

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & LABOR

Call to Order: By **CHAIRMAN BRUCE T. SIMON**, on March 3, 1995, at 8:00 AM.

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Norm Mills, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Vicki Cocchiarella (D)
Rep. Charles R. Devaney (R)
Rep. Jon Ellingson (D)
Rep. Alvin A. Ellis, Jr. (R)
Rep. David Ewer (D)
Rep. Rose Forbes (R)
Rep. Jack R. Herron (R)
Rep. Bob Keenan (R)
Rep. Don Larson (D)
Rep. Rod Marshall (R)
Rep. Jeanette S. McKee (R)
Rep. Karl Ohs (R)
Rep. Paul Sliter (R)
Rep. Carley Tuss (D)
Rep. Joe Barnett (R)

Members Excused: None.

Members Absent: None.

Staff Present: Stephen Maly, Legislative Council
Alberta Strachan, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 216, SB 177, SB 228, SB 238, SB 242,
SB 22, SB 19
Executive Action: SB 177, SB 216, SB 201, SB 238, SB 228

HEARING ON SB 216

Opening Statement by Sponsor:

SEN. TOM BECK, SD 28, Powell County, said this bill was an act establishing continuing education requirements for credit life

and disability insurance producers and eliminating pre-licensing education requirements for insurance producers.

Proponents' Testimony:

Steve Turkiewicz, Montana Automobile Dealers Association, said credit life and disability insurance is a very narrow insurance product. It is insurance covering the value of a loan. In the event of death or disability of the borrower, the loan obligation is paid by the insurance. The product and terms are approved by the insurance commissioner. The premium rates are established by the commissioner. The insurance examination for a credit life only producer is only 50 questions in length. It does not seem that it is in the best interest of the insurance producer to spend two days learning about all sorts of insurance products at the express direction for the state. Two days in which they are out of production. It is clear there is a need for regulatory oversight for the insurance industry. But that oversight should be appropriate and relevant to the industry in order to best serve the needs of consumers. **EXHIBIT 1**

Frank Coty, Deputy Insurance Commissioner, said they supported this bill. In 1993 when the insurance continuing education law was passed they were near a compromise solution that would have done exactly this type of requirement for this type of insurance.

Roger McGlenn, Executive Director, Independent Insurance Agents Association of Montana, said they supported this bill. They especially supported the five-hour requirement for this bill and particularly supported the repeal of the pre-licensing requirements which were established. They have met with the insurance department and they have reviewed the requirements and what actually transpired in the field and stated pre-licensing insurance education had become nothing more than pre-examination education. He also stated **Larry Akey, Montana Association of Life Underwriters,** also wished to be mentioned as a supporter of this bill.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. JON ELLINGSON said if this requirement was eliminated will people who sell credit life insurance have any kind of educational requirements imposed upon them before they can engage in a sale of insurance. **Steve Turkiewicz** said there will not be a mandated requirement by state law but applicants will still be required to take the state test. He felt that no one could "walk in cold" on that test. In their particular programs those people who are learning to become credit life sales people do go through specific course work. **REP. ELLINGSON** said one of the things being eliminated is continuing education in the area of ethics.

Are there any ethical standards that apply to the issuance of credit life or disability insurance, in particular, reference to automobile dealers. **Mr. Turkiewicz** said the bill had been written for a credit life individual and would be a combination of five hours which would include credit life insurance law and ethics.

Closing by Sponsor:

The sponsor closed.

HEARING ON SB 177

Opening Statement by Sponsor:

SEN. MIKE FOSTER, SD 20, Broadwater County, said this bill was an act requiring insurance producers and health maintenance organizations to disclose the meaning of certain terms.

Proponents' Testimony:

Frank Coty, Deputy Insurance Commissioner, said they supported this bill. Their office receives many telephone calls from upset consumers and this bill will help those consumers better understand their policies and how the insurance company operates and alleviation of concerns.

Susan Good, Heal Montana, said this group is very much interested in cost containment and the transformation of individuals in the state from being just a patient to actual medical consumers. It is difficult for them to make informed choices without all of the necessary information. This bill will go a long way to make those benefits more understandable to the consumer so they can make better informed choices about their own health care.

REP. ALVIN ELLIS said he favored this bill. He then reiterated a family circumstance regarding insurance.

Tanya Ask, Blue Cross/Blue Shield of Montana, supported this bill.

John Fink, Montana Hospital Association, supported this bill as providers. Hospitals spend a considerable amount of their time in helping individuals who arrive at hospitals as patients. They solve their insurance problems and they feel this bill will alleviate those problems before they arrive at the Association.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. NORM MILLS stated there was not a definition of terms. **Mr. Coty** said each and every company may have a different definition for reasonable and customary policy. That is the purpose of the bill.

REP. ELLIS asked if this bill will give the Insurance Commission much more ability in refereeing. Or, will it be refereed between the hospital and carrier. **Mr. Coty** said they were still the ultimate referee between the consumer and the insurance company. Hopefully, by having this in the bill the consumers will be able to better understand what is happening and better communicate with the insurance company and providers.

REP. ELLINGSON asked if the problem was that someone had purchased health insurance contracts which provide for payment of a certain percentage of the usual prevailing fees. The person who has those services done, the insurance company comes back and states their prevailing fee which they recognize and they pay that particular percentage. The health care provider has charged them something other than the prevailing fee. Is that the problem? **Mr. Coty** said yes.

REP. ELLINGSON said they were dealing with the understanding on the part of the consumer that they may be getting insurance, but they may be going to a health provider that charges something other than the prevailing fee. **Mr. Coty** said yes.

REP. ELLINGSON said this was a step in the right direction but there are some other things which could be done like no definition. There should be something which provides specific language which needs to be in every insurance contract that specifically warns a consumer of the prevailing issue which states the provider will pay a percentage of the fee but consumers should be aware because some of the hospitals and doctors will charge much more. **Mr. Coty** said he personally did not care if this was inserted nor would the insurance lobby object. Many would put that in the definition.

REP. CHARLES DEVANEY asked if some of insurers already take care of the above situation where they require policy holders to notify the insurance carrier prior to submitting to a procedure so an insurance company can make any type of recommendations they must make. **Mr. Coty** said in some cases this is correct. Some companies do have prior authorization before going into in-patient hospital care. This bill also deals with other objectives. Even they do have prior authorization. It does not always mean they are explaining to the client or consumer that the difference between their usual and customary charges and the charge the provider would supply may not be paid.

CHAIRMAN SIMON asked if it would be necessary for the Commission to adopt rules regarding implementation of this legislation. **Mr.**

Coty said implementation of rules would not be necessary because of the statutory nature of the act. Therefore they would be required. CHAIRMAN SIMON said rules would define. That would address the problem which REP. ELLINGSON commented on. They should tell people what the truth was. Mr. Coty said if the Commission was granted the rulemaking authority to implement the concerns this could be done.

Closing by Sponsor:

The sponsor closed.

EXECUTIVE ACTION ON SB 177

Motion: REP. ELLIS MOVED SB 177 BE CONCURRED IN.

Discussion:

REP. MILLS stated the method of setting charges is so different between different hospitals but this is not going to cure the problem. This bill is just going to narrow the problem down.

REP. VICKI COCCHIARELLA said she had a license to sell this type of insurance and this bill goes a long way in making it a much easier, consumer-friendly product to purchase. It is not necessary to have the language added to this bill and would not propose any amendments.

REP. ELLIS said he would not be in favor of any rulemaking authority and let the bill stand.

CHAIRMAN SIMON said he had asked the question to determine if there was rulemaking authority and the commission does not have it nor is it the intention of the committee to give rulemaking authority.

Vote: Motion carried 18-0.

EXECUTIVE ACTION ON SB 216

Motion/Vote: REP. JOE BARNETT MOVED SB 216 BE CONCURRED IN.
Motion carried 18-0.

EXECUTIVE ACTION ON SB 201

Motion: REP. ELLIS MOVED SB 201 BE CONCURRED IN. REP. ELLIS MOVED THE AMENDMENTS.

Vote: Motion carried to adopt the amendments 18-0.

Motion: REP. ELLIS MOVED SB 201 BE CONCURRED AS AMENDED.

Discussion:

REP. CARLEY TUSS said she was concerned if the approach is that a person may have difficulties unrelated to drugs or alcohol which would be equally responsible.

Motion: REP. TUSS MOVED A CONCEPTUAL AMENDMENT.

Discussion:

REP. MILLS stated he was in sympathy with REP. TUSS' amendment but it does not fit the title of the bill and it cannot be effectively put into the bill.

REP. DEVANEY said the attempt of this bill is to test people on the job. It is difficult to make a reason for a test.

REP. BARNETT said he felt the concerns of the amendment were already addressed.

REP. ELLIS stated he opposed the amendment because it makes the bill "more empty" as far as getting the bill to pass. This bill is clear cut and the mine situation is very dangerous work and this bill is prevention rather than remedial action. There will be some tests done.

REP. TUSS stated she wished to withdraw the amendment.

Motion: REP. EWER MOVED AN AMENDMENT TO LIMIT THE BILL TO ALL WORK ENVIRONMENTS.

Discussion:

REP. ELLINGSON suggested this bill should also include train operators or jobs of that nature where it is essential public safety is protected. There is a public need for this kind of testing in hazardous work environments and other areas where public safety is of primary concern. If an individual is involved in an accident then the evasive procedures are triggered. But the other non-hazardous work environments or environments where there is no impact or no important compelling impact on public safety, these evasive procedures should not be involved.

REP. EWER withdrew his amendment.

Motion: REP. EWER OFFERED A SUBSTITUTE AMENDMENT WHICH WOULD INCLUDE HAZARDOUS WORK ENVIRONMENTS AND PUBLIC SAFETY.

Discussion:

CHAIRMAN SIMON questioned if the public employee could be described as an employee in all three of the categories.

Steve Maly said hazardous work environment is not a defined term even though it exists in statute.

REP. ELLIS stated this presented a real problem and said it was better to include the others.

REP. EWER said it may not be a defined term.

REP. MILLS said the whole purpose of having this bill is to define the cause of accidents related to alcohol and drugs. Whether it is a hazardous environment or one employee is endangering the lives of several other people by the use of drugs or alcohol the bill should be left alone.

Vote: A roll call vote was taken which failed 7-11 with **REPS. SIMON, PAVLOVICH, COCCHIARELLA, ELLINGSON, EWER, LARSON** and **TUSS** voting yes.

Discussion:

REP. TUSS stated there were no directions for the NITA certified laboratory. The reason that is important is that those laboratory standards are established and they have certifications which are uniform.

Motion: **REP. TUSS** MOVED AN AMENDMENT INCLUDING THE STATEMENT REQUIRING A NITA CERTIFIED FACILITY.

TAPE 1, SIDE B

Vote: Motion carried to adopt the Tuss amendment 17-0 with **REP. HERRON** abstaining from voting.

Motion/Vote: **REP. ELLIS** MOVED SB 201 BE CONCURRED IN AS AMENDED. Motion carried 12-6 with **REPS. ELLINGSON, TUSS, EWER, LARSON, COCCHIARELLA** and **PAVLOVICH** voting no.

HEARING ON SB 228

Opening Statement by Sponsor:

SEN. FRED VAN VALKENBURG, SD 32, Missoula County, said this bill was an act prohibiting a partner from canceling or having canceled an insurance policy issued to the partnership without the consent of a majority of the partners.

Proponents' Testimony:

Frank Coty, State Auditor's Office, supported the bill.

Opponents' Testimony:

Greg VanHorssen, State Farm Insurance, said this bill was brought about by a relatively unique circumstance. They, as a mutual company, are owned by their policy holders and as a fiduciary duty to its policy holders. The cancellation of a policy does not require a signature to be reviewed. He also stated he wish to state that **Jacqueline Lenmark, American Insurance Association**, opposed this bill.

Debby Berney, Professional Insurance Agents of Montana, provided a copy of the Common Policy Conditions which are used for the commercial package policy. **EXHIBIT 2**

Informational Testimony:

Written testimony was provided on the **Jerry Marble** case.
EXHIBIT 3

Questions From Committee Members and Responses:

REP. COCCHIARELLA asked for an explanation of the term customers when they are cancelling policies. **Mr. VanHorssen** said they are policy holders and the owners of the company which State Farm serves so they are customers. This is the process of cancelling the policy and those people would remain the customer until the process is complete. The objective is to provide prompt and effective service even in the process of cancellation.

CHAIRMAN SIMON asked what the insurance company's duty would be in this matter to be certain they have the majority of all of the partners signed. **SEN. VAN VALKENBURG** said at the time the policy was issued the partners would need to be listed on the face of the policy. If a partner came to the insurance carrier and wanted to cancel the policy. The insurance carrier would agree and a form would be submitted for the partners to sign off on. When a majority is received it is returned to the insurance carrier.

Closing by Sponsor:

The sponsor closed.

HEARING ON SB 238**Opening Statement by Sponsor:**

SEN. VAN VALKENBURG said this bill was an act exempting temporary University System employees who have negotiated an alternative benefits package with the University System from the requirements to pay certain state-mandated benefits and providing an immediate effective date.

Proponents' Testimony:

Bruce Morris, Carpenters Union, said they had reached a tentative agreement with the University System regarding temporary benefits for the temporary skilled employees. The problem is that state law would require the University to pay twice.

Rod Sunset, Montana University System, stated their support of this bill.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. COCCHIARELLA questioned the term "better benefit". Mr. Sunset said in the retirement provision, the fact an employee is only going to work nine months gets no benefit out of that. If he has a benefit package available to him through a health and welfare trust he will derive a benefit. This also includes benefits for health insurance.

Closing by Sponsor:

The sponsor closed.

EXECUTIVE ACTION ON SB 238

Motion/Vote: REP. PAVLOVICH MOVED SB 238 BE CONCURRED IN.
Motion carried 18-0.

EXECUTIVE ACTION ON SB 228

Motion: REP. COCCHIARELLA MOVED SB 228 BE CONCURRED IN.

Discussion:

REP. DEVANEY said they were placing requirements on the insurance company to keep a duplicate set of records that are kept in the Secretary of State's Office.

REP. COCCHIARELLA said partnerships are created and changed. That has never been a requirement.

REP. BARNETT said he opposed the bill.

REP. FORBES said she opposed the bill.

REP. ELLIS said all entities were governed the same. This is a duplicate set of files.

Motion/Vote: REP. MILLS MADE A SUBSTITUTE MOTION TO TABLE SB 228. Motion carried 12-6 with REPS. PAVLOVICH, LARSON, COCCHIARELLA, TUSS, MARSHALL and ELLINGSON voting no.

HEARING ON SB 242

Opening Statement by Sponsor:

SEN. DELWYN GAGE, SD 43, Glacier County stated this bill was an act revising the membership of the Board of Horseracing allowing the Governor to make immediate appointments to implement the revisions.

Proponents' Testimony:

Al Bell said he was a resident of Great Falls and a breeder of thoroughbred race horses. They also own and operate Kenwood Truck Dealership. He was the past president of the Montana Ambassadors, vice president of the Great Falls Chamber of Commerce, and a member of the Governor's Council on Economic Development. This bill is an effort to change for the better a struggling and declining horseracing industry. Testimony was given by three opponents on this bill before the Senate. This testimony was received from the chairman of the Board of Horseracing who was a recent appointee to the Board and a part-time steward and owner of race horses. All were speaking as individuals representing no one but themselves. The chairman of the Board attacked the horseracing industry implying that allowing horsemen on the Board would corrupt racing. The same chairman has extremely low visibility at the races and is rarely seen at the track. The recent appointee is a person who had not even attended her first meeting as a Board member. The state, its citizens and businesses, not necessarily related to horseracing, will benefit from such an adjustment to the Board. It will enhance the horseracing and breeding industry. The Board of Horseracing is funded exclusively from the horseracing industry. It is not funded by tax dollars. He also supplied written testimony from various states regarding horse racing.

EXHIBIT 4

Douglas C. Allen said this bill increases the Board of Horse Racing to 7 members by adding two members from the horse racing industry. As it is presently constructed, the statute permits no one from the industry whether owner, breeder, trainer, or racetrack affiliate to be on the Board. Written testimony was provided. **EXHIBIT 5**

Albert Gult, President, Montana Horsemen's Benevolent Protective Association, said they supported the bill.

Bill Brown said he owned and trained thoroughbred race horses and supported this bill.

REP. DANIEL FUCHS, HD 15, Yellowstone County, stated he supported this bill because it was common sense and fairness legislation. It would be good for the horse racing industry.

Don Bentson, Executive Secretary, Montana Horse Breeders Association, said the issues had been well presented. He supplied written testimony. **EXHIBIT 6**

Dave Dennis said he supported the bill. The Board deserves a voice if the industry is going to be successful and make wise decisions.

Opponents' Testimony:

Lou Wojciechowski, Member, Board of Horse Racing, said she had worked in the horse racing industry a number of years. She started in 1964 in Missoula working with para-mutuals, secretary to the Racing Commission, programming, license clerk, charting, entry clerk and assistant racing secretary. She said she had the background, experience and desire to be an effective Board member. She opposed the bill because this bill provides opportunities for conflicts of interest. She also supplied written testimony. **EXHIBIT 7**

Peggy Buffington provided written testimony. **EXHIBIT 8.**

Questions From Committee Members and Responses:

REP. ROD MARSHALL asked if there were any convictions. **Sam Murfitt, Executive Secretary, Board of Horse Racing, Department of Commerce,** said there were no convictions but some instances were investigated. **REP. MARSHALL** said at the time the horse members were on the Board were they in majority. **Mr. Murfitt** said at that particular time said were private individuals representing private race tracks. They were not all horsemen. They were the majority. **REP. MARSHALL** said since the horse people have been removed from the Board have there ever been any more allegations of impropriety. **Mr. Murfitt** said no. He said he was not aware of any newspaper articles, allegations of race fixing or whatever in the state since the Board has been in place.

REP. MARSHALL said as he had reviewed the situation as an attorney regarding the cases in the new Board were there any convictions. **Mr. Allen** said no. **REP. MARSHALL** asked if there were any problems. **Mr. Allen** said there were problems but not anything relevant to this inquiry. **REP. MARSHALL** asked for a description of the probability of horse people being at odds with the track people or the Board as far as conflict of interest is concerned. **Mr. Allen** said there was not a conflict of interest. They try to work for a common goal and racing prospers. Conflict of interest is completely remote and there is not a horse man who would be on the Board that would not disqualify himself in a case where there was any conflict of interest. Those things do not

come up often. The past allegations and newspaper articles are spread over a number of years. Many of those allegations concerned the people and not horsemen, or the people who were running the para-mutual business. These people had objections to state auditors. They were state employees (stewards) that were not being properly supervised. There was a clash between management and race track people over horses. It was not a matter of race fixing or corruption. **REP. MARSHALL** asked if **Mr. Allen** would object to an amendment to the bill suggesting that if there were questions which arose before the Board that would seem to be a conflict of interest, that the two horse persons would not vote. **Mr. Allen** said whether that was in the legislation or not he did not know of any horseman who would oppose that concept.

REP. DON LARSON said he was neither a member of the Board of Horse Racing nor a horseman. He then said the proponents of the bill seem to allege horse racing is in decline because they are not represented on the Board. They seem to be saying that increasing the size of the Board will improve horse racing. He then asked for a analysis of why horse racing is in decline in western Montana. **Sam Yewosiak, Manager, Western Montana Fair** said the numbers and facts and people can support it better than he could. When video gambling and lotteries came to the state and throughout the nation, it took a great toll on the horse racing industry. Law changes as well as IRS and workers' compensation has hurt the horse industry. In the sixteen years he had been with the Fair it has not been because the Board had horsemen on the Board.

REP. ELLIS said no single member of the Board could make a decision. The steward has first decision-making power and then appealed to the Board. **Mr. Yewosiak** said if a case occurred it would first be referred to the stewards and then the Board if contested. **REP. ELLIS** asked if putting these two members on the Board is going to threaten the industry. **Mr. Yewosiak** said most of the tracks are opposed to the change in the bill itself. There are some reservations.

REP. BOB PAVLOVICH asked if any members of the horse racing profession were on the Board in California. **CHAIRMAN SIMON** said this information had been distributed to the committee.

CHAIRMAN SIMON asked if she was still working in the horse racing industry. **Ms. Wojciechowski** said she was not now because she was a member of the Board. **CHAIRMAN SIMON** questioned her eligibility to be on the Board if she had been in the horse racing industry. **Ms. Wojciechowski** said the bill needed to be worded differently and given more thought. The horse racing industry is the owners, trainers, breeders, racing secretaries and para-mutual people. There is a wide scope of the number of people in occupations which are involved. The problem is how she could sit on the Board when it is a conflict of interest. **CHAIRMAN SIMON** said when being on the Board was a conflict of interest could it be

stated before a vote. **Ms. Wojciechowski** said if the members of the Board were in a quorum there could not be a withdrawal.

REP. COCCHIARELLA asked how her conflict of interest was any different than what a horseman's conflict of interest would be. **Ms. Wojciechowski** said the protection of the public was a main concern.

Closing by Sponsor:

The sponsor closed.

TAPE 2, SIDE B

HEARING ON SB 22

Opening Statement by Sponsor:

SEN. GAGE said this bill was an act providing a limited exemption from workers' compensation coverage for a jockey who is licenses by the Board of Horseracing.

Proponents' Testimony:

Sam Murfitt provided written testimony. **EXHIBIT 9**

REP. DANIEL FUCHS stated he supported this bill.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

The sponsor closed.

HEARING ON SB 19

Opening Statement by Sponsor:

SEN. GAGE said this bill was an act including greyhound races as races that may be simulcast under the Board of Horseracing's authority.

Proponents' Testimony:

REP. ELLIS stated he supported this bill and provided an amendment.

Bill Brown, Director, Montana Horse Breeders said the solution to reversing this trend is to increase revenue or race purses that owners run so that they are more competitive with out-of-state tracks. **EXHIBIT 11**

Don Bentson, Executive Secretary, Montana Horse Breeders Association, said this bill has the full support of all organizations involved in Montana horse racing including the Montana Horse Breeders, the Horseman's Benevolent and Protective Association, the Montana Simulcast Partners, the Montana Board of Horse Racing, race track management and the Rocky Mountain Fair Association. They are not aware of any group in the horse race industry that opposed this bill. **EXHIBIT 12**

Tom Tucker, Manager, Montana Simulcast Partners, said with the ability to offer a greater variety of products at possibly more convenient times day or evening, they will be able to create additional revenues for the live horse racing industry. **EXHIBIT 13**

Sam Yewosiak, Western Montana Fair, said he supported this bill. The money from simulcast does help the horsemen because it is used in purses. It also helps the fairs.

REP. DANIEL FUCHS stated he supported this bill.

Bill Koskey said he supported the bill with the amendment. He said there were no regulations in the horseracing statutes that protects the betters.

Opponents' Testimony:

Harley Warner, Montana Religious Coalition and The Montana Catholic Conference, said they had a much simpler view of the bill than the opponents. They opposed this bill because it is an increase in gambling. They are asking for an increase in the dollars that are being wagered in Montana.

Informational Testimony:

Bill Nooney, Board Member, Western Montana Fair in Missoula,
EXHIBIT 14

Questions From Committee Members and Responses:

REP. COCCHIARELLA asked for an explanation of the amendment. **Mr. Murfitt** explained the amendment.

REP. LARSON said video gaming wagering is approximately \$450 million a year in Montana and asked what the volume of simulcasting race betting was. **Mr. Murfitt** said the figure was \$5 million.

REP. MILLS asked where there were mule races. Mr. Murfitt said they could be viewed in Shelby, Kalispell, Missoula, Hamilton.

Closing by Sponsor:

The sponsor closed.

ADJOURNMENT

Adjournment: 12:00 PM.



BRUCE T. SIMON, Chairman



ALBERTA STRACHAN, Secretary

BTS/ajs

HOUSE OF REPRESENTATIVES

Business and Labor

ROLL CALL

DATE 3-3-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bruce Simon, Chairman	✓		
Rep. Norm Mills, Vice Chairman, Majority	✓		
Rep. Bob Pavlovich, Vice Chairman, Minority	✓		
Rep. Joe Barnett	✓		
Rep. Vicki Cocchiarella	✓		
Rep. Charles Devaney	✓		
Rep. Jon Ellingson	✓		
Rep. Alvin Ellis, Jr.	✓		
Rep. David Ewer	✓		
Rep. Rose Forbes	✓		
Rep. Jack Herron	✓		
Rep. Bob Keenan	✓		
Rep. Don Larson	✓		
Rep. Rod Marshall	✓		
Rep. Jeanette McKee	✓		
Rep. Karl Ohs	✓		
Rep. Paul Sliter	✓		
Rep. Carley Tuss	✓		



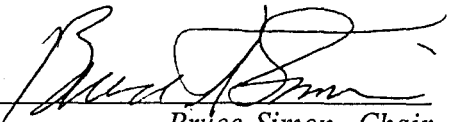
HOUSE STANDING COMMITTEE REPORT

March 3, 1995

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Mr. Speaker: We, the committee on **Business and Labor** report that **Senate Bill 216** (third reading copy -- blue) **be concurred in.**

Signed: _____


Bruce Simon, Chair

Carried by: Rep. Simon

Committee Vote:

Yes 18, No 0.

501330SC.Hbk



HOUSE STANDING COMMITTEE REPORT

March 6, 1995

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Mr. Speaker: We, the committee on **Business and Labor** report that **Senate Bill 201** (third reading copy -- blue) **be concurred in as amended.**

Signed: _____

Bruce Simon, Chair

Carried by: Rep. Hibbard

And, that such amendments read:

1. Title, lines 5 and 6.

Following: "~~IN~~"

Strike: remainder of line 5 through "~~OF~~" on line 6

Insert: "EMPLOYEE HAS BEEN INVOLVED IN"

2. Title, line 7.

Page 1, line 30.

Strike: "\$2,500"

Insert: "\$1,000"

3. Page 1, lines 28 and 29.

Following: "~~in~~"

Strike: remainder of line 28 through "~~OF~~" on line 29

Insert: "employee has been involved in"

-END-

Committee Vote:
Yes 18, No 0.

521243SC.Hbk



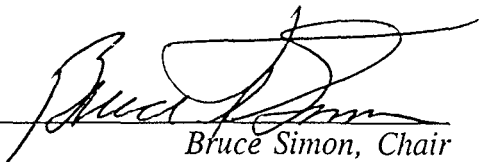
HOUSE STANDING COMMITTEE REPORT

March 3, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Business and Labor** report that **Senate Bill 238** (third reading copy -- blue) be concurred in.

Signed: _____


Bruce Simon, Chair

Carried by: Rep. Denny

Committee Vote:
Yes 18, No 0.

501333SC.Hbk



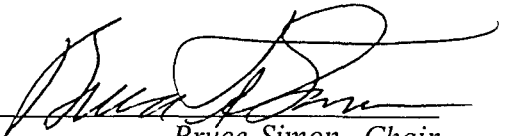
HOUSE STANDING COMMITTEE REPORT

March 3, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Business and Labor** report that **Senate Bill 177** (third reading copy -- blue) be concurred in.

Signed: _____


Bruce Simon, Chair

Carried by: Rep. Ellis

Committee Vote:
Yes 18, No 0.

501332SC.Hbk

HOUSE OF REPRESENTATIVES

BUSINESS AND LABOR COMMITTEE

ROLL CALL VOTE

DATE 3-3-95 BILL NO. SB201 NUMBER

MOTION: Amendment Ewer

NAME	AYE	NO
Rep. Bruce Simon, Chairman	✓	
Rep. Norm Mills, Vice Chair, Maj.		✓
Rep. Bob Pavlovich, Vice Chair, Min.	✓	
Rep. Joe Barnett		✓
Rep. Vicki Cocchiarella	✓	
Rep. Charles Devaney		✓
Rep. Jon Ellingson	✓	
Rep. Alvin Ellis, Jr.		✓
Rep. David Ewer	✓	
Rep. Rose Forbes		✓
Rep. Jack Herron		✓
Rep. Bob Keenan		✓
Rep. Don Larson	✓	
Rep. Rod Marshall		✓
Rep. Jeanette McKee		✓
Rep. Karl Ohs		✓
Rep. Paul Sliter		✓
Rep. Carley Tuss	✓	

fails



Montana Automobile Dealers Association

Serving Montana's Franchised New Car and Truck Dealers

501 North Sanders
Helena, Montana 59601

Phone (406) 442-1233
Fax (406) 449-0119

SB 216
STEVE TURKIEWICZ
MARCH 3, 1995

EXHIBIT 1
DATE 3-3-95
#B SB216

CREDIT LIFE AND DISABILITY INSURANCE IS A VERY NARROW INSURANCE PRODUCT. IT IS INSURANCE COVERING THE VALUE OF A LOAN. IN THE EVENT DEATH OR DISABILITY OF THE BORROWER THE LOAN OBLIGATION IS PAID BY THE INSURANCE.

THE PRODUCT AND TERMS ARE APPROVED BY THE INSURANCE COMMISSIONER. THE PREMIUM RATES ARE ESTABLISHED BY THE COMMISSIONER.

THE INSURANCE EXAM FOR A CREDIT LIFE ONLY PRODUCER IS ONLY 50 QUESTIONS IN LENGTH.

IN THE LAST SESSION THE LEGISLATURE PASSED A COMPREHENSIVE PRE-LICENSING EDUCATION REQUIREMENT AND A CONTINUING EDUCATION REQUIREMENT FOR ALL INSURANCE PRODUCERS. HOWEVER, WE HAVE FOUND THE REQUIREMENTS HAVE FALLEN INTO THE "ONE SIZE FITS ALL" CATEGORY IN REGARDS TO CREDIT LIFE INSURANCE SALES AND MAY NOT BE RELEVANT.

CREDIT LIFE PRODUCERS, LIKE ALL LIFE INSURANCE PRODUCERS, ARE REQUIRED TO TAKE 10 HOURS OF CONTINUING EDUCATION PER YEAR OVER A TWO DAY PERIOD. HERE IS AN EXAMPLE OF A COURSE A NUMBER OF DEALERSHIP CREDIT LIFE SALES PEOPLE TOOK IN 1994. AS YOU CAN SEE ONLY ONE HOUR COVERS CREDIT LIFE AND THE REMAINDER SPANS A VARIETY OF INSURANCE PRODUCTS. NONE OF WHICH MOST CREDIT LIFE SALES PEOPLE ARE EVEN LICENSED TO SELL.

ALTHOUGH THIS IS VERY INTERESTING, IT DOESN'T SEEM THAT IT IS IN THE BEST INTEREST OF THE INSURANCE PRODUCER TO SPEND TWO DAYS LEARNING ABOUT ALL SORTS OF INSURANCE PRODUCTS AT THE EXPRESS DIRECTION OF THE STATE OF MONTANA. TWO DAYS IN WHICH THEY ARE OUT OF PRODUCTION.

IT IS CLEAR THERE IS A NEED FOR REGULATORY OVERSIGHT FOR THE INSURANCE INDUSTRY. BUT THAT OVERSIGHT SHOULD BE APPROPRIATE AND RELEVANT TO THE INDUSTRY IN ORDER TO BEST SERVE THE NEEDS OF MONTANA'S CONSUMERS.

THE MEMBERS OF THE MONTANA AUTO DEALERS ASSOCIATION URGE A "DO PASS RECOMMENDATION ON SENATE BILL 216.

Ken Husick
Ron Iverson

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Course One Hour One

INDIVIDUAL MAJOR MEDICAL INSURANCE

Course goals and objectives: The goal of the Individual Major Medical Insurance Hour One is to familiarize and train the agent in product knowledge, policy provisions, proper underwriting and rating and proper presentation to clients with regard to individualized health insurance products.

**** Items printed in CAPITAL LETTERS are key words or phrases which should become a part of your professional vocabulary.*

1) A brief history of the development of health insurance policies.

- A) No insurance at all.
- B) World War II and the need for development of basic care.
- C) The development of the Basic Care (LIMITED BENEFIT) policies.
 - 1) Hospital
 - 2) Medical
 - 3) Surgical
 - 4) Dread Disease
 - 5) Accident
- D) The introduction and growth of the group health policy spurs on similar type individual plans which become known as "Comprehensive Major Medical" plans. These plans in turn start creating a rise in health care demands and costs of health care delivery.
- F) Remember that in most cases the above policies are offered to the under age 65 population, since Medicare becomes primary at 65.

2) THE BASIC CARE PLANS--

- A) LIMITED BENEFIT PLANS--in that the benefits are limited on an INDEMNITY basis to a specific dollar amount for a specific service.
- B) The words "Limited Benefit Policy" will be stamped on the front page of the contract.
- C) HOSPITAL INDEMNITY POLICY--Limited to inpatient care on a daily basis, with double the amount for intensive care for limited time
- D) Individual MEDICAL INSURANCE Policy--Limited to Physician's visits, perhaps in or out of a hospital, and paying a specific amount,

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Course One
 Hour Two

INDIVIDUAL LIFE INSURANCE

Course goals and objectives: The goal of the Individual Life Insurance Hour Two is to familiarize and train the agent in some of the various forms of individual life insurance products which are available. The lecture centers around the differences in whole life, term life, credit life, universal life and the underwriting and rating considerations for each type of product. Short emphasis on correctly marketing to the needs of the client.

***Items printed in CAPITAL LETTERS are key words or phrases which should become a part of your professional vocabulary.

1) Introduction of the **WHOLE LIFE** concept. This hour is dedicated to the techniques used to calculate rates for a variety of life insurance products. In other words, what needs are best filled per premium dollar spent, and how those premiums are calculated.

A) Whole life calls for a premium payment from the insured which is calculated based on the number of years of life expectancy remaining at time of purchase. (Discuss Commissioners Standard Ordinary Table, "CSO" currently 1980, previous 1968)

1) Rates are calculated with several factors built in.

- a) **LIFE EXPECTANCY**--the "true" cost of life insurance as determined by actuary.
- b) **LOADING**--company expense factors--underwriting, policy issue, commissions, company operations.
- c) **CASH VALUES**--forced savings which gain interest. *dividends*
- a) Persis levy - continued payments of premium*
- 2) Younger purchase age reduces premiums, because the portion of the premium which is paid to actual insurance has a longer life expectancy--more years to spread the risk.

Age at Purchase

Paid up at Age 85

3-----85

40-----85

Which client will pay a higher premium--Age 3 or Age 45?

shorter time frame, more exposure the policy

INDIVIDUAL LONG TERM CARE

Course goals and objectives: The lecture illustrates the growth of the long term nursing home-home health care industry and the development of insurance industry products to fill needs associated with those costs. Basic LTC policies are discussed with an emphasis of what the agent needs to familiarize the client with in order to properly service the needs of the client with correct coverages. Consideration of premium and underwriting is a most important factor in this arena. Relationship with Medicaid is discussed for LTC as well as relationship with Medicare in the HHC market. Recent developments in this new and surging market are incorporated into the lecture.

****Items printed in CAPITAL LETTERS are key words or phrases which should become a part of your professional vocabulary.*

- 1) A brief history of the nursing home industry and the rise of home health care.
 - A) When families took care of their own--our and other cultures.
 - B) Westward movement, manifest destiny, then the sun-belt movement.
 - C) Societal changes occur, longevity, and the reality of families able to provide care to the aged becomes a problem.
 - D) What was known as the "county rest home", "poor farm", and "home for the aged" becomes a sophisticated, first class living facility.
 - E) Nursing Home costs begin to soar, and family "nest eggs" begin to disappear. Asset preservation becomes a problem.
 - F) A new innovation, that of Home Health Care (and Home Care), becomes reality and the trend is growing rapidly.
 - G) The insurance industry responds to the needs of asset preservation and escalating costs of nursing home and home health care.
- 2) Introduction of the LONG TERM CARE product:
 - A) The design of the LTC Product--
 - 1) Normally written with a DAILY BENEFIT, (some monthly). Daily benefits are written in \$10 increments, (monthly in \$100).

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Course One
Hour Four

INDIVIDUAL MEDICARE SUPPLEMENT

Course goals and objectives: Emphasis is placed on proper presentation and knowledge of this most misunderstood product. Lecture is centered around Medicare itself, the reasons for control of costs of Medicare, and the introduction of the Medicare Supplement policy as a group of standardized products. Relationship with government and Medicare itself are an integral part of the discussion. Special emphasis is placed on proper marketing of the supplemental products and replacement, if any.

- 1) *Legislation was developed and enacted in the period 1966-68 to provide an answer for America's elderly and their problems of longevity and rising health care costs. The program becomes known as MEDICARE.*
- 2) *By virtue of turning 65, Americans become eligible for the hospital and medical benefits of Medicare if they have been registered under the Social Security Act or Railroad Retirement Plan.*
- 3) *Medicare is divided into two parts--PART A AND PART B.*
 - A) *Part A of Medicare provides for HOSPITALIZATION AND SOME LIMITED NURSING HOME. Part A is provided FREE to all SS and RR retirement beneficiaries upon registering for Social Security.*
 - B) *Part B of Medicare provides for MEDICAL coverage for SS and RR retirees. Part B, however, is purchased (or rejected) and is reduced from the retirement check. The cost in 1994 is about \$35 per month, and the retiree has to purchase Part B to be eligible for a MEDICARE SUPPLEMENT PLAN.*
 - C) *As hospital and physician charges grew during the '70's and '80's, HCFA (the Health Care Financing Authority), which administers Medicare, saw a need to change the way in which hospital and physician's charges were treated.*
 - 1) *Because of the geographical and demographic variations in hospital charges, DIAGNOSTIC RELATED GROUPS (486 of them) were selected as reasons a person would go to a hospital. Medicare decides to allow a hospital a certain payment for each group--example: Broken hip--8 days. No further payment to the hospital from Medicare. The payment is determined by zip code in the USA*

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Course One
Hour Five

CURRENT HEALTH CARE ISSUES

"We have met the enemy--and he is us." --Walt Kelly, through Pogo, 1960's

Course Goals and objectives: Nowhere in America are social issues as magnified as in the area of health care and the health care delivery system. Emphasis is placed on the current governmental approaches, both state and national, to change the way health care is treated in this country, the care itself, and the payment method for that care. A current assessment of various proposals and plans, and projections of where they may take us provides lively discussion for this raging national debate. Current problems and costs associated with those costs receive special emphasis.

A) Introduction of the problem areas which have caused such a significant growth in health care and health care costs in America. While the factors themselves include nearly seventy separate and legitimate reasons, we can break the various defined problem areas into six major categories. Since they all interconnect to create the maze we are currently faced with, none can be singled out as the most important or significant cause.

1) THE LIFESTYLE AND HUMAN ENVIRONMENT AS FACTORS--

The Expense of Alcohol influences----A New Generation of Tobacco Users----Diet Abuse----Exercise and the Lack of it----Illicit Drugs----"Exotic" Diseases----Rising Crime Rates----The Increase and Uprise of Cancer----Basic Environmental ills----LifeStyle Manifestations----The change in the nature of Accidents

2) THE "FINGER POINTING" FACTOR--

Cost shifting----Malpractice Costs----Unneeded Medical Tests----Who Pays the Bill--(Buckpassing the Mandates)----Availability of Coverage----Hospital costs--Advertising and Duplication----"Unbundling" of Claims----Insurance company Insolvencies----Insurance Fraud----Workmen's Compensation----Incorrect Billing Procedures----Uncollected Debt----Caeserean Delivery----Rampaging Prescription Drug Costs----Overabundance of Health Care Workers in Montana----Simple Compounded Inflation

3) HIGH TECHNOLOGY AND SCIENTIFIC MAGIC AS A FACTOR--

Improved Technology, Medicine, Diagnostic Methods and a general "Problem"----Cat Scans and Magnetic Resonance Imaging----Trauma and Intensive Care----Accident and Burn Care----Experimental Surgery on Babies and Adults----Dental Care Improvements--TMJ----Life Support Systems vs. Right-to-Die----Advent of Home Health Care and New Forms of Health Care Delivery----The Heart Bypass Becomes Common----The Transplant Becomes Passe'----Great Improvement in Medical Equipment----Research and Develop-

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Course Two
Hour One

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GROUP LIFE AND HEALTH INSURANCE

Course Goals and Objectives: The goal of the Group Health Insurance Hour One is to familiarize and train the agent in product knowledge, master policy concepts, underwriting techniques, rating and client presentation in group life and health insurance. Both group health and group life insurance are treated as America's most popular of employee benefit plans. The origin, development and growth of the group health product is traced to the present, with discussion for the future as seen in various legislative approaches. The concepts of cost sharing, risk management, and bulk purchase preceed the lecture covering advantages to both the employer and employee. Recent legislation regarding small group reform in Montana and application of mandates, and preventive medicine bring this presentation to the current status of group purchased health and life insurance.

- 1) The development of group insurance.
 - A) The concept of GROUP LIFE insurance is "invented" in 1910-11 by Montgomery Ward and Co., Inc. as an answer to the death of employees who had failed to prepare for their own burial or for the welfare of their families.
 - B) The Equitable Life Assurance Society of the United States issues the first group life insurance policy in June of 1911 for the employees of the Pantasote Leather Company of which Eugenius M. Outerbridge was President.
 - C) So, believe it or not, group insurance had its origins in life insurance, but group short term disability and group death and dismemberment were soon to follow. Group pre-paid hospital plans followed in various forms during the 1920's and 1930's and normally had their origins in MUTUAL BENEFIT SOCIETIES. In 1939 the first Blue Shield Plan of a medical-surgical nature was developed by the California Physicians Service as a state-wide, prepaid, medical society sponsored plan.
 - D) During World War II, in an effort to control inflation, industrial wage and price controls were imposed by the federal government. But, since fringe benefits, including insurance plans were not controlled, employers were allowed to offer these benefits as an effective way to attract and retain employees. Thus, the beginning of group insurance as a benefit package.

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Course Two Hour 2 & 3

Annuities

Course goals and objectives: The goal of the Annuity Hour 2 & 3 is to introduce to, familiarize, and train the insurance producer in the various types of annuities available. The lecture will include the differences between the various types of annuities including; Single Premium Deferred Annuities, Single Premium Immediate Annuities, Flexible Premium Deferred Annuities, and Variable Annuities. Settlement options will be discussed and their appropriateness in different situations that may be encountered by the insurance producer. The lecture is designed to encourage insurance producer participation through question and discussion times. Some emphasis will be given to the appropriateness of when a certain type of annuity will meet a particular situation.

***Items printed in CAPITAL LETTERS are key words or phrases which would become part of your professional vocabulary.

- 1) **ANNUITY** defined. This section will define and familiarize the insurance producer with the definition of the term Annuity.
 - A) An annual allowance or income; also, the right to receive such an allowance or the duty of paying it.
 - B) The return from an investment of capital, with interest, in a series of yearly payments; especially, an agreed amount paid by an insurance company at stated intervals, usually monthly, in consideration of either a single premium or premiums paid over a period of years.
 - C) Types
 1. **Fixed Annuities**
 - a. Pays preset interest rate during accumulation and payout
 - b. Amount of income during payout remains constant
 - c. **Single Premium Deferred Annuity (SPDA)**
 - d. **Single Premium Immediate Annuity SPIA)**
 - e. Installment Premium
 - (b) **Fixed Premium Deferred Annuity (FPDA)**
 - (c) **Flexible Premium Deferred Annuity (FlexPDA)**

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Course Two
Hour Four

CREDIT LIFE AND DISABILITY

Course Goals and Objectives: The goal of the Credit Life and Disability hour is to illustrate the coverages and provisions, and the techniques of selling these products within the limits of the law, and the objective of the products. Sold mostly by savings institutions, ie, banks, savings and loan institutions, thrift institutions, and credit unions, these products are affected by banking regulations as well as insurance regulations. Nearly none of these products are sold by the "street sale" of normal insurance agencies, therefore both the lending institution agent and the life insurance agent need to know the concept of, and the parameters of, Credit Life and Credit Disability products.

1) Objectives and understanding of the CREDIT LIFE INSURANCE Policy.

Credit life insurance is designed to assure repayment of a loan, if the debtor dies. While the large majority of credit life is written through GROUP CREDIT LIFE, individual credit life may also be written.

Group Credit Life insurance is a product wherein the lending institution (creditor, lender) is issued a group policy and is known as the POLICY-HOLDER. Just as in the Group health policy in hour one, the people who are the insureds (debtors) are regarded as CERTIFICATE HOLDERS.

Since the objective of credit life insurance is to guarantee repayment of a loan by a debtor, to a lending institution, the assumption is that the loan is to be paid off over a certain number of months. For that reason, DECREASING TERM LIFE is the life insurance product which is used. Obviously in group credit life insurance, the LENDER (POLICY-HOLDER) IS BENEFICIARY.

While lending institutions are normally thought of as the primary producers of credit life and credit disability products, other business entities such as automobile dealerships, appliance dealers and furniture stores may offer such coverage provided they are licensed to do so.

The creditor (lending institution) assumes that more than a hundred new debtors per year will be included in the group.

The lending institution must inform the loan applicant that credit life/disability may be available to him/her on a group basis, but cannot write the coverage without the knowledge of the creditor.

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Course Two
Hour Five

SECTION 125

Course Goals and Objectives: The goal of the Section 125 Hour Five is to familiarize and train the agent in product knowledge, provisions, application of insurance products to the use of Section 125 and proper presentation to the clients with regard to products available under Section 125 of the IRS codes. Nearly 35 million Americans take advantage of the "pre-tax" benefits of the "Cafeteria Plans" allowed for in Section 125. Even though large employers have for nearly twenty years offered these benefits as a payroll deduction benefit, smaller employers have only recently realized the benefits and begun to utilize them. The various "pre-tax" items of group health insurance, individual health insurance plans, health expenditures, such as dental, eye and expenses of deductibles, co-insurance, etc, are eligible along with child care and parental care.

***Items printed in CAPITAL LETTERS are key words or phrases which should become a part of your professional vocabulary.

1) A brief understanding of the development and definitions of Section 125.

A) Section 125, or "Cafeteria Plans", become available.

- 1) "PRE-TAX" means that certain medical and child care and parental care items are available to Americans under the provisions of Section 125 of the Internal Revenue Codes. "Pre-tax" means that these expenses can be deducted from the GROSS PAY of an individual, so that upon filing the normal tax forms on April 15, the employer only reports as earned income, on the "W-2" form, the amount of wages or salary which excludes the expenses of items which qualify and are selected by the individual at the time of enrollment in the Section 125 Plan. We will review the items which qualify later.
- 2) "CAFETERIA PLANS" mean the wide array of products and expenses which can be paid for and excluded from the gross pay of an individual without being included as taxable income. Cafeteria Plans then, simply mean that certain insurance, medical, and care expenses can be paid for without being subject to federal taxes.
- 3) Section 125 Cafeteria plans and the "pre-tax" benefits enjoyed under the plan came about to encourage low income people to seek or continue employment rather than be welfare recipients.

COMMON POLICY CONDITIONS

EXHIBIT 2

DATE 3-3-95

AB SB 228

All Coverage Parts included in this policy are subject to the following conditions.

A. CANCELLATION

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. CHANGES

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

C. EXAMINATION OF YOUR BOOKS AND RECORDS

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

D. INSPECTIONS AND SURVEYS

We have the right but are not obligated to:

1. Make inspections and surveys at any time;
2. Give you reports on the conditions we find; and
3. Recommend changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

1. Are safe or healthful; or
2. Comply with laws, regulations, codes or standards.

This condition applies not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

E. PREMIUMS

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

F. TRANSFER OF YOUR RIGHTS AND DUTIES UNDER THIS POLICY

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

EXHIBIT 3DATE 3-3-95HB SB228

INVOICE

**Terry Payne & Co. Inc.**

INSURANCE • BONDS

Post Office Box 8747 • 2525 North Reserve Street
Missoula, Montana 59807 • (406) 728-1060Jerry Marble
Richard Nelson
4210 Lake Place
Missoula

MT 59804

INVOICE NUMBER
6320PC NO.
0INVOICE DATE
1/15/93

C

-201.00

H0R21200

PLEASE DETACH AND RETURN THIS PORTION WITH YOUR PAYMENT.

POLICY INFORMATION

AMOUNT

TYPE OF POLICY: Businessowners Policy
INSURANCE COMPANY: UNI A B
NAMED INSURED: Jerry Marble
POLICY EFFECTIVE DATE: 4/17/92
POLICY EXPIRATION DATE: 4/17/93
POLICY TERM: Annual Policy
TRANSACTION: New Endorsement
TRANSACTION EFFECTIVE DATE: 12/10/92INVOICE: 6320
POLICY#: BSP124574869CHARGE
Businessowners Policy

-201.00

Deleting (2) locations on Hillside and
(1) on 23rd St.

TOTAL -201.00

STATE AUDITOR
STATE OF MONTANA



Mark O'Keefe
STATE AUDITOR

COMMISSIONER OF INSURANCE
COMMISSIONER OF SECURITIES

March 8, 1993

Jerry Marble
2215 Tipperary Way
Missoula, MT 59802

Dear Jerry:

Thank you for your recent letter requesting assistance from my office. I have assigned Bob Post to work on your request.

I want you to know that there will be a short delay while we obtain the necessary information and complete our review of the entire matter; however, we will notify you just as soon as possible.

To ensure that your request is handled efficiently and promptly, it has been given working number 10282. If you have any further questions, please contact Bob Post on our Montana resident's toll-free number, 1-800-332-6148, unless you are in our Helena area, then please call us at 444-2040.

I appreciate your patience with this delay.

Thank you for your time and energy.

Sincerely,

A handwritten signature in cursive script that reads "Mark O'Keefe".

Mark O'Keefe
State Auditor and
Commissioner of Insurance

EXHIBIT 3
DATE ⁰⁴ 3-3-95
I SB228

STATE AUDITOR
STATE OF MONTANA

Frank Cote

Mark O'Keefe
STATE AUDITOR



COMMISSIONER OF INSURANCE
COMMISSIONER OF SECURITIES

May 3, 1993

Jerry Marble
2215 Tipperary Way
Missoula, MT 59802

RE: Our File No. 10282

Dear Mr. Marble:

I am attaching a copy of correspondence dated April 27, 1993, received from United States Fidelity and Guaranty Company in response to your complaint.

I have reviewed the response correspondence from the company which is self explanatory in that United States Fidelity and Guaranty Company only complied with the requests made by their appointed agent, Terry Payne and Company.

I have also reviewed our Montana Code Annotated, Title 33, and I am unable to determine any violation of our insurance laws which regulate insurance companies doing business in the state of Montana.

I have noted that you are represented by an attorney. It would be our recommendation for you to consult further with your attorney for proper guidance in this matter.

I am truly sorry our Department's involvement in this matter has not been more favorable.

Sincerely,

Bob Post

Bob Post
Compliance Specialist
Policyholder Services

BP/vh
Encl.

P 05

TEL:

Apr 27 93

3:47 No.006 P.02



UNITED STATES FIDELITY AND GUARANTY COMPANY

HELENA BRANCH OFFICE

1885 ELEVENTH AVENUE

P. O. BOX 6107

HELENA, MT 59604 6107

TELEPHONE: 406-442-2270

FAX: 406-449-7449

GLEN E. DYE

GENERAL MANAGER

April 27, 1993

**Mr. Bob Post, Compliance Specialist
Policyholder Service
State Auditor - Commissioner of Insurance
P.O. Box 4009
Helena, MT 59604**

**RE: Jerry Marble
Your File # 10282**

Dear Bob,

In reference to Mr. Marble's letter to you dated March 3rd and your inquiry to us dated March 8th, our underwriting department in Denver received a request from Terry Payne & Company, the resident agent, to endorse policy number BSP 124674869 to delete properties 2251-2253 Hillside, 2247-2249 Hillside and 4778-4780 23rd Street effective 12/11/92. Also, they requested the named insured be amended to read Richard L. Nelson with the same mailing address which was currently reflected on the existing policy.

These endorsements were completed and the return premium was credited to Terry Payne & Co. If I can be of any further assistance please feel free to contact me. Thank you for your patience in this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Glen E. Dye".

**Glen E. Dye
General Manager**

GED/mlf

EXHIBIT 3
DATE P 06 3-3-95
SB228

JERRY MARBLE
2215 TIPPERARY WAY
MISSOULA, MT 59802

June 21, 1993

State Auditor
Mitchell Building
PO Box 4009
Helena, MT 59604-4009
Attention: Frank Cote

Dear Mr. Cote:

As per your request, I am hereby submitting yet another letter to your office so that you may forward this letter to your legal department for a legal interpretation.

My questions are related to a problem I have asked your office to assist me with regarding the practice of USF&G to allow their agents to delete a named insured from a policy without authorization from the named insured and then crediting the unused premium to a replacement named insured. Is this practice legal? Is an insurance policy not a contract subject to the legal requirements of any written contract, including the legal requirement that any changes to the contract be in writing and authorized by all parties to the contract?

This has been going on since December of 1992 so your prompt response will be greatly appreciated.

Sincerely,


Jerry Marble

FEB 03 '95 02:24PM RACING/FISCAL/HIS 410 333 8308

P.1/6

STATE OF MARYLAND

PARRIS M. GLENDENING
Governor



Department of Licensing and Regulation
MARYLAND RACING COMMISSION

10TH FLOOR
501 ST. PAUL PLACE
BALTIMORE, MARYLAND 21202-2272
(410) 333-6267

FEB 03 '95 02:25PM RACING/FISCAL/HIS 410 333 8308

P.2/6

Subtitle 2. State Racing Commission.

§ 11-201. Established.

There is a State Racing Commission in the Department.

§ 11-202. Membership.

(a) The Commission consists of 9 members, appointed by the Governor with the advice and consent of the Senate.

(b) At the time of appointment and qualification:

(1) Each member shall be:

(i) at least 25 years old;

(ii) a resident of the State who has resided in the State for at least the last 5 years;

(iii) a qualified voter of the State; and

(iv) an individual who has not been convicted of a crime that involves moral turpitude;

(2) at least 3 members of the Commission shall be knowledgeable or experienced in an aspect of thoroughbred racing; and

(3) at least 3 other members shall be knowledgeable or experienced in an aspect of harness racing.

(c) (1) A member of the Commission may not hold an official relation to a licensee or hold any stocks, bonds, or other financial interest in a licensee.

(2) Not more than 4 members who are appointed after July 1, 1989, may have a financial interest in racing in the State.

(3) Not more than 6 members may be of the same political party.

(d) Before taking office, each appointee to the Commission shall take the oath required by Article I, § 9 of the Maryland Constitution.

(e) (1) The term of a member of the Commission is 4 years and begins on July 1.

(2) The terms of members are staggered as required by the terms provided for members of the Commission on October 1, 1992.

FAX COVER SHEET - N.M. RACING COMMISSION

FAX Originating Number (505) 841-6413

60-1-2. State racing commission administratively attached to tourism department. (Effective until July 1, 1994.)

The state racing commission is administratively attached, as defined in the Executive Reorganization Act [9-1-1 to 9-1-10 NMSA 1978], to the tourism department.

History: 1993 Comp., § 60-1-2, enacted by Laws 1977, ch. 215, § 123; 1991, ch. 21, § 38. Delayed repeal. - See 60-1-26 NMSA 1978. The 1991 amendment, effective March 27, 1991, substituted "tourism" for "commerce and industry" in

the enacting and in the text of the section. Am. Jur. 2d, A.L.R. and C.J.S. references. - 4 Am. Jur. 2d Amusements and Exhibitions § 28. 86 C.J.S. Theaters and Shows § 3.

60-1-3. Application for licenses; state racing commission created; members; terms of office; vacancies; powers and duties. (Effective until July 1, 1994.)

A. Any person, firm, association or corporation desiring to hold a horse race or to engage in horse race meetings shall apply to the state racing commission for a license.

B. There is created the "state racing commission". The state racing commission shall consist of five members, no more than three of whom shall be members of the same political party. They shall be appointed by the governor, and no less than three of them shall be practical breeders of racehorses within the state. Each member shall be an actual resident of New Mexico and of such character and reputation as to promote public confidence in the administration of racing affairs.

C. The term of office of each member of the state racing commission shall be six years from his appointment, and he shall serve until his successor is appointed and qualified. In case of any vacancy in the membership of the commission, the governor shall fill the vacancy by appointment for the unexpired term.

D. No person shall be eligible for appointment as a member of the state racing commission who is an officer, official or director in any association or corporation conducting racing within the state.

E. Members of the state racing commission shall receive no salary but each member of the commission shall receive per diem and mileage in accordance with the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978]. The commission may appoint a secretary and fix his duties and compensation.

F. The state racing commission has the power to:

- (1) grant, refuse and revoke licenses;
- (2) make rules and regulations for the holding, conducting and operating of all race meets and races held in the state and to fix and set racing dates;

FAXCOVER.LTR/REPORT

State of California

HORSE RACING LAW

Chapter 4, Division 8, Business and Professions Code

and

Related Laws

Effective January 1, 1995

City of Orinda
 City of Colusa
 City of Imperial
 City of Feris
 City of City of Industry
 City of Lakeport
 City of Lancaster
 San Fernando Valley
 City of Sacramento
 City of Hildgerest
 City of Blythe

and their locations are as follows:
 Fair, held in the City of Pleasanton.
 air, held in the City of Gridley.

meetings, is vested in the California Horse Racing Board.

19421. The board consists of seven members, appointed by the Governor.

Each member shall hold office for a term of four years, commencing at the expiration of the previous term.

The term of the members of the board in office on January 1, 1959, shall expire as follows: one member July 26, 1959, one member July 26, 1960, and one member July 26, 1961. The terms shall expire in the same relative order as to each member as the term for which he holds office on January 1, 1959.

The term of the members appointed pursuant to amendments made to this section during the 1977-1978 legislative session shall expire as follows: one on January 1, 1979 and one on January 1, 1982.

-- 12 --

The term of the members appointed pursuant to amendments made to this section during the 1979-80 Regular Session of the Legislature shall expire as follows: one on January 1, 1982, and one on January 1, 1984.

Any vacancy shall be filled by the Governor for the unexpired term.

Each member shall be eligible for reappointment in the discretion of the Governor.

19422. Each member of the board shall have been a resident of this State for two years next preceding his appointment.

19423. A person is disqualified from membership on the board if the person, the person's spouse or any dependent child thereof:

- (a) Holds a financial interest in any horseracing track.
- (b) Holds a financial interest or position of management with any business entity which conducts pari-mutuel horseracing.
- (c) Holds a financial interest in a management or concession contract with any business entity which conducts pari-mutuel horseracing.

19424. No board member is disqualified from receiving a share of any purse awarded him as the result of any horserace as an owner of a horse or as a breeder of a California-bred horse.

19424.5. In order to permit the full participation of horsemen who may be appointed to the board, the Legislature declares that the appointment of such persons is intended to represent and further the interests of horse owners and breeders pursuant to Section 19401, and that such representation and furtherance will ultimately serve the public interest. Accordingly the Legislature finds racehorse owners and breeders are tantamount to and constitute the public generally within the meaning of Section 87103 of the Government Code.

19425. The members of the board shall receive a per diem of one hundred dollars (\$100) for each day spent in attendance at meetings scheduled by the chairperson of the board for the purpose of fulfilling the duties of the board pursuant to this chapter, and shall be reimbursed for travel and other expenses necessarily incurred in the performance of

racing at state designated fairs.

AN ACT relating to horse racing and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 SECTION 1. A NEW SECTION OF KRS CHAPTER 230 IS
2 CREATED TO READ AS FOLLOWS:

3 (1) The Kentucky Racing Commission is created as an
4 independent agency of state government to regulate the
5 conduct of horse racing and pari-mutuel wagering on horse
6 racing within the Commonwealth of Kentucky. Any program or
7 activity previously subject to the jurisdiction of the
8 Kentucky State Racing Commission or the Kentucky Harness
9 Racing Commission shall be subject to the jurisdiction of
10 the Kentucky Racing Commission on the effective date of
11 this Act.

12 (2) The Kentucky Racing Commission shall consist of
13 eleven (11) commissioners appointed by the Governor. In
14 making appointments, the Governor shall secure broad
15 representation within the horse industry, to include
16 appointment of seven (7) members broadly representative of
17 the thoroughbred industry and three (3) members broadly
18 representative of the standardbred, quarter horse,
19 Appaloosa, or Arabian industries. Recommendations for
20 appointments to the commission shall be sought from

-1-

1 various industry groups, to include the Kentucky
2 Thoroughbred Owners and Breeders, Inc., the Kentucky
3 Division of the Horsemen's Benevolent and Protective
4 Association, the Kentucky Harness Horsemen's Association,
5 and other interested organizations. An additional
6 commissioner shall be appointed by the Governor, with this
7 appointee having no financial interest in the business or
8 industry regulated. For initial appointments three (3)
9 members shall be appointed for one (1) year terms, three

HB 25242

RCW 67.16.012 Washington horse racing commission—
Creation—Terms—Vacancies—Bonds—Oaths. There is hereby created the Washington horse racing commission, to consist of three commissioners, appointed by the governor and confirmed by the senate. The commissioners shall be citizens, residents, and qualified electors of the state of Washington, one of whom shall be a breeder of race horses and shall be of at least one year's standing. The terms of the members shall be six years. Each member shall hold office until his or her successor is appointed and qualified. Vacancies in the office of commissioner shall be filled by appointment to be made by the governor for the unexpired term. Any commissioner may be removed at any time at the pleasure of the governor. Before entering upon the duties of his or her office, each commissioner shall enter into a surety company bond, to be approved by the governor and attorney general, payable to the state of Washington, in the penal sum of five thousand dollars, conditioned upon the faithful performance of his or her duties and the correct accounting and payment of all sums received and coming within his or her control under this chapter, and in addition thereto each commissioner shall take and subscribe to an oath of office of the same form as that prescribed by law for elective state officers. [1987 c 453 § 2; 1973 1st ex.s. c 216 § 1; 1969 ex.s. c 233 § 1; 1922 c 55 § 2. RRS § 8312-2. Formerly RCW 43.50.010.]

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67.16.012

or any other part or portion of this act not adjudged unconstitutional. All acts in conflict herewith are hereby repealed." [1933 c 55 § 10.]

RCW 67.16.014 Washington horse racing commission—
Ex officio nonvoting members. In addition to the commission members appointed under RCW 67.16.012, there shall be four ex officio nonvoting members consisting of: (1) Two members of the senate, one from the majority political party and one from the minority political party, both to be appointed by the president of the senate; and (2) two members of the house of representatives, one from the majority political party and one from the minority political party, both to be appointed by the speaker of the house of representatives. The appointments shall be for the term of two years or for the period in which the appointee serves as a legislator, whichever expires first. Members may be reappointed, and vacancies shall be filled in the same manner as original appointments are made. The ex officio members shall assist in the policy making, rather than administrative, functions of the commission, and shall collect data deemed essential to future legislative proposals and exchange information with the commission. The ex officio members shall be deemed engaged in legislative business while in attendance upon the business of the commission and shall be limited to such allowances therefor as otherwise provided in RCW 44.04.120, the same to be paid from the horse racing commission fund as being relative to commission business.

ARIZONA DEPARTMENT OF RACING



§ 5-102

AMUSEMENTS AND SPORTS
Title 5

commission member ends on the third Monday subsequent appointments as prescribed by statute. In January, 1993. The governor shall make all

Cross References

Appointment by governor, see § 41-101.

§ 5-103. Commissioners; qualifications; oath; Interest in racing prohibited; exception

A. A member of the commission shall have been a resident of this state and a qualified elector for not less than five years next preceding his appointment.

B. Before entering upon the discharge of his duties, each appointee shall take the official oath.

C. No person who has a financial interest, either directly or indirectly, in a racetrack, or the operation of licensed wagering on the results of races, is qualified for membership on the commission or appointment or employment by the commission, but this subsection shall not be construed to affect the entrance into a race outside this state of a horse or dog belonging to a member, or the winning of a purse or award by such horse or dog.

D. No commissioner or member or a relative of the commissioner or member to the first degree of consanguinity may have a financial interest in a licensee or permittee regulated by the department.

E. Of the five members appointed to the commission:

1. One but not more than one shall have a financial interest or substantial experience in the horse or harness racing industry.
2. One but not more than one shall have a financial interest or substantial experience in the dog racing industry.

F. Members of the commission shall serve without compensation.

G. The governor shall remove any commissioner who ceases to meet the qualifications prescribed by this section.

Amended by Laws 1970, Ch. 204, § 19; Laws 1971, Ch. 125, § 11; Laws 1982, Ch. 310, § 5, eff. Oct. 1, 1982; Laws 1987, Ch. 255, § 2.

Historical and Statutory Notes

HOUSE BUSINESS AND LABOR COMMITTEE HEARING: March 3, 1995

PROPONENT FOR SENATE BILL 242: Increases the Board of Horse Racing to seven by adding two members from the horse racing industry.

NAME: Douglas C. Allen

POSITION: I am an advocate for Senate Bill 242, which increases the Board of Horse Racing to 7 members by adding two members from the horse racing industry. As presently constructed, our statute permits no one from the industry whether owner, breeder, trainer, or racetrack affiliate to be on the Board of Horse Racing.

My name is Doug Allen. I am speaking to you this morning on behalf of my wife, Cheryl, and myself with regard to Senate Bill 242. We are proponents.

I am thoroughly familiar with all aspects of horse racing in Montana. As an attorney I have represented State Fair in Great Falls, Big Sky Horse Racing Association, and the Board of Horse Racing. I have been special prosecutor for the Board and have served it as a hearing examiner. I have represented clients before and against the Board of Horse Racing.

I am also a horseman. We raise thoroughbreds on a ranch west of Great Falls and race thoroughbreds in Montana. I have raced horses at most major tracks in the western United States and Canada. We breed and raise the horses we race. Ours is a business requiring a great deal of interest, time, energy and investment. We, and people similarly situated, are the backbone of the horse racing industry in the State of Montana. As a practical matter we supply the horses, we pay the human participants, and we provide the majority of the stakes money earned by the stars in racing.

We ask, through this legislation, that those of us who provide and conduct the business of racing have an opportunity to serve and promote our industry by sitting on its governing board.

Our business is not about gambling alone. It is true that the money generated to operate the racetrack and pay purses comes from money wagered by the fans and by money wagered by fans during simulcast telecasting. But we do not exist to make bets

on our horses. Long before the horses run in the afternoon, the business of the racing industry has been going on. In the breeding industry where Montana foals are produced, people have built farms with miles of horse safe fences, barns, breeding sheds and winter shelters. Expensive mares and stallions have been purchased from around the country. Annually, horse breeders ship their mares long distances, pay board bills and stud fees to others and raise the resulting foals, all at enormous expense. For this industry to survive, there must be the reward of a quality racing program in the State of Montana with adequate purses to maintain their care and existence.

Other states have recognized the need for the racing industry to be represented on the Board of Horse Racing. Washington, California, Kentucky, Maryland and New Mexico all have representatives of the industry on the commissions or boards which regulate horse racing in their states. These are very successful racing and breeding states. California is perhaps the best racing state in the country, with several major tracks

operating concurrently and major racing year round with the largest purses in the country. Kentucky is the center of the breeding industry in this country. Kentucky's reputation as the center of the breeding industry is acknowledged worldwide. Kentucky requires industry representation on its Board of Horse Racing.

Washington has long recognized the need for horsemen on the board. When the owners of Longacres, Washington's premier track in Seattle, decided to sell the land which the track occupied to Boeing Corporation, the industry in Washington was thrown into a tail spin. The commission in Washington has been instrumental in keeping racing alive in Washington despite this tremendous setback. I believe that having the industry, which has a great deal to lose if racing does not survive, on the board in that state has meant the difference between the collapse of racing in Washington and the prospect of renewal of the industry when the new track near Seattle is built.

There are some opponents who maintain that while there are a few states that do allow horsemen on the Board of Horse Racing, most do not. I submit that the states who do allow horsemen on the board are among the healthiest racing states in the country and that this is due in part to the leadership they receive from the horse racing industry on the Board of Horse Racing.

Racing has gone through difficult changes in the last few years, in Montana and around the country. The expansion of other forms of gambling is certainly a factor. The doomsdayers proclaim that racing will never rise to its former state. We in the industry are unwilling to accept that proclamation. It is regrettable that we have allowed, in an agriculturally based state such as Montana, state lotteries and video gaming to usurp an industry that has existed in Montana for over a 100 years. In fact, a Montana bred horse named Spokane, raised in the Hamilton area, won the Kentucky Derby in 1889. In our zeal in this country for easy money, we have allowed alternative forms of gaming to place horse racing in jeopardy. But the racing

industry has developed alternatives of its own. The advent of simulcast racing has given a new life to racing around the country, and certainly to racing here in our state. Just as the movie industry thought that the home video machine was going to be the death of their industry, but has instead turned the video machine into its greatest friend. So, too, must we in the racing industry turn alternative forms of gaming to our advantage through the use of simulcasting.

The leadership needed to address these issues in Montana will only come from the industry, which has a stake in the rise or fall of horse racing. And that leadership needs to be represented on the Board of Horse Racing. While the Board has many regulatory duties in overseeing the day to day operations of the racetrack, it also must be a promoter of the industry.

This bill is fully backed by the industry. Horsemen all over this state believe fervently that survival of racing in this state depends on representation on the Board of Horse Racing. Some opposition to this bill has come from government employees

and appointees. That opposition has centered around the issue of conflict of interest. They argue that no one involved in the industry can serve without a conflict of interest, or a perceived conflict of interest on the part of the public. I believe that there is no inherent conflict of interest in people from the horse racing industry serving on the board. A conflict could arise if a horse owned or bred by a board member were involved in a contested disqualification. The board member involved would simply withdraw from the hearing, as any board member should do whether a horseman or not, if he feels he has a conflict which makes it impossible for him or her to render a fair decision. Horsemen are no less honorable than anyone else. We are strong proponents of fair and even competition. Seldom is a steward's ruling appealed to the Board. Owners and trainers are far more likely to accept the stewards ruling. Even when horses have been disqualified in races with large purses, such as the Lewis & Clark Stakes last year where the winner was disqualified and placed out of the money, the steward's ruling is seldom, if in

fact, ever appealed. That is not to say that it could not be appealed. The right of appeal is a fundamental right by law and serves to protect the participants from capricious rulings by the stewards. But neither is the right of appeal exercised capriciously by horsemen. When it is exercised, I maintain that no one is better prepared to review a steward's ruling than a person with extensive experience in the racing industry. Knowing what might or might not occur on the racetrack takes years of experience. Those of us who are involved in the industry watch hundreds of races each year. We are better prepared to judge whether an infraction has occurred or not and whether the steward's ruling is correct. Whether we know the parties, their horses, their trainer, their mother or sister or brother, would not preclude us from fairly considering the matter, any more than knowing the parties involved, their horses, their trainer, etc. should now prohibit a steward from making a fair ruling.

I urge you to give Senate Bill 242 your favorable recommendation.

DOUG ALLEN

Revise Membership of Board of Horse Racing - Senate Bill 242

**From: Don Bentson, Executive Secretary, Montana Horse
Breeder's Assn.**

There are two conflicting issues that have been brought up
regarding this bill:

- 1) If you allow any active members of the horse racing industry
on the board of horse racing you automatically create some
conflict of interest, and
- 2) If you do not have any active members of the horse race
industry on the board you deny the industry any direct
participation in running the affairs of the industry.

In our view both issues have substantial merit but we feel the
amendment made in the Senate to raise the number on the board
from 5 to 7 with 2 being active industry members is an excellent
compromise of the two issues.

The horse racing industry is always concerned about any actual or
perceived conflict of interest and we have many laws, regulations
and accounting safeguards to see that races and wagering is fair.
However, we cannot get so concerned with the fairness issue that
we neglect to run our business with the most knowledgeable
people we can find and use the most efficient methods we know.

I think for the most part industry people feel that the board
members appointed to the board of horse racing for the past
several years have been good people that make an honest effort to
do a good job. One of the criticisms I've heard about the current
board setup is that because they do not have an active interest and

current knowledge of the horse racing business they must base most of their decisions on the input of one industry person; that being the executive secretary. I think we are fortunate that we have a very knowledgeable executive secretary who I know to be one of the harder working state employees. However, not everyone in the industry shares any one persons exact point of view and I believe by putting an additional two active industry members on the board you allow more active discussion of the issues at board meetings. We believe industry people need to get more involved in the business affairs of the industry and this may help to accomplish that goal.

We urge the committee to give a do pass recommendation to SB 242.

Mr. Chairman and Members of the Committee, Thank you for allowing me to appear before you.

I am Lou Wojciechowski of Billings, a recently appointed member of the Montana Board of Horse Racing. I have worked in the Horse Racing Industry for a number of years starting in Missoula in 1964. I've worked in various capacities -- in the Pari-Mutuels, as Secretary to the Racing Commission's Executive Secretary and State Steward, Horseman's Bookkeeper, Program, License Clerk for the State on the West Slope, Charting, Entry Clerk and Assistant Racing Secretary. I have the background, the experience and the desire to be an effective Board Member.

I oppose Senate Bill 242 because this Bill provides opportunities for conflict of interest.

For those of you who are not familiar with the Board of Horse Racing -- The Montana Horse Racing Commission was created in 1965. Prior to that time, County Horse Racing Commissions regulated the Industry. In 1971 under the Executive Reorganization Act, the Commission was renamed the Montana Board of Horse Racing and three members were seated.

The primary purpose of the Board is to REGULATE, LICENSE AND SUPERVISE RACE MEETS held in the State of Montana in order to PROTECT THE BETTING PUBLIC.

In 1977 the Legislature enacted the Sunset Law which required a review and audit of all Boards. As a result of their findings, the Review Committee was mandated to recommend to re-establish, to modify or to terminate all Boards.

During this time Pari-Mutuel Racing in Montana was getting bad press. Among the headlines were the Independent Record Headlines of June 14, 1973 "JOCKEYS, PARI-MUTUEL EQUIPMENT TARGET OF CRITICISM". Great Falls Tribune March 25, 1973 "CHARGES OF CORRUPTION ANGER THE RACING COMMISSIONER", Helena Independent Record March 12, 1973 "RACING COMMISSION CHARGED WITH IRREGULAR ACTIVITIES", Butte Standard, March 11, 1973 "HORSE RACING CALLED CROOKED", Independent Record March 15, 1973 "FUROR OVER HORSE RACING CONTINUES", May 21, 1973 "HORSE RACING HASSLE", June 15, 1973 excerpts "PRESIDENT OF BIG SKY RACING IN GREAT FALLS SAYS: I THINK IF RACING IS TO GROW THE BETTING PUBLIC HAS TO BE CONFIDENT, THEY SHOULD BE ASSURED THAT THE RACE IS RUN HONESTLY".

The composition of the Board at that time was five members, One a Breeder of Race Horses; One a member of an independent Horse Racing Association; One a member of a County Fair Board and Two who had occupations unrelated to Horse Racing.

The 1977 Sunset Audit and Review of the Board of Horse Racing cited the Board for many areas of conflict of interest --- some examples--

-- Board Members who voted on items affecting the Race Meets their Association sponsored; a Track Steward at one Meet was a Jockey in one of the races at the Meet; Race Horse Owners and Trainers being Racing Officials, a State Steward touting...which is offering advice on which horse to bet on.

The sunset Review required the Board composition to be completely reorganized to eliminate conflict of interest or the Board would be terminated in July of 1983.

In 1977 Horse Racing was legal in 26 States. 18 of the 26 States allowed NO conflicts, meaning no member seated had any active interest in the horse racing industry. In 1977 the Montana Board of Horse Racing was the only one of the 26 that did allow Board Members to hold financial interest in a Race Track.

During this time, in 1976, the Commission on the Review of the National Policy Toward Gambling, established by the United States Congress, conducted a study in which conflict of interest was discussed. the report "GAMBLING IN AMERICA" recommended that "Members and Staff of State Racing Commissions be absolutely prohibited from holding any financial interest in Race Tracks under their regulatory jurisdiction. The National Commission recommended that laws be amended to eliminate the requirement that Board Members be members of Fair Boards and private Racing Associations.

In 1983 House Bill 853 was introduced and passed by the Legislature. House Bill 853 addressed the concerns of the Sunset Audit Review. House Bill 853 re-established the Board of Horse Racing, providing for a five public member board from five geographic areas in the State, plus the addition of an Executive Secretary. House Bill 853 mandated that no person holding a financial interest in a Race Track or Race Meet, Member of a County Fair Board, or Owner, Trainer or Breeder of a race horse is eligible for membership on the Board. THIS BILL CLEARLY RECOGNIZED THE NEED TO ELIMINATE CONFLICT OF INTEREST ON THE BOARD OF HORSE RACING. The passing of this Bill was due to a group effort from the racing industry working together to support this legislation.

Since passage of House Bill 853 in 1983 (12 years) the restructured Board of Horse Racing has successfully carried out its mandate to REGULATE, LICENSE AND SUPERVISE PARI-MUTUEL RACE MEETS IN THE STATE OF MONTANA THUS PROTECTING THE BETTING PUBLIC.

The integrity of the Board is intact!

I hope I have provided you with an overview of the Board, where it was and how it got there. Do we want to travel backward in time? I think not!

This Bill, SB 242 is not workable. For example it states:

Section 1-2(b) Two members must be in the horse racing industry.

Section 1-3 The Governor may not appoint any member who would have a conflict of interest during the Member's term of office, except for the two members appointed pursuant to sub section 2B.

This, in it's self is a conflict!

The present statute says the Governor shall appoint on the basis of experience and qualifications one Board Member from each of the five districts.

Except for Breeders, the present statute does provide for Horsemen to sit on the Board as long as they are not actively engaged in the Horse Racing Industry in the State of Montana.

We do not want to go back to the '70's which is where the proposed Bill would take us.

I ask you, Mr. Chairman and Committee Members to kill SB 242 or at a minimum to table this Bill until the next Legislative session.

The Board and the Horse Racing Industry has been made aware of the need for more communication and cooperation within the Industry.

The present Statute governing Horse Racing in Montana is working! The Betting Public is protected. The integrity of the Board of Horse Racing is not questioned! The best interest of all concerned will be served by killing SB 242 in Committee.

Thank you for your time and attention.

Chairman and Members of the Business and Labor Committee:

I speak to you as someone who has been involved in the horse racing industry since 1961, a period of 34 years. I have been a breeder, been licensed as an owner, trainer, patrol judge, and State Security...but for the past 6 years, I have been employed as a steward at the various race tracks in Montana. For those of you who are not familiar with the workings of a race track, let me explain that each track has the services of a board of 3 stewards, who are charged with enforcing the Rules of Racing. We are the arm of the Board of Horse Racing, in the field. The board of stewards hold hearings, if infractions of the rules occurs, are in charge of reviewing each race and the instant replays, placing horses to the best of our abilities, and defending our decisions should they be appealed to the Board of Horse Racing.

We, and the Board of Horse Racing, are in the business of presenting our industry to the public, and most especially to the people who wager on races, in the best possible light. There must be nothing done to erode the confidence of those people, as they, and the money they wager, form the base for paying the purses and keeps the horsemen and the race tracks in business. There must be no perception of wrong-doing, real or imagined, in their minds.

Senate Bill 242 seeks to change the make-up of this Board, adding 2 more members, and requiring that these members be from the racing industry. 242 seeks also to exclude those two members from the conflict of interest clause, now in place.

In 1994, 2400 people were licensed, in some capacity, in the racing industry. This includes grooms, pony people, gate crews, and many others in the support team. Taking them from the 2400, you might see that the remainder are the owners and trainers. It is virtually impossible for any of those people to be seated on the BOHR without some conflict

of interest. The horse industry has a small population and few people to choose from.

You will hear, or have heard, testimony that shows clearly that the statutes now in place prevent these conflicts in every board that regulates a gambling industry, such as the video gaming and the lottery. They strictly prohibit any conflict, by any person seated on a board of this nature, and for very good reason.

Horse racing has tried this "being involved" method in the '70's and it was a sorry failure, filled with scandal and bad press. The Montana legislature created a committee to investigate all boards in 1977. This Sunset Review and Audit found many conflicts in the "Racing Commission" and ordered it either terminated, re-organized, or modified. A quote from this Review stated "should take action to ensure that all appearances of a conflict of interest are eliminated"...

House Bill 853 was then passed, in 1983, forming a 5 member board, made up of public persons...people not involved in the horse racing industry. This is one of the few times that the whole industry, including race track management, owners, trainers, breeders, and concerned citizens, worked as a group, to support this legislation.

The statutes now in place **do not** prevent former members of the industry from being seated on the board, and, in fact, a former member of the Marias Fair board, Steve Christians, was a valued member for many years.

People who are independent thinkers, such as horsemen, would be a welcome addition to any board, but certainly not if they, or their families, are actively involved. The conflict of interest, and vested interest questions become enormous. The outcome of decisions can involve the right to compete for thousands of dollars in purse money, and it has, in the past, such as when the stalls of a starting gate failed to open properly in the Budweiser \$100,000. Another year, it also involved the Budweiser \$100,000, when a horse

tested positive for drugs during a trial race. It is inconceivable that an owner, trainer, or breeder of any of those horses would have had the ultimate and final decisions about the outcome of those races, or which horses qualified to run in the finals, with purses upward of \$40,000 to the winner.

Horse racing in Montana has maintained it's integrity for the past 12 years with no bad press, and has retained the confidence of the wagering public. If we should lose this, our industry, as a whole, will be no more.

Senate Bill 242 savagely attacks this integrity by excluding board members from the conflict of interest clause. The argument in favor of this bill seems to be that the persons who have horse operations, breeding farms, and so on, and are involved in the agricultural end of this, have no input at the board level. What must be made crystal clear is this:

The Montana Board of Horse Racing has no control over the agricultural part of the horse business. It does not promote or advertise horse operations or breeding farms, nor should it. The Board of Horse Racing regulates the end product...the races these horses compete in. The Board provides the means to test both horses and riders for prohibited drugs, enforces the rules of racing, hires employees to be their arm of enforcement at the race tracks, hears the appeals of decisions, reviews rules and suggested rule changes, oversees the pari-mutual operations, assigns race dates, and regulates the races and the outcome of those races.

If you should remember nothing else I've said today, please remember this. The Montana Board of Horse Racing regulates a gambling industry, not an agricultural business. This multi-million dollar industry cannot afford to be destroyed completely, and sent back to the 70's, with just two little words in Section 1, part 3, of this bill; "Except for members appointed pursuant to subsection (2)(B)"

which excludes those members from conflicts of interest.

The November elections told legislators, clearly, that the people want no more conflicts, scandals, and stories we must find excuses for. We want honesty and straightforwardness, in our government and in our boards, at the national level and the state and local levels. Your vote, defeating 242, will allow the Board of Horse Racing to continue to function efficiently and honestly as they have for the past 12 years.

Remember the old adage "If it ain't broke, don't fix it"....

A handwritten signature in cursive script, appearing to read "Peggy", with a long, sweeping flourish extending to the right.

Peggy Buffington

Testimony presented to the House Business and Labor Committee by Sam Murfitt, Executive Secretary of the Montana Board of Horse Racing.

Good morning. My name is Sam Murfitt, I am the Executive Secretary of the Montana Board of Horse Racing and I am appearing before this committee as a proponent of Senate Bill 22. In fact SB22 was proposed by the Board of Horse Racing through the Department of Commerce on behalf of the Horse Racing Industry in Montana.

SB 22 proposes to exempt Jockeys from workers compensation benefits during races as their claim to employee status during the period is without merit. Of 31 horse racing jurisdictions in the United States there are only six that consider Jockeys to be employees and therefore eligible for workers compensation benefits. These states are: New York, New Jersey, Maryland, California, Colorado and Montana. At the present time Colorado in its legislature has legislation similar to this which would exempt jockeys from coverage also. The remaining 4 states are what one would consider to be "major league" in the world of horse racing. Between these state an estimated several thousand race days are contested annually. Purses (the amounts horses are racing to earn) are extremely high and the number of participants (owner/trainer, etc.) is very large. Large indeed when compared to horse racing in Montana where a total of 70 to 80 days of racing are held annually; where purses hoover in the \$600 range,

and not in the \$15,000 to \$20,000 range as they do in these other workers compensation benefit states.

The other 25 racing jurisdiction (states) do not classify jockeys as employees. In these other racing non-workers compensation states, jockeys are insured by the race tracks through purchase of catastrophic insurance policies, medical accident policies and also through the Jockeys Guild which is basically a union for jockeys.

This proposed exemption regarding jockeys has been nationally advertised in various trade journals involving the industry. Copies of various articles have been provided to committee members. Many of these articles quote Mr. John Giovanni the National Director of the Jockeys Guild in which he states that jockeys are not employees. In any event, even after national notification of the proposed exemption, I doubt that this committee has received any testimony from members of this occupational group opposing this change. At least there are none present here today to verbally testify in opposition. Somehow, I find that strange.

When Montana began enforcing its requirement that jockeys were employees, participation in racing by Montanans and non-residents dropped approximately 40%. Wyoming, Idaho, Washington, Oregon, North Dakota and South Dakota do not consider them to be employees and horsemen coming to Montana were given two choices -

buy coverage or stay home. Many non-residents chose to stay home and many Montana residents quit the business.

SB 22 will rectify the misclassification of Jockeys riding during races as being employees. Employees of who? The owners, the trainers? It is interesting to note that in filing income tax jockeys list themselves as self employed. Also, approximately 60% of the jockeys riding in Montana are non-residents. At this time I would like to explain how a jockeys services are obtained by an owner or trainer, to better help this committee understand the strange relationship that exists. An individual has a horse he or she wants to enter in a specific race on a specific day. On entry day for this race, the trainer fills out an entry blank and deposits in the race office. On this entry blank are such details such as horses name, age, sex, what race it is entering and the name of the jockey that the trainer desires to ride his horse. At closing of entries, the race office compiles a list of entrants for that race - this is known as the draw. During the draw often times the Jockeys which you want to ride your horse is also named to ride another or several other horses in that same race. At this time the Jockey or his/her agent (yes, agent) decides which horse the Jockeys will ride. Generally speaking this choice will be the one which the Jockey or his agent feels he or she has the best chance to win on. So it is highly possible that you will not have the jockey who you named to ride your horse, ride it and you then have to persuade another Jockey to ride. The Jockey or his/her agent is solely the determinant

of whose horse he/she will ride. The Owner or trainer only lists a name.

If successful or when finally securing the service of a jockey, the owner or trainer has no control whatsoever over the jockey or horse once the race begins. The jockey provides his own riding gear, saddle, goggles, helmet, whip and expertise.

I previously mentioned jockey agents. Many jockeys themselves employ agents to act on their behalf in deciding which horses to ride. In this situation, the owners or trainer doesn't even see the jockey instead they see his/her agent. Employee status, I don't think so.

In any event having jockey properly classified as exempt will not leave them out in the cold. Montana will cover them the same way as the other 25 states. Racing associations will be required to purchase a medical accident policy covering jockeys during races. This will be insured by the Board of Horse Racing not issuing an association racing licenses until proof of purchase of such a policy is shown. Secondly, the jockey will be covered under the National Jockeys Guild policy if they so choose.

An added bonus will also be realized by exempting jockeys from Workers Compensation benefits by the State Fund, all other industry insureds and the horse racing industry itself. Jockeys constitute the heart of the liability issue. Using 1993 as an

example State Fund estimates a liability for the horse racing industry to be \$2,693,035. If one subtracts from this amount the monies spent on jockey injuries during races, the new estimated liability for the industry would be somewhere in the \$150,000 range. Obviously the horse racing industry does not generate a 2 mill annual premium. Where does the extra come from? It comes from all the other industries insured by State Fund. With jockeys being properly classified as exempt the Montana Industries insured (which includes horse racing) will not have to pick up the slack. Their rates will not be a likely to increase as a result and the horse racing industry should be able to enjoy affordable coverage once again, therefore increasing participation.

In closing, I would like to say that the Montana Horse Racing Industry is simply asking this body for the ability to play on a level playing field and to be competitive with other states offering horse racing. Jockeys are not employees of owners and trainers never have and never will be. As a group they constitute the most independent of free spirits. Horsemen are basically at their mercy from a stand point of if they will ride their horse; if they will do their best once the starting gate opens; or even if they will show up to ride once they have consented. You've got to have them, they've got to have you, you can't hire them or fire them. The only thing for certain at this time is that the industry must insure them. I encourage this committee to act favorably on SB22.

GUILD/TRA from page 19

takes an alternate stance.

The TRA says the issue is about responsibilities, or the lack thereof, of businesses to independent contractors. "We have absolutely no legal responsibilities to the jockeys whatsoever," said Tom Meeker, president and chief executive officer of Churchill Downs.

In the TRA view, providing health insurance to jockeys is analogous to homeowners providing the neighborhood plumber with an insurance policy and pension plan. Validating the TRA's argument is that six states had to write specific legislation to cover the riders under workers' compensation programs.

Although a plumber may be in the same employer/employee relationship as a jockey, the person fixing your pipes is very rarely placed in a life-threatening situation. Jockeys are at risk on every mount, and their insurance costs are much higher than other independent contractors.

For that reason, while the tracks actually have no legal obligation to provide the coverage, they have for the past 28 years. "It makes good business sense," said Meeker.

But due to the belief that they are

providing benevolence to the jockeys, TRA maintains racetracks are providing \$1.7-million of insurance coverage for which their obligation is zero, and therefore additional payments are out of the question. The difference in philosophy is worded well in a TRA media advisory: "The Jockeys' Guild members contributed only \$800,000 toward their own health plan, while the remaining \$1,700,000 was subsidized with payments from the tracks."

What about the other \$4.5-million in accident coverage? TRA has traded those funds for the riders' media rights, which is at the center of the continuing controversy. The Guild has come to the conclusion that, with the explosion of simulcasting across the country, their faces and images are worth a lot more than \$4.5-million.

"What are the media rights worth?" asked Bailey rhetorically. "We're putting it at one-tenth of 1% of the national handle. That's probably about \$9-million. But it could be less, it could be more."

TRA has put the cost, at least estimate, at \$11-million, forecasting a national handle of \$11-billion in 1995.

No one really knows what media rights are worth or even who bene-

Getting mandated help from the state

Owners help fund low-cost workers' compensation policies for jockeys in New York, California, New Jersey, Maryland, Colorado, and Montana

by Marianna Haun

THERE are currently six states nationally that cover jockeys under workers' compensation policies, though come January that number may be reduced to five when the Montana Legislature considers eliminating jockeys from that state's program.

According to Albert Goke, president of the Montana division of Horsemen's Benevolent and Protective Association (HBPA), "We are going to attempt in our legislative session that starts in January to exempt jockeys from workers' compensation. We simply feel that jockeys in a race are not employees. During a race they are acting as independent contractors."

"It is our intent to cover exercise riders riding in the morning under workers' compensation continuously. We wouldn't exempt them—only the race riding."

There are no expected changes in the workers' compensation policies of the five other states that cover jockeys—New York, California, New Jersey, Maryland, and Colorado.

In New York, there is good news for owners and trainers who participate in the New York Jockey Injury Compensation Fund (NYJICF). According to Rick Violette, chairman of the board of directors of the NYJICF, there will be a rebate of up to \$250 mailed to all owners and trainers at the end of the year. "We are planning a rebate for somewhere in the neighborhood of \$200 to \$250," Violette said. "We have to wait for year-end figures."

That is not the only good news, Violette said. "Next year, we are going down 20% in our base premium (for owners and trainers). The \$375 premium paid by owners and trainers in 1994 will be \$345 next year. The 1% of purses paid by owners in 1994 will be reduced to eight-tenths of 1% in 1995, and the stall fees at New York Racing Association tracks will go from 50 cents a day in 1994 to 45 cents a day in 1995. At Finger Lakes, the stall fees will be down to 12 cents a day from 15 cents a day."

Under the workers' compensation policy in New York, Violette said, the jockeys and exercise riders are basically covered for any work-related injuries. "The payroll per week (for disabled riders) is currently \$400 in New York state," Violette said. "That is the same for anybody—jockey, taxi driver, whatever. All medical expenses, post-accident therapy, and sometimes even re-education, can be plugged into that. Even with catastrophic injuries, they are covered. So if there was a quadriplegic in New York—he's covered. His bills are paid. In New York, owners and trainers pay between \$1-million to \$1.5-million annually into compensation coverage."

To cover grooms, hotwalkers, and night watchmen, Violette said, trainers have to have their own policy.

"The exercise riders are the only ones you take out of your payroll and they are covered by the Jockey Injury Fund."

In California, trainers have to purchase a workers' compensation policy from an insurance company. Under California labor laws, jockeys are covered under that policy. According to insurance broker Chris Clark, former president of the California division of HBPA, who insures approximately 400 California trainers, jockeys are "...technically the employee of the owner, but the owner gives coverage for the jockeys by way of the trainer's policy."



RICK VIOLETTE
Chairman of New York Jockey Injury Compensation Fund

"It is a fixed cost. The jockey rate right now is \$15.60 per mount. That is the premium charged to the trainer, which he passes on to the owner on his training bill. So every time a jockey rides a race, there is a premium of \$15.60 paid. That gives the jockey unlimited medical coverage and provides him with permanent partial disability payments of \$330 a week for as long as he is unable to ride."

"The jockeys in California are pretty well looked after by way of the workers' compensation policy. But when you are talking about replacing the earnings of some of the higher-earning jockeys, it is a little light in terms of disability benefits. When you are talking about a jockey that is earning \$1-million a year, \$330 a week doesn't come close to helping them. So the top riders buy a disability income policy on their own for the amount of money that they want to have come in every month."

The cost of those personal disability policies varies, Clark said, based on the jockey's age and other factors. "I know of one particular situation where the jockey opted to buy a \$10,000 monthly benefit for \$14,000 annually. The coverage begins after a 90-day waiting period, but it could bring a lifetime benefit if the jockey were seriously injured."

In Maryland and New Jersey, the workers' compensation policies are paid annually along with the owner's

and trainer's license fees.

In Maryland, in which the policy is strictly for jockeys riding during races, the 1994 fees were \$150 for both owner and trainer. In 1995, that will drop to \$125 for owner and trainer.

In New Jersey, the annual fee, due January 1, for owners and trainers is \$379. The policy is strictly for on-track and is limited to up to \$100,000 for each occurrence with a \$500,000 limit for each policy, and \$100,000 for each employee. In New Jersey, there will be an attempt next year in the state Legislature to have the workers' compensation fees taken out of purses.

In Colorado, jockeys are covered, along with everybody else on the backside, by a \$25 per start fee. Of that fee, the track pays \$5 per start and the owners pay \$20. According to Skip Sherman, president of Racing Associates of Colorado, Ltd., which operates Arapahoe Park in Aurora, Colorado, the Colorado Horsemen's Association carries the policy. Under an agreement with the Jockeys' Guild, the track applies the \$40,000 fee they were paying the Guild for a jockey's catastrophic policy to the Colorado workers' compensation policy, which affords better coverage for the jockeys.

"There is nothing paid up front—no annual fees—just per start," Sherman said. "If you start two horses, that is your whole contribution for the year. As soon as you come on the grounds, you are basically covered. It covers everybody on the backside—owners, grooms, trainers, jockeys, exercise riders—everybody that's back there."

That situation may change in Montana if the HBPA gets its way. Goke thinks the HBPA will accomplish its goal before the Legislature. "I think we will get it done," Goke said. "Montana's Department of Labor has indicated they will support us, as has Workmen's Compensation."

Under Montana's workers' compensation program, which has no cap, each racehorse owner pays an annual fee of \$100 per horse plus \$15 a mount. Each trainer pays an annual fee of \$150. "We have some side ones, too," Goke said. "We have to pay an extra \$150 a piece for grooms, as well."

Tracks carry catastrophic insurance for the jockeys and pay \$500 per race day. "The catastrophic insurance is bought by the tracks through the Jockeys' Guild," Goke said.

One of the problems with Montana having no cap on its workers' compensation claims, Goke said, is that the Jockeys' Guild's catastrophic policy never gets touched. "That has always bothered us," Goke said. "I don't think they've ever paid any claims in Montana." ☺

Marianna Haun is a staff writer for THOROUGHbred Times.



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Letters

(continued from page 6422)

about local horse racing news. All horsemen need to be involved in media relations.

Dr. Gerald Farris
Longview, Texas

JOCKEYS: LET THE RICH PAY FOR THE POOR

This is not an easy task, and I don't relish it. I know a lot of jockeys and greatly respect them, their ability and athleticism. I understand the risks they take when riding, and I have great compassion for those injured in their chosen line of work. But there are some things that have to be said, and I haven't seen anyone tell it like it really is...yet.

New York racing is being choked to a slow death and everyone is chipping in, attempting to save the sinking ship—everyone EXCEPT the jockeys. The New York Racing Association is downsizing, the owner's ranks are thinning because virtually all of us lose money (over 90% to the tune of around \$80 million a year in New York alone). The breeders' ranks have been halved due to bankruptcy and the trainers, some of whom work 12 hours a day, seven days a week, are barely making a living. All of us are struggling and yet there is only one group which only takes.

In New York, one of the only state to have this inane law, the owners pay the jockeys' workers' compensation insurance because the jockeys are considered to be our employees—which is really a laugh.

How did this happen? I've heard that late in a legislative session, the jockeys' lobbyist in Albany rammed through this insane, unreal, unreasonable, and totally ludicrous law. This was done in secret without the trainers or owners having the slightest clue, probably because the jockeys knew it was morally and ethically wrong and would have been dis-
 puted.

Everyone, especially an owner, knows that jockeys are INDEPENDENT CONTRACTORS and not employees of the owner. Yet each owner contributes a basic fee, about \$400, plus 1% of the entire purse structure in the state of New York comes off our accounts to pay the jockeys' workers' compensation insurance.

One trainer I know contributed around

\$9,000 last year to the fund.

This money leaves the game, never to be churned back by the owners in new horses. This reduces the supply of money, demand, and prices.

And now for the killer: Jockeys' Guild manager John Giovanni recently said in interviews that jockeys are INDEPENDENT CONTRACTORS. There's no argument about that. So why are they our employees in New York? And why are the owners paying their workers' compensation insurance? What have the jockeys done to help alleviate the desperate situation here and around the country where it is estimated that the owners lose about \$1 billion a year?

In most states, the jockeys are considered independent contractors. Hey, I'm an independent small businessman, jockey agents are small businessmen, independent contractors. Guess what? No one pays my health insurance for me, and no one pays health insurance for jockey agents or millions of other independent contractors. Why do the jockeys want someone else to pay for their insurance?

Ironically, the most vociferous voices in support of others paying their way are the most successful and I assume the most wealthy jockeys. I don't hear much from the journeyman jocks who toil daily at their arduous task and earn very little compensation for it.

That brings me to my most important point, a possible solution to the threatened jockey strike. The main leadership will think I'm nuts and the idea is ridiculous, but think about it: Just don't dismiss it out of hand.

In all facets of our lives in virtually every endeavor, those who are blessed with more ability and have the most earning power have helped the less fortunate. Wouldn't it be an appropriate gesture if the New York and California millionaire riders could help their comrades toiling at Grade C half-milers, putting their lives on the line hundreds of times a year for peanut wages?

It would have been a magnanimous gesture if the jockeys on Breeders' Cup Day, while donning their "47" caps, had said, "I just made \$60,000 in a little over a minute, and I'm going to give 1% or \$600, or .50% or \$300, to an insurance fund for jockeys who are less fortunate than me." I think half the viewing public would have fallen off their collective seats.

So, my proposal to end this jockey stalemate and to finally have the jockeys contribute to our dying game is this: Let all jockeys who get their 10% (most

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EXH 10 3-3-95 SB22

owners pay them 10% across the board from all stakes races worth \$50,000 or more contribute .50% or 1% to their insurance fund. The wealthier would be offsetting expenses for the poorer jockeys and before the wealthy ones start screaming, let them remember they're paying about 50% in taxes anyway, so it will cost them only half. Then the jockeys could join in with the rest of us supporting the game we love and we all support.

Isn't it the "American way" for the more fortunate to help those less fortunate?

Giovanni has said that jockeys "are the only people in racing who do not receive benefits out of purses or out of handle." That, of course, is ludicrous. And then he continues by berating the small amount of money given backstretch personnel out of purses. Some jockeys live in million-dollar homes while backstretch people live in third-world hovels and Giovanni is harping on the small benefits they receive. The man has to get his priorities straight.

This letter is being written out of love for the game and respect for the jockeys, not contempt, and a desire for the rank and file to hear some differing opinions, other than those of their leaders who

keep insisting that they're "independent contractors," yet are willing to be "employees" at times. They want it both ways.

*Richard Bonitz
Lawrence, N.Y.*

"The Final Turn" column of Dec. 10 (page 6182) by Ronald K. Kirk of the Thoroughbred Owners and Breeders Association was right on target. Mr. Kirk and TOBA should be applauded by horse owners everywhere for having the courage to bluntly state what almost everyone in the industry knows: Jockeys in the past and today continue to play both sides of the fence. Wanting the freedom of independent contractors, they insist on being regarded as employees when it comes time to pay for insurance coverage and other benefits.

As Mr. Kirk states, jockeys do indeed receive a much larger share of racing's limited revenues than they are entitled to. When owners and racetracks are losing money every year and backstretch personnel work for limited wages under difficult working conditions, jockeys should consider themselves exceptionally fortunate to receive as much for a one-minute ride as a trainer who invests

many hours per week on the care of the horse.

Yes, it is a demanding and dangerous profession, but nobody forces any jockey to undertake the risks involved. The cynical and shameful grab for media attention during the Breeders' Cup by wealthy jockeys racing for \$1-million purses which they refuse to share with their less successful brethren, while asking the rest of the industry to foot the bill, was a disgrace.

If the Jockeys' Guild is really interested in helping injured riders, I would respectfully suggest that the winning riders in races with purses of \$50,000 or more contribute one-half of their winnings to a medical/retirement fund for the benefit of all jockeys.

Frankly, there is no reason for a rider to earn the same percentage of a \$1-million purse as they do of a \$5,000 purse, except outmoded tradition from 100 years ago, when there were no million dollar purses. Perhaps it's time for owners to start employing jockeys who will ride for more reasonable rates and take responsibility for their own benefits as all other independent contractors do.

*H. R. Levinsky
Forestville, Calif.*

Obituary

JACK DEMPSEY

Jack Dempsey, who managed prominent California Thoroughbred farms for more than 54 years, died on Dec. 15 at his residence in Los Alamos, Calif. He was 69.

Born in Ireland in 1925, Dempsey began his career with the Bert Kerr Bloodstock Agency. After seven years with Kerr, Dempsey rode and assisted English trainers before relocating to Canada, where he worked for W. R. Conklin for three years.

Dempsey traded cold Canadian air for the sunny clime of Southern California in 1957, when he became associated with Dr. Jack Robbins' Concejo Ranch. He later managed Silver Creek Ranch before helping Fletcher Jones establish Westerly Stud Farm, which grew from its initial 40 acres to eventually encompass 4,000 acres. Among the leading California stallions standing at Westerly during the period was Promised Land.

Dempsey also managed Fred Sahadi's Cardiff Stud Farm during the tenure of Gummo as California's leading sire.

In the 1970s, Dempsey purchased 20 acres and established his own Longview Stud. The farm was relocated to Solvang in the 1980s to a 128-acre tract, but Dempsey retained his original acreage, where he kept yearlings. Longview raised more than 20 stakes winners since being started by Dempsey, who also operated a bloodstock agency.

Dempsey is survived by his widow, Helen, and a daughter, Marianne, who manages Longview.

MRS. HUMPHREY S. FINNEY

Mrs. Humphrey S. Finney, 83, widow of the late Fasig-Tipton Company chairman, died at her residence near Versailles, Ky., on Dec. 21. A Maryland native, Olive Macey married Humphrey Finney in 1930. The couple initially resided in Maryland, where Humphrey Finney joined Fasig-Tipton as an announcer in 1937, and moved to New York in 1953 after a group led by Finney purchased the company.

The Finneys relocated to Kentucky in 1962. During Humphrey Finney's career, his wife accompanied him on trips to Europe, Australasia, and the Far East. Humphrey Finney died in 1984. The Fasig-Tipton sale pavilion at Saratoga bears Humphrey Finney's name. John M. S. Finney, the couple's son, became Fasig-Tipton president and chief executive officer in 1968. The younger Finney died on June 1 of this year.

Mrs. Finney is survived by daughters Pat and Marge and eight grandchildren. Contributions are suggested to the memorial fund at St. Raphael's Episcopal Church in Lexington, where services for Mrs. Finney were scheduled to be held on Dec. 27, or to the National Wildlife Federation in Washington, D.C.

By Ron Mitchell

Jockeys are independent contractors

As such, jockeys should be responsible for their own insurance in an industry whose revenue is declining

by J. Brian McGrath

THE negotiations between the Thoroughbred Racing Associations (TRA) and the Jockeys' Guild have been difficult, as we are dealing with complex and emotional issues which do not lend themselves to easy solutions. At the crux of the situation are the elements of compensation, coverage, and financial wherewithal.

The threshold questions are threefold: 1) Are the jockeys fairly compensated for their participation in racing? 2) Do racetracks have a responsibility as it relates to accident coverage? 3) Do racetracks have a responsibility in the areas of health and welfare benefits? Each of these must be viewed in the context of the poor financial condition facing racetracks, other industry groups, and our sport overall.

As to the first, we believe that the jockeys receive fair and just compensation. Total payments to jockeys as their share of purses approximate \$60-million, of which \$33-million is derived from simulcasting. Payments made to cover insurance and health benefits by racetracks totaling \$6,244,000 and those made by horsemen in workers' compensation states amounting to \$4.6-million bring the total to nearly \$71-million.

Racetracks across America are operating on paper-slim profit margins at best, and many are experiencing losses. While simulcast revenues have increased, on-track attendance

and total handle have declined over the past three years. Several racetracks have closed, gone bankrupt, or reorganized. From the horsemen's perspective, the Thoroughbred Owners and Breeders Association (TOBA) pointed out at this year's Jockey Club Round Table that horse owners are losing more than \$1-billion annually. In this economic environment, one cannot justify paying jockeys an increased share of a declining business. Their entitlement or need is not greater than the other participants in our industry.

In the area of accident coverage, we do feel a responsibility and have and will continue to address this issue. We have offered to increase accident coverage by 25% and have undertaken an industry-wide study to determine if a national accident plan for both workers' compensation and non-workers' compensation states is feasible and cost-effective. The Guild has argued that our offer is grossly

If anything, the value of media rights over the past several years to this industry has decreased, not increased.

As to health and welfare benefits, it should be clearly stated that the jockeys are independent contractors. This status brings with it not only opportunities, but also responsibilities. As independent contractors, jockeys are able to offer their professional services to a broad cross section of owners and trainers. At the same time, they are free to establish self-funded benefit accounts and are responsible for funding their own health and welfare plans.

The Guild has argued that payments made by the TRA in this area are in exchange for media rights. Our view is that the jockeys are paid for their participation through purses. Our sport does not generate a significant value from its media rights. Today, with the exception of the Triple Crown and the Breeders' Cup, access to broadcast television is achieved by buying time, not in exchange for license fees. If anything, the value of media rights

over the past several years to this industry has decreased, not increased.

In putting forth its case, the Guild has argued that an additional one-tenth of 1% be added to the handle for the benefit of jockeys and that the public would not find this objectionable. Importantly, in dollar terms, we are talking about something approximating \$10-million. Why should the patron be taxed for the benefit of the jockeys? If the customer will not mind, then why not take out additional pieces for other industry groups? It is contrary to well-accepted business principles that the way to increase revenues in a declining business is to raise your price. The jockeys argue that they just feel they deserve more. We do not agree.

The jockeys' contribution to racing is considerable, as is that of all industry groups. As pointed out, racing is facing very difficult financial times and the solution lies in developing ways to increase the overall revenues within the sport. If that development is successful, everyone will benefit.

A strike or boycott would be to the detriment of the sport and all participants. ☺

J. Brian McGrath is commissioner of the Thoroughbred Racing Associations, Inc.



POINT/COUNTERPOINT JOCKEY STRIKE

Testimony for SB 19 - Greyhound Legislation

Submitted By: Bill Brown

Director, Montana Horse Breeders

**Director, Horseman Benevolent and Protective
Assn.**

Horse racing, agriculture, gambling, simulcast, the Board of Horse Racing and the Legislature come together in a curious way to make up the horse industry. It's important to understand some of the relationships to completely understand the industry.

Horses fit naturally into the agricultural industry as much as sheep, cattle or hogs. They need a large amount of land to be raised on, they need grains and hay to eat and they are selectively bred to produce desired offspring. They are bought and sold but differ from other farm animals in the fact that they are not raised for food but rather for work, pleasure or competition.

The value of the horse is not determined by supply and demand as dictated by the market, but by value of use. For example, a trained rope horse's value is determined by speed, ability and earning potential. The horse may sell for \$1,000 or \$10,000 depending on the buyers belief in the potential of the horse to help him win back his purchase price in the roping arena. It is the same for all competitive type horses, the value is determined by earning potential. For a race horse then his value is based on his earning potential.

At the live race meets earning potential of a horse comes from the purse amounts that he can earn by winning or "placing in the money" in a race. This is where gambling is introduced to the horse industry.

To increase the race purse pari-mutuel wagering was invented and is used in 31 horse racing states. Pari-mutuel simply refers to the method of pooling wagers. However, distribution of money wagered is similar to other forms of gaming. In Montana, for each \$1.00 wagered at the race meet \$.76 to \$.80 is returned to the bettor and \$.20 to \$.24 is taken out and distributed. The amount of the take out varies by the type of wager. The current distribution of the take out is 1% to the Board of Horse Racing, 9 1/2 % to the track for administration and 9 1/2 % to the race purse. For multiple horse wagers the additional take out is split between owners and breeders bonuses.

The sources of money for the race purse includes the 9 1/2 % take-out from the wagers, money from race sponsors, payments made by horseman and the income from simulcasting. Montana, because we have low population compared to other racing states can only produce a limited amount of money for the purse through sponsorships and the amount wagered at the race track. The only bright spot in this income picture for the past several years has been income generated through simulcasting.

Because Montana has some of the lowest race purses in the country it follows that the race tracks have difficulty attracting horses. As pointed out earlier race purses are a direct factor in determining earning potential and value of the horse.

The Board of Horse Racing and the Legislature come into play in the horse industry by virtue of this being a controlled industry because of the tie to gambling. The industry cannot go forth with a simulcast marketing plan without first getting Legislative approval. The industry needs the help of the board and the Legislature because we need to compete to assure that live racing remains a form of recreation in Montana.

To give this bill proper consideration the committee needs to understand what simulcasting is, what SB 19 does and some horse race industry background.

Simulcasting is the sending of a TV signal from a track conducting live racing that is received at a remote site. In Montana this is the same as if you were at that race track viewing a race at an inside TV monitor. Wagering or tote equipment at the Montana remote site is controlled so that all wagering stops when the race starts.

SB 19 allows the simulcast of greyhound races into Montana under the control of the Montana Board of Horse Racing for the purpose of providing an additional source of income for live horse racing.

The issue is a declining number of horses and horseman willing to run at the Montana horse race meets for inadequate race purses.

Montana county fairs and other race meets need to provide increased purse money to horseman so they will run in Montana and assure the continuance of live horse racing in this state. Income generated from offering simulcast greyhound racing will be dedicated to providing increased purse money for live racing.

Keeping live horse racing in Montana keeps several thousand people employed at race meets and on the farms and ranches that break and train horses.

In 1989 simulcast horse racing was introduced into Montana for the purpose of using income generated from that source to enhance race purse money for live racing along with some funding of bonuses for owners and breeders. Owner and breeder awards promote the breeding and racing of a horse in this state. In

addition some income derived from the simulcasting is used to help fund county fair board expenses and the Board of Horse Racing.

In Montana in 1994 we conducted live horse race meets at Helena, Great Falls, Shelby, Missoula, Hamilton, Billings, Miles City and Kalispell. Live races were conducted every weekend from May 1st to September 25th. Simulcast or live TV horse racing from out-of-state tracks was presented every weekend that live racing was not conducted. Simulcast races are held in 10 locations in Montana. Some locations are at county fairgrounds sites and some at taverns and restaurants.

The most important single item that drives live horse racing is the amount of purse that is offered for winning or placing "in the money". To horse owners purse has the same connotation as pay check to a wage earner. Race tracks conduct the live meets and determine what the purse amounts will be based on their estimated costs and estimated revenues. Horseman look at the purses to determine if they want to run at that race meet or go to another track where purses are higher. The latter choice has been a typical choice in recent years. Montana horseman would like to race horses in Montana but due to rising costs and reduced purses many have chose to run out-of-state. Typically, Montana horseman go to Spokane, Yakima, Calgary, and Winnipeg when we don't meet their needs in Montana.

The solution to reversing this trend is to increase revenue or race purses that owners run for so that we are more competitive with out-of-state tracks.

I encourage this committee to give a do pass recommendation to SB 19.

EXHIBIT 12
DATE 3-3-95
HB SB22

Greyhound Legislation - Senate Bill 19

From: Don Bentson, Executive Secretary, Montana Horse Breeders Assn.

Why does the Horse Racing Industry Turn to the Legislature for Help in Solving Financial Problems?

The horse racing industry is a controlled industry in that we operate according to guidelines set in law and rules set by the Mt. Bd. of Horse Racing. The Legislature becomes our "Board of Directors" when restricted activities are contained in the law. The future of Montana live horse racing is dependent on legislation action.

Industry financial problems began several years ago with the passage of laws that allow other forms of legalized gaming in the state such as bingo, keno, video machines and the lottery. Over a period of about 10 years the income to horse racing dropped in half as we were no longer the only legalized gaming in the state. That drop in income would have resulted in the loss of live horse racing except that the Legislature in the 1989 session passed a bill to allow live simulcast wagering on horse racing. This combination of live and simulcast racing brought the income in 1994 back to the 1985 level.

The net income from simulcast horse racing added to that from live racing has helped offset income lost to other forms of gaming. However, revenues from simulcast horse racing produce only about one-half the revenue from the same amount of wagering at live race meets due to the formula used to distribute the simulcast money. For this reason and because expenses have risen dramatically in the past 10 years the trend of owners leaving the business continues. This trend if not reversed will eventually

result in the loss of live racing to Montana and place an additional burden on the local fairs.

State government and the Legislature appear to strongly back efforts to bring new industry to Montana. We should make just as strong an effort to keep the jobs and the industries we already have.

Proposed Solution

The reason that greyhound simulcast racing is considered as the best source of increased revenue is that it has been tried and operated successfully already in Montana for about three months in 1993. Greyhound racing is well suited to the current Montana simulcast horse racing network because all the equipment used in horse racing can also be used for greyhound racing at no added cost. The greyhound racing provides evening entertainment and seems to attract different fans.

Does passing this legislation result in increased gambling in the state?

In the horse industry we do not consider this legislation to be an increase in gambling. From our point of view we see our marketing another form of pari-mutuel wagering. This happens frequently when the lottery introduces new games or the video gaming industry brings out new machines. Our industry needs at least this much flexibility just to hold our market share of the recreation dollar that is spent on gaming.

Greyhound simulcast racing adds some variety to pari-mutuel wagering which we hope will bring back some of the wagering dollars that have been lost to other forms of gaming. This type of

wagering appeals more than horse racing to those who like a little faster action and less handicapping of the animals.

One scenario that is very important for this committee to understand is that it was increased gaming in this state that almost destroyed the Montana live horse racing. Most people in the horse race industry supported bringing more gaming into the state for the same reason that many other people did and that was to avoid the outflow of gambling money to other states. We are currently in that same position with live horse racing such that if we cannot compete with other states we will lose the gaming dollars and the track and ranch jobs associated with live racing.

We believe a marginal increase in wagering if that should occur as a result of this bill is a very small price to pay in comparison to the potential loss of industry jobs and recreational opportunities of thousands of horse race fans across the state.

Does this bill have the full support of the horse race industry?

This bill has the full support of all organizations involved in Montana horse racing including the Montana Horse Breeders, the Horseman's Benevolent and Protective Association, the Montana Simulcast Partners, the Montana Board of Horse Racing, Race track management and the Rocky Mountain Fair Association. We are not aware of any group in the horse race industry that opposes this bill.

Montana Simulcast Partners - Today

Montana Simulcast Partners is in charge of handling the simulcasting of races to Montana during the winter season in this state. Primarily, the simulcast partners offer television wagering on live horse races across the country to the patrons in Montana from the end of September, that is the closing weekend at MetraPark through the opening of the first race meet in Montana in the spring. This will consist of approximately 110 days of racing performances to the simulcast sites across Montana.

Montana Simulcast Partners was formed to control and administer the simulcasting so that all possible revenues could be filtered back into the industry in the form of purses, breeders awards, owners bonuses and site fees. Of the current 10 locations that MSP has in this state, the two sites that handle the most wagers are located at 2 of Montana's live race tracks; they are Great Falls & Billings.

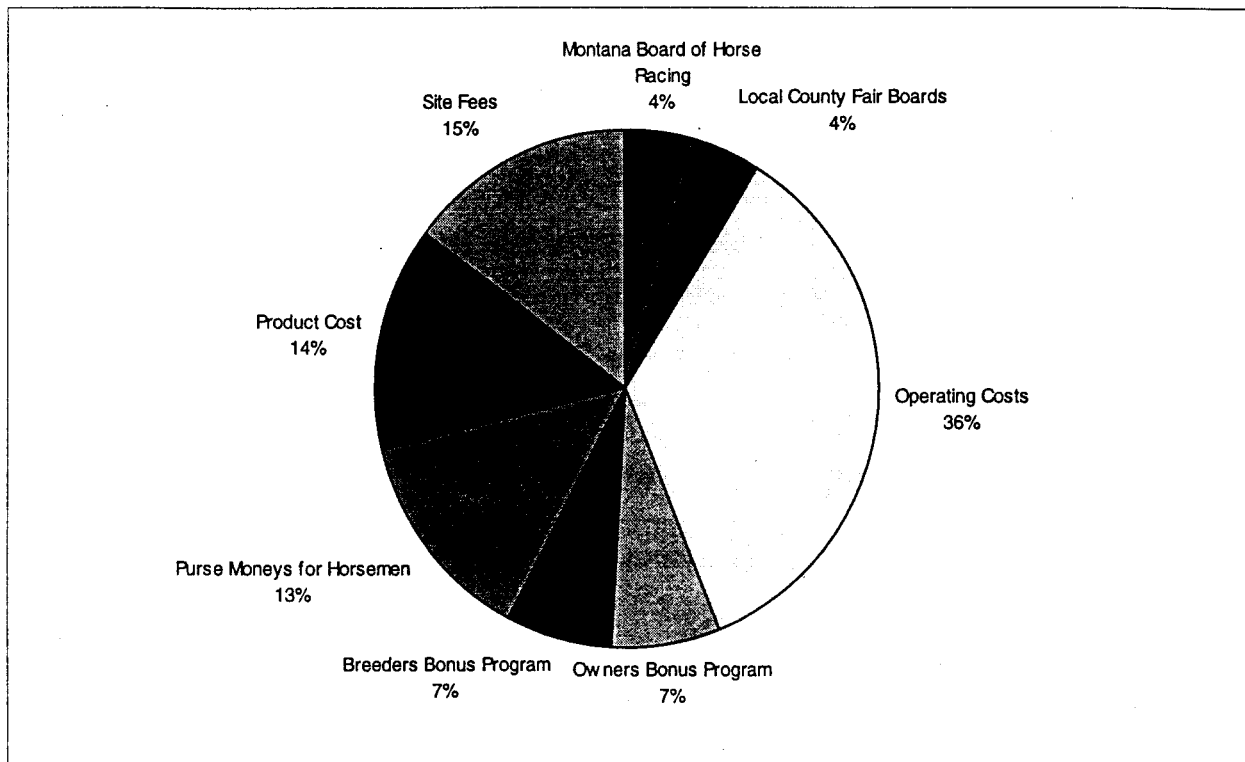
Montana Simulcast Partners is made up of an 8 member board. Each member represents one of the 8 live race meets in Montana. Of these 8 race meets, 6 of them are directly associated with their local fair. Each member has an equal vote. The makeup of this board is significant in that the race tracks themselves are controlling the simulcasting and in turn using any revenues and/or profits to support the live racing in the summer. The importance of this board lies in the fact that they are determined to continue to improve the simulcasting during the winter months because it has become such a vital part of financial support for the racing that exists during the summer in Montana and without such support, all of the live race tracks in Montana would be hard pressed to even open their doors.

Financial Picture of Montana Simulcast Partners

Since all 8 live race tracks in Montana are county owned facilities and 6 of the 8 race meets are operated by county or city employees, it was very apparent to Montana Simulcast Partners that a positive cash flow be created immediately. Over the past 5 years, the simulcast partners have demonstrated their ability to generate revenues for the live racing in Montana. In a brief review of the last couple years of simulcasting, from July 1, 1992 until today, Montana Simulcast Partners and their simulcast sites have contributed over \$400,000 to county facilities

including the Great Falls and Billings simulcast sites, over \$127,000 to the Montana Board of Horse Racing, \$198,000 to Montana owners awards, \$198,000 to Montana breeders awards and over \$532,000 to purses in Montana.

When an amount is wagered at simulcasting, approximately 80% is returned to the public. The remaining 20% is used to pay for horsemen's purses, bonus programs, operating costs and as well as some additional items. The following pie chart displays the breakdown of every dollar of revenue and where it is spent for the Montana simulcasting network:



Another important point to be made about this pie chart is that the horsemen in this state benefit directly by receiving over 27% of the income for their purses and awards. After expenses, all revenues go directly back into the industry. There isn't another racing jurisdiction in the United States that gives back more of the revenues to the horsemen than in Montana. Montana Simulcast Partners is very proud of that fact and supports the concept that without higher purses in Montana, this state will more than likely witness the loss of an entire breeding and racing industry that is a multi-million dollar business in Montana.

The 1993/94 simulcast season was Montana Simulcast Partners most successful to-date. This was due partly to the trial operation of greyhound simulcasting during the months of December, January, and February. The greyhound simulcasting handled just over \$500,000 in a 24 day test period which equates to an additional \$100,000 in revenues for the simulcasting

network. Almost 75% of these additional revenues were returned to the Montana racing industry in the form of purses, bonus awards and fees.

Greyhound Simulcasting - An Important Step For Montana

It is important that we recognize that fact that this legislation deals only with the simulcasting of live greyhound racing to Montana and in no way is intended for live greyhound racing to occur in Montana. The greyhound simulcasting would be a great help to the simulcasting network in Montana for three very important reasons:

(1) With the greyhounds and the flexibility of the number of races and facilities they run at, Montana Simulcast Partners is then able to offer our patrons simulcast racing on days other than just Friday, Saturday, and Sunday.

(2) Even though Montana Simulcast Partners have the option of showing simulcast horse racing on every day of the week, they felt that keeping the network financially stable was imperative to the success of simulcasting in Montana. With greyhound simulcasting, the network then can offer an additional product at a very low cost to the simulcast network and industry in general. The simulcasting of greyhound races gives our patrons more variety, but it still represents the same parimutuel wagering game we currently have in Montana with horse racing.

(3) By combining phone lines and totalisator equipment, Montana Simulcast Partners would be able to offer the greyhound simulcasting at a much lower cost per site than for the horses and thereby, generate more dollars for the live horse racing industry.

Conclusion

With the ability to offer a greater variety of products at possibly more convenient times day or evening, Montana Simulcast Partners will be able to create additional revenues for the live horse racing industry in Montana. We ask for your support of Senate Bill #19, in an effort to keep this valuable Montana industry.

Tom Tucker, Manager
Montana Simulcast Partners

EXHIBIT 14
DATE 3-3-95
~~HB~~ SB 19

WESTERN MONTANA FAIR BOARD
MISSOULA, MONTANA

BILL NOONEY

Fair Board Member/Western Montana Fair in Missoula for over 30 years. About half of that time I have also raised and owned horses. As a fair board member, I represent the Western Montana Fair on the Montana Simulcast Partners Board of Directors (MSP).

As indicated prior, the live race meets in Montana, mostly county fairs started funded and operate MSP which is regulated by the by the Montana Board of Horse Racing. Each race meet has one member representing it on the MSP Board of Directors.

With the introduction of video gaming and lotteries into the state of Montana, wagering on horse racing declined approximately 50 percent in the mid-80's. Because of this, state law was changed so that the industry could use simulcasting to supplement income to the industry. Without the funds from simulcasting to help supplement live race purses and awards, many fair-operated tracks would be forced to close.

At the Western Montana Fair, racing during our fair is not only part of our heritage, but contributes to the financial success of our fair. Racing is a part of our total entertainment package; i.e., racing, rodeo, carnival, night shows, horse shows, agricultural exhibits, 4-H, FFA and all other exhibits and

displays. Racing allows us to bring people to our fairgrounds to help support all of our non-profit food booths and so all exhibits will get the traffic they deserve. We have a down home family oriented and educational county fair at Missoula and we want to keep it that way as long as possible. Live racing is critical to the ongoing success of our fair and we need it.

To conduct a successful race meet you need horses and handle (wagering). Good purses will bring good horses. We in Missoula have the crowds willing to wager on a good horse race. Without good purses, horse owners and trainers go elsewhere. This is a business for them, they too have to pay their bills. They cannot do that unless the purses are adequate.

The contributions to purses and horsemen awards by MSP has helped keep the live racing industry in Montana viable. But the fairs, the tracks, and the horsemen continue to face increasing costs. We need to continue to improve on our purse structure. The most efficient way is to offer greyhound racing to our simulcast package. Presently, we could simulcast horse racing seven days per week, 24 hours a day if we wished. We do not want to do that; we only want to add more excitement and variety to our existing package.

As in live racing, all simulcast betting operates under state law and the rules and regulations as set down by the Montana Board of Horse Racing.

We need to be able to compete for the entertainment dollar with video gaming and the various lotteries and scratch tickets. Video gaming changes its variety of video gaming. The scratch tickets change their games regularly; asking for greyhound simulcasting is no different than the state adding Tri-West Lotto.

Same game, different name.

As indicated prior, this bill does not allow for live greyhound racing, it is simulcast wagering only. All moneys generated by MSP other than direct cost of operation are returned to the industry and the local counties. We need to preserve this agricultural industry and its heritage.

Again, as was previously stated, we know of no one in the industry who does not support this bill. All of the fairs that conduct live racing and those that now have simulcast sites in their counties and the multitude of fans who enjoy horses and racing, ask for your support of Senate Bill #19.

We thank you in advance for your coopertion and favorable consideration.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor

DATE 3-3-95

BILL NO. SB 19

SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Allen Shumate 730 Flowerree Helena	Self-Owner-Breeder	<u>Veru Sharp</u>	
Don Benton	Mt. Horse Breeder	✓	
Grant Veidt	Northwest MT Fair Racing	✓	
ELLEN ENGSTADT	DON'T GAMBLE WITH THE PEOPLE		✓
MAXINE PETERSON	Mt. Horse Racing	✓	
Bill KOSKI	MT Bettors		
Ralph Peterson	Mt Horse Racing	x	
Ellen Dennis	Mt. Horse Racing	✓	
Dave Dennis	Self	✓	
Al Baker	mt. HBPA	✓	
RAY CLARK	MARIAS FAIR	✓	
SAM YENUSIAK	WESTERN MT. FAIR	✓	
HARLEY WARNER	MONTE ASSOC OF CHURCHES		✓

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HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor

DATE 3-3-95

BILL NO. 19

SPONSOR(S) _____

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PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Bill Brown	MHPA & MHBPA	✓	
Tom Tuckey	MT. Simulcast Partners	✓	
Scott Shervish	MT. State Fair Race meet	✓	
Cheryl Allen	Self	✓	

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HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business + Labor

DATE 3-3-95

BILL NO. 19 SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
<i>Don L. Hall</i>	<i>self</i>	<input checked="" type="checkbox"/>	
<i>Alvin Elton Jr</i>	<i>self</i>	<input checked="" type="checkbox"/>	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor

DATE 3-3-95

BILL NO. SB22

SPONSOR(S) _____

PLEASE PRINT

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PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Dave Dennis	Self	✓	
Bill Dennis	"	✓	
Al Hobe	MT. HBPA	✓	
LAY CLARK	MARIAS FAIR	✓	
Janet Veidt	NW MT FAIR - Racing	✓	
MAXINE PETERSON	MT. HORSE RACING	X	
Ralph Peterson	Nt Horse Racing	X	
Bill Brown	HBPA & MABA	X	
Alvin Hunter	Self	X	
Don Bentz	MT Horse Breeds	X	
SATU MALRETT	MONT Bd. of Horseracing	X	
SAM YEWOSIAK	WEST. MT. FAIR - MSLA	X	
Cheryl Blum	Self		

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HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor

DATE 3/3/95

BILL NO. SB 22 SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
<u>Lori Stewart</u>	<u>self</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Don L. Hall</u>	<u>self</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor

DATE 3-3-95

BILL NO. SB 177 SPONSOR(S) _____

PLEASE PRINT

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PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Marjorie Denmark	Am. Soc. Inscr.	✓	
Hanya Blk	Blue Cross Bly. Shield	✓	
Frank Cote	St. Audette	✓	
John Flink	MT Hosp. Assn	✓	
Tom Hopgood	HLH Ins. Assn. America	✓	
Alvin Ellis	Self	—	

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HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor

DATE 3-3-95

BILL NO. SB 216 SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Roger McBlenn	IIA M	✓	
Larry Akey	MAU	✓	
Steve Turkiewicz	Ut Auto Dealers Assn	✓	
Frank Cote	St. Anthony	✓	
Susan Good	W. H. H.		
Nikki Korney	PIA	✓	

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HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor

DATE 3-3-95

BILL NO. SB228 SPONSOR(S) _____

PLEASE PRINT

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PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Jacqueline Denmark	Am. Ins. Assoc.		✓
FRANK Cote	ST. AUGUSTINE	✓	
Debbie Bernby	PTA		✓
Greg Van Horssen	St. Farm		✓

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HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor

DATE 3-3-95

BILL NO. SB238 SPONSOR(S) _____

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
G. BRUCE MORRIS	MONTANA CARPENTERS UNION	✓	
ROD SWINSTEAD	MONTANA UNIVERSITY SYSTEM	X	

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HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business + Labor

DATE 3-3-95

BILL NO. SB242 SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Dave Dennis	Horse Racing	✓	
Ellen Dennis	"	✓	
Alfred G. G. G.	MT. HBPA	✓	
MAXINE PETERSON	MT. HORSE RACING	✓	
Ralph Peterson	MT HORSE RACING	✓	
PEGGY BUFFINGTON	SELF		✓
Bill Brown	HBPA + MHBA	✓	
Ally White	Self	✓	
Wojciechowski	MT. Bd Horse Racing		✓
John L. L.	" Horse Racing	✓	
AL BELL	SELF - MHBA	✓	
Doug Allen	SELF	✓	
Cheryl Allen	SELF	✓	

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HOUSE OF REPRESENTATIVES
VISITORS REGISTER

House Bus. & Labor

DATE 3/01/95

BILL NO. HB 554 SPONSOR(S) REP. HARPER

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
ELLEN EUGSTEN	DON'T GAMBLE W/ THE FUTURE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
WE SUPPORT HB 554 BECAUSE IT			
WOULD PROVIDE MONTANANS WITH			
RECREATIONAL OPPORTUNITIES IN			
ESTABLISHMENTS WITHOUT GAMBLING			
MACHINES PRESENT.			

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor

DATE 3-3-95

BILL NO. 342 SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
<i>Lari Stewart</i>	<i>self</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Joyce Bell</i>	<i>ME P.F.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Don L. Hall</i>	<i>SDP</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>SAM YEWOSIAK</i>	<i>ONLY SELF</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.