HOUSE BILL NO. 1455

AN ACT TO PROVIDE FOR A WITHHOLDING TAX REFUND TO AN EMPLOYER HAVING A GAMING LICENSE ISSUED UNDER THE MISSISSIPPI GAMING CONTROL ACT AND PROVIDING DEPENDENT CARE AT THE EMPLOYMENT SITE FOR EMPLOYEES DURING WORK HOURS; TO PROVIDE FOR THE AMOUNT OF THE REFUND WHICH WILL BE BASED ON COSTS INCURRED BY AN EMPLOYER IN PROVIDING DEPENDENT CARE FOR EMPLOYEES; TO PROVIDE THAT THE STATE TAX COMMISSION SHALL DETERMINE THE ELIGIBILITY OF AN EMPLOYER; TO CREATE A SPECIAL FUND IN THE STATE TREASURY TO BE KNOWN AS THE "MISSISSIPPI EMPLOYER DEPENDENT CARE EXPENSE REFUND PAYMENT FUND"; TO PROVIDE THAT THE WITHHOLDING TAX COLLECTED FROM AN EMPLOYER ELIGIBLE TO RECEIVE REFUND PAYMENTS SHALL BE DEPOSITED INTO THE SPECIAL FUND FOLLOWING THE CLOSE OF EACH CALENDAR QUARTER; TO PROVIDE THAT MONEY IN THE SPECIAL FUND SHALL BE USED TO MAKE REFUND PAYMENTS TO AN EMPLOYER; TO PROVIDE FOR ANNUAL REFUND PAYMENTS; AND FOR RELATED PURPOSES.

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

SECTION 1. The following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Commission" means the State Tax Commission.

(b) "Employer" means a business, corporation or other entity having a gaming license issued under Section 75-76-1 et seq.

SECTION 2. (1) A fifty percent (50%) withholding tax refund shall be provided to an employer providing dependent care at the employment site for employees during the employee's work hours. The percentage of the refund is applied to the net cost of any contract executed by the employer for another entity to provide dependent care; or, if the employer elects to provide dependent care itself, to expenses of dependent care staff, learning and recreational materials and equipment, and the construction and maintenance of a facility. This cost is net of any reimbursement.
The refund allowed under this section shall not be used by any business, corporation or other entity other than the business, corporation or other entity actually qualifying for the refund.

(2) A refund may be carried forward for five (5) successive years if the amount allowable as a refund exceeds the employer's liability under Section 75-76-177 for the year in which the refund is claimed; however, thereafter, if the amount allowable as a refund exceeds such liability, the amount of excess refund shall not be refundable or carried forward.

(3) A facility must have an average daily enrollment for the year in which the refund is claimed of no less than six (6) children who are twelve (12) years of age or less and be licensed according to the regulations governing licensure of child care facilities in Mississippi; or must serve five (5) or fewer children and/or elderly adults in a family child care/elder care home at the employment site and approved by the Department of Health for participation in the United States Department of Agriculture child and adult nutrition program; or must serve children over twelve (12) years of age but less than eighteen (18) years of age in a facility at the employment site; or must serve adult relatives of employees in a facility at the employment site; or must serve children or adult dependents having physical, emotional or mental disabilities in a facility at the employment site.

(4) In order to receive a refund under this section, an employer must apply to the commission. The application shall be on a form prescribed by the commission and shall contain such information as may be required by the commission to determine if the applicant is qualified to receive refund payments. The commission shall determine if the applicant is qualified to receive refund payments. If the commission determines the applicant is qualified, it shall notify the applicant and provide
it with a copy of the approved application. The commission shall
make refund payments to an employer on an annual basis.

SECTION 3. (1) There is created in the State Treasury a
special fund to be known as the Mississippi Employer Dependent
Care Expense Refund Payment Fund, into which shall be deposited
withholding tax revenue required to be deposited into such fund
pursuant to Section 4 of this act. The special fund shall be
administered by the commission, and monies in the fund, less three
percent (3%) to be retained by the commission to pay the
reasonable and necessary expenses of the commission in
administering its duties under this act, shall be expended for the
purpose of making refund payments authorized in Section 2 of this
act. Amounts in the fund at the end of any fiscal year that are
not necessary to make future refund payments shall be paid into
the General Fund.

(2) The liability of the State of Mississippi to make the
refund payments authorized under this act shall be limited to the
balance contained in the fund.

SECTION 4. The revenue collected under the provisions of
Article 3, Chapter 7, Title 27, Mississippi Code of 1972, from an
employer who is eligible to receive refund payments under Section
2 of this act shall be deposited into the Mississippi Employer
Dependent Care Expense Refund Payment Fund created in Section 3 of
this act on or before the twentieth day of the month following the
close of each calendar quarter.

SECTION 5. This act shall take effect and be in force from
and after July 1, 2001.