

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WITHDRAWN	Noes _____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) **This section applies to money**  
6           **transferred to the commission under IC 4-35-8.3-3.** The Indiana  
7           horse racing commission shall enforce the requirements of this section.  
8           (b) Except as provided in subsections (j) and (k), a licensee shall  
9           before the fifteenth day of each month devote to the gaming integrity  
10          fund, horse racing purses, and to horsemen's associations an amount  
11          equal to fifteen percent (15%) of the adjusted gross receipts of the slot  
12          machine wagering from the previous month at the licensee's racetrack.  
13          **The Indiana horse racing commission shall devote the money**  
14          **transferred to the commission under IC 4-35-8.3-3 to promoting**  
15          **horses and horse racing.** The Indiana horse racing commission may  
16          not use any of this money for any administrative purpose or other  
17          purpose of the Indiana horse racing commission, and the entire amount  
18          of the money **transferred to the commission under IC 4-35-8.3-3**  
19          shall be distributed as provided in this section. ~~A licensee~~ **The**  
20          **commission shall pay deposit** the first two hundred fifty thousand  
21          dollars (\$250,000) ~~distributed under this section received~~ in a state  
22          fiscal year ~~to the Indiana horse racing commission for deposit in the~~  
23          gaming integrity fund established by IC 4-35-8.7-3. ~~After this money~~  
24          ~~has been distributed to~~ The Indiana horse racing commission a licensee

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

3 (1) Five-tenths percent (0.5%) shall be transferred to horsemen's  
 4 associations for equine promotion or welfare according to the  
 5 ratios specified in subsection (e).

6 (2) Two and five-tenths percent (2.5%) shall be transferred to  
 7 horsemen's associations for backside benevolence according to  
 8 the ratios specified in subsection (e).

9 (3) Ninety-seven percent (97%) shall be distributed to promote  
 10 horses and horse racing as provided in subsection (d).

11 (c) A horsemen's association shall expend the amounts distributed  
 12 to the horsemen's association under subsection (b)(1) through (b)(2) for  
 13 a purpose promoting the equine industry or equine welfare or for a  
 14 benevolent purpose that the horsemen's association determines is in the  
 15 best interests of horse racing in Indiana for the breed represented by the  
 16 horsemen's association. Expenditures under this subsection are subject  
 17 to the regulatory requirements of subsection (f).

18 (d) A licensee shall distribute the amounts described in subsection  
 19 (b)(3) as follows:

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

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

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

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

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

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

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

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

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

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

35 (B) Fifty percent (50%) to the breed development fund  
 36 established for standardbreds under IC 4-31-11-10.

37 (3) Eight percent (8%) for quarter horse purposes as follows:

38 (A) Seventy percent (70%) for the following purposes:

39 (i) Ninety-five percent (95%) for quarter horse purses.

40 (ii) Five percent (5%) to the horsemen's association  
 41 representing quarter horse owners and trainers.

42 (B) Thirty percent (30%) to the breed development fund  
 43 established for quarter horses under IC 4-31-11-10.

44 Expenditures under this subsection are subject to the regulatory  
 45 requirements of subsection (f).

46 (e) Money distributed under subsection (b)(1) and (b)(2) shall be

1 allocated as follows:

2 (1) Forty-six percent (46%) to the horsemen's association  
3 representing thoroughbred owners and trainers.

4 (2) Forty-six percent (46%) to the horsemen's association  
5 representing standardbred owners and trainers.

6 (3) Eight percent (8%) to the horsemen's association representing  
7 quarter horse owners and trainers.

8 (f) Money distributed under this section may not be expended unless  
9 the expenditure is for a purpose authorized in this section and is either  
10 for a purpose promoting the equine industry or equine welfare or is for  
11 a benevolent purpose that is in the best interests of horse racing in  
12 Indiana or the necessary expenditures for the operations of the  
13 horsemen's association required to implement and fulfill the purposes  
14 of this section. The Indiana horse racing commission may review any  
15 expenditure of money distributed under this section to ensure that the  
16 requirements of this section are satisfied. The Indiana horse racing  
17 commission shall adopt rules concerning the review and oversight of  
18 money distributed under this section and shall adopt rules concerning  
19 the enforcement of this section. The following apply to a horsemen's  
20 association receiving a distribution of money under this section:

21 (1) The horsemen's association must annually file a report with  
22 the Indiana horse racing commission concerning the use of the  
23 money by the horsemen's association. The report must include  
24 information as required by the commission.

25 (2) The horsemen's association must register with the Indiana  
26 horse racing commission.

27 (g) The commission shall provide the Indiana horse racing  
28 commission with the information necessary to enforce this section.

29 (h) The Indiana horse racing commission shall investigate any  
30 complaint that a licensee has failed to comply with the horse racing  
31 purse requirements set forth in this section. If, after notice and a  
32 hearing, the Indiana horse racing commission finds that a licensee has  
33 failed to comply with the purse requirements set forth in this section,  
34 the Indiana horse racing commission may:

35 (1) issue a warning to the licensee;

36 (2) impose a civil penalty that may not exceed one million dollars  
37 (\$1,000,000); or

38 (3) suspend a meeting permit issued under IC 4-31-5 to conduct  
39 a pari-mutuel wagering horse racing meeting in Indiana.

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

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

46 (1) fifteen percent (15%) of the licensee's adjusted gross receipts

- 1 for the state fiscal year; or  
 2 (2) eighty-five million dollars (\$85,000,000).
- 3 If fifteen percent (15%) of a licensee's adjusted gross receipts for the  
 4 state fiscal year exceeds the amount specified in subdivision (2), the  
 5 licensee shall transfer the amount of the excess to the commission for  
 6 deposit in the state general fund. The licensee shall adjust the transfers  
 7 required under this section in the final month of the state fiscal year to  
 8 comply with the requirements of this subsection.
- 9 (k) For a state fiscal year beginning after June 30, 2009, **and ending**  
 10 **before July 1, 2010**, the amount of money dedicated to the purposes  
 11 described in subsection (b) for a particular state fiscal year is equal to  
 12 the lesser of:
- 13 (1) fifteen percent (15%) of the licensee's adjusted gross receipts  
 14 for the state fiscal year; or  
 15 (2) the amount dedicated to the purposes described in subsection  
 16 (b) in the previous state fiscal year increased by a percentage that  
 17 does not exceed the percent of increase in the United States  
 18 Department of Labor Consumer Price Index during the year  
 19 preceding the year in which an increase is established.
- 20 If fifteen percent (15%) of a licensee's adjusted gross receipts for the  
 21 state fiscal year exceeds the amount specified in subdivision (2), the  
 22 licensee shall transfer the amount of the excess to the commission for  
 23 deposit in the state general fund. The licensee shall adjust the transfers  
 24 required under this section in the final month of the state fiscal year to  
 25 comply with the requirements of this subsection.
- 26 SECTION 36. IC 4-35-8.3 IS ADDED TO THE INDIANA CODE  
 27 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 28 JULY 1, 2010]:
- 29 **Chapter 8.3. Horse Industry Development Fee**
- 30 **Sec. 1. This chapter applies to adjusted gross receipts received**  
 31 **by a licensee in a state fiscal year beginning after June 30, 2010.**
- 32 **Sec. 2. (a) There is imposed upon each licensee that offers slot**  
 33 **machine wagering under this article a horse industry development**  
 34 **fee equal to fifteen percent (15%) of the licensee's adjusted gross**  
 35 **receipts received from slot machine wagering.**
- 36 **(b) A licensee shall remit the fee imposed by this section to the**  
 37 **department before the close of the business day following the day**  
 38 **the wagers are made.**
- 39 **(c) The department may require payment under this section to**  
 40 **be made by electronic funds transfer (as defined in IC 4-8.1-2-7(f)).**
- 41 **(d) If the department requires fees to be remitted under this**  
 42 **chapter through electronic funds transfer, the department may**  
 43 **allow the licensee to file a monthly report to reconcile the amounts**  
 44 **remitted to the department.**
- 45 **(e) The payment of the fee under this section must be on a form**  
 46 **prescribed by the department.**

1           **Sec. 3. The department shall transfer the amount determined in**  
2 **STEP SEVEN of the following formula to the Indiana horse racing**  
3 **commission to be used for the purposes set forth in IC 4-35-7-12:**

4           **STEP ONE: Determine each licensee's slot machine wagering**  
5 **tax liability under IC 4-35-8 for each day that the licensee**  
6 **receives adjusted gross receipts from slot machine wagering.**

7           **STEP TWO: Determine what would have been the licensee's**  
8 **slot machine wagering tax liability for that day if the tax had**  
9 **been calculated on a tax base consisting of the appropriate**  
10 **amount as follows:**

11           **(1) Eighty-one percent (81%) of the licensee's adjusted**  
12 **gross receipts from slot machine wagering if the**  
13 **determination is made for a day that occurs:**

14           **(A) in a state fiscal year ending before July 1, 2012; and**

15           **(B) before the date on which the licensee incurs the**  
16 **maximum amount of liability for the county wagering**  
17 **tax fee required by IC 4-35-8.5-1 for a particular state**  
18 **fiscal year.**

19           **(2) Eighty-two percent (82%) of the licensee's adjusted**  
20 **gross receipts from slot machine wagering if the**  
21 **determination is made for a day that occurs:**

22           **(A) in a state fiscal year beginning after June 30, 2012;**  
23 **and**

24           **(B) before the date on which the licensee incurs the**  
25 **maximum amount of liability for the county wagering**  
26 **tax fee required by IC 4-35-8.5-1 for a particular state**  
27 **fiscal year.**

28           **(3) Eighty-four percent (84%) of the licensee's adjusted**  
29 **gross receipts from slot machine wagering if the**  
30 **determination is made for a day that occurs:**

31           **(A) in a state fiscal year ending before July 1, 2012; and**

32           **(B) on or after the date on which the licensee incurs the**  
33 **maximum amount of liability for the county wagering**  
34 **tax fee required by IC 4-35-8.5-1 for a particular state**  
35 **fiscal year.**

36           **(4) Eighty-five percent (85%) of the licensee's adjusted**  
37 **gross receipts from slot machine wagering if the**  
38 **determination is made for a day that occurs:**

39           **(A) in a state fiscal year beginning after June 30, 2012;**  
40 **and**

41           **(B) on or after the date on which the licensee incurs the**  
42 **maximum amount of liability for the county wagering**  
43 **tax fee required by IC 4-35-8.5-1 for a particular state**  
44 **fiscal year.**

45           **STEP THREE: Determine daily the difference between:**

46           **(1) the STEP ONE result; minus**

47           **(2) the STEP TWO result.**

- 1           **STEP FOUR: Determine the amount, if any, that the**
- 2           **application of IC 4-35-7-12(k) (as in effect on January 1, 2010)**
- 3           **would have required the licensee to transfer to the**
- 4           **commission for deposit in the state general fund if:**
- 5                 **(1) purses and breed development were funded as if**
- 6                 **IC 4-35-7-12 (as in effect on January 1, 2010) had not been**
- 7                 **amended; and**
- 8                 **(2) this chapter did not apply.**
- 9           **STEP FIVE: Determine the sum of:**
- 10                **(1) the STEP THREE result; plus**
- 11                **(2) the STEP FOUR amount.**
- 12           **STEP SIX: Determine the amount remitted under section 2 of**
- 13           **this chapter.**
- 14           **STEP SEVEN: Determine the remainder of:**
- 15                **(1) the STEP SIX amount; minus**
- 16                **(2) the STEP FIVE result.**
- 17           **Sec. 4. The department shall deposit the fees retained under**
- 18           **section 3 of this chapter in the state general fund."**
- 19           Delete pages 34 through 35.
- 20           Page 36, delete lines 1 through 25.
- 21           Renumber all SECTIONS consecutively.
- (Reference is to ESB 405 as printed February 19, 2010.)

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Representative Eberhart