund,
349 sixty percent (60%) of the diversion shall be deposited into the
350 fund; and

351 (v) For the tenth year in which such payments are
352 made to a developer from the Redevelopment Project Incentive Fund,
353 fifty percent (50%) of the funds shall be deposited into the fund.

354 (20) On or before January 15, 2007, and each succeeding
355 month thereafter, eighty percent (80%) of the sales tax revenue
356 collected during the preceding month under the provisions of this
357 chapter from the operation of a tourism project under the
358 provisions of Sections 57-28-1 through 57-28-5, shall be
359 deposited, after the diversions required in subsections (7) and
360 (8) of this section, into the Tourism Sales Tax Incentive Fund
361 created in Section 57-28-3.

362 (21) On or before August 15, 2007, and each succeeding month
363 thereafter, from the total sales tax revenue collected during the
364 preceding month under the provisions of this chapter in Hancock,
365 Harrison, Jackson, Pearl River, Stone and George Counties, One
366 Million Five Hundred Thousand Dollars (\$1,500,000.00) shall be
367 deposited into the Mississippi Windstorm Underwriting Association
368 Reinsurance Assistance Fund created under Section 1 of House Bill
369 No. ____, 2007 Regular Session.

370 (22) The remainder of the amounts collected under the
371 provisions of this chapter shall be paid into the State Treasury
372 to the credit of the General Fund.

373 (23) It shall be the duty of the municipal officials of any
374 municipality that expands its limits, or of any community that
375 incorporates as a municipality, to notify the commissioner of that
376 action thirty (30) days before the effective date. Failure to so
377 notify the commissioner shall cause the municipality to forfeit
378 the revenue that it would have been entitled to receive during
379 this period of time when the commissioner had no knowledge of the
380 action. If any funds have been erroneously disbursed to any
381 municipality or any overpayment of tax is recovered by the
382 taxpayer, the commissioner may make correction and adjust the
383 error or overpayment with the municipality by withholding the
384 necessary funds from any later payment to be made to the
385 municipality.

386 **SECTION 3.** This act shall take effect and be in force from
387 and after its passage.