

By: Representatives Clarke, Thomas, Bentz,
Fleming, Janus

To: Gaming; Ways and Means

HOUSE BILL NO. 550

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) Four percent (4%) of the proceeds collected during
122 the preceding month from the sale of lottery tickets within a
123 county shall be allocated for distribution to such county and paid
124 to such county;

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

129 **SECTION 3.** (1) There is created in the State Treasury a
130 special fund to be designated as the "Mississippi's Hope

131 Scholarship Trust Fund," into which shall be deposited such funds
132 as provided in Section 2(4)(d) of this act. All investment
133 earnings or interest earned on amounts in the fund shall be
134 deposited to the credit of the fund. Amounts remaining in the
135 fund at the end of a fiscal year shall not lapse into the State
136 General Fund.

137 (2) The trust fund shall remain inviolate and shall never be
138 expended, except as provided in this section. Beginning in fiscal
139 year 2007 and for each subsequent fiscal year, the Legislature may
140 appropriate from the trust fund an amount not greater than the
141 aggregate investment earnings and interest earned during the
142 preceding fiscal year on amounts in the fund. Such appropriation
143 shall be for the exclusive purpose of providing funds for the
144 purposes described in Section 4 of this act, but shall not be
145 considered to be the only source for providing funds for such
146 purposes.

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

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

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

164 (iii) Has received the general educational
165 development (GED) diploma awarded by the Mississippi Department of
166 Education, earning a cumulative grade point average of 3.0 in an
167 eligible institution as described in paragraph (b) at end of the
168 student's first quarter, trimester or semester, at which time the
169 student shall be eligible to receive a retroactive Hope
170 scholarship;

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

177 (c) Enrolls for the first time as a college student in
178 Mississippi;

179 (d) Is a resident of the State of Mississippi and a
180 United States citizen;

181 (e) Has complied with the United States Selective
182 Service System requirements for registration, if such requirements
183 are applicable to the student;

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

187 (g) Has not been convicted of a felony offense
188 involving marijuana or a controlled substance, or is not
189 incarcerated.

190 (2) The annual award to a student shall be the total cost of
191 the student's tuition for the calendar year, excluding nontuition
192 fees and costs of books and other supplies. Payment of the award
193 shall be made payable to the recipient and the educational
194 institution and mailed directly to the institution.

195 (3) A recipient shall maintain the equivalent of a 3.0
196 cumulative grade point average on a 4.0 scale, on at least twelve

197 (12) hours per quarter, trimester or semester in order to be
198 eligible for a continuation of the award. No student may receive
199 an award for more than the equivalent quarters, trimesters or
200 semesters required to complete one (1) degree per institution.
201 The award may be renewed annually upon certification of
202 eligibility by an eligible institution that the recipient meets
203 the necessary qualifications. If any recipient transfers from one
204 (1) eligible institution to another, his award will be transferred
205 provided he is eligible for the award. If a student fails to
206 maintain continuous enrollment, he is ineligible to receive the
207 award during the following quarter, trimester or semester of the
208 regular academic year.

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

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

216 37-106-5. For purposes of this chapter, the following words
217 shall be defined as follows unless the context requires otherwise:

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

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

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

233 (d) "Fund" means the * * * fund created by Section
234 37-106-31 or the trust fund created in Section 3 of House Bill
235 No. _____, 2005 Regular Session, as the case may be.

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

242 (f) "Agency" means the Board of Trustees of State
243 Institutions of Higher Learning.

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

246 67-1-71. The commission may revoke or suspend any permit
247 issued by it for a violation by the permittee of any of the
248 provisions of this chapter or of the regulations promulgated under
249 it by the commission.

250 Permits must be revoked or suspended for the following
251 causes:

252 (a) Conviction of the permittee for the violation of
253 any of the provisions of this chapter;

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

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

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

263 (e) The possession on the premises of any retail
264 permittee of any alcoholic beverages upon which the tax has not
265 been paid;

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

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

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

275 (i) The conducting of any form of illegal gambling on
276 the premises of any permittee or on any premises connected
277 therewith or the presence on any such premises of any gambling
278 device with the knowledge of the permittee.

279 The provisions of item (i) of this section shall not apply to
280 gambling or the presence of any gambling devices, with knowledge
281 of the permittee, on board a cruise vessel in the waters within
282 the State of Mississippi, which lie adjacent to the State of
283 Mississippi south of the three (3) most southern counties in the
284 State of Mississippi, or on any vessel as defined in Section
285 27-109-1 whenever such vessel is on the Mississippi River or
286 navigable waters within any county bordering on the Mississippi
287 River. The commission may, in its discretion, issue on-premises
288 retailer's permits to a common carrier of the nature described in
289 this paragraph.

290 The provisions of item (i) of this section shall not apply to
291 the operation of any game or lottery authorized by Sections 1 and
292 2 of House Bill No. _____, 2005 Regular Session.

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

296 In addition to the causes specified in this section and other
297 provisions of this chapter, the commission shall be authorized to
298 suspend the permit of any permit holder for being out of
299 compliance with an order for support, as defined in Section
300 93-11-153. The procedure for suspension of a permit for being out
301 of compliance with an order for support, and the procedure for the
302 reissuance or reinstatement of a permit suspended for that
303 purpose, and the payment of any fees for the reissuance or
304 reinstatement of a permit suspended for that purpose, shall be
305 governed by Section 93-11-157 or 93-11-163, as the case may be.
306 If there is any conflict between any provision of Section
307 93-11-157 or 93-11-163 and any provision of this chapter, the
308 provisions of Section 93-11-157 or 93-11-163, as the case may be,
309 shall control.

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

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

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

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

329 (a) Regulation of lotteries and licensed gaming is
330 important in order that it be conducted honestly and
331 competitively, that the rights of the creditors of licensees are
332 protected and that it is free from criminal and corruptive
333 elements.

334 (b) Public confidence and trust can only be maintained
335 by strict regulation of all persons, locations, practices,
336 associations and activities related to the operation of lotteries
337 and licensed gaming establishments and the manufacture or
338 distribution of gambling devices and equipment.

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

345 (4) It is the intent of the Legislature that gaming
346 licensees and any entity authorized to conduct a lottery, to the
347 extent practicable, employ residents of Mississippi as * * *
348 employees * * * in the operation of their * * * establishments
349 located in this state.

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

356 * * *

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

359 75-76-5. As used in this chapter, unless the context
360 requires otherwise:

361 (a) "Applicant" means any person who has applied for or
362 is about to apply for a state gaming license, registration or
363 finding of suitability under the provisions of this chapter or
364 approval of any act or transaction for which approval is required
365 or permitted under the provisions of this chapter.

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

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

382 (d) "Chairman," through September 30, 1993, means the
383 Chairman of the State Tax Commission, and thereafter means the
384 Chairman of the Mississippi Gaming Commission.

385 (e) "Commission" or "Mississippi Gaming Commission,"
386 through September 30, 1993, means the State Tax Commission, and
387 thereafter means the Mississippi Gaming Commission.

388 (f) "Commission member," through September 30, 1993,
389 means a member of the State Tax Commission, and thereafter means a
390 member of the Mississippi Gaming Commission.

391 (g) "Credit instrument" means a writing which evidences
392 a gaming debt owed to a person who holds a license at the time the

393 debt is created, and includes any writing taken in consolidation,
394 redemption or payment of a prior credit instrument.

395 (h) "Enforcement division" means a particular division
396 supervised by the executive director that provides enforcement
397 functions.

398 (i) "Establishment" means any premises wherein or
399 whereon any gaming is done.

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

404 (k) Except as otherwise provided by law, "game," or
405 "gambling game" means any banking or percentage game played with
406 cards, with dice or with any mechanical, electromechanical or
407 electronic device or machine for money, property, checks, credit
408 or any representative of value, including, without limiting the
409 generality of the foregoing, faro, monte, roulette, keno, fan-tan,
410 twenty-one, blackjack, seven-and-a-half, big injun, klondike,
411 craps, poker, chuck-a-luck (dai shu), wheel of fortune, chemin de
412 fer, baccarat, pai gow, beat the banker, panguingui, slot machine,
413 or any other game or device approved by the commission. However,
414 "game" or "gambling game" shall not include bingo games or raffles
415 which are held pursuant to the provisions of Section 97-33-51, or
416 any games or lottery authorized by Sections 1 and 2 of House Bill
417 No. _____, 2005 Regular Session.

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

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

424 (m) "Gaming device" means any mechanical,
425 electromechanical or electronic contrivance, component or machine

426 used in connection with gaming or any game which affects the
427 result of a wager by determining win or loss. The term includes a
428 system for processing information which can alter the normal
429 criteria of random selection, which affects the operation of any
430 game, or which determines the outcome of a game. The term does
431 not include a system or device which affects a game solely by
432 stopping its operation so that the outcome remains undetermined,
433 and does not include any antique coin machine as defined in
434 Section 27-27-12.

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

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

454 The term "gaming employee" also includes employees of
455 manufacturers or distributors of gaming equipment within this
456 state whose duties are directly involved with the manufacture,
457 repair or distribution of gaming equipment.

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

461 (o) "Gaming license" means any license issued by the
462 state which authorizes the person named therein to engage in
463 gaming.

464 (p) "Gross revenue" means the total of all of the
465 following, less the total of all cash paid out as losses to
466 patrons and those amounts paid to purchase annuities to fund
467 losses paid to patrons over several years by independent financial
468 institutions:

469 (i) Cash received as winnings;

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

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

474 For the purposes of this definition, cash or the value of
475 noncash prizes awarded to patrons in a contest or tournament are
476 not losses.

477 The term does not include:

478 (i) Counterfeit money or tokens;

479 (ii) Coins of other countries which are received
480 in gaming devices;

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

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

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

488 (r) "Investigation division" means a particular
489 division supervised by the executive director that provides
490 investigative functions.

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

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

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

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

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

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

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

506 (z) "Party" means the Mississippi Gaming Commission and
507 any licensee or other person appearing of record in any proceeding
508 before the commission; or the Mississippi Gaming Commission and
509 any licensee or other person appearing of record in any proceeding
510 for judicial review of any action, decision or order of the
511 commission.

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

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

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

521 (dd) "Regulation" means a rule, standard, directive or
522 statement of general applicability which effectuates law or policy
523 or which describes the procedure or requirements for practicing

524 before the commission. The term includes a proposed regulation
525 and the amendment or repeal of a prior regulation but does not
526 include:

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

530 (ii) A declaratory ruling;

531 (iii) An interagency memorandum;

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

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

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

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

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

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

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

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

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

567 (ll) "Cheat" means to alter the selection of criteria
568 that determine:

569 (i) The rules of a game; or

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

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

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

589 section shall apply to any person who owns, possesses, controls,
590 installs, procures, repairs or transports any gambling device,
591 machine or equipment in accordance with subsection (4) of Section
592 97-33-7 or Section 75-76-34.

593 This section shall not apply to the operation of any game or
594 lottery authorized by Sections 1 and 2 of House Bill No. _____,
595 2005 Regular Session.

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

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

621 touching the observance or nonobservance by such association of
622 the provisions hereof.

623 This section shall not apply to the operation of any game or
624 lottery authorized by Sections 1 and 2 of House Bill No. _____,
625 2005 Regular Session.

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

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

635 This section shall not apply to the operation of any game or
636 lottery authorized by Sections 1 and 2 of House Bill No. _____,
637 2005 Regular Session.

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

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

646 This section shall apply to minors under the age of eighteen
647 (18) as it might apply to the operation of any game or lottery
648 authorized by Sections 1 and 2 of House Bill No. _____, 2005
649 Regular Session.

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

652 97-33-23. Any person of full age who shall bet any money or
653 thing of value with a minor, knowing such minor to be under the

654 age of twenty-one (21) years, or allowing any such minor to bet at
655 any game or games, or at any gaming-table exhibited by him, or in
656 which he is interested or in any manner concerned, on conviction
657 thereof, shall be punished by imprisonment in the Penitentiary not
658 exceeding two (2) years.

659 This section shall apply to minors under the age of eighteen
660 (18) with regard to the operation of any game or lottery
661 authorized by Sections 1 and 2 of House Bill No. _____, 2005
662 Regular Session.

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

665 97-33-31. If any person, in order to raise money for himself
666 or another, or for any purpose whatever, shall publicly or
667 privately put up a lottery to be drawn or adventured for, he
668 shall, on conviction, be imprisoned in the Penitentiary not
669 exceeding five (5) years.

670 This section shall not apply to the operation of any game or
671 lottery authorized by Sections 1 and 2 of House Bill No. _____,
672 2005 Regular Session.

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

675 97-33-33. If any person shall in any way advertise any
676 lottery whatever, no matter where located, or shall knowingly have
677 in his possession any posters or other lottery advertisements of
678 any kind save a regularly issued newspaper containing such an
679 advertisement without intent to circulate the same as an
680 advertisement he shall, on conviction, be fined not less than
681 Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars
682 (\$100.00), or be imprisoned in the county jail not exceeding three
683 (3) months, or both.

684 This section shall not apply to the operation of any game or
685 lottery authorized by Sections 1 and 2 of House Bill No. _____,
686 2005 Regular Session.

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

689 97-33-35. If any newspaper published or circulated in this
690 state shall contain an advertisement of any lottery whatever, or
691 any matter intended to advertise a lottery, no matter where
692 located, the editor or editors, publisher or publishers, and the
693 owner or owners thereof permitting the same, shall be guilty of a
694 misdemeanor, and, on conviction, shall be fined not less than One
695 Hundred Dollars (\$100.00) nor more than One Thousand Dollars
696 (\$1,000.00), and be imprisoned in the county jail not less than
697 ten (10) days nor more than three (3) months, for each offense.
698 The issuance of each separate daily or weekly edition of the
699 newspaper that shall contain such an advertisement shall be
700 considered a separate offense.

701 This section shall not apply to the operation of any game or
702 lottery authorized by Sections 1 and 2 of House Bill No. _____,
703 2005 Regular Session.

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

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

712 This section shall not apply to the operation of any game or
713 lottery authorized by Sections 1 and 2 of House Bill No. _____,
714 2005 Regular Session.

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

717 97-33-39. If any person shall sell, or offer or expose for
718 sale, any lottery ticket, whether the lottery be in or out of this
719 state, or for or in any other state, territory, district, or

720 country, he shall, on conviction, be fined not less than
721 Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars
722 (\$100.00), or imprisoned in the county jail not less than ten (10)
723 days nor more than sixty (60) days, or both.

724 This section shall not apply to the operation of any game or
725 lottery authorized by Sections 1 and 2 of House Bill No. _____,
726 2005 Regular Session.

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

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

735 This section shall not apply to the operation of any game or
736 lottery authorized by Sections 1 and 2 of House Bill No. _____,
737 2005 Regular Session.

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

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

747 This section shall not apply to the operation of any game or
748 lottery authorized by Sections 1 and 2 of House Bill No. _____,
749 2005 Regular Session.

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

752 97-33-45. If the owner or owners of any steamboat shall
753 suffer or permit the sale of a lottery ticket of any kind on his
754 or their boat, or by his or their employees, no matter where the
755 lottery is located, he or they shall be guilty of a misdemeanor,
756 and shall, on conviction, be punished as prescribed in Section
757 97-33-43.

758 This section shall not apply to the operation of any game or
759 lottery authorized by Sections 1 and 2 of House Bill No. _____,
760 2005 Regular Session.

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

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

772 This section shall not apply to the operation of any game or
773 lottery authorized by Sections 1 and 2 of House Bill No. _____,
774 2005 Regular Session.

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

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

783 This section shall not apply to the operation of any game or
784 lottery authorized by Sections 1 and 2 of House Bill No. _____,
785 2005 Regular Session.

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

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

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

801 The tax levied by this chapter shall not apply to the
802 following:

803 (a) Sales of tangible personal property and services to
804 hospitals or infirmaries 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 subject to and governed by Sections 41-7-123 through 41-7-127.

808 Only sales of tangible personal property or services which
809 are ordinary and necessary to the operation of such hospitals and
810 infirmaries are exempted from tax.

811 (b) Sales of daily or weekly newspapers, and
812 periodicals or publications of scientific, literary or educational
813 organizations exempt from federal income taxation under Section
814 501(c)(3) of the Internal Revenue Code of 1954, as it exists as of
815 March 31, 1975, and subscription sales of all magazines.

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

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

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

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

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

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

840 (i) Prescribed for the treatment of a human being
841 by a person authorized to prescribe the medicines, and dispensed
842 or prescription filled by a registered pharmacist in accordance
843 with law; or

844 (ii) Furnished by a licensed physician, surgeon,
845 dentist or podiatrist to his own patient for treatment of the
846 patient; or

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

850 (iv) Sold to a licensed physician, surgeon,
851 podiatrist, dentist or hospital for the treatment of a human
852 being; or

853 (v) Sold to this state or any political
854 subdivision or municipal corporation thereof, for use in the
855 treatment of a human being or furnished for the treatment of a
856 human being by a medical facility or clinic maintained by this
857 state or any political subdivision or municipal corporation
858 thereof.

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

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

879 "Hospital," as used in this paragraph (h), shall have the
880 meaning ascribed to it in Section 41-9-3, Mississippi Code of
881 1972.

882 Insulin furnished by a registered pharmacist to a person for
883 treatment of diabetes as directed by a physician shall be deemed
884 to be dispensed on prescription within the meaning of this
885 paragraph (h).

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

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

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

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

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

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

903 (o) Retail sales of food for human consumption
904 purchased with food stamps issued by the United States Department
905 of Agriculture, or other federal agency, from and after October 1,
906 1987, or from and after the expiration of any waiver granted
907 pursuant to federal law, the effect of which waiver is to permit
908 the collection by the state of tax on such retail sales of food
909 for human consumption purchased with food stamps.

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

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

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

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

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

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

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

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

932 (x) The gross collections from the operation of
933 self-service, coin-operated car washing equipment and sales of the
934 service of washing motor vehicles with portable high-pressure
935 washing equipment on the premises of the customer.

936 (y) Sales of tangible personal property or services to
937 the Mississippi Technology Alliance.

938 (z) Sales of lottery tickets by a retailer as
939 authorized by Sections 1 and 2 of House Bill No. _____, 2005
940 Regular Session.

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

943 **SECTION 26.** This act shall take effect and be in force from
944 and after July 1, 2005.