

By: Senator(s) Harden

To: Education; Finance

SENATE BILL NO. 2196

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, 2003.

