

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 2001

1 AN ACT TO AUTHORIZE THE ISSUANCE OF \$96,000,000.00 IN STATE
 2 GENERAL OBLIGATION BONDS TO PROVIDE FUNDS FOR CAPITAL IMPROVEMENTS
 3 AT THE STATE-OWNED SHIPYARD LOCATED IN JACKSON COUNTY,
 4 MISSISSIPPI; TO PROVIDE THAT THE ISSUANCE OF SUCH BONDS SHALL BE
 5 CONDITIONED ON THE LESSEE INCURRING A CERTAIN AMOUNT OF DEBT FOR
 6 CAPITAL IMPROVEMENTS, CAPITAL INVESTMENTS OR CAPITAL UPGRADES TO
 7 SHIPYARDS IN MISSISSIPPI OWNED OR LEASED BY SUCH LESSEE; TO
 8 PROVIDE THAT NOT MORE THAN \$40,000,000.00 OF SUCH BONDS MAY BE
 9 ISSUED IN FISCAL YEAR 2005 AND NOT MORE THAN \$40,000,000.00 OF
 10 SUCH BONDS MAY BE ISSUED IN 2006; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** As used in this act, the following words shall
 13 have the meanings ascribed herein unless the context clearly
 14 requires otherwise:

15 (a) "Accreted value" of any bonds means, as of any date
 16 of computation, an amount equal to the sum of (i) the stated
 17 initial value of such bonds, plus (ii) the interest accrued
 18 thereon from the issue date to the date of computation at the
 19 rate, compounded semiannually, that is necessary to produce the
 20 approximate yield to maturity shown for bonds of the same
 21 maturity.

22 (b) "Commission" means the State Bond Commission.

23 (c) "State shipyard" means the shipyard property owned
 24 by the state and located in Jackson County, Mississippi.

25 (d) "State" means the State of Mississippi.

26 (e) "Authority" means the Mississippi Development
 27 Authority.

28 **SECTION 2.** (1) The authority may use the proceeds from
 29 general obligation bonds issued under this act for the purpose of
 30 such capital improvements at the state shipyard as it considers

31 necessary to modernize the facility and keep it competitive with
32 other shipyards.

33 (2) The authority, in its discretion, may set aside for
34 minority businesses not more than twenty percent (20%) of its
35 contracts for making such capital improvements at the state
36 shipyard. For the purposes of this subsection (2), the term
37 "minority business" means a business which is owned by a majority
38 of persons who are United States citizens or permanent resident
39 aliens (as defined by the Immigration and Naturalization Service)
40 of the United States, and who are Asian, Black, Hispanic or Native
41 American, according to the following definitions:

42 (a) "Asian" means persons having origins in any of the
43 original people of the Far East, Southeast Asia, the Indian
44 subcontinent, or the Pacific Islands.

45 (b) "Black" means persons having origins in any black
46 racial group of Africa.

47 (c) "Hispanic" means persons of Spanish or Portuguese
48 culture with origins in Mexico, South or Central America, or the
49 Caribbean Islands, regardless of race.

50 (d) "Native American" means persons having origins in
51 any of the original people of North America, including American
52 Indians, Eskimos and Aleuts.

53 **SECTION 3.** (1) (a) A special fund, to be designated as the
54 "2004 State Shipyard Improvement Fund," is created within the
55 State Treasury. The fund shall be maintained by the State
56 Treasurer as a separate and special fund, separate and apart from
57 the General Fund of the state. Unexpended amounts remaining in
58 the fund at the end of a fiscal year shall not lapse into the
59 State General Fund, and any interest earned or investment earnings
60 on amounts in the fund shall be deposited into such fund.

61 (b) Monies deposited into the fund shall be disbursed,
62 in the discretion of the authority, to pay the costs incurred by

63 the authority in making capital improvements to the state
64 shipyard.

65 (c) Monies in the special fund may be used to reimburse
66 reasonable, actual and necessary costs incurred by the authority
67 in providing assistance related to a project for which funding is
68 provided under this act. The authority shall maintain an
69 accounting of actual costs incurred for each project for which
70 reimbursements are sought. Reimbursements under this paragraph
71 (c) shall not exceed Three Hundred Thousand Dollars (\$300,000.00)
72 in the aggregate. Reimbursements under this paragraph (c) shall
73 satisfy any applicable federal tax law requirements.

74 (d) Monies in the special fund may be used to reimburse
75 reasonable, actual and necessary costs incurred by the Department
76 of Audit in providing services related to a project for which
77 funding is provided under this act. The Department of Audit shall
78 maintain an accounting of actual costs incurred for each project
79 for which reimbursements are sought. The Department of Audit may
80 escalate its budget and expend such funds in accordance with rules
81 and regulations of the Department of Finance and Administration in
82 a manner consistent with the escalation of federal funds.
83 Reimbursements under this paragraph (d) shall not exceed One
84 Hundred Thousand Dollars (\$100,000.00) in the aggregate.
85 Reimbursements under this paragraph (d) shall satisfy any
86 applicable federal tax law requirements.

87 (2) Amounts deposited into such special fund shall be
88 disbursed to pay the costs of the projects described in subsection
89 (1) of this section. If any monies in the special fund are not
90 used within four (4) years after the date the proceeds of the
91 bonds authorized under this act are deposited into such fund, then
92 the authority shall provide an accounting of such unused monies to
93 the commission. Promptly after the commission has certified, by
94 resolution duly adopted, that the projects described in subsection
95 (1) of this section shall have been completed, abandoned, or

96 cannot be completed in a timely fashion, any amounts remaining in
97 such special fund shall be applied to pay debt service on the
98 bonds issued under this act, in accordance with the proceedings
99 authorizing the issuance of such bonds and as directed by the
100 commission. Before monies in the special fund may be used for the
101 projects described in subsection (1) of this section, the
102 authority shall require that the lessee of the shipyard enter into
103 binding commitments regarding at least the following: (a) that
104 such lessee shall create a certain minimum number of jobs over a
105 certain period of time as determined by the authority (which jobs
106 must be held by persons eligible for employment in the United
107 States under applicable state and federal law) and (b) that if
108 such lessee fails to satisfy any such commitments, the lessee must
109 repay an amount equal to all or a portion of the funds provided by
110 the state under this act as determined by the authority.

111 **SECTION 4.** (1) The commission, at one time, or from time to
112 time, may declare by resolution the necessity for issuance of
113 general obligation bonds of the State of Mississippi to provide
114 funds for all costs incurred or to be incurred for the purposes
115 described in Section 3 of this act. No bonds shall be issued
116 under this act in any fiscal year until the authority is provided
117 proof that the lessee of the shipyard has incurred debt or has
118 otherwise irrevocably dedicated funds or a combination of debt and
119 funds used by the lessee in calendar year 2003, or thereafter, for
120 capital improvements, capital investments or capital upgrades at
121 shipyards in Mississippi owned or leased by the lessee in an
122 amount equal to twice the amount of the bonds to be issued during
123 any fiscal year. The debt or dedication of funds or combination
124 of debt and funds required of the lessee under this section shall
125 be in addition to any debt or funds required of the lessee under
126 Section 4 of Chapter 501, Laws of 2003. Upon the adoption of a
127 resolution by the authority, declaring that the lessee has
128 incurred the required amount of debt and/or irrevocable dedication

129 of funds and declaring the necessity for the issuance of any part
130 or all of the general obligation bonds authorized by this section,
131 the authority shall deliver a certified copy of its resolution or
132 resolutions to the commission. Upon receipt of such resolution,
133 the commission, in its discretion, may act as the issuing agent,
134 prescribe the form of the bonds, advertise for and accept bids,
135 issue and sell the bonds so authorized to be sold and do any and
136 all other things necessary and advisable in connection with the
137 issuance and sale of such bonds. The total amount of bonds issued
138 under this act shall not exceed Ninety-six Million Dollars
139 (\$96,000,000.00); however, not more than Forty Million Dollars
140 (\$40,000,000.00) may be issued in fiscal year 2005, not more than
141 Forty Million Dollars (\$40,000,000.00) may be issued in fiscal
142 year 2006. No bonds shall be issued under this act after July 1,
143 2008.

144 (2) Any investment earnings on amounts deposited into the
145 special fund created in Section 3 of this act shall be used to pay
146 debt service on bonds issued under this act, in accordance with
147 the proceedings authorizing issuance of such bonds.

148 **SECTION 5.** The principal of and interest on the bonds
149 authorized under this act shall be payable in the manner provided
150 in this section. Such bonds shall bear such date or dates, be in
151 such denomination or denominations, bear interest at such rate or
152 rates (not to exceed the limits set forth in Section 75-17-101,
153 Mississippi Code of 1972), be payable at such place or places
154 within or without the State of Mississippi, shall mature
155 absolutely at such time or times not to exceed twenty (20) years
156 from date of issue, be redeemable before maturity at such time or
157 times and upon such terms, with or without premium, shall bear
158 such registration privileges, and shall be substantially in such
159 form, all as shall be determined by resolution of the commission.

160 **SECTION 6.** The bonds authorized by this act shall be signed
161 by the chairman of the commission, or by his facsimile signature,

162 and the official seal of the commission shall be affixed thereto,
163 attested by the secretary of the commission. The interest
164 coupons, if any, to be attached to such bonds may be executed by
165 the facsimile signatures of such officers. Whenever any such
166 bonds shall have been signed by the officials designated to sign
167 the bonds who were in office at the time of such signing but who
168 may have ceased to be such officers before the sale and delivery
169 of such bonds, or who may not have been in office on the date such
170 bonds may bear, the signatures of such officers upon such bonds
171 and coupons shall nevertheless be valid and sufficient for all
172 purposes and have the same effect as if the person so officially
173 signing such bonds had remained in office until their delivery to
174 the purchaser, or had been in office on the date such bonds may
175 bear. However, notwithstanding anything herein to the contrary,
176 such bonds may be issued as provided in the Registered Bond Act of
177 the State of Mississippi.

178 **SECTION 7.** All bonds and interest coupons issued under the
179 provisions of this act shall have all the qualities and incidents
180 of negotiable instruments under the provisions of the Uniform
181 Commercial Code, and in exercising the powers granted by this act,
182 the commission shall not be required to and need not comply with
183 the provisions of the Uniform Commercial Code.

184 **SECTION 8.** The commission shall act as the issuing agent for
185 the bonds authorized under this act, prescribe the form of the
186 bonds, advertise for and accept bids, issue and sell the bonds so
187 authorized to be sold, pay all fees and costs incurred in such
188 issuance and sale, and do any and all other things necessary and
189 advisable in connection with the issuance and sale of such bonds.
190 The commission is authorized and empowered to pay the costs that
191 are incident to the sale, issuance and delivery of the bonds
192 authorized under this act from the proceeds derived from the sale
193 of such bonds. The commission shall sell such bonds on sealed
194 bids at public sale, and for such price as it may determine to be

195 for the best interest of the State of Mississippi, but no such
196 sale shall be made at a price less than par plus accrued interest
197 to the date of delivery of the bonds to the purchaser. All
198 interest accruing on such bonds so issued shall be payable
199 semiannually or annually; however, the first interest payment may
200 be for any period of not more than one (1) year.

201 Notice of the sale of any such bonds shall be published at
202 least one time, not less than ten (10) days before the date of
203 sale, and shall be so published in one or more newspapers
204 published or having a general circulation in the City of Jackson,
205 Mississippi, and in one or more other newspapers or financial
206 journals with a national circulation, to be selected by the
207 commission.

208 The commission, when issuing any bonds under the authority of
209 this act, may provide that bonds, at the option of the State of
210 Mississippi, may be called in for payment and redemption at the
211 call price named therein and accrued interest on such date or
212 dates named therein.

213 **SECTION 9.** The bonds issued under the provisions of this act
214 are general obligations of the State of Mississippi, and for the
215 payment thereof the full faith and credit of the State of
216 Mississippi is irrevocably pledged. If the funds appropriated by
217 the Legislature for such purposes are insufficient to pay the
218 principal of and the interest on such bonds as they become due,
219 then the deficiency shall be paid by the State Treasurer from any
220 funds in the State Treasury not otherwise appropriated. All such
221 bonds shall contain recitals on their faces substantially covering
222 the provisions of this section.

223 **SECTION 10.** Upon the issuance and sale of bonds under the
224 provisions of this act, the commission shall transfer the proceeds
225 of any such sale or sales to the special fund created in Section 3
226 of this act. The proceeds of such bonds shall be disbursed solely
227 upon the order of the authority under such restrictions, if any,

228 as may be contained in the resolution providing for the issuance
229 of the bonds.

230 **SECTION 11.** The bonds authorized under this act may be
231 issued without any other proceedings or the happening of any other
232 conditions or things other than those proceedings, conditions and
233 things which are specified or required by this act. Any
234 resolution providing for the issuance of bonds under the
235 provisions of this act shall become effective immediately upon its
236 adoption by the commission, and any such resolution may be adopted
237 at any regular or special meeting of the commission by a majority
238 of its members.

239 **SECTION 12.** The bonds authorized under the authority of this
240 act may be validated in the Chancery Court of the First Judicial
241 District of Hinds County, Mississippi, in the manner and with the
242 force and effect provided by Chapter 13, Title 31, Mississippi
243 Code of 1972, for the validation of county, municipal, school
244 district and other bonds. The notice to taxpayers required by
245 such statutes shall be published in a newspaper published or
246 having a general circulation in the City of Jackson, Mississippi.

247 **SECTION 13.** Any holder of bonds issued under the provisions
248 of this act or of any of the interest coupons pertaining thereto
249 may, either at law or in equity, by suit, action, mandamus or
250 other proceeding, protect and enforce any and all rights granted
251 under this act, or under such resolution, and may enforce and
252 compel performance of all duties required by this act to be
253 performed, in order to provide for the payment of bonds and
254 interest thereon.

255 **SECTION 14.** All bonds issued under the provisions of this
256 act shall be legal investments for trustees and other fiduciaries,
257 and for savings banks, trust companies and insurance companies
258 organized under the laws of the State of Mississippi, and such
259 bonds shall be legal securities which may be deposited with and
260 shall be received by all public officers and bodies of this state

261 and all municipalities and political subdivisions for the purpose
262 of securing the deposit of public funds.

263 **SECTION 15.** Bonds issued under the provisions of this act
264 and income therefrom shall be exempt from all taxation in the
265 State of Mississippi.

266 **SECTION 16.** The proceeds of the bonds issued under this act
267 shall be used solely for the purposes provided in this act,
268 including the costs incident to the issuance and sale of such
269 bonds.

270 **SECTION 17.** The State Treasurer is authorized, without
271 further process of law, to certify to the Department of Finance
272 and Administration the necessity for warrants, and the Department
273 of Finance and Administration is authorized and directed to issue
274 such warrants, in such amounts as may be necessary to pay when due
275 the principal of, premium, if any, and interest on, or the
276 accreted value of, all bonds issued under this act; and the State
277 Treasurer shall forward the necessary amount to the designated
278 place or places of payment of such bonds in ample time to
279 discharge such bonds, or the interest thereon, on the due dates
280 thereof.

281 **SECTION 18.** All improvements made to the state shipyard with
282 the proceeds of bonds issued pursuant to this act shall, as
283 state-owned property, be exempt from ad valorem taxation, except
284 ad valorem taxation for school district purposes.

285 **SECTION 19.** This act shall be deemed to be full and complete
286 authority for the exercise of the powers herein granted, but this
287 act shall not be deemed to repeal or to be in derogation of any
288 existing law of this state.

289 **SECTION 20.** This act shall take effect and be in force from
290 and after its passage.