

1 *Senate* BILL NO. *221*  
 2 INTRODUCED BY *Richard Manning Boyle Yellowtail*  
 3 *11.11.01* BY REQUEST OF THE BOARD OF HORSERACING  
 4 *Ernst Subject*

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW  
 6 RELATING TO THE REGULATION OF HORSERACING; INCREASING BOARD  
 7 COMPENSATION FOR PARITY WITH OTHER BOARDS; CLARIFYING THAT  
 8 RACING OFFICIALS MAY NOT WAGER AT MONTANA MEETS; ALLOWING  
 9 NONPARIMUTUEL RACE DAYS; AND ALLOWING THE BOARD OF  
 10 HORSERACING TO RECOVER REGULATORY COSTS; AMENDING SECTIONS  
 11 23-4-102, 23-4-106, 23-4-201, 23-4-202, AND 23-4-304, MCA;  
 12 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

13  
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 23-4-102, MCA, is amended to read:  
 16 "23-4-102. Chairman -- quorum -- costs -- salary. (1)  
 17 The board shall organize by electing one of its members  
 18 chairman. Three members of the board shall constitute a  
 19 quorum for the transaction of business by the board.

20 (2) The board may incur costs, charges, and expenses  
 21 reasonably necessary to carry out this chapter.

22 (3) Each member may be paid \$25 ~~\$50~~ for each day in  
 23 which he is actually and necessarily engaged in the  
 24 performance of board duties and shall be reimbursed for  
 25 travel expenses, as provided for in 2-18-501 through

1 2-18-503, as amended, incurred in his official service."

2 Section 2. Section 23-4-106, MCA, is amended to read:  
 3 "23-4-106. Executive secretary -- powers and duties --  
 4 staff -- prohibition on racing activities. (1) The  
 5 department shall appoint an executive secretary for the  
 6 board.

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

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

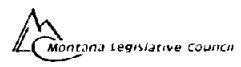
11 (b) hire all state racing officials for the  
 12 department;

13 (c) inspect race facilities; and

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

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

18 (4) The executive secretary, a member of his staff, a  
 19 licensed racing official, and any member of ~~the--executive~~  
 20 secretary's a state racing official's staff or a ~~staff~~  
 21 member's immediate family are prohibited from owning,  
 22 training, or having any interest in a racehorse running on a  
 23 Montana track or having any financial interest in any  
 24 Montana racing association. No A racing official ~~hired--by~~  
 25 ~~the--department--or--approved~~ licensed by the board and the



1 executive secretary or his staff may not wager at a racing  
2 meet at which he presides in Montana."

3 Section 3. Section 23-4-201, MCA, is amended to read:

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

12 (2) A person who participates in a race meet shall be  
13 licensed and charged an annual fee set by the board, which  
14 shall be paid to the department and used for expenses of  
15 administering this chapter, subject to 37-1-101(6). Each  
16 person holding a license under this chapter shall comply  
17 with this chapter and with the rules adopted and orders  
18 issued by the board.

19 (3) No license may be issued to a person who has  
20 failed to pay the fees, taxes, or moneys required under this  
21 chapter.

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

1 the meet may continue.

2 (5) The board shall require that a fair board and an  
3 independent racing association conducting race meets meet  
4 the requirements of the rules adopted by the board before  
5 granting a license.

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

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

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

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

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

1 or order of the board. In addition to the suspension or  
2 revocation and fine, the board may forbid application for  
3 relicensure for a 2-year period.

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

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

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

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

16 (d) setting aside of up to 2% of exotic wagering on  
17 races to be used as a bonus for owners pursuant to  
18 23-4-304~~(2)~~, and up to 30% of the amount set aside may be  
19 used to defray administrative costs which shall be in  
20 addition to the 20% already withheld under 23-4-302;

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

24 (f) definition of exotic forms of wagering on races to  
25 be allowed.

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

4 Section 5. 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 parimutuel 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) The board may assess individual tracks such  
20 amounts in excess of the 1% of gross receipts as are  
21 required to reimburse the board for the costs of regulating  
22 racing at that track during the current racing season.

23 ~~(2)~~(3) At the end of the racing season, sums collected  
24 under 23-4-202(4)(d) must be distributed by the department,  
25 after first passing through the board's agency fund account,

1 to the licensed owners of those Montana-bred horses  
2 finishing in the money at the meet from which the sums  
3 derived. The owner's award must be calculated as follows:

4 (a) divide the total amount collected under  
5 23-4-202(4)(d) by the total amount won by Montana-bred  
6 horses;

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

10 ~~(3)~~(4) For purposes of the owner's award under  
11 subsection ~~(2)~~ (3), "owner" means the individual,  
12 partnership, corporation, person, or other entity that owns  
13 the horse at the time of entry.

14 ~~(4)~~(5) Licensees may not consider the sums available  
15 under 23-4-202(4)(d) when establishing purses."

16 NEW SECTION. Section 6. Extension of authority. Any  
17 existing authority of the board of horseracing to make rules  
18 on the subject of the provisions of this act is extended to  
19 the provisions of this act.

20 NEW SECTION. Section 7. Effective date. This act is  
21 effective on passage and approval.

-End-

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN226-85

Form BD-15

In compliance with a written request received January 25 19 85, there is hereby submitted a Fiscal Note for S.B. 221 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

**DESCRIPTION OF PROPOSED LEGISLATION:**

Revising the law relating to regulation of Horse Racing; increasing board compensation on level with other boards; clarifying that racing officials may not wager at Montana meets; allowing nonparimutuel race days; and allowing the Board of Horse Racing to recover regulatory costs.

**ASSUMPTIONS:**

1. Assessment based on 170 racing days at \$225 per day and 5 nonparimutuel days per year at \$490/day.
2. Expenditures for board members will increase from \$25/day to \$50/day.
3. Compensation for board members increased to same level as other boards.

**FISCAL IMPACT ON STATE SPECIAL REVENUES:**

		<u>FISCAL 1986</u>	<u>FISCAL 1987</u>	<u>BIENNIUM IMPACT</u>
Revenues:	Current	\$ 250,000	\$ 250,000	
	Proposed	290,700	290,700	
Increase		\$ 40,700	\$ 40,700	\$ 81,400
Expenditures:	Current	\$ 251,292	\$ 251,251	
	Proposed	258,852	258,851	
Increase		\$ 7,600	\$ 7,600	\$ 15,200
Net Increase to State Special Revenue Fund		\$ 33,100	\$ 33,100	66,200

No general fund impact.

*David L Hunter*  
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BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: JAN 30, 1985

APPROVED BY COMMITTEE  
ON STATE ADMINISTRATION

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3 MILLER, B. WILLIAMS, DRISCOLL, LYBECK

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11 NONPARIMUTUEL RACE DAYS; ~~AND--ALLOWING--THE--BOARD--OF~~  
12 ~~HORSERACING--TO--RECOVER--REGULATORY--COSTS~~ INCREASING THE  
13 BOARD'S PERCENTAGE OF GROSS RECEIPTS; AMENDING SECTIONS  
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20 The board shall organize by electing one of its members  
21 chairman. Three members of the board shall constitute a  
22 quorum for the transaction of business by the board.

23 (2) The board may incur costs, charges, and expenses  
24 reasonably necessary to carry out this chapter.

25 (3) Each member may be paid \$25 \$50 for each day in

1 which he is actually and necessarily engaged in the  
2 performance of board duties and shall be reimbursed for  
3 travel expenses, as provided for in 2-18-501 through  
4 2-18-503, as amended, incurred in his official service."

5 Section 2. Section 23-4-106, MCA, is amended to read:

6 "23-4-106. Executive secretary -- powers and duties --  
7 staff -- prohibition on racing activities. (1) The  
8 ~~department~~ BOARD shall appoint an executive secretary for  
9 the board.

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

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

14 (b) hire all state racing officials for the  
15 department;

16 (c) inspect race facilities; and

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

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

21 (4) The executive secretary, a member of his staff, a  
22 licensed racing official, and any member of ~~the executive~~  
23 ~~secretary's~~ a state racing official's staff or ~~a--staff~~  
24 ~~member's~~ immediate family are prohibited from owning,  
25 training, or having any interest in a racehorse running on a

1 Montana track or having any financial interest in any  
 2 Montana racing association. No A racing official hired-by  
 3 the-department-or-approved licensed by the board and the  
 4 executive secretary or his staff may not wager at a racing  
 5 meet at-which-he-presides in Montana."

6 Section 3. Section 23-4-201, MCA, is amended to read:

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

15 (2) A person who participates in a race meet shall be  
 16 licensed and charged an annual fee set by the board, which  
 17 shall be paid to the department and used for expenses of  
 18 administering this chapter, subject to 37-1-101(6). Each  
 19 person holding a license under this chapter shall comply  
 20 with this chapter and with the rules adopted and orders  
 21 issued by the board.

22 (3) No license may be issued to a person who has  
 23 failed to pay the fees, taxes, or moneys required under this  
 24 chapter.

25 (4) Applications to hold race meets shall be submitted

1 to the department, and the board shall act on the  
 2 applications within 30 days. The board is the sole judge of  
 3 whether the race meet may be licensed and the number of days  
 4 the meet may continue.

5 (5) The board shall require that a fair board and an  
 6 independent racing association conducting race meets meet  
 7 the requirements of the rules adopted by the board before  
 8 granting a license.

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

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

14 "23-4-202. Penalty for violations of law -- authority  
 15 of board -- judicial review. (1) A person holding a race  
 16 meet, an owner, trainer, or jockey participating in a race  
 17 meet, without first being licensed under this chapter, and a  
 18 person violating this chapter is guilty of a misdemeanor.

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

24 (3) As its own formal act or through an act of a board  
 25 of stewards of a race meet, the board may suspend or revoke

1 any license issued by the department to a licensee and  
2 assess a fine, not to exceed \$1,000, against a licensee who  
3 violates any of the provisions of this chapter or any rule  
4 or order of the board. In addition to the suspension or  
5 revocation and fine, the board may forbid application for  
6 relicensure for a 2-year period.

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

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

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

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

19 (d) setting aside of up to 2% of exotic wagering on  
20 races to be used as a bonus for owners pursuant to  
21 23-4-304~~+~~2, and up to 30% of the amount set aside may be  
22 used to defray administrative costs which shall be in  
23 addition to the 20% 20.5% already withheld under 23-4-302;

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

1 reinstated; and

2 (f) definition of exotic forms of wagering on races to  
3 be allowed.

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

7 SECTION 5. SECTION 23-4-302, MCA, IS AMENDED TO READ:

8 "23-4-302. Distribution of deposits -- breakage. Each  
9 licensee conducting the parimutuel system shall distribute  
10 all sums deposited in any pool to the winner thereof, less  
11 an amount which, in the case of exotic wagering on races,  
12 shall not exceed ~~22%~~ 22.5%, and in all other races, shall  
13 not exceed ~~20%~~ 20.5% of the total deposits plus the odd  
14 cents of all redistribution to be based on each dollar  
15 deposited exceeding a sum equal to the next lowest multiple  
16 of 10, known as "breakage"."

17 Section 6. Section 23-4-304, MCA, is amended to read:

18 "23-4-304. Gross receipts -- department's percentage  
19 -- collection and allocation. (1) The licensee shall pay to  
20 the department ~~1%~~ 1.5% of the gross receipts of each day's  
21 parimutuel betting at each race meet, which sums shall be  
22 paid to the department within 5 days after receipt by the  
23 licensee. At the end of each race meet the licensee shall  
24 prepare a report to the department showing the amount of the  
25 overpayments and underpayments. If the report shows the



1 underpayments to be in excess of the overpayments, the  
 2 balance shall be paid to the department. Money paid to the  
 3 department may be used for the expenses incurred in carrying  
 4 out this chapter. The licensee shall, at the same time, pay  
 5 to the department all sums collected under 23-4-202(4)(d) on  
 6 exotic wagering on races.

7 ~~{2}--The---board--may--assess--individual--tracks--such~~  
 8 ~~amounts-in-excess--of--the--it--of--gross--receipts--as--are~~  
 9 ~~required--to-reimburse-the-board-for-the-costs-of-regulating~~  
 10 ~~racing-at-that-track-during-the-current-racing-season-~~

11 {2}{3}(2) At the end of the racing season, sums  
 12 collected under 23-4-202(4)(d) must be distributed by the  
 13 department, after first passing through the board's agency  
 14 fund account, to the licensed owners of those Montana-bred  
 15 horses finishing in the money at the meet from which the  
 16 sums derived. The owner's award must be calculated as  
 17 follows:

18 (a) divide the total amount collected under  
 19 23-4-202(4)(d) by the total amount won by Montana-bred  
 20 horses;

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

24 {3}{4}(3) For purposes of the owner's award under  
 25 subsection {2} {3} (2), "owner" means the individual,

1 partnership, corporation, person, or other entity that owns  
 2 the horse at the time of entry.

3 {4}{5}(4) Licensees may not consider the sums  
 4 available under 23-4-202(4)(d) when establishing purses."

5 NEW SECTION. Section 7. Extension of authority. Any  
 6 existing authority of the board of horseracing to make rules  
 7 on the subject of the provisions of this act is extended to  
 8 the provisions of this act.

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

-End-

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 18 complaints, protests, or appeals of stewards' rulings;

19 (d) setting aside of up to 2% of exotic wagering on  
 20 races to be used as a bonus for owners pursuant to  
 21 23-4-304~~(2)~~, and up to 30% of the amount set aside may be  
 22 used to defray administrative costs which shall be in  
 23 addition to the 20% 20.5% already withheld under 23-4-302;

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

1 reinstated; and

2 (f) definition of exotic forms of wagering on races to  
 3 be allowed.

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

7 SECTION 5. SECTION 23-4-302, MCA, IS AMENDED TO READ:

8 "23-4-302. Distribution of deposits -- breakage. Each  
 9 licensee conducting the parimutuel system shall distribute  
 10 all sums deposited in any pool to the winner thereof, less  
 11 an amount which, in the case of exotic wagering on races,  
 12 shall not exceed 22% 22.5%, and in all other races, shall  
 13 not exceed 20% 20.5% of the total deposits plus the odd  
 14 cents of all redistribution to be based on each dollar  
 15 deposited exceeding a sum equal to the next lowest multiple  
 16 of 10, known as "breakage"."

17 Section 6. Section 23-4-304, MCA, is amended to read:

18 "23-4-304. Gross receipts -- department's percentage  
 19 -- collection and allocation. (1) The licensee shall pay to  
 20 the department ~~1%~~ 1.5% of the gross receipts of each day's  
 21 parimutuel betting at each race meet, which sums shall be  
 22 paid to the department within 5 days after receipt by the  
 23 licensee. At the end of each race meet the licensee shall  
 24 prepare a report to the department showing the amount of the  
 25 overpayments and underpayments. If the report shows the

1 underpayments to be in excess of the overpayments, the  
 2 balance shall be paid to the department. Money paid to the  
 3 department may be used for the expenses incurred in carrying  
 4 out this chapter. The licensee shall, at the same time, pay  
 5 to the department all sums collected under 23-4-202(4)(d) on  
 6 exotic wagering on races.

7 ~~{2}--The--board--may--assess--individual--tracks--such~~  
 8 ~~amounts-in-excess-of--the--1%--of--gross--receipts--as--are~~  
 9 ~~required--to-reimburse-the-board-for-the-costs-of-regulating~~  
 10 ~~racing-at-that-track-during-the-current-racing-season:~~

11 {2}{3}(2) At the end of the racing season, sums  
 12 collected under 23-4-202(4)(d) must be distributed by the  
 13 department, after first passing through the board's agency  
 14 fund account, to the licensed owners of those Montana-bred  
 15 horses finishing in the money at the meet from which the  
 16 sums derived. The owner's award must be calculated as  
 17 follows:

18 (a) divide the total amount collected under  
 19 23-4-202(4)(d) by the total amount won by Montana-bred  
 20 horses;

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

24 {3}{4}(3) For purposes of the owner's award under  
 25 subsection {2} {3} (2), "owner" means the individual,

1 partnership, corporation, person, or other entity that owns  
 2 the horse at the time of entry.

3 {4}{5}(4) Licensees may not consider the sums  
 4 available under 23-4-202(4)(d) when establishing purses."

5 NEW SECTION. Section 7. Extension of authority. Any  
 6 existing authority of the board of horseracing to make rules  
 7 on the subject of the provisions of this act is extended to  
 8 the provisions of this act.

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

-End-

STANDING COMMITTEE REPORT

HOUSE

March 18 19 85  
page 1 of 2

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration SENATE Bill No. 221

third reading copy (blue color)

GENERAL REVISION OF HORSERACING REGULATORY LAW

Respectfully report as follows: That SENATE Bill No. 221

BE AMENDED AS FOLLOWS:

- 1. Title, line 8  
Following: "BOARDS;"  
Strike: the remainder of line 8 and line 9 through "SECRETARY;"
- 2. Title, line 12  
Following: "SECTIONS"  
Strike: the remainder of line 12 and line 13 through "RECEIPTS"  
Insert: "ALLOWING THE BOARD OF HORSERACING TO RECOVER REGULATORY LOSSES"
- 3. Page 2, line 8  
Strike: "BOARD"  
Insert: "department"
- 4. Page 5, line 23  
Strike: "20.5%"  
Insert: "20%"

UXR:RSGX

*Rep. Robert Pavlovich*  
Rep. Robert Pavlovich, Chairman

MARCH 18 19 85  
page 2 of 2  
SB221

- 5. Page 6, line 12  
Strike: "22.5%"  
Insert: "22%"
- 6. Page 6, line 13  
Strike: "20.5%"  
Insert: "20%"
- 7. Page 6, line 20  
Strike: "1.5%"  
Insert: "1%"
- 8. Page 7, line 11  
Following: line 10  
Insert: "(2) The board may assess an individual track an amount in excess of 1% of gross receipts sufficient to reimburse the board for the revenue loss because of regulating racing at that track during the current racing season.  
  
(3) The board may assess an individual track an amount sufficient to reimburse the board for the costs of regulating non-parimutuel racing."  
Renumber: subsequent subsections
- 9. Page 7, line 22  
Strike: "(2) (a)"  
Insert: "(4) (a)"
- 10. Page 7, line 25  
Strike: "(2)"  
Insert: "(4)"

*BA 5/18*

BE CONCURRED IN AS AMENDED

*Rep. Robert Pavlovich*  
Rep. Robert Pavlovich, Chairman

## SENATE BILL NO. 221

INTRODUCED BY R. MANNING, BOYLAN, YELLOWTAIL,

MILLER, B. WILLIAMS, DRISCOLL, LYBECK

BY REQUEST OF THE BOARD OF HORSERACING

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW RELATING TO THE REGULATION OF HORSERACING; INCREASING BOARD COMPENSATION FOR PARITY WITH OTHER BOARDS; ~~ALLOWING--THE BOARD--TO--APPOINT--AN--EXECUTIVE--SECRETARY;~~ CLARIFYING THAT RACING OFFICIALS MAY NOT WAGER AT MONTANA MEETS; ALLOWING NONPARIMUTUEL RACE DAYS; ~~AND--ALLOWING--THE--BOARD--OF HORSERACING--TO--RECOVER--REGULATORY--COSTS~~ INCREASING--THE BOARD'S--PERCENTAGE--OF--GROSS--RECEIPTS ALLOWING THE BOARD OF HORSERACING TO RECOVER REGULATORY LOSSES; AMENDING SECTIONS 23-4-102, 23-4-106, 23-4-201, 23-4-202, 23-4-302, AND 23-4-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 23-4-102, MCA, is amended to read:

"23-4-102. Chairman -- quorum -- costs -- salary. (1) The board shall organize by electing one of its members chairman. Three members of the board shall constitute a quorum for the transaction of business by the board.

(2) The board may incur costs, charges, and expenses reasonably necessary to carry out this chapter.

(3) Each member may be paid ~~925~~ 50 for each day in which he is actually and necessarily engaged in the performance of board duties and shall be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, as amended, incurred in his official service."

Section 2. Section 23-4-106, MCA, is amended to read:

"23-4-106. Executive secretary -- powers and duties -- staff -- prohibition on racing activities. (1) The department BOARD 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, a licensed racing official, and any member of ~~the--executive secretary's~~ a state racing official's staff or ~~a--staff 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. ~~No A racing official hired--by~~  
 4 ~~the--department--or--approved~~ licensed by the board and the  
 5 executive secretary or his staff may not wager at a racing  
 6 meet ~~at-which-he-presides~~ in Montana."

7 Section 3. Section 23-4-201, MCA, is amended to read:

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

16 (2) A person who participates in a race meet shall be  
 17 licensed and charged an annual fee set by the board, which  
 18 shall be paid to the department and used for expenses of  
 19 administering this chapter, subject to 37-1-101(6). Each  
 20 person holding a license under this chapter shall comply  
 21 with this chapter and with the rules adopted and orders  
 22 issued by the board.

23 (3) No license may be issued to a person who has  
 24 failed to pay the fees, taxes, or moneys required under this  
 25 chapter.

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

6 (5) The board shall require that a fair board and an  
 7 independent racing association conducting race meets meet  
 8 the requirements of the rules adopted by the board before  
 9 granting a license.

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

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

15 "23-4-202. Penalty for violations of law -- authority  
 16 of board -- judicial review. (1) A person holding a race  
 17 meet, an owner, trainer, or jockey participating in a race  
 18 meet, without first being licensed under this chapter, and a  
 19 person violating this chapter is guilty of a misdemeanor.

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

25 (3) As its own formal act or through an act of a board



1 of stewards of a race meet, the board may suspend or revoke  
 2 any license issued by the department to a licensee and  
 3 assess a fine, not to exceed \$1,000, against a licensee who  
 4 violates any of the provisions of this chapter or any rule  
 5 or order of the board. In addition to the suspension or  
 6 revocation and fine, the board may forbid application for  
 7 relicensure for a 2-year period.

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

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

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

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

20 (d) setting aside of up to 2% of exotic wagering on  
 21 races to be used as a bonus for owners pursuant to  
 22 23-4-304(2), and up to 30% of the amount set aside may be  
 23 used to defray administrative costs which shall be in  
 24 addition to the ~~20%~~ 20-5% 20% already withheld under  
 25 23-4-302;

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

4 (f) definition of exotic forms of wagering on races to  
 5 be allowed.

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

9 SECTION 5. 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 wagering on races,  
 14 shall not exceed ~~22%~~ 22-5% 22%, and in all other races,  
 15 shall not exceed ~~20%~~ 20-5% 20% of the total deposits plus  
 16 the odd cents of all redistribution to be based on each  
 17 dollar deposited exceeding a sum equal to the next lowest  
 18 multiple of 10, known as "breakage"."

19 Section 6. 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%~~ 1-5% 1% of the gross receipts of each  
 23 day's parimutuel betting at each race meet, which sums shall  
 24 be paid to the department within 5 days after receipt by the  
 25 licensee. At the end of each race meet the licensee shall

1 prepare a report to the department showing the amount of the  
 2 overpayments and underpayments. If the report shows the  
 3 underpayments to be in excess of the overpayments, the  
 4 balance shall be paid to the department. Money paid to the  
 5 department may be used for the expenses incurred in carrying  
 6 out this chapter. The licensee shall, at the same time, pay  
 7 to the department all sums collected under 23-4-202(4)(d) on  
 8 exotic wagering on races.

9 ~~(2) The board may assess individual tracks such~~  
 10 ~~amounts in excess of the 1% of gross receipts as are~~  
 11 ~~required to reimburse the board for the costs of regulating~~  
 12 ~~racing at that track during the current racing season.~~

13 (2) THE BOARD MAY ASSESS AN INDIVIDUAL TRACK AN AMOUNT  
 14 IN EXCESS OF 1% OF GROSS RECEIPTS SUFFICIENT TO REIMBURSE  
 15 THE BOARD FOR THE REVENUE LOSS BECAUSE OF REGULATING RACING  
 16 AT THAT TRACK DURING THE CURRENT RACING SEASON.

17 (3) THE BOARD MAY ASSESS AN INDIVIDUAL TRACK AN AMOUNT  
 18 SUFFICIENT TO REIMBURSE THE BOARD FOR THE COSTS OF  
 19 REGULATING NONPARIMUTUEL RACING.

20 ~~(2)(3)(2)(4)~~ At the end of the racing season, sums  
 21 collected under 23-4-202(4)(d) must be distributed by the  
 22 department, after first passing through the board's agency  
 23 fund account, to the licensed owners of those Montana-bred  
 24 horses finishing in the money at the meet from which the  
 25 sums derived. The owner's award must be calculated as

1 follows:

2 (a) divide the total amount collected under  
 3 23-4-202(4)(d) by the total amount won by Montana-bred  
 4 horses;

5 (b) multiply the quotient derived under subsection  
 6 ~~(2)(a)~~ (4)(A) by the total amount of money won by each  
 7 owner's Montana-bred horses.

8 ~~(3)(4)(3)(5)~~ For purposes of the owner's award under  
 9 subsection ~~(2)~~ ~~(3)~~ ~~(2)~~ (4), "owner" means the individual,  
 10 partnership, corporation, person, or other entity that owns  
 11 the horse at the time of entry.

12 ~~(4)(5)(4)(6)~~ Licensees may not consider the sums  
 13 available under 23-4-202(4)(d) when establishing purses."

14 NEW SECTION. Section 7. Extension of authority. Any  
 15 existing authority of the board of horseracing to make rules  
 16 on the subject of the provisions of this act is extended to  
 17 the provisions of this act.

18 NEW SECTION. Section 8. Effective date. This act is  
 19 effective on passage and approval.

-End-

# CONFERENCE COMMITTEE REPORT

Report No. 1

.....APR. 19,..... 19..85...

## WITHOUT RECOMMENDATION

MR. SPEAKER

We, your \_\_\_\_\_ FREE \_\_\_\_\_ Conference Committee on

SENATE BILL NO.221, reference copy,

met and considered \_\_\_\_\_, on April 19, SENATE BILL NO.221 in its

entirety.

We recommend as follows:

That SENATE BILL NO.221, reference copy, be amended as follows:

1. Page 5, line 24.  
Strike: "20%"  
Insert: "20.25%"

4. Page 6, line 22.  
Strike: "1%"  
Insert: "1.25%"

2. Page 6, line 14.  
Strike: "22%"  
Insert: "22.25%"

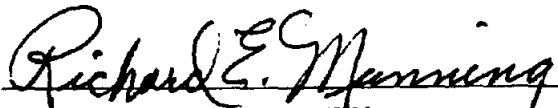
5. Page 7, line 14.  
Strike: "1%"  
Insert: "1.25%"

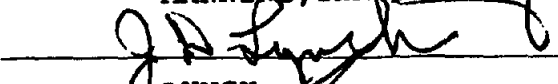
3. Page 6, line 15.  
Strike: "20%"  
Insert: "20.25%"

FCCSB221

And that this Conference Committee report be adopted.

FOR THE SENATE

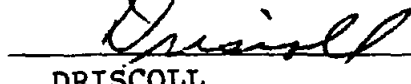
  
MANNING, CHM

  
LYNCH

  
GAGE

FOR THE HOUSE

  
PAVLOVICH

  
DRISCOLL

GLASER

ADOPT REJECT

SCOTT 107