

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 405 be amended to read as follows:

1 Page 33, delete lines 16 through 42, begin a new paragraph and
2 insert:
3 "SECTION 35. IC 4-35-7-12, AS AMENDED BY P.L.142-2009,
4 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2010]: Sec. 12. (a) The Indiana horse racing commission shall
6 enforce the requirements of this section.
7 (b) Except as provided in subsections (j) and (k), a licensee shall
8 before the fifteenth day of each month devote to the gaming integrity
9 fund, horse racing purses, and to horsemen's associations an amount
10 equal to fifteen percent (15%) of the adjusted gross receipts of the slot
11 machine wagering from the previous month at the licensee's racetrack.
12 The Indiana horse racing commission may not use any of this money
13 for any administrative purpose or other purpose of the Indiana horse
14 racing commission, and the entire amount of the money shall be
15 distributed as provided in this section. A licensee shall pay the
16 **following amounts from the economic development fee imposed**
17 **under IC 4-35-8.3-2:**
18 **(1) The** first two hundred fifty thousand dollars (\$250,000)
19 **distributed under this section in of the fee imposed for a**
20 **particular** state fiscal year to the Indiana horse racing
21 commission for deposit in the gaming integrity fund established
22 by IC 4-35-8.7-3. ~~After this money has been distributed to the~~
23 Indiana horse racing commission, a licensee shall distribute the

1 remaining money devoted to horse racing purses and to
2 horsemen's associations under this subsection as follows:

3 ~~(1)~~ **(2)** Five-tenths percent (0.5%) of the fees remaining after
4 making the payment required by subdivision (1) shall be
5 transferred to horsemen's associations for equine promotion or
6 welfare according to the ratios specified in subsection (e).

7 ~~(2)~~ **(3)** Two and five-tenths percent (2.5%) of the fees remaining
8 after making the payment required by subdivision (1) shall be
9 transferred to horsemen's associations for backside benevolence
10 according to the ratios specified in subsection (e).

11 ~~(3)~~ **(4)** Except as provided in IC 4-35-8.3-4 through
12 IC 4-35-8.3-6, ninety-seven percent (97%) of the fees remaining
13 after making the payment required by subdivision (1) shall be
14 distributed to promote horses and horse racing as provided in
15 subsection (d).

16 **The payment required under subdivision (1) must be made before**
17 **August 15 of each year. The payments and distributions required**
18 **by subdivisions (2) through (4) must be made before the fifteenth**
19 **day of the month following the month for which the fees were**
20 **imposed upon the licensee's adjusted gross receipts under**
21 **IC 4-35-8.3-2.**

22 (c) A horsemen's association shall expend the amounts distributed
23 to the horsemen's association under subsection ~~(b)~~~~(1)~~ **(b)(2)** through
24 ~~(b)~~~~(2)~~ **(b)(3)** for a purpose promoting the equine industry or equine
25 welfare or for a benevolent purpose that the horsemen's association
26 determines is in the best interests of horse racing in Indiana for the
27 breed represented by the horsemen's association. Expenditures under
28 this subsection are subject to the regulatory requirements of subsection
29 (f).

30 (d) A licensee shall distribute the amounts described in subsection
31 ~~(b)~~~~(3)~~ **(b)(4)** as follows:

32 (1) Forty-six percent (46%) for thoroughbred purposes as follows:

33 (A) Sixty percent (60%) for the following purposes:

34 (i) Ninety-seven percent (97%) for thoroughbred purses.

35 (ii) Two and four-tenths percent (2.4%) to the horsemen's
36 association representing thoroughbred owners and trainers.

37 (iii) Six-tenths percent (0.6%) to the horsemen's association
38 representing thoroughbred owners and breeders.

39 (B) Forty percent (40%) to the breed development fund
40 established for thoroughbreds under IC 4-31-11-10.

41 (2) Forty-six percent (46%) for standardbred purposes as follows:

42 (A) Fifty percent (50%) for the following purposes:

43 (i) Ninety-six and five-tenths percent (96.5%) for
44 standardbred purses.

45 (ii) Three and five-tenths percent (3.5%) to the horsemen's
46 association representing standardbred owners and trainers.

- 1 (B) Fifty percent (50%) to the breed development fund
 2 established for standardbreds under IC 4-31-11-10.
- 3 (3) Eight percent (8%) for quarter horse purposes as follows:
 4 (A) Seventy percent (70%) for the following purposes:
 5 (i) Ninety-five percent (95%) for quarter horse purses.
 6 (ii) Five percent (5%) to the horsemen's association
 7 representing quarter horse owners and trainers.
- 8 (B) Thirty percent (30%) to the breed development fund
 9 established for quarter horses under IC 4-31-11-10.
- 10 Expenditures under this subsection are subject to the regulatory
 11 requirements of subsection (f).
- 12 (e) Money distributed under subsection ~~(b)(1)~~ **(b)(2)** and ~~(b)(2)~~
 13 **(b)(3)** shall be allocated as follows:
 14 (1) Forty-six percent (46%) to the horsemen's association
 15 representing thoroughbred owners and trainers.
 16 (2) Forty-six percent (46%) to the horsemen's association
 17 representing standardbred owners and trainers.
 18 (3) Eight percent (8%) to the horsemen's association representing
 19 quarter horse owners and trainers.
- 20 **(f) The Indiana horse racing commission may not use any of the**
 21 **money received under this section for any administrative purpose**
 22 **or other purpose of the Indiana horse racing commission.** Money
 23 distributed under this section may not be expended unless the
 24 expenditure is for a purpose authorized in this section and is either for
 25 a purpose promoting the equine industry or equine welfare or is for a
 26 benevolent purpose that is in the best interests of horse racing in
 27 Indiana or the necessary expenditures for the operations of the
 28 horsemen's association required to implement and fulfill the purposes
 29 of this section. The Indiana horse racing commission may review any
 30 expenditure of money distributed under this section to ensure that the
 31 requirements of this section are satisfied. The Indiana horse racing
 32 commission shall adopt rules concerning the review and oversight of
 33 money distributed under this section and shall adopt rules concerning
 34 the enforcement of this section. The following apply to a horsemen's
 35 association receiving a distribution of money under this section:
 36 (1) The horsemen's association must annually file a report with
 37 the Indiana horse racing commission concerning the use of the
 38 money by the horsemen's association. The report must include
 39 information as required by the commission.
 40 (2) The horsemen's association must register with the Indiana
 41 horse racing commission.
- 42 (g) The commission shall provide the Indiana horse racing
 43 commission with the information necessary to enforce this section.
- 44 (h) The Indiana horse racing commission shall investigate any
 45 complaint that a licensee has failed to comply with the horse racing
 46 purse requirements set forth in this section. If, after notice and a

1 hearing, the Indiana horse racing commission finds that a licensee has
 2 failed to comply with the purse requirements set forth in this section,
 3 the Indiana horse racing commission may:

- 4 (1) issue a warning to the licensee;
- 5 (2) impose a civil penalty that may not exceed one million dollars
 6 (\$1,000,000); or
- 7 (3) suspend a meeting permit issued under IC 4-31-5 to conduct
 8 a pari-mutuel wagering horse racing meeting in Indiana.

9 (i) A civil penalty collected under this section must be deposited in
 10 the state general fund.

11 (j) For a state fiscal year beginning after June 30, 2008; and ending
 12 before July 1, 2009; the amount of money dedicated to the purposes
 13 described in subsection (b) for a particular state fiscal year is equal to
 14 the lesser of:

- 15 (1) fifteen percent (15%) of the licensee's adjusted gross receipts
 16 for the state fiscal year; or
- 17 (2) eighty-five million dollars (\$85,000,000):

18 If fifteen percent (15%) of a licensee's adjusted gross receipts for the
 19 state fiscal year exceeds the amount specified in subdivision (2); the
 20 licensee shall transfer the amount of the excess to the commission for
 21 deposit in the state general fund. The licensee shall adjust the transfers
 22 required under this section in the final month of the state fiscal year to
 23 comply with the requirements of this subsection:

24 (k) For a state fiscal year beginning after June 30, 2009; the amount
 25 of money dedicated to the purposes described in subsection (b) for a
 26 particular state fiscal year is equal to the lesser of:

- 27 (1) fifteen percent (15%) of the licensee's adjusted gross receipts
 28 for the state fiscal year; or
- 29 (2) the amount dedicated to the purposes described in subsection
 30 (b) in the previous state fiscal year increased by a percentage that
 31 does not exceed the percent of increase in the United States
 32 Department of Labor Consumer Price Index during the year
 33 preceding the year in which an increase is established:

34 If fifteen percent (15%) of a licensee's adjusted gross receipts for the
 35 state fiscal year exceeds the amount specified in subdivision (2); the
 36 licensee shall transfer the amount of the excess to the commission for
 37 deposit in the state general fund. The licensee shall adjust the transfers
 38 required under this section in the final month of the state fiscal year to
 39 comply with the requirements of this subsection:

40 SECTION 36. IC 4-35-8.3 IS ADDED TO THE INDIANA CODE
 41 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2010]:

43 **Chapter 8.3. Economic Development Fee**

44 **Sec. 1. This chapter applies to adjusted gross receipts received**
 45 **by a licensee in a state fiscal year beginning after June 30, 2010.**

46 **Sec. 2. (a) There is imposed upon each licensee that offers slot**

1 machine wagering under this article an economic development fee
2 equal to fifteen percent (15%) of the licensee's adjusted gross
3 receipts received from slot machine wagering.

4 (b) Before the tenth day of each month, a licensee shall set aside
5 an amount equal to the fee imposed under subsection (a) upon the
6 adjusted gross receipts received by the licensee during the previous
7 month at the licensee's racetrack. Except as provided in sections 5
8 and 6 of this chapter, a licensee is not required to remit fees to the
9 commission or the Indiana horse racing commission.

10 Sec. 3. (a) A licensee must use the economic development fees set
11 aside for each month of the state fiscal year under section 2 of this
12 chapter as follows:

13 (1) To pay the amount specified in IC 4-35-7-12(b)(1) as a
14 single annual payment for deposit in the gaming integrity
15 fund.

16 (2) To pay the amounts specified in IC 4-35-7-12(b)(2) for
17 equine promotion and welfare.

18 (3) To pay the amounts specified in IC 4-35-7-12(b)(3) for
19 backside benevolence.

20 (4) Except as provided in sections 4 through 6 of this chapter,
21 to distribute the amount specified in IC 4-35-7-12(b)(4) to
22 promote horses and horse racing as provided in
23 IC 4-35-7-12(d).

24 (b) A licensee shall do the following:

25 (1) Make the payments and distributions described in
26 subsection (a) in accordance with the schedule required by
27 IC 4-35-7-12(b).

28 (2) Maintain complete records of the economic development
29 fees paid or distributed by the licensee under subsection (a).

30 (3) Submit a monthly report of the amounts paid or
31 distributed under subsection (a) to the commission and the
32 Indiana horse racing commission in the manner prescribed by
33 the commission.

34 (c) The commission may require a licensee to submit any
35 records maintained under this section for an independent audit by
36 a certified public accountant selected by the commission. A licensee
37 must bear the cost of any audit required under this section.

38 Sec. 4. In each state fiscal year, a licensee may not distribute
39 under section 3(a)(4) of this chapter more than thirteen million
40 seven hundred fifty thousand dollars (\$13,750,000) of the fees set
41 aside under section 2(b) of this chapter for promoting horses and
42 horse racing as provided in IC 4-35-7-12(d).

43 Sec. 5. (a) This section applies to the month in which the amount
44 of fees that a licensee has distributed under section 3(a)(4) of this
45 chapter for a particular state fiscal year reaches thirteen million
46 seven hundred fifty thousand dollars (\$13,750,000).

47 (b) For a month described in subsection (a), a licensee shall

1 distribute an amount equal to the result determined under STEP
2 TWO of the following formula for promoting horses and horse
3 racing as provided in IC 4-35-7-12(d):

4 STEP ONE: Determine the product of:

- 5 (1) the amount of the fee set aside under section 2(b) of this
6 chapter in that month; multiplied by
7 (2) ninety-seven percent (97%).

8 STEP TWO: Determine the difference between:

- 9 (1) thirteen million seven hundred fifty thousand dollars
10 (\$13,750,000); minus
11 (2) the aggregate amount of money distributed under
12 section 3(a)(4) of this chapter for that state fiscal year.

13 STEP THREE: Determine the difference between:

- 14 (1) the STEP ONE result; minus
15 (2) the STEP TWO result.

16 (c) A licensee shall transfer to the commission for transfer and
17 deposit under section 7 of this chapter an amount equal to the
18 result determined under STEP THREE of the formula set forth in
19 subsection (b).

20 (d) A licensee shall make any transfer required by subsection (c)
21 before the fifteenth day of the month following the month for
22 which the fees were imposed upon the licensee's adjusted gross
23 receipts under section 2 of this chapter.

24 Sec. 6. (a) This section applies to economic development fees
25 imposed for each month remaining in a state fiscal year that
26 follows a month that is subject to section 5 of this chapter.

27 (b) For a month described in subsection (a), a licensee shall
28 transfer the product of:

- 29 (1) the amount of the fee set aside under section 2(b) of this
30 chapter for that month; multiplied by
31 (2) ninety-seven percent (97%);

32 to the commission for transfer and deposit under section 7 of this
33 chapter.

34 (c) A licensee shall make any transfer required by subsection (b)
35 before the fifteenth day of the month following the month for
36 which the fees were imposed upon the licensee's adjusted gross
37 receipts under section 2 of this chapter.

38 Sec. 7. The commission shall transfer any economic
39 development fees received under sections 5 and 6 of this chapter to
40 the treasurer of state for deposit as follows:

- 41 (1) Seventy-five percent (75%) to the capital access account
42 established by the Indiana economic development corporation
43 under IC 5-28-29-35.
44 (2) Twenty-five percent (25%) to the state general fund."

45 Delete pages 34 through 35.

46 Page 36, delete lines 1 through 25.

47 Page 37, between lines 39 and 40, begin a new paragraph and insert:

1 "SECTION 39. IC 5-28-29-35, AS ADDED BY P.L.162-2007,
 2 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2010]: Sec. 35. (a) The corporation shall establish a capital
 4 access account. The corporation shall use the capital access account to
 5 carry out the provisions of the capital access program. The capital
 6 access account consists of all money that is:

- 7 (1) appropriated by the general assembly;
 8 (2) transferred by the corporation from the industrial development
 9 guaranty fund; ~~or~~
 10 (3) transferred by the corporation from the general funds of the
 11 corporation; **or**
 12 **(4) deposited by the treasurer of state under IC 4-35-8.3-7.**

13 (b) The expenses of the corporation attributable and allocated by the
 14 corporation to the capital access program shall be paid from the capital
 15 access account."

16 Page 46, between lines 4 and 5, begin a new paragraph and insert:

17 "SECTION 51. [EFFECTIVE JULY 1, 2010] **(a) IC 4-35-7-12, as**
 18 **amended by this act, applies to adjusted gross receipts received by**
 19 **a licensee in a state fiscal year beginning after June 30, 2010.**

20 **(b) This SECTION expires January 1, 2012."**

21 Renumber all SECTIONS consecutively.

(Reference is to ESB 405 as printed February 19, 2010.)

Representative Espich