

By: Representative McCarty

To: Education; Ways and
Means

HOUSE BILL NO. 1564

1 AN ACT TO ESTABLISH A CREDIT ENHANCEMENT PROGRAM FOR
2 MISSISSIPPI SCHOOL DISTRICT BONDS TO LOWER BORROWING COSTS THROUGH
3 STATE GUARANTEES; TO DEFINE THE ROLES AND RESPONSIBILITIES OF
4 SCHOOL DISTRICTS, TAX COLLECTORS, PAYING AGENTS, AND THE STATE
5 TREASURER IN ADMINISTERING THE PROGRAM; TO OUTLINE CONDITIONS FOR
6 STATE PAYMENTS AND DISTRICT REIMBURSEMENTS, INCLUDING PENALTIES
7 AND LEGAL REMEDIES; TO PROVIDE FOR THE APPROPRIATION OF FUNDS TO
8 SUPPORT THE PROGRAM; TO AUTHORIZE THE STATE BOND COMMISSION TO
9 ADOPT RULES FOR IMPLEMENTATION; TO BRING FORWARD SECTIONS
10 37-59-101, 37-59-103, 37-59-105, 37-59-107, 37-59-109, 37-59-111,
11 37-59-113 AND 37-59-115, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF
12 POSSIBLE AMENDMENTS; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** The Legislature finds that implementation of the
15 credit enhancement program provided for in this chapter can
16 provide substantial savings to the taxpayers of the State of
17 Mississippi with minimal cost or risk to the state government.
18 The guaranty provided by pledging the credit of the state to the
19 payment of voter-approved school district general obligation bonds
20 will encourage lower interest rates, and therefore lower taxes,
21 for such bonds than school districts alone can command, despite
22 the excellent credit history of such obligations. Any such



guarantee does not remove the debt obligation of the school district and is not state debt.

SECTION 2. As used in this act, the followings terms shall have the meanings ascribed herein, unless the context of uses clearly requires otherwise.

(a) "Bond" means any voted general obligation bond issued by a school district, holding a certificate issued pursuant to this chapter for such a bond.

(b) "Credit enhancement program" means the school district bond guaranty established by this chapter.

(c) "General obligation bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a district that constitutes an indebtedness within the meaning of any applicable constitutional or statutory debt limitations.

(d) "Paying agent" means the paying agent selected, from time to time, for a bond issue pursuant to state law.

(e) "Refunding bond" means any general obligation bond issued by a district for the purpose of refunding its outstanding general obligation bonds.

(f) "School district" or "district" means any school district existing now or later under the laws of the state.

SECTION 3. (1) (a) The full faith, credit, and taxing power of the state is pledged to guarantee full and timely payment of the principal of and interest on bonds as such payments become due. However, in the event of any acceleration of the due date of



the principal by reason of mandatory redemption or acceleration resulting from default, the payments guaranteed shall be made in the amounts and at the times as payments of principal would have been due had there not been any acceleration.

(b) This guaranty does not extend to the payment of any redemption premium.

(c) Reference to this act by its title on the face of any bond conclusively establishes the guaranty provided to that bond under the provisions of this chapter.

(2) (a) The state pledges to and agrees with the owners of any bonds that the state will not alter, impair, or limit the rights vested by the credit enhancement program with respect to the bonds until the bonds, together with applicable interest, are fully paid and discharged. However, this act does not preclude an alteration, impairment, or limitation if full provision is made by law for the payment of the bonds.

(b) Each district may refer to this pledge and undertaking by the state in its bonds.

(3) Only valid bonds issued after January 1, 2026, may be guaranteed under this act.

SECTION 4. (1) (a) Any district, by resolution of its board of directors, may request that the State Treasurer issue a certificate evidencing the state's guaranty, under this chapter, of its bonds.



72 (b) After reviewing the request, if the State Treasurer
73 determines that the district is eligible under rules adopted by
74 the State Bond Commission, the State Treasurer shall promptly
75 issue the certificate as to specific bonds of the district and
76 provide it to the requesting district.

77 (c) (i) The district receiving the certificate and all
78 other persons may rely on the certificate as evidencing the
79 guaranty for bonds issued within one (1) year from and after the
80 date of the certificate, without making further inquiry during
81 that year.

82 (ii) The certificate of eligibility is valid for
83 one (1) year even if the State Treasurer later determines that the
84 school district is ineligible.

85 (2) Any district that chooses to forego the benefits of the
86 guaranty provided by this chapter for a particular issue of bonds
87 may do so by not referring to this act on the face of its bonds.

88 (3) Any district that has bonds, the principal of or
89 interest on which has been paid, in whole or in part, by the state
90 under this act, may not issue any additional bonds guaranteed by
91 this act until:

92 (a) All payment obligations of the district to the
93 state under the credit enhancement program are satisfied; and

94 (b) The State Treasurer and the State Superintendent of
95 Public Education each certify in writing, to be kept on file by



the State Treasurer and the State Superintendent of Public Education, that the district is fiscally solvent.

(4) The State Bond Commission may establish by rule fees sufficient to cover the costs of administering this chapter.

SECTION 5. (1) (a) The county tax collector for each district with outstanding, unpaid bonds shall transfer money sufficient for each scheduled debt service payment to its paying agent on or before any principal or interest payment date for the bonds.

(b) A county tax collector who is unable to transfer a scheduled debt service payment to the paying agent on the transfer date shall immediately notify the paying agent and the State Treasurer by:

(i) Telephone;

(ii) A writing sent by facsimile or electronic transmission; or

(iii) A writing sent by first class United States mail.

(2) If sufficient funds are not transferred to the paying agent as required by subsection (1) of this section, the paying agent shall immediately notify the State Treasurer of that failure by:

(a) Telephone;

(b) A writing sent by facsimile or electronic transmission; or



121 (c) A writing sent by first class United States mail.

122 (3) (a) If sufficient money to pay the scheduled debt
123 service payment have not been so transferred to the paying agent,
124 the State Treasurer shall, forthwith, transfer sufficient money to
125 the paying agent to make the scheduled debt service payment.

126 (b) The payment by the State Treasurer:

127 (i) Discharges the obligation of the issuing
128 district to its bond owners for the payment, but does not retire
129 any bond that has matured. The terms of that bond remain in
130 effect until the state is repaid; and

131 (ii) Transfers the rights represented by the
132 general obligation of the district from the bond owners to the
133 state.

134 (c) The district shall repay to the state the money so
135 transferred as provided in this act.

136 **SECTION 6.** (1) Any district that has issued bonds for which
137 the state has made all or part of a debt service payment shall:

138 (a) Reimburse all money drawn by the State Treasurer on
139 its behalf;

140 (b) Pay interest to the state on all money paid by the
141 state from the date that money was drawn to the date the state is
142 repaid at a rate to be prescribed by rule by the State Bond
143 Commission; and

144 (c) Pay all penalties required by this act.



145 (2) (a) The State Treasurer shall establish the
146 reimbursement interest rate after considering the circumstances of
147 any prior draws by the district on the state, market interest and
148 penalty rates, and the cost of funds or opportunity cost of
149 investments, if any, that were required to be borrowed or
150 liquidated by the state to make payment on the bonds.

151 (b) The State Treasurer may, after considering the
152 circumstances giving rise to the failure of the district to make
153 payment on its bonds in a timely manner, impose on the district a
154 penalty of not more than five percent (5%) of the amount paid by
155 the state pursuant to its guaranty for each instance in which a
156 payment by the state is made.

157 (3) (a) (i) If the State Treasurer determines that amounts
158 obtained under this chapter will not reimburse the state in full
159 within one (1) year from the state's payment of a district's
160 scheduled debt service payment, the State Treasurer may pursue any
161 legal action, including mandamus, against the district to compel
162 it to meet its repayment obligations to the state.

163 (ii) In pursuing its rights under paragraph (a)(i)
164 of this subsection, the state shall have the same substantive and
165 procedural rights as would a holder of the bonds of a district.
166 If and to the extent that the state has made payments to the
167 holders of bonds of a district under Section 5 of this act and has
168 not been reimbursed by the district, the state shall be subrogated
169 to the rights of those bond holders.



(iii) The State Treasurer may also direct the district and the appropriate county officials to restructure and revise the collection of taxes for the payment of bonds on which the State Treasurer has made payments under this act and, to the extent permitted by law, may require that the proceeds of such taxes be applied to the district's obligations to the state if all outstanding obligations of the school district payable from such taxes are fully paid or their payment is fully provided for.

(b) The district shall pay the fees, expenses, and costs incurred by the state in recovering amounts paid under the guaranty authorized by this act.

SECTION 7. The Legislature shall make provision for such amounts as may be required to make timely payments under the state school district credit enhancement program under this act in every appropriations act.

SECTION 8. The State Bond Commission may adopt any rules necessary and appropriate for the implementation and administration of this act.

SECTION 9. Section 37-59-101, Mississippi Code of 1972, is brought forward as follows:

37-59-101. The school board of any school district in the county is authorized and empowered, in its discretion, to borrow money under the terms and conditions specified in this article for the purpose of making repairs, alterations and additions to school buildings of such school districts, for the purpose of erecting



195 school buildings and other buildings used for school purposes, for
196 the purpose of purchasing heating plants, air conditioning,
197 fixtures and equipment for such buildings, for the purpose of
198 purchasing land for school purposes, school buses and
199 transportation equipment, and for the purpose of improving and
200 equipping such lands for school recreational and athletic
201 purposes.

202 **SECTION 10.** Section 37-59-103, Mississippi Code of 1972, is
203 brought forward as follows:

204 37-59-103. Before any money shall be borrowed under the
205 provisions of this article, the school board of the school
206 district shall adopt a resolution declaring the necessity for and
207 its intention of borrowing such money, specifying the amount to be
208 so borrowed, the date or dates of the maturity thereof, and how
209 such indebtedness is to be evidenced. Such resolution shall also
210 set forth the nature and approximate cost of the alterations,
211 additions, and repairs to be made, or of the erections
212 contemplated, or of the heating plant, fixtures and equipment
213 necessary to be purchased, or of the land to be purchased,
214 improved or equipped, or of the school buses and transportation
215 equipment to be purchased, as the case may be, and shall declare
216 in said resolution that no funds are available in the school funds
217 of the district or from any other source with which to make such
218 repairs, alterations, additions, purchases, erections or
219 improvements.



220 **SECTION 11.** Section 37-59-105, Mississippi Code of 1972, is
221 brought forward as follows:

222 37-59-105. The said resolution adopted by the school board
223 pursuant to Section 37-59-103 shall be published once each week
224 for two (2) consecutive weeks in a newspaper having a general
225 circulation in the school district involved, with the first
226 publication thereof to be made not less than fifteen (15) days
227 prior to the date upon which the school board is to take final
228 action upon the question of authorizing the borrowing of said
229 money. If no petition requesting an election is filed prior to
230 such meeting, then the school board shall, at said meeting, by
231 resolution spread upon its minutes, give final approval to the
232 borrowing of said money and shall authorize the issuance of
233 negotiable notes or certificates of indebtedness of the school
234 district therefor in accordance with the provisions of this
235 article.

236 If at any time prior to said meeting a petition signed by not
237 less than twenty percent (20%) of the qualified electors of the
238 school district involved shall be filed with the school board
239 requesting that an election be called on the question of incurring
240 said indebtedness, then the school board shall, not later than the
241 next regular meeting, adopt a resolution calling an election to be
242 held within such school district upon the question of the
243 incurring of said indebtedness for the purposes and in the amount
244 requested. Such election shall be called and held, and notice



thereof shall be given, in the same manner provided in Article 1 of this chapter for elections upon the question of the issuance of the bonds of school districts, and the results thereof shall be certified to the school board. If three-fifths (3/5) of the qualified electors voting in said election shall vote in favor of incurring said indebtedness, then the school board shall proceed to issue said negotiable notes or certificates of indebtedness as prayed for in the original resolution of the school board; however, if less than three-fifths (3/5) of the qualified electors voting in said election vote in favor of incurring said indebtedness, then said notes or certificates of indebtedness shall not be issued.

Money may be borrowed under the provisions of this article and the negotiable notes or certificates of indebtedness evidencing same may be issued as provided in this article (1) without the necessity of being authorized in an election called for that purpose, except where a petition requesting an election is filed as provided herein and (2) without the necessity of giving notice thereof except as specifically provided herein, and specifically without the necessity of complying with the requirements of Section 31-19-25.

SECTION 12. Section 37-59-107, Mississippi Code of 1972, is brought forward as follows:

37-59-107. The levying authority for the school district shall annually levy a special tax on all of the taxable property



of the school district on whose behalf the notes or certificates of indebtedness are issued, except as provided in Section 37-7-104.3(7), in an amount which shall be sufficient to pay the principal of and interest upon such negotiable notes or certificates of indebtedness as the same shall respectively mature and accrue, including any notes issued under the direction of a conservator of a school district pursuant to the authority of Section 37-7-104.3(7). Said tax shall be levied and collected at the same time and in the same manner as other taxes are collected and said tax shall be in addition to all other taxes authorized by law. It is expressly provided, however, that, except as provided in Section 37-7-104.3(7), such annual tax levy shall not exceed three (3) mills on the dollar for the payment of all notes issued under the provisions of this article and all notes previously issued under the statutes hereby repealed. The special tax so levied shall be collected by the tax collector of the county at the same time and in the same manner as other taxes are collected, and the proceeds thereof shall be paid to the school district and shall be used exclusively for the payment of principal of and interest upon such negotiable notes or certificates of indebtedness.

SECTION 13. Section 37-59-109, Mississippi Code of 1972, is brought forward as follows:

37-59-109. If the school district on whose behalf money is to be borrowed under the provisions of this article shall lie in



two (2) or more counties, said school board shall take all steps required by this article in the issuance of the negotiable notes or certificates of indebtedness of the district without regard to county lines. The negotiable notes or certificates of indebtedness shall be general obligations of the entire school district without regard to county lines and shall constitute a lien upon all of the taxable property thereof.

The board of supervisors of the county which furnishes the largest assessed valuation of the property in the district shall annually certify to the board of supervisors of each county in which the district is located the amount of the annual tax levy required for the payment of the principal of and interest upon said notes or certificates of indebtedness, and each such board of supervisors shall annually levy such tax at the same time and in the same manner as other taxes are levied by such board in the amount so fixed. The taxes so levied shall be collected by the tax collector of each county in the same manner as other taxes are collected and shall be remitted to the school district depository. Such school district depository shall deposit said funds to the credit of the special fund provided for in Section 37-59-107 for the payment of the principal of and interest upon such notes or certificates of indebtedness.

SECTION 14. Section 37-59-111, Mississippi Code of 1972, is brought forward as follows:



319 37-59-111. All indebtedness incurred under the provisions of
320 this article shall be evidenced by the negotiable notes or
321 certificates of indebtedness of the school district on whose
322 behalf the money is borrowed. Said notes or certificates of
323 indebtedness shall be signed by the president of the school board
324 and superintendent of schools of such school district. Such notes
325 or certificates of indebtedness shall not bear a greater overall
326 maximum interest rate to maturity than the rates now or hereafter
327 authorized under the provisions of Section 19-9-19. No such notes
328 or certificates of indebtedness shall be issued and sold for less
329 than par and accrued interest. All such notes or certificates of
330 indebtedness shall mature according to the following:

331 (a) All notes or certificates of indebtedness issued
332 for purposes authorized under Section 37-59-101, with the
333 exception of the financing of school buses and transportation
334 equipment, shall mature in approximately equal installments of
335 principal and interest over a period not to exceed twenty (20)
336 years from the date of issuance thereof. Provided, however, that
337 if negotiable notes used to finance other such capital
338 improvements are outstanding from not more than one (1) previous
339 issue authorized under the provisions of this article, then the
340 schedule of payments for a new or supplementary issue may be so
341 adjusted that the schedule of maturities of all notes or series of
342 notes hereunder shall, when combined, mature in approximately
343 equal installments of principal and interest over a period of



344 twenty (20) years from the date of the new or supplementary issue,
345 or if a lower interest rate will be secured on notes previously
346 issued and outstanding, a portion of the proceeds of any issue
347 authorized hereunder may be used to refund the balance of the
348 indebtedness previously issued under the authority of this
349 article.

350 (b) All notes or certificates of indebtedness for
351 purposes of financing of school buses and transportation equipment
352 shall mature in approximately equal installments of principal and
353 interest over a period not to exceed ten (10) years from the date
354 of issuance thereof. Provided, however, that if negotiable notes
355 used to finance such noncapital improvements are outstanding from
356 not more than one (1) previous issue authorized under the
357 provisions of this article, then the schedule of payments for a
358 new or supplementary issue may be so adjusted that the schedule of
359 maturities of all notes or series of notes hereunder shall, when
360 combined, mature in approximately equal installments of principal
361 and interest over a period of ten (10) years from the date of the
362 new or supplementary issue, or if a lower interest rate will
363 thereby be secured on notes previously issued and outstanding, a
364 portion of the proceeds of any issue authorized hereunder may be
365 used to refund the balance of the indebtedness previously issued
366 under the authority of this article.

367 Such notes or certificates of indebtedness shall be issued in
368 such form and in such denominations as may be determined by the



369 school board, and same may be made payable at the office of any
370 bank or trust company selected by the school board, and, in such
371 case, funds for the payment of principal and interest due thereon
372 shall be provided in the same manner provided by law for the
373 payment of the principal and interest due on bonds issued by the
374 taxing districts of this state.

375 Any school district in Mississippi may borrow money from the
376 United States Department of Agriculture Rural Development agency
377 under any provision of state or federal law that provides for the
378 borrowing of money by school districts.

379 **SECTION 15.** Section 37-59-113, Mississippi Code of 1972, is
380 brought forward as follows:

381 37-59-113. The proceeds of any negotiable notes or
382 certificates of indebtedness issued under the provisions of this
383 article shall be placed in a special fund and shall be expended
384 only for the purpose or purposes for which they were issued as
385 shown by the resolution authorizing the issuance thereof. If a
386 balance shall remain of the proceeds of such notes or certificates
387 of indebtedness after the purpose or purposes for which same were
388 issued shall be accomplished, such balance shall forthwith be
389 transferred to the special fund set up for the payment thereof in
390 Section 37-59-107.

391 **SECTION 16.** Section 37-59-115, Mississippi Code of 1972, is
392 brought forward as follows:



393 37-59-115. The indebtedness incurred under the authority of
394 this article shall not be included in computing the statutory
395 limitation upon the indebtedness which may be incurred by school
396 districts as provided in Article 1 of this chapter, or any other
397 statute, but shall be in addition thereto. The only limitation
398 upon the amount of indebtedness which may be incurred under the
399 provisions of this article shall be that provided in Section
400 37-59-107.

401 **SECTION 17.** This act shall take effect and be in force from
402 and after January 1, 2026.

