

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.

(7) A member may be removed by the governor, after a full public hearing before the governor, for malfeasance, misfeasance, or neglect of duty. Removal proceedings may not be stated except upon duly verified written charges. The member must be given a copy of the written charges at least 10 days in advance of the hearing. At the hearing, the member may be represented by an attorney and may present witnesses on the member's behalf.

(8) A member who ceases to reside in the state or who ceases to be a Montana cattle producer is disqualified from membership, and the office becomes vacant. If the member refuses to recognize the member's disqualification, the refusal is cause for removal from the committee.

(9) The committee is allocated to the department of livestock for administrative purposes only as provided in 2-15-121.

NEW SECTION. Section 2. Purpose. The legislature finds and declares that:

(1) the production of cattle constitutes a paramount industry in Montana that brings substantial revenue to the state and provides consumers with local and nutritious beef;

(2) the production of cattle and beef provides a viable living for many Montanans and serves as the economic foundation of many communities;

(3) the stabilization, maintenance, and expansion of markets for Montana cattle is necessary in order to provide consumers with an adequate supply of high-quality beef;

(4) the committee form of administration is uniquely situated to provide those engaged in the production of cattle with the opportunity to avail themselves of the benefits of collective action in advertising, promotion, food safety production research, nutrition, marketing research, the collection and dissemination of production and related statistics, and public education; and

(5) enabling the committee to formulate and effectuate research, promotion, and educational programs designed to enhance the Montana cattle industry will create a favorable environment for Montana cattle producers to operate and improve their competitiveness in both the domestic and international marketplaces.

NEW SECTION. Section 3. Definitions. As used in [sections 2 through 16], unless the context

clearly indicates otherwise, the following definitions apply:

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

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

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

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

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

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

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

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

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

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

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

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.

5
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~~
15 ~~YEAR, OR A 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.

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:

1 **"2-18-103. Officers and employees excepted.** Parts 1 through 3 and 10 do not apply to the following
2 officers and employees in state government:

3 (1) elected officials;

4 (2) county assessors and their chief deputies;

5 (3) employees of the office of consumer counsel;

6 (4) judges and employees of the judicial branch;

7 (5) members of boards and commissions appointed by the governor, the legislature, or other
8 elected state officials;

9 (6) officers or members of the militia;

10 (7) agency heads appointed by the governor;

11 (8) academic and professional administrative personnel with individual contracts under the
12 authority of the board of regents of higher education;

13 (9) academic and professional administrative personnel and live-in houseparents who have
14 entered into individual contracts with the state school for the deaf and blind under the authority of the state
15 board of public education;

16 (10) investment officer, assistant investment officer, executive director, and eight professional staff
17 positions of the board of investments;

18 (11) four professional staff positions under the board of oil and gas conservation;

19 (12) director of the Montana state lottery and assistant director for security of the Montana state
20 lottery;

21 (13) executive director and employees of the state compensation insurance fund;

22 (14) state racing stewards employed by the executive secretary of the Montana board of
23 horseracing;

24 (15) executive director of the Montana wheat and barley committee;

25 (16) commissioner of banking and financial institutions;

26 (17) training coordinator for county attorneys;

27 (18) employees of an entity of the legislative branch consolidated, as provided in 5-2-504;

28 (19) chief information officer in the department of administration;

(20) chief economic development officer and six professional staff positions in the office of economic development provided for in 2-15-218; and

(21) ~~the director of the office of state public defender provided for in 2-15-1029; and~~

(22) executive director and employees of the Montana cattle committee provided for in [section 1]."

Section 18. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-316; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121; 15-1-142; 15-1-143; 15-1-218; 15-1-2302; 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-128; 15-70-131; 15-70-132; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-6-214; 17-7-133; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-3-369; 20-7-1709; 20-8-107; 20-9-250; 20-9-534; 20-9-622; [20-15-328]; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; [22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-4-1506; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-2-203; 81-7-106; 81-7-123; [section 10]; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603;

87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and any costs or fees associated with issuing, paying, securing, redeeming, or defeasing all bonds, notes, or other obligations, as due in the ordinary course or when earlier called for redemption or defeased, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029; pursuant to secs. 1, 2, 3, Ch. 139, L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30, 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; pursuant to sec. 1, Ch. 20, L. 2023, sec. 2, Ch. 20, L. 2023, and sec. 3, Ch. 20, L. 2023, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2029; pursuant to sec. 9, Ch. 44, L. 2023, the inclusion of 15-1-142 terminates December 31, 2025; pursuant to sec. 10, Ch. 47, L. 2023, the inclusion of 15-1-2302 terminates June 30, 2025; pursuant to sec. 2, Ch. 374, L. 2023, the inclusion of 10-3-802 terminates June 30, 2031; pursuant to sec. 12, Ch. 558, L. 2023, the inclusion of 20-9-250 terminates December 31, 2029; pursuant to sec. 4, Ch. 621, L. 2023, the inclusion of 22-1-327 terminates July 1, 2029; pursuant to sec. 24, Ch. 722, L.

2023, the inclusion of 17-7-133 terminates June 30, 2027; pursuant to sec. 10, Ch. 758, L. 2023, the inclusion of 44-4-1506 terminates June 30, 2027; and pursuant to sec. 10, Ch. 764, L. 2023, the inclusion of 15-1-143 terminates December 31, 2025.)"

Section 19. Section 81-1-102, MCA, is amended to read:

"81-1-102. Duties and powers of department -- fees based on costs -- notice of rules and orders. (1) The department shall exercise general supervision over and, so far as possible, protect the livestock interests of the state from theft and disease and recommend legislation that in the judgment of the department fosters the livestock industry. The department may compel the attendance of witnesses, employ counsel to assist in the prosecution of violations of laws made for the protection of livestock interests, and assist in the prosecution of persons charged with illegal branding or theft of livestock or any other crime under the laws of this state for the protection of stock owners. It may adopt rules governing the recording and use of livestock brands.

(2) Except as provided in 81-8-901 and [section 12], the department shall by rule establish all fees that it is authorized to charge, commensurate with costs.

(3) (a) In addition to the requirements of Title 2, chapter 4, the department shall provide notice of adopted, amended, and repealed administrative rules and orders as provided in subsection (3)(b).

(b) Within 10 working days of the effective date of a rule or order, notice of the rule or order must be published on the department's website and provided to each livestock market and brand office. The department shall provide the notification by electronic means to each conservation district, veterinarian's office, and county extension office in the state and to any person or to the office of any professional or trade organization or member of those entities who has made a request to the department to be informed of the adoption, amendment, or repeal of a rule or order by the department.

(c) The notice provided pursuant to this subsection (3) must include a brief summary of the contents of the rule or order and instructions for accessing a complete copy of the rule or order electronically or by mail.

(4) The department shall perform the duties assigned to the department relating to the administration and regulation of alternative livestock ranches.

(5) The board may hire an executive officer. The executive officer serves at the pleasure of the board. The board may remove an executive officer at any time and appoint a new executive officer."

NEW SECTION. Section 20. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 2, chapter 15, part 31, and the provisions of Title 2, chapter 15, part 31, apply to [section 1].

(2) [Sections 2 through 16] are intended to be codified as a new part in Title 81, chapter 8, and the provisions of Title 81, chapter 8, apply to [sections 2 through 16].

NEW SECTION. Section 21. Contingent voidness. If a cattle assessment referendum as provided for in [section 11] fails to receive approval by June 30, 2027, then [this act] is void.

NEW SECTION. Section 22. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Sections 12 through 16 and section 19] are effective on the date that a cattle assessment referendum as provided for in [section 11] receives approval. The committee shall inform the code commissioner within 14 days of final approval of the referendum that the contingency has been met.

-- END --