

THE HOUSE OF REPRESENTATIVES  
Tuesday, April 8, 2008

Committee Substitute for  
ENGROSSED  
Senate Bill No. 1795

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 1795 - By:  
JOHNSON (MIKE) of the Senate and JONES of the House.

An Act relating to amusements and sports; amending 3A O.S. 2001, Sections 201, as last amended by Section 2, Chapter 177, O.S.L. 2006, 202, as amended by Section 2, Chapter 217, O.S.L. 2005 and 203.1, as amended by Section 3, Chapter 217, O.S.L. 2005 (3A O.S. Supp. 2007, Sections 201, 202 and 203.1), which relate to the Oklahoma Horse Racing Commission; modifying eligibility requirements for appointment to the Oklahoma Horse Racing Commission; modifying the prohibitions to membership on the Oklahoma Horse Racing Commission; deleting language relating to the receiving of purses by members of the Oklahoma Horse Racing Commission; amending Section 14, Chapter 58, O.S.L. 2003 (3A O.S. Supp. 2007, Section 713), as last amended by Section 3 of Enrolled Senate Bill No. 1830 of the 2nd Session of the 51st Oklahoma Legislature, which relates to the Oklahoma Education Lottery Trust Fund; specifying manner of appropriations from the Trust Fund to The Oklahoma State System of Higher Education; providing effective dates; and declaring an emergency.

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

1           SECTION 1.    AMENDATORY    3A O.S. 2001, Section 201, as last amended by  
2    Section 2, Chapter 177, O.S.L. 2006 (3A O.S. Supp. 2007, Section 201), is amended to  
3    read as follows:

4           Section 201. A. There is hereby created the Oklahoma Horse Racing Commission,  
5    which shall consist of nine (9) members appointed by the Governor with the advice and

1 consent of the Senate. At least one member shall be appointed from each congressional  
2 district, and at least three of the remaining members shall be experienced in the horse  
3 industry and shall be appointed from the state at large. However, when congressional  
4 districts are redrawn each member appointed prior to July 1 of the year in which such  
5 modification becomes effective shall complete the current term of office, and  
6 appointments made after July 1 of the year in which such modification becomes effective  
7 shall be based on the redrawn districts. Appointments made after July 1 of the year in  
8 which such modification becomes effective shall be from any redrawn districts which are  
9 not represented by a board member until such time as each of the modified congressional  
10 districts is represented by a board member.

11 B. To be eligible for appointment to the Commission, a person shall:

12 1. Be a citizen of the United States;

13 2. Have been a resident of this state for five (5) years immediately preceding the  
14 appointment; ~~and~~

15 3. Not have been convicted of a felony pursuant to the laws of this state, the laws of  
16 any other state, or the laws of the United States as established by a national criminal  
17 history record check as defined by Section 150.9 of Title 74 of the Oklahoma Statutes;  
18 and

19 4. Not hold a license issued by the Oklahoma Horse Racing Commission.

20 C. The term of office of a member of the Commission shall be for six (6) years and  
21 until a successor is appointed and qualified.

1 D. The Governor may remove any member of the Commission for incompetence,  
2 neglect of duty, or malfeasance in office upon first giving the member a copy of the  
3 charges and an opportunity to be heard. A vacancy on the Commission shall be filled for  
4 the unexpired term by appointment made by the Governor.

5 SECTION 2. AMENDATORY 3A O.S. 2001, Section 202, as amended by  
6 Section 2, Chapter 217, O.S.L. 2005 (3A O.S. Supp. 2007, Section 202), is amended to  
7 read as follows:

8 Section 202. No individual shall be a member of the Commission if the individual  
9 or a member of the family of the individual has a financial interest in any organization  
10 licensee ~~and no individual other than an individual required by the provisions of Section~~  
11 ~~201 of this title to be experienced in the horse industry shall be a member of or holds a~~  
12 license issued by the Commission, or if the individual or a member of the family of the  
13 individual has a financial interest in any business entity which does business with any  
14 organization licensee or owns an interest in any racehorse which participates in any race  
15 meeting supervised by the Commission.

16 SECTION 3. AMENDATORY 3A O.S. 2001, Section 203.1, as amended by  
17 Section 3, Chapter 217, O.S.L. 2005 (3A O.S. Supp. 2007, Section 203.1), is amended to  
18 read as follows:

19 Section 203.1 A. A member of the Oklahoma Horse Racing Commission shall not  
20 accept any gift, loan, entertainment, or favor from any occupation or organization  
21 licensee, except such suitable facilities and services within the enclosure of an  
22 organization licensee as may be required by the member to facilitate the proper

1 performance of his or her duties. A member of the Oklahoma Horse Racing Commission,  
2 other than a member required by the provisions of Section 201 of this title to be  
3 experienced in the horse industry, shall not accept any compensation or service from any  
4 occupation or organization licensee, except such suitable facilities and services within the  
5 enclosure of an organization licensee as may be required by the member to facilitate the  
6 proper performance of his or her duties.

7 B. No member of the Commission or Commission employee shall place any wagers  
8 on any horse race over which the Commission has jurisdiction.

9 C. Members of the Commission and members of their immediate families, and  
10 Commission employees and members of their immediate families are prohibited from  
11 receiving purse supplements, stakes, rewards, stallion awards, broodmare awards, or  
12 breeders awards of any kind, or marketing, promotion, or advertising monies of any kind  
13 from the Oklahoma Breeding Development Fund Special Account administered by the  
14 Commission pursuant to Section 208.3 of this title. "Immediate family" has the meaning  
15 provided by Rule 257:1-1-2 of the Rules of the Ethics Commission, Chapter 62, App. of  
16 Title 74 of the Oklahoma Statutes.

17 ~~D. Nothing in this section shall prohibit members of the Commission, who are~~  
18 ~~required by the provisions of Section 201 of this title to be experienced in the horse~~  
19 ~~industry, from receiving purses for participating horses from an organization licensee.~~

20 ~~E. Provided, any Any member of the Commission who has an ownership interest in~~  
21 ~~any horse shall be prohibited from participating in the discussion on, voting on,~~  
22 ~~influencing or attempting to influence the official action of the Commission in any matter~~

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 affecting the eligibility of such horse to participate in any race or which determines the  
2 amount or receipt of any purse by the Commission member or any member of the family  
3 of the Commission member. A commissioner shall be eligible to participate in the  
4 discussion on, vote on, influence or attempt to influence the official action of the  
5 Commission if the only benefit to accrue to the Commissioner or any member of the  
6 Commissioner's family is a benefit which accrues to the Commissioner or a member of  
7 the Commissioner's family as a result of being a member of a large class to no greater  
8 extent than could reasonably be foreseen to accrue to all other members of the large  
9 class.

10 SECTION 4. AMENDATORY Section 14, Chapter 58, O.S.L. 2003 (3A O.S.  
11 Supp. 2007, Section 713), as last amended by Section 3 of Enrolled Senate Bill No. 1830  
12 of the 2nd Session of the 51st Oklahoma Legislature, is amended to read as follows:

13 Section 713. A. All gross proceeds shall be the property of the Oklahoma Lottery  
14 Commission. From its gross proceeds, the Commission shall pay the operating expenses  
15 of the Commission. At least forty-five percent (45%) of gross proceeds shall be made  
16 available as prize money. However, the provisions of this subsection shall be deemed not  
17 to create any lien, entitlement, cause of action, or other private right, and any rights of  
18 holders of tickets or shares shall be determined by the Commission in setting the terms  
19 of its lottery or lotteries. For each fiscal year, net proceeds shall equal at least thirty-five  
20 percent (35%) of the gross proceeds. However, for the purpose of repaying indebtedness  
21 issued pursuant to Section 732 of this title, for the first two (2) full fiscal years and any  
22 partial first fiscal year of the Commission, net proceeds need only equal at least thirty

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1 percent (30%) of the gross proceeds. All of the net proceeds shall be transferred to the  
2 Oklahoma Education Lottery Trust Fund as provided in subsection B of this section.

3 B. There is hereby created in the State Treasury a fund to be designated the  
4 “Oklahoma Education Lottery Trust Fund”. ~~On~~ Except as otherwise provided in  
5 subsection H of this section, on or before the fifteenth day of each calendar quarter, the  
6 Commission shall transfer to the State Treasurer, for credit to the Oklahoma Education  
7 Lottery Trust Fund, the amount of all net proceeds accruing during the preceding  
8 calendar quarter. Expenditures from the fund shall be made upon warrants issued by  
9 the State Treasurer against claims filed as prescribed by law with the Director of State  
10 Finance for approval and payment.

11 Upon their deposit into the State Treasury, any monies representing a deposit of  
12 net proceeds shall then become the unencumbered property of this state, and neither the  
13 Commission nor the board of trustees shall have the power to agree or undertake  
14 otherwise. The monies shall be invested by the State Treasurer in accordance with state  
15 investment practices. All earnings attributable to such investments shall likewise be the  
16 unencumbered property of the state and shall accrue to the credit of the fund.

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

- 19 1. Forty-five percent (45%) for the following:
- 20 a. kindergarten through twelfth grade public education, including but not
  - 21 limited to compensation and benefits for public school teachers and
  - 22 support employees, and

- 1           b.     early childhood development programs, which shall include but not be  
2                     limited to costs associated with prekindergarten and full-day  
3                     kindergarten programs;
- 4       2. Forty-five percent (45%) for the following:
- 5           a.     tuition grants, loans and scholarships to citizens of this state to enable  
6                     such citizens to attend colleges and universities located within this  
7                     state, regardless of whether such colleges and universities are owned  
8                     or operated by the Oklahoma State Regents for Higher Education, or to  
9                     attend institutions operated under the authority of the Oklahoma  
10                    Department of Career and Technology Education; provided such  
11                    tuition grants, loans and scholarships shall not be made to a citizen of  
12                    this state to attend a college or university which is not accredited by  
13                    the Oklahoma State Regents for Higher Education,
- 14          b.     construction of educational facilities for elementary school districts,  
15                     independent school districts, the Oklahoma State System of Higher  
16                     Education, and career and technology education,
- 17          c.     capital outlay projects for elementary school districts, independent  
18                     school districts, the Oklahoma State System of Higher Education, and  
19                     career and technology education,
- 20          d.     technology for public elementary school district, independent school  
21                     district, state higher education, and career and technology education  
22                     facilities, which shall include but not be limited to costs of providing to

1 teachers at accredited public institutions who teach levels  
2 kindergarten through twelfth grade, personnel at technology centers  
3 under the authority of the Oklahoma State Department of Career and  
4 Technology Education, and professors and instructors within the  
5 Oklahoma State System of Higher Education, the necessary training in  
6 the use and application of computers and advanced electronic  
7 instructional technology to implement interactive learning  
8 environments in the classroom and to access the state-wide distance  
9 learning network and costs associated with repairing and maintaining  
10 advanced electronic instructional technology,  
11 e. endowed chairs for professors at institutions of higher education  
12 operated by the Oklahoma State System of Higher Education, and  
13 f. programs and personnel of the Oklahoma School for the Deaf and the  
14 Oklahoma School for the Blind;

15 3. Five percent (5%) to the School Consolidation and Assistance Fund. When the  
16 total amount in the School Consolidation and Assistance Fund from all sources equals  
17 Five Million Dollars (\$5,000,000.00), all monies appropriated pursuant to this paragraph  
18 which would otherwise be deposited in the School Consolidation and Assistance Fund in  
19 excess of Five Million Dollars (\$5,000,000.00) shall be allocated by the State Department  
20 of Education to public schools based on the audited end-of-year average daily  
21 membership in grades 8 through 12 during the preceding school year for the purpose of  
22 purchasing technology equipment in order to conduct on-line testing as required by the

1 Achieving Classroom Excellence Act of 2005. If at any time the total amount in the  
2 School Consolidation and Assistance Fund drops below Five Million Dollars  
3 (\$5,000,000.00), the monies appropriated pursuant to this paragraph shall be deposited  
4 in the School Consolidation and Assistance Fund until the Fund again reaches Five  
5 Million Dollars (\$5,000,000; and

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

8 D. The Legislature shall appropriate funds from the Oklahoma Education Lottery  
9 Trust Fund only for the purposes specified in subsection C of this section. Even when  
10 funds from the trust fund are used for these purposes, the Legislature shall not use funds  
11 from the trust fund to supplant or replace other state funds supporting common  
12 education, higher education, or career and technology education.

13 E. In order to ensure that the funds from the trust fund are used to enhance and  
14 not supplant funding for education, the State Board of Equalization shall examine and  
15 investigate appropriations from the trust fund each year. At the meeting of the State  
16 Board of Equalization held within five (5) days after the monthly apportionment in  
17 February of each year, the State Board of Equalization shall issue a finding and report  
18 which shall state whether appropriations from the trust fund were used to enhance or  
19 supplant education funding. If the State Board of Equalization finds that education  
20 funding was supplanted by funds from the trust fund, the Board shall specify the amount  
21 by which education funding was supplanted. In this event, the Legislature shall not

1 make any appropriations for the ensuing fiscal year until an appropriation in that  
2 amount is made to replenish the trust fund.

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

18 G. There is hereby created in the State Treasury a revolving fund to be designated  
19 the "Oklahoma Education Lottery Revolving Fund". The fund shall be a continuing fund,  
20 not subject to fiscal year limitations, and shall consist of all monies received by the  
21 Commission. The Commission shall make payments of net proceeds from the fund to the  
22 Oklahoma Education Lottery Trust Fund on or before the fifteenth day of each calendar

1 quarter as provided in subsection B of this section. All monies accruing to the credit of  
2 the Oklahoma Education Lottery Revolving Fund are hereby appropriated and may be  
3 budgeted and expended for the payment of net proceeds, prizes, commissions to retailers,  
4 administrative expenses and all other expenses arising out of the operation of the  
5 education lottery, subject to the limitations provided in the Oklahoma Education Lottery  
6 Act. Expenditures from the fund shall be made upon warrants issued by the State  
7 Treasurer against claims filed as prescribed by law with the Director of State Finance for  
8 approval and payment.

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

12 H. When appropriations from the Oklahoma Education Lottery Trust Fund are  
13 made to The Oklahoma State System of Higher Education, the appropriations shall be  
14 made available to the System on a monthly basis. In addition to the provisions of  
15 subsection B of this section, the following process shall be used to ensure that the  
16 appropriations are made available to The Oklahoma State System of Higher Education  
17 in a timely manner:

18 1. If the Director of the Office of State Finance does not create a cash-flow system  
19 for the Oklahoma Education Lottery Trust Fund, the Commission, on or before June 25  
20 of the fiscal year preceding the fiscal year for which the appropriations to The Oklahoma  
21 State System of Higher Education have been made, shall transfer to the State Treasurer,  
22 for credit to the Oklahoma Education Lottery Trust Fund, an amount of all net proceeds

1 accruing during the preceding months for which net proceeds have not been previously  
2 transferred not to exceed Three Million Dollars (\$3,000,000.00);

3 2. Beginning in July of the fiscal year in which appropriations are made to The  
4 Oklahoma State System of Higher Education from the Oklahoma Education Lottery  
5 Trust Fund, the Commission, on or before the twenty-fifth day of each month, shall  
6 transfer to the State Treasurer, for credit to the Oklahoma Education Lottery Trust  
7 Fund, an amount of net proceeds accruing during the preceding month equal to one-  
8 twelfth (1/12) of the amount of appropriations made for The Oklahoma State System for  
9 Higher Education from the Oklahoma Education Lottery Trust Fund;

10 3. The Director of the Office of State Finance shall allocate the transfers provided  
11 for in paragraph 2 of this subsection to the Oklahoma State Regents for Higher  
12 Education on a monthly basis; and

13 4. The total amount of transfers to the Oklahoma Education Lottery Trust Fund of  
14 net lottery proceeds made pursuant to this subsection shall not exceed the total  
15 appropriations made to The Oklahoma State System for Higher Education from the  
16 Oklahoma Education Lottery Trust Fund for the specific fiscal year.

17 SECTION 5. Sections 1, 2 and 3 of this act shall become effective January 1, 2009.

18 SECTION 6. Section 4 of this act shall become effective July 1, 2008.

19 SECTION 7. It being immediately necessary for the preservation of the public  
20 peace, health and safety, an emergency is hereby declared to exist, by reason whereof  
21 this act shall take effect and be in full force from and after its passage and approval.

1 COMMITTEE REPORT BY: COMMITTEE ON EDUCATION, dated 04-07-08 - DO  
2 PASS, As Amended.