MISSISSIPPI LEGISLATURE

REGULAR SESSION 2020

By: Senator(s) Blount

To: Finance

SENATE BILL NO. 3025

AN ACT TO CREATE THE "2020 COVID-19 MISSISSIPPI INDEPENDENT COLLEGE AND UNIVERSITY LOAN FUND"; TO AUTHORIZE THE ISSUANCE OF STATE GENERAL OBLIGATION BONDS TO PROVIDE FUNDS FOR LOANS TO CERTAIN INDEPENDENT UNDERGRADUATE COLLEGES AND UNIVERSITIES WITHIN THE STATE; TO CREATE A BOND SINKING FUND, FROM WHICH THE PRINCIPAL OF AND INTEREST ON SUCH BONDS SHALL BE PAID BY APPROPRIATION, AND INTO WHICH ALL MONIES RECEIVED FROM THE COLLEGES AND UNIVERSITIES IN REPAYMENT OF THE PRINCIPAL OF THE LOANS AUTHORIZED UNDER THIS ACT SHALL BE DEPOSITED; TO SET OUT CONDITIONS TO WHICH THE COLLEGES AND UNIVERSITIES MUST AGREE IN ORDER TO BE ELIGIBLE FOR THE LOANS; TO PROVIDE THAT, OF THE AMOUNT DISBURSED IN LOANS, HALF SHALL BE DIVIDED EQUALLY AMONG THE ELIGIBLE COLLEGES AND UNIVERSITIES, WITH THE REMAINDER DIVIDED PRO RATA BASED ON THE TOTAL ENROLLMENT DATA REPORTED TO THE INTEGRATED POSTSECONDARY EDUCATION SYSTEM (IPEDS) MAINTAINED BY THE UNITED STATES DEPARTMENT OF EDUCATION NATIONAL CENTER FOR EDUCATION STATISTICS FOR THE TWO MOST RECENTLY REPORTED SCHOOL YEARS; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) As used in this section, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) "Accreted value" of any bond means, as of any date of computation, an amount equal to the sum of (i) the stated initial value of such bond, plus (ii) the interest accrued thereon from the issue date to the date of computation at the rate,
compounded semiannually, that is necessary to produce the approximate yield to maturity shown for bonds of the same maturity.

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

c) "Commission" means the State Bond Commission.

(2) (a) (i) A special fund, to be designated the "2020 COVID-19 Mississippi Independent College and University Loan Fund," is created within the State Treasury. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into such fund.

(ii) Monies deposited into the fund shall be disbursed by the Department of Finance and Administration to provide interest-free loans to the seven (7) colleges and universities that are members of the Mississippi Association of Independent Colleges and Universities (MAICU) and accredited by the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) as of the effective date of this act, for relief from economic hardship caused by required and voluntary measures to contain the Coronavirus Disease 2019 (COVID-19). Loan monies shall be disbursed according to the terms set out in Section 2 of this act.
(b) Amounts deposited into such special fund shall be disbursed to pay the costs of the projects described in paragraph (a) of this subsection. Promptly after the commission has certified, by resolution duly adopted, that the projects described in paragraph (a) of this subsection have been completed, abandoned, or cannot be completed in a timely fashion, any amounts remaining in such special fund shall be applied to pay debt service on the bonds issued under this section, in accordance with the proceedings authorizing the issuance of such bonds and as directed by the commission.

(3) (a) The commission, at one time, or from time to time, may declare by resolution the necessity for issuance of general obligation bonds of the State of Mississippi to provide funds for all costs incurred or to be incurred for the purposes described in subsection (2) of this section. Upon the adoption of a resolution by the Department of Finance and Administration, declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by this subsection, the department shall deliver a certified copy of its resolution or resolutions to the commission. Upon receipt of such resolution, the commission shall act as the issuing agent, prescribe the form of the bonds, determine the appropriate method for sale of the bonds, advertise for and accept bids or negotiate the sale of the bonds, issue and sell the bonds so authorized to be sold, and do any and all other things necessary and advisable in connection with the issuance and
sale of such bonds. The total amount of bonds issued under this section shall be Twenty Million Dollars ($20,000,000.00), to be issued as soon as practicable after the effective date of this act.

(b) Any investment earnings on amounts deposited into the special fund created in subsection (2) of this section shall be used to pay debt service on bonds issued under this section, in accordance with the proceedings authorizing issuance of such bonds.

(c) There is hereby created the "2020 COVID-19 Mississippi Independent College and University Loan Bond Sinking Fund," from which the principal of and interest on such bonds shall be paid by appropriation. All monies received from the colleges and universities in repayment of the principal of the loans authorized under this act shall be deposited into this bond sinking fund. Any monies paid into the sinking fund not appropriated to pay accruing bonds and interest shall be invested by the State Treasurer in such securities as are provided by law for the investment of the sinking funds of the state.

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

(5) The bonds authorized by this section shall be signed by the chairman of the commission, or by his facsimile signature, and the official seal of the commission shall be affixed thereto, attested by the secretary of the commission. The interest coupons, if any, to be attached to such bonds may be executed by the facsimile signatures of such officers. Whenever any such bonds have been signed by the officials designated to sign the bonds who were in office at the time of such signing, but who may have ceased to be such officers before the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds and coupons shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until their delivery to the purchaser, or had been in office on the date such bonds may bear. However, notwithstanding anything herein to the contrary, such bonds may be issued as provided in the Registered Bond Act of the State of Mississippi.
(6) All bonds and interest coupons issued under the provisions of this section have all the qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code, and in exercising the powers granted by this section, the commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code.

(7) The commission shall act as issuing agent for the bonds authorized under this section, prescribe the form of the bonds, determine the appropriate method for sale of the bonds, advertise for and accept bids or negotiate the sale of the bonds, issue and sell the bonds so authorized to be sold, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The commission is authorized and empowered to pay the costs that are incident to the sale, issuance and delivery of the bonds authorized under this section from the proceeds derived from the sale of such bonds. The commission may sell such bonds on sealed bids at public sale or may negotiate the sale of the bonds for such price as it may determine to be for the best interest of the State of Mississippi. All interest accruing on such bonds so issued shall be payable semiannually or annually.

If such bonds are sold by sealed bids at public sale, notice of the sale shall be published at least one time, not less than ten (10) days before the date of sale, and shall be so published in one or more newspapers published or having a general
circulation in the City of Jackson, Mississippi, selected by the commission.

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

(8) The bonds issued under the provisions of this section are general obligations of the State of Mississippi, and for the payment thereof the full faith and credit of the State of Mississippi is irrevocably pledged. If the funds appropriated by the Legislature are insufficient to pay the principal of and the interest on such bonds as they become due, then the deficiency shall be paid by the State Treasurer from any funds in the State Treasury not otherwise appropriated. All such bonds shall contain recitals on their faces substantially covering the provisions of this subsection.

(9) Upon the issuance and sale of bonds under the provisions of this section, the commission shall transfer the proceeds of any such sale or sales to the special fund created in subsection (2) of this section. The proceeds of such bonds shall be disbursed solely upon the order of the Department of Finance and Administration under such restrictions, if any, as may be contained in the resolution providing for the issuance of the bonds.
(10) The bonds authorized under this section may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by this section. Any resolution providing for the issuance of bonds under the provisions of this section shall become effective immediately upon its adoption by the commission, and any such resolution may be adopted at any regular or special meeting of the commission by a majority of its members.

(11) The bonds authorized under the authority of this section may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided by Title 31, Chapter 13, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The notice to taxpayers required by such statutes shall be published in a newspaper published or having a general circulation in the City of Jackson, Mississippi.

(12) Any holder of bonds issued under the provisions of this section or of any of the interest coupons pertaining thereto may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights granted under this section, or under such resolution, and may enforce and compel performance of all duties required by this section to be performed, in order to provide for the payment of bonds and interest thereon.
(13) All bonds issued under the provisions of this section shall be legal investments for trustees and other fiduciaries, and for savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi, and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for the purpose of securing the deposit of public funds.

(14) Bonds issued under the provisions of this section and income therefrom shall be exempt from all taxation in the State of Mississippi.

(15) The proceeds of the bonds issued under this section shall be used solely for the purposes herein provided, including the costs incident to the issuance and sale of such bonds.

(16) The State Treasurer is authorized, without further process of law, to certify to the Department of Finance and Administration the necessity for warrants. The Department of Finance and Administration is authorized and directed to issue such warrants, in such amounts as may be necessary to pay when due the principal of, premium, if any, and interest on, or the accreted value of, all bonds issued under this section. The State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.
(17) This section shall be deemed to be full and complete authority for the exercise of the powers herein granted, but this section shall not be deemed to repeal or to be in derogation of any existing law of this state.

SECTION 2. (1) In order to receive a loan under this act, each college or university must enter into a loan agreement with the Department of Finance and Administration. The loan documents should be signed by the President or an official of the college or university with proper authority to sign in a representative capacity. The terms and conditions of the loan agreement shall be determined by the Department of Finance and Administration.

(2) The loan agreement must include, but is not limited to, the following terms and conditions:

(a) The college or university will repay the State of Mississippi the entire amount of the principal of the loan within ten (10) years of the date the loan is received;

(b) To the extent allowed by law, the State of Mississippi will have priority against other creditors for the repayment of the loan principal under this act; and

(c) The funds will not be used to increase the salary of any employee who is not a full-time faculty professor. Any violation of this prohibition will cause the outstanding principal amount to become due immediately.

(3) Of the amount available for loan under the act, half shall be divided equally among the eligible colleges and
universities, with the remainder divided pro rata based on the Total Enrollment data for full-time in-person enrollment reported to the Integrated Postsecondary Education System (IPEDS) maintained by the United States Department of Education National Center for Education Statistics for the two (2) most recently reported school years. This calculation should be verified by the Mississippi Association of Independent Colleges and Universities (MAICU).

SECTION 3. This act shall take effect and be in force from and after its passage.