

SENATE BILL NO. 285

INTRODUCED BY M. LANG, R. TEMPEL

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3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA PULSE CROP COMMITTEE;
5 ESTABLISHING MEMBERSHIP REQUIREMENTS; ESTABLISHING COMMITTEE DUTIES; PROVIDING FOR
6 A PULSE CROP ASSESSMENT; CREATING A SPECIAL REVENUE ACCOUNT; PROVIDING A STATUTORY
7 APPROPRIATION AND AN APPROPRIATION; PROVIDING DEFINITIONS; PROVIDING RULEMAKING
8 AUTHORITY; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 NEW SECTION. **Section 1. Montana pulse crop committee.** (1) There is a Montana pulse crop
13 committee.

14 (2) The committee consists of five voting members and three ex officio nonvoting members who are
15 actively involved in the production, research, or marketing of pulse crops.

16 (3) The governor shall appoint:

17 (a) two members from an eastern district consisting of Carter, Custer, Daniels, Dawson, Fallon, Garfield,
18 McCone, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Valley, and Wibaux Counties;

19 (b) one member from a western district consisting of the remaining counties of the state; and

20 (c) two at-large members, who may be from either district.

21 (4) The ex officio members are:

22 (a) the director of the department of agriculture;

23 (b) the dean of agriculture of Montana state university-Bozeman; and

24 (c) a representative of the pulse industry who is appointed by the governor and operates a collection
25 facility that purchases pulses in Montana.

26 (5) (a) ~~The U.S.A. dry pea and lentil council, the northern pulse growers association, the Montana grain~~
27 ~~growers association, and the Montana farm bureau federation~~ AGRICULTURAL GROUPS WITH AN INTEREST IN THE
28 PRODUCTION AND MARKETING OF PULSES may submit to the governor a list of nominees for appointment not more
29 than 90 days or less than 30 days before the expiration of a member's term.

30 (b) Appointments must be made from the individuals nominated. If too few individuals are nominated to

1 fill the available positions, the governor may appoint any pulse producer from the district where the vacancy
2 exists.

3 (6) The appointed members shall serve staggered terms of 3 years that expire on June 30. A member
4 may not serve more than three consecutive 3-year terms.

5 (7) Each appointed member must be a Montana resident, derive a substantial portion of the member's
6 income from growing pulse crops in the state, and have a farming operation in the district from which the member
7 was appointed.

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

13 (9) A member who no longer resides in the state or in the district from which the member was appointed
14 or who no longer grows pulse crops in the state or district is disqualified from membership, and the office
15 becomes vacant. A member's refusal to recognize the member's disqualification is cause for removal.

16 (10) The committee is allocated to the department for administrative purposes only as provided in
17 2-15-121.

18
19 **NEW SECTION. Section 2. Definitions.** As used in [sections 2 through 9], the following definitions

20 apply:

21 (1) "Committee" means the Montana pulse crop committee provided for in [section 1].

22 (2) "Department" means the department of agriculture provided for in 2-15-3001.

23 (3) "Net receipts" means the net weight multiplied by the price paid to the producer.

24 (4) "Producer" means a person or landowner who is personally engaged in growing or producing pulse
25 crops, a tenant of the landowner who is personally engaged in growing or producing pulse crops, or both the
26 landowner and the tenant jointly. The term includes a person, partnership, association, corporation, cooperative,
27 trust, sharecropper, and all other business units, devices, and arrangements.

28 (5) "Pulse crops" means dry peas, lentils, chickpeas, and fava beans.

29
30 **NEW SECTION. Section 3. Pulse crop committee -- officers -- meetings -- reimbursement.** (1) The

1 members of the committee shall elect a presiding officer from among the committee members. The presiding
2 officer serves a 1-year term.

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

5 (3) Committee members may not receive a salary but are entitled to compensation as provided
6 in 2-15-122 for each day they are engaged in the transaction of official business. Members must be reimbursed
7 as provided in 2-18-501 through 2-18-503 for travel expenses incurred while on official business.

8

9 **NEW SECTION. Section 4. Powers of committee -- ADMINISTRATIVE COSTS.** (1) The committee:

10 ~~(1)~~(A) may plan and conduct a research program to improve the quality of pulse crops, develop and
11 improve control measures for disease and pests that attack pulse crops, and disseminate information among the
12 growers and dealers of the state;

13 ~~(2)~~(B) may plan and conduct a publicity and sales promotion campaign to increase the sale and use of
14 Montana pulse crops;

15 ~~(3)~~(C) may cooperate with a local, state, or national organization or agency, whether voluntary or created
16 by the law of a state or the United States government, engaged in similar work or activities to carry out a joint
17 campaign of research, education, product protection, publicity, and reciprocal enforcement of the objectives of
18 [sections 2 through 9];

19 ~~(4)~~(D) may enter into contracts and other agreements to carry out the purposes of this section;

20 ~~(5)~~(E) shall have final authority on the use and distribution of money from the pulse crop special revenue
21 account provided for in [section 7];

22 ~~(6)~~(F) may provide, through the department, for the administration and enforcement of [sections 2
23 through 9];

24 ~~(7)~~(G) may recommend rules and orders to be adopted for the exercise of its powers and the
25 performance of its duties, in accordance with the Montana Administrative Procedure Act;

26 ~~(8)~~(H) may authorize the purchase of office equipment or supplies and incur all other reasonable and
27 necessary expenses and obligations required to carry out the provisions of [sections 2 through 9];

28 ~~(9)~~(I) may become a member of and purchase membership in trade organizations and subscribe to and
29 purchase trade bulletins, journals, and other trade publications; and

30 ~~(10)~~(J) may, in cooperation with the director of the department, establish and maintain the executive

1 offices of the committee at any location in the state. The location may be changed at the discretion of the director
2 and the committee.

3 (2) FUNDS USED BY THE DEPARTMENT FOR ADMINISTERING THE PROGRAM, INCLUDING BUT NOT LIMITED TO
4 PERSONAL SERVICE COSTS, OPERATING COSTS, OFFICE AND OFFICE EQUIPMENT COSTS, AND OTHER ADMINISTRATIVE
5 COSTS ATTRIBUTABLE TO THE PROGRAM, MAY NOT EXCEED 8% OF THE TOTAL AMOUNT OF GRANTS AND CONTRACTS
6 AWARDED FROM THE PULSE CROP ACCOUNT PROVIDED FOR IN [SECTION 7] IN THE PREVIOUS FISCAL YEAR.

7
8 NEW SECTION. Section 5. Pulse crop commodity assessment -- collection. (1) There is an
9 assessment on pulse crops as established by the committee by rule in accordance with this section.

10 (2) The assessment must be at least 1% and no more than 2% of the net receipts of pulse crops
11 produced in Montana.

12 (3) The assessment shall occur at the time of first sale by a producer and must be collected by the first
13 purchaser of the commodity from the producer. The amount must be assessed at the time of each settlement for
14 the commodity purchased or by invoice form provided by the department.

15 (4) The department shall collect the assessment and deposit the revenue in the pulse crop special
16 revenue account provided for in [section 7].

17
18 NEW SECTION. Section 6. Refund of assessment. (1) A producer who has paid assessments to the
19 department may request that the department refund all or a portion of the assessment levied under the rules of
20 the committee and paid by the producer. A refund request must be submitted in writing on an application form
21 that is available without cost to all producers who pay assessments.

22 (2) The producer shall complete the refund application and return the application to the department,
23 together with a record of the assessment collected, within 90 days after the date of the assessment or final
24 settlement.

25 (3) If a refund request is not submitted to the department within the prescribed time period, the producer
26 is presumed to have agreed to the assessment.

27 (4) A producer is not entitled to a refund under this section unless the refundable amount is \$5 or more.

28
29 NEW SECTION. Section 7. Pulse crop account -- sources -- use -- expenditures. (1) There is a
30 pulse crop account in the state special revenue fund to the credit of the department for use as provided in this

1 section.

2 (2) The account consists of:

3 (a) proceeds from assessments collected pursuant to [section 5]; and

4 (b) gifts, grants, and donations to the department for research authorized under [sections 2 through 9].

5 (3) Money in the account must be used for the purposes of [sections 2 through 9] and is separate from
6 all other accounts of the department.

7 (4) MONEY IN THE ACCOUNT IS STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502, TO THE DEPARTMENT
8 OF AGRICULTURE FOR USE BY THE MONTANA PULSE CROP COMMITTEE FOR THE PURPOSES OF [SECTIONS 2 THROUGH 9].
9 EXPENDITURES FOR ADMINISTRATIVE COSTS ALLOWED UNDER [SECTION 4(2)] MUST BE MADE FROM TEMPORARY
10 APPROPRIATIONS, AS DESCRIBED IN 17-7-501(1) OR (2), MADE FOR THAT PURPOSE.

11 ~~(4)~~(5) The department may direct the board of investments to invest funds from the account pursuant
12 to the provisions of the unified investment program for state funds. The income from the investments must be
13 credited to the pulse crop account.

14
15 **NEW SECTION. Section 8. Department activities -- bonding of employees -- assessment of costs.**

16 (1) Department employees who handle assessments or other receipts must be bonded for the faithful and safe
17 handling of and accounting for the receipts while in their hands and for faithful compliance with [sections 2
18 through 9].

19 (2) The committee may be assessed costs by the department for the services it provides on request or
20 pursuant to 2-15-121. The costs charged must have a substantial relationship to the costs of services provided.

21
22 **NEW SECTION. Section 9. Violation -- penalty.** A person violating a provision of [sections 2 through
23 9] is guilty of a misdemeanor and upon conviction shall be fined not less than \$25 or more than \$500.

24
25 **SECTION 10. SECTION 17-7-502, MCA, IS AMENDED TO READ:**

26 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
27 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
28 need for a biennial legislative appropriation or budget amendment.

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

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

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

4 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
5 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312;
6 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101;
7 15-70-433; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215;
8 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;
9 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-517; 20-9-520; 20-9-534; 20-9-622; 20-9-905; 20-26-617;
10 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;
11 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213;
12 44-13-102; 50-1-115; 53-1-109; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870;
13 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416;
14 80-11-518; section 7; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102];
15 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

16 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
17 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
18 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
19 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
20 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
21 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
22 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded
23 liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and
24 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.
25 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under
26 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion
27 of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004
28 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30,
29 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017;
30 pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency;

1 pursuant to sec. 5, Ch. 244, L. 2013, the inclusion of 22-1-327 terminates July 1, 2017; pursuant to sec. 27, Ch.
 2 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec.
 3 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015,
 4 the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of
 5 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of
 6 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
 7 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates
 8 September 30, 2019; and pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December
 9 31, 2023.)"

10
 11 NEW SECTION. SECTION 11. APPROPRIATION. (1) THERE IS APPROPRIATED FROM THE SPECIAL REVENUE
 12 ACCOUNT PROVIDED FOR IN [SECTION 7] TO THE DEPARTMENT OF AGRICULTURE \$140,500 IN EACH YEAR OF THE BIENNIUM
 13 BEGINNING JULY 1, 2017, TO PAY FOR ADMINISTRATIVE COSTS ASSOCIATED WITH THE ACTIVITIES OF THE MONTANA PULSE
 14 CROP COMMITTEE AS PROVIDED IN [SECTION 4(2)].

15 (2) THE LEGISLATURE INTENDS THAT THE APPROPRIATION IN THIS SECTION BE CONSIDERED A PART OF THE
 16 ONGOING BASE FOR THE NEXT LEGISLATIVE SESSION.

17
 18 NEW SECTION. Section 12. Transition -- direction to governor and department. (1) Members who
 19 were serving on the pulse crop advisory committee created pursuant to ARM 4.6.401 on February 8, 2017, shall
 20 serve as the voting members of the Montana pulse crop committee provided for in [section 1] for fiscal year 2018.
 21 The term of the ex officio member appointed by the governor begins as of the date of appointment.

22 (2) Ex officio members not appointed by the governor shall begin serving as of July 1, 2017.

23 (3) The governor shall appoint the members as required by [section 1] for terms beginning in fiscal year
 24 2019.

25 (4) THE DEPARTMENT SHALL TRANSFER ON JULY 1, 2017, MONEY COLLECTED THROUGH THE PULSE CROP
 26 COMMODITY ASSESSMENT PROVIDED FOR IN ARM 4.6.403, AS WELL AS MONEY EARNED ON THE ASSESSMENT OR ANY
 27 GIFTS, GRANTS, OR OTHER FUNDS RAISED FOR PULSE CROP PROMOTION AND MARKETING, TO THE PULSE CROP ACCOUNT
 28 IN THE STATE SPECIAL REVENUE FUND PROVIDED FOR IN [SECTION 7].

29
 30 NEW SECTION. Section 13. Codification instruction. (1) [Section 1] is intended to be codified as an

1 integral part of Title 2, chapter 15, part 30, and the provisions of Title 2, chapter 15, part 30, apply to [section 1].

2 (2) [Sections 2 through 9] are intended to be codified as an integral part of Title 80, and the provisions
3 of Title 80 apply to [sections 2 through 9].

4

5 NEW SECTION. **Section 14. Effective date.** [This act] is effective July 1, 2017.

6

- END -