HOUSE BILL NO. 1699

AN ACT TO AUTHORIZE SCHOOL DISTRICTS LOCATED IN CERTAIN EXTRAORDINARY GROWTH AREAS OF THE STATE TO ISSUE TAX INCREMENT FINANCING BONDS; TO PROVIDE FOR THE MATURITY AND TERMS OF SUCH BONDS; TO SPECIFY THE PURPOSES FOR WHICH THE PROCEEDS OF SUCH BONDS MAY BE EXPENDED BY SCHOOL DISTRICTS; TO REQUIRE LOCAL SCHOOL BOARDS TO ADOPT A RESOLUTION TO AUTHORIZE THE ISSUANCE OF SUCH BONDS AND TO PUBLISH NOTICE OF ITS INTENTION; TO AUTHORIZE THE ISSUANCE OF REFUNDING BONDS FOR PAYING SUCH TAX INCREMENT BONDS BEFORE MATURITY; TO AUTHORIZE SUCH SCHOOL BOARDS TO ADOPT A TAX INCREMENT FINANCING PLAN FOR THE PURPOSE OF PLEDGING REVENUES OF THE SCHOOL DISTRICT FOR THE PAYMENT OF DEBT SERVICE ON SUCH BONDS; TO AUTHORIZE A LEVY OF AD VALOREM TAXES FOR THE REPAYMENT OF SUCH BONDS IN THE EVENT INCREASED REVENUES OF THE SCHOOL DISTRICT ARE NOT SUFFICIENT TO PAY THE DEBT SERVICE; TO PROVIDE THAT THE INCOME FROM SUCH BONDS ARE EXEMPT FROM STATE INCOME TAXATION; AND FOR RELATED PURPOSES.

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

SECTION 1. For the purposes of this act, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Extraordinary growth area" includes any school district which:

(i) Has experienced an average increase in the assessed value of property within the district of five percent (5%) or more for each year over the last three (3) years, and which is projected to see an average increase in the assessed value of property within the district of five percent (5%) or more for each year of the next three (3) years; or

(ii) Will contain or lie adjacent to any district that will contain any business project of the type set forth in the Mississippi Major Economic Impact Act, Section 57-75-1 et seq.

(b) "School district" means any public school district within the state.
(c) "Tax increment bonds" means any bond authorized by this act.

**SECTION 2.** Any school district located in an extraordinary growth area may issue tax increment bonds, the final maturity of which may extend beyond thirty (30) years, for the purpose of construction and other capital improvements within the district, funding any reserve which the school district may deem advisable in connection with the retirement of the proposed indebtedness and funding any other incidental expenses involved in incurring such indebtedness. The debt service of indebtedness incurred pursuant to this section shall be provided from the added increments of school district ad valorem tax revenues to result from any such extraordinary growth and shall never constitute an indebtedness of the school district within the meaning of any state constitutional provision or statutory limitation and shall never constitute nor give rise to a pecuniary liability of the school district or a charge against its general credit or taxing powers, other than as allowed by this act.

The bonds may be authorized by resolution or resolutions of the governing body of the school district, and may be issued in one or more series, may bear such date or dates, mature at such time or times, bear interest at such rate or rates, be payable at such times, be in such denominations, be in such form, be registered, be executed in such manner, be payable in such medium of payment, at such place or places, be subject to such terms of redemption, with or without premium, carry such conversion or registration privileges and be declared or become due before the maturity date thereof, as such resolution or resolutions may provide; however, such bonds shall not bear a greater interest rate to maturity than that allowed under Section 75-17-101. The bonds shall be sold for not less than par value plus accrued interest at public sale in the manner provided by Section 31-19-25 or at private sale, in the discretion of the governing body.
Bonds shall bear interest and be payable and contain other terms and conditions determined by the school district’s governing body to be in the best interest of the district. The bonds may be repurchased by the school district out of any available funds at a price not to exceed the principal amount thereof and accrued interest, and all bonds so repurchased shall be cancelled. In connection with the issuance of the bonds, the school district shall have the power to enter into contracts for rating of the bonds by national rating agencies; obtaining bond insurance or guarantees for such bonds and complying with the terms and conditions of such insurance or guarantees; make provision for payment in advance of maturity at the option of the owner or holder of the bonds; covenant for the security and better marketability of the bonds, including without limitation the establishment of a debt service reserve fund and sinking funds to secure or pay such bonds; and make any other provisions deemed desirable by the school district in connection with the issuance of the bonds.

In connection with the issuance of the bonds, the school district may arrange for lines of credit with any bank, firm or person for the purpose of providing an additional source of repayment for such bonds and amounts drawn on such lines of credit may be evidenced by bonds, notes or other evidences of indebtedness containing such terms and conditions as the school district may determine; however, such bonds, notes or evidences of indebtedness shall be secured by and payable from the same sources as are pledged to the payment of the bonds which are additionally secured by such line of credit, and that the bonds, notes or other evidences of indebtedness shall be deemed to be bonds for all purposes of this act. Pending the preparation or execution of definitive bonds, interim receipts or certificates, or temporary bonds may be delivered to the purchaser or purchasers of the bonds. Any provision of law to the contrary notwithstanding, any
bonds, if any, issued pursuant to this act shall possess all of the qualities of negotiable instruments.

The school district may also issue refunding bonds for the purpose of paying any of its bonds at or before maturity or upon acceleration or redemption. Refunding bonds may be issued at such time before the maturity or redemption of the refunded bonds as the school district may determine. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issuing the refunding bonds, the expenses of redeeming the bonds being refunded, and such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds as may be required by any of the school district's resolutions, trust indenture or other security instruments. The issuance of refunding bonds, the maturities and other details thereof, the security therefor, the rights of the holders and the rights, duties and obligations of the school district in respect of the same shall be governed by the provisions of this act relating to the issuance of bonds other than refunding bonds, insofar as the same may be applicable.

**SECTION 3.** Before any school district may issue tax increment bonds under this act, the district must adopt a tax increment financing plan as set forth in this section. The plan must be adopted by a majority of the members of the governing body of the school district. The plan must contain the following:

(a) A statement of the objectives of the school district with regard to the bond issue.

(b) A statement indicating the need for the improvements to be financed by the bond issue.

(c) A statement of the reasons the school district constitutes an extraordinary growth area.
(d) A statement of the expected amount of increase in property value in the district over the next five (5) years.

(e) The expected amount of increase in ad valorem taxes to be paid to the school district over the next five (5) years as a result of the extraordinary growth.

(f) The expected amount of increase in income to the school district as a result of the extraordinary growth.

(g) A statement of the total amount of indebtedness to be incurred as a result of bonds authorized by this act.

SECTION 4. Before approving any tax increment bond issue, the governing body of the school district shall hold a public hearing thereon after publishing notice in a newspaper in which the school district is authorized to publish legal notices at least once and not less than ten (10) days and not more than twenty (20) days before the hearing.

SECTION 5. The principal, interest and premium, if any, on any tax increment bond shall be secured by a pledge of the revenues payable to the school district pursuant to the tax increment financing plan. The proceedings under which any indebtedness is authorized or any security agreement may contain any agreement or provisions customarily contained in instruments securing such obligations, without limiting the generality of the foregoing provisions respecting the construction, maintenance and operation of buildings or other facilities or improvements of the project, the creation and maintenance of special funds, the rights and remedies available in the event of default to the debt holders or to the trustee, all as the governing body shall deem advisable; however, in making any such agreements or provisions, a school district shall not have the power to obligate itself except with respect to:

(a) The proceeds of the bonds and any property purchased with the proceeds of the bonds; and
(b) The application of the revenues from the tax increments. A school district shall have no power to incur a pecuniary liability or charge upon its general credit or against its taxing powers, other than as provided in this act.

The proceedings authorizing any bonds and any security agreement securing bonds may provide that in the event of default in payment of the principal of or interest on such bonds, or in the performance of any agreement contained in such proceedings or security agreement, such payment and performance may be enforced by mandamus or by appointment of a receiver in equity with such powers as may be necessary to enforce the obligations thereof. No breach of any such agreement shall impose any pecuniary liability upon any school district or any charge upon its general credit or against its taxing powers.

The trustee under any security agreement or any depository specified by such security agreement may be such persons or corporation as the school district shall designate regardless, if they are residents of Mississippi or nonresidents of Mississippi or incorporated under the laws of the United States or the laws of other states of the United States.

SECTION 6. A school district may authorize a levy of ad valorem taxes, not to exceed five (5) mills. However, the tax may be levied only to the extent that the increase in income to the school district that actually occurs is not sufficient to pay the debt service of the indebtedness for the bonds authorized by this act.

SECTION 7. Any school district issuing bonds under this act may, for the remaining term of such debt, irrevocably instruct the appropriate local tax collector/assessor in writing to deposit a portion of the monthly ad valorem tax collections for district purposes directly with any state or federally chartered bank serving as trustee or paying agent on such district debt. The district's instructions to the tax collector/assessor shall
specify the amount of tax receipts to be so deposited with the
governor. The amount of tax receipts to be so deposited shall be
binding on the district and local tax collector/assessor during the
term of such debt.

**SECTION 9.** The proceeds from the sale of any bonds issued
under the authority of this act shall be applied only for the
purpose for which the bonds were issued; however, any premium and
accrued interest received in any such sale shall be applied to the
payment of the principal of or the interest on the bonds sold. If
for the purpose for which the bonds were issued, such unneeded
portion of the proceeds shall be applied to the payment of the
principal of or the interest on the bonds.

**SECTION 9.** The bonds authorized by this act and the income
therefrom and all security agreements and mortgages executed as
security therefor made pursuant to the provisions hereof, and the
revenues derived therefrom, shall be exempt from all income
taxation in the state.

**SECTION 10.** (1) After adoption of a tax increment financing
plan, the appropriate tax assessor shall certify the assessed
value of the real property, including personal property located
thereon, in the school district, as of a certification date as
determined by the school district. The certification date shall
be no more than three (3) years before the date the tax increment
financing plan is approved. Property taxable at the time of the
certification date shall be included in the assessed value at its
most recently determined valuation. Property exempt from taxation
at the time of the certification date shall be included at zero.
These assessed values shall be, and will be referred to as, the
"original assessed value."

(2) Each year thereafter, the clerk and the State Tax
Commission, if applicable, shall certify the amount by which the
assessed value of real property, including personal property
located thereon, within the district has increased or decreased
from the original assessed value. These assessed values shall be, and will be referred to as, the "current assessed value."

(3) Any amount by which the current assessed value of the real property, including personal property located thereon, within the district exceeds the original assessed value shall be referred to as the "captured assessed value." The clerk shall certify the amount of the captured assessed value to the school district each year for the duration of the tax increment financing plan. A school district may choose to retain all or a portion of the captured assessed value for purposes of tax increment financing if the plan provides that all or a portion of the captured assessed value is necessary to finance the objectives of the plan, including the cost of establishing necessary reserves to insure payment of revenue bonds.

The amount of captured assessed value that a school district intends to use for purposes of tax increment financing must be clearly stated in the tax increment financing plan.

SECTION 11. This act shall take effect and be in force from and after July 1, 2002.