

By: Senator(s) Hall

To: Finance

## SENATE BILL NO. 2106

1 AN ACT TO CREATE THE ALLOCATION FOR ART FOR PUBLIC FACILITIES  
2 ACT; TO DECLARE LEGISLATIVE INTENT AND PURPOSE; TO REQUIRE STATE  
3 AGENCIES TO EXPEND, OUT OF MONIES APPROPRIATED FOR ORIGINAL  
4 CONSTRUCTION, REMODELING OR RENOVATION OF ANY STATE FACILITY, A  
5 CERTAIN PERCENTAGE FOR THE PURPOSE OF INCLUDING WORKS OF ART IN  
6 SUCH FACILITY; TO ESTABLISH IN THE STATE TREASURY THE "ART FOR  
7 PUBLIC FACILITIES FUND"; TO AUTHORIZE THE STATE ARTS COMMISSION TO  
8 ADMINISTER THIS ACT; TO PROVIDE THAT THE STATE OF MISSISSIPPI  
9 SHALL RECEIVE THE RIGHT TO SOLE OWNERSHIP AND PUBLIC DISPLAY OF  
10 ALL ART ACQUIRED UNDER THIS ACT, SUBJECT TO CERTAIN RIGHTS  
11 RETAINED BY THE ARTIST; AND FOR RELATED PURPOSES.

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

13 SECTION 1. This act shall be known and may be cited as the  
14 "Allocation for Art for Public Facilities Act."

15 SECTION 2. The Legislature declares that the State of  
16 Mississippi has a responsibility for expanding public experience  
17 of art, and it recognizes the necessity of fostering culture and  
18 the arts and in developing artists and craftsmen. Art creates a  
19 more humane environment: one of distinction, enjoyment and pride  
20 for all citizens. The Legislature recognizes that public art also  
21 is a resource which stimulates the vitality and the economy of the  
22 state's communities and which provides opportunities for artists  
23 and other skilled workers to practice their crafts. The  
24 Legislature declares it to be a matter of public policy that a  
25 portion of each capital construction appropriation be allocated  
26 for the acquisition of works of art to be placed in public places  
27 constructed.

28 SECTION 3. (1) A state building or state facility  
29 constructed or remodeled or renovated after July 1, 1999, shall  
30 include works of art for public display.

31 (2) All state agencies or departments shall expend, as a  
32 nondeductible item, out of any monies appropriated for original  
33 construction, remodeling or renovation of any state facility an  
34 amount of at least one-half of one percent (1/2 of 1%) for the  
35 purpose of including works of art in such facility.

36 (3) Where construction, remodeling or renovation of a state  
37 facility is budgeted at an amount less than Two Hundred Fifty  
38 Thousand Dollars (\$250,000.00), funds appropriated under this act  
39 for art for that public facility may be transferred to the Art for  
40 Public Facilities Fund for expenditure by the State Arts  
41 Commission for art in other state facilities.

42 (4) Nothing in this act shall prohibit additional  
43 expenditures for art beyond the amounts provided by specific  
44 appropriation.

45 (5) For the purpose of this section, "state building" or  
46 "state facility" shall not include highway construction or  
47 construction related to highway sheds, warehouses and other  
48 buildings of a temporary nature.

49 SECTION 4. A separate account is established within the  
50 State Treasury to be known and maintained as the Art for Public  
51 Facilities Fund. The fund shall be used for acquisition of art as  
52 provided in this act and for expenses incurred in the  
53 administration of this program. The fund may derive income from:

- 54 (a) Appropriations made as provided in this act;
- 55 (b) Grants, from governmental or other sources;
- 56 (c) Gifts, if the terms of the gift are consistent with  
57 the purposes of this act and other lawful requirements;
- 58 (d) Other appropriations made by the Legislature; and
- 59 (e) Bond proceeds.

60 SECTION 5. (1) The Mississippi Arts Commission shall be  
61 responsible for administration of this act. It shall have the  
62 power and authority to contract with artists in such manner as is  
63 in conformity with this act, and it shall have authority to make

64 expenditures from the Art for Public Facilities Fund from the  
65 funds available in such fund. It shall select and appoint each  
66 panel provided by this act and shall have authority to make  
67 expenditures for expenses of such panel as provided in this act.

68 (2) The Mississippi Arts Commission shall keep an inventory  
69 of the works of art acquired under this act. It shall also  
70 periodically review and examine such artwork, reporting to the  
71 Legislature when restoring, repairing or replacing any work of art  
72 is necessary and how that should be accomplished. Any costs in  
73 this connection will be subject to additional appropriations by  
74 the Legislature and shall not be charged against the Art for  
75 Public Facilities Fund, except where specific appropriation is  
76 made to such fund for any given restoration, repair or  
77 replacement. The costs of administering the program, other than  
78 immediately aforementioned, shall be provided by the Legislature  
79 in its annual appropriations to the commission.

80 (3) Annually, the Mississippi Arts Commission shall report  
81 to the Legislature all activity under this act.

82 SECTION 6. (1) Artists and their works of art to be  
83 acquired under this act shall be selected by the Mississippi Arts  
84 Commission, with the advice of a panel specifically chosen for  
85 each project, pursuant to procedures established by the  
86 commission. Each panel shall contain at least a representative of  
87 the architect, a representative of the user, a representative of  
88 the community and a professional artist. Priority will be granted  
89 to artists who are residents of the State of Mississippi.

90 (2) The acquisition of art under this act shall be exempt  
91 from any and all state bidding requirements. Panel members shall  
92 not be paid except for reimbursement for necessary costs and  
93 in-state travel expenses. Panel members and members of their  
94 families shall not be considered in the selection of an artist.  
95 All formal or informal meetings and deliberations by the panel  
96 shall be open and public. Cooperation with other local and

97 national art agencies is required.

98 SECTION 7. For the purposes of this act, the following terms  
99 have the following meanings:

100 (a) "Art," "artwork" or "works of art" include, but are  
101 not limited to, frescoes, mosaics, sculpture, drawing, painting,  
102 photograph, calligraphy, graphic art, stained glass, wall  
103 hangings, tapestries, fountains, ornamental gateways, monuments,  
104 displays, architectural embellishments, crafts, architectural  
105 landscaping, landscape gardening, or any work of mixed media by a  
106 professional artist, artisan or crafts person.

107 (b) "Capital construction" and "construction cost" mean  
108 cost expended for the actual construction of a given state  
109 building or facility, exclusive of the costs of land acquisition,  
110 and include costs for remodeling, reconstruction or renovation.

111 (c) "State building," "public building," "state  
112 facility" and "public facility" include, but are not limited to,  
113 any permanent structure, together with all grounds and appurtenant  
114 structures which are intended to act as offices, laboratories,  
115 workshops, courtrooms, hearing or meeting rooms, storage or other  
116 space for carrying on the functions of a state agency;  
117 auditoriums, meeting rooms, classrooms or other educational  
118 facilities, eating, sleeping, medical, dental, library or museum  
119 space for use by the general public. This definition does not  
120 include public highways, bridges, sewers, fish ponds, fish  
121 hatcheries, service facilities at state parks and highway rest  
122 areas, or separate buildings not part of a larger construction  
123 project, which are intended solely as storage, warehouse or  
124 maintenance and repair facilities.

125 (d) "Commission" means the State Arts Commission.

126 (e) "Artist" includes, but is not limited to, any  
127 practitioner generally recognized by his peers or by critics as a  
128 professional who produces works of art. This definition does not  
129 include the architect of the subject public building under

130 construction or any member of that architect's firm.

131 (f) "Architect" means any person or firm retained to  
132 design, or prepare plans or specifications for any part of the  
133 public construction project, including, but not limited to,  
134 landscape, interior, electrical, plumbing, heating, utility,  
135 engineering or fixture design.

136 (g) "State agency" or "department" means the agency of  
137 state government to which funds have been appropriated or  
138 allocated by the Legislature for the construction, remodeling,  
139 reconstruction or renovation of any public building or other  
140 public facility.

141 (h) "Construction" is defined to include, but is not  
142 limited to, original construction, remodeling or renovation.

143 (i) "Acquisition" includes acquisition by purchase,  
144 lease or commission.

145 (j) "User" means the designated person, agency,  
146 department or entity having principal administrative  
147 responsibility for the actual utilization of a proposed state  
148 facility.

149 (k) "Representative of the community" means a person or  
150 representative of a group or groups which would be reasonably  
151 expected to utilize the building or facility.

152 SECTION 8. (1) The State of Mississippi shall receive the  
153 rights to sole ownership and public display of all art acquired  
154 under this act, subject to the following intangible rights  
155 retained by the artist:

156 (a) The right to claim authorship of the work of art;

157 (b) The right to reproduce such work of art, including  
158 all rights to which the work of art may be subject under copyright  
159 laws, including, but not limited to, derivative and publishing  
160 rights but excluding right to public display. Such rights may be  
161 limited by written contract.

162 (c) If provided by written contract, the right to

163 receive a specified percentage of the proceeds if the work of art  
164 is subsequently sold by the State of Mississippi to a third party  
165 other than as part of the sale of the building in which the work  
166 of art is located.

167 (d) If agreed between the State of Mississippi and the  
168 artist, the artist may extend to his heirs, assignees or personal  
169 representatives any of the above rights until the end of the  
170 twentieth year following the death of such artist.

171 (2) The artist shall retain as absolute the following  
172 rights:

173 (a) The right to have the artist's name associated with  
174 the work;

175 (b) The right to prevent degradation, mutilation or  
176 aesthetic ruining of the work.

177 (3) Prior to the execution of a contract for artwork to be  
178 acquired pursuant to this act, the artist shall be informed in  
179 writing of the rights specified in subsections (1) and (2).

180 SECTION 9. Nothing in this act shall be construed as  
181 precluding the placement or purchase of other works of art. Nor  
182 shall anything in this act be construed as precluding the use of  
183 ornamental detailing, or other architectural, functional or  
184 structural garnishing in constructing public buildings or  
185 facilities. Works of art acquired pursuant to this act are to be  
186 in addition to such embellishments.

187 SECTION 10. In the event any section, subsection, sentence,  
188 clause or phrase of this act shall be declared or adjudged invalid  
189 or unconstitutional, such adjudication shall in no manner affect  
190 the other sections, subsections, sentences, clauses or phrases of  
191 this act, which shall remain in full force and effect, as if the  
192 section, subsection, sentence, clause or phrase so declared or  
193 adjudged invalid or unconstitutional were not originally a part  
194 hereof. The Legislature hereby declares that it would have passed  
195 the remaining parts of this act if it had known that such part or

196 parts hereof would be declared or adjudged invalid or  
197 unconstitutional.

198 SECTION 11. This act shall take effect and be in force from  
199 and after July 1, 1999.