

By: Senator(s) Moffatt, Robertson

To: Finance

SENATE BILL NO. 3108

1 AN ACT TO AUTHORIZE THE ISSUANCE OF \$56,000,000.00 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; AND FOR  
 8 RELATED PURPOSES.

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

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

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

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

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

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

24 (e) "Authority" means the Mississippi Development  
 25 Authority.

26 **SECTION 2.** (1) The authority may use the proceeds from  
 27 general obligation bonds issued under this act for the purpose of  
 28 such capital improvements at the state shipyard as it considers  
 29 necessary to modernize the facility and keep it competitive with  
 30 other shipyards.

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

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

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

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

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

51 **SECTION 3.** (1) (a) A special fund, to be designated as the  
52 "2005 State Shipyard Improvement Fund," is created within the  
53 State Treasury. The fund shall be maintained by the State  
54 Treasurer as a separate and special fund, separate and apart from  
55 the General Fund of the state. Unexpended amounts remaining in  
56 the fund at the end of a fiscal year shall not lapse into the  
57 State General Fund, and any interest earned or investment earnings  
58 on amounts in the fund shall be deposited into such fund.

59 (b) Monies deposited into the fund shall be disbursed,  
60 in the discretion of the authority, to pay the costs incurred by  
61 the authority in making capital improvements to the state  
62 shipyard.

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

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

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

96 bonds issued under this act, in accordance with the proceedings  
97 authorizing the issuance of such bonds and as directed by the  
98 commission. Before monies in the special fund may be used for the  
99 projects described in subsection (1) of this section, the  
100 authority shall require that the lessee of the shipyard enter into  
101 binding commitments regarding at least the following:

102 (a) That such lessee shall create a certain minimum  
103 number of jobs over a certain period of time as determined by the  
104 authority (which jobs must be held by persons eligible for  
105 employment in the United States under applicable state and federal  
106 law); and

107 (b) That if such lessee fails to satisfy any such  
108 commitments, the lessee must repay an amount equal to all or a  
109 portion of the funds provided by the state under this act as  
110 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 until the authority is provided proof that the  
117 lessee of the shipyard has incurred debt or has otherwise  
118 irrevocably dedicated funds or a combination of debt and funds in  
119 the amount of not less than One Hundred Twelve Million Dollars  
120 (\$112,000,000.00) used by the lessee in calendar year 2003, or  
121 thereafter, for capital improvements, capital investments or  
122 capital upgrades at shipyards in Mississippi owned or leased by  
123 the lessee. The debt or dedication of funds or combination of  
124 debt and funds required of the lessee under this section shall be  
125 in addition to any debt or funds required of the lessee under  
126 Section 4 of Chapter 501, Laws of 2003, and Section 4 of Chapter  
127 1, Laws of 2004 Third Extraordinary Session. Upon the adoption of  
128 a resolution by the authority, declaring that the lessee has

129 incurred the required amount of debt and/or irrevocable dedication  
130 of funds and declaring the necessity for the issuance of any part  
131 or all of the general obligation bonds authorized by this section,  
132 the authority shall deliver a certified copy of its resolution or  
133 resolutions to the commission. Upon receipt of such resolution,  
134 the commission, in its discretion, may act as the issuing agent,  
135 prescribe the form of the bonds, advertise for and accept bids,  
136 issue and sell the bonds so authorized to be sold and do any and  
137 all other things necessary and advisable in connection with the  
138 issuance and sale of such bonds. The total amount of bonds issued  
139 under this act shall not exceed Fifty-six Million Dollars  
140 (\$56,000,000.00). No bonds shall be issued under this act after  
141 July 1, 2008.

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

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

158 **SECTION 6.** The bonds authorized by this act shall be signed  
159 by the chairman of the commission, or by his facsimile signature,  
160 and the official seal of the commission shall be affixed thereto,  
161 attested by the secretary of the commission. The interest

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

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

182       **SECTION 8.** The commission shall act as the issuing agent for  
183 the bonds authorized under this act, prescribe the form of the  
184 bonds, advertise for and accept bids, issue and sell the bonds so  
185 authorized to be sold, pay all fees and costs incurred in such  
186 issuance and sale, and do any and all other things necessary and  
187 advisable in connection with the issuance and sale of such bonds.  
188 The commission is authorized and empowered to pay the costs that  
189 are incident to the sale, issuance and delivery of the bonds  
190 authorized under this act from the proceeds derived from the sale  
191 of such bonds. The commission shall sell such bonds on sealed  
192 bids at public sale, and for such price as it may determine to be  
193 for the best interest of the State of Mississippi, but no such  
194 sale shall be made at a price less than par plus accrued interest

195 to the date of delivery of the bonds to the purchaser. All  
196 interest accruing on such bonds so issued shall be payable  
197 semiannually or annually; however, the first interest payment may  
198 be for any period of not more than one (1) year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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