

HOUSE BILL NO. 119

INTRODUCED BY B. LER

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA CATTLE COMMITTEE; ESTABLISHING MEMBERSHIP REQUIREMENTS; ESTABLISHING COMMITTEE DUTIES; PROVIDING FOR A CATTLE ASSESSMENT; PROVIDING FOR A CATTLE ASSESSMENT REFERENDUM FOR CATTLE SELLERS; CREATING A CATTLE SPECIAL REVENUE ACCOUNT; PROVIDING A STATUTORY APPROPRIATION; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AMENDING SECTIONS 2-18-103, 17-7-502, AND 81-1-102, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING EFFECTIVE DATES."

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

NEW SECTION. Section 1. Montana cattle committee. (1) There is a Montana cattle committee.

(2) The committee consists of seven members.

(3) A list of nominees for appointment may be submitted to the governor by the Montana stockgrowers association, the Montana cattlemen's association, the Montana association of livestock auction markets, Montana cattlemen, the Montana beef council, the Montana farm bureau federation, and the Montana farmers union. Names of nominees must be publicly submitted at least 90 days before the expiration of a committee member's term.

(4) (a) Except as provided in subsection (4)(b), the appointed members serve staggered terms of 3 years. A member may not serve more than three consecutive 3-year terms.

(b) The initial appointments are as follows: two members for 1-year terms, two members for 2-year terms, and three members for 3-year terms.

(5) The governor shall appoint members from the individuals nominated as provided in subsection (3). If too few individuals are nominated to fill the available positions, the governor may appoint a Montana resident who is a cattle producer, as defined in [section 3].

(6) Each appointed member must be a resident of Montana and be a cattle producer in the state.

1 clearly indicates otherwise, the following definitions apply:

2 (1) "Board" means the board of livestock established in 2-15-3102.

3 (2) "Cattle producer" means a person who owns cattle in their own name or is an owner or
4 beneficiary of a business entity or trust that owns cattle in the state.

5 (3) "Cattle seller" means a person or entity that sells cattle. The term includes a person,
6 partnership, association, corporation, cooperative, trust, joint tenancy, tenants in common, and all other
7 business units, devices, and arrangements.

8 (4) "Collecting person" means a person who is responsible for collecting and remitting a cattle
9 assessment pursuant to [section 12].

10 (5) "Committee" means the Montana cattle committee provided for in [section 1].

11 (6) "Department" means the department of livestock provided for in 2-15-3101.

12 (7) "Montana cattle" means any cattle that have been physically located inside the boundary of the
13 state for the past 30 days.

14
15 **NEW SECTION. Section 4. Compensation -- per diem.** Members of the committee may not receive
16 a salary but are entitled to compensation as provided in 2-15-122 for each day they are engaged in the
17 transaction of official business. Members must be reimbursed for travel expenses, as provided in 2-18-501
18 through 2-18-503, incurred while on official business.

19
20 **NEW SECTION. Section 5. Election of officers -- time of meetings -- quorum.** (1) The members of
21 the committee shall annually elect a chairperson and a vice chairperson from among the committee
22 membership. The chairperson and vice chairperson shall each serve a 1-year term.

23 (2) The committee shall meet at least once a year and at other times as called by the chairperson
24 or by any three members of the committee.

25 (3) Four members of the committee constitute a quorum for the transaction of all business,
26 including the election of officers.

27
28 **NEW SECTION. Section 6. Powers of committee.** (1) The committee may:

- (a) adopt rules and orders necessary for the administration of [sections 2 through 16] for the exercise of its powers and the performance of its duties, in accordance with the Montana Administrative Procedure Act;
- (b) provide, through the department, for the enforcement of [sections 2 through 16];
- (c) employ a person to serve as the executive director at the pleasure of the committee;
- (d) retain additional staff to discharge the duties outlined in [sections 2 through 16];
- (e) enter into contracts in the name of the committee to carry out the purposes of [sections 2 through 16];
- (f) plan and conduct research programs to improve and benefit Montana's cattle industry;
- (g) plan and conduct publicity and marketing promotion campaigns to increase the demand for cattle and enter into publicity and sales promotion contracts and other agreements as necessary;
- (h) cooperate with any local, state, or national organization or agency engaged in similar work or activities to carry out joint campaigns of research, education, product promotion, publicity, and reciprocal enforcement of the ~~objections-objectives~~ of [sections 2 through 16];
- (i) accept grants, donations, and gifts from any source for expenditure for any purpose consistent with [sections 2 through 16], including a purpose specified as a condition of a grant, donation, or gift;
- (j) establish and maintain the executive offices of the committee at any location in the state;
- (k) authorize the purchase of equipment or supplies and incur all other reasonable and necessary expenses and obligations required to carry out the provisions of [sections 2 through 16]; and
- (l) become a member of and purchase membership in trade organizations and subscribe to and purchase trade bulletins, journals, and other trade publications.
- (2) The committee has final authority on the use and distribution of money from the cattle special revenue account provided for in [section 10].

NEW SECTION. Section 7. Administrative costs. (1) The committee may be assessed costs by the department for the services it provides, including but not limited to personal service costs, operating costs, office and office equipment costs, and other administrative costs, on request or pursuant to 2-15-121. The costs charged must have a substantial relationship to the costs of services provided.

(2) The department shall provide an annual accounting to the committee of the incurred and indirect costs that are attributable to the program.

NEW SECTION. Section 8. Committee procurement -- rulemaking. (1) The committee is not subject to procurement procedures under Title 18, chapter 4.

(2) The committee shall adopt rules for procurement of goods and services necessary to the duties outlined in [sections 2 through 16].

NEW SECTION. Section 9. Bonding of employees. Department employees who handle assessment or other receipts must be bonded for the faithful and safe handling of and accounting for the receipts while in their hands and for faithful compliance with [sections 2 through 16].

NEW SECTION. Section 10. Cattle special revenue account -- sources -- use -- expenditures. (1) There is a cattle special revenue account in the state special revenue fund to the credit of the department for use as provided in [section 6].

(2) The account consists of:

(a) proceeds from assessment collected pursuant to [section 12];

(b) penalty fees, if any, collected pursuant to [sections 15 and 16]; and

(c) gifts, grants, and donations to the department for purposes authorized under [sections 2 through 16].

(3) (a) Except as provided in subsection (3)(c), money in the account must be used solely for the purposes of [sections 6, 7, 10, 11, and 13] and is separate from all other accounts of the department.

(b) Money in the account may not be used for lobbying ~~or for seeking and obtaining legal defense if the committee is subject to suit.~~

(c) The committee may use money in the account in support of cattle industry legal proceedings.

(4) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department for use by the committee for the purposes of [sections 2 through 16]. Expenditures for administrative costs allowed under [section 6] must be made from temporary appropriations, as described in 17-7-501, made for that

1 purpose.

2 (5) The department may direct the board of investments established in 2-15-1808 to invest funds
3 from the account pursuant to the provisions of the unified investment program for state funds. The income from
4 the investments must be credited to the cattle special revenue account.

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6 **NEW SECTION. Section 11. Cattle assessment referendum.** (1) By June 30, 2027, the department
7 shall conduct one or more referendums on the cattle assessment provided for in [section 12] based on rules
8 established by the committee.

9 (2) The department may use funds in the cattle special revenue account provided for in [section
10 10] to pay for administering the cattle assessment referendum as provided under this section and for future
11 cattle assessment adjustment referendums as provided in [section 14], if any.

12 (3) (a) ~~Any cattle seller who certifies by affidavit that they sold cattle in the state during a 2-year~~
13 ~~time period specified by the board is eligible to vote in any referendum conducted under this section. The~~
14 ~~department shall mail a ballot to cattle sellers who paid a per capita fee in the most recent collection year, or a~~
15 ~~cattle seller may request a ballot from the department.~~

16 (b) (i) Each authorized cattle seller is entitled to cast only one ballot in a referendum.

17 (ii) A group of individuals that qualify as an eligible cattle seller is entitled to only one vote in a
18 referendum.

19 (iii) An individual representing a cattle seller shall provide certification, as determined by the
20 department, that the individual is authorized to vote on behalf of the cattle seller they represent.

21 (c) Cattle sellers younger than 18 years of age must provide a parent or guardian's co-signature
22 ~~on their ballot.~~

23 (4) Passage of a referendum requires a majority vote of the ballots received.

24 (5) (i) The department shall tabulate the ballots of all eligible cattle sellers, verified by the
25 department, and shall notify the committee of the results of the referendum.

26 (ii) The results of the referendum must be made available to the public immediately after the
27 ballots have been counted and any verifications for accuracy have been completed.

28

NEW SECTION. Section 12. Cattle assessment -- collection. (1) There is an assessment of \$1 for

each head of Montana cattle sold, regardless of age, that must be paid by the cattle seller on each sale of Montana cattle. Failure of the collecting person to collect the assessment on each head of cattle sold as designated in [sections 2 through 16] does not relieve the seller of their obligation to pay the assessment.

(2) This section does not apply to:

(a) cattle originating outside the state of Montana that are transported inside the boundary of the state to be sold or slaughtered within 30 days; or

(b) cattle resold within 10 days of purchase. Proof of a paid cattle assessment made pursuant to subsection (1) must be provided by the cattle seller.

(3) The department shall collect the assessment and deposit the revenue in the cattle special revenue account provided for in [section 10].

(4) The department may enter into a contract for collection on behalf of the committee.

(5) The department may collect the assessment in a similar process and timeline as its existing contract with the Montana beef council, created under 81-8-901, for the collection of an assessment established by the federal Beef Promotion and Research Act of 1985, 7 USC 2901 through 2911, also referred to as the national beef checkoff, and 7 CFR, part 1260, subpart A.

NEW SECTION. Section 13. Refund of cattle assessment. (1) (a) A cattle seller who has paid a cattle assessment to the department as provided in [section 12] may request that the department refund all or a portion of the cattle assessment levied under the rules of the committee.

(b) (i) A cattle seller who qualifies for a refund as provided in this section must submit a refund request in writing on an application form that is available from the department without cost to all sellers who pay the cattle assessment.

(ii) The cattle seller shall complete the application form provided by the department and return it to the department, ~~with a copy of payment documentation,~~ within 45 days after the date of the sale.

(iii) If a refund request is not submitted to the department within the prescribed time period, the cattle seller is presumed to have agreed to pay the assessment.

(2) (i) If a written request is submitted as provided for in subsection (1)(b)(ii), the department shall

refund to the cattle seller the cattle assessment due under [section 12] from the cattle special revenue account provided for in [section 10] ~~within 90 days.~~

(ii) The department may not impose conditions when issuing a refund pursuant to [sections 2 through 16].

(3) A cattle seller is not entitled to a refund under this section unless the refundable amount is \$5 or more.

NEW SECTION. Section 14. Cattle assessment adjustment -- referendum. (1) (a) Cattle sellers may petition the department for a referendum to repeal or change the cattle assessment amount with a petition collecting the signatures of at least 10% of cattle sellers who have paid in the current or previous calendar year the assessment collected under [section 12].

(b) The petition process must be completed within 1 year of the date of filing the petition with the department.

(2) All referendums must be conducted in accordance with [section 11(2) through (5)].

NEW SECTION. Section 15. Penalty for nonpayment. A cattle seller who fails to pay the cattle assessment pursuant to [sections 2 through 16] is subject to a penalty of 5% of the amount of the assessment determined to be due, as provided in [sections 2 through 16], plus 1% of that amount for each month of delay or the fraction of that amount after the expiration of the month after the assessment became due. The penalty must be paid to the department and disposed of as provided in [section 10].

NEW SECTION. Section 16. Penalty for violation. In addition to the penalty specified in [section 15], a person who violates or aids in a violation of any provisions of [sections 2 through 16] or any rules or orders of the department adopted under [sections 12 through 16], upon conviction, is punishable by a fine not to exceed \$500. All fines collected, except fines collected by a justice's court, must be deposited in the cattle special revenue account provided for in [section 10].

Section 17. Section 2-18-103, MCA, is amended to read: