

By: Representatives Clarke, Thomas, Banks,  
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To: Gaming; Ways and Means

## HOUSE BILL NO. 1064

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 CREATE THE TRUST FUND INTO WHICH A PORTION OF THE PROCEEDS  
7 COLLECTED FROM THE SALE OF LOTTERY TICKETS SHALL BE DEPOSITED; TO  
8 AMEND SECTIONS 37-106-5, 67-1-71, 75-76-3, 75-76-5, 97-33-9,  
9 97-33-11, 97-33-13, 97-33-21, 97-33-23, 97-33-31, 97-33-33,  
10 97-33-35, 97-33-37, 97-33-39, 97-33-41, 97-33-43, 97-33-45,  
11 97-33-47 AND 97-33-49, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO  
12 THE PROVISIONS OF THIS ACT; TO AMEND SECTION 27-65-111,  
13 MISSISSIPPI CODE OF 1972, TO EXEMPT FROM SALES TAXATION THE SALE  
14 OF LOTTERY TICKETS; AND FOR RELATED PURPOSES.

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

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

19 (a) "Commission" means the Mississippi Gaming  
20 Commission.

21 (b) "Distributor" means any person authorized by the  
22 Mississippi Gaming Commission to distribute lottery tickets to  
23 retailers. A person having a gaming license issued under Section  
24 75-76-1 et seq., may be a distributor.

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

27 (i) The player or players pay or agree to pay  
28 something of value for chances, represented and differentiated by  
29 tickets, slips of paper or other physical and tangible  
30 documentation upon which appear numbers, symbols, characters or  
31 other distinctive marks used to identify and designate the winner  
32 or winners;

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

37                   (iii) The holder or holders of the winning chance  
38 or chances are to receive a prize or something of valuable  
39 consideration; and

40                   (iv) The activity is conducted and participated in  
41 without regard to geographical location, with the player or  
42 players not being required to be present upon any particular  
43 premises or at any particular location in order to participate or  
44 to win.

45                   (d) "Person" means any association, corporation, firm,  
46 partnership, trust or other form or business association as well  
47 as a natural person.

48                   (e) "Retailer" means any person authorized by the  
49 Mississippi Gaming Commission to sell lottery tickets to the  
50 public. A person having a gaming license issued under Section  
51 75-76-1 et seq., may be a retailer if located in a county that has  
52 elected to participate in the state lottery.

53                   **SECTION 2.** (1) There is created and established a state  
54 lottery, to be known as the Mississippi Lottery for Education Act.

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

57                   (a) Prescribe the method and form of application which  
58 an applicant for a distributor's license or retailer's license, or  
59 both, must follow and complete before consideration of his  
60 application by the commission;

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

63                   (c) Require an applicant to pay all or any part of the  
64 fees and costs of investigation of such applicant as may be  
65 determined by the commission, except that no applicant for an

66 initial license shall be required to pay any part of the fees or  
67 costs of the investigation of the applicant with regard to the  
68 initial license;

69 (d) Prescribe the manner and method of collection and  
70 payment of fees and issuance of licenses;

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

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

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

76 (ii) The sale price of tickets;

77 (iii) The number and amount of prizes;

78 (iv) The method and location of selecting or  
79 validating winning tickets;

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

82 (vi) The manner of payment of prizes;

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

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

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

88 (h) Take any action necessary for the implementation  
89 and administration of the provisions of Sections 1 and 2 of this  
90 act and promulgate rules and regulations necessary for the  
91 implementation and administration of the provisions of Sections 1  
92 and 2 of this act.

93 (3) No ticket shall knowingly be sold to any person under  
94 the age of eighteen (18), but this subsection (3) does not  
95 prohibit the purchase of a ticket by a person eighteen (18) years  
96 of age or older for the purpose of making a gift to any person of  
97 any age. In such case, the commission shall direct payment to an

98 adult member of the person's family or the legal guardian of the  
99 person on behalf of such person.

100 (4) The proceeds received from the actual sale of lottery  
101 tickets, less a reasonable percentage determined by the commission  
102 to be retained by a retailer selling a ticket, shall be remitted  
103 to the commission on a monthly basis. The commission shall  
104 deposit the proceeds into the State Treasury on the day collected.  
105 At the end of each month, the commission shall certify the total  
106 proceeds collected from the sale of lottery tickets to the State  
107 Treasurer who shall distribute such collections as follows:

108 (a) As nearly as practicable, forty-five percent (45%)  
109 of the proceeds collected during the preceding month from the sale  
110 of lottery tickets in the state shall be allocated as prize money,  
111 to be distributed by the commission, provided that this provision  
112 shall not create any lien, entitlement, cause of action, or other  
113 private right, and any rights of holders of lottery tickets shall  
114 be determined by the commission in administering the lottery;

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

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

125 **SECTION 3.** (1) There is created in the State Treasury a  
126 special fund to be designated as the "Mississippi's Hope  
127 Scholarship Trust Fund," into which shall be deposited such funds  
128 as provided in Section 2(4)(b) of this act. All investment  
129 earnings or interest earned on amounts in the fund shall be  
130 deposited to the credit of the fund. Amounts remaining in the

131 fund at the end of a fiscal year shall not lapse into the State  
132 General Fund.

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

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

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

153 (ii) Has completed a home study program meeting  
154 state law requirements in lieu of graduating from high school,  
155 earning a cumulative grade point average of 3.0 in an eligible  
156 institution as described in paragraph (b) at end of the student's  
157 first quarter, trimester or semester, at which time the student  
158 shall be eligible to receive a retroactive Hope scholarship, or

159 (iii) Has received the general educational  
160 development (GED) diploma awarded by the Mississippi Department of  
161 Education, earning a cumulative grade point average of 3.0 in an  
162 eligible institution as described in paragraph (b) at end of the  
163 student's first quarter, trimester or semester, at which time the

164 student shall be eligible to receive a retroactive Hope  
165 scholarship;

166 (b) Attends, on a full-time basis, any state  
167 institution of higher learning or public community or junior  
168 college, or any regionally accredited, state-approved, nonprofit  
169 four- or two-year college or university located in the State of  
170 Mississippi as listed in Section 37-106-29 (4)(d), hereinafter  
171 referred to as an "eligible institution";

172 (c) Enrolls for the first time as a college student in  
173 Mississippi;

174 (d) Is a resident of the State of Mississippi and a  
175 United States citizen;

176 (e) Has complied with the United States Selective  
177 Service System requirements for registration, if such requirements  
178 are applicable to the student;

179 (f) Is not in default on a federal or state educational  
180 loan, or does not owe a refund on a federal student financial aid  
181 program or a state student financial aid program; and

182 (g) Has not been convicted of a felony offense  
183 involving marijuana or a controlled substance, or is not  
184 incarcerated.

185 (2) The annual award to a student shall be the total cost of  
186 the student's tuition for the calendar year, excluding nontuition  
187 fees and costs of books and other supplies. Payment of the award  
188 shall be made payable to the recipient and the educational  
189 institution and mailed directly to the institution.

190 (3) A recipient shall maintain the equivalent of a 3.0  
191 cumulative grade point average on a 4.0 scale, on at least twelve  
192 (12) hours per quarter, trimester or semester in order to be  
193 eligible for a continuation of the award. No student may receive  
194 an award for more than the equivalent quarters, trimesters or  
195 semesters required to complete one (1) degree per institution.  
196 The award may be renewed annually upon certification of

197 eligibility by an eligible institution that the recipient meets  
198 the necessary qualifications. If any recipient transfers from one  
199 (1) eligible institution to another, his award will be transferred  
200 provided he is eligible for the award. If a student fails to  
201 maintain continuous enrollment, he is ineligible to receive the  
202 award during the following quarter, trimester or semester of the  
203 regular academic year.

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

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

211 37-106-5. For purposes of this chapter, the following words  
212 shall be defined as follows unless the context requires otherwise:

213 (a) "Eligible applicant or eligible student" means an  
214 individual who is a bona fide resident of Mississippi or an  
215 out-of-state student who is enrolled or accepted for attendance at  
216 an approved institution located in Mississippi in a course of  
217 study including at least six (6) semester hours or the full-time  
218 equivalent thereof.

219 (b) "Approved institution" means an institution of  
220 higher learning, public or private, which is accredited by the  
221 Southern Association of Colleges and Secondary Schools, or its  
222 equivalent or a business, vocational, technical or other  
223 specialized school recognized and approved by the Post-Secondary  
224 Education Financial Assistance Board.

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

228 (d) "Fund" means the \* \* \* fund created by Section  
229 37-106-31 or the trust fund created in Section 4 of House Bill  
230 No. \_\_\_\_\_, 2004 Regular Session, as the case may be.

231 (e) "Financial need" means anticipated expenses of an  
232 eligible student while attending an approved institution which  
233 cannot reasonably be met by said student or by the parents thereof  
234 as shall be determined according to the criteria established by  
235 the rules and regulations of the board. Financial need shall be  
236 reevaluated and redetermined at least annually.

237 (f) "Agency" means the Board of Trustees of State  
238 Institutions of Higher Learning.

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

241 67-1-71. The commission may revoke or suspend any permit  
242 issued by it for a violation by the permittee of any of the  
243 provisions of this chapter or of the regulations promulgated under  
244 it by the commission.

245 Permits must be revoked or suspended for the following  
246 causes:

247 (a) Conviction of the permittee for the violation of  
248 any of the provisions of this chapter;

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

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

254 (d) Conviction of one (1) or more of the clerks, agents  
255 or employees of the permittee, of any violation of this chapter  
256 upon the premises covered by such permit within a period of time  
257 as designated by the rules or regulations of the commission;

258 (e) The possession on the premises of any retail  
259 permittee of any alcoholic beverages upon which the tax has not  
260 been paid;



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

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

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

270 (i) The conducting of any form of illegal gambling on  
271 the premises of any permittee or on any premises connected  
272 therewith or the presence on any such premises of any gambling  
273 device with the knowledge of the permittee.

274 The provisions of item (i) of this section shall not apply to  
275 gambling or the presence of any gambling devices, with knowledge  
276 of the permittee, on board a cruise vessel in the waters within  
277 the State of Mississippi, which lie adjacent to the State of  
278 Mississippi south of the three (3) most southern counties in the  
279 State of Mississippi, or on any vessel as defined in Section  
280 27-109-1 whenever such vessel is on the Mississippi River or  
281 navigable waters within any county bordering on the Mississippi  
282 River. The commission may, in its discretion, issue on-premises  
283 retailer's permits to a common carrier of the nature described in  
284 this paragraph.

285 The provisions of item (i) of this section shall not apply to  
286 the operation of any game or lottery authorized by Sections 1 and  
287 2 of House Bill No. \_\_\_\_\_, 2004 Regular Session.

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

291 In addition to the causes specified in this section and other  
292 provisions of this chapter, the commission shall be authorized to  
293 suspend the permit of any permit holder for being out of

294 compliance with an order for support, as defined in Section  
295 93-11-153. The procedure for suspension of a permit for being out  
296 of compliance with an order for support, and the procedure for the  
297 reissuance or reinstatement of a permit suspended for that  
298 purpose, and the payment of any fees for the reissuance or  
299 reinstatement of a permit suspended for that purpose, shall be  
300 governed by Section 93-11-157 or 93-11-163, as the case may be.  
301 If there is any conflict between any provision of Section  
302 93-11-157 or 93-11-163 and any provision of this chapter, the  
303 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
304 shall control.

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

307       75-76-3. (1) The provisions of this chapter shall not be  
308 construed to legalize any form of gaming which is prohibited under  
309 the Mississippi Constitution or the laws of this state. All legal  
310 gaming which is conducted in this state and which is otherwise  
311 authorized by law shall be regulated and licensed pursuant to the  
312 provisions of this chapter, unless the Legislature specifically  
313 provides otherwise. Nothing in this chapter shall be construed as  
314 encouraging the legalization of gambling in this state.

315       (2) The Legislature hereby finds and declares that lotteries  
316 and gaming both consist of the material element of chance. The  
317 Legislature is \* \* \* permitted by virtue of its inherent powers to  
318 legislate upon lotteries and gaming as the occasion arises. The  
319 Legislature derives its power to legislate upon lotteries and  
320 gaming or gambling devices from its inherent authority over the  
321 morals and policy of the people \* \* \*.

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

324       (a) Regulation of lotteries and licensed gaming is  
325 important in order that it be conducted honestly and  
326 competitively, that the rights of the creditors of licensees are

327 protected and that it is free from criminal and corruptive  
328 elements.

329 (b) Public confidence and trust can only be maintained  
330 by strict regulation of all persons, locations, practices,  
331 associations and activities related to the operation of lotteries  
332 and licensed gaming establishments and the manufacture or  
333 distribution of gambling devices and equipment.

334 (c) All establishments where lotteries or gaming, or  
335 both, is conducted and \* \* \* manufacturers, sellers and  
336 distributors of certain lottery and gaming devices and equipment  
337 must therefore be licensed, controlled and assisted to protect the  
338 public health, safety, morals, good order and general welfare of  
339 the inhabitants of the state.

340 (4) It is the intent of the Legislature that gaming  
341 licensees and any entity authorized to conduct a lottery, to the  
342 extent practicable, employ residents of Mississippi as \* \* \*  
343 employees \* \* \* in the operation of their \* \* \* establishments  
344 located in this state.

345 (5) No applicant for a license or other affirmative  
346 commission approval has any right to a license or the granting of  
347 the approval sought. Any license issued or other commission  
348 approval granted pursuant to the provisions of this chapter is a  
349 revocable privilege, and no holder acquires any vested right  
350 therein or thereunder.

351 \* \* \*

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

354 75-76-5. As used in this chapter, unless the context  
355 requires otherwise:

356 (a) "Applicant" means any person who has applied for or  
357 is about to apply for a state gaming license, registration or  
358 finding of suitability under the provisions of this chapter or

359 approval of any act or transaction for which approval is required  
360 or permitted under the provisions of this chapter.

361 (b) "Application" means a request for the issuance of a  
362 state gaming license, registration or finding of suitability under  
363 the provisions of this chapter or for approval of any act or  
364 transaction for which approval is required or permitted under the  
365 provisions of this chapter but does not include any supplemental  
366 forms or information that may be required with the application.

367 (c) "Associated equipment" means any equipment or  
368 mechanical, electromechanical or electronic contrivance, component  
369 or machine used remotely or directly in connection with gaming or  
370 with any game, race book or sports pool that would not otherwise  
371 be classified as a gaming device, including dice, playing cards,  
372 links which connect to progressive slot machines, equipment which  
373 affects the proper reporting of gross revenue, computerized  
374 systems of betting at a race book or sports pool, computerized  
375 systems for monitoring slot machines, and devices for weighing or  
376 counting money.

377 (d) "Chairman," through September 30, 1993, means the  
378 Chairman of the State Tax Commission, and thereafter means the  
379 Chairman of the Mississippi Gaming Commission.

380 (e) "Commission" or "Mississippi Gaming Commission,"  
381 through September 30, 1993, means the State Tax Commission, and  
382 thereafter means the Mississippi Gaming Commission.

383 (f) "Commission member," through September 30, 1993,  
384 means a member of the State Tax Commission, and thereafter means a  
385 member of the Mississippi Gaming Commission.

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

390 (h) "Enforcement division" means a particular division  
391 supervised by the executive director that provides enforcement  
392 functions.

393 (i) "Establishment" means any premises wherein or  
394 whereon any gaming is done.

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

399 (k) Except as otherwise provided by law, "game," or  
400 "gambling game" means any banking or percentage game played with  
401 cards, with dice or with any mechanical, electromechanical or  
402 electronic device or machine for money, property, checks, credit  
403 or any representative of value, including, without limiting the  
404 generality of the foregoing, faro, monte, roulette, keno, fan-tan,  
405 twenty-one, blackjack, seven-and-a-half, big injun, klondike,  
406 craps, poker, chuck-a-luck (dai shu), wheel of fortune, chemin de  
407 fer, baccarat, pai gow, beat the banker, panguingui, slot machine,  
408 or any other game or device approved by the commission. However,  
409 "game" or "gambling game" shall not include bingo games or raffles  
410 which are held pursuant to the provisions of Section 97-33-51, or  
411 any games or lottery authorized by Sections 1 and 2 of House Bill  
412 No. \_\_\_\_\_, 2004 Regular Session.

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

416 (l) "Gaming" or "gambling" means to deal, operate,  
417 carry on, conduct, maintain or expose for play any game as defined  
418 in this chapter.

419 (m) "Gaming device" means any mechanical,  
420 electromechanical or electronic contrivance, component or machine  
421 used in connection with gaming or any game which affects the  
422 result of a wager by determining win or loss. The term includes a

423 system for processing information which can alter the normal  
424 criteria of random selection, which affects the operation of any  
425 game, or which determines the outcome of a game. The term does  
426 not include a system or device which affects a game solely by  
427 stopping its operation so that the outcome remains undetermined,  
428 and does not include any antique coin machine as defined in  
429 Section 27-27-12.

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

- 433 (i) Boxmen;
- 434 (ii) Cashiers;
- 435 (iii) Change personnel;
- 436 (iv) Counting room personnel;
- 437 (v) Dealers;
- 438 (vi) Floormen;
- 439 (vii) Hosts or other persons empowered to extend  
440 credit or complimentary services;
- 441 (viii) Keno runners;
- 442 (ix) Keno writers;
- 443 (x) Machine mechanics;
- 444 (xi) Security personnel;
- 445 (xii) Shift or pit bosses;
- 446 (xiii) Shills;
- 447 (xiv) Supervisors or managers; and
- 448 (xv) Ticket writers.

449 The term "gaming employee" also includes employees of  
450 manufacturers or distributors of gaming equipment within this  
451 state whose duties are directly involved with the manufacture,  
452 repair or distribution of gaming equipment.

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

456           (o) "Gaming license" means any license issued by the  
457 state which authorizes the person named therein to engage in  
458 gaming.

459           (p) "Gross revenue" means the total of all of the  
460 following, less the total of all cash paid out as losses to  
461 patrons and those amounts paid to purchase annuities to fund  
462 losses paid to patrons over several years by independent financial  
463 institutions:

464                   (i) Cash received as winnings;

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

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

469           For the purposes of this definition, cash or the value of  
470 noncash prizes awarded to patrons in a contest or tournament are  
471 not losses.

472           The term does not include:

473                   (i) Counterfeit money or tokens;

474                   (ii) Coins of other countries which are received  
475 in gaming devices;

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

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

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

483           (r) "Investigation division" means a particular  
484 division supervised by the executive director that provides  
485 investigative functions.

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

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

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

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

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

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

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

501           (z) "Party" means the Mississippi Gaming Commission and  
502 any licensee or other person appearing of record in any proceeding  
503 before the commission; or the Mississippi Gaming Commission and  
504 any licensee or other person appearing of record in any proceeding  
505 for judicial review of any action, decision or order of the  
506 commission.

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

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

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

516           (dd) "Regulation" means a rule, standard, directive or  
517 statement of general applicability which effectuates law or policy  
518 or which describes the procedure or requirements for practicing  
519 before the commission. The term includes a proposed regulation



520 and the amendment or repeal of a prior regulation but does not  
521 include:

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

525 (ii) A declaratory ruling;

526 (iii) An interagency memorandum;

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

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

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

533 (ff) "Slot machine" means any mechanical, electrical or  
534 other device, contrivance or machine which, upon insertion of a  
535 coin, token or similar object, or upon payment of any  
536 consideration, is available to play or operate, the play or  
537 operation of which, whether by reason of the skill of the operator  
538 or application of the element of chance, or both, may deliver or  
539 entitle the person playing or operating the machine to receive  
540 cash, premiums, merchandise, tokens or anything of value, whether  
541 the payoff is made automatically from the machine or in any other  
542 manner. The term does not include any antique coin machine as  
543 defined in Section 27-27-12.

544 (gg) "Sports pool" means the business of accepting  
545 wagers on sporting events, except for athletic events, by any  
546 system or method of wagering other than the system known as the  
547 "pari-mutuel method of wagering."

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

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

553           (jj) "Work permit" means any card, certificate or  
554 permit issued by the commission, whether denominated as a work  
555 permit, registration card or otherwise, authorizing the employment  
556 of the holder as a gaming employee. A document issued by any  
557 governmental authority for any employment other than gaming is not  
558 a valid work permit for the purposes of this chapter.

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

562           (ll) "Cheat" means to alter the selection of criteria  
563 that determine:

564                   (i) The rules of a game; or

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

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

568           97-33-9. If any person shall be guilty of keeping or  
569 exhibiting any game or gaming table commonly called A.B.C. or E.O.  
570 roulette or rowley-powley, or rouge et noir, roredo, keno, monte,  
571 or any faro-bank, or other game, gaming table, or bank of the same  
572 or like kind or any other kind or description under any other name  
573 whatever, or shall be in any manner either directly or indirectly  
574 interested or concerned in any gaming tables, banks, or games,  
575 either by furnishing money or articles for the purpose of carrying  
576 on the same, being interested in the loss or gain of said table,  
577 bank or games, or employed in any manner in conducting, carrying  
578 on, or exhibiting said gaming tables, games, or banks, every  
579 person so offending and being thereof convicted, shall be fined  
580 not less than Twenty-five Dollars (\$25.00) nor more than Two  
581 Thousand Dollars (\$2,000.00), or be imprisoned in the county jail  
582 not longer than two (2) months, or by both such fine and  
583 imprisonment, in the discretion of the court. Nothing in this  
584 section shall apply to any person who owns, possesses, controls,  
585 installs, procures, repairs or transports any gambling device,

586 machine or equipment in accordance with subsection (4) of Section  
587 97-33-7 or Section 75-76-34.

588 This section shall not apply to the operation of any game or  
589 lottery authorized by Sections 1 and 2 of House Bill No. \_\_\_\_\_,  
590 2004 Regular Session.

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

593 97-33-11. It shall not be lawful for any association of  
594 persons of the character commonly known as a "club," whether such  
595 association be incorporated or not, in any manner, either directly  
596 or indirectly, to have any interest or concern in any gambling  
597 tables, banks, or games, by means of what is sometimes called a  
598 "rake-off" or "take-out," or by means of an assessment upon  
599 certain combinations, or hands at cards, or by means of a  
600 percentage extracted from players, or an assessment made upon, or  
601 a contribution from them, or by any other means, device or  
602 contrivance whatsoever. It shall not be lawful for such an  
603 association to lend or advance money or any other valuable thing  
604 to any person engaged or about to engage in playing any game of  
605 chance prohibited by law, or to become responsible directly or  
606 indirectly for any money or other valuable thing lost, or which  
607 may be lost, by any player in any such game. If any such  
608 association shall violate any of the provisions of this section  
609 each and every member thereof shall be guilty of a misdemeanor,  
610 and, upon conviction thereof shall be fined in a sum not more than  
611 Five Hundred Dollars (\$500.00); and unless such fine and costs be  
612 immediately paid, shall be imprisoned in the county jail for not  
613 less than five (5) nor more than twenty (20) days. Each grand  
614 jury shall cause such of the members of such an association as it  
615 may choose to appear before them and submit to examination  
616 touching the observance or nonobservance by such association of  
617 the provisions hereof.

618 This section shall not apply to the operation of any game or  
619 lottery authorized by Sections 1 and 2 of House Bill No. \_\_\_\_\_,  
620 2004 Regular Session.

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

623 97-33-13. Any owner, lessee, or occupant of any outhouse or  
624 other building, who shall knowingly permit or suffer any of the  
625 before mentioned tables, banks, or games, or any other game  
626 prohibited by law, to be carried on, kept, or exhibited in his  
627 said house or other building, or on his lot or premises, being  
628 thereof convicted, shall be fined not less than One Hundred  
629 Dollars (\$100.00) nor more than Two Thousand Dollars (\$2,000.00).

630 This section shall not apply to the operation of any game or  
631 lottery authorized by Sections 1 and 2 of House Bill No. \_\_\_\_\_,  
632 2004 Regular Session.

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

635 97-33-21. Any person of full age who shall bet any money or  
636 thing of any value with a minor, or allow a minor to bet at any  
637 game or gaming-table exhibited by him, or in which he is  
638 interested or in any manner concerned, on conviction thereof,  
639 shall be fined not less than Three Hundred Dollars (\$300.00) and  
640 imprisoned not less than three (3) months.

641 This section shall apply to minors under the age of eighteen  
642 (18) as it might apply to the operation of any game or lottery  
643 authorized by Sections 1 and 2 of House Bill No. \_\_\_\_\_, 2004  
644 Regular Session.

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

647 97-33-23. Any person of full age who shall bet any money or  
648 thing of value with a minor, knowing such minor to be under the  
649 age of twenty-one (21) years, or allowing any such minor to bet at  
650 any game or games, or at any gaming-table exhibited by him, or in

651 which he is interested or in any manner concerned, on conviction  
652 thereof, shall be punished by imprisonment in the Penitentiary not  
653 exceeding two (2) years.

654 This section shall apply to minors under the age of eighteen  
655 (18) with regard to the operation of any game or lottery  
656 authorized by Sections 1 and 2 of House Bill No. \_\_\_\_\_, 2004  
657 Regular Session.

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

660 97-33-31. If any person, in order to raise money for himself  
661 or another, or for any purpose whatever, shall publicly or  
662 privately put up a lottery to be drawn or adventured for, he  
663 shall, on conviction, be imprisoned in the Penitentiary not  
664 exceeding five (5) years.

665 This section shall not apply to the operation of any game or  
666 lottery authorized by Sections 1 and 2 of House Bill No. \_\_\_\_\_,  
667 2004 Regular Session.

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

670 97-33-33. If any person shall in any way advertise any  
671 lottery whatever, no matter where located, or shall knowingly have  
672 in his possession any posters or other lottery advertisements of  
673 any kind save a regularly issued newspaper containing such an  
674 advertisement without intent to circulate the same as an  
675 advertisement he shall, on conviction, be fined not less than  
676 Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars  
677 (\$100.00), or be imprisoned in the county jail not exceeding three  
678 (3) months, or both.

679 This section shall not apply to the operation of any game or  
680 lottery authorized by Sections 1 and 2 of House Bill No. \_\_\_\_\_,  
681 2004 Regular Session.

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

684           97-33-35. If any newspaper published or circulated in this  
685 state shall contain an advertisement of any lottery whatever, or  
686 any matter intended to advertise a lottery, no matter where  
687 located, the editor or editors, publisher or publishers, and the  
688 owner or owners thereof permitting the same, shall be guilty of a  
689 misdemeanor, and, on conviction, shall be fined not less than One  
690 Hundred Dollars (\$100.00) nor more than One Thousand Dollars  
691 (\$1,000.00), and be imprisoned in the county jail not less than  
692 ten (10) days nor more than three (3) months, for each offense.  
693 The issuance of each separate daily or weekly edition of the  
694 newspaper that shall contain such an advertisement shall be  
695 considered a separate offense.

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

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

701           97-33-37. If any newsdealer or other person shall, directly  
702 or indirectly, sell or offer for sale any newspaper or other  
703 publication containing a lottery advertisement, he shall be guilty  
704 of a misdemeanor, and upon conviction, shall be fined not less  
705 than Ten Dollars (\$10.00) or imprisoned not less than ten (10)  
706 days or both.

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

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

712           97-33-39. If any person shall sell, or offer or expose for  
713 sale, any lottery ticket, whether the lottery be in or out of this  
714 state, or for or in any other state, territory, district, or  
715 country, he shall, on conviction, be fined not less than  
716 Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars

717 (\$100.00), or imprisoned in the county jail not less than ten (10)  
718 days nor more than sixty (60) days, or both.

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

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

724 97-33-41. If any person shall buy in this state any lottery  
725 ticket, whether the lottery be in or out of this state, or of or  
726 in any other state, territory, district, or country, he shall, on  
727 conviction, be fined not less than Five Dollars (\$5.00) nor more  
728 than Twenty-five Dollars (\$25.00), or be imprisoned in the county  
729 jail not exceeding ten (10) days, or both.

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

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

735 97-33-43. If any railroad company shall suffer or permit the  
736 sale of a lottery ticket of any kind on its cars, or at its depots  
737 or depot grounds, or by its employees, no matter where the lottery  
738 is located, it shall be guilty of a misdemeanor, and, on  
739 conviction shall be fined not less than Twenty Dollars (\$20.00)  
740 nor more than One Hundred Dollars (\$100.00) for every such ticket  
741 so sold.

742 This section shall not apply to the operation of any game or  
743 lottery authorized by Sections 1 and 2 of House Bill No. \_\_\_\_\_,  
744 2004 Regular Session.

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

747 97-33-45. If the owner or owners of any steamboat shall  
748 suffer or permit the sale of a lottery ticket of any kind on his  
749 or their boat, or by his or their employees, no matter where the

750 lottery is located, he or they shall be guilty of a misdemeanor,  
751 and shall, on conviction, be punished as prescribed in Section  
752 97-33-43.

753 This section shall not apply to the operation of any game or  
754 lottery authorized by Sections 1 and 2 of House Bill No. \_\_\_\_\_,  
755 2004 Regular Session.

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

758 97-33-47. If any person shall act as agent for any lottery  
759 or lottery company, no matter where domiciled or located, or if he  
760 shall assume to so act as agent, or if he receive any money or  
761 other thing for any such lottery or lottery company, or deliver to  
762 any person any ticket or tickets, prize or prizes, or other thing  
763 from such lottery or lottery company, he shall, on conviction, be  
764 fined not less than One Hundred Dollars (\$100.00), nor more than  
765 Five Hundred Dollars (\$500.00), and be imprisoned in the county  
766 jail not less than three (3) months nor more than six (6) months.

767 This section shall not apply to the operation of any game or  
768 lottery authorized by Sections 1 and 2 of House Bill No. \_\_\_\_\_,  
769 2004 Regular Session.

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

772 97-33-49. Except as otherwise provided in Section 97-33-51,  
773 if any person, in order to raise money for himself or another,  
774 shall publicly or privately put up or in any way offer any prize  
775 or thing to be raffled or played for, he shall, on conviction, be  
776 fined not more than Twenty Dollars (\$20.00), or be imprisoned not  
777 more than one (1) month in the county jail.

778 This section shall not apply to the operation of any game or  
779 lottery authorized by Sections 1 and 2 of House Bill No. \_\_\_\_\_,  
780 2004 Regular Session.

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



783           27-65-111. The exemptions from the provisions of this  
784 chapter which are not industrial, agricultural or governmental, or  
785 which do not relate to utilities or taxes, or which are not  
786 properly classified as one of the exemption classifications of  
787 this chapter, shall be confined to persons or property exempted by  
788 this section or by the Constitution of the United States or the  
789 State of Mississippi. No exemptions as now provided by any other  
790 section, except the classified exemption sections of this chapter  
791 set forth herein, shall be valid as against the tax herein levied.  
792 Any subsequent exemption from the tax levied hereunder, except as  
793 indicated above, shall be provided by amendments to this section.

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

796           The tax levied by this chapter shall not apply to the  
797 following:

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

803           Only sales of tangible personal property or services which  
804 are ordinary and necessary to the operation of such hospitals and  
805 infirmaries are exempted from tax.

806           (b) Sales of daily or weekly newspapers, and  
807 periodicals or publications of scientific, literary or educational  
808 organizations exempt from federal income taxation under Section  
809 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of  
810 March 31, 1975, and subscription sales of all magazines.

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

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

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

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

825           (g) Sales to elementary and secondary grade schools,  
826 junior and senior colleges owned and operated by a corporation or  
827 association in which no part of the net earnings inures to the  
828 benefit of any private shareholder, group or individual, and which  
829 are exempt from state income taxation, provided that this  
830 exemption does not apply to sales of property or services which  
831 are not to be used in the ordinary operation of the school, or  
832 which are to be resold to the students or the public.

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

835           (i) Prescribed for the treatment of a human being  
836 by a person authorized to prescribe the medicines, and dispensed  
837 or prescription filled by a registered pharmacist in accordance  
838 with law; or

839           (ii) Furnished by a licensed physician, surgeon,  
840 dentist or podiatrist to his own patient for treatment of the  
841 patient; or

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

845           (iv) Sold to a licensed physician, surgeon,  
846 podiatrist, dentist or hospital for the treatment of a human  
847 being; or

848 (v) Sold to this state or any political  
849 subdivision or municipal corporation thereof, for use in the  
850 treatment of a human being or furnished for the treatment of a  
851 human being by a medical facility or clinic maintained by this  
852 state or any political subdivision or municipal corporation  
853 thereof.

854 "Medicines," as used in this paragraph (h), shall mean and  
855 include any substance or preparation intended for use by external  
856 or internal application to the human body in the diagnosis, cure,  
857 mitigation, treatment or prevention of disease and which is  
858 commonly recognized as a substance or preparation intended for  
859 such use; provided that "medicines" do not include any auditory,  
860 prosthetic, ophthalmic or ocular device or appliance, any dentures  
861 or parts thereof or any artificial limbs or their replacement  
862 parts, articles which are in the nature of splints, bandages,  
863 pads, compresses, supports, dressings, instruments, apparatus,  
864 contrivances, appliances, devices or other mechanical, electronic,  
865 optical or physical equipment or article or the component parts  
866 and accessories thereof, or any alcoholic beverage or any other  
867 drug or medicine not commonly referred to as a prescription drug.

868 Notwithstanding the preceding sentence of this paragraph (h),  
869 "medicines" as used in this paragraph (h), shall mean and include  
870 sutures, whether or not permanently implanted, bone screws, bone  
871 pins, pacemakers and other articles permanently implanted in the  
872 human body to assist the functioning of any natural organ, artery,  
873 vein or limb and which remain or dissolve in the body.

874 "Hospital," as used in this paragraph (h), shall have the  
875 meaning ascribed to it in Section 41-9-3, Mississippi Code of  
876 1972.

877 Insulin furnished by a registered pharmacist to a person for  
878 treatment of diabetes as directed by a physician shall be deemed  
879 to be dispensed on prescription within the meaning of this  
880 paragraph (h).

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

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

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

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

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

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

898 (o) Retail sales of food for human consumption  
899 purchased with food stamps issued by the United States Department  
900 of Agriculture, or other federal agency, from and after October 1,  
901 1987, or from and after the expiration of any waiver granted  
902 pursuant to federal law, the effect of which waiver is to permit  
903 the collection by the state of tax on such retail sales of food  
904 for human consumption purchased with food stamps.

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

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

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

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

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

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

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

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

927           (x) The gross collections from the operation of  
928 self-service, coin-operated car washing equipment and sales of the  
929 service of washing motor vehicles with portable high pressure  
930 washing equipment on the premises of the customer.

931           (y) Sales of lottery tickets by a retailer as  
932 authorized by Sections 1 and 2 of House Bill No. \_\_\_\_\_, 2004  
933 Regular Session.

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

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