

By: Senator(s) Harden

To: Education; Finance

SENATE BILL NO. 3106

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 PRIOR TO 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 terms
 19 shall have the meanings given them in this section unless a
 20 different meaning is clearly indicated by the context:

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 shall not extend beyond thirty (30) years, for the purpose
39 of construction and other capital improvements within the
40 district, funding any reserve which the school district may deem
41 advisable in connection with the retirement of the proposed
42 indebtedness and funding any other incidental expenses involved in
43 incurring such indebtedness. The debt service of indebtedness
44 incurred pursuant to this section shall be provided from the added
45 increments of school district ad valorem tax revenues to result
46 from any such extraordinary growth and shall never constitute an
47 indebtedness of the school district within the meaning of any
48 state constitutional provision or statutory limitation and shall
49 never constitute nor give rise to a pecuniary liability of the
50 school district or a charge against its general credit or taxing
51 powers, other than as allowed by this act.

52 Said 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. Said
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. Said 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 said 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 municipality in connection with the issuance of
84 said bonds.

85 In connection with the issuance of said 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; provided, however, that such bonds, notes
92 or evidences of indebtedness shall be secured by and payable from
93 the same sources as are pledged to the payment of said bonds which
94 are additionally secured by such line of credit, and that said
95 bonds, notes or other evidences of indebtedness shall be deemed to
96 be bonds for all purposes of this chapter. Pending the
97 preparation or execution of definitive bonds, interim receipts or
98 certificates, or temporary bonds may be delivered to the purchaser
99 or purchasers of said bonds. Any provision of law to the contrary



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

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

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

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

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

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



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

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

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

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

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

148 **SECTION 5.** The principal, interest and premium, if any, on
149 any tax increment bond shall be secured by a pledge of the
150 revenues payable to the school district pursuant to the tax
151 increment financing plan. The proceedings under which any
152 indebtedness is authorized or any security agreement may contain
153 any agreement or provisions customarily contained in instruments
154 securing such obligations, without limiting the generality of the
155 foregoing provisions respecting the construction, maintenance and
156 operation of buildings or other facilities or improvements of the
157 project, the creation and maintenance of special funds, the rights
158 and remedies available in the event of default to the debt holders
159 or to the trustee, all as the governing body shall deem advisable;
160 provided, however, that in making any such agreements or
161 provisions, no school district shall have the power to obligate
162 itself except with respect to:

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



165 (b) No school district shall have the power to obligate
166 itself except with respect to the application of the revenues from
167 the tax increments; nor shall any school district have the power
168 to incur a pecuniary liability or charge upon its general credit
169 or against its taxing powers, other than as provided in this act.

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

180 The trustee under any security agreement or any depository
181 specified by such security agreement may be such persons or
182 corporation as the school district shall designate; provided, that
183 they may be residents of Mississippi or nonresidents of
184 Mississippi or incorporated under the laws of the United States or
185 the laws of other states of the United States.

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

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



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

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

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

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

228 (2) Each year thereafter, the clerk and the State Tax
229 Commission, if applicable, shall certify the amount by which the
230 assessed value of real property, including personal property



231 located thereon, within the district has increased or decreased
232 from the original assessed value. These assessed values shall be,
233 and will be referred to as, the "current assessed value."

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

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

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

