

By: Representative Fleming

To: Gaming; Ways and Means

HOUSE BILL NO. 554

1 AN ACT TO CREATE A STATE LOTTERY; TO PROVIDE THAT THE STATE
 2 LOTTERY SHALL BE ADMINISTERED BY THE MISSISSIPPI GAMING
 3 COMMISSION; TO PROVIDE THE POWERS AND DUTIES OF THE MISSISSIPPI
 4 GAMING COMMISSION REGARDING THE STATE LOTTERY; TO PROVIDE FOR THE
 5 DISPOSITION OF PROCEEDS RECEIVED FROM THE SALE OF LOTTERY TICKETS;
 6 TO PROVIDE THAT THE LOTTERY MAY BE CONDUCTED IN ANY COUNTY OF THE
 7 STATE THAT ELECTS TO PARTICIPATE IN THE LOTTERY; TO PROVIDE THE
 8 PROCEDURE FOR AN ELECTION TO BE CONDUCTED IN A COUNTY TO DETERMINE
 9 WHETHER THE COUNTY WILL PARTICIPATE IN THE LOTTERY; TO CREATE THE
 10 TRUST FUND INTO WHICH A PORTION OF THE PROCEEDS COLLECTED FROM THE
 11 SALE OF LOTTERY TICKETS SHALL BE DEPOSITED; TO PROVIDE THAT THE
 12 INVESTMENT EARNINGS FROM THE TRUST FUND MAY BE APPROPRIATED BY THE
 13 LEGISLATURE FOR THE PURPOSE OF PROVIDING FUNDS; TO AMEND SECTIONS
 14 37-106-5, 67-1-71, 75-76-3, 75-76-5, 97-33-9, 97-33-11, 97-33-13,
 15 97-33-21, 97-33-23, 97-33-31, 97-33-33, 97-33-35, 97-33-37,
 16 97-33-39, 97-33-41, 97-33-43, 97-33-45, 97-33-47 AND 97-33-49,
 17 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS
 18 ACT; TO AMEND SECTION 27-65-111, MISSISSIPPI CODE OF 1972, TO
 19 EXEMPT FROM SALES TAXATION THE SALE OF LOTTERY TICKETS; AND FOR
 20 RELATED PURPOSES.

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

22 **SECTION 1.** As used in Sections 1 through 3 of this act, the
 23 following words and phrases shall have the meanings ascribed in
 24 this section unless the context clearly indicates otherwise:

25 (a) "Commission" means the Mississippi Gaming
 26 Commission.

27 (b) "Distributor" means any person authorized by the
 28 Mississippi Gaming Commission to distribute lottery tickets to
 29 retailers. A person having a gaming license issued under Section
 30 75-76-1 et seq., may be a distributor.

31 (c) "Lottery" means any activity approved by the
 32 Mississippi Gaming Commission in which:

33 (i) The player or players pay or agree to pay
 34 something of value for chances, represented and differentiated by
 35 tickets, slips of paper or other physical and tangible
 36 documentation upon which appear numbers, symbols, characters or

37 other distinctive marks used to identify and designate the winner
38 or winners;

39 (ii) The winning chance or chances are to be
40 determined by a drawing or similar selection method based
41 predominately upon the element of chance or random selection
42 rather than upon the skill or judgment of the player or players;

43 (iii) The holder or holders of the winning chance
44 or chances are to receive a prize or something of valuable
45 consideration; and

46 (iv) The activity is conducted and participated in
47 without regard to geographical location, with the player or
48 players not being required to be present upon any particular
49 premises or at any particular location in order to participate or
50 to win.

51 (d) "Person" means any association, corporation, firm,
52 partnership, trust or other form or business association as well
53 as a natural person.

54 (e) "Retailer" means any person authorized by the
55 Mississippi Gaming Commission to sell lottery tickets to the
56 public. A person having a gaming license issued under Section
57 75-76-1 et seq., may be a retailer if located in a county that has
58 elected to participate in the state lottery.

59 **SECTION 2.** (1) There is created and established a state
60 lottery.

61 (2) The Mississippi Gaming Commission shall administer the
62 state lottery and shall have the authority to:

63 (a) Prescribe the method and form of application which
64 an applicant for a distributor's license or retailer's license, or
65 both, must follow and complete before consideration of his
66 application by the commission;

67 (b) Prescribe guidelines for the review of applications
68 for licenses and the approval or disapproval of such applications;

69 (c) Require an applicant to pay all or any part of the
70 fees and costs of investigation of such applicant as may be
71 determined by the commission, except that no applicant for an
72 initial license shall be required to pay any part of the fees or
73 costs of the investigation of the applicant with regard to the
74 initial license;

75 (d) Prescribe the manner and method of collection and
76 payment of fees and issuance of licenses;

77 (e) Prescribe conditions under which a licensee may be
78 subject to or revocation or suspension of his license;

79 (f) Prescribe guidelines regarding the conduct of
80 specific lottery games, including, but not limited to:

81 (i) The types of games to be conducted;

82 (ii) The sale price of tickets;

83 (iii) The number and amount of prizes;

84 (iv) The method and location of selecting or
85 validating winning tickets;

86 (v) The frequency and means of conducting drawings
87 which shall be open to the public;

88 (vi) The manner of payment of prizes;

89 (vii) The frequency of games and drawings; and

90 (viii) Any other matters necessary or desirable
91 for the efficient and effective operation of lottery games;

92 (g) Enter into contracts with distributors for the
93 distribution of lottery ticket to retailers; and

94 (h) Take any action necessary for the implementation
95 and administration of the provisions of Sections 1 and 2 of this
96 act and promulgate rules and regulations necessary for the
97 implementation and administration of the provisions of Sections 1
98 and 2 of this act.

99 (3) No ticket shall knowingly be sold to any person under
100 the age of eighteen (18), but this subsection (3) does not
101 prohibit the purchase of a ticket by a person eighteen (18) years

102 of age or older for the purpose of making a gift to any person of
103 any age. In such case, the commission shall direct payment to an
104 adult member of the person's family or the legal guardian of the
105 person on behalf of such person.

106 (4) The proceeds received from the sale of lottery tickets,
107 less a percentage determined by the commission to be retained by a
108 retailer selling a ticket, shall be remitted to the commission on
109 a monthly basis. The commission shall deposit the proceeds into
110 the State Treasury on the day collected. At the end of each
111 month, the commission shall certify the total proceeds collected
112 from the sale of lottery tickets to the State Treasurer who shall
113 distribute such collections as follows:

114 (a) Two percent (2%) of the proceeds collected during
115 the preceding month from the sale of lottery tickets within a
116 county shall be allocated for distribution to such county and paid
117 to such county.

118 (b) A percentage, as determined by the commission, of
119 the proceeds collected during the preceding month from the sale of
120 lottery tickets in the state shall be allocated for distribution
121 to the commission and paid to the commission to defray the costs
122 of administering the provisions of Sections 1 and 2 of this act.

123 (c) The remainder of the proceeds collected during the
124 preceding month from the sale of lottery tickets in the state
125 shall be deposited into the Mississippi's Future Scholarship Trust
126 Fund created in Section 3 of this act.

127 **SECTION 3.** (1) There is created in the State Treasury a
128 special fund to be designated as the "Mississippi's Future
129 Scholarship Trust Fund," into which shall be deposited such funds
130 as provided in Section 2(4)(b) of this act. All investment
131 earnings or interest earned on amounts in the fund shall be
132 deposited to the credit of the fund. Amounts remaining in the
133 fund at the end of a fiscal year shall not lapse into the State
134 General Fund.

135 (2) The trust fund shall remain inviolate and shall never be
136 expended, except as provided in this section. Beginning in fiscal
137 year 2006 and for each subsequent fiscal year, the Legislature may
138 appropriate from the trust fund an amount not greater than the
139 aggregate investment earnings and interest earned during the
140 preceding fiscal year on amounts in the fund. Such appropriation
141 shall be for the exclusive purpose of providing funds for the
142 purposes described in subsection (3), but shall not be considered
143 to be the only source for providing funds for such purposes.

144 **SECTION 4.** (1) The trust fund shall be administered by the
145 Mississippi Postsecondary Education Financial Assistance Board
146 established under Section 37-106-9. The board shall set the date
147 that will serve as the deadline for applying for an award under
148 this section. The board shall award scholarships to each
149 Mississippi student who:

150 (a) Has obtained a minimum cumulative grade point
151 average of 3.0 calculated on a 4.0 scale in high school subjects
152 acceptable for credit toward a diploma, after seven (7) semesters
153 certified by the high school counselor or other authorized school
154 official on the application;

155 (b) Attends, on a full-time basis, any state
156 institution of higher learning or public community or junior
157 college, or any regionally accredited, state-approved, nonprofit
158 four- or two-year college or university located in the State of
159 Mississippi as listed in Section 37-106-29 (4)(d);

160 (c) Enrolls for the first time as a college student in
161 Mississippi; and

162 (d) Is a resident of the State of Mississippi.

163 (2) The annual award to a student shall be the total cost of
164 the student's tuition for the calendar year, excluding nontuition
165 fees and costs of books and other supplies. Payment of the award
166 shall be made payable to the recipient and the educational
167 institution and mailed directly to the institution.

168 (3) A recipient shall maintain the equivalent of a 3.0
169 cumulative grade point average on a 4.0 scale, on at least twelve
170 (12) hours per quarter, trimester or semester in order to be
171 eligible for a continuation of the award. No student may receive
172 an award for more than the equivalent quarters, trimesters or
173 semesters required to complete one (1) degree per institution.
174 The award may be renewed annually upon certification of
175 eligibility by an eligible institution that the recipient meets
176 the necessary qualifications. If any recipient transfers from one
177 (1) eligible institution to another, his award will be transferred
178 provided he is eligible for the award. If a student fails to
179 maintain continuous enrollment, he is ineligible to receive the
180 award during the following quarter, trimester or semester of the
181 regular academic year.

182 (4) The board may conduct annual audits of any institution
183 participating in the program described in this section. The board
184 may suspend or revoke an institution's eligibility to receive
185 future monies under the program if it finds that the institution
186 has not complied with the provisions of this section.

187 **SECTION 5.** Section 37-106-5, Mississippi Code of 1972, is
188 amended as follows:

189 37-106-5. For purposes of this chapter, the following words
190 shall be defined as follows unless the context requires otherwise:

191 (a) "Eligible applicant or eligible student" means an
192 individual who is a bona fide resident of Mississippi or an
193 out-of-state student who is enrolled or accepted for attendance at
194 an approved institution located in Mississippi in a course of
195 study including at least six (6) semester hours or the full-time
196 equivalent thereof.

197 (b) "Approved institution" means an institution of
198 higher learning, public or private, which is accredited by the
199 Southern Association of Colleges and Secondary Schools, or its
200 equivalent or a business, vocational, technical or other

201 specialized school recognized and approved by the Post-Secondary
202 Education Financial Assistance Board.

203 (c) "Board" means the Post-Secondary Education Financial
204 Assistance Board created by Section 37-106-9 authorized and
205 empowered to administer the provisions of this chapter.

206 (d) "Fund" means the * * * fund created by Section
207 37-106-31 or the trust fund created in Section 4 of House Bill
208 No. _____, 2004 Regular Session, as the case may be.

209 (e) "Financial need" means anticipated expenses of an
210 eligible student while attending an approved institution which
211 cannot reasonably be met by said student or by the parents thereof
212 as shall be determined according to the criteria established by
213 the rules and regulations of the board. Financial need shall be
214 reevaluated and redetermined at least annually.

215 (f) "Agency" means the Board of Trustees of State
216 Institutions of Higher Learning.

217 **SECTION 6.** Section 67-1-71, Mississippi Code of 1972, is
218 amended as follows:

219 67-1-71. The commission may revoke or suspend any permit
220 issued by it for a violation by the permittee of any of the
221 provisions of this chapter or of the regulations promulgated under
222 it by the commission.

223 Permits must be revoked or suspended for the following
224 causes:

225 (a) Conviction of the permittee for the violation of
226 any of the provisions of this chapter;

227 (b) Willful failure or refusal by any permittee to
228 comply with any of the provisions of this chapter or of any rule
229 or regulation adopted pursuant thereto;

230 (c) The making of any materially false statement in any
231 application for a permit;

232 (d) Conviction of one (1) or more of the clerks, agents
233 or employees of the permittee, of any violation of this chapter

234 upon the premises covered by such permit within a period of time
235 as designated by the rules or regulations of the commission;

236 (e) The possession on the premises of any retail
237 permittee of any alcoholic beverages upon which the tax has not
238 been paid;

239 (f) The willful failure of any permittee to keep the
240 records or make the reports required by this chapter, or to allow
241 an inspection of such records by any duly authorized person;

242 (g) The suspension or revocation of a permit issued to
243 the permittee by the federal government, or conviction of
244 violating any federal law relating to alcoholic beverages;

245 (h) The failure to furnish any bond required by this
246 chapter within fifteen (15) days after notice from the commission;
247 and

248 (i) The conducting of any form of illegal gambling on
249 the premises of any permittee or on any premises connected
250 therewith or the presence on any such premises of any gambling
251 device with the knowledge of the permittee.

252 The provisions of item (i) of this section shall not apply to
253 gambling or the presence of any gambling devices, with knowledge
254 of the permittee, on board a cruise vessel in the waters within
255 the State of Mississippi, which lie adjacent to the State of
256 Mississippi south of the three (3) most southern counties in the
257 State of Mississippi, or on any vessel as defined in Section
258 27-109-1 whenever such vessel is on the Mississippi River or
259 navigable waters within any county bordering on the Mississippi
260 River. The commission may, in its discretion, issue on-premises
261 retailer's permits to a common carrier of the nature described in
262 this paragraph.

263 The provisions of item (i) of this section shall not apply to
264 the operation of any game or lottery authorized by Sections 1 and
265 2 of House Bill No. _____, 2004 Regular Session.

266 No permit shall be revoked except after a hearing by the
267 commission with reasonable notice to the permittee and an
268 opportunity for him to appear and defend.

269 In addition to the causes specified in this section and other
270 provisions of this chapter, the commission shall be authorized to
271 suspend the permit of any permit holder for being out of
272 compliance with an order for support, as defined in Section
273 93-11-153. The procedure for suspension of a permit for being out
274 of compliance with an order for support, and the procedure for the
275 reissuance or reinstatement of a permit suspended for that
276 purpose, and the payment of any fees for the reissuance or
277 reinstatement of a permit suspended for that purpose, shall be
278 governed by Section 93-11-157 or 93-11-163, as the case may be.
279 If there is any conflict between any provision of Section
280 93-11-157 or 93-11-163 and any provision of this chapter, the
281 provisions of Section 93-11-157 or 93-11-163, as the case may be,
282 shall control.

283 **SECTION 7.** Section 75-76-3, Mississippi Code of 1972, is
284 amended as follows:

285 75-76-3. (1) The provisions of this chapter shall not be
286 construed to legalize any form of gaming which is prohibited under
287 the Mississippi Constitution or the laws of this state. All legal
288 gaming which is conducted in this state and which is otherwise
289 authorized by law shall be regulated and licensed pursuant to the
290 provisions of this chapter, unless the Legislature specifically
291 provides otherwise. Nothing in this chapter shall be construed as
292 encouraging the legalization of gambling in this state.

293 (2) The Legislature hereby finds and declares that lotteries
294 and gaming both consist of the material element of chance. The
295 Legislature is * * * permitted by virtue of its inherent powers to
296 legislate upon lotteries and gaming as the occasion arises. The
297 Legislature derives its power to legislate upon lotteries and

298 gaming or gambling devices from its inherent authority over the
299 morals and policy of the people * * *.

300 (3) The Legislature hereby finds, and declares it to be the
301 public policy of this state, that:

302 (a) Regulation of lotteries and licensed gaming is
303 important in order that it be conducted honestly and
304 competitively, that the rights of the creditors of licensees are
305 protected and that it is free from criminal and corruptive
306 elements.

307 (b) Public confidence and trust can only be maintained
308 by strict regulation of all persons, locations, practices,
309 associations and activities related to the operation of lotteries
310 and licensed gaming establishments and the manufacture or
311 distribution of gambling devices and equipment.

312 (c) All establishments where lotteries or gaming, or
313 both, is conducted and * * * manufacturers, sellers and
314 distributors of certain lottery and gaming devices and equipment
315 must therefore be licensed, controlled and assisted to protect the
316 public health, safety, morals, good order and general welfare of
317 the inhabitants of the state.

318 (4) It is the intent of the Legislature that gaming
319 licensees and any entity authorized to conduct a lottery, to the
320 extent practicable, employ residents of Mississippi as * * *
321 employees * * * in the operation of their * * * establishments
322 located in this state.

323 (5) No applicant for a license or other affirmative
324 commission approval has any right to a license or the granting of
325 the approval sought. Any license issued or other commission
326 approval granted pursuant to the provisions of this chapter is a
327 revocable privilege, and no holder acquires any vested right
328 therein or thereunder.

329 * * *

330 **SECTION 8.** Section 75-76-5, Mississippi Code of 1972, is
331 amended as follows:

332 75-76-5. As used in this chapter, unless the context
333 requires otherwise:

334 (a) "Applicant" means any person who has applied for or
335 is about to apply for a state gaming license, registration or
336 finding of suitability under the provisions of this chapter or
337 approval of any act or transaction for which approval is required
338 or permitted under the provisions of this chapter.

339 (b) "Application" means a request for the issuance of a
340 state gaming license, registration or finding of suitability under
341 the provisions of this chapter or for approval of any act or
342 transaction for which approval is required or permitted under the
343 provisions of this chapter but does not include any supplemental
344 forms or information that may be required with the application.

345 (c) "Associated equipment" means any equipment or
346 mechanical, electromechanical or electronic contrivance, component
347 or machine used remotely or directly in connection with gaming or
348 with any game, race book or sports pool that would not otherwise
349 be classified as a gaming device, including dice, playing cards,
350 links which connect to progressive slot machines, equipment which
351 affects the proper reporting of gross revenue, computerized
352 systems of betting at a race book or sports pool, computerized
353 systems for monitoring slot machines, and devices for weighing or
354 counting money.

355 (d) "Chairman," through September 30, 1993, means the
356 Chairman of the State Tax Commission, and thereafter means the
357 Chairman of the Mississippi Gaming Commission.

358 (e) "Commission" or "Mississippi Gaming Commission,"
359 through September 30, 1993, means the State Tax Commission, and
360 thereafter means the Mississippi Gaming Commission.

361 (f) "Commission member," through September 30, 1993,
362 means a member of the State Tax Commission, and thereafter means a
363 member of the Mississippi Gaming Commission.

364 (g) "Credit instrument" means a writing which evidences
365 a gaming debt owed to a person who holds a license at the time the
366 debt is created, and includes any writing taken in consolidation,
367 redemption or payment of a prior credit instrument.

368 (h) "Enforcement division" means a particular division
369 supervised by the executive director that provides enforcement
370 functions.

371 (i) "Establishment" means any premises wherein or
372 whereon any gaming is done.

373 (j) "Executive director," through September 30, 1993,
374 means the director appointed by the State Tax Commission pursuant
375 to Section 75-76-15(1), and thereafter means the Executive
376 Director of the Mississippi Gaming Commission.

377 (k) Except as otherwise provided by law, "game," or
378 "gambling game" means any banking or percentage game played with
379 cards, with dice or with any mechanical, electromechanical or
380 electronic device or machine for money, property, checks, credit
381 or any representative of value, including, without limiting the
382 generality of the foregoing, faro, monte, roulette, keno, fan-tan,
383 twenty-one, blackjack, seven-and-a-half, big injun, klondike,
384 craps, poker, chuck-a-luck (dai shu), wheel of fortune, chemin de
385 fer, baccarat, pai gow, beat the banker, panguingui, slot machine,
386 or any other game or device approved by the commission. However,
387 "game" or "gambling game" shall not include bingo games or raffles
388 which are held pursuant to the provisions of Section 97-33-51, or
389 any games or lottery authorized by Sections 1 and 2 of House Bill
390 No. _____, 2004 Regular Session.

391 The commission shall not be required to recognize any game
392 hereunder with respect to which the commission determines it does
393 not have sufficient experience or expertise.

394 (1) "Gaming" or "gambling" means to deal, operate,
395 carry on, conduct, maintain or expose for play any game as defined
396 in this chapter.

397 (m) "Gaming device" means any mechanical,
398 electromechanical or electronic contrivance, component or machine
399 used in connection with gaming or any game which affects the
400 result of a wager by determining win or loss. The term includes a
401 system for processing information which can alter the normal
402 criteria of random selection, which affects the operation of any
403 game, or which determines the outcome of a game. The term does
404 not include a system or device which affects a game solely by
405 stopping its operation so that the outcome remains undetermined,
406 and does not include any antique coin machine as defined in
407 Section 27-27-12.

408 (n) "Gaming employee" means any person connected
409 directly with the operation of a gaming establishment licensed to
410 conduct any game, including:

- 411 (i) Boxmen;
- 412 (ii) Cashiers;
- 413 (iii) Change personnel;
- 414 (iv) Counting room personnel;
- 415 (v) Dealers;
- 416 (vi) Floormen;
- 417 (vii) Hosts or other persons empowered to extend
418 credit or complimentary services;
- 419 (viii) Keno runners;
- 420 (ix) Keno writers;
- 421 (x) Machine mechanics;
- 422 (xi) Security personnel;
- 423 (xii) Shift or pit bosses;
- 424 (xiii) Shills;
- 425 (xiv) Supervisors or managers; and
- 426 (xv) Ticket writers.

427 The term "gaming employee" also includes employees of
428 manufacturers or distributors of gaming equipment within this
429 state whose duties are directly involved with the manufacture,
430 repair or distribution of gaming equipment.

431 "Gaming employee" does not include bartenders, cocktail
432 waitresses or other persons engaged in preparing or serving food
433 or beverages unless acting in some other capacity.

434 (o) "Gaming license" means any license issued by the
435 state which authorizes the person named therein to engage in
436 gaming.

437 (p) "Gross revenue" means the total of all of the
438 following, less the total of all cash paid out as losses to
439 patrons and those amounts paid to purchase annuities to fund
440 losses paid to patrons over several years by independent financial
441 institutions:

442 (i) Cash received as winnings;

443 (ii) Cash received in payment for credit extended
444 by a licensee to a patron for purposes of gaming; and

445 (iii) Compensation received for conducting any
446 game in which the licensee is not party to a wager.

447 For the purposes of this definition, cash or the value of
448 noncash prizes awarded to patrons in a contest or tournament are
449 not losses.

450 The term does not include:

451 (i) Counterfeit money or tokens;

452 (ii) Coins of other countries which are received
453 in gaming devices;

454 (iii) Cash taken in fraudulent acts perpetrated
455 against a licensee for which the licensee is not reimbursed; or

456 (iv) Cash received as entry fees for contests or
457 tournaments in which the patrons compete for prizes.

458 (q) "Hearing examiner" means a member of the
459 Mississippi Gaming Commission or other person authorized by the
460 commission to conduct hearings.

461 (r) "Investigation division" means a particular
462 division supervised by the executive director that provides
463 investigative functions.

464 (s) "License" means a gaming license or a
465 manufacturer's, seller's or distributor's license.

466 (t) "Licensee" means any person to whom a valid license
467 has been issued.

468 (u) "License fees" means monies required by law to be
469 paid to obtain or continue a gaming license or a manufacturer's,
470 seller's or distributor's license.

471 (v) "Licensed gaming establishment" means any premises
472 licensed pursuant to the provisions of this chapter wherein or
473 whereon gaming is done.

474 (w) "Manufacturer's," "seller's" or "distributor's"
475 license means a license issued pursuant to Section 75-76-79.

476 (x) "Navigable waters" shall have the meaning ascribed
477 to such term under Section 27-109-1.

478 (y) "Operation" means the conduct of gaming.

479 (z) "Party" means the Mississippi Gaming Commission and
480 any licensee or other person appearing of record in any proceeding
481 before the commission; or the Mississippi Gaming Commission and
482 any licensee or other person appearing of record in any proceeding
483 for judicial review of any action, decision or order of the
484 commission.

485 (aa) "Person" includes any association, corporation,
486 firm, partnership, trust or other form of business association as
487 well as a natural person.

488 (bb) "Premises" means land, together with all
489 buildings, improvements and personal property located thereon, and
490 includes all parts of any vessel or cruise vessel.

491 (cc) "Race book" means the business of accepting wagers
492 upon the outcome of any event held at a track which uses the
493 pari-mutuel system of wagering.

494 (dd) "Regulation" means a rule, standard, directive or
495 statement of general applicability which effectuates law or policy
496 or which describes the procedure or requirements for practicing
497 before the commission. The term includes a proposed regulation
498 and the amendment or repeal of a prior regulation but does not
499 include:

500 (i) A statement concerning only the internal
501 management of the commission and not affecting the rights or
502 procedures available to any licensee or other person;

503 (ii) A declaratory ruling;

504 (iii) An interagency memorandum;

505 (iv) The commission's decision in a contested case
506 or relating to an application for a license; or

507 (v) Any notice concerning the fees to be charged
508 which are necessary for the administration of this chapter.

509 (ee) "Respondent" means any licensee or other person
510 against whom a complaint has been filed with the commission.

511 (ff) "Slot machine" means any mechanical, electrical or
512 other device, contrivance or machine which, upon insertion of a
513 coin, token or similar object, or upon payment of any
514 consideration, is available to play or operate, the play or
515 operation of which, whether by reason of the skill of the operator
516 or application of the element of chance, or both, may deliver or
517 entitle the person playing or operating the machine to receive
518 cash, premiums, merchandise, tokens or anything of value, whether
519 the payoff is made automatically from the machine or in any other
520 manner. The term does not include any antique coin machine as
521 defined in Section 27-27-12.

522 (gg) "Sports pool" means the business of accepting
523 wagers on sporting events, except for athletic events, by any

524 system or method of wagering other than the system known as the
525 "pari-mutuel method of wagering."

526 (hh) "Temporary work permit" means a work permit which
527 is valid only for a period not to exceed ninety (90) days from its
528 date of issue and which is not renewable.

529 (ii) "Vessel" or "cruise vessel" shall have the
530 meanings ascribed to such terms under Section 27-109-1.

531 (jj) "Work permit" means any card, certificate or
532 permit issued by the commission, whether denominated as a work
533 permit, registration card or otherwise, authorizing the employment
534 of the holder as a gaming employee. A document issued by any
535 governmental authority for any employment other than gaming is not
536 a valid work permit for the purposes of this chapter.

537 (kk) "School or training institution" means any school
538 or training institution which is licensed by the commission to
539 teach or train gaming employees pursuant to Section 75-76-34.

540 (ll) "Cheat" means to alter the selection of criteria
541 that determine:

542 (i) The rules of a game; or

543 (ii) The amount or frequency of payment in a game.

544 **SECTION 9.** Section 97-33-9, Mississippi Code of 1972, is
545 amended as follows:

546 97-33-9. If any person shall be guilty of keeping or
547 exhibiting any game or gaming table commonly called A.B.C. or E.O.
548 roulette or rowley-powley, or rouge et noir, roredo, keno, monte,
549 or any faro-bank, or other game, gaming table, or bank of the same
550 or like kind or any other kind or description under any other name
551 whatever, or shall be in any manner either directly or indirectly
552 interested or concerned in any gaming tables, banks, or games,
553 either by furnishing money or articles for the purpose of carrying
554 on the same, being interested in the loss or gain of said table,
555 bank or games, or employed in any manner in conducting, carrying
556 on, or exhibiting said gaming tables, games, or banks, every

557 person so offending and being thereof convicted, shall be fined
558 not less than Twenty-five Dollars (\$25.00) nor more than Two
559 Thousand Dollars (\$2,000.00), or be imprisoned in the county jail
560 not longer than two (2) months, or by both such fine and
561 imprisonment, in the discretion of the court. Nothing in this
562 section shall apply to any person who owns, possesses, controls,
563 installs, procures, repairs or transports any gambling device,
564 machine or equipment in accordance with subsection (4) of Section
565 97-33-7 or Section 75-76-34.

566 This section shall not apply to the operation of any game or
567 lottery authorized by Sections 1 and 2 of House Bill No. ,
568 2004 Regular Session.

569 **SECTION 10.** Section 97-33-11, Mississippi Code of 1972, is
570 amended as follows:

571 97-33-11. It shall not be lawful for any association of
572 persons of the character commonly known as a "club," whether such
573 association be incorporated or not, in any manner, either directly
574 or indirectly, to have any interest or concern in any gambling
575 tables, banks, or games, by means of what is sometimes called a
576 "rake-off" or "take-out," or by means of an assessment upon
577 certain combinations, or hands at cards, or by means of a
578 percentage extracted from players, or an assessment made upon, or
579 a contribution from them, or by any other means, device or
580 contrivance whatsoever. It shall not be lawful for such an
581 association to lend or advance money or any other valuable thing
582 to any person engaged or about to engage in playing any game of
583 chance prohibited by law, or to become responsible directly or
584 indirectly for any money or other valuable thing lost, or which
585 may be lost, by any player in any such game. If any such
586 association shall violate any of the provisions of this section
587 each and every member thereof shall be guilty of a misdemeanor,
588 and, upon conviction thereof shall be fined in a sum not more than
589 Five Hundred Dollars (\$500.00); and unless such fine and costs be

590 immediately paid, shall be imprisoned in the county jail for not
591 less than five (5) nor more than twenty (20) days. Each grand
592 jury shall cause such of the members of such an association as it
593 may choose to appear before them and submit to examination
594 touching the observance or nonobservance by such association of
595 the provisions hereof.

596 This section shall not apply to the operation of any game or
597 lottery authorized by Sections 1 and 2 of House Bill No. , 2004
598 Regular Session.

599 **SECTION 11.** Section 97-33-13, Mississippi Code of 1972, is
600 amended as follows:

601 97-33-13. Any owner, lessee, or occupant of any outhouse or
602 other building, who shall knowingly permit or suffer any of the
603 before mentioned tables, banks, or games, or any other game
604 prohibited by law, to be carried on, kept, or exhibited in his
605 said house or other building, or on his lot or premises, being
606 thereof convicted, shall be fined not less than One Hundred
607 Dollars (\$100.00) nor more than Two Thousand Dollars (\$2,000.00).

608 This section shall not apply to the operation of any game or
609 lottery authorized by Sections 1 and 2 of House Bill No. ,
610 2004 Regular Session.

611 **SECTION 12.** Section 97-33-21, Mississippi Code of 1972, is
612 amended as follows:

613 97-33-21. Any person of full age who shall bet any money or
614 thing of any value with a minor, or allow a minor to bet at any
615 game or gaming-table exhibited by him, or in which he is
616 interested or in any manner concerned, on conviction thereof,
617 shall be fined not less than Three Hundred Dollars (\$300.00) and
618 imprisoned not less than three (3) months.

619 This section shall apply to minors under the age of eighteen
620 (18) as it might apply to the operation of any game or lottery
621 authorized by Sections 1 and 2 of House Bill No. , 2004
622 Regular Session.

623 **SECTION 13.** Section 97-33-23, Mississippi Code of 1972, is
624 amended as follows:

625 97-33-23. Any person of full age who shall bet any money or
626 thing of value with a minor, knowing such minor to be under the
627 age of twenty-one (21) years, or allowing any such minor to bet at
628 any game or games, or at any gaming-table exhibited by him, or in
629 which he is interested or in any manner concerned, on conviction
630 thereof, shall be punished by imprisonment in the Penitentiary not
631 exceeding two (2) years.

632 This section shall apply to minors under the age of eighteen
633 (18) with regard to the operation of any game or lottery
634 authorized by Sections 1 and 2 of House Bill No. , 2004
635 Regular Session.

636 **SECTION 14.** Section 97-33-31, Mississippi Code of 1972, is
637 amended as follows:

638 97-33-31. If any person, in order to raise money for himself
639 or another, or for any purpose whatever, shall publicly or
640 privately put up a lottery to be drawn or adventured for, he
641 shall, on conviction, be imprisoned in the Penitentiary not
642 exceeding five (5) years.

643 This section shall not apply to the operation of any game or
644 lottery authorized by Sections 1 and 2 of House Bill No. ,
645 2004 Regular Session.

646 **SECTION 15.** Section 97-33-33, Mississippi Code of 1972, is
647 amended as follows:

648 97-33-33. If any person shall in any way advertise any
649 lottery whatever, no matter where located, or shall knowingly have
650 in his possession any posters or other lottery advertisements of
651 any kind save a regularly issued newspaper containing such an
652 advertisement without intent to circulate the same as an
653 advertisement he shall, on conviction, be fined not less than
654 Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars

655 (\$100.00), or be imprisoned in the county jail not exceeding three
656 (3) months, or both.

657 This section shall not apply to the operation of any game or
658 lottery authorized by Sections 1 and 2 of House Bill No. _____,
659 2004 Regular Session.

660 **SECTION 16.** Section 97-33-35, Mississippi Code of 1972, is
661 amended as follows:

662 97-33-35. If any newspaper published or circulated in this
663 state shall contain an advertisement of any lottery whatever, or
664 any matter intended to advertise a lottery, no matter where
665 located, the editor or editors, publisher or publishers, and the
666 owner or owners thereof permitting the same, shall be guilty of a
667 misdemeanor, and, on conviction, shall be fined not less than One
668 Hundred Dollars (\$100.00) nor more than One Thousand Dollars
669 (\$1,000.00), and be imprisoned in the county jail not less than
670 ten (10) days nor more than three (3) months, for each offense.
671 The issuance of each separate daily or weekly edition of the
672 newspaper that shall contain such an advertisement shall be
673 considered a separate offense.

674 This section shall not apply to the operation of any game or
675 lottery authorized by Sections 1 and 2 of House Bill No. _____,
676 2004 Regular Session.

677 **SECTION 17.** Section 97-33-37, Mississippi Code of 1972, is
678 amended as follows:

679 97-33-37. If any newsdealer or other person shall, directly
680 or indirectly, sell or offer for sale any newspaper or other
681 publication containing a lottery advertisement, he shall be guilty
682 of a misdemeanor, and upon conviction, shall be fined not less
683 than Ten Dollars (\$10.00) or imprisoned not less than ten (10)
684 days or both.

685 This section shall not apply to the operation of any game or
686 lottery authorized by Sections 1 and 2 of House Bill No. _____,
687 2004 Regular Session.

688 **SECTION 18.** Section 97-33-39, Mississippi Code of 1972, is
689 amended as follows:

690 97-33-39. If any person shall sell, or offer or expose for
691 sale, any lottery ticket, whether the lottery be in or out of this
692 state, or for or in any other state, territory, district, or
693 country, he shall, on conviction, be fined not less than
694 Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars
695 (\$100.00), or imprisoned in the county jail not less than ten (10)
696 days nor more than sixty (60) days, or both.

697 This section shall not apply to the operation of any game or
698 lottery authorized by Sections 1 and 2 of House Bill No. _____,
699 2004 Regular Session.

700 **SECTION 19.** Section 97-33-41, Mississippi Code of 1972, is
701 amended as follows:

702 97-33-41. If any person shall buy in this state any lottery
703 ticket, whether the lottery be in or out of this state, or of or
704 in any other state, territory, district, or country, he shall, on
705 conviction, be fined not less than Five Dollars (\$5.00) nor more
706 than Twenty-five Dollars (\$25.00), or be imprisoned in the county
707 jail not exceeding ten (10) days, or both.

708 This section shall not apply to the operation of any game or
709 lottery authorized by Sections 1 and 2 of House Bill No. _____,
710 2004 Regular Session.

711 **SECTION 20.** Section 97-33-43, Mississippi Code of 1972, is
712 amended as follows:

713 97-33-43. If any railroad company shall suffer or permit the
714 sale of a lottery ticket of any kind on its cars, or at its depots
715 or depot grounds, or by its employees, no matter where the lottery
716 is located, it shall be guilty of a misdemeanor, and, on
717 conviction shall be fined not less than Twenty Dollars (\$20.00)
718 nor more than One Hundred Dollars (\$100.00) for every such ticket
719 so sold.

720 This section shall not apply to the operation of any game or
721 lottery authorized by Sections 1 and 2 of House Bill No. , 2004
722 Regular Session.

723 **SECTION 21.** Section 97-33-45, Mississippi Code of 1972, is
724 amended as follows:

725 97-33-45. If the owner or owners of any steamboat shall
726 suffer or permit the sale of a lottery ticket of any kind on his
727 or their boat, or by his or their employees, no matter where the
728 lottery is located, he or they shall be guilty of a misdemeanor,
729 and shall, on conviction, be punished as prescribed in Section
730 97-33-43.

731 This section shall not apply to the operation of any game or
732 lottery authorized by Sections 1 and 2 of House Bill No. , 2004
733 Regular Session.

734 **SECTION 22.** Section 97-33-47, Mississippi Code of 1972, is
735 amended as follows:

736 97-33-47. If any person shall act as agent for any lottery
737 or lottery company, no matter where domiciled or located, or if he
738 shall assume to so act as agent, or if he receive any money or
739 other thing for any such lottery or lottery company, or deliver to
740 any person any ticket or tickets, prize or prizes, or other thing
741 from such lottery or lottery company, he shall, on conviction, be
742 fined not less than One Hundred Dollars (\$100.00), nor more than
743 Five Hundred Dollars (\$500.00), and be imprisoned in the county
744 jail not less than three (3) months nor more than six (6) months.

745 This section shall not apply to the operation of any game or
746 lottery authorized by Sections 1 and 2 of House Bill No. ,
747 2004 Regular Session.

748 **SECTION 23.** Section 97-33-49, Mississippi Code of 1972, is
749 amended as follows:

750 97-33-49. Except as otherwise provided in Section 97-33-51,
751 if any person, in order to raise money for himself or another,
752 shall publicly or privately put up or in any way offer any prize

753 or thing to be raffled or played for, he shall, on conviction, be
754 fined not more than Twenty Dollars (\$20.00), or be imprisoned not
755 more than one (1) month in the county jail.

756 This section shall not apply to the operation of any game or
757 lottery authorized by Sections 1 and 2 of House Bill No. _____,
758 2004 Regular Session.

759 **SECTION 24.** Section 27-65-111, Mississippi Code of 1972, is
760 amended as follows:

761 27-65-111. The exemptions from the provisions of this
762 chapter which are not industrial, agricultural or governmental, or
763 which do not relate to utilities or taxes, or which are not
764 properly classified as one of the exemption classifications of
765 this chapter, shall be confined to persons or property exempted by
766 this section or by the Constitution of the United States or the
767 State of Mississippi. No exemptions as now provided by any other
768 section, except the classified exemption sections of this chapter
769 set forth herein, shall be valid as against the tax herein levied.
770 Any subsequent exemption from the tax levied hereunder, except as
771 indicated above, shall be provided by amendments to this section.

772 No exemption provided in this section shall apply to taxes
773 levied by Section 27-65-15 or 27-65-21, Mississippi Code of 1972.

774 The tax levied by this chapter shall not apply to the
775 following:

776 (a) Sales of tangible personal property and services to
777 hospitals or infirmaries owned and operated by a corporation or
778 association in which no part of the net earnings inures to the
779 benefit of any private shareholder, group or individual, and which
780 are subject to and governed by Sections 41-7-123 through 41-7-127.

781 Only sales of tangible personal property or services which
782 are ordinary and necessary to the operation of such hospitals and
783 infirmaries are exempted from tax.

784 (b) Sales of daily or weekly newspapers, and
785 periodicals or publications of scientific, literary or educational

786 organizations exempt from federal income taxation under Section
787 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of
788 March 31, 1975, and subscription sales of all magazines.

789 (c) Sales of coffins, caskets and other materials used
790 in the preparation of human bodies for burial.

791 (d) Sales of tangible personal property for immediate
792 export to a foreign country.

793 (e) Sales of tangible personal property to an
794 orphanage, old men's or ladies' home, supported wholly or in part
795 by a religious denomination, fraternal nonprofit organization or
796 other nonprofit organization.

797 (f) Sales of tangible personal property, labor or
798 services taxable under Sections 27-65-17, 27-65-19, and 27-65-23,
799 to a YMCA, YWCA, a Boys' or Girls' Club owned and operated by a
800 corporation or association in which no part of the net earnings
801 inures to the benefit of any private shareholder, group or
802 individual.

803 (g) Sales to elementary and secondary grade schools,
804 junior and senior colleges owned and operated by a corporation or
805 association in which no part of the net earnings inures to the
806 benefit of any private shareholder, group or individual, and which
807 are exempt from state income taxation, provided that this
808 exemption does not apply to sales of property or services which
809 are not to be used in the ordinary operation of the school, or
810 which are to be resold to the students or the public.

811 (h) The gross proceeds of retail sales and the use or
812 consumption in this state of drugs and medicines:

813 (i) Prescribed for the treatment of a human being
814 by a person authorized to prescribe the medicines, and dispensed
815 or prescription filled by a registered pharmacist in accordance
816 with law; or

817 (ii) Furnished by a licensed physician, surgeon,
818 dentist or podiatrist to his own patient for treatment of the
819 patient; or

820 (iii) Furnished by a hospital for treatment of any
821 person pursuant to the order of a licensed physician, surgeon,
822 dentist or podiatrist; or

823 (iv) Sold to a licensed physician, surgeon,
824 podiatrist, dentist or hospital for the treatment of a human
825 being; or

826 (v) Sold to this state or any political
827 subdivision or municipal corporation thereof, for use in the
828 treatment of a human being or furnished for the treatment of a
829 human being by a medical facility or clinic maintained by this
830 state or any political subdivision or municipal corporation
831 thereof.

832 "Medicines," as used in this paragraph (h), shall mean and
833 include any substance or preparation intended for use by external
834 or internal application to the human body in the diagnosis, cure,
835 mitigation, treatment or prevention of disease and which is
836 commonly recognized as a substance or preparation intended for
837 such use; provided that "medicines" do not include any auditory,
838 prosthetic, ophthalmic or ocular device or appliance, any dentures
839 or parts thereof or any artificial limbs or their replacement
840 parts, articles which are in the nature of splints, bandages,
841 pads, compresses, supports, dressings, instruments, apparatus,
842 contrivances, appliances, devices or other mechanical, electronic,
843 optical or physical equipment or article or the component parts
844 and accessories thereof, or any alcoholic beverage or any other
845 drug or medicine not commonly referred to as a prescription drug.

846 Notwithstanding the preceding sentence of this paragraph (h),
847 "medicines" as used in this paragraph (h), shall mean and include
848 sutures, whether or not permanently implanted, bone screws, bone
849 pins, pacemakers and other articles permanently implanted in the

850 human body to assist the functioning of any natural organ, artery,
851 vein or limb and which remain or dissolve in the body.

852 "Hospital," as used in this paragraph (h), shall have the
853 meaning ascribed to it in Section 41-9-3, Mississippi Code of
854 1972.

855 Insulin furnished by a registered pharmacist to a person for
856 treatment of diabetes as directed by a physician shall be deemed
857 to be dispensed on prescription within the meaning of this
858 paragraph (h).

859 (i) Retail sales of automobiles, trucks and
860 truck-tractors if exported from this state within forty-eight (48)
861 hours and registered and first used in another state.

862 (j) Sales of tangible personal property or services to
863 the Salvation Army and the Muscular Dystrophy Association, Inc.

864 (k) From July 1, 1985, through December 31, 1992,
865 retail sales of "alcohol blended fuel" as such term is defined in
866 Section 75-55-5. The gasoline-alcohol blend or the straight
867 alcohol eligible for this exemption shall not contain alcohol
868 distilled outside the State of Mississippi.

869 (l) Sales of tangible personal property or services to
870 the Institute for Technology Development.

871 (m) The gross proceeds of retail sales of food and
872 drink for human consumption made through vending machines serviced
873 by full line vendors from and not connected with other taxable
874 businesses.

875 (n) The gross proceeds of sales of motor fuel.

876 (o) Retail sales of food for human consumption
877 purchased with food stamps issued by the United States Department
878 of Agriculture, or other federal agency, from and after October 1,
879 1987, or from and after the expiration of any waiver granted
880 pursuant to federal law, the effect of which waiver is to permit
881 the collection by the state of tax on such retail sales of food
882 for human consumption purchased with food stamps.

883 (p) Sales of cookies for human consumption by the Girl
884 Scouts of America no part of the net earnings from which sales
885 inures to the benefit of any private group or individual.

886 (q) Gifts or sales of tangible personal property or
887 services to public or private nonprofit museums of art.

888 (r) Sales of tangible personal property or services to
889 alumni associations of state-supported colleges or universities.

890 (s) Sales of tangible personal property or services to
891 chapters of the National Association of Junior Auxiliaries, Inc.

892 (t) Sales of tangible personal property or services to
893 domestic violence shelters which qualify for state funding under
894 Sections 93-21-101 through 93-21-113.

895 (u) Sales of tangible personal property or services to
896 the National Multiple Sclerosis Society, Mississippi Chapter.

897 (v) Retail sales of food for human consumption
898 purchased with food instruments issued the Mississippi Band of
899 Choctaw Indians under the Women, Infants and Children Program
900 (WIC) funded by the United States Department of Agriculture.

901 (w) Sales of tangible personal property or services to
902 a private company, as defined in Section 57-61-5, which is making
903 such purchases with proceeds of bonds issued under Section 57-61-1
904 et seq., the Mississippi Business Investment Act.

905 (x) The gross collections from the operation of
906 self-service, coin-operated car washing equipment and sales of the
907 service of washing motor vehicles with portable high pressure
908 washing equipment on the premises of the customer.

909 (y) Sales of lottery tickets by a retailer as
910 authorized by Sections 1 and 2 of House Bill No. , 2004
911 Regular Session.

912 **SECTION 25.** Sections 3 and 4 of this act shall be codified
913 in Chapter 106, Title 37, Mississippi Code of 1972.

914 **SECTION 26.** This act shall take effect and be in force from
915 and after July 1, 2004.