

HOUSE BILL NO. 853

INTRODUCED BY MILLER, GAGE, ASAY,  
HANSON, HEMSTAD, R. MANNING, ABRAMS,  
PHILLIPS, MCCORMICK, O'CONNELL, NISBET,  
DOZIER, FABREGA, BERGENE, SPAETH

IN THE HOUSE

February 15, 1983	Introduced and referred to Committee on Business and Industry.
February 18, 1983	Committee recommend bill do pass as amended. Report adopted.  Statement of Intent attached.
February 21, 1983	Bill printed and placed on members' desks.
February 22, 1983	Second reading, do pass as amended.
February 23, 1983	Correctly engrossed.  Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 1, 1983	Introduced and referred to Committee on Business and Industry.
March 19, 1983	Committee recommended bill be concurring in as amended. Report adopted.
March 22, 1983	Second reading, pass consideration.  On motion, taken from second reading and rereferred to Committee on Business and Industry.

March 24, 1983

Committee recommend bill be  
concurrent in as amended.  
Report adopted.

March 26, 1983

Second reading, concurrent in.

March 28, 1983

Third reading, concurrent in.  
Ayes, 47; Noes, 0.

#### IN THE HOUSE

March 28, 1983

Returned to House with  
amendments and Statement of  
Intent as amended.

April 4, 1983

Second reading, amendments and  
Statement of Intent amendments  
concurrent in.

April 5, 1983

Third reading, amendments and  
Statement of Intent amendments  
concurrent in.

Sent to enrolling.

Reported correctly enrolled.

1 *Speed* ~~House~~ BILL NO. 853  
 2 INTRODUCED BY *Wally Dyer (Way M. Hanson)*  
 3 *Ernest Manning* *Charles Phillips* *McLennan*  
 4 *Connelly* *Nash* *Doy* *Ernest* *Ernest*  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE  
 6 BOARD OF HORSERACING UNDER EXISTING STATUTORY AUTHORITY AND  
 7 RULES; CHANGING THE COMPOSITION OF THE BOARD; PROVIDING FOR  
 8 AN EXECUTIVE SECRETARY TO THE BOARD AND DEFINING HIS DUTIES;  
 9 REQUIRING THE BOARD TO ESTABLISH A FUND FOR RECOGNITION OF  
 10 MONTANA-BRED HORSES; REVISING AND CLARIFYING PROVISIONS  
 11 RELATING TO HORSERACING; AMENDING SECTIONS 2-8-103,  
 12 2-15-1881, 23-4-101, 23-4-104, 23-4-105, 23-4-201, 23-4-202,  
 13 23-4-204, 23-4-301, 23-4-302, 23-4-304, AND 23-4-305, MCA;  
 14 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 16 NEW SECTION. Section 1. Reestablishment. The board of  
 17 horseracing created pursuant to 2-15-1881 is reestablished  
 18 with its existing statutory authority and rules for 6 years  
 19 pursuant to 2-8-122.  
 20 Section 2. Section 2-8-103, MCA, is amended to read:  
 21 "2-8-103. Agencies to terminate. (1) The following  
 22 agencies shall terminate on July 1, 1979:  
 23 (a) board of abstracters, department of professional  
 24 and occupational licensing, created by 2-15-1643;  
 25 (b) board of real estate, department of professional

1 and occupational licensing, created by 2-15-1642;  
 2 (c) state board of warm air heating, ventilation, and  
 3 air conditioning, department of professional and  
 4 occupational licensing, created by 2-15-1656;  
 5 (d) board of institutions, department of institutions,  
 6 created by 2-15-2303.  
 7 (2) The following agencies shall terminate on July 1,  
 8 1981:  
 9 (a) board of athletics, department of professional and  
 10 occupational licensing, created by 2-15-1661;  
 11 (b) board of massage therapists, department of  
 12 professional and occupational licensing, created by  
 13 2-15-1627;  
 14 (c) board of osteopathic physicians, department of  
 15 professional and occupational licensing, created by  
 16 2-15-1607;  
 17 (d) board of podiatry examiners, department of  
 18 professional and occupational licensing, created by  
 19 2-15-1608;  
 20 (3) The following units of state government shall  
 21 terminate on July 1, 1983:  
 22 (a) board of aeronautics, department of commerce,  
 23 created by 2-15-1812;  
 24 (b) state board of hail insurance, department of  
 25 agriculture, created by 2-15-3003;

1       ~~(c) -- board -- of -- horse racing -- department -- of -- commerce --~~  
 2       ~~created by 2-15-1881;~~  
 3       ~~(d)(1)~~ board of livestock, department of livestock,  
 4       created by 2-15-3102;  
 5       ~~(e)(1)~~ board of milk control, department of commerce,  
 6       created by 2-15-1802;  
 7       ~~(f)(1)~~ board of oil and gas conservation, department  
 8       of natural resources and conservation, created by 2-15-3303;  
 9       ~~(g)(1)~~ Montana outfitters' council, department of  
 10      fish, wildlife, and parks, created by 2-15-3403;  
 11      ~~(h)(1)~~ public service commission, department of public  
 12      service regulation, created by 69-1-102;  
 13      ~~(i)(1)~~ board of water and wastewater operators,  
 14      department of health and environmental sciences, created by  
 15      2-15-2105;  
 16      ~~(j)(1)~~ board of water well contractors, department of  
 17      commerce, created by 2-15-1862.  
 18      (+) The following agencies terminate on July 1, 1985:  
 19      (a) the board of public accountants, department of  
 20      commerce, created by 2-15-1866;  
 21      (b) the board of architects, department of commerce,  
 22      created by 2-15-1871;  
 23      (c) state banking board, department of commerce,  
 24      created by 2-15-1803;  
 25      (d) the state electrical board, department of

1      commerce, created by 2-15-1874;  
 2      (e) the board of professional engineers and land  
 3      surveyors, department of commerce, created by 2-15-1873;  
 4      (f) office of commissioner of insurance and the  
 5      insurance department, state auditor's office, created by  
 6      2-15-1902 and 2-15-1903;  
 7      (g) office of the securities commissioner, state  
 8      auditor's office, created by 2-15-1901;  
 9      (h) the board of landscape architects, department of  
 10     commerce, created by 2-15-1872;  
 11     (i) the board of county printing, department of  
 12     commerce, created by 2-15-1811;  
 13     (j) the board of plumbers, department of commerce,  
 14     created by 2-15-1875;  
 15     (k) board of physical therapy examiners, department of  
 16     commerce, created by 2-15-1858.  
 17     (5) The following agencies terminate on July 1, 1987:  
 18     (a) commission for human rights, department of labor  
 19     and industry, created by 2-15-1706;  
 20     (b) Montana state board of medical examiners,  
 21     department of commerce, created by 2-15-1841;  
 22     (c) board of dentistry, department of commerce,  
 23     created by 2-15-1842;  
 24     (d) board of pharmacists, department of commerce,  
 25     created by 2-15-1843;

1 (e) board of nursing, department of commerce, created  
2 by 2-15-1844;

3 (f) board of nursing home administrators, department  
4 of commerce, created by 2-15-1845;

5 (g) board of optometrists, department of commerce,  
6 created by 2-15-1846;

7 (h) board of chiropractors, department of commerce,  
8 created by 2-15-1847;

9 (i) board of radiologic technologists, department of  
10 commerce, created by 2-15-1848;

11 (j) board of speech pathologists and audiologists,  
12 department of commerce, created by 2-15-1849;

13 (k) board of hearing aid dispensers, department of  
14 commerce, created by 2-15-1850;

15 (l) board of psychologists, department of commerce,  
16 created by 2-15-1851;

17 (m) board of veterinarians, department of commerce,  
18 created by 2-15-1852;

19 (n) board of morticians, department of commerce,  
20 created by 2-15-1853;

21 (o) board of barbers, department of commerce, created  
22 by 2-15-1856;

23 (p) board of cosmetologists, department of commerce,  
24 created by 2-15-1857;

25 (q) board of sanitarians, department of commerce,

1 created by 2-15-1861;

2 (r) board of veterans' affairs, department of social  
3 and rehabilitation services, created by 2-15-2202.

4 ~~(6) The following agency terminates July 1, 1989:~~  
5 ~~board of horseracing, department of commerce, created by~~  
6 ~~2-15-1881."~~

7 Section 3. Section 2-15-1881, MCA, is amended to read:  
8 "2-15-1881. Board of horseracing. (1) There is a board  
9 of horseracing.

10 (2) The board consists of five members appointed by  
11 the governor with the consent of the senate, who shall be  
12 citizens, residents, and qualified electors of this state.  
13 ~~At least one member shall be a breeder of racing horses; one~~  
14 ~~member shall be a member of an independent horseracing~~  
15 ~~association; one member shall be a member of a county fair~~  
16 ~~board that conducts a fair featuring parimutuel betting; and~~  
17 ~~two members shall have occupations unrelated to horseracing~~  
18 ~~No person holding a financial interest in a racetrack or~~  
19 ~~race meet, member of a county fair board, or owner, trainer,~~  
20 ~~or breeder of a racehorse is eligible for membership on the~~  
21 ~~board.~~

22 (3) ~~The governor shall not appoint any member who~~  
23 ~~resides in the same county as a current member.~~ The governor  
24 shall appoint members on the basis of experience and  
25 qualifications, and a reasonable geographical balance

1 throughout--the-state, one member from each of the following  
2 districts:

3 (a) first district, consisting of Blaine, Carter,  
4 Custer, Daniels, Dawson, Fallon, Garfield, McCone, Phillips,  
5 Powder River, Prairie, Richland, Rosebud, Roosevelt,  
6 Sheridan, Treasure Valley, and Wibaux Counties;

7 (b) second district, consisting of Big Horn, Carbon,  
8 Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum,  
9 Sweet Grass, Stillwater, Wheatland, and Yellowstone  
10 Counties;

11 (c) third district, consisting of Cascade, Chouteau,  
12 Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties;

13 (d) fourth district, consisting of Beaverhead,  
14 Broadwater, Deer Lodge, Gallatin, Jefferson, Lewis and  
15 Clark, Madison, Meagher, Park, and Silver Bow Counties; and

16 (e) fifth district, consisting of Flathead, Granite,  
17 Lake, Lincoln, Missoula, Mineral, Powell, Ravalli, and  
18 Sanders Counties.

19 (4) Each member shall serve for a staggered term of 3  
20 years. A member may be removed from office by the governor  
21 only for cause.

22 (5) A board member may succeed himself upon  
23 reappointment by the governor. A vacancy on the board must  
24 be filled for the unexpired term by appointment by the  
25 governor, with the consent of the senate, as provided in

1 this section.

2 ~~(5)(6)~~ The board is allocated to the department for  
3 administrative purposes only as prescribed in 2-15-121."

4 Section 4. Section 23-4-101, MCA, is amended to read:  
5 "23-4-101. Definitions. Unless the context requires  
6 otherwise, in this chapter, the following definitions apply:

7 (1) "Board" means the board of horseracing provided  
8 for in 2-15-1881.

9 (2) "Department" means the department of commerce  
10 provided for in Title 2, chapter 15, part 18.

11 (3) "Immediate family" means the spouse, parents,  
12 children, grandchildren, brothers, or sisters of an official  
13 or licensee regulated by this chapter and all other persons  
14 who have a permanent or continuous residence in the  
15 household of the official or licensee.

16 (4) "Minor" means a person under 18 years of age.

17 ~~(3)(5)~~ "Persons" means individuals, firms,  
18 corporations, local government units, and associations.

19 ~~(4)(6)~~ "Race meet" means ~~an exhibition of~~  
20 ~~thoroughbred, purebred, or racing of~~ registered horseracing  
21 horses where the pari-mutuel system of wagering is used.

22 (7) "Steward" means an official appointed by the board  
23 and by persons sponsoring a race meet to regulate and  
24 control the day-to-day conduct and operation of a sanctioned  
25 meet."

1 Section 5. Section 23-4-104, MCA, is amended to read:  
 2 "23-4-104. Duties of board. The board shall adopt  
 3 rules to govern race meets and the parimutuel system. These  
 4 rules shall include the following:

- 5 (1) definitions;
- 6 (2) auditing;
- 7 (3) supervision of the parimutuel system;
- 8 (4) corrupt practices;
- 9 (5) supervision, duties, and responsibilities of the  
 10 ~~executive secretary~~, presiding steward, racing secretary,  
 11 and other racing officials;
- 12 (6) licensing of all personnel who have anything to do  
 13 with the substantive operation of racing;
- 14 (7) the establishment of dates for race meets and  
 15 meetings in the best interests of breeding and racing in  
 16 this state; and
- 17 (8) the veterinary practices and standards which must  
 18 be observed in connection with race meets;
- 19 ~~(9) absolute responsibility of trainers for the~~  
 20 ~~condition of horses, regardless of the acts of third~~  
 21 ~~parties;~~
- 22 ~~(10) licensing or renewal of a license of a person~~  
 23 ~~whose license has been suspended by the board, or another~~  
 24 ~~horseracing jurisdiction; and~~
- 25 ~~(11) setting license fees commensurate with the cost of~~

1 ~~issuing a license."~~

2 Section 6. Section 23-4-105, MCA, is amended to read:  
 3 "23-4-105. Authority of board. The board shall,  
 4 subject to 37-1-101 and 37-1-121, license and regulate  
 5 horseracing and supervise ~~review~~ race meets held in this  
 6 state under this chapter ~~and shall have the places where~~  
 7 ~~race meets are held visited and inspected at least once a~~  
 8 ~~year."~~

9 **NEW SECTION.** Section 7. Executive secretary -- powers  
 10 and duties -- staff -- prohibition on racing activities. (1)  
 11 The department shall appoint an executive secretary for the  
 12 board.

13 (2) The executive secretary, in accordance with rules  
 14 adopted by the board and provisions of this chapter, shall:

- 15 (a) supervise race meets and activities of racing  
 16 officials;
- 17 (b) hire all state racing officials;
- 18 (c) inspect race facilities; and
- 19 (d) perform other duties as directed by the board.

20 (3) The executive secretary may, subject to the  
 21 approval of the board, hire staff to assist him in  
 22 performing his duties.

23 (4) The executive secretary, a member of his staff,  
 24 and any member of the executive secretary's or a staff  
 25 member's immediate family are prohibited from owning,

1 training, or having any interest in a racehorse running on a  
2 Montana track or having any financial interest in any  
3 Montana racing association.

4 Section 8. Section 23-4-201, MCA, is amended to read:

5 "23-4-201. Licenses. (1) It is unlawful for a person  
6 to hold a race meet in this state without a valid license  
7 issued by the department under this chapter. A person  
8 applying for a license to hold a race meet under this  
9 chapter shall file an application with the department which  
10 shall set forth the time, place, and number of days the  
11 license will continue and other information the board  
12 requires.

13 (2) A person who participates in a race meet shall be  
14 licensed and charged an annual fee ~~not to exceed \$15 set by~~  
15 ~~the board,~~ which shall be paid to the department and used  
16 for expenses of ~~the board administering this chapter,~~  
17 subject to 37-1-101(6). Each person holding a license under  
18 this chapter ~~and every owner, trainer, jockey, and attendant~~  
19 at a racecourse in this state shall comply with this chapter  
20 and with the rules adopted and orders issued by the board.

21 (3) ~~A person who has been convicted of a crime~~  
22 ~~involving moral turpitude may not be issued a license of any~~  
23 ~~kind nor may a~~ No license may be issued to a person who has  
24 ~~violated this chapter or the rules of the board or~~ who has  
25 failed to pay the fees, taxes, or moneys required under this

1 chapter.

2 (4) Applications to hold race meets shall be submitted  
3 to the department, and the board shall act on the  
4 applications within 30 days. The board is the sole judge of  
5 whether the race meet may be licensed and the number of days  
6 the meet may continue.

7 (5) The board shall require that a fair board ~~and an~~  
8 ~~independent racing association~~ conducting race meets ~~in~~  
9 ~~conjunction with its regularly scheduled fair shall~~ meet the  
10 requirements of the rules adopted by the board before  
11 granting a license.

12 (6) An unexpired license held by a person who violates  
13 this chapter or who fails to pay to the department the sums  
14 required under this chapter is subject to cancellation and  
15 revocation by the board."

16 Section 9. Section 23-4-202, MCA, is amended to read:

17 "23-4-202. Penalty for violations of law -- authority  
18 of board -- ~~judicial review.~~ (1) A person holding a race  
19 meet, an owner, trainer, or jockey participating in a race  
20 meet, without first being licensed under this chapter, and a  
21 person violating this chapter is guilty of a misdemeanor.

22 (2) The board ~~or, upon the board's authorization, the~~  
23 ~~board of stewards of a race meet at which they officiate~~ may  
24 exclude from racecourses in this state a person whom the  
25 board considers detrimental to the best interest of racing



as defined by rules of the board.

(3) ~~The as its own formal act or through an act of a board of stewards of a race meet;~~ the board may suspend or revoke any license issued by the department to a licensee and assess a fine, not to exceed \$500 \$1,000, against a licensee who violates any of the provisions of this chapter or any rule or order of the board. In addition to the suspension or revocation and fine, the board may forbid application for relicensure for a 2-year period.

(4) The board shall promulgate rules implementing this chapter, including the right to a hearing for individuals against whom action is taken or proposed herein. ~~The rules may include provisions for the following:~~

~~(a) summary imposition of penalty by the stewards of a race meet, including a fine and license suspension, subject to review under the contested case provisions of the Montana Administrative Procedure Act;~~

~~(b) stay of summary imposition of penalty by either the board or board of stewards;~~

~~(c) retention of purses pending final disposition of complaints, protests, or appeals of stewards' rulings;~~

~~(d) requirement of bonds in amounts commensurate with the costs of processing protests and complaints, returnable to successful protesters and complainants; and~~

~~(e) assessment of penalty and interest on the late~~

~~payment of fines, which must be paid before licenses are reinstated.~~

~~(5) The district court of the first judicial district of the state has exclusive jurisdiction for judicial review of cases arising under this chapter."~~

Section 10. Section 23-4-204, MCA, is amended to read:

"23-4-204. Race exclusively for Montana-bred horses -- bonus for winner. (1) For the purpose of encouraging the breeding in this state of valuable thoroughbred, purebred, quarter-horse, appaloose, or registered horses, at least one race each day at each race meet shall be limited to horses bred in this state ~~unless, in the board's judgment, there is an insufficient number of Montana-bred horses for such a race.~~ If in the opinion of the board sufficient competition cannot be had among this class of horses, the race may be eliminated for the day and a substitute race provided instead.

(2) A sum equal to 10% of the first money of every purse won by a horse bred in this state shall be paid by the licensee conducting the race meet to the breeder of the horse. Only the money contributed by the licensee conducting the race meet may be considered in computing the bonus."

Section 11. Section 23-4-301, MCA, is amended to read:

"23-4-301. Parimutuel betting -- other betting illegal. (1) It is unlawful to make, report, record, or

1 register a bet or wager on the result of a contest of speed,  
2 skill, or endurance of an animal, whether the contest is  
3 held within or outside of this state, except under this  
4 chapter.

5 (2) A licensee conducting a race meet under this  
6 chapter may provide a place in the race meet grounds or  
7 enclosure where the licensee may conduct or supervise the  
8 use of the parimutuel system by patrons on the result of the  
9 races conducted by--the--licensee-at-the-race-meet--if-the  
10 parimutuel-system-is-conducted under this chapter and the  
11 rules of the board.

12 (3) It is unlawful to conduct pool selling,  
13 bookmaking, or to circulate handbooks or to bet or wager on  
14 a race of a licensed race meet, other than by the parimutuel  
15 system and--in-the-race-meet-grounds-or-enclosure-where-the  
16 race-is-held, or to permit a minor to use the parimutuel  
17 system."

18 Section 12. Section 23-4-302, MCA, is amended to read:

19 "23-4-302. Distribution of deposits -- breakage. Each  
20 licensee conducting the parimutuel system shall distribute  
21 all sums deposited in any pool to the winner thereof, less  
22 an amount which shall not exceed 20% 21% of the total  
23 deposits plus the odd cents of all redistribution to be  
24 based on each dollar deposited exceeding a sum equal to the  
25 next lowest multiple of 10, known as "breakage".

1 Section 13. Section 23-4-304, MCA, is amended to read:

2 "23-4-304. Gross receipts -- department's percentage  
3 -- collection and allocation. (1) The licensee shall pay to  
4 the department 1% of the gross receipts of each day's  
5 parimutuel betting at each race meet, which sums shall be  
6 paid to the department within 5 days after receipt by the  
7 licensee. At the end of each race meet the licensee shall  
8 prepare a report to the department showing the amount of the  
9 overpayments and underpayments. If the report shows the  
10 underpayments to be in excess of the overpayments, the  
11 balance shall be paid to the department. Money paid to the  
12 department may be used for the expenses incurred in carrying  
13 out this chapter.

14 (2) In addition to the sums paid under subsection (1),  
15 each licensee shall pay to the department 1% of the gross  
16 receipts of each day's parimutuel betting at each race meet  
17 for allocation as an owner's award under subsection (3).  
18 These sums must be paid to the department the same day as  
19 received.

20 (3) At the end of the racing season, sums collected  
21 under subsection (2) must be distributed by the department  
22 to the licensed owners of those Montana-bred horses  
23 finishing in the money at the meet from which the sums  
24 derived. The owner's award must be calculated as follows:  
25 (a) divide the total amount collected from the 1% levy

1 ~~by the total amount won by Montana-bred horses;~~  
 2 ~~(b) multiply the quotient derived under subsection~~  
 3 ~~(3)(a) by the total amount of money won by each owner's~~  
 4 ~~Montana-bred horses;~~

5 ~~(4) For purposes of the owner's award under subsection~~  
 6 ~~(3), "owner" means the individual, partnership, corporation,~~  
 7 ~~person, or other entity that owns the horse at the time of~~  
 8 ~~entry.~~

9 ~~(5) Licensees may not consider the sums available~~  
 10 ~~under subsection (2) when establishing purses."~~

11 Section 14. Section 23-4-305, MCA, is amended to read:

12 "23-4-305. Deposit of unclaimed money. Each licensee  
 13 holding a horse race meeting ~~must~~ shall, within 30 days of  
 14 the end of the meeting ~~pay to the department for deposit in~~  
 15 ~~the earmarked revenue fund for the board of horse racing all~~  
 16 ~~unclaimed winning ticket money from any meet, report to the~~  
 17 ~~board the total face value of all unclaimed winning tickets~~  
 18 ~~from each pari-mutuel pool. The money from unclaimed winning~~  
 19 ~~tickets must be retained by the licensee for capital~~  
 20 ~~improvement approved by the board."~~

21 NEW SECTION. Section 15. Appointment of board members  
 22 -- terms. (1) Within 30 days after [the effective date of  
 23 this act], the governor shall appoint members to the board  
 24 in compliance with 2-15-1801, as amended by [this act].

25 (2) One member shall serve a 1-year term, two members

1 shall serve 2-year terms, and two members shall serve 3-year  
 2 terms. Each successor to such a member shall serve a 3-year  
 3 term.

4 NEW SECTION. Section 16. Codification instruction.  
 5 Section 7 is intended to be codified as an integral part of  
 6 Title 23, chapter 4, and the provisions of Title 23, chapter  
 7 4, apply to section 7.

8 NEW SECTION. Section 17. Effective date. This act is  
 9 effective on passage and approval.

-End-

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 853

## 3 House Business and Industry Committee

4

5 A statement of intent is required for this bill because  
6 it expands the existing rulemaking authority of the Board of  
7 Horseracing granted under a previous act.

8 It is contemplated that the rules shall address the  
9 following:

10 1. absolute responsibility of trainers for the  
11 condition of horses, regardless of the acts of third  
12 parties;

13 2. refusal to license persons whose licenses have been  
14 suspended or revoked by another horse racing jurisdiction;

15 3. exclusion from race courses in this state persons  
16 considered detrimental to the best interests of racing;

17 4. standards to be applied in determining conditions  
18 under which a license may be renewed if it has been  
19 suspended;

20 5. summary ruling during race meets by stewards, stay  
21 of imposition of summary penalties, and assessment of  
22 interest and penalty on late payment of fines; and

23 6. retention of purses pending final disposition of  
24 complaints, protests or appeals; allowing and regulating  
25 exotic wagering; and providing for the disposition of the 2%

1 wagering share allocation under 23-4-202(4)(d) and for the  
2 other purposes specified.

Approved by Committee  
on Business and Industry

## HOUSE BILL NO. 853

INTRODUCED BY MILLER, GAGE, ASAY,

HANSON, HEMSTAD, R. MANNING, ABRAMS,

PHILLIPS, MCCORMICK, O'CONNELL, NISBET,

DOZIER, FABREGA, BERGENE, SPAETH

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE BOARD OF HORSERACING UNDER EXISTING STATUTORY AUTHORITY AND RULES; CHANGING THE COMPOSITION OF THE BOARD; PROVIDING FOR AN EXECUTIVE SECRETARY TO THE BOARD AND DEFINING HIS DUTIES; REQUIRING THE BOARD TO ESTABLISH A FUND FOR RECOGNITION OF MONTANA-BRED HORSES; REVISING AND CLARIFYING PROVISIONS RELATING TO HORSERACING; AMENDING SECTIONS 2-8-103, 2-15-1881, 23-4-101, 23-4-104, 23-4-105, 23-4-201, 23-4-202, 23-4-204, 23-4-301, 23-4-302, 23-4-304, AND 23-4-305, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Reestablishment. The board of horseracing created pursuant to 2-15-1881 is reestablished with its existing statutory authority and rules for 6 years pursuant to 2-8-122.

Section 2. Section 2-8-103, MCA, is amended to read:

"2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979:

(a) board of abstracters, department of professional and occupational licensing, created by 2-15-1643;

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(c) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions, created by 2-15-2303.

(2) The following agencies shall terminate on July 1, 1981:

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(c) board of osteopathic physicians, department of professional and occupational licensing, created by 2-15-1607;

(d) board of podiatry examiners, department of professional and occupational licensing, created by 2-15-1608<sup>1</sup>;

(3) The following units of state government shall terminate on July 1, 1983:

(a) board of aeronautics, department of commerce,

1 created by 2-15-1812;  
 2 (b) state board of hail insurance, department of  
 3 agriculture, created by 2-15-3003;  
 4 ~~{e}--board--of--horseracing--department--of--commerce~~  
 5 ~~created-by-2-15-1881;~~  
 6 {d}{1c} board of livestock, department of livestock,  
 7 created by 2-15-3102;  
 8 {e}{1d} board of milk control, department of commerce,  
 9 created by 2-15-1802;  
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 11 of natural resources and conservation, created by 2-15-3303;  
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 15 service regulation, created by 69-1-102;  
 16 {i}{1h} board of water and wastewater operators,  
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 19 {j}{1i} board of water well contractors, department of  
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 21 (4) The following agencies terminate on July 1, 1985:  
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 25 created by 2-15-1871;

1 (c) state banking board, department of commerce,  
 2 created by 2-15-1803;  
 3 (d) the state electrical board, department of  
 4 commerce, created by 2-15-1874;  
 5 (e) the board of professional engineers and land  
 6 surveyors, department of commerce, created by 2-15-1873;  
 7 (f) office of commissioner of insurance and the  
 8 insurance department, state auditor's office, created by  
 9 2-15-1902 and 2-15-1903;  
 10 (g) office of the securities commissioner, state  
 11 auditor's office, created by 2-15-1901;  
 12 (h) the board of landscape architects, department of  
 13 commerce, created by 2-15-1872;  
 14 (i) the board of county printing, department of  
 15 commerce, created by 2-15-1811;  
 16 (j) the board of plumbers, department of commerce,  
 17 created by 2-15-1875;  
 18 (k) board of physical therapy examiners, department of  
 19 commerce, created by 2-15-1858.  
 20 (5) The following agencies terminate on July 1, 1987:  
 21 (a) commission for human rights, department of labor  
 22 and industry, created by 2-15-1706;  
 23 (b) Montana state board of medical examiners,  
 24 department of commerce, created by 2-15-1841;  
 25 (c) board of dentistry, department of commerce,

1 created by 2-15-1842;  
 2 (d) board of pharmacists, department of commerce,  
 3 created by 2-15-1843;  
 4 (e) board of nursing, department of commerce, created  
 5 by 2-15-1844;  
 6 (f) board of nursing home administrators, department  
 7 of commerce, created by 2-15-1845;  
 8 (g) board of optometrists, department of commerce,  
 9 created by 2-15-1846;  
 10 (h) board of chiropractors, department of commerce,  
 11 created by 2-15-1847;  
 12 (i) board of radiologic technologists, department of  
 13 commerce, created by 2-15-1848;  
 14 (j) board of speech pathologists and audiologists,  
 15 department of commerce, created by 2-15-1849;  
 16 (k) board of hearing aid dispensers, department of  
 17 commerce, created by 2-15-1850;  
 18 (l) board of psychologists, department of commerce,  
 19 created by 2-15-1851;  
 20 (m) board of veterinarians, department of commerce,  
 21 created by 2-15-1852;  
 22 (n) board of morticians, department of commerce,  
 23 created by 2-15-1853;  
 24 (o) board of barbers, department of commerce, created  
 25 by 2-15-1856;

1 (p) board of cosmetologists, department of commerce,  
 2 created by 2-15-1857;  
 3 (q) board of sanitarians, department of commerce,  
 4 created by 2-15-1861;  
 5 (r) board of veterans' affairs, department of social  
 6 and rehabilitation services, created by 2-15-2202.  
 7 (6) The following agency terminates July 1, 1989:  
 8 board of horseracing, department of commerce, created by  
 9 2-15-1881."  
 10 Section 3. Section 2-15-1881, MCA, is amended to read:  
 11 "2-15-1881. Board of horseracing. (1) There is a board  
 12 of horseracing.  
 13 (2) The board consists of five members appointed by  
 14 the governor with the consent of the senate, who shall be  
 15 citizens, residents, and qualified electors of this state.  
 16 ~~At least one member shall be a breeder of racing horses, one~~  
 17 ~~member shall be a member of an independent horseracing~~  
 18 ~~association, one member shall be a member of a county fair~~  
 19 ~~board that conducts a fair featuring pari-mutuel betting, and~~  
 20 ~~two members shall have occupations unrelated to horseracing~~  
 21 ~~No person holding a financial interest in a racetrack or~~  
 22 ~~race meet, member of a county fair board, or owner, trainer,~~  
 23 ~~or breeder of a racehorse is eligible for membership on the~~  
 24 ~~board. NO MEMBER OF THE BOARD MAY WAGER ON ANY LICENSED~~  
 25 ~~RACING MEET IN THIS STATE.~~

(3) ~~The governor shall not appoint any member who resides in the same county as a current member.~~ The governor shall appoint members on the basis of experience and qualifications, ~~and a reasonable geographical balance throughout the state.~~ one member from each of the following districts:

(a) first district, consisting of Blaine, Carter, Custer, Daniels, Dawson, Fallon, Garfield, McCone, Phillips, Powder River, Prairie, Richland, Rosebud, Roosevelt, Sheridan, Treasure, Valley, and Wibaux Counties;

(b) second district, consisting of Big Horn, Carbon, Eergus, Golden Valley, Judith Basin, Musselshell, Petroleum, Sweet Grass, Stillwater, Wheatland, and Yellowstone Counties;

(c) third district, consisting of Cascade, Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties;

(d) fourth district, consisting of Beaverhead, Broadwater, Deer Lodge, Gallatin, Jefferson, Lewis and Clark, Madison, Meagher, Park, and Silver Bow Counties; and

(e) fifth district, consisting of Flathead, Granite, Lake, Lincoln, Missoula, Mineral, Powell, Ravalli, and Sanders Counties.

(4) Each member shall serve for a staggered term of 3 years. A member may be removed from office by the governor only for cause.

(5) A board member may succeed himself upon reappointment by the governor. A vacancy on the board must be filled for the unexpired term by appointment by the governor with the consent of the senate as provided in this section.

(5)(6) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

Section 4. Section 23-4-101, MCA, is amended to read:  
"23-4-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Board" means the board of horseracing provided for in 2-15-1881.

(2) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

(3) "Immediate family" means the spouse, parents, children, grandchildren, brothers, or sisters of an official or licensee regulated by this chapter and all other persons who have a permanent or continuous residence in the household of the official or licensee.

(4) "Minor" means a person under 18 years of age.

(3)(5) "Persons" means individuals, firms, corporations, ~~local government units~~ FAIR BOARDS, and associations.

(4)(6) "Race meet" means an ~~exhibition~~ of thoroughbred, purebred, or racing of registered horseracing



horses where the parimutuel system of wagering is used.

~~(7) "Steward" means an official appointed by the board hired by the department and by persons sponsoring a race meet to regulate and control the day-to-day conduct and operation of a sanctioned meet.~~

~~(8) "BOARD OF STEWARDS" MEANS A BOARD COMPOSED OF THREE STEWARDS WHO SUPERVISE RACING MEETS."~~

Section 5. Section 23-4-104, MCA, is amended to read:

"23-4-104. Duties of board. The board shall adopt rules to govern race meets and the parimutuel system. These rules shall include the following:

- (1) definitions;
- (2) auditing;
- (3) supervision of the parimutuel system;
- (4) corrupt practices;
- (5) supervision, duties, and responsibilities of the ~~executive secretary~~, presiding steward, racing secretary, and other racing officials;
- (6) licensing of all personnel who have anything to do with the substantive operation of racing;
- (7) the establishment of dates for race meets and meetings in the best interests of breeding and racing in this state; and
- (8) the veterinary practices and standards which must be observed in connection with race meets;

~~(9) absolute responsibility of trainers for the condition of horses, regardless of the acts of third parties;~~

~~(10) licensing or renewal of a license of a person whose license has been suspended by the board or another horseracing jurisdiction; and~~

~~(11) setting license fees commensurate with the cost of issuing a license."~~

Section 6. Section 23-4-105, MCA, is amended to read:

"23-4-105. Authority of board. The board shall, subject to 37-1-101 and 37-1-121, license and regulate horseracing and supervise ~~review~~ race meets held in this state under this chapter ~~and shall have the places where race meets are held visited and inspected at least once a year."~~

~~NEW SECTION.~~ Section 7. Executive secretary -- powers and duties -- staff -- prohibition on racing activities. (1) The department shall appoint an executive secretary for the board.

(2) The executive secretary, in accordance with rules adopted by the board and provisions of this chapter, shall:

- (a) supervise race meets and activities of racing officials;
- (b) hire all state racing officials;
- (c) inspect race facilities; and

1 (d) perform other duties as directed by the board.  
 2 (3) The executive secretary may, subject to the  
 3 approval of the board, hire staff to assist him in  
 4 performing his duties.

5 (4) The executive secretary, a member of his staff,  
 6 and any member of the executive secretary's or a staff  
 7 member's immediate family are prohibited from owning,  
 8 training, or having any interest in a racehorse running on a  
 9 Montana track or having any financial interest in any  
 10 Montana racing association. ~~NO RACING OFFICIAL HIRED BY THE~~  
 11 ~~DEPARTMENT OR APPROVED BY THE BOARD MAY WAGER AT A RACING~~  
 12 ~~MEET AT WHICH HE PRESIDES.~~

13 Section 8. Section 23-4-201, MCA, is amended to read:

14 "23-4-201. Licenses. (1) It is unlawful for a person  
 15 to hold a race meet in this state without a valid license  
 16 issued by the department under this chapter. A person  
 17 applying for a license to hold a race meet under this  
 18 chapter shall file an application with the department which  
 19 shall set forth the time, place, and number of days the  
 20 license will continue and other information the board  
 21 requires.

22 (2) A person who participates in a race meet shall be  
 23 licensed and charged an annual fee ~~not to exceed \$15 set by~~  
 24 ~~the board~~, which shall be paid to the department and used  
 25 for expenses of ~~the board administering this chapter,~~

1 subject to 37-1-101(6). Each person holding a license under  
 2 this chapter ~~and every owner, trainer, jockey, and attendant~~  
 3 at a racecourse in this state shall comply with this chapter  
 4 and with the rules adopted and orders issued by the board.

5 (3) ~~A person who has been convicted of a crime~~  
 6 ~~involving moral turpitude may not be issued a license of any~~  
 7 ~~kind nor may a~~ No license may be issued to a person who has  
 8 ~~violated this chapter or the rules of the board or~~ who has  
 9 failed to pay the fees, taxes, or moneys required under this  
 10 chapter.

11 (4) Applications to hold race meets shall be submitted  
 12 to the department, and the board shall act on the  
 13 applications within 30 days. The board is the sole judge of  
 14 whether the race meet may be licensed and the number of days  
 15 the meet may continue.

16 (5) The board shall require that a fair board ~~and an~~  
 17 ~~independent racing association~~ conducting race meets in  
 18 ~~conjunction with its regularly scheduled fair shall~~ meet the  
 19 requirements of the rules adopted by the board before  
 20 granting a license.

21 (6) An unexpired license held by a person who violates  
 22 this chapter or who fails to pay to the department the sums  
 23 required under this chapter is subject to cancellation and  
 24 revocation by the board."

25 Section 9. Section 23-4-202, MCA, is amended to read:

"23-4-202. Penalty for violations of law -- authority of board -- judicial review. (1) A person holding a race meet, an owner, trainer, or jockey participating in a race meet, without first being licensed under this chapter, and a person violating this chapter is guilty of a misdemeanor.

(2) The board or, upon the board's authorization, the board of stewards of a race meet at which they officiate may exclude from racecourses in this state a person whom the board considers detrimental to the best interest of racing as defined by rules of the board.

(3) The As its own formal act or through an act of a board of stewards of a race meet, the board may suspend or revoke any license issued by the department to a licensee and assess a fine, not to exceed \$500 11,000, against a licensee who violates any of the provisions of this chapter or any rule or order of the board. In addition to the suspension or revocation and fine, the board may forbid application for relicensure for a 2-year period.

(4) The board shall promulgate rules implementing this chapter, including the right to a hearing for individuals against whom action is taken or proposed herein. The rules may include provisions for the following:

(a) summary imposition of penalty by the stewards of a race meet, including a fine and license suspension, subject to review under the contested case provisions of the Montana

# Administrative Procedure Act:

(b) stay of summary imposition of penalty by either the board or board of stewards;

(c) retention of purses pending final disposition of complaints, protests, or appeals of stewards' rulings;

(d) requirement of bonds in amounts commensurate with the costs of processing protests and complaints returnable to successful protesters and complainants SETTING ASIDE OF UP TO 2% OF WAGERING TO BE USED AS A BONUS FOR OWNERS PURSUANT TO 23-4-304(2) AND TO DEFRAY ADMINISTRATIVE COSTS;

and

(e) assessment of penalty and interest on the late payment of fines, which must be paid before licenses are reinstated.

(5) The district court of the first judicial district of the state has exclusive jurisdiction for judicial review of cases arising under this chapter."

Section 10. Section 23-4-204, MCA, is amended to read:

"23-4-204. Race exclusively for Montana-bred horses -- bonus for winner. (1) For the purpose of encouraging the breeding in this state of valuable thoroughbred--purebredv quarter-horsev-appalooserv-or registered horses, at least one race each day at each race meet shall be limited to horses bred in this state unless, in the board's judgment, there is an insufficient number of Montana-bred horses for such a

1 ~~race.~~ If in the opinion of the board sufficient competition  
2 cannot be had among this class of horses, the race may be  
3 eliminated for the day and a substitute race provided  
4 instead.

5 (2) A sum equal to 10% of the first money of every  
6 purse won by a horse bred in this state shall be paid by the  
7 licensee conducting the race meet to the breeder of the  
8 horse. Only the money contributed by the licensee conducting  
9 the race meet may be considered in computing the bonus."

10 Section 11. Section 23-4-301, MCA, is amended to read:

11 "23-4-301. Parimutuel betting -- other betting  
12 illegal. (1) It is unlawful to make, report, record, or  
13 register a bet or wager on the result of a contest of speed,  
14 skill, or endurance of an animal, whether the contest is  
15 held within or outside of this state, except under this  
16 chapter.

17 (2) A licensee conducting a race meet under this  
18 chapter may provide a place in the race meet grounds or  
19 enclosure where the licensee may conduct or supervise the  
20 use of the parimutuel system by patrons on the result of the  
21 races conducted by ~~the licensee at the race meet, if the~~  
22 ~~parimutuel system is conducted~~ under this chapter and the  
23 rules of the board.

24 (3) It is unlawful to conduct pool selling,  
25 bookmaking, or to circulate handbooks or to bet or wager on

1 a race of a licensed race meet, other than by the parimutuel  
2 system ~~and in the race meet grounds or enclosure where the~~  
3 ~~race is held~~ AND IN THE RACE MEET GROUNDS OR ENCLOSURE WHERE  
4 A RACE IS BEING HELD, or to permit a minor to use the  
5 parimutuel system."

6 Section 12. Section 23-4-302, MCA, is amended to read:

7 "23-4-302. Distribution of deposits -- breakage. Each  
8 licensee conducting the parimutuel system shall distribute  
9 all sums deposited in any pool to the winner thereof, less  
10 an amount which shall not exceed ~~20%~~ 21% ~~20%~~ of the total  
11 deposits plus the odd cents of all redistribution to be  
12 based on each dollar deposited exceeding a sum equal to the  
13 next lowest multiple of 10, known as "breakage".

14 Section 13. Section 23-4-304, MCA, is amended to read:

15 "23-4-304. Gross receipts -- department's percentage  
16 -- collection and allocation. ~~(1)~~ The licensee shall pay to  
17 the department 1% of the gross receipts of each day's  
18 parimutuel betting at each race meet, which sums shall be  
19 paid to the department within 5 days after receipt by the  
20 licensee. At the end of each race meet the licensee shall  
21 prepare a report to the department showing the amount of the  
22 overpayments and underpayments. If the report shows the  
23 underpayments to be in excess of the overpayments, the  
24 balance shall be paid to the department. Money paid to the  
25 department may be used for the expenses incurred in carrying

out this chapter.

~~f2t--in-addition-to-the-sums-paid-under-subsection-f1t  
each--licensee--shall--pay-to-the-department--in--of-the-gross  
receipts-of-each-day's-parimutuel-betting-at-each-race--meet  
for--allocation--as--an--owner's-award-under-subsection-f3t  
these-sums-must-be-paid-to-the-department-the--same--day--as  
receivedx~~

f3t(2). At the end of the racing season, sums collected under subsection-f2t 23-4-202(4)(D) must be distributed by the department to the licensed owners of those Montana-bred horses finishing in the money at the meet from which the sums derived. The owner's award must be calculated as follows:

(a) divide the total amount collected from the--it--levy UNDER 23-4-202(4)(D) by the total amount won by Montana-bred horses;

(b) multiply the quotient derived under subsection f3t(2)(A) by the total amount of money won by each owner's Montana-bred horses.

f4t(3). For purposes of the owner's award under subsection f3t (2), "owner" means the individual, partnership, corporation, person, or other entity that owns the horse at the time of entry.

f5t(4). Licensees may not consider the sums available under subsection--f2t 23-4-202(4)(B) when establishing

purses."

Section 14. Section 23-4-305, MCA, is amended to read:

"23-4-305. Deposit of unclaimed money. Each licensee holding a horse race meeting meet shall, within 30 days of the end of the meeting pay to the department for deposit in the earmarked revenue fund for the board of horse racing all unclaimed winning ticket money from any meets report to the board the total face value of all unclaimed winning tickets from each parimutuel pool. The money from unclaimed winning tickets must be retained by the licensee for capital improvement approved by the board."

NEW SECTION. Section 15. Appointment of board members -- terms. (1) Within 30 days after [the effective date of this act], the governor shall appoint members to the board in compliance with 2-15-1881, as amended by [this act].

(2) One member shall serve a 1-year term, two members shall serve 2-year terms, and two members shall serve 3-year terms. Each successor to such a member shall serve a 3-year term.

NEW SECTION. Section 16. Codification instruction. Section 7 is intended to be codified as an integral part of Title 23, chapter 4, and the provisions of Title 23, chapter 4, apply to section 7.

NEW SECTION. Section 17. Effective date. This act is effective on passage and approval.

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 853

3 House Business and Industry Committee  
4

5 A statement of intent is required for this bill because  
6 it expands the existing rulemaking authority of the Board of  
7 Horseracing granted under a previous act.

8 It is contemplated that the rules shall address the  
9 following:

10 1. absolute responsibility of trainers for the  
11 condition of horses, regardless of the acts of third  
12 parties;

13 2. refusal to license persons whose licenses have been  
14 suspended or revoked by another horse racing jurisdiction;

15 3. exclusion from race courses in this state persons  
16 considered detrimental to the best interests of racing;

17 4. standards to be applied in determining conditions  
18 under which a license may be renewed if it has been  
19 suspended;

20 5. summary ruling during race meets by stewards, stay  
21 of imposition of summary penalties, and assessment of  
22 interest and penalty on late payment of fines; and

23 6. retention of purses pending final disposition of  
24 complaints, protests or appeals; allowing and regulating  
25 exotic wagering; and providing for the disposition of the 2%

1 wagering share allocation under 23-4-202(4)(d) and for the  
2 other purposes specified.

## HOUSE BILL NO. 853

INTRODUCED BY MILLER, GAGE, ASAY,  
HANSON, HEMSTAD, R. MANNING, ABRAMS,  
PHILLIPS, MCCORMICK, O'CONNELL, NISBET,  
DOZIER, FABREGA, BERGENE, SPAETH

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE  
BOARD OF HORSERACING UNDER EXISTING STATUTORY AUTHORITY AND  
RULES; CHANGING THE COMPOSITION OF THE BOARD; PROVIDING FOR  
AN EXECUTIVE SECRETARY TO THE BOARD AND DEFINING HIS DUTIES;  
REQUIRING THE BOARD TO ESTABLISH A FUND FOR RECOGNITION OF  
MONTANA-BRED HORSES; REVISING AND CLARIFYING PROVISIONS  
RELATING TO HORSERACING; AMENDING SECTIONS 2-8-103,  
2-15-1881, 23-4-101, 23-4-104, 23-4-105, 23-4-201, 23-4-202,  
23-4-204, 23-4-301, 23-4-302, 23-4-304, AND 23-4-305, MCA;  
AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Reestablishment. The board of  
horseracing created pursuant to 2-15-1881 is reestablished  
with its existing statutory authority and rules for 6 years  
pursuant to 2-8-122.

Section 2. Section 2-8-103, MCA, is amended to read:

"2-8-103. Agencies to terminate. (1) The following  
agencies shall terminate on July 1, 1979:

(a) board of abstracters, department of professional  
and occupational licensing, created by 2-15-1643;

(b) board of real estate, department of professional  
and occupational licensing, created by 2-15-1642;

(c) state board of warm air heating, ventilation, and  
air conditioning, department of professional and  
occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions,  
created by 2-15-2303.

(2) The following agencies shall terminate on July 1,  
1981:

(a) board of athletics, department of professional and  
occupational licensing, created by 2-15-1661;

(b) board of massage therapists, department of  
professional and occupational licensing, created by  
2-15-1627;

(c) board of osteopathic physicians, department of  
professional and occupational licensing, created by  
2-15-1607;

(d) board of podiatry examiners, department of  
professional and occupational licensing, created by  
2-15-1608;

(3) The following units of state government shall  
terminate on July 1, 1983:

(a) board of aeronautics, department of commerce,

1 created by 2-15-1812;  
 2 (b) state board of hail insurance, department of  
 3 agriculture, created by 2-15-3003;  
 4 ~~(c) -- board -- of -- horse racing -- department -- of -- commerce,~~  
 5 ~~created by 2-15-1881;~~  
 6 ~~(d) (1) board of livestock, department of livestock,~~  
 7 ~~created by 2-15-3102;~~  
 8 ~~(e) (1) board of milk control, department of commerce,~~  
 9 ~~created by 2-15-1802;~~  
 10 ~~(f) (1) board of oil and gas conservation, department~~  
 11 ~~of natural resources and conservation, created by 2-15-3303;~~  
 12 ~~(g) (1) Montana outfitters' council, department of~~  
 13 ~~fish, wildlife, and parks, created by 2-15-3403;~~  
 14 ~~(h) (1) public service commission, department of public~~  
 15 ~~service regulation, created by 69-1-102;~~  
 16 ~~(i) (1) board of water and wastewater operators,~~  
 17 ~~department of health and environmental sciences, created by~~  
 18 ~~2-15-2105;~~  
 19 ~~(j) (1) board of water well contractors, department of~~  
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 21 (4) The following agencies terminate on July 1, 1985:  
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 2 created by 2-15-1803;  
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 4 commerce, created by 2-15-1874;  
 5 (e) the board of professional engineers and land  
 6 surveyors, department of commerce, created by 2-15-1873;  
 7 (f) office of commissioner of insurance and the  
 8 insurance department, state auditor's office, created by  
 9 2-15-1902 and 2-15-1903;  
 10 (g) office of the securities commissioner, state  
 11 auditor's office, created by 2-15-1901;  
 12 (h) the board of landscape architects, department of  
 13 commerce, created by 2-15-1872;  
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 15 commerce, created by 2-15-1811;  
 16 (j) the board of plumbers, department of commerce,  
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 19 commerce, created by 2-15-1858.  
 20 (5) The following agencies terminate on July 1, 1987:  
 21 (a) commission for human rights, department of labor  
 22 and industry, created by 2-15-1706;  
 23 (b) Montana state board of medical examiners,  
 24 department of commerce, created by 2-15-1841;  
 25 (c) board of dentistry, department of commerce,



1 created by 2-15-1842;  
 2 (d) board of pharmacists, department of commerce,  
 3 created by 2-15-1843;  
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 6 (f) board of nursing home administrators, department  
 7 of commerce, created by 2-15-1845;  
 8 (g) board of optometrists, department of commerce,  
 9 created by 2-15-1846;  
 10 (h) board of chiropractors, department of commerce,  
 11 created by 2-15-1847;  
 12 (i) board of radiologic technologists, department of  
 13 commerce, created by 2-15-1848;  
 14 (j) board of speech pathologists and audiologists,  
 15 department of commerce, created by 2-15-1849;  
 16 (k) board of hearing aid dispensers, department of  
 17 commerce, created by 2-15-1850;  
 18 (l) board of psychologists, department of commerce,  
 19 created by 2-15-1851;  
 20 (m) board of veterinarians, department of commerce,  
 21 created by 2-15-1852;  
 22 (n) board of morticians, department of commerce,  
 23 created by 2-15-1853;  
 24 (o) board of barbers, department of commerce, created  
 25 by 2-15-1856;

1 (p) board of cosmetologists, department of commerce,  
 2 created by 2-15-1857;  
 3 (q) board of sanitarians, department of commerce,  
 4 created by 2-15-1861;  
 5 (r) board of veterans' affairs, department of social  
 6 and rehabilitation services, created by 2-15-2202.  
 7 (61) The following agency terminates July 1, 1989:  
 8 board of horseracing, department of commerce, created by  
 9 2-15-1881."  
 10 Section 3. Section 2-15-1881, MCA, is amended to read:  
 11 "2-15-1881. Board of horseracing. (1) There is a board  
 12 of horseracing.  
 13 (2) The board consists of five members appointed by  
 14 the governor with the consent of the senate, who shall be  
 15 citizens, residents, and qualified electors of this state.  
 16 ~~At least one member shall be a breeder of racing horses, one~~  
 17 ~~member shall be a member of an independent horseracing~~  
 18 ~~association, one member shall be a member of a county fair~~  
 19 ~~board that conducts a fair featuring pari-mutuel betting, and~~  
 20 ~~two members shall have occupations unrelated to horseracing~~  
 21 ~~No person holding a financial interest in a racetrack or~~  
 22 ~~race meet, member of a county fair board, or owner, trainer,~~  
 23 ~~or breeder of a racehorse is eligible for membership on the~~  
 24 ~~board. NO MEMBER OF THE BOARD MAY VOTE ON ANY LICENSED~~  
 25 ~~RACING MEET IN THIS STATE.~~

1       ~~(3) The governor shall not appoint any member who~~  
 2       ~~resides in the same county as a current member.~~ The governor  
 3       shall appoint members on the basis of experience and  
 4       qualifications, ~~and a reasonable geographical balance~~  
 5       ~~throughout the state, one member from each of the following~~  
 6       ~~districts:~~

7       ~~(a) first district, consisting of Blaine, Carter,~~  
 8       ~~Custer, Daniels, Dawson, Fallon, Garfield, McCone, Phillips,~~  
 9       ~~Powder River, Prairie, Richlands, Rosebud, Roosevelt,~~  
 10       ~~Sheridan, Treasure Valley, and Wibaux Counties;~~

11       ~~(b) second district, consisting of Big Horn, Carbon,~~  
 12       ~~Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum,~~  
 13       ~~Sweet Grass, Stillwater, Wheatlands, and Yellowstone~~  
 14       ~~Counties;~~

15       ~~(c) third district, consisting of Cascade, Chouteau,~~  
 16       ~~Glacier, Hills, Liberty, Pondera, Teton, and Toole Counties;~~

17       ~~(d) fourth district, consisting of Beaverhead,~~  
 18       ~~Broadwater, Deer Lodge, Gallatin, Jefferson, Lewis and~~  
 19       ~~Clark, Madison, Meagher, Park, and Silver Bow Counties; and~~

20       ~~(e) fifth district, consisting of Flathead, Granite,~~  
 21       ~~Lake, Lincoln, Missoula, Mineral, Powell, Ravalli, and~~  
 22       ~~Sanders Counties.~~

23       (4) Each member shall serve for a staggered term of 3  
 24       years. A member may be removed from office by the governor  
 25       only for cause.

1       ~~(5) A board member may succeed himself upon~~  
 2       ~~reappointment by the governor. A vacancy on the board must~~  
 3       ~~be filled for the unexpired term by appointment by the~~  
 4       ~~governor, with the consent of the senate, as provided in~~  
 5       ~~this section.~~

6       ~~(5)(6)~~ The board is allocated to the department for  
 7       administrative purposes only as prescribed in 2-15-121."

8       Section 4. Section 23-4-101, MCA, is amended to read:

9       "23-4-101. Definitions. Unless the context requires  
 10       otherwise, in this chapter, the following definitions apply:

11       (1) "Board" means the board of horseracing provided  
 12       for in 2-15-1881.

13       (2) "Department" means the department of commerce  
 14       provided for in Title 2, chapter 15, part 18.

15       ~~(3) "Immediate family" means the spouse, parents,~~  
 16       ~~children, grandchildren, brothers, or sisters of an official~~  
 17       ~~or licensee regulated by this chapter and all other persons~~  
 18       ~~who have a permanent or continuous residence in the~~  
 19       ~~household of the official or licensee.~~

20       (4) "Minor" means a person under 18 years of age.

21       ~~(3)(5)~~ "Persons" means individuals, firms,  
 22       corporations, ~~local government units~~ FAIR BOARDS, and  
 23       associations.

24       ~~(4)(6)~~ "Race meet" means an ~~exhibition~~ of  
 25       thoroughbred, purebred, or racing of registered horseracing

horses where the parimutuel system of wagering is used.

(7) ~~"Steward" means an official appointed by the board~~  
~~HIRED BY THE DEPARTMENT and by persons sponsoring a race~~  
~~meet to regulate and control the day-to-day conduct and~~  
~~operation of a sanctioned meet.~~

(8) ~~"BOARD OF STEWARDS" MEANS A BOARD COMPOSED OF~~  
~~THREE STEWARDS WHO SUPERVISE RACING MEETS."~~

Section 5. Section 23-4-104, MCA, is amended to read:

"23-4-104. Duties of board. The board shall adopt  
 rules to govern race meets and the parimutuel system. These  
 rules shall include the following:

(1) definitions;

(2) auditing;

(3) supervision of the parimutuel system;

(4) corrupt practices;

(5) supervision, duties, and responsibilities of the  
~~executive secretary,~~ presiding steward, racing secretary,  
 and other racing officials;

(6) licensing of all personnel who have anything to do  
 with the substantive operation of racing;

(7) the establishment of dates for race meets and  
 meetings in the best interests of breeding and racing in  
 this state; and

(8) the veterinary practices and standards which must  
 be observed in connection with race meets;

(9) ~~absolute responsibility of trainers for the~~  
~~condition of horses, regardless of the acts of third~~  
~~parties;~~

(10) ~~licensing or renewal of a license of a person~~  
~~whose license has been suspended by the board or another~~  
~~horseracing jurisdiction; and~~

(11) ~~setting license fees commensurate with the cost of~~  
~~issuing a license."~~

Section 6. Section 23-4-105, MCA, is amended to read:

"23-4-105. Authority of board. The board shall,  
 subject to 37-1-101 and 37-1-121, license ~~and regulate~~  
~~horseracing~~ and supervise ~~review~~ race meets held in this  
 state under this chapter ~~and shall have the places where~~  
~~race meets are held visited and inspected at least once a~~  
~~year."~~

~~NEW SECTION.~~ Section 7. Executive secretary -- powers  
 and duties -- staff -- prohibition on racing activities. (1)  
 The department shall appoint an executive secretary for the  
 board.

(2) The executive secretary, in accordance with rules  
 adopted by the board and provisions of this chapter, shall:

(a) supervise race meets and activities of racing  
 officials;

(b) hire all state racing officials;

(c) inspect race facilities; and

(d) perform other duties as directed by the board.

(3) The executive secretary may, subject to the approval of the board, hire staff to assist him in performing his duties.

(4) The executive secretary, a member of his staff, and any member of the executive secretary's or a staff member's immediate family are prohibited from owning, training, or having any interest in a racehorse running on a Montana track or having any financial interest in any Montana racing association. ~~NO RACING OFFICIAL HIRED BY THE DEPARTMENT OR APPROVED BY THE BOARD MAY WAGER AT A RACING MEET AT WHICH HE PRESIDES.~~

Section 8. Section 23-4-201, MCA, is amended to read:

"23-4-201. Licenses. (1) It is unlawful for a person to hold a race meet in this state without a valid license issued by the department under this chapter. A person applying for a license to hold a race meet under this chapter shall file an application with the department which shall set forth the time, place, and number of days the license will continue and other information the board requires.

(2) A person who participates in a race meet shall be licensed and charged an annual fee ~~not to exceed \$15 set by the board,~~ which shall be paid to the department and used for expenses of ~~the board administering this chapter,~~

subject to 37-1-101(6). Each person holding a license under this chapter ~~and every owner, trainer, jockey, and attendant~~ at a racecourse in this state shall comply with this chapter and with the rules adopted and orders issued by the board.

~~(3) A person who has been convicted of a crime involving moral turpitude may not be issued a license of any kind, nor may a~~ No license ~~may~~ be issued to a person who has ~~violated this chapter or the rules of the board or~~ who has failed to pay the fees, taxes, or moneys required under this chapter.

(4) Applications to hold race meets shall be submitted to the department, and the board shall act on the applications within 30 days. The board is the sole judge of whether the race meet may be licensed and the number of days the meet may continue.

(5) The board shall require that a fair board ~~and an independent racing association~~ conducting race meets ~~in conjunction with its regularly scheduled fair shall~~ meet the requirements of the rules adopted by the board before granting a license.

(6) An unexpired license held by a person who violates this chapter or who fails to pay to the department the sums required under this chapter is subject to cancellation and revocation by the board."

Section 9. Section 23-4-202, MCA, is amended to read:

"23-4-202. Penalty for violations of law -- authority of board ~~---judicial review.~~ (1) A person holding a race meet, an owner, trainer, or jockey participating in a race meet, without first being licensed under this chapter, and a person violating this chapter is guilty of a misdemeanor.

(2) The board ~~or, upon the board's authorization, the board of stewards of a race meet at which they officiate~~ may exclude from racecourses in this state a person whom the board considers detrimental to the best interest of racing ~~as defined by rules of the board.~~

(3) ~~The As its own formal act or through an act of a board of stewards of a race meet, the~~ board may suspend or revoke any license issued by the department to a licensee and assess a fine, not to exceed \$500 ~~\$1,000~~, against a licensee who violates any of the provisions of this chapter or any rule or order of the board. In addition to the suspension or revocation and fine, the board may forbid application for relicensure for a 2-year period.

(4) The board shall promulgate rules implementing this chapter, including the right to a hearing for individuals against whom action is taken or proposed herein. ~~The rules may include provisions for the following:~~

~~(a) summary imposition of penalty by the stewards of a race meet, including a fine and license suspension, subject to review under the contested case provisions of the Montana~~

# ~~Administrative Procedure Act:~~

~~(b) stay of summary imposition of penalty by either the board or board of stewards;~~

~~(c) retention of purses pending final disposition of complaints, protests, or appeals of stewards' rulings;~~

~~(d) requirement of bonds in amounts commensurate with the costs of processing protests and complaints returnable to successful protesters and complainants~~ SETTING ASIDE OF UP TO 2% OF WAGERING ON EXOTIC RACES TO BE USED AS A BONUS FOR OWNERS PURSUANT TO 23-4-304(2) AND TO DEEBAY ADMINISTRATIVE COSTS WHICH SHALL BE IN ADDITION TO THE 20% ALREADY WITHHELD UNDER 23-4-302; and

~~(e) assessment of penalty and interest on the late payment of fines, which must be paid before licenses are reinstated; AND~~

~~(f) DEFINITION OF EXOTIC FORMS OF RACES TO BE ALLOWED.~~

~~(5) The district court of the first judicial district of the state has exclusive jurisdiction for judicial review of cases arising under this chapter."~~

Section 10. Section 23-4-204, MCA, is amended to read:

"23-4-204. Race exclusively for Montana-bred horses -- bonus for winner. (1) For the purpose of encouraging the breeding in this state of valuable thoroughbred-purebred-quarter-horse-appealoosey-or registered horses, at least one race each day at each race meet shall be limited to horses

1 bred in this state ~~unless, in the board's judgment, there is~~  
 2 ~~an insufficient number of Montana-bred horses for such a~~  
 3 ~~race.~~ If in the opinion of the board sufficient competition  
 4 cannot be had among this class of horses, the race may be  
 5 eliminated for the day and a substitute race provided  
 6 instead.

7 (2) A sum equal to 10% of the first money of every  
 8 purse won by a horse bred in this state shall be paid by the  
 9 licensee conducting the race meet to the breeder of the  
 10 horse. Only the money contributed by the licensee conducting  
 11 the race meet may be considered in computing the bonus."

12 Section 11. Section 23-4-301, MCA, is amended to read:

13 "23-4-301. Parimutuel betting -- other betting  
 14 illegal. (1) It is unlawful to make, report, record, or  
 15 register a bet or wager on the result of a contest of speed,  
 16 skill, or endurance of an animal, whether the contest is  
 17 held within or outside of this state, except under this  
 18 chapter.

19 (2) A licensee conducting a race meet under this  
 20 chapter may provide a place in the race meet grounds or  
 21 enclosure where the licensee may conduct or supervise the  
 22 use of the parimutuel system by patrons on the result of the  
 23 races conducted by ~~the licensee at the race meet, if the~~  
 24 ~~parimutuel system is conducted~~ under this chapter and the  
 25 rules of the board.

1 (3) It is unlawful to conduct pool selling,  
 2 bookmaking, or to circulate handbooks or to bet or wager on  
 3 a race of a licensed race meet, other than by the parimutuel  
 4 system ~~and in the race meet grounds or enclosure where the~~  
 5 ~~race is held AND IN THE RACE MEET GROUNDS OR ENCLOSURE WHERE~~  
 6 ~~A RACE IS BEING HELD AND IN THE RACE MEET GROUNDS OR~~  
 7 ~~ENCLOSURE WHERE THE RACE IS HELD,~~ or to permit a minor to  
 8 use the parimutuel system."

9 Section 12. Section 23-4-302, MCA, is amended to read:

10 "23-4-302. Distribution of deposits -- breakage. Each  
 11 licensee conducting the parimutuel system shall distribute  
 12 all sums deposited in any pool to the winner thereof, less  
 13 an amount which ~~IN THE CASE OF EXOTIC RACES, SHALL NOT~~  
 14 ~~EXCEED 22%, AND IN ALL OTHER RACES,~~ shall not exceed ~~20% 21%~~  
 15 20% of the total deposits plus the odd cents of all  
 16 redistribution to be based on each dollar deposited  
 17 exceeding a sum equal to the next lowest multiple of 10,  
 18 known as "breakage".

19 Section 13. Section 23-4-304, MCA, is amended to read:

20 "23-4-304. Gross receipts -- department's percentage  
 21 -- collection and allocation. (1) The licensee shall pay to  
 22 the department 1% of the gross receipts of each day's  
 23 parimutuel betting at each race meet, which sums shall be  
 24 paid to the department within 5 days after receipt by the  
 25 licensee. At the end of each race meet the licensee shall

prepare a report to the department showing the amount of the overpayments and underpayments. If the report shows the underpayments to be in excess of the overpayments, the balance shall be paid to the department. Money paid to the department may be used for the expenses incurred in carrying out this chapter.

~~f21--in-addition-to-the-sums-paid-under-subsection-f11v each-licensee-shall-pay-to-the-department-13--of--the--gross receipts--of--each-day's-parimutuel-betting-at-each-race-meet for-allocation-as-an-owner's-award-under-subsection-f11v these-sums--must--be-paid-to-the-department-the-same-day-as received~~

f21(f2) At the end of the racing season, sums collected under subsection-f21 23-4-202(4)(D) must be distributed by the department to the licensed owners of those Montana-bred horses finishing in the money at the meet from which the sums derived. The owner's award must be calculated as follows:

(a) divide the total amount collected from the 13-levy UNQEB-23-4-202(4)(D) by the total amount won by Montana-bred horses;

(b) multiply the quotient derived under subsection f21(f2) (2)(a) by the total amount of money won by each owner's Montana-bred horses.

f21(f3) For purposes of the owner's award under

subsection f21 (2), "owner" means the individual, partnership, corporation, person, or other entity that owns the horse at the time of entry.

~~f21(f4) Licensees may not consider the sums available under subsection--f21 23-4-202(f1)(B) 23-4-202(4)(D) when establishing purses.~~

Section 14. Section 23-4-305, MCA, is amended to read:

"23-4-305. Deposit of unclaimed money. Each licensee holding a horse race meeting meet shall, within 30 days of the end of the meeting pay to the department for deposit in the earmarked revenue fund for the board of horse racing all unclaimed winning ticket money from any meet, report to the board the total face value of all unclaimed winning tickets from each parimutuel pool. The money from unclaimed winning tickets must be retained by the licensee for capital improvement approved by the board."

NEW SECTION. Section 15. Appointment of board members -- terms. (1) Within 30 days after [the effective date of this act], the governor shall appoint members to the board in compliance with 2-15-1881, as amended by [this act].

(2) One member shall serve a 1-year term, two members shall serve 2-year terms, and two members shall serve 3-year terms. Each successor to such a member shall serve a 3-year term.

NEW SECTION. Section 16. Codification instruction.

1 Section 7 is intended to be codified as an integral part of  
2 Title 23, chapter 4, and the provisions of Title 23, chapter  
3 4, apply to section 7.

4 ~~NEW SECTION.~~ Section 17. Effective date. This act is  
5 effective on passage and approval.

-End-



March 19, 1983

SENATE STANDING COMMITTEE REPORT  
(Business & Industry)

That House Bill No. 853 be amended as follows:

1. Statement of Intent, page 2, line 3.

Following: Line 2.

Insert: "It is the intent of the legislature, that if the board decides to authorize new forms of racing not currently engaged in in Montana, it shall do so after holding public hearings to determine the effects of these forms of racing on the existing saddle racing program in Montana. The board should consider both economic and safety impacts on the existing racing and breeding industry."

2. Page 10, line 15.

Following: "~~year~~."

Insert: "If the board decides to authorize new forms of racing not currently engaged in in Montana, it shall do so after holding public hearings to determine the effects of these forms of racing on the existing saddle racing program in Montana. The board should consider both economic and safety impacts on the existing racing and breeding industry."

3. Page 12, line 3.

Strike: "at a race course in this state"

4. Page 17, line 15.

Following: "department"

Insert: ", after first passing through the board's agency fund account,"

March 24, 1983

SENATE STANDING COMMITTEE REPORT  
(Business & Industry)

That House Bill No. 853 be amended as follows:

1. Statement of Intent, page 2, line 3.  
Following: Line 2.  
Insert: "It is the intent of the legislature, that if the board decides to authorize new forms of racing not currently engaged in in Montana, it shall do so after holding public hearings to determine the effects of these forms of racing on the existing saddle racing program in Montana. The board should consider both economic and safety impacts on the existing racing and breeding industry."
2. Page 6, line 24.  
Following: "WAGER"  
Strike: "ON"  
Insert: "at"
3. Page 7, line 2.  
Following: "member."  
Insert: "The governor may not appoint any member who would have a conflict of interest during his term of appointment."
4. Page 9, line 10.  
Following: "govern"  
Insert: "horse"
5. Page 10, line 15.  
Following: "year."  
Insert: "If the board decides to authorize new forms of racing not currently engaged in in Montana, it shall do so after holding public hearings to determine the effects of these forms of racing on the existing saddle racing program in Montana. The board should consider both economic and safety impacts on the existing racing and breeding industry."
6. Page 10, line 24.  
Following: "officials"  
Insert: "for the department"
7. Page 12, line 3.  
Strike: "at a race course in this state"
8. Page 14, line 9.  
Following: "OF"  
Insert: "exotic"  
Following: "ON"  
Strike: "EXOTIC"

SENATE STANDING COMMITTEE REPORT  
BUSINESS & INDUSTRY H.B. No. 853  
MARCH 24, 1983  
Page 2

9. Page 14, line 10.  
Following: "AND"  
Insert: "up to 30% of the amount set aside may be used"
10. Page 14, line 16.  
Following: "FORMS OF"  
Insert: "wagering on"
11. Page 16, line 13.  
Following: "EXOTIC"  
Insert: "wagering on"
12. Page 17, line 6.  
Following: "chapter."  
Insert: "The licensee shall, at the same time, pay to the department all sums collected under 23-4-202(4)(d) on exotic wagering on races."
13. Page 17, line 15.  
Following: "department"  
Insert: ", after first passing through the board's agency fund account,"

## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 853

## 3 House Business and Industry Committee

4  
5 A statement of intent is required for this bill because  
6 it expands the existing rulemaking authority of the Board of  
7 Horseracing granted under a previous act.

8 It is contemplated that the rules shall address the  
9 following:

10 1. absolute responsibility of trainers for the  
11 condition of horses, regardless of the acts of third  
12 parties;

13 2. refusal to license persons whose licenses have been  
14 suspended or revoked by another horse racing jurisdiction;

15 3. exclusion from race courses in this state persons  
16 considered detrimental to the best interests of racing;

17 4. standards to be applied in determining conditions  
18 under which a license may be renewed if it has been  
19 suspended;

20 5. summary ruling during race meets by stewards, stay  
21 of imposition of summary penalties, and assessment of  
22 interest and penalty on late payment of fines; and

23 6. retention of purses pending final disposition of  
24 complaints, protests or appeals; allowing and regulating  
25 exotic wagering; and providing for the disposition of the 2%

1 wagering share allocation under 23-4-202(4)(d) and for the  
2 other purposes specified.

3 II IS THE INTENT OF THE LEGISLATURE, THAT IF THE BOARD  
4 DECIDES TO AUTHORIZE NEW FORMS OF RACING NOT CURRENTLY  
5 ENGAGED IN IN MONTANA, IT SHALL DO SO AFTER HOLDING PUBLIC  
6 HEARINGS TO DETERMINE THE EFFECTS OF THESE FORMS OF RACING  
7 ON THE EXISTING SADDLE RACING PROGRAM IN MONTANA. THE BOARD  
8 SHOULD CONSIDER BOTH ECONOMIC AND SAFETY IMPACTS ON THE  
9 EXISTING RACING AND BREEDING INDUSTRY.

REFERENCE BILL

## HOUSE BILL NO. 853

INTRODUCED BY MILLER, GAGE, ASAY,

HANSON, HEMSTAD, R. MANNING, ABRAMS,

PHILLIPS, MCCORMICK, O'CONNELL, NISBET,

DOZIER, FABREGA, BERGENE, SPAETH

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE BOARD OF HORSERACING UNDER EXISTING STATUTORY AUTHORITY AND RULES; CHANGING THE COMPOSITION OF THE BOARD; PROVIDING FOR AN EXECUTIVE SECRETARY TO THE BOARD AND DEFINING HIS DUTIES; REQUIRING THE BOARD TO ESTABLISH A FUND FOR RECOGNITION OF MONTANA-BRED HORSES; REVISING AND CLARIFYING PROVISIONS RELATING TO HORSERACING; AMENDING SECTIONS 2-8-103, 2-15-1881, 23-4-101, 23-4-104, 23-4-105, 23-4-201, 23-4-202, 23-4-204, 23-4-301, 23-4-302, 23-4-304, AND 23-4-305, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Reestablishment. The board of horseracing created pursuant to 2-15-1881 is reestablished with its existing statutory authority and rules for 6 years pursuant to 2-8-122.

Section 2. Section 2-8-103, MCA, is amended to read:

"2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979:

(a) board of abstracters, department of professional and occupational licensing, created by 2-15-1643;

(b) board of real estate, department of professional and occupational licensing, created by 2-15-1642;

(c) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions, created by 2-15-2303.

(2) The following agencies shall terminate on July 1, 1981:

(a) board of athletics, department of professional and occupational licensing, created by 2-15-1661;

(b) board of massage therapists, department of professional and occupational licensing, created by 2-15-1627;

(c) board of osteopathic physicians, department of professional and occupational licensing, created by 2-15-1607;

(d) board of podiatry examiners, department of professional and occupational licensing, created by 2-15-1608~~1~~.

(3) The following units of state government shall terminate on July 1, 1983:

(a) board of aeronautics, department of commerce,

1 created by 2-15-1812;

2 (b) state board of hail insurance, department of

3 agriculture, created by 2-15-3003;

4 ~~(c) --board--of--horseracing--department--of--commerce,~~

5 ~~created-by-2-15-1801;~~

6 ~~(d)(c)~~ board of livestock, department of livestock,

7 created by 2-15-3102;

8 ~~(e)(d)~~ board of milk control, department of commerce,

9 created by 2-15-1802;

10 ~~(f)(e)~~ board of oil and gas conservation, department

11 of natural resources and conservation, created by 2-15-3303;

12 ~~(g)(f)~~ Montana outfitters' council, department of

13 fish, wildlife, and parks, created by 2-15-3403;

14 ~~(h)(g)~~ public service commission, department of public

15 service regulation, created by 69-1-102;

16 ~~(i)(h)~~ board of water and wastewater operators,

17 department of health and environmental sciences, created by

18 2-15-2105;

19 ~~(j)(i)~~ board of water well contractors, department of

20 commerce, created by 2-15-1862.

21 (4) The following agencies terminate on July 1, 1985:

22 (a) the board of public accountants, department of

23 commerce, created by 2-15-1866;

24 (b) the board of architects, department of commerce,

25 created by 2-15-1871;

1 (c) state banking board, department of commerce,

2 created by 2-15-1803;

3 (d) the state electrical board, department of

4 commerce, created by 2-15-1874;

5 (e) the board of professional engineers and land

6 surveyors, department of commerce, created by 2-15-1873;

7 (f) office of commissioner of insurance and the

8 insurance department, state auditor's office, created by

9 2-15-1902 and 2-15-1903;

10 (g) office of the securities commissioner, state

11 auditor's office, created by 2-15-1901;

12 (h) the board of landscape architects, department of

13 commerce, created by 2-15-1872;

14 (i) the board of county printing, department of

15 commerce, created by 2-15-1811;

16 (j) the board of plumbers, department of commerce,

17 created by 2-15-1875;

18 (k) board of physical therapy examiners, department of

19 commerce, created by 2-15-1858.

20 (5) The following agencies terminate on July 1, 1987:

21 (a) commission for human rights, department of labor

22 and industry, created by 2-15-1706;

23 (b) Montana state board of medical examiners,

24 department of commerce, created by 2-15-1841;

25 (c) board of dentistry, department of commerce,

1 created by 2-15-1842;  
 2 (d) board of pharmacists, department of commerce,  
 3 created by 2-15-1843;  
 4 (e) board of nursing, department of commerce, created  
 5 by 2-15-1844;  
 6 (f) board of nursing home administrators, department  
 7 of commerce, created by 2-15-1845;  
 8 (g) board of optometrists, department of commerce,  
 9 created by 2-15-1846;  
 10 (h) board of chiropractors, department of commerce,  
 11 created by 2-15-1847;  
 12 (i) board of radiologic technologists, department of  
 13 commerce, created by 2-15-1848;  
 14 (j) board of speech pathologists and audiologists,  
 15 department of commerce, created by 2-15-1849;  
 16 (k) board of hearing aid dispensers, department of  
 17 commerce, created by 2-15-1850;  
 18 (l) board of psychologists, department of commerce,  
 19 created by 2-15-1851;  
 20 (m) board of veterinarians, department of commerce,  
 21 created by 2-15-1852;  
 22 (n) board of morticians, department of commerce,  
 23 created by 2-15-1853;  
 24 (o) board of barbers, department of commerce, created  
 25 by 2-15-1856;

1 (p) board of cosmetologists, department of commerce,  
 2 created by 2-15-1857;  
 3 (q) board of sanitarians, department of commerce,  
 4 created by 2-15-1861;  
 5 (r) board of veterans' affairs, department of social  
 6 and rehabilitation services, created by 2-15-2202.  
 7 (6) The following agency terminates July 1, 1989:  
 8 board of horseracing, department of commerce, created by  
 9 2-15-1881."  
 10 Section 3. Section 2-15-1881, MCA, is amended to read:  
 11 "2-15-1881. Board of horseracing. (1) There is a board  
 12 of horseracing.  
 13 (2) The board consists of five members appointed by  
 14 the governor with the consent of the senate, who shall be  
 15 citizens, residents, and qualified electors of this state.  
 16 ~~At least one member shall be a breeder of racing horses, one~~  
 17 ~~member shall be a member of an independent horseracing~~  
 18 ~~association, one member shall be a member of a county fair~~  
 19 ~~board that conducts a fair featuring pari-mutuel betting, and~~  
 20 ~~two members shall have occupations unrelated to horseracing~~  
 21 ~~No person holding a financial interest in a racetrack or~~  
 22 ~~race meet, member of a county fair board, or owner, trainer,~~  
 23 ~~or breeder of a racehorse is eligible for membership on the~~  
 24 ~~board. NO MEMBER OF THE BOARD MAY WAGER ON ANY LICENSED~~  
 25 ~~RACING MEET IN THIS STATE.~~

(3) ~~The governor shall not appoint any member who resides in the same county as a current member.~~ THE GOVERNOR MAY NOT APPOINT ANY MEMBER WHO WOULD HAVE A CONFLICT OF INTEREST DURING HIS TERM OF APPOINTMENT. The governor shall appoint members on the basis of experience and qualifications, ~~and a reasonable geographic balance throughout the state, one member from each of the following districts:~~

(a) first district, consisting of Blaine, Carter, Custer, Daniels, Dawson, Fallon, Garfield, McCone, Phillips, Powder River, Prairie, Richland, Rosebud, Roosevelt, Sheridan, Treasure, Valley, and Wibaux Counties;

(b) second district, consisting of Big Horn, Carbon, Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, Sweet Grass, Stillwater, Wheatland, and Yellowstone Counties;

(c) third district, consisting of Cascade, Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties;

(d) fourth district, consisting of Beaverhead, Broadwater, Deer Lodge, Gallatin, Jefferson, Lewis and Clark, Madison, Meagher, Park, and Silver Bow Counties; and

(e) fifth district, consisting of Flathead, Granite, Lake, Lincoln, Missoula, Mineral, Powell, Ravalli, and Sanders Counties.

(4) Each member shall serve for a staggered term of 3

years. A member may be removed from office by the governor only for cause.

(5) A board member may succeed himself upon reappointment by the governor. A vacancy on the board must be filled for the unexpired term by appointment by the governor, with the consent of the senate, as provided in this section.

(5)(6) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

Section 4. Section 23-4-101, MCA, is amended to read:

"23-4-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Board" means the board of horseracing provided for in 2-15-1881.

(2) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

(3) "Immediate family" means the spouse, parents, children, grandchildren, brothers, or sisters of an official or licensee regulated by this chapter and all other persons who have a permanent or continuous residence in the household of the official or licensee.

(4) "Minor" means a person under 18 years of age.

(5) "Persons" means individuals, firms, corporations, ~~local government units~~ FAIR BOARDS, and associations.

1        ~~(4)(6)~~ "Race meet" means an ~~exhibition~~ of  
2        ~~thoroughbred, purebred, or racing of~~ registered horseracing  
3        ~~horses~~ where the parimutuel system of wagering is used.

4        ~~(7) "Steward" means an official appointed by the board~~  
5        ~~HIRED BY THE DEPARTMENT and by persons sponsoring a race~~  
6        ~~meet to regulate and control the day-to-day conduct and~~  
7        ~~operation of a sanctioned meet.~~

8        ~~(8) "BOARD OF STEWARDS" MEANS A BOARD COMPOSED OF~~  
9        ~~THREE STEWARDS WHO SUPERVISE RACING MEETS."~~

10       Section 5. Section 23-4-104, MCA, is amended to read:

11       "23-4-104. Duties of board. The board shall adopt  
12       rules to govern race ~~HORSE RACE~~ meets and the parimutuel  
13       system. These rules shall include the following:

14       (1) definitions;

15       (2) auditing;

16       (3) supervision of the parimutuel system;

17       (4) corrupt practices;

18       (5) supervision, duties, and responsibilities of the  
19       ~~executive secretary,~~ presiding steward; racing secretary,  
20       and other racing officials;

21       (6) licensing of all personnel who have anything to do  
22       with the substantive operation of racing;

23       (7) the establishment of dates for race meets and  
24       meetings in the best interests of breeding and racing in  
25       this state; and

1       (8) the veterinary practices and standards which must  
2       be observed in connection with race meets;

3       ~~(9) absolute responsibility of trainers for the~~  
4       ~~condition of horses, regardless of the acts of third~~  
5       ~~parties;~~

6       ~~(10) licensing or renewal of a license of a person~~  
7       ~~whose license has been suspended by the board or another~~  
8       ~~horseracing jurisdiction; and~~

9       ~~(11) setting license fees commensurate with the cost of~~  
10       ~~issuing a license."~~

11       Section 6. Section 23-4-105, MCA, is amended to read:

12       "23-4-105. Authority of board. The board shall,  
13       subject to 37-1-101 and 37-1-121, license and regulate  
14       horseracing and supervise review race meets held in this  
15       state under this chapter and ~~shall have the places where~~  
16       ~~race meets are held visited and inspected at least once a~~  
17       ~~year. IF THE BOARD DECIDES TO AUTHORIZE NEW FORMS OF RACING~~  
18       ~~NOT CURRENTLY ENGAGED IN IN MONTANA, IT SHALL DO SO AFTER~~  
19       ~~HOLDING PUBLIC HEARINGS TO DETERMINE THE EFFECTS OF THESE~~  
20       ~~FORMS OF RACING ON THE EXISTING SADDLE RACING PROGRAM IN~~  
21       ~~MONTANA. THE BOARD SHOULD CONSIDER BOTH ECONOMIC AND SAFETY~~  
22       ~~IMPACTS ON THE EXISTING RACING AND BREEDING INDUSTRY."~~

23       ~~NEW SECTION.~~ Section 7. Executive secretary -- powers  
24       and duties -- staff -- prohibition on racing activities. (1)  
25       The department shall appoint an executive secretary for the



board.

(2) The executive secretary, in accordance with rules adopted by the board and provisions of this chapter, shall:

(a) supervise race meets and activities of racing officials;

(b) hire all state racing officials ~~FOR THE~~  
~~DEPARTMENT~~;

(c) inspect race facilities; and

(d) perform other duties as directed by the board.

(3) The executive secretary may, subject to the approval of the board, hire staff to assist him in performing his duties.

(4) The executive secretary, a member of his staff, and any member of the executive secretary's or a staff member's immediate family are prohibited from owning, training, or having any interest in a racehorse running on a Montana track or having any financial interest in any Montana racing association. ~~NO RACING OFFICIAL HIRED BY THE DEPARTMENT OR APPROVED BY THE BOARD MAY WAGER AT A RACING MEET AT WHICH HE PRESIDES.~~

Section 8. Section 23-4-201, MCA, is amended to read:

"23-4-201. Licenses. (1) It is unlawful for a person to hold a race meet in this state without a valid license issued by the department under this chapter. A person applying for a license to hold a race meet under this

chapter shall file an application with the department which shall set forth the time, place, and number of days the license will continue and other information the board requires.

(2) A person who participates in a race meet shall be licensed and charged an annual fee ~~not to exceed \$15 set by~~ the board, which shall be paid to the department and used for expenses of ~~the board administering this chapter,~~ subject to 37-1-101(6). Each person holding a license under this chapter ~~and every owner, trainer, jockey, and attendant at a racecourse in this state~~ shall comply with this chapter and with the rules adopted and orders issued by the board.

(3) ~~A person who has been convicted of a crime involving moral turpitude may not be issued a license of any kind nor may a~~ No license may be issued to a person who has ~~violated this chapter or the rules of the board or~~ who has failed to pay the fees, taxes, or moneys required under this chapter.

(4) Applications to hold race meets shall be submitted to the department, and the board shall act on the applications within 30 days. The board is the sole judge of whether the race meet may be licensed and the number of days the meet may continue.

(5) The board shall require that a fair board ~~and an independent racing association~~ conducting race meets in

1 ~~conjunction-with-its-regularly-scheduled-fair-shall~~ meet the  
2 requirements of the rules adopted by the board before  
3 granting a license.

4 (6) An unexpired license held by a person who violates  
5 this chapter or who fails to pay to the department the sums  
6 required under this chapter is subject to cancellation and  
7 revocation by the board."

8 Section 9. Section 23-4-202, MCA, is amended to read:

9 "23-4-202. Penalty for violations of law -- authority  
10 of board -- judicial review. (1) A person holding a race  
11 meet, an owner, trainer, or jockey participating in a race  
12 meet, without first being licensed under this chapter, and a  
13 person violating this chapter is guilty of a misdemeanor.

14 (2) The board ~~or, upon the board's authorization, the~~  
15 ~~board of stewards of a race meet at which they officiate~~ may  
16 exclude from racecourses in this state a person whom the  
17 board considers detrimental to the best interest of racing  
18 ~~as defined by rules of the board.~~

19 (3) ~~The As its own formal act or through an act of a~~  
20 ~~board of stewards of a race meet, the board~~ may suspend or  
21 revoke any license issued by the department to a licensee  
22 and assess a fine, not to exceed \$500 ~~\$1,000~~, against a  
23 licensee who violates any of the provisions of this chapter  
24 or any rule or order of the board. In addition to the  
25 suspension or revocation and fine, the board may forbid

1 application for relicensure for a 2-year period.

2 (4) The board shall promulgate rules implementing this  
3 chapter, including the right to a hearing for individuals  
4 against whom action is taken or proposed herein. ~~The rules~~  
5 ~~may include provisions for the following:~~

6 ~~(a) summary imposition of penalty by the stewards of a~~  
7 ~~race meet, including a fine and license suspension, subject~~  
8 ~~to review under the contested case provisions of the Montana~~  
9 ~~Administrative Procedure Act;~~

10 ~~(b) stay of summary imposition of penalty by either~~  
11 ~~the board or board of stewards;~~

12 ~~(c) retention of purses pending final disposition of~~  
13 ~~complaints, protests, or appeals of stewards' rulings;~~

14 ~~(d) requirement of bonds in amounts commensurate with~~  
15 ~~the costs of processing protests and complaints, returnable~~  
16 ~~to successful protesters and complainants~~ SETTING ASIDE OF  
17 UP TO 2% OF EXOTIC WAGERING ON ~~EXOTIC~~ RACES TO BE USED AS A  
18 BONUS FOR OWNERS PURSUANT TO 23-4-304(2), AND UP TO 30% OF  
19 THE AMOUNT SET ASIDE MAY BE USED TO DEFRAID ADMINISTRATIVE  
20 COSTS WHICH SHALL BE IN ADDITION TO THE 20% ALREADY WITHHELD  
21 UNDER 23-4-302; and

22 ~~(e) assessment of penalty and interest on the late~~  
23 ~~payment of fines, which must be paid before licenses are~~  
24 ~~reinstated; AND~~

25 ~~(f) DEFINITION OF EXOTIC FORMS OF WAGERING ON RACES TO~~

1 ~~BE ALLOWED.~~

2 ~~(5) The district court of the first judicial district~~  
3 ~~of the state has exclusive jurisdiction for judicial review~~  
4 ~~of cases arising under this chapter."~~

5 Section 10. Section 23-4-204, MCA, is amended to read:

6 "23-4-204. Race exclusively for Montana-bred horses --  
7 bonus for winner. (1) For the purpose of encouraging the  
8 breeding in this state of valuable thoroughbred-purebred  
9 quarter-horse-appaloosa-or registered horses, at least one  
10 race each day at each race meet shall be limited to horses  
11 bred in this state ~~unless, in the board's judgment, there is~~  
12 ~~an insufficient number of Montana-bred horses for such a~~  
13 ~~race.~~ If in the opinion of the board sufficient competition  
14 cannot be had among this class of horses, the race may be  
15 eliminated for the day and a substitute race provided  
16 instead.

17 (2) A sum equal to 10% of the first money of every  
18 purse won by a horse bred in this state shall be paid by the  
19 licensee conducting the race meet to the breeder of the  
20 horse. Only the money contributed by the licensee conducting  
21 the race meet may be considered in computing the bonus."

22 Section 11. Section 23-4-301, MCA, is amended to read:

23 "23-4-301. Parimutuel betting -- other betting  
24 illegal. (1) It is unlawful to make, report, record, or  
25 register a bet or wager on the result of a contest of speed,

1 skill, or endurance of an animal, whether the contest is  
2 held within or outside of this state, except under this  
3 chapter.

4 (2) A licensee conducting a race meet under this  
5 chapter may provide a place in the race meet grounds or  
6 enclosure where the licensee may conduct or supervise the  
7 use of the parimutuel system by patrons on the result of the  
8 races conducted by--the--licensee-at-the-race-meet, if the  
9 parimutuel-system-is-conducted under this chapter and the  
10 rules of the board.

11 (3) It is unlawful to conduct pool selling,  
12 bookmaking, or to circulate handbooks or to bet or wager on  
13 a race of a licensed race meet, other than by the parimutuel  
14 system and--in-the-race-meet-grounds-or-enclosure-where-the  
15 race-is-held ~~AND IN THE RACE MEET GROUNDS OR ENCLOSURE WHERE~~  
16 ~~A RACE IS BEING HELD AND IN THE RACE MEET GROUNDS OR~~  
17 ~~ENCLOSURE WHERE THE RACE IS HELD,~~ or to permit a minor to  
18 use the parimutuel system."

19 Section 12. Section 23-4-302, MCA, is amended to read:

20 "23-4-302. Distribution of deposits -- breakage. Each  
21 licensee conducting the parimutuel system shall distribute  
22 all sums deposited in any pool to the winner thereof, less  
23 an amount which, ~~IN THE CASE OF EXOTIC WAGERING ON RACES,~~  
24 ~~SHALL NOT EXCEED 22%, AND IN ALL OTHER RACES,~~ shall not  
25 exceed ~~20% 21% 20%~~ of the total deposits plus the odd cents

1 of all redistribution to be based on each dollar deposited  
2 exceeding a sum equal to the next lowest multiple of 10,  
3 known as "breakage".

4 Section 13. Section 23-4-304, MCA, is amended to read:  
5 "23-4-304. Gross receipts -- department's percentage  
6 -- collection and allocation. ~~(1)~~ The licensee shall pay to  
7 the department 1% of the gross receipts of each day's  
8 pari-mutuel betting at each race meet, which sums shall be  
9 paid to the department within 5 days after receipt by the  
10 licensee. At the end of each race meet the licensee shall  
11 prepare a report to the department showing the amount of the  
12 overpayments and underpayments. If the report shows the  
13 underpayments to be in excess of the overpayments, the  
14 balance shall be paid to the department. Money paid to the  
15 department may be used for the expenses incurred in carrying  
16 out this chapter. THE LICENSEE SHALL, AT THE SAME TIME, PAY  
17 TO THE DEPARTMENT ALL SUMS COLLECTED UNDER 23-4-202(4)(D) ON  
18 EXOTIC WAGERING ON RACES.

19 ~~(2) In addition to the sums paid under subsection (1),~~  
20 ~~each licensee shall pay to the department 1% of the gross~~  
21 ~~receipts of each day's pari-mutuel betting at each race meet~~  
22 ~~for allocation as an owner's award under subsection (3) if~~  
23 ~~these sums must be paid to the department the same day as~~  
24 ~~received.~~

25 (3)(2) At the end of the racing season, sums collected

1 ~~under subsection (2) 23-4-202(4)(D) must be distributed by~~  
2 ~~the department, AEIER, FIRST PASSING THROUGH THE BOARD'S~~  
3 ~~AGENCY FUND ACCOUNT, to the licensed owners of those~~  
4 ~~Montana-bred horses finishing in the money at the meet from~~  
5 ~~which the sums derived. The owner's award must be~~  
6 ~~calculated as follows:~~

7 (a) divide the total amount collected from the 1% levy  
8 UNDER 23-4-202(4)(D) by the total amount won by Montana-bred  
9 horses;

10 (b) multiply the quotient derived under subsection  
11 (3)(2)(A) by the total amount of money won by each  
12 owner's Montana-bred horses.

13 (3)(3) For purposes of the owner's award under  
14 subsection (3) (2), "owner" means the individual,  
15 partnership, corporation, person, or other entity that owns  
16 the horse at the time of entry.

17 (3)(4) Licensees may not consider the sums available  
18 under subsection (2) 23-4-202(4)(D) when  
19 establishing purses."

20 Section 14. Section 23-4-305, MCA, is amended to read:  
21 "23-4-305. Deposit of unclaimed money. Each licensee  
22 holding a horse race meeting meet shall, within 30 days of  
23 the end of the meeting pay to the department for deposit in  
24 the earmarked revenue fund for the board of horse racing all  
25 unclaimed winning ticket money from any meet, report to the

~~board the total face value of all unclaimed winning tickets from each parimutuel pool. The money from unclaimed winning tickets must be retained by the licensee for capital improvements approved by the board.~~

**NEW SECTION.** Section 15. Appointment of board members -- terms. (1) Within 30 days after [the effective date of this act], the governor shall appoint members to the board in compliance with 2-15-1881, as amended by [this act].

(2) One member shall serve a 1-year term, two members shall serve 2-year terms, and two members shall serve 3-year terms. Each successor to such a member shall serve a 3-year term.

**NEW SECTION.** Section 16. Codification instruction. Section 7 is intended to be codified as an integral part of Title 23, chapter 4, and the provisions of Title 23, chapter 4, apply to section 7.

**NEW SECTION.** Section 17. Effective date. This act is effective on passage and approval.

-End-