

1 ENGROSSED SENATE AMENDMENTS
TO
2 ENGROSSED HOUSE
BILL NO. 3396

By: Benge, Cargill, Collins,
Martin (Scott), Nations,
Hickman, Jones and Shumate
of the House

and

Coffee, Nichols and Sparks
of the Senate

(schools - amending 70 O.S., Section 4019 - Oklahoma
Capitol Improvement Authority - effective date -
emergency)

AUTHOR: Add the following Senate Coauthor: Johnson
(Constance)

AMENDMENT NO. 1. Page 1, strike the enacting clause

AMENDMENT NO. 2. Page 4, line 7 1/2, insert new Sections 2,
3 and 4 to read

"SECTION 2. AMENDATORY Section 4, Chapter 316, O.S.L.
2004, as amended by Section 1, Chapter 355, O.S.L. 2007 (3A O.S.
Supp. 2007, Section 263), is amended to read as follows:

Section 263. A. Each organization licensee described in
paragraph 2 of subsection C of Section ~~3~~ 262 of this ~~act~~ title shall
distribute from the first Ten Million Dollars (\$10,000,000.00) of

1 adjusted gross revenues generated by any gaming conducted pursuant
2 to ~~this act~~ the State-Tribal Gaming Act as follows:

3 1. Ten percent (10%) shall be remitted to the Oklahoma Tax
4 Commission on the fifteenth day following the end of the month in
5 which it was retained. Prior to July 1, 2008, twelve percent (12%)
6 of the revenue derived pursuant to this paragraph shall be
7 apportioned monthly to the Oklahoma Higher Learning Access Trust
8 Fund and eighty-eight percent (88%) of such revenue shall be
9 apportioned to the Education Reform Revolving Fund. On or after
10 July 1, 2008, twelve percent (12%) of the revenue derived pursuant
11 to this paragraph shall be apportioned monthly to the ~~General~~
12 ~~Revenue Fund~~ Oklahoma State Regents' Endowment Trust Fund and
13 eighty-eight percent (88%) of such revenue shall be apportioned to
14 the Education Reform Revolving Fund;

15 2. Twenty-five percent (25%) shall be retained by the
16 organization licensee to be distributed according to subsection H of
17 this section; and

18 3. Sixty-five percent (65%) shall be retained by the
19 organization licensee.

20 B. The organization licensee described in paragraph 1 of
21 subsection C of Section ~~3~~ 262 of this ~~act~~ title shall distribute
22 from the first Ten Million Dollars (\$10,000,000.00) of adjusted
23 gross revenues generated by any gaming conducted pursuant to ~~this~~
24 ~~act~~ the State-Tribal Gaming Act as follows:

1 1. Ten percent (10%) shall be remitted to the Tax Commission on
2 the fifteenth day following the end of the month in which it was
3 retained. Prior to July 1, 2008, twelve percent (12%) of the
4 revenue derived pursuant to this paragraph shall be apportioned
5 monthly to the Oklahoma Higher Learning Access Trust Fund and
6 eighty-eight percent (88%) of such revenue shall be apportioned to
7 the Education Reform Revolving Fund. On or after July 1, 2008,
8 twelve percent (12%) of the revenue derived pursuant to this
9 paragraph shall be apportioned monthly to the ~~General Revenue Fund~~
10 Oklahoma State Regents' Endowment Trust Fund and eighty-eight
11 percent (88%) of such revenue shall be apportioned to the Education
12 Reform Revolving Fund;

13 2. Thirty percent (30%) shall be retained by the organization
14 licensee to be distributed according to subsection H of this
15 section; and

16 3. Sixty percent (60%) shall be retained by the organization
17 licensee.

18 C. Each organization licensee shall distribute from retained
19 adjusted gross revenues in excess of Ten Million Dollars
20 (\$10,000,000.00) per calendar year but not to exceed Thirty Million
21 Dollars (\$30,000,000.00) per calendar year generated from any gaming
22 conducted pursuant to ~~this act~~ the State-Tribal Gaming Act as
23 follows:
24

1 1. Ten percent (10%) shall be remitted to the Tax Commission on
2 the fifteenth day following the end of the month in which it was
3 retained. Prior to July 1, 2008, twelve percent (12%) of the
4 revenue derived pursuant to this paragraph shall be apportioned
5 monthly to the Oklahoma Higher Learning Access Trust Fund and
6 eighty-eight percent (88%) of such revenue shall be apportioned to
7 the Education Reform Revolving Fund. On or after July 1, 2008,
8 twelve percent (12%) of the revenue derived pursuant to this
9 paragraph shall be apportioned monthly to the ~~General Revenue Fund~~
10 Oklahoma State Regents' Endowment Trust Fund and eighty-eight
11 percent (88%) of such revenue shall be apportioned to the Education
12 Reform Revolving Fund;

13 2. Thirty percent (30%) shall be retained by the organization
14 licensee to be distributed according to subsection H of this
15 section; and

16 3. Sixty percent (60%) shall be retained by the organization
17 licensee.

18 D. Each organization licensee shall distribute from retained
19 adjusted gross revenues in excess of Thirty Million Dollars
20 (\$30,000,000.00) per calendar year but not to exceed Forty Million
21 Dollars (\$40,000,000.00) per calendar year generated by any gaming
22 conducted pursuant to ~~this act~~ the State-Tribal Gaming Act as
23 follows:
24

1 1. Fifteen percent (15%) shall be remitted to the Tax
2 Commission on the fifteenth day following the end of the month in
3 which it was retained. Prior to July 1, 2008, twelve percent (12%)
4 of the revenue derived pursuant to this paragraph shall be
5 apportioned monthly to the Oklahoma Higher Learning Access Trust
6 Fund and eighty-eight percent (88%) of such revenue shall be
7 apportioned to the Education Reform Revolving Fund. On or after
8 July 1, 2008, twelve percent (12%) of the revenue derived pursuant
9 to this paragraph shall be apportioned monthly to the ~~General~~
10 ~~Revenue Fund~~ Oklahoma State Regents' Endowment Trust Fund and
11 eighty-eight percent (88%) of such revenue shall be apportioned to
12 the Education Reform Revolving Fund;

13 2. Thirty percent (30%) shall be retained by the organization
14 licensee to be distributed according to subsection H of this
15 section; and

16 3. Fifty-five percent (55%) shall be retained by the
17 organization licensee.

18 E. Each organization licensee shall distribute from retained
19 adjusted gross revenues in excess of Forty Million Dollars
20 (\$40,000,000.00) per calendar year but not to exceed Fifty Million
21 Dollars (\$50,000,000.00) per calendar year generated from any gaming
22 conducted pursuant to ~~this act~~ the State-Tribal Gaming Act as
23 follows:
24

1 1. Twenty percent (20%) shall be remitted to the Tax Commission
2 on the fifteenth day following the end of the month in which it was
3 retained. Prior to July 1, 2008, twelve percent (12%) of the
4 revenue derived pursuant to this paragraph shall be apportioned
5 monthly to the Oklahoma Higher Learning Access Trust Fund and
6 eighty-eight percent (88%) of such revenue shall be apportioned to
7 the Education Reform Revolving Fund. On or after July 1, 2008,
8 twelve percent (12%) of the revenue derived pursuant to this
9 paragraph shall be apportioned monthly to the ~~General Revenue Fund~~
10 Oklahoma State Regents' Endowment Trust Fund and eighty-eight
11 percent (88%) of such revenue shall be apportioned to the Education
12 Reform Revolving Fund;

13 2. Twenty-five percent (25%) shall be retained by the
14 organization licensee to be distributed according to subsection H of
15 this section; and

16 3. Fifty-five percent (55%) shall be retained by the
17 organization licensee.

18 F. Each organization licensee shall distribute from retained
19 adjusted gross revenues in excess of Fifty Million Dollars
20 (\$50,000,000.00) per calendar year but not to exceed Seventy Million
21 Dollars (\$70,000,000.00) per calendar year generated from any gaming
22 conducted pursuant to ~~this act~~ the State-Tribal Gaming Act as
23 follows:
24

1 1. Twenty-five percent (25%) shall be remitted to the Tax
2 Commission on the fifteenth day following the end of the month in
3 which it was retained. Prior to July 1, 2008, twelve percent (12%)
4 of the revenue derived pursuant to this paragraph shall be
5 apportioned monthly to the Oklahoma Higher Learning Access Trust
6 Fund and eighty-eight percent (88%) of such revenue shall be
7 apportioned to the Education Reform Revolving Fund. On or after
8 July 1, 2008, twelve percent (12%) of the revenue derived pursuant
9 to this paragraph shall be apportioned monthly to the ~~General~~
10 ~~Revenue Fund~~ Oklahoma State Regents' Endowment Trust Fund and
11 eighty-eight percent (88%) of such revenue shall be apportioned to
12 the Education Reform Revolving Fund;

13 2. Twenty-two and one-half percent (22 1/2%) shall be retained
14 by the organization licensee to be distributed according to
15 subsection H of this section; and

16 3. Fifty-two and one-half percent (52 1/2%) shall be retained
17 by the organization licensee.

18 G. Each organization licensee shall distribute from retained
19 adjusted gross revenues in excess of Seventy Million Dollars
20 (\$70,000,000.00) per calendar year generated from any gaming
21 conducted pursuant to ~~this act~~ the State-Tribal Gaming Act as
22 follows:

23 1. Thirty percent (30%) shall be remitted to the Tax Commission
24 on the fifteenth day following the end of the month in which it was

1 retained. Prior to July 1, 2008, twelve percent (12%) of the
2 revenue derived pursuant to this paragraph shall be apportioned
3 monthly to the Oklahoma Higher Learning Access Trust Fund and
4 eighty-eight percent (88%) of such revenue shall be apportioned to
5 the Education Reform Revolving Fund. On or after July 1, 2008,
6 twelve percent (12%) of the revenue derived pursuant to this
7 paragraph shall be apportioned monthly to the ~~General Revenue Fund~~
8 Oklahoma State Regents' Endowment Trust Fund and eighty-eight
9 percent (88%) of such revenue shall be apportioned to the Education
10 Reform Revolving Fund;

11 2. Twenty percent (20%) shall be retained by the organization
12 licensee to be distributed according to subsection H of this
13 section; and

14 3. Fifty percent (50%) shall be retained by the organization
15 licensee.

16 H. Each organization licensee shall remit, on the fifteenth day
17 following the end of the month in which they were retained, an
18 amount equal to nine percent (9%) of the funds generated pursuant to
19 paragraph 2 of subsections A through G of this section to the
20 Oklahoma Horse Racing Commission for deposit in the Oklahoma
21 Breeding Development Fund Special Account pursuant to Section 208.3
22 of ~~Title 3A of the Oklahoma Statutes~~ this title, to be distributed
23 to the participating breeds as provided in paragraphs 1 and 2 of
24 this subsection.

1 Each organization licensee shall remit to the official
2 horsemen's organization representing participating horsemen during
3 the live race meets, on the fifteenth day following the end of the
4 month in which they were retained, an amount equal to one and five-
5 tenths percent (1.5%) of the funds generated pursuant to paragraph 2
6 of subsections A through G of this section on a pro rata basis based
7 on the distribution of purse funds available to the breeds of horses
8 participating in the live race meetings with one percent (1%) to be
9 used for administrative expenses and five-tenths of one percent
10 (0.5%) to provide funding for a benevolence program at each
11 racetrack to benefit participating horsemen and their employees.
12 Such benevolence program shall provide medical benefits or services
13 to persons associated with the horse racing industry who are in
14 financial need.

15 Each organization licensee shall remit to the breed
16 organizations designated by the official horsemen's representative,
17 on the fifteenth day following the end of the month in which they
18 were retained, an amount equal to one percent (1%) of the funds
19 generated pursuant to paragraph 2 of subsections A through G of this
20 section on a pro rata basis based on the distribution of purse funds
21 available to the breeds of horses participating in the live race
22 meetings for funding to support the breed organizations dedicated to
23 the promotion of breeding and racing horses in Oklahoma.

24

1 Subject to the provisions of subsection I of this section, the
2 remainder of the funds generated pursuant to paragraph 2 of
3 subsections A through G of this section shall be distributed by the
4 organization licensee as purses for participating horses as follows:

5 1. For organization licensees that conduct one or more race
6 meetings dedicated to Thoroughbred racing and one or more race
7 meetings dedicated to Quarter Horse, Paint and Appaloosa horse
8 racing, fifty percent (50%) to purses for Thoroughbred races, forty-
9 five percent (45%) to purses for Quarter Horse races, and five
10 percent (5%) to purses for Paint and Appaloosa races; and

11 2. For all other organization licensees, forty-five percent
12 (45%) to purses for Thoroughbred races, forty-five percent (45%) to
13 purses for Quarter Horse races and ten percent (10%) to purses for
14 Paint and Appaloosa horse races.

15 I. The percentage of purse money generated by an organization
16 licensee that is designated for deposit to the Oklahoma Breeding
17 Development Fund Special Account pursuant to subsection H of this
18 section may be increased by an additional percentage that shall not
19 exceed thirty-three percent (33%) of the total funds for
20 participating horsemen upon the written application of the official
21 horsemen's representative for each of the breeds of horses
22 participating in a race meeting at the track.

23 All Oklahoma Breeding Development Fund Special Account monies
24 generated pursuant to this section shall not be subject to a

1 reduction pursuant to paragraph 7 of subsection B of Section 208.3
2 of ~~Title 3A of the Oklahoma Statutes~~ this title.

3 J. An organization licensee's annual application for race dates
4 shall include any existing agreement between the organization
5 licensee and the official horsemen's representative for each breed
6 participating in the live racing meeting at that track which sets
7 forth the thresholds whereby the minimum number of races will
8 increase or decrease during that calendar year.

9 K. For purposes of ~~this act~~ the State-Tribal Gaming Act a
10 "recipient licensee" means an organization licensee operating a
11 racetrack location at which an organization licensee is licensed to
12 conduct a race meeting pursuant to the provisions of Section 208.2
13 of ~~Title 3A of the Oklahoma Statutes~~ this title located in a county
14 with a population exceeding five hundred thousand (500,000) persons,
15 according to the most recent federal decennial census, and a
16 "participating tribe" means a tribe which operates a gaming facility
17 within a radius of twenty (20) miles from the enclosure of a
18 recipient licensee pursuant to a compact set forth in Section ~~22~~ 281
19 of this ~~act~~ title. Such compact shall require that a participating
20 tribe contribute a percentage of its "monthly average take" from
21 electronic amusement games, electronic bonanza-style bingo games and
22 electronic instant bingo games (hereinafter referred to collectively
23 as "electronic covered games") as defined in that tribe's Gaming
24 Compact as long as the prohibition against fair associations or

1 organizations licensed pursuant to Section 208.2 of ~~Title 3A of the~~
2 ~~Oklahoma Statutes~~ this title conducting authorized gaming under ~~this~~
3 ~~act~~ the State-Tribal Gaming Act as set forth in subsection A of
4 Section ~~3~~ 262 of this ~~act~~ title remains in effect. Participating
5 tribes shall make contributions in accordance with the following
6 requirements:

7 1. Each participating tribe shall calculate its monthly average
8 take for electronic covered games for each calendar month of
9 operation of electronic covered games. For purposes of this
10 paragraph, the "monthly average take" shall mean all adjusted gross
11 revenue from electronic covered games at the tribal gaming
12 facilities that are located within a radius of twenty (20) miles
13 from the enclosure of a recipient licensee during the applicable
14 calendar month, divided by the number of electronic covered games
15 operated by the tribe at the gaming facility during the applicable
16 calendar month;

17 2. Each participating tribe shall calculate its pro rata share
18 of the payments required by this subsection, based on the number of
19 electronic covered games in the tribal gaming facilities within the
20 twenty-mile radius described in paragraph 1 of this subsection,
21 during the applicable calendar month ("tribal share"). As an
22 example only, if three (3) tribes participate in this subsection
23 during a calendar month, and have the respective number of games in
24 the amount of 500, 1,000, and 1,000, then the payments called for in

1 paragraph 3 of this subsection would be multiplied by 20%, 40% and
2 40% to determine each tribe's pro rata share; and

3 3. Each participating tribe shall make the following payments
4 no later than the fifteenth day following the end of the applicable
5 calendar month, with the first payment to be due no later than the
6 fifteenth day following the end of the first month in which a
7 participating tribe commences gaming operations pursuant to the
8 compact set out in Section ~~22~~ 281 of this ~~act~~ title:

9 a. the tribe shall pay its pro rata share of the product
10 of 450 multiplied by .05 multiplied by the greater of
11 Seven Thousand Four Hundred Eight Dollars (\$7,408.00)
12 or the tribe's monthly average take for the applicable
13 month to the recipient licensee, and

14 b. the tribe shall pay its pro rata share of the product
15 of 450 multiplied by .25 multiplied by the tribe's
16 monthly average take for the applicable month to the
17 Oklahoma Horse Racing Commission to be distributed to
18 organization licensees for purses for participating
19 horses pursuant to subsection L of this section.

20 L. The "purse committees" shall be comprised of the official
21 elected horsemen representatives for each breed as designated in
22 Section ~~8~~ 267 of this ~~act~~ title. The total contribution of the
23 participating tribes made pursuant to subparagraph b of paragraph 3
24 of subsection K of this section shall be distributed as directed by

1 the purse committees based on the following formula, to wit: fifty
2 percent (50%) by the purse committee representing Thoroughbred
3 horses; forty percent (40%) by the purse committee representing
4 Quarter Horses; and ten percent (10%) by the purse committee
5 representing Paint and Appaloosa horses.

6 The purse committees shall meet at least sixty (60) days prior
7 to the beginning of a calendar year to provide directions for
8 placement of the purse funds described in subparagraph b of
9 paragraph 3 subsection K of this section with one or more
10 organization licensees for the succeeding calendar year. In
11 providing such directions the purse committees shall consider and
12 attempt to achieve the following preferences in the order set forth
13 below:

14 FIRST. Through the use of no more than fifty percent (50%) of
15 the purse funds available for distribution under this section,
16 maintaining the purse structures of any organization licensee
17 operating a racetrack location located in a county with a population
18 exceeding six hundred thousand (600,000) persons, according to the
19 most recent federal decennial census, at a level that is competitive
20 with the purse structures of similarly situated race tracks,
21 including those in surrounding states, and that will encourage the
22 participation by horsemen in that organization licensee's race meet
23 or meets; and

24

1 SECOND. Maintaining the purse structures of the organization
2 licensee closest in geographic proximity to the location where the
3 purse funds described in subparagraph b of paragraph 3 of subsection
4 K of this section were generated at a level that is competitive with
5 the purse structures of similarly situated race tracks, including
6 those in surrounding states, and that will encourage the
7 participation by horsemen in that organization licensee's race meet
8 or meets; and

9 THIRD. Maintaining the purse structures of the remaining
10 organization licensees in the state at a level that will encourage
11 the participation by horsemen in those organization licensees' race
12 meet or meets.

13 SECTION 3. AMENDATORY Section 21, Chapter 316, O.S.L.
14 2004, as amended by Section 2, Chapter 355, O.S.L. 2007 (3A O.S.
15 Supp. 2007, Section 280), is amended to read as follows:

16 Section 280. The State of Oklahoma through the concurrence of
17 the Governor after considering the executive prerogatives of that
18 office and the power to negotiate the terms of a compact between the
19 state and a tribe, and by means of the execution of the State-Tribal
20 Gaming Act, and with the concurrence of the State Legislature
21 through the enactment of the State-Tribal Gaming Act, hereby makes
22 the following offer of a model tribal gaming compact regarding
23 gaming to all federally recognized Indian tribes as identified in
24 the Federal Register within this state that own or are the

1 beneficial owners of Indian lands as defined by the Indian Gaming
2 Regulatory Act, 25 U.S.C., Section 2703(4), and over which the tribe
3 has jurisdiction as recognized by the Secretary of the Interior and
4 is a part of the tribe's "Indian reservation" as defined in 25
5 C.F.R., Part 151.2 or has been acquired pursuant to 25 C.F.R., Part
6 151, which, if accepted, shall constitute a gaming compact between
7 this state and the accepting tribe for purposes of the Indian Gaming
8 Regulatory Act. Acceptance of the offer contained in this section
9 shall be through the signature of the chief executive officer of the
10 tribal government whose authority to enter into the compact shall be
11 set forth in an accompanying law or ordinance or resolution by the
12 governing body of the tribe, a copy of which shall be provided by
13 the tribe to the Governor. No further action by the Governor or the
14 state is required before the Compact can take effect. A tribe
15 accepting this Model Tribal Gaming Compact is responsible for
16 submitting a copy of the Compact executed by the tribe to the
17 Secretary of the Interior for approval and publication in the
18 Federal Register. The tribe shall provide a copy of the executed
19 Compact to the Governor. No tribe shall be required to agree to
20 terms different than the terms set forth in the Model Tribal Gaming
21 Compact, which is set forth in Section 281 of this title. As a
22 precondition to execution of the Model Tribal Gaming Compact by any
23 tribe, the tribe must have paid or entered into a written agreement
24 for payment of any fines assessed prior to the effective date of the

1 State-Tribal Gaming Act by the federal government with respect to
2 the tribe's gaming activities pursuant to the Indian Gaming
3 Regulatory Act.

4 Notwithstanding the provisions of Sections 941 through 988 of
5 Title 21 of the Oklahoma Statutes, the conducting of and the
6 participation in any game authorized by the model compact set forth
7 in Section 281 of this title are lawful when played pursuant to a
8 compact which has become effective.

9 Prior to July 1, 2008, twelve percent (12%) of all fees received
10 by the state pursuant to subsection A of Part 11 of the Model Tribal
11 Gaming Compact set forth in Section 281 of this title shall be
12 deposited in the Oklahoma Higher Learning Access Trust Fund, and
13 eighty-eight percent (88%) of such fees shall be deposited in the
14 Education Reform Revolving Fund. On or after July 1, 2008, twelve
15 percent (12%) of all fees received by the state pursuant to
16 subsection A of Part 11 of the Model Tribal Gaming Compact set forth
17 in Section 281 of this title shall be deposited in the ~~General~~
18 ~~Revenue Fund~~ Oklahoma State Regents' Endowment Trust Fund and
19 eighty-eight percent (88%) of such fees shall be deposited in the
20 Education Reform Revolving Fund. Provided, the first Twenty
21 Thousand Eight Hundred Thirty-three Dollars and thirty-three cents
22 (\$20,833.33) of all fees received each month by the state pursuant
23 to subsection A of Part 11 of the Model Tribal Gaming Compact set
24 forth in Section 281 of this title shall be transferred to the

1 Department of Mental Health and Substance Abuse Services for the
2 treatment of compulsive gambling disorder and educational programs
3 related to such disorder.

4 SECTION 4. AMENDATORY 70 O.S. 2001, Section 3951, as
5 amended by Section 1, Chapter 115, O.S.L. 2004 (70 O.S. Supp. 2007,
6 Section 3951), is amended to read as follows:

7 Section 3951. A. There is hereby created a trust fund to be
8 known as the "Oklahoma State Regents' Endowment Trust Fund." The
9 Oklahoma State Regents for Higher Education shall be the trustees of
10 said Trust Fund.

11 B. The State Regents shall utilize said Trust Fund to implement
12 the provisions of Section 3952 of this title.

13 C. The Trust Fund principal shall consist of monies the
14 Legislature appropriates or transfers to the Oklahoma State Regents
15 for Higher Education for the Trust Fund, the proceeds of any
16 obligations issued pursuant to Section ~~2~~ 4019 of this ~~act and~~ title,
17 monies apportioned to the Trust Fund pursuant to Sections 263 and
18 280 of Title 3A of the Oklahoma Statutes and any monies or assets
19 contributed to the Trust Fund from any other source, public or
20 private. Trust Fund principal shall not be diminished for any
21 reason except to retire obligations issued pursuant to Section ~~2~~
22 4019 of this ~~act~~ title if the State Regents fail to make such
23 payments as provided in subsection C of Section ~~2~~ 4019 of this ~~act~~
24 title.

1 D. Notwithstanding other provisions of law, income and
2 investment return on Trust Fund principal shall accrue to the Trust
3 Fund for use as provided by authorization of the trustees for the
4 purposes provided in this act. No such income or investment return
5 shall be used for administrative expenses; expenses incurred by the
6 State Regents in the administration of the Trust Fund and of the
7 endowment program established by ~~this act~~ Section 3951 et seq. of
8 this title shall be paid from monies appropriated to the State
9 Regents' coordinating board for their general operating budget."

10 and renumber subsequent sections

11 and when the title is restored amend the
12 title to conform

13 Passed the Senate the 16th day of April, 2008.

14
15 _____
16 Presiding Officer of the Senate

17 Passed the House of Representatives the ____ day of _____,
18 2008.

19
20 _____
21 Presiding Officer of the House
22 of Representatives
23
24