

By: Senator(s) Carlton

To: Finance

SENATE BILL NO. 3095

1 AN ACT TO CREATE THE "CHILD CARE FACILITIES DEMONSTRATION
2 PROJECT REVOLVING LOAN FUND"; TO PROVIDE THAT THE MISSISSIPPI
3 DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT SHALL ADMINISTER
4 SUCH FUND AS A REVOLVING FUND FOR THE PURPOSE OF MAKING LOANS TO
5 ASSIST ECONOMIC DEVELOPMENT ORGANIZATIONS IN COOPERATION WITH
6 FIRMS, CORPORATIONS OR OTHER ENTITIES IN BUILDING CHILD CARE
7 FACILITIES IN CERTAIN COUNTIES THROUGH A LOAN PROGRAM WHICH SHALL
8 BE ESTABLISHED AND IMPLEMENTED BY THE DEPARTMENT; TO AUTHORIZE THE
9 ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE OF MISSISSIPPI
10 IN THE AMOUNT OF THREE MILLION DOLLARS TO FUND THE DEPENDENT CARE
11 FACILITIES REVOLVING LOAN FUND; AND FOR RELATED PURPOSES.

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

13 SECTION 1. The Legislature finds that in order to support
14 welfare reform and promote economic development in the state,
15 citizens of the state must participate in the work force to the
16 fullest possible extent. One of the immediate concerns facing
17 working families making the transition from welfare to the work
18 force is the need for affordable quality child care available
19 during their working hours. It is the purpose of this act to
20 provide a means whereby employers in conjunction with local
21 economic development organizations can assist employees in
22 addressing their child care needs.

23 SECTION 2. As used in this act, the following words shall
24 have the meanings ascribed herein unless the context clearly
25 requires otherwise:

26 (a) "Accreted value" of any bond means, as of any date
27 of computation, an amount equal to the sum of (i) the stated
28 initial value of such bond, plus (ii) the interest accrued thereon
29 from the issue date to the date of computation at the rate,
30 compounded semiannually, that is necessary to produce the

31 approximate yield to maturity shown for bonds of the same
32 maturity.

33 (b) "State" means the State of Mississippi.

34 (c) "Commission" means the State Bond Commission.

35 (d) "Consortium" means any local business entity or
36 entities participating with the specified economic development
37 organization in a targeted county.

38 (e) "Department" means the Mississippi Department of
39 Economic and Community Development.

40 (f) "Economic development organization" means any
41 economic development organization operated in any county and
42 recognized by the Mississippi Department of Economic and Community
43 Development.

44 SECTION 3. (1) There is created a special fund in the State
45 Treasury to be designated the "Child Care Facilities Demonstration
46 Project Revolving Loan Fund." The fund shall be administered by
47 the department as a revolving fund for the purpose of making loans
48 to assist economic development organizations in cooperation with
49 firms, corporations or other entities in building child care
50 facilities in the state through a loan program which shall be
51 established and implemented by the department. The fund shall
52 consist of the proceeds of bonds issued under this act, all loan
53 repayments, penalties, and other fees and charges accruing to the
54 fund, and any appropriations, donations, gifts, grants or loans
55 which may be made thereto. Unexpended amounts remaining in the
56 fund at the end of a fiscal year shall not lapse into the State
57 General Fund. Any investment earnings on amounts deposited into
58 the fund shall be used to pay debt service on bonds issued under
59 this act.

60 (2) (a) The department shall have all powers necessary to
61 implement and administer the program established under this
62 section, and the department shall promulgate rules and regulations
63 necessary for the implementation and administration of the
64 program. In developing any such rules and regulations, the
65 department shall ensure that:

66 (i) Funds provided under the program are used
67 solely for construction-related expenses to establish child care

68 facilities;

69 (ii) The building design of any facility will
70 allow for other use of the facility should it no longer be used to
71 provide child care;

72 (iii) The organization applying for assistance has
73 the financial capacity to repay any loan received under the
74 program;

75 (iv) Facilities established with funds under the
76 program provide programs of child care that exceed the minimum
77 standards established by the Department of Health for the
78 operation of child care facilities;

79 (v) All facilities established under the program
80 are of the same design, size and specifications as determined by
81 the department;

82 (vi) Funds provided under the program are
83 available to meet the child care needs of all families, including
84 low-income families;

85 (vii) The application process used in the program
86 is inclusive and recognizes the viability of both nonprofit and
87 for-profit organizations and affords access to minority owned
88 and/or operated enterprises; and

89 (viii) Funds provided under the program will be
90 equally distributed throughout the state.

91 The department shall also require that each application for
92 assistance under the program include the methodology by which an
93 applicant will make child care affordable to employees unable to
94 pay the full cost of such care, bid specifications for both the
95 construction and operation of the facility which shall be in
96 compliance with paragraph (b) of this subsection (2), and a
97 business plan addressing the proposed operation of the facility.

98 (b) Any economic development organization that receives
99 a loan from the department under this section for assistance in
100 building a child care facility shall contract for the construction

101 of the child care facility and contract for the operation of the
102 child care facility as follows:

103 (i) The economic development organization shall
104 contract with the lowest and best bidder to provide each of those
105 services, after advertising for competitive sealed bids once each
106 week for two (2) consecutive weeks in a regular newspaper
107 published in the county in which the organization is located. The
108 date published for the bid opening shall not be less than fifteen
109 (15) working days after the last published notice. The notice of
110 intention to let contracts shall state the time and place at which
111 bids will be received, list the contracts to be made or types of
112 services to be performed, and, if all plans and/or specifications
113 are not published, refer to the plans and/or specifications on
114 file. If there is no newspaper published in the county, then the
115 notice shall be given by posting at the courthouse and at two (2)
116 other public places in the county, and also by publication once
117 each week for two (2) consecutive weeks in some newspaper having a
118 general circulation in the county in the manner described in this
119 subparagraph.

120 (ii) If any economic development organization
121 accepts a bid other than the lowest bid actually submitted, it
122 shall place on its minutes detailed calculations and narrative
123 summary showing that the accepted bid was determined to be the
124 lowest and best bid, including the dollar amount of the accepted
125 bid and the dollar amount of the lowest bid.

126 (iii) Whenever bids are solicited as required in
127 this paragraph (b) and only one (1) bid is received, the economic
128 development organization may accept the bid if the bid is opened,
129 it is within the funds allocated for the services to be provided,
130 it is responsive to the solicitation and the contractor is capable
131 of performing the contract in accordance with the solicitation.

132 SECTION 4. (1) The commission, at one time, or from time to
133 time, may declare by resolution the necessity for issuance of

134 general obligation bonds of the State of Mississippi to provide
135 funds for all costs incurred or to be incurred for the purposes
136 described in Section 3 of this act. Upon the adoption of a
137 resolution by the department, declaring the necessity for the
138 issuance of any part or all of the general obligation bonds
139 authorized by this section, the department shall deliver a
140 certified copy of its resolution or resolutions to the commission.
141 Upon receipt of such resolution, the commission, in its
142 discretion, may act as the issuing agent, prescribe the form of
143 the bonds, advertise for and accept bids, issue and sell the bonds
144 so authorized to be sold and do any and all other things necessary
145 and advisable in connection with the issuance and sale of such
146 bonds. The total amount of bonds issued under this act shall not
147 exceed Three Million Dollars (\$3,000,000.00).

148 (2) Any investment earnings on amounts deposited into the
149 special fund created in Section 3 of this act shall be used to pay
150 debt service on bonds issued under this act, in accordance with
151 the proceedings authorizing issuance of such bonds.

152 SECTION 5. The principal of and interest on the bonds
153 authorized under this act shall be payable in the manner provided
154 in this section. Such bonds shall bear such date or dates, be in
155 such denomination or denominations, bear interest at such rate or
156 rates (not to exceed the limits set forth in Section 75-17-101,
157 Mississippi Code of 1972), be payable at such place or places
158 within or without the State of Mississippi, shall mature
159 absolutely at such time or times not to exceed twenty-five (25)
160 years from date of issue, be redeemable before maturity at such
161 time or times and upon such terms, with or without premium, shall
162 bear such registration privileges, and shall be substantially in
163 such form, all as shall be determined by resolution of the
164 commission.

165 SECTION 6. The bonds authorized by this act shall be signed
166 by the chairman of the commission, or by his facsimile signature,

167 and the official seal of the commission shall be affixed thereto,
168 attested by the secretary of the commission. The interest
169 coupons, if any, to be attached to such bonds may be executed by
170 the facsimile signatures of such officers. Whenever any such
171 bonds shall have been signed by the officials designated to sign
172 the bonds who were in office at the time of such signing but who
173 may have ceased to be such officers before the sale and delivery
174 of such bonds, or who may not have been in office on the date such
175 bonds may bear, the signatures of such officers upon such bonds
176 and coupons shall nevertheless be valid and sufficient for all
177 purposes and have the same effect as if the person so officially
178 signing such bonds had remained in office until their delivery to
179 the purchaser, or had been in office on the date such bonds may
180 bear. However, notwithstanding anything herein to the contrary,
181 such bonds may be issued as provided in the Registered Bond Act of
182 the State of Mississippi.

183 SECTION 7. All bonds and interest coupons issued under the
184 provisions of this act have all the qualities and incidents of
185 negotiable instruments under the provisions of the Mississippi
186 Uniform Commercial Code, and in exercising the powers granted by
187 this act, the commission shall not be required to and need not
188 comply with the provisions of the Mississippi Uniform Commercial
189 Code.

190 SECTION 8. The commission shall act as the issuing agent for
191 the bonds authorized under this act, prescribe the form of the
192 bonds, advertise for and accept bids, issue and sell the bonds so
193 authorized to be sold, pay all fees and costs incurred in such
194 issuance and sale, and do any and all other things necessary and
195 advisable in connection with the issuance and sale of such bonds.
196 The commission is authorized and empowered to pay the costs that
197 are incident to the sale, issuance and delivery of the bonds
198 authorized under this act from the proceeds derived from the sale
199 of such bonds. The commission shall sell such bonds on sealed

200 bids at public sale, and for such price as it may determine to be
201 for the best interest of the State of Mississippi, but no such
202 sale shall be made at a price less than par plus accrued interest
203 to the date of delivery of the bonds to the purchaser. All
204 interest accruing on such bonds so issued shall be payable
205 semiannually or annually; however, the first interest payment may
206 be for any period of not more than one (1) year.

207 Notice of the sale of any such bonds shall be published at
208 least one (1) time, not less than ten (10) days before the date of
209 sale, and shall be so published in one or more newspapers
210 published or having a general circulation in the City of Jackson,
211 Mississippi, and in one or more other newspapers or financial
212 journals with a national circulation, to be selected by the
213 commission.

214 The commission, when issuing any bonds under the authority of
215 this act, may provide that bonds, at the option of the State of
216 Mississippi, may be called in for payment and redemption at the
217 call price named therein and accrued interest on such date or
218 dates named therein.

219 SECTION 9. The bonds issued under the provisions of this act
220 are general obligations of the State of Mississippi, and for the
221 payment thereof the full faith and credit of the State of
222 Mississippi is irrevocably pledged. If the funds appropriated by
223 the Legislature are insufficient to pay the principal of and the
224 interest on such bonds as they become due, then the deficiency
225 shall be paid by the State Treasurer from any funds in the State
226 Treasury not otherwise appropriated. All such bonds shall contain
227 recitals on their faces substantially covering the provisions of
228 this section.

229 SECTION 10. Upon the issuance and sale of bonds under the
230 provisions of this act, the commission shall transfer the proceeds
231 of any such sale or sales to the special fund created in Section 3
232 of this act. The proceeds of such bonds shall be disbursed solely

233 upon the order of the department under such restrictions, if any,
234 as may be contained in the resolution providing for the issuance
235 of the bonds.

236 SECTION 11. The bonds authorized under this act may be
237 issued without any other proceedings or the happening of any other
238 conditions or things other than those proceedings, conditions and
239 things which are specified or required by this act. Any
240 resolution providing for the issuance of bonds under the
241 provisions of this act shall become effective immediately upon its
242 adoption by the commission, and any such resolution may be adopted
243 at any regular or special meeting of the commission by a majority
244 of its members.

245 SECTION 12. The bonds authorized under the authority of this
246 act may be validated in the Chancery Court of the First Judicial
247 District of Hinds County, Mississippi, in the manner and with the
248 force and effect provided by Chapter 13, Title 31, Mississippi
249 Code of 1972, for the validation of county, municipal, school
250 district and other bonds. The notice to taxpayers required by
251 such statutes shall be published in a newspaper published or
252 having a general circulation in the City of Jackson, Mississippi.

253 SECTION 13. Any holder of bonds issued under the provisions
254 of this act or of any of the interest coupons pertaining thereto
255 may, either at law or in equity, by suit, action, mandamus or
256 other proceeding, protect and enforce any and all rights granted
257 under this act, or under such resolution, and may enforce and
258 compel performance of all duties required by this act to be
259 performed, in order to provide for the payment of bonds and
260 interest thereon.

261 SECTION 14. All bonds issued under the provisions of this
262 act shall be legal investments for trustees and other fiduciaries,
263 and for savings banks, trust companies and insurance companies
264 organized under the laws of the State of Mississippi, and such
265 bonds shall be legal securities which may be deposited with and

266 shall be received by all public officers and bodies of this state
267 and all municipalities and political subdivisions for the purpose
268 of securing the deposit of public funds.

269 SECTION 15. Bonds issued under the provisions of this act
270 and income therefrom shall be exempt from all taxation in the
271 State of Mississippi.

272 SECTION 16. The proceeds of the bonds issued under this act
273 shall be used solely for the purposes herein provided, including
274 the costs incident to the issuance and sale of such bonds.

275 SECTION 17. The State Treasurer is authorized, without
276 further process of law, to certify to the Department of Finance
277 and Administration the necessity for warrants, and the Department
278 of Finance and Administration is authorized and directed to issue
279 such warrants, in such amounts as may be necessary to pay when due
280 the principal of, premium, if any, and interest on, or the
281 accreted value of, all bonds issued under this act; and the State
282 Treasurer shall forward the necessary amount to the designated
283 place or places of payment of such bonds in ample time to
284 discharge such bonds, or the interest thereon, on the due dates
285 thereof.

286 SECTION 18. Sections 2 through 18 of this act shall be
287 deemed to be full and complete authority for the exercise of the
288 powers herein granted, but this act shall not be deemed to repeal
289 or to be in derogation of any existing law of this state.

290 SECTION 19. This act shall take effect and be in force from
291 and after its passage.