

By: Representative Creel

To: Ways and Means

HOUSE BILL NO. 1455

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

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

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

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

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

24 SECTION 2. (1) A fifty percent (50%) withholding tax refund
 25 shall be provided to an employer providing dependent care at the
 26 employment site for employees during the employee's work hours.
 27 The percentage of the refund is applied to the net cost of any
 28 contract executed by the employer for another entity to provide
 29 dependent care; or, if the employer elects to provide dependent
 30 care itself, to expenses of dependent care staff, learning and
 31 recreational materials and equipment, and the construction and
 32 maintenance of a facility. This cost is net of any reimbursement.

33 The refund allowed under this section shall not be used by any
34 business, corporation or other entity other than the business,
35 corporation or other entity actually qualifying for the refund.

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

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

57 (4) In order to receive a refund under this section, an
58 employer must apply to the commission. The application shall be
59 on a form prescribed by the commission and shall contain such
60 information as may be required by the commission to determine if
61 the applicant is qualified to receive refund payments. The
62 commission shall determine if the applicant is qualified to
63 receive refund payments. If the commission determines the
64 applicant is qualified, it shall notify the applicant and provide

65 it with a copy of the approved application. The commission shall
66 make refund payments to an employer on an annual basis.

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

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

83 SECTION 4. The revenue collected under the provisions of
84 Article 3, Chapter 7, Title 27, Mississippi Code of 1972, from an
85 employer who is eligible to receive refund payments under Section
86 2 of this act shall be deposited into the Mississippi Employer
87 Dependent Care Expense Refund Payment Fund created in Section 3 of
88 this act on or before the twentieth day of the month following the
89 close of each calendar quarter.

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