listed on referral service advertisements. At this writing, BCE is expected to publish formal notice of the new amendments to section 317.1 in June.

• ***Preceptor Program Standards.*** At its December 1994 meeting, BCE adopted new section 313.1, Title 16 of the CCR, regarding preceptor programs—off-campus educational programs that allow chiropractic students to gain practical training and experience. The term "preceptor" refers to the participating chiropractor; the student is the "preceptee." The Board has attempted to adopt section 313.1 on several prior occasions. *[15:1 CRLR 157; 14:4 CRLR 185; 13:4 CRLR 189–90]*

Proposed section 313.1 contains specific regulations governing the operation of preceptor programs. For example, section 313.1 would require BCE to approve all preceptor programs, and provide that the program shall include office management as well as clinical training; it can last a maximum of twelve months with no more than 35 average weekly hours; monthly progress reports concerning the preceptee's performance are required; malpractice insurance must be included for the preceptee during the program; the preceptor must currently be a state-licensed chiropractor with at least five years' experience, and not have been subject to any disciplinary action under the Chiropractic Initiative Act or other regulation, and cannot have been convicted of a felony or misdemeanor related to the practice of chiropractic; a preceptor must provide direct supervision of the preceptee, and must identify him/her as a preceptee to patients; a patient's written consent must be secured before being treated by a preceptee; the preceptor must ensure that the preceptee practices in accordance with all applicable statutes and regulations, and must ensure the filing of monthly progress reports with the appropriate college; a preceptor may supervise only two preceptees at a time, and must have a permit for on-the-job training in X-ray equipment; a preceptee shall satisfactorily complete the program, may not represent him/herself as a chiropractor, and may not administer treatment without the appropriate supervision; and the preceptee must verify the procurement of the signed consent form, comply with all applicable laws, and report to the college any termination, delay or, interruption in the program.

At this writing, the rulemaking file awaits review and approval by the Office of Administrative Law (OAL).

• ***Practical Exam Prerequisites.*** Also in December 1994, BCE adopted amendments to section 349, Title 16 of the CCR, which interpret section 1000-6(d) of the Business and Professions Code regarding prerequisites for taking the practical portion of the California chiropractic examination, and which provide that, effective January 1, 1996, prior to being scheduled for the practical portion of the California Board examination, an applicant must show proof of either National Board status or successful completion of the entire written portion of the California licensure examination. The amendments would also clarify that the term "National Board status" means successful completion of Parts I, II, III, and physiotherapy on the national exam. *[15:1 CRLR 157; 14:4 CRLR 186; 14:2&3 CRLR 200]* According to BCE, requiring candidates to pass the national or state written examination before taking the California practical examination would allow the Board to establish the candidates' academic competence in ten areas of knowledge which are foundational to the practice of chiropractic before they appear before BCE's practical exam commissioners.

At this writing, the proposed changes await review and approval by OAL.

LEGISLATION

SB 682 (Peace). Existing law requires the Medical Board of California, the State Bar, and BCE to each designate employees to investigate and report to the Bureau of Fraudulent Claims of the Department of Insurance any possible fraudulent activities relating to motor vehicle or disability insurance by licensees of the boards or the Bar. As introduced February 22, this bill would require, in addition, those entities to investigate and report any possible fraudulent activities relating to workers' compensation. *[A. Ins]*

ACR 31 (Gallegos), as amended May 8, would acknowledge the significant contributions made by the chiropractic profession to the health and welfare of Californians, and commemorate 1995 as the centennial anniversary of the founding of the chiropractic profession. *[S. Rls]*

RECENT MEETINGS

At its January 19 meeting, BCE elected chiropractors Lloyd Boland to serve as Chair, Michael Martello to serve as Vice-Chair, and Sharon Ufberg to serve as Secretary.

At its February 23 meeting, BCE discussed its priorities in the investigation of misconduct cases. Executive Director Vivian Davis reported that she had discussed the matter with a representative of the Department of Consumer Affairs' Division of Investigation, and that BCE's top priority is the investigation of cases involving patient injury or endangerment, sexual misconduct, and substance abuse.

FUTURE MEETINGS

July 27 in Los Angeles.
August 31 in Sacramento.
October 12 in San Diego.
December 7 in Sacramento.

CALIFORNIA HORSE RACING BOARD

Executive Secretary:
Roy Wood
(916) 263-6000
Toll-Free Hotline:
800-805-7223

The California Horse Racing Board (CHRB) is an independent regulatory board consisting of seven members. The Board is established pursuant to the Horse Racing Law, Business and Professions Code section 19400 *et seq.* Its regulations appear in Division 4, Title 4 of the California Code of Regulations (CCR).

The Board has jurisdiction and power to supervise all things and people having to do with horse racing upon which wagering takes place. The Board licenses horse racing tracks and allocates racing dates. It also has regulatory power over wagering and horse care. The purpose of the Board is to allow parimutuel wagering on horse races while assuring protection of the public, encouraging agriculture and the breeding of horses in this state, generating public revenue, providing for maximum expansion of horse racing opportunities in the public interest, and providing for uniformity of regulation for each type of horse racing. (In parimutuel betting, all the bets for a race are pooled and paid out on that race based on the horses' finishing position, absent the state's percentage and the track's percentage.)

Each Board member serves a four-year term and receives no compensation other than expenses incurred for Board activities. If an individual, his/her spouse, or dependent holds a financial interest or management position in a horse racing track, he/she cannot qualify for Board membership. An individual is also excluded if he/she has an interest in a business which conducts parimutuel horse racing or a management or concession contract with any business entity which conducts parimutuel horse racing. Horse owners and breeders are not barred from Board membership. In fact, the legislature has declared that Board representation by these groups is in the public interest.

MAJOR PROJECTS

Primary Drug Testing Contract. At its May 1994 meeting, CHRB staff recommended that the Board award its primary drug testing contract to Pennsylvania Equine Toxicology Laboratory; following discussion, the Board unanimously approved staff's recommendation. At its August 1994 meeting, however, the Board announced that staff had determined that Pennsylvania Equine Toxicology Laboratory was not able to comply with the Board's contract for primary drug testing. Accordingly, CHRB had released a new request for proposals (RFP), to which it received responses from Harris Laboratories in Arizona, and Truesdail Laboratories, its existing primary drug testing contractor located in California; Harris' bid was $85,000 lower than Truesdail's bid. Following discussion, the Board awarded the contract to Harris Laboratories. Later on at the same meeting, certain Board members expressed discomfort about awarding the contract to an out-of-state laboratory, and discussed the possibility of changing its RFP method to award preference points to California-based bidders. After some discussion, the Board reversed its earlier decision to award the primary drug testing contract to Harris and instead voted to award it to Truesdail. Still later at the same meeting, Deputy Attorney General Martin Milas advised the Board to reconsider its actions in light of applicable state contracting law; the Board took the matter under submission and postponed action until its September meeting. *[14:4 CRLR 187]*

At its September 1994 meeting, CHRB agreed to ask the Department of General Services (DGS) to approve a sole-source contract, under which the Board would give the contract to Truesdail; the Board also agreed to allow Truesdail to continue providing drug testing services on a month-to-month basis while the request was being considered. Lew Harris of Harris Laboratories reminded the Board that Harris had provided the lowest bid, and that it stands ready and capable of undertaking the testing work for the Board; Harris also commented that if the contract is not awarded to Harris Laboratories, it may consider legal action. At CHRB's December 1994 meeting, staff reported that DGS had denied CHRB's request for a sole-source contract; further, staff had appealed the decision to the DGS Director, who denied the appeal. Following discussion, the Board granted the primary testing contract to Harris Laboratories by a 4–2 vote. *[15:1 CRLR 158–59]*

In late December 1994, Truesdail filed a protest with DGS, contesting CHRB's proposed award of the contract to Harris. Among other things, Truesdail contended that Harris did not meet certain requirements of the Public Contract Code, which specifies those actions which must be completed in order for a bidder to be deemed to have made a good faith effort, the alternative for those bidders who fail to meet the minority/women/disabled veteran business enterprise (M/W/DVBE) participation goals. In a February 21 statement of decision, DGS hearing officer Elizabeth Yost sustained Truesdail's protest, finding no evidence that Harris' advertisement for potential M/W/DVBE participation was placed in a newspaper focusing on M/W/DVBEs, or that such advertisement was available within the state of California, as required by regulation. Yost also found no evidence in Harris' proposal that any of its good faith effort attempts were designed to elicit responses from DVBEs who are residents of California and certified by California's Office of Small and Minority Businesses. Accordingly, Yost concluded that because Harris' "advertising and DVBE outreach efforts did not comply with controlling statutory and regulatory requirements, [Harris] did not complete a good faith effort as required by statute."

At its February 24 meeting, CHRB discussed DGS' decision, noting that it left the Board with two choices: throw out all bids received in response to the Board's RFP and release a new RFP, or award the contract to the only responsive bidder—Truesdail Laboratories. Following discussion, CHRB awarded the contract to Truesdail through June 1996.

Occupational Licenses and Fees. On February 17, CHRB published notice of its intent to amend section 1481, Title 4 of the CCR, to allow the Board to collect the actual costs of its licensees' participation in the Licensing Reciprocity Program of the Association of Racing Commissioners International (ARCI). Section 1481(i) specifies that a CHRB licensee who elects to participate in the Licensing Reciprocity Program shall pay a fee of $25. Currently, the associated costs for participation in the program are $34; CHRB has no control over the cost, as fees for the program are determined by ARCI and the Federal Bureau of Investigation. The proposed amendment would allow CHRB to collect the actual costs incurred without having to go through the rulemaking process each time the rate increases. On April 28, CHRB held a public hearing on the proposed change; after the hearing, CHRB adopted the proposal, which now awaits review and approval by the Office of Administrative Law (OAL).

Licensing of Contractors and Subcontractors. On February 17, CHRB published notice of its intent to adopt new section 1440.5, Title 4 of the CCR, which pertains to the licensing of contractors and subcontractors working within the enclosure at a racetrack. Section 1440.5 currently provides that totalizator, photo finish, and video production companies are routinely approved, but not licensed, as part of the racing association's license to conduct a horse racing meeting pursuant to section 1440, Title 4 of the CCR, which concerns licensing and approval of concessionaires. According to CHRB, each of these entities exercise control over significant racing activities and/or monies. If the companies or their employees fail to perform or violate a Board rule, CHRB's only recourse is to penalize the employee, not the company. New section 1440.5 would require contractors and subcontractors to be licensed by CHRB, and would also require the licensing of simulcast service suppliers and timing companies. The licensing process would include, among other things, ownership disclosure and background investigations to determine a contractor's qualifications. In addition, CHRB would gain a full range of disciplinary options should a contractor fail to perform. On April 27, CHRB held a public hearing on the proposed addition; on April 28, the Board adopted the proposal, which now awaits review and approval by OAL.

Totalizator Systems. On February 17, CHRB published notice of its intent to adopt new section 1951.1, Title 4 of the CCR, regarding totalizator systems; under the totalization system of racetrack betting, tickets are printed as purchased and the purchase automatically records at a central place so the odds may be determined. New section 1951.1 would require totalizator companies to provide systems that electronically transfer wagering information to all other totalizator systems merging parimutuel pools with California racing associations, both intrastate and interstate; systems that include a daily electronic download of parimutuel data directly to the horse racing database, as designated by CHRB; and a daily history of individual totalizator transactions in a computer-readable medium for each race meeting for a minimum of one year after the conclusion of the meet. On April 27, CHRB held a public hearing on the proposed new section; on April 28, CHRB adopted the section, which awaits review and approval by OAL.

Postmortem Examination. On April 28, CHRB published notice of its intent to amend section 1846.5, Title 4 of the CCR, which states the requirements and procedures for postmortem examinations of racehorses. The proposed amendment would de-

lete the exclusion of pony horses from postmortem examinations; require the owner's or trainer's veterinarian to give the necropsy submission form to the official veterinarian on the official veterinarian's next scheduled work day if the official veterinarian is not available at the time of death; clarify that the testing is to be made available without charge to the owner; and specify that additional testing is the responsibility of the requesting individual. At this writing, CHRB is scheduled to hold a public hearing on the proposed amendment on June 23.

Authorized Medication. On May 5, CHRB published notice of its intent to amend section 1844, Title 4 of the CCR, to establish and authorize the following acceptable levels of eight therapeutic drug substances and their metabolites or analogs, which may be present in an official post-race urine test sample: Acepromazine, 25 nanograms per milliliter (ng/ml); Mepivacaine, 10 ng/ml; Promazine, 25 ng/ml; Albuterol, 1 ng/ml; Atropine, 10 ng/ml; Benzocaine, 50 ng/ml; Procaine, 10 ng/ml; and Salicylates, 750 micrograms per milliliter. Under the amendments, official blood test samples shall not contain any of the authorized therapeutic drug substances, their metabolites, or analogs. At this writing, CHRB is scheduled to hold a public hearing on the proposed amendments on June 23.

Horsemen's Organizations. On May 12, CHRB published notice of its intent to amend section 2040, Title 4 of the CCR. The proposed amendment would clarify that separate organizations will represent owners and trainers of thoroughbred racehorses. *[15:1 CRLR 158–59; 14:2&3 CRLR 207–08]* At this writing, CHRB is scheduled to hold a public hearing on the proposal on July 27.

Rulemaking Update. The following is a status update on other CHRB rulemaking proposals described in detail in previous issues of the *Reporter*:

• ***Parlay Betting Regulations***. On February 8, OAL approved CHRB's adoption of new section 1954.1, Title 4 of the CCR, which sets the parameters for placing a parlay wager on a win, place, or show pool. Section 1954.1 enables a patron to wager on a minimum of two races and a maximum of six races on the win, place, or show pools on a given program at one time; winnings from the first leg of the parlay wager will automatically be reinvested into the next leg of the parlay wager. *[15:1 CRLR 159]* According to CHRB, the parlay betting method allows patrons who have a winning ticket at the conclusion of the parlay wager to cash in one time rather than after each race is run.

• ***Apprentice Jockeys***. CHRB has temporarily tabled its proposal to amend section 1500, Title 4 of the CCR, which sets forth guidelines regarding apprentice jockeys; among other things, the Board's changes would define the term "apprentice jockey" to mean a race rider who has ridden less than 45 winners or less than three years since first having been licensed in any racing jurisdiction, and who otherwise meets the license requirements of a jockey. The amendments would also provide that an apprenticeship shall automatically terminate one year from the date of a jockey's fifth winning ride, or on the date of the jockey's 45th winning ride, whichever comes later. Finally, the changes would provide that any combination of thoroughbred, Appaloosa, Arabian, or paint races at authorized race meetings in the United States, Canada, or Mexico, which are reported in the *Daily Racing Form* or other recognized racing publications, shall be considered in determining eligibility for license as an apprentice jockey. At this writing, CHRB is conducting further research into the matter to determine if the changes are warranted.

• ***Track Safety Standards***. On February 24, CHRB held a public hearing on its proposed amendments to sections 1472, 1473, and 1474, Title 4 of the CCR, its track safety standards. *[15:1 CRLR 159]* The amendments to section 1472 would add a provision requiring written certification that permanent track surface elevation grade marks have been installed on the racetrack. Section 1473 would be amended to include the designated horsemen's representative stabled at the location, along with the track maintenance supervisor, in the process of determining the number of morning breaks needed for track renovation for racing and training facilities with less than 300 racehorses and for facilities where standardbred horses are stabled; the amendments would also clarify the renovation specifications for morning breaks and renovations between races. Finally, the changes to section 1474 would delete the requirement for written certification that permanent track surface elevation grade marks have been installed on the racetrack, as that provision would be included in section 1472. Following the hearing, CHRB adopted the changes, which were approved by OAL on May 2.

• ***Prohibited Drug Substances***. On May 20, CHRB released modified language of its proposed adoption of new section 1843.3, Title 4 of the CCR, which would specify the appropriate disciplinary action for the finding of a prohibited drug substance(s) in a test sample taken from a horse participating in a race; new section 1843.2, Title 4 of the CCR, which would categorize prohibited substances into seven classifications ranging from drug substances with high abuse potential to therapeutic medications; and its proposed amendments to section 1859.5, Title 4 of the CCR, which would revise the definition of the term "prohibited drug substance" to coincide with the definition contained in section 1843.1. The proposed amendments to section 1859.5 would also specify that disqualification shall occur for prohibited drug substances found in a test sample that have been determined to be in Classes I–V, as established in proposed section 1843.2, unless the split sample fails to confirm the presence of the prohibited drug substance. *[15:1 CRLR 159–60; 14:4 CRLR 188]* The public comment period on the modified language closed on May 20; at this writing, staff is compiling the rulemaking files on these proposed regulatory changes for submission to OAL.

• ***Security Personnel at Simulcast Wagering Facility***. As originally proposed in July 1994, CHRB's amendments to section 2057, Title 4 of the CCR, would specify that it is the responsibility of a guest association operating a simulcast wagering facility to provide security personnel for the entire facility. *[15:1 CRLR 160; 14:4 CRLR 188–89]* On February 17, however, CHRB republished notice of its intent to amend section 2057, to specify that it is a guest association's responsibility to provide security personnel for the entire facility, and to clarify that it is not the responsibility of CHRB's Executive Secretary to specify the number of security personnel needed by the facility. CHRB held a public hearing on the proposed language on April 27 in Los Angeles; on April 28, CHRB adopted the changes, which await review and approval by OAL.

LEGISLATION

SCA 3 (Maddy), as amended May 3, would create the California Gaming Control Commission, and authorize the Commission to regulate and license legal gaming in this state, subject to legislative control. The measure would also create a Division of Gaming Control within the Office of the Attorney General, and permit the legislature to impose licensing fees on all types of gaming regulated by the Commission to support the activities of the Commission and the Division. The measure would provide for the regulation of bingo by the Commission, and permit the legislature to provide for the regulation by the Commission of both parimutuel wagering on horse racing and the State Lottery.

Under existing statutory law, CHRB is the state entity responsible for negotiating with Indian tribes for the purpose of entering into a tribal-state compact governing the conduct of horse racing activities on Indian lands of the tribe. No other person or entity is authorized to negotiate tribal-state compacts governing gaming on Indian lands. This measure would authorize the Governor to negotiate and execute tribal-state compacts with Indian tribes that would permit and regulate slot machines located on Indian lands, as defined. *[S. CA]*

AB 19 (Tucker), AB 11 (Isenberg, Hoge), SB 5 (Hayden), and **SB 10 (Kopp).** The Gaming Registration Act, among other things, prohibits the ownership or operation of a gaming club, as defined, without first obtaining a valid registration from the Attorney General; existing law subjects any person operating a gaming club without a license to punishment in the state prison or in a county jail for not more than one year. These four bills would all repeal the Gaming Registration Act, recast these provisions, and enact the Gaming Control Act, which would create the California Gaming Control Commission and authorize the Commission to regulate legal gaming in this state. The bills would also create the Division of Gaming Control within the Department of Justice, and specify that the Division of Gaming Control is responsible for investigation and enforcement of controlled gaming activity in the state.

Under existing law, CHRB is the state entity responsible for negotiating with the Indian tribes for the purpose of entering into a tribal-state compact governing the conduct of horse racing activities on Indian lands of the tribe. AB 11 would repeal that provision, and would additionally designate the Governor as the state officer responsible for negotiating and executing, on behalf of the state, as specified, compacts with federally recognized Indian tribes in California pursuant to the federal Indian Gaming Regulatory Act, for conducting Class III gaming on Indian lands. *[A. Appr, A. Floor, S. GO, S. Rls]*

AB 369 (Tucker). The Gaming Registration Act, among other things, prohibits the ownership or operation of a gaming club, as defined, without first obtaining a valid registration from the Attorney General. Existing law provides that an application for registration may be denied if the person, among other things, has any financial or other interest in any business or organization outside California that is engaged in any form of gambling or gaming not authorized by the laws of this state. As amended April 24, this bill would make an exception from the foregoing for certain corporations licensed to conduct horse racing and simulcast wagering, as specified. The bill would also provide that an application by an entity that was licensed pursuant to the Horse Racing Law during the twelve months preceding the effective date of this bill shall be deemed provisionally approved upon its submission. *[A. Inactive File]*

AB 91 (Tucker). Existing law declares the intent of the legislature that CHRB contract with the Regents of the University of California to provide equine drug testing. As amended May 11, this bill would declare the intent of the legislature that the Board may contract with the best qualified equine drug testing laboratory to provide all primary equine drug testing services at a compensation rate that the Board determines is fair and reasonable to the State of California and the Board. The bill would also state the intent of the legislature that complementary drug testing services be provided by the Equine Drug Testing Laboratory at the University of California at Davis. *[A. Appr]*

SB 100 (Maddy). Existing law requires every horse racing association conducting a racing meeting, except as specified, to pay 1% of its exotic parimutuel pools, excluding wagering at a satellite wagering facility, to the state as an additional license fee. As amended March 28, this bill would instead require that 1% to be distributed 50% as commissions and 50% as purses to the horsemen participating in the racing meeting. *[A. Appr]*

SB 106 (Ayala). Existing law permits a thoroughbred racing association to accept wagers on the results of out-of-country thoroughbred races under specified circumstances. As amended April 5, this bill would permit any thoroughbred association to execute an agreement with any other association that conducts thoroughbred races to distribute the signal and accept those wagers under certain conditions. *[A. GO]*

AB 1014 (Lee). Existing law authorizes CHRB to allocate racing dates, including simultaneous racing between zones as it deems appropriate. As introduced February 23, this bill would provide that notwithstanding any other provision of law, the Board shall not allocate racing dates to a private thoroughbred association in the northern zone for the purpose of conducting racing during daytime hours if the Alameda County Fair is conducting racing on the same dates during daytime hours. *[A. GO]*

AB 1552 (Kaloogian). Existing law permits any licensed racing association operating a racetrack to construct another track of not less than a specified size partially or entirely in the infield of that track if, prior to the beginning of construction or preparation of the track, CHRB has determined, among other things, that the conduct of horse racing meetings at the track will subserve the purposes of the Horse Racing Law. As introduced February 24, this bill would require CHRB to find that horse racing meetings at the track would promote, instead of subserve, the purposes of the Horse Racing Law. *[A. GO]*

AB 1879 (Machado). Existing law provides for the allocation of a maximum of fourteen racing days to the California Exposition and State Fair or a county or district agricultural association fair or citrus fair; those racing days are required to be days on which general fair activities are conducted. As amended May 1, this bill would require those days to be in the calendar period in which general fair activities are conducted. *[S. GO]*

SB 518 (Dills). Under existing law, CHRB may authorize an association conducting a racing meeting in this state to accept wagers on the results of out-of-state feature races having a gross purse of at least $50,000 during the period the association is conducting the racing meeting on days when live races are being run. For that privilege, the association pays a state license fee at a pro rata rate applicable to the races of the association's racing program for the day on which the out-of-state feature is offered. As introduced February 21, this bill would permit the Board to authorize any thoroughbred racing association conducting a meeting in this state to accept wagers on the results of out-of-state races, regardless of whether the race is a feature race and regardless of the amount of the gross purse. This bill would also provide for a license fee of 8% of the total amount remaining from the takeout after the contractual payment to the out-of-state host racing association. *[S. GO]*

SB 525 (Maddy). Existing law provides for the distribution of a specified amount of the redistributable money resulting from certain thoroughbred, harness, or quarter horse meetings, to a welfare fund established by the horsemen's organization contracting with the association with respect to the conduct of racing meetings for the benefit of horsemen. As introduced February 21, this bill would delete the requirement that the welfare fund be one established by the horsemen's organization contracting with the association with respect to the conduct of racing meetings, and would also provide that the welfare fund be for the benefit of backstretch personnel in addition to horsemen. *[A. GO]*

SB 270 (Maddy). Existing law provides, in various sections in the Horse Racing Law, for the distribution of 33/100 of 1% of the amount handled by a racing association or a satellite wagering facility to the city or county in which the racing meeting or satellite wagering facility is located, and also provides that the amount is in lieu of the imposition of any license or excise tax or fee on the racing association or any racing patron. As introduced February 8, this bill would consolidate these provisions. *[S. GO]*

SB 1220 (Maddy). Existing law provides for the deduction of certain amounts from wagers made at satellite wagering facilities, and for the distribution of those amounts. For fair meetings, 1.5% of the amount handled by the satellite wagering facility on conventional wagers, and 3% of the amount handled on exotic wagers is payable to the state as a license fee. Additionally, for quarter horse meetings, 1/2 of 1% of the total amount handled by the satellite wagering facility is required to be distributed in accordance with a written agreement between the racing association and the organization representing horsemen. As amended March 27, this bill would reduce the license fee for fair meetings on both of those types of wagers to 1% of the amount handled.

Existing law provides for the distribution of 33/100 of 1% of the amount handled by a satellite wagering facility to the city or county in which the satellite wagering facility is located, and also provides that the amount is in lieu of the imposition of any license or excise tax or fee on the racing association or any racing patron. This bill would provide that the foregoing distribution is also in lieu of the imposition of any possessory interest tax on the racing association, any racing patron, or service supplier, promoter, or vendor of the association.

Existing law requires all of the funds distributed for purses from satellite wagering facilities in the central and southern zone to go to the purse program of the association conducting the meeting. This bill would repeal that provision.

Under existing law, revenues distributed to the state as license fees from horse racing are required to be deposited in the Fair and Exposition Fund and various amounts thereof are continuously appropriated to the California Department of Food and Agriculture (CDFA) for various regulatory and general governmental purposes, including health and safety repair projects at fairs. Existing law requires these funds to be allocated in accordance with a three-year project schedule prepared by CDFA. Existing law also provides that if the revenues paid into the Fair and Exposition Fund exceed $13 million, 1/2 of the amount in excess is required to be transferred to the general fund. This bill would require 75% of the amount in excess of $13 million to be transferred to the general fund. The bill would provide that the amount allocated for health and safety repair projects shall not exceed $750,000 in any fiscal year, and would delete the requirement that these funds be allocated in accordance with a three-year project schedule prepared by CDFA. The bill would delete certain annual appropriations and would also annually appropriate certain sums for allocation by the CDFA Director to fairs.

Existing law also continuously appropriates up to 10% of the license fees from satellite wagering facilities in the northern zone to CDFA for the purpose of supplementing purses at fair meetings. This bill would also make an appropriation by appropriating 10% of the license fees from satellite wagering facilities throughout the state to CDFA for the purpose of supplementing purses in California-bred races at racing meetings generally, and would set forth the required distribution of these amounts.

Existing law provides for the payment of a daily license fee by the California Exposition and State Fair or a district or county fair at varying rates depending on the amount handled, but not to exceed 4.5% of its daily parimutuel handle. Existing law also provides for the payment of a daily license fee by a county fair in the northern zone that did not conduct horse racing prior to January 1, 1985, of 5.5% of its conventional parimutuel handle, and 6% of its exotic parimutuel handle. This bill would reduce those license fees to 1% of the daily conventional and exotic parimutuel handle.

Existing law permits a county fair, citrus fruit fair, or district agricultural association to expend money available for expenditure by it for the construction or operation of recreational and cultural facilities of general public interest. This bill would repeal that provision.

Existing law also appropriates $10,000 annually to the 51st District Agricultural Association for the acquisition and development of a fairgrounds site. This bill would repeal that provision. *[S. GO]*

AB 302 (Tucker). Existing law defines the term "parimutuel wagering," for the purposes of the Horse Racing Law, as a form of wagering on the outcome of horse races. As amended May 11, this bill would redefine the term "parimutuel wagering" for the purposes of that law. *[A. Floor]*

AB 455 (Hoge), as amended May 9, would define the term "parimutuel wagering," for the purposes of the Horse Racing Law, as a form of wagering on the outcome of horse races, including propositions approved by CHRB that involve any of the official statistics derived from the results of a live horse race. This bill would also provide, until January 1, 1997, for the distribution of takeout from a proposition parimutuel pool. *[A. Floor]*

AB 304 (Tucker). Existing law defines the term "breakage" as the odd cents by which the amount payable on each dollar wagered exceeds a multiple of $0.10. Under existing law, breakage is distributed as additional license fees, purses, commissions, and certain premiums and awards under the California Standardbred Sires Stakes Program. As introduced February 8, this bill would provide that at a quarter horse meeting, the term "breakage" is the odd cents by which the amount payable on each dollar wager exceeds a multiple of $0.05. *[A. Floor]*

AB 479 (Hoge). Existing law requires every association or fair that provides a live audiovisual signal of its program to a satellite wagering facility pursuant to a specified provision to cooperate with the operator of the satellite wagering facility with respect to arrangements with the ontrack totalizator company for access to its ontrack totalizator system for purposes of combining parimutuel pools. As introduced February 16, this bill would correct an obsolete cross-reference in that provision. *[S. GO]*

AB 325 (Tucker). Existing law requires signals of both racing programs to be accepted at each live racing meeting within the northern zone and at all satellite wagering facilities eligible to receive these programs when both a fair and a thoroughbred association are licensed by CHRB to conduct live racing meetings within the northern zone during the same calendar period. As amended April 4, this bill would require signals of all racing programs to be accepted at each live racing meeting, without regard to the zone in which the racing program is conducted, and at all satellite wagering facilities eligible to receive these programs when a fair or a specified quarter horse racing association and a thoroughbred association are licensed by the Board to conduct live racing meetings during the same calendar period and time. This bill would also provide for the amount of commissions payable to the quarter horse racing association from satellite wagering during the period described in the bill. *[A. GO]*

AB 370 (Tucker). Under existing law, CHRB may authorize an association li-

censed to conduct a racing meeting to operate a satellite wagering facility for wagering on races conducted at its racetrack inclosure, subject to specified conditions. Also, the Board may, with the approval of CDFA, permit a county fair, district agricultural association fair, or citrus fruit fair to operate a satellite wagering facility at its fairgrounds, subject to specified conditions. As amended May 11, this bill would permit CHRB, with CDFA's approval, to authorize any county fair or district agricultural association fair to operate a satellite wagering facility located off the fairgrounds but within the boundaries of that fair or district agricultural association, as specified, if the facility conforms with applicable zoning laws and a satellite wagering facility has not operated in that county in the preceding five years. *[A. Appr]*

AB 811 (Allen). Under existing law, CHRB may authorize an association licensed to conduct a racing meeting to operate a satellite wagering facility for wagering on races conducted at its racetrack inclosure, subject to specified conditions; and may, with CDFA's approval, permit a county fair, district agricultural association, or citrus fruit fair to operate a satellite wagering facility at its fairgrounds, subject to specified conditions. As introduced February 22, this bill would require the Board to ensure that the simulcasting of thoroughbred racing after 7:00 p.m. does not limit, interfere with, restrict, or injure the simulcasting of quarter horse racing. *[A. GO]*

AB 371 (Tucker), as amended May 1, would state that "satellite wagering" and operating a "satellite wagering facility" involve the transmission of an audiovisual signal from the host racetrack to an approved facility for the purpose of parimutuel wagering, regardless of whether the audiovisual signal is transmitted by satellite, cable, microwaves, fiber optics, or other technology approved by CHRB.

Existing law requires a sum equal to 10% of the first and second place money of every purse won by a California-bred or Arabian horse for first or second place at a horse racing meeting to be paid by the licensee conducting the meeting to the breeder of the horse. This bill would instead require those sums to be deposited with the official registering agency for Arabian horses and thereafter distributed as breeder premiums, owners' awards, and stallion awards in connection with Arabian horse races. The bill would also provide that these provisions shall apply to any horse racing meeting conducted on or after January 1, 1995. *[A. Floor]*

AB 1618 (Tucker). Existing law prohibits a satellite wagering facility, except a facility that is located at a track where live racing is conducted, from being located within twenty miles of any existing satellite wagering facility or any track where a racing association conducts a live racing meeting. As introduced February 24, this bill, notwithstanding the foregoing, would permit CHRB to authorize the operation of satellite wagering at any location in the southern zone that operated as a satellite wagering facility in 1993, including a location within twenty miles of a racetrack or another satellite wagering facility. *[A. Appr]*

SB 954 (Maddy). Existing law permits any county fair or district agricultural association in San Joaquin, Humboldt, or Fresno County, with the approval of CDFA and the authorization of CHRB, to operate a single satellite wagering facility on leased premises within the boundaries of that fair or district agricultural association. As amended April 17, this bill would authorize any fair or district agricultural association, with CDFA's approval and CHRB's authorization, to conduct satellite wagering at any location within the boundaries of that fair or association, but not within twenty miles of a live racing meeting or an existing satellite wagering facility, except as specified. The bill would require the wagering to be included with the wagers of the satellite wagering facility, except as specified. The bill would also authorize a fair to contract for the operation and management of satellite wagering conducted pursuant to the above provisions with a specified entity. *[A. GO]*

AB 394 (Cortese). Existing law defines the term "inclosure" for the purposes of the California Horse Racing Law, as, among other things, with respect to a live racing meeting, all areas of the racing association's grounds, as designated by the racing association and approved by CHRB, excluding the public parking lot. As introduced February 14, this bill would delete the language that excludes the public parking lot from the foregoing definition of "inclosure." *[S. GO]*

LITIGATION

In ***Opdyk v. California Horse Racing Board***, 34 Cal. App. 4th 1826 (Apr. 26, 1995), the Third District Court of Appeal upheld a CHRB decision excluding a gambler from all racetracks in California, although his misdemeanor bookmaking conviction was by plea of nolo contendere and was expunged after a period of probation. Opdyk contended that his conviction should not be used against him by the Board for three reasons: it was by plea of nolo contendere; it has been expunged; and he is now rehabilitated.

In response to Opdyk's first argument, the Third District noted that the legislature has provided broad authorization for boards to impose discipline based on a conviction by plea of nolo contendere; for example, Business and Professions Code section 7.5 provides in part that a conviction within the meaning of the Business and Professions Code includes a conviction following a plea of nolo contendere.

Regarding Opdyk's second argument, the court acknowledged that Penal Code section 1203.4 in general terms provides that upon completion of probation a person may have his/her conviction expunged; however, the court noted that "[i]t has long been held that an expungement of a bookmaking conviction does not relieve a person from the status of 'known bookmaker.'" Further, the court explained that the expungement statute was never intended to obliterate the fact that a defendant had been finally adjudged guilty of a crime; it merely frees the convicted felon from certain penalties and disabilities of a criminal or like nature.

Finally, the court stated that to the extent Opdyk contends his expungement automatically makes him "rehabilitated" within the meaning of CHRB rules, he is mistaken; the court explained that "the Board has the discretion to make such a finding, but need not." Further, the Third District stated that to the extent Opdyk contends that CHRB abused its discretion by not finding him to be "rehabilitated," he is also mistaken; the court found that the record before CHRB showed Opdyk continued to enter racing inclosures and gamble (winning substantial sums) despite his ineligibility, and he admitted having others run bets for him on one occasion. The court concluded that this activity demonstrates that Opdyk has "flouted the Board's authority over horse racing and reflects an inability on his part to conform his gambling behavior to legal requirements, including the rules of the Board. Given this evidence, he did not carry his burden to prove he was 'rehabilitated' and therefore the Board did not abuse its discretion in declining so to find."

RECENT MEETINGS

At its January 27 meeting, CHRB discussed its plan to designate a nonprofit organization to maintain a database of horse racing information. Following discussion, CHRB awarded the designation to the California Authority of Racing Fairs (CARF), which will maintain the database for one year. The Board directed CARF to provide it with a report at the six-month point indicating its progress on the project.