

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 1435

6 By: Sparks

7 COMMITTEE SUBSTITUTE

8 An Act relating to amusements and sports; amending
9 Section 4, Chapter 316, O.S.L. 2004, as amended by
10 Section 1, Chapter 355, O.S.L. 2007 (3A O.S. Supp.
11 2007, Section 263), which relates to the State-Tribal
12 Gaming Act; modifying distribution of certain
13 payments; providing an effective date; and declaring
14 an emergency.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY Section 4, Chapter 316, O.S.L.
17 2004, as amended by Section 1, Chapter 355, O.S.L. 2007 (3A O.S.
18 Supp. 2007, Section 263), is amended to read as follows:

19 Section 263. A. Each organization licensee described in
20 paragraph 2 of subsection C of Section ~~3~~ 262 of this ~~act~~ title shall
21 distribute from the first Ten Million Dollars (\$10,000,000.00) of
22 adjusted gross revenues generated by any gaming conducted pursuant
23 to this act as follows:

24 1. Ten percent (10%) shall be remitted to the Oklahoma Tax
Commission on the fifteenth day following the end of the month in

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

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

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

15 B. The organization licensee described in paragraph 1 of
16 subsection C of Section 3 of this act shall distribute from the
17 first Ten Million Dollars (\$10,000,000.00) of adjusted gross
18 revenues generated by any gaming conducted pursuant to this act as
19 follows:

20 1. Ten percent (10%) shall be remitted to the Tax Commission on
21 the fifteenth day following the end of the month in which it was
22 retained. Prior to July 1, 2008, twelve percent (12%) of the
23 revenue derived pursuant to this paragraph shall be apportioned
24 monthly to the Oklahoma Higher Learning Access Trust Fund and

1 eighty-eight percent (88%) of such revenue shall be apportioned to
2 the Education Reform Revolving Fund. On or after July 1, 2008,
3 twelve percent (12%) of the revenue derived pursuant to this
4 paragraph shall be apportioned monthly to the General Revenue Fund
5 and eighty-eight percent (88%) of such revenue shall be apportioned
6 to the Education Reform Revolving Fund;

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

10 3. Sixty percent (60%) shall be retained by the organization
11 licensee.

12 C. Each organization licensee shall distribute from retained
13 adjusted gross revenues in excess of Ten Million Dollars
14 (\$10,000,000.00) per calendar year but not to exceed Thirty Million
15 Dollars (\$30,000,000.00) per calendar year generated from any gaming
16 conducted pursuant to this act as follows:

17 1. Ten percent (10%) shall be remitted to the Tax Commission on
18 the fifteenth day following the end of the month in which it was
19 retained. Prior to July 1, 2008, twelve percent (12%) of the
20 revenue derived pursuant to this paragraph shall be apportioned
21 monthly to the Oklahoma Higher Learning Access Trust Fund and
22 eighty-eight percent (88%) of such revenue shall be apportioned to
23 the Education Reform Revolving Fund. On or after July 1, 2008,
24 twelve percent (12%) of the revenue derived pursuant to this

1 paragraph shall be apportioned monthly to the General Revenue Fund
2 and eighty-eight percent (88%) of such revenue shall be apportioned
3 to the Education Reform Revolving Fund;

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

7 3. Sixty percent (60%) shall be retained by the organization
8 licensee.

9 D. Each organization licensee shall distribute from retained
10 adjusted gross revenues in excess of Thirty Million Dollars
11 (\$30,000,000.00) per calendar year but not to exceed Forty Million
12 Dollars (\$40,000,000.00) per calendar year generated by any gaming
13 conducted pursuant to this act as follows:

14 1. Fifteen percent (15%) shall be remitted to the Tax
15 Commission on the fifteenth day following the end of the month in
16 which it was retained. Prior to July 1, 2008, twelve percent (12%)
17 of the revenue derived pursuant to this paragraph shall be
18 apportioned monthly to the Oklahoma Higher Learning Access Trust
19 Fund and eighty-eight percent (88%) of such revenue shall be
20 apportioned to the Education Reform Revolving Fund. On or after
21 July 1, 2008, twelve percent (12%) of the revenue derived pursuant
22 to this paragraph shall be apportioned monthly to the General
23 Revenue Fund and eighty-eight percent (88%) of such revenue shall be
24 apportioned to the Education Reform Revolving Fund;

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

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

6 E. Each organization licensee shall distribute from retained
7 adjusted gross revenues in excess of Forty Million Dollars
8 (\$40,000,000.00) per calendar year but not to exceed Fifty Million
9 Dollars (\$50,000,000.00) per calendar year generated from any gaming
10 conducted pursuant to this act as follows:

11 1. Twenty percent (20%) shall be remitted to the Tax Commission
12 on the fifteenth day following the end of the month in which it was
13 retained. Prior to July 1, 2008, twelve percent (12%) of the
14 revenue derived pursuant to this paragraph shall be apportioned
15 monthly to the Oklahoma Higher Learning Access Trust Fund and
16 eighty-eight percent (88%) of such revenue shall be apportioned to
17 the Education Reform Revolving Fund. On or after July 1, 2008,
18 twelve percent (12%) of the revenue derived pursuant to this
19 paragraph shall be apportioned monthly to the General Revenue Fund
20 and eighty-eight percent (88%) of such revenue shall be apportioned
21 to the Education Reform Revolving Fund;

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

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

3 F. Each organization licensee shall distribute from retained
4 adjusted gross revenues in excess of Fifty Million Dollars
5 (\$50,000,000.00) per calendar year but not to exceed Seventy Million
6 Dollars (\$70,000,000.00) per calendar year generated from any gaming
7 conducted pursuant to this act as follows:

8 1. Twenty-five percent (25%) shall be remitted to the Tax
9 Commission on the fifteenth day following the end of the month in
10 which it was retained. Prior to July 1, 2008, twelve percent (12%)
11 of the revenue derived pursuant to this paragraph shall be
12 apportioned monthly to the Oklahoma Higher Learning Access Trust
13 Fund and eighty-eight percent (88%) of such revenue shall be
14 apportioned to the Education Reform Revolving Fund. On or after
15 July 1, 2008, twelve percent (12%) of the revenue derived pursuant
16 to this paragraph shall be apportioned monthly to the General
17 Revenue Fund and eighty-eight percent (88%) of such revenue shall be
18 apportioned to the Education Reform Revolving Fund;

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

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

24

1 G. Each organization licensee shall distribute from retained
2 adjusted gross revenues in excess of Seventy Million Dollars
3 (\$70,000,000.00) per calendar year generated from any gaming
4 conducted pursuant to this act as follows:

5 1. Thirty percent (30%) shall be remitted to the Tax Commission
6 on the fifteenth day following the end of the month in which it was
7 retained. Prior to July 1, 2008, twelve percent (12%) of the
8 revenue derived pursuant to this paragraph shall be apportioned
9 monthly to the Oklahoma Higher Learning Access Trust Fund and
10 eighty-eight percent (88%) of such revenue shall be apportioned to
11 the Education Reform Revolving Fund. On or after July 1, 2008,
12 twelve percent (12%) of the revenue derived pursuant to this
13 paragraph shall be apportioned monthly to the General Revenue Fund
14 and eighty-eight percent (88%) of such revenue shall be apportioned
15 to the Education Reform Revolving Fund;

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

19 3. Fifty percent (50%) shall be retained by the organization
20 licensee.

21 H. Each organization licensee shall remit, on the fifteenth day
22 following the end of the month in which they were retained, an
23 amount equal to nine percent (9%) of the funds generated pursuant to
24 paragraph 2 of subsections A through G of this section to the

1 Oklahoma Horse Racing Commission for deposit in the Oklahoma
2 Breeding Development Fund Special Account pursuant to Section 208.3
3 of ~~Title 3A of the Oklahoma Statutes~~ this title, to be distributed
4 to the participating breeds as provided in paragraphs 1 and 2 of
5 this subsection.

6 Each organization licensee shall remit to the official
7 horsemen's organization representing participating horsemen during
8 the live race meets, on the fifteenth day following the end of the
9 month in which they were retained, an amount equal to one and five-
10 tenths percent (1.5%) of the funds generated pursuant to paragraph 2
11 of subsections A through G of this section on a pro rata basis based
12 on the distribution of purse funds available to the breeds of horses
13 participating in the live race meetings with one percent (1%) to be
14 used for administrative expenses and five-tenths of one percent
15 (0.5%) to provide funding for a benevolence program at each
16 racetrack to benefit participating horsemen and their employees.
17 Such benevolence program shall provide medical benefits or services
18 to persons associated with the horse racing industry who are in
19 financial need.

20 Each organization licensee shall remit to the breed
21 organizations designated by the official horsemen's representative,
22 on the fifteenth day following the end of the month in which they
23 were retained, an amount equal to one percent (1%) of the funds
24 generated pursuant to paragraph 2 of subsections A through G of this

1 section on a pro rata basis based on the distribution of purse funds
2 available to the breeds of horses participating in the live race
3 meetings for funding to support the breed organizations dedicated to
4 the promotion of breeding and racing horses in Oklahoma.

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

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

15 2. For all other organization licensees, forty-five percent
16 (45%) to purses for Thoroughbred races, forty-five percent (45%) to
17 purses for Quarter Horse races and ten percent (10%) to purses for
18 Paint and Appaloosa horse races.

19 I. The percentage of purse money generated by an organization
20 licensee that is designated for deposit to the Oklahoma Breeding
21 Development Fund Special Account pursuant to subsection H of this
22 section may be increased by an additional percentage that shall not
23 exceed thirty-three percent (33%) of the total funds for
24 participating horsemen upon the written application of the official

1 horsemen's representative for each of the breeds of horses
2 participating in a race meeting at the track.

3 All Oklahoma Breeding Development Fund Special Account monies
4 generated pursuant to this section shall not be subject to a
5 reduction pursuant to paragraph 7 of subsection B of Section 208.3
6 of ~~Title 3A of the Oklahoma Statutes~~ this title.

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

13 K. For purposes of this act a "recipient licensee" means an
14 organization licensee operating a racetrack location at which an
15 organization licensee is licensed to conduct a race meeting pursuant
16 to the provisions of Section 208.2 of ~~Title 3A of the Oklahoma~~
17 ~~Statutes~~ this title located in a county with a population exceeding
18 five hundred thousand (500,000) persons, according to the most
19 recent federal decennial census, and a "participating tribe" means a
20 tribe which operates a gaming facility within a radius of twenty
21 (20) miles from the enclosure of a recipient licensee pursuant to a
22 compact set forth in Section ~~22~~ 281 of this ~~act~~ title. Such compact
23 shall require that a participating tribe contribute a percentage of
24 its "monthly average take" from electronic amusement games,

1 electronic bonanza-style bingo games and electronic instant bingo
2 games (hereinafter referred to collectively as "electronic covered
3 games") as defined in that tribe's Gaming Compact as long as the
4 prohibition against fair associations or organizations licensed
5 pursuant to Section 208.2 of ~~Title 3A of the Oklahoma Statutes~~ this
6 title conducting authorized gaming under this act as set forth in
7 subsection A of Section ~~3~~ 262 of this ~~act~~ title remains in effect.
8 Participating tribes shall make contributions in accordance with the
9 following requirements:

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

20 2. Each participating tribe shall calculate its pro rata share
21 of the payments required by this subsection, based on the number of
22 electronic covered games in the tribal gaming facilities within the
23 twenty-mile radius described in paragraph 1 of this subsection,
24 during the applicable calendar month ("tribal share"). As an

1 example only, if three (3) tribes participate in this subsection
2 during a calendar month, and have the respective number of games in
3 the amount of 500, 1,000, and 1,000, then the payments called for in
4 paragraph 3 of this subsection would be multiplied by twenty percent
5 (20%), forty percent (40%) and forty percent (40%) to determine each
6 tribe's pro rata share; and

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

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

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

24

1 as directed by purse committees for the following
2 purposes:

3 (1) distributed to organization licensees for purses
4 for participating horses,

5 (2) paid to the Oklahoma Breeding Development Fund
6 Special Account. The amount designated for
7 deposit into the Oklahoma Breeding Development
8 Fund Special Account shall never be less than
9 nine percent (9%) of the funds generated nor more
10 than thirty-three percent (33%) of the total
11 designated funds for horsemen participating in
12 any race meeting, and

13 (3) paid to the official horsemen's representatives
14 and to the breeding organizations designated by
15 the official horsemen's representatives and to
16 the breeding organizations designated by the
17 official horsemen's representatives to be used to
18 pay their administrative expenses and to fund
19 their benevolence programs. In no event shall
20 the amount designated for such administrative
21 expenses exceed one percent (1%) of the funds
22 generated nor shall the monies designated for
23 benevolence programs exceed five-tenths of one
24 percent (0.5%) of the funds generated.

1 L. The "purse committees" shall be comprised of the official
2 elected horsemen representatives for each breed as designated in
3 Section ~~§~~ 267 of this ~~act~~ title. The total contribution of the
4 participating tribes made pursuant to subparagraph b of paragraph 3
5 of subsection K of this section shall be distributed as directed by
6 the purse committees based on the following formula, to wit: fifty
7 percent (50%) by the purse committee representing Thoroughbred
8 horses; forty percent (40%) by the purse committee representing
9 Quarter Horses; and ten percent (10%) by the purse committee
10 representing Paint and Appaloosa horses.

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

19 FIRST. Through the use of no more than fifty percent (50%) of
20 the purse funds available for distribution under this section,
21 maintaining the purse structures of any organization licensee
22 operating a racetrack location located in a county with a population
23 exceeding six hundred thousand (600,000) persons, according to the
24 most recent federal decennial census, at a level that is competitive

1 with the purse structures of similarly situated race tracks,
2 including those in surrounding states, and that will encourage the
3 participation by horsemen in that organization licensee's race meet
4 or meets; and

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

13 THIRD. Maintaining the purse structures of the remaining
14 organization licensees in the state at a level that will encourage
15 the participation by horsemen in those organization licensees' race
16 meet or meets.

17 SECTION 2. This act shall become effective July 1, 2008.

18 SECTION 3. It being immediately necessary for the preservation
19 of the public peace, health and safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

22

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