

ENROLLED SENATE
BILL NO. 820

By: Morgan, Sweeden, Sparks,
Paddack, Leftwich and
Adelson of the Senate

and

Jones, Terrill, Shannon,
Brannon, Brown, Coody,
Denney, Dorman, Hilliard,
Hoskin, Hyman, Inman,
Kiesel, Luttrell, McDaniel
(Jeannie), McMullen,
McPeak, Sears, Sherrer,
Shoemake, Smithson and
Thomsen of the House

An Act relating to public finance and higher education; amending Sections 4 and 21, Chapter 316, O.S.L. 2004 (3A O.S. Supp. 2006, Sections 263 and 280), which relate to the State-Tribal Gaming Act; modifying apportionment of certain revenue and fees; updating references; amending Section 14, Chapter 58, O.S.L. 2003, as amended by Section 13, Chapter 218, O.S.L. 2005 (3A O.S. Supp. 2006, Section 713), which relates to the Oklahoma Education Lottery Act; deleting reference to Oklahoma Higher Learning Access Program as program funded from Oklahoma Education Lottery Trust Fund; requiring Oklahoma State Regents for Higher Education to make certain determination by specified date; requiring State Board of Equalization to subtract specified amount from amount certified as available for appropriation; requiring Director of State Finance to deposit certain funds into Oklahoma Higher Learning Access Trust Fund according to specified schedule; amending 62 O.S. 2001, Section

41.29e, as amended by Section 1, Chapter 99, O.S.L. 2002 (62 O.S. Supp. 2006, Section 41.29e), which relates to the Oklahoma Student Aid Revolving Fund; deleting reference to Oklahoma Higher Learning Access Program as program funded from Oklahoma Student Aid Revolving Fund; amending 70 O.S. 2001, Section 2603, as amended by Section 1, Chapter 293, O.S.L. 2002 and Section 2605, as amended by Section 1, Chapter 134, O.S.L. 2003 (70 O.S. Supp. 2006, Sections 2603 and 2605), which relate to the Oklahoma Higher Learning Access Program; modifying eligibility requirements; requiring United States citizenship or lawful presence; providing certain exemption; providing eligibility for students completing certain educational program and achieving certain ACT test score; removing certain eligibility assurance based on financial need; modifying eligibility retention requirements; requiring achievement of certain grade point average for certain students; providing exception; specifying certain conduct requirements; providing for permanent loss of benefits in certain circumstance; providing for equivalency of certain grades for certain students; requiring private schools to designate contact person; providing for parent or guardian or person approved by State Regents to be contact person for certain students; authorizing certain students to enter into program participation; specifying certain income limitation at beginning of postsecondary education to receive program benefits; providing for certain income limitation to be based on income of certain students; providing certain exception; amending 70 O.S. 2001, Section 3953.1, which relates to the Oklahoma Higher Learning Access Trust Fund; providing for budgeting and expenditure of monies in the fund; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 4, Chapter 316, O.S.L. 2004 (3A O.S. Supp. 2006, Section 263), is amended to read as follows:

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

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

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

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

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

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

twelve percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned monthly to the General Revenue Fund and eighty-eight percent (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and eighty-eight percent (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund;

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

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

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

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

Each organization licensee shall remit to the breed organizations designated by the official horsemen's representative, on the fifteenth day following the end of the month in which they were retained, an amount equal to one percent (1%) of the funds generated pursuant to paragraph 2 of subsections A through G of this section on a pro rata basis based on the distribution of purse funds available to the breeds of horses participating in the live race

meetings for funding to support the breed organizations dedicated to the promotion of breeding and racing horses in Oklahoma.

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

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

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

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

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

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

K. For purposes of this act a "recipient licensee" means an organization licensee operating a racetrack location at which an organization licensee is licensed to conduct a race meeting pursuant to the provisions of Section 208.2 of Title 3A of the Oklahoma Statutes located in a county with a population exceeding five hundred thousand (500,000) persons, according to the most recent federal decennial census, and a "participating tribe" means a tribe which operates a gaming facility within a radius of twenty (20) miles from the enclosure of a recipient licensee pursuant to a compact set forth in Section 22 of this act. Such compact shall require that a participating tribe contribute a percentage of its "monthly average take" from electronic amusement games, electronic bonanza-style bingo games and electronic instant bingo games (hereinafter referred to collectively as "electronic covered games") as defined in that tribe's Gaming Compact as long as the prohibition against fair associations or organizations licensed pursuant to Section 208.2 of Title 3A of the Oklahoma Statutes conducting authorized gaming under this act as set forth in subsection A of Section 3 of this act remains in effect. Participating tribes shall make contributions in accordance with the following requirements:

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

2. Each participating tribe shall calculate its pro rata share of the payments required by this subsection, based on the number of electronic covered games in the tribal gaming facilities within the twenty-mile radius described in paragraph 1 of this subsection, during the applicable calendar month ("tribal share"). As an example only, if three (3) tribes participate in this subsection during a calendar month, and have the respective number of games in the amount of 500, 1,000, and 1,000, then the payments called for in paragraph 3 of this subsection would be multiplied by 20%, 40% and 40% to determine each tribe's pro rata share; and

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

- a. the tribe shall pay its pro rata share of the product of 450 multiplied by .05 multiplied by the greater of Seven Thousand Four Hundred Eight Dollars (\$7,408.00) or the tribe's monthly average take for the applicable month to the recipient licensee, and
- b. the tribe shall pay its pro rata share of the product of 450 multiplied by .25 multiplied by the tribe's monthly average take for the applicable month to the Oklahoma Horse Racing Commission to be distributed to organization licensees for purses for participating horses pursuant to subsection L of this section.

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

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

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

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

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

SECTION 2. AMENDATORY Section 21, Chapter 316, O.S.L. 2004 (3A O.S. Supp. 2006, Section 280), is amended to read as follows:

Section 280. The State of Oklahoma through the concurrence of the Governor after considering the executive prerogatives of that office and the power to negotiate the terms of a compact between the state and a tribe, and by means of the execution of ~~this act~~ the State-Tribal Gaming Act, and with the concurrence of the State Legislature through the enactment of ~~this act~~ the State-Tribal Gaming Act, hereby makes the following offer of a model tribal gaming compact regarding gaming to all federally recognized Indian tribes as identified in the Federal Register within this state that own or are the beneficial owners of Indian lands as defined by the Indian Gaming Regulatory Act, 25 U.S.C., Section 2703(4), and over which the tribe has jurisdiction as recognized by the Secretary of the Interior and is a part of the tribe's "Indian reservation" as

defined in 25 C.F.R., Part 151.2 or has been acquired pursuant to 25 C.F.R., Part 151, which, if accepted, shall constitute a gaming compact between this state and the accepting tribe for purposes of the Indian Gaming Regulatory Act. Acceptance of the offer contained in this section shall be through the signature of the chief executive officer of the tribal government whose authority to enter into the compact shall be set forth in an accompanying law or ordinance or resolution by the governing body of the tribe, a copy of which shall be provided by the tribe to the Governor. No further action by the Governor or the state is required before the Compact can take effect. A tribe accepting this Model Tribal Gaming Compact is responsible for submitting a copy of the Compact executed by the tribe to the Secretary of the Interior for approval and publication in the Federal Register. The tribe shall provide a copy of the executed Compact to the Governor. No tribe shall be required to agree to terms different than the terms set forth in the Model Tribal Gaming Compact, which is set forth in ~~Section 22 of this act~~ Section 281 of this title. As a precondition to execution of the Model Tribal Gaming Compact by any tribe, the tribe must have paid or entered into a written agreement for payment of any fines assessed prior to the effective date of the State-Tribal Gaming Act by the federal government with respect to the tribe's gaming activities pursuant to the Indian Gaming Regulatory Act.

Notwithstanding the provisions of Sections 941 through 988 of Title 21 of the Oklahoma Statutes, the conducting of and the participation in any game authorized by the model compact set forth in ~~Section 22 of this act~~ Section 281 of this title are lawful when played pursuant to a compact which has become effective.

~~Twelve~~ Prior to July 1, 2008, twelve percent (12%) of all fees received by the state pursuant to subsection A of Part 11 of the Model Tribal Gaming Compact set forth in ~~Section 22 of this act~~ Section 281 of this title shall be deposited in the Oklahoma Higher Learning Access Trust Fund, and eighty-eight percent (88%) of such fees shall be deposited in the Education Reform Revolving Fund. On or after July 1, 2008, twelve percent (12%) of all fees received by the state pursuant to subsection A of Part 11 of the Model Tribal Gaming Compact set forth in Section 281 of this title shall be deposited in the General Revenue Fund and eighty-eight percent (88%) of such fees shall be deposited in the Education Reform Revolving Fund. Provided, the first Twenty Thousand Eight Hundred Thirty-

three Dollars and thirty-three cents (\$20,833.33) of all fees received each month by the state pursuant to subsection A of Part 11 of the Model Tribal Gaming Compact set forth in ~~Section 22 of this act~~ Section 281 of this title shall be transferred to the Department of Mental Health and Substance Abuse Services for the treatment of compulsive gambling disorder and educational programs related to such disorder.

SECTION 3. AMENDATORY Section 14, Chapter 58, O.S.L. 2003, as amended by Section 13, Chapter 218, O.S.L. 2005 (3A O.S. Supp. 2006, Section 713), is amended to read as follows:

Section 713. A. All gross proceeds shall be the property of the Oklahoma Lottery Commission. From its gross proceeds, the Commission shall pay the operating expenses of the Commission. At least forty-five percent (45%) of gross proceeds shall be made available as prize money. However, the provisions of this subsection shall be deemed not to create any lien, entitlement, cause of action, or other private right, and any rights of holders of tickets or shares shall be determined by the Commission in setting the terms of its lottery or lotteries. For each fiscal year, net proceeds shall equal at least thirty-five percent (35%) of the gross proceeds. However, for the purpose of repaying indebtedness issued pursuant to Section 33 of this act, for the first two (2) full fiscal years and any partial first fiscal year of the Commission, net proceeds need only equal at least thirty percent (30%) of the gross proceeds. All of the net proceeds shall be transferred to the Oklahoma Education Lottery Trust Fund as provided in subsection B of this section.

B. There is hereby created in the State Treasury a fund to be designated the "Oklahoma Education Lottery Trust Fund". On or before the fifteenth day of each calendar quarter, the Commission shall transfer to the State Treasurer, for credit to the Oklahoma Education Lottery Trust Fund, the amount of all net proceeds accruing during the preceding calendar quarter. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

Upon their deposit into the State Treasury, any monies representing a deposit of net proceeds shall then become the

unencumbered property of this state, and neither the Commission nor the board of trustees shall have the power to agree or undertake otherwise. The monies shall be invested by the State Treasurer in accordance with state investment practices. All earnings attributable to such investments shall likewise be the unencumbered property of the state and shall accrue to the credit of the fund.

C. Monies in the Oklahoma Education Lottery Trust Fund shall only be appropriated as follows:

1. Forty-five percent (45%) for the following:
 - a. kindergarten through twelfth grade public education, including but not limited to compensation and benefits for public school teachers and support employees, and
 - b. early childhood development programs, which shall include but not be limited to costs associated with prekindergarten and full-day kindergarten programs;
2. Forty-five percent (45%) for the following:
 - a. tuition grants, loans and scholarships to citizens of this state to enable such citizens to attend colleges and universities located within this state, regardless of whether such colleges and universities are owned or operated by the Oklahoma State Regents for Higher Education, or to attend institutions operated under the authority of the Oklahoma Department of Career and Technology Education, ~~including but not limited to such programs as the Oklahoma Higher Learning Access Program~~; provided such tuition grants, loans and scholarships shall not be made to a citizen of this state to attend a college or university which is not accredited by the Oklahoma State Regents for Higher Education,
 - b. construction of educational facilities for elementary school districts, independent school districts, the Oklahoma State System of Higher Education, and career and technology education,

- c. capital outlay projects for elementary school districts, independent school districts, the Oklahoma State System of Higher Education, and career and technology education,
- d. technology for public elementary school district, independent school district, state higher education, and career and technology education facilities, which shall include but not be limited to costs of providing to teachers at accredited public institutions who teach levels kindergarten through twelfth grade, personnel at technology centers under the authority of the Oklahoma State Department of Career and Technology Education, and professors and instructors within the Oklahoma State System of Higher Education, the necessary training in the use and application of computers and advanced electronic instructional technology to implement interactive learning environments in the classroom and to access the state-wide distance learning network and costs associated with repairing and maintaining advanced electronic instructional technology,
- e. endowed chairs for professors at institutions of higher education operated by the Oklahoma State System of Higher Education, and
- f. programs and personnel of the Oklahoma School for the Deaf and the Oklahoma School for the Blind;

3. Five percent (5%) to the School Consolidation and Assistance Fund; and

4. Five percent (5%) to the Teachers' Retirement System Dedicated Revenue Revolving Fund.

D. The Legislature shall appropriate funds from the Oklahoma Education Lottery Trust Fund only for the purposes specified in subsection C of this section. Even when funds from the trust fund are used for these purposes, the Legislature shall not use funds from the trust fund to supplant or replace other state funds

supporting common education, higher education, or career and technology education.

E. In order to ensure that the funds from the trust fund are used to enhance and not supplant funding for education, the State Board of Equalization shall examine and investigate appropriations from the trust fund each year. At the meeting of the State Board of Equalization held within five (5) days after the monthly apportionment in February of each year, the State Board of Equalization shall issue a finding and report which shall state whether appropriations from the trust fund were used to enhance or supplant education funding. If the State Board of Equalization finds that education funding was supplanted by funds from the trust fund, the Board shall specify the amount by which education funding was supplanted. In this event, the Legislature shall not make any appropriations for the ensuing fiscal year until an appropriation in that amount is made to replenish the trust fund.

F. Except as otherwise provided by this subsection, no deficiency in the Oklahoma Education Lottery Trust Fund shall be replenished by reducing any nonlottery funds, including specifically but without limitation, the General Revenue Fund, the Constitutional Reserve Fund or the Education Reform Revolving Fund of the State Department of Education. No program or project started specifically from lottery proceeds shall be continued from the General Revenue Fund, the Constitutional Reserve Fund or the Education Reform Revolving Fund of the State Department of Education. Such programs must be adjusted or discontinued according to available lottery proceeds unless the Legislature by general law establishes eligibility requirements and appropriates specific funds therefor. No surplus in the Oklahoma Education Lottery Trust Fund shall be reduced or transferred to correct any nonlottery deficiencies in sums available for general appropriations. The provisions of this subsection shall not apply to bonds or other obligations issued pursuant to or to the repayment of bonds or other obligations issued pursuant to the Oklahoma Higher Education Promise of Excellence Act of 2005.

G. There is hereby created in the State Treasury a revolving fund to be designated the "Oklahoma Education Lottery Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the

Commission. The Commission shall make payments of net proceeds from the fund to the Oklahoma Education Lottery Trust Fund on or before the fifteenth day of each calendar quarter as provided in subsection B of this section. All monies accruing to the credit of the Oklahoma Education Lottery Revolving Fund are hereby appropriated and may be budgeted and expended for the payment of net proceeds, prizes, commissions to retailers, administrative expenses and all other expenses arising out of the operation of the education lottery, subject to the limitations provided in this act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

The monies in the fund shall be invested by the State Treasurer in accordance with state investment practices. All earnings attributable to such investments shall likewise accrue to the credit of the fund.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10.4 of Title 62, unless there is created a duplication in numbering, reads as follows:

In order to ensure that the Oklahoma Higher Learning Access Program will be fully funded and all eligible and qualifying students receive scholarships, the following procedures shall be observed:

1. Not later than November 1, 2007, and November 1 of each subsequent year, the Oklahoma State Regents for Higher Education shall estimate the amount of revenue they deem necessary to fund awards allowed pursuant to the Oklahoma Higher Learning Access Act, for the fiscal year which begins the following July 1 and provide such estimate to the State Board of Equalization;

2. At its meeting in December 2007, and December of each subsequent year, held pursuant to the provisions of paragraph 1 of Section 23 of Article X of the Oklahoma Constitution, the State Board of Equalization shall determine the total amount of revenue necessary to fund awards allowed pursuant to the Oklahoma Higher Learning Access Act for the fiscal year which begins the following July 1 and subtract such amount from the amount it certifies as

available for appropriation from the General Revenue Fund by the Legislature for such fiscal year; and

3. Notwithstanding any other provisions of law directing the apportionment of revenues, beginning with the fiscal year ending June 30, 2009, and for each subsequent fiscal year, the Director of State Finance shall transfer on a periodic basis as needed the amount of revenue subtracted pursuant to the provisions of paragraph 2 of this section to be deposited to the Oklahoma Higher Learning Access Trust Fund, in lieu of being deposited to the General Revenue Fund.

SECTION 5. AMENDATORY 62 O.S. 2001, Section 41.29e, as amended by Section 1, Chapter 99, O.S.L. 2002 (62 O.S. Supp. 2006, Section 41.29e), is amended to read as follows:

Section 41.29e A. There is hereby created in the State Treasury a revolving fund for the Oklahoma State Regents for Higher Education to be designated the "Oklahoma Student Aid Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies received pursuant to the provisions of subparagraph c of paragraph 2 and subparagraph c of paragraph 3 of Section 1004 of Title 68 of the Oklahoma Statutes and any funds previously deposited in the Oklahoma Tuition Scholarship Fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma State Regents for Higher Education as authorized by the Oklahoma Legislature. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. Beginning with fiscal year 2003, monies accruing to the credit of the Oklahoma Student Aid Revolving Fund shall be appropriated for and budgeted and expended for providing student aid in the form of state tuition aid grants awarded pursuant to the Higher Education Tuition Aid Act and scholarships awarded pursuant to the Oklahoma State Regents' Academic Scholars Program ~~and the Oklahoma Higher Learning Access Program.~~

SECTION 6. AMENDATORY 70 O.S. 2001, Section 2603, as amended by Section 1, Chapter 293, O.S.L. 2002 (70 O.S. Supp. 2006, Section 2603), is amended to read as follows:

Section 2603. A. To be eligible to participate in the Oklahoma Higher Learning Access Program and to qualify for an award which includes payment of an amount equivalent to resident tuition or other tuition pursuant to Section 2604 of this title for the first semester or other academic unit of postsecondary enrollment, a student shall:

1. Be a resident of this state;

2. Be a United States citizen or lawfully present in the United States. A student who is not a United States citizen or lawfully present in the United States shall not be eligible to participate in the Oklahoma Higher Learning Access Program and to qualify for an award notwithstanding the provisions of Section 3242 of this title. The provisions of this paragraph shall not apply to any student who was enrolled in the Oklahoma Higher Learning Access Program prior to the end of the 2006-2007 school year;

3. Have a record of satisfactory compliance with agreements executed pursuant to Section 2605 of this title;

~~3.~~

4. a. have graduated within the previous three (3) years from a high school accredited by the State Board of Education, or the Oklahoma School of Science and Mathematics with a minimum 2.5 cumulative grade point average on a 4.0 scale for all work attempted in grades nine through twelve, ~~or~~

b. have graduated within the previous three (3) years from a high school not accredited by the State Board of Education with a minimum 2.5 cumulative grade point average on a 4.0 scale for all work attempted in grades nine through twelve and have achieved a composite score of 22 or higher on the ~~American College Test~~ ACT test, or

c. have satisfactorily completed within the previous three (3) years an educational program that was provided through a means other than a public or private school and have achieved a composite score of 22 or higher on the ACT test;

~~4.~~ 5. Have completed the curricular requirements for admission to an institution within The Oklahoma State System of Higher Education and one additional unit or set of competencies in a course that meets college admission requirements; ~~provided the.~~ The curriculum requirements shall include two units or sets of competencies in foreign or non-English language or technology courses that meet the college admission requirements and one unit or set of competencies of a fine arts course. Students shall also have attained a 2.5 grade point average in the core curriculum courses; provided that students. Students who attended a high school which did not offer all the core curriculum courses or students who were educated by other means and were not offered all the core curriculum courses shall be allowed to satisfy this curriculum requirement by participating in a program approved by the State Regents for remediation of high school curricular deficiencies;

~~5.~~ 6. Have satisfied admission standards as determined by the Oklahoma State Regents for Higher Education for first-time-entering students for the appropriate type of institution, or, if attending a private institution, have satisfied admission standards as determined by the private institution; provided, no student participating in the Oklahoma Higher Learning Access Program shall be admitted into an institution of higher education by special admission standards;

~~6.~~ 7. Have secured admission to, and enrolled in, an institution which is a member of The Oklahoma State System of Higher Education, a postsecondary vocational-technical program offered pursuant to a duly approved cooperative agreement between a technology center school and an institution of The Oklahoma State System of Higher Education, or a private institution of higher learning located within this state and accredited pursuant to Section 4103 of this title; and

~~7.~~ 8. Have established financial need ~~during the eighth grade year, ninth grade year or tenth grade year~~ according to the

provisions of Section 2605 of this title and standards and provisions promulgated by the Oklahoma State Regents for Higher Education; a student who satisfies the financial need criteria upon initial participation in the Oklahoma Higher Learning Access Program during the eighth, ninth, or tenth grade shall not later be denied participation in the Oklahoma Higher Learning Access Program on grounds that the student does not meet the financial need criteria.

B. To retain eligibility while pursuing the program of higher learning in which enrolled, the student shall:

1. Achieve a minimum grade point average of 2.0 on a 4.0 scale or its equivalent for courses taken during the student's sophomore year and achieve a minimum grade point average of 2.5 on a 4.0 scale or its equivalent for courses taken during the student's junior year and thereafter. The provisions of this paragraph shall not apply to any student who has received an Oklahoma Higher Learning Access Program benefit award prior to the 2009-2010 school year;

2. Maintain good academic standing and satisfactory academic progress according to standards of the Oklahoma State Regents for Higher Education; and

~~2.~~ 3. Comply with the standards related to maintenance of eligibility as promulgated by the Oklahoma State Regents for Higher Education; and

4. Refrain from conduct that leads to expulsion or suspension of more than one semester from an institution of higher education. A student who violates the provisions of this paragraph shall permanently lose eligibility for program benefits. The provisions of this paragraph shall become effective January 1, 2008.

C. The Oklahoma State Regents for Higher Education and the State Board of Career and Technology Education shall promulgate rules relating to maintenance of eligibility under this act by a student.

D. It is the intent of the Legislature that students in the ninth grade for the 1992-93 school year who are determined to be eligible Oklahoma Higher Learning Access students pursuant to this

act shall be the first students eligible for benefits from the Oklahoma Higher Learning Access Trust Fund.

E. The Oklahoma State Regents for Higher Education are authorized to study, develop and propose criteria for determining students' award eligibility based upon the completion of seven (7) semesters of high school coursework.

SECTION 7. AMENDATORY 70 O.S. 2001, Section 2605, as amended by Section 1, Chapter 134, O.S.L. 2003 (70 O.S. Supp. 2006, Section 2605), is amended to read as follows:

Section 2605. A. Each school year, every fifth- through ninth-grade student in the public and private schools of this state and students who are educated by other means and are in the equivalent of the fifth through ninth grade shall be apprised, together with the student's parent, custodial parent, or guardian, of the student's opportunity for access to higher learning under the Oklahoma Higher Learning Access Program. The Oklahoma State Regents for Higher Education and the State Board of Education shall develop, promote, and coordinate a public awareness program to be utilized in making students and parents aware of the Oklahoma Higher Learning Access Program.

B. On a form provided by the Oklahoma State Regents for Higher Education, every public school district shall designate at least one Oklahoma Higher Learning Access Program contact person, who shall be a counselor or teacher, at each public school site in this state in which eighth-, ninth- or tenth-grade classes are taught. When requested by the State Regents, the State Board of Education shall assist the State Regents to ensure the designation of contact persons. Private schools shall also designate at least one school official as a contact person. For students who are educated by other means, a parent or guardian or other person approved by the State Regents shall be designated the contact person.

C. Students who qualify on the basis of financial need according to subsection D of this section and the standards and provisions promulgated by the Oklahoma State Regents for Higher Education shall be given the opportunity throughout the eighth-, ninth-, and tenth-grade years, for students enrolled in a public or private school, or between the ages of thirteen (13) and fifteen

(15), for students who are educated by other means, to enter into participation in the program by agreeing to, throughout the remainder of their school years or educational program:

1. Attend school or an educational program regularly and do homework regularly;
2. Refrain from substance abuse;
3. Refrain from commission of crimes or delinquent acts;
4. Have school work and school records reviewed by mentors designated pursuant to the program;
5. Provide information requested by the Oklahoma State Regents for Higher Education or the State Board of Education; and
6. Participate in program activities.

The contact person ~~at the school~~ shall maintain the agreements, which shall be executed on forms provided by the Oklahoma State Regents for Higher Education and managed according to regulations promulgated by the Oklahoma State Regents for Higher Education, and the contact person shall monitor the student's compliance with the terms of the agreement. The Oklahoma State Regents for Higher Education are authorized to process student agreements and verify compliance with the agreements. Students failing to comply with the terms of the agreement shall not be eligible for the awards provided in Section 2604 of this title.

D. A student shall not be found to be in financial need for purposes of the Oklahoma Higher Learning Access Program if:

1. At the time the student applies for participation in the Program during the eighth, ninth or tenth grade for students enrolled in a public or private school, or between the ages of thirteen (13) and fifteen (15), for students who are educated by other means, the income from taxable and nontaxable sources of the student's parent(s) exceeds Fifty Thousand Dollars (\$50,000.00) per year; and

2. At the time the student begins postsecondary education and prior to receiving any Oklahoma Higher Learning Access Program benefit award, the income from taxable and nontaxable sources of the student's parent(s) exceeds One Hundred Thousand Dollars (\$100,000.00) per year.

The determination of financial qualification as set forth in this paragraph shall be based on the income of the student, not the income of the parent(s), if a student:

- a. is determined to be independent of the student's parents for federal financial aid purposes,
- b. was in the permanent custody of the Department of Human Services at the time the student enrolled in the program, or
- c. was in the court-ordered custody of a federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act, at the time the student enrolled in the program.

The provisions of this paragraph shall not apply to any student who has received an Oklahoma Higher Learning Access Program benefit award prior to the 2009-2010 school year.

E. The ~~student's~~ financial qualification of a student as set forth in subsection D of this section shall be certified by the contact person ~~at the school~~ or by the Oklahoma State Regents for Higher Education on the agreement form provided by the Oklahoma State Regents for Higher Education, ~~the~~. The form shall be retained in the ~~student's~~ permanent record of the student and a copy forwarded to the Oklahoma State Regents for Higher Education.

~~E.~~ F. Agreements shall be witnessed by the student's parent, custodial parent, or guardian, who shall further agree to:

1. Assist the student in achieving compliance with the agreements;

2. Confer, when requested to do so, with the school contact person, other school personnel, and program mentors;

3. Provide information requested by the Oklahoma State Regents for Higher Education or the State Board of Education; and

4. Assist the student in completing forms and reports required for program participation, making applications to institutions and schools of higher learning, and filing applications for student grants and scholarships.

~~F.~~ G. The Oklahoma State Regents for Higher Education shall promulgate rules for the determination of student compliance with agreements made pursuant to this section.

~~G.~~ H. The Oklahoma State Regents for Higher Education shall designate personnel to coordinate tracking of program records for the years when students participating in the program are still in the ~~public~~ schools or are being educated by other means, provide staff development for contact persons in the ~~public~~ schools, and provide liaison with the State Board of Education and local organizations and individuals participating in the program.

~~H.~~ I. The school district where an Oklahoma Higher Learning Access Program student is enrolled when the student begins participation in the program and any subsequent school district where the student enrolls shall forward information regarding the student's participation in the program to a school to which the student transfers upon the school's request for the student's records.

~~I.~~ J. Students participating in the Oklahoma Higher Learning Access Program shall provide their social security number or their student identification number used by their school to the Oklahoma State Regents for Higher Education. The Regents shall keep the numbers confidential and use them only for administrative purposes.

SECTION 8. AMENDATORY 70 O.S. 2001, Section 3953.1, is amended to read as follows:

Section 3953.1 A. There is hereby created a trust fund to be known as the "Oklahoma Higher Learning Access Trust Fund". The Oklahoma State Regents for Higher Education shall be the trustees of said Trust Fund.

B. The State Regents shall utilize said Trust Fund to implement the provisions of Sections 2601 through 2604 of this title.

C. The Trust Fund principal shall consist of monies the Legislature appropriates or transfers to the Oklahoma State Regents for Higher Education for the Trust Fund and any monies or assets contributed to the Trust Fund from any other source, public or private. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Regents. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

D. Notwithstanding other provisions of law, income and investment return on Trust Fund principal shall accrue to the Trust Fund for use as provided by authorization of the trustees for the purposes provided in Sections 2601 through 2604 of this title. The State Regents may also utilize the Trust Fund principal for the purposes provided in Sections 2601 through 2604 of this title. Except as otherwise provided by law, no such income or investment return or principal shall be used for administrative expenses; expenses incurred by the State Regents in the administration of the Trust Fund and of the Oklahoma Higher Learning Access Program established by ~~this act~~ the Oklahoma Higher Learning Access Act shall be paid from monies appropriated to the State Regents coordinating board for their general operating budget.

E. The Regents shall adopt rules for accomplishing transfer of funds from the Oklahoma Higher Learning Access Trust Fund to the appropriate institutional Educational and General Operations Revolving Funds, as provided in Section 3901 of this title, to private institutions, and to the appropriate technology center school district to cover general enrollment fees or tuition for eligible students pursuant to ~~this act~~ the Oklahoma Higher Learning Access Act. Allocations from the Trust Fund may be made only for the purpose of covering the general enrollment fees or tuition of eligible students. No portion of the Trust Fund may be used or allocated for administrative or operating expenses of any higher education institution or technology center school.

SECTION 9. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 24th day of May, 2007.

Presiding Officer of the Senate

Passed the House of Representatives the 25th day of May, 2007.

Presiding Officer of the House
of Representatives