

By: Representative Brown

To: Education; Ways and Means

HOUSE BILL NO. 1699

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

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

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

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

23 (i) Has experienced an average increase in the  
 24 assessed value of property within the district of five percent  
 25 (5%) or more for each year over the last three (3) years, and  
 26 which is projected to see an average increase in the assessed  
 27 value of property within the district of five percent (5%) or more  
 28 for each year of the next three (3) years; or

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

32 (b) "School district" means any public school district  
 33 within the state.



34 (c) "Tax increment bonds" means any bond authorized by  
35 this act.

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

52 The bonds may be authorized by resolution or resolutions of  
53 the governing body of the school district, and may be issued in  
54 one or more series, may bear such date or dates, mature at such  
55 time or times, bear interest at such rate or rates, be payable at  
56 such times, be in such denominations, be in such form, be  
57 registered, be executed in such manner, be payable in such medium  
58 of payment, at such place or places, be subject to such terms of  
59 redemption, with or without premium, carry such conversion or  
60 registration privileges and be declared or become due before the  
61 maturity date thereof, as such resolution or resolutions may  
62 provide; however, such bonds shall not bear a greater interest  
63 rate to maturity than that allowed under Section 75-17-101. The  
64 bonds shall be sold for not less than par value plus accrued  
65 interest at public sale in the manner provided by Section 31-19-25  
66 or at private sale, in the discretion of the governing body.



67 Bonds shall bear interest and be payable and contain other terms  
68 and conditions determined by the school district's governing body  
69 to be in the best interest of the district. The bonds may be  
70 repurchased by the school district out of any available funds at a  
71 price not to exceed the principal amount thereof and accrued  
72 interest, and all bonds so repurchased shall be cancelled. In  
73 connection with the issuance of the bonds, the school district  
74 shall have the power to enter into contracts for rating of the  
75 bonds by national rating agencies; obtaining bond insurance or  
76 guarantees for such bonds and complying with the terms and  
77 conditions of such insurance or guarantees; make provision for  
78 payment in advance of maturity at the option of the owner or  
79 holder of the bonds; covenant for the security and better  
80 marketability of the bonds, including without limitation the  
81 establishment of a debt service reserve fund and sinking funds to  
82 secure or pay such bonds; and make any other provisions deemed  
83 desirable by the school district in connection with the issuance  
84 of the bonds.

85 In connection with the issuance of the bonds, the school  
86 district may arrange for lines of credit with any bank, firm or  
87 person for the purpose of providing an additional source of  
88 repayment for such bonds and amounts drawn on such lines of credit  
89 may be evidenced by bonds, notes or other evidences of  
90 indebtedness containing such terms and conditions as the school  
91 district may determine; however, such bonds, notes or evidences of  
92 indebtedness shall be secured by and payable from the same sources  
93 as are pledged to the payment of the bonds which are additionally  
94 secured by such line of credit, and that the bonds, notes or other  
95 evidences of indebtedness shall be deemed to be bonds for all  
96 purposes of this act. Pending the preparation or execution of  
97 definitive bonds, interim receipts or certificates, or temporary  
98 bonds may be delivered to the purchaser or purchasers of the  
99 bonds. Any provision of law to the contrary notwithstanding, any



100 bonds, if any, issued pursuant to this act shall possess all of  
101 the qualities of negotiable instruments.

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

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

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

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

130             (c) A statement of the reasons the school district  
131 constitutes an extraordinary growth area.



132 (d) A statement of the expected amount of increase in  
133 property value in the district over the next five (5) years.

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

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

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

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

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

162 (a) The proceeds of the bonds and any property  
163 purchased with the proceeds of the bonds; and



164 (b) The application of the revenues from the tax  
165 increments. A school district shall have no power to incur a  
166 pecuniary liability or charge upon its general credit or against  
167 its taxing powers, other than as provided in this act.

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

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

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

190 **SECTION 7.** Any school district issuing bonds under this act  
191 may, for the remaining term of such debt, irrevocably instruct the  
192 appropriate local tax collector/assessor in writing to deposit a  
193 portion of the monthly ad valorem tax collections for district  
194 purposes directly with any state or federally chartered bank  
195 serving as trustee or paying agent on such district debt. The  
196 district's instructions to the tax collector/assessor shall



197 specify the amount of tax receipts to be so deposited with the  
198 trustee or paying agent and shall be binding on the district and  
199 local tax collector/assessor during the term of such debt.

200       **SECTION 8.** The proceeds from the sale of any bonds issued  
201 under the authority of this act shall be applied only for the  
202 purpose for which the bonds were issued; however, any premium and  
203 accrued interest received in any such sale shall be applied to the  
204 payment of the principal of or the interest on the bonds sold. If  
205 for the purpose for which the bonds were issued, such unneeded  
206 portion of the proceeds shall be applied to the payment of the  
207 principal of or the interest on the bonds.

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

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

225       (2) Each year thereafter, the clerk and the State Tax  
226 Commission, if applicable, shall certify the amount by which the  
227 assessed value of real property, including personal property  
228 located thereon, within the district has increased or decreased



229 from the original assessed value. These assessed values shall be,  
230 and will be referred to as, the "current assessed value."

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

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

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

