

SENATE BILL NO. 349

INTRODUCED BY F. MOORE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN ASSESSMENT ON GRAIN SALES; CREATING CONTRACT INDEMNITY ACCOUNTS TO REIMBURSE UNSATISFIED CONTRACTS FOR GRAIN; SETTING A MAXIMUM REIMBURSEMENT; CAPPING THE ACCOUNTS; PROVIDING RULEMAKING AUTHORITY; PROVIDING A STATUTORY APPROPRIATION; AND AMENDING SECTIONS 17-7-502 AND 80-4-422, MCA."

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

NEW SECTION. Section 1. Contract indemnity accounts -- created -- statutory appropriation. (1)

There are three contract indemnity accounts within the state special revenue fund established in 17-2-102.

(2) Proceeds from the assessment on grain contracts provided for in [section 2], penalties collected and funds recovered collected pursuant to [section 4] and interest must be deposited in the appropriate account pursuant to the type of grain sold.

(3) There is an indemnity account for pulse crops, which for the purposes of [sections 1 through 4] includes but is not limited to dry peas, lentils, chickpeas, and fava beans.

(4) There is an indemnity account for oil seeds, which for the purposes of [sections 1 through 4] are crops whose primary use is in the production of oil, including but not limited to safflower, sunflower, canola, and camelina.

(5) There is an indemnity account for small grains, which for the purposes of [sections 1 through 4] includes grains that are not pulse crops or oil seeds.

(6) Subject to the provisions of [sections 1 through 4], money in the accounts, including interest, is statutorily appropriated, as provided in 17-7-502, to the department.

NEW SECTION. Section 2. Assessment on grain sale contracts -- suspension if balance exceeds

capped amount. (1) An assessment of 2/10 of 1%, to be paid by the seller, is placed on the purchase price of all grain grown in Montana.

(2) Upon an agreement reached with another state, the assessment must be collected on grain grown in Montana but sold in the other state.



1 (3) The commodity dealer shall deduct the assessment from the purchase price payable to the seller.
2 If the contract is a delayed payment contract, the commodity dealer shall note the assessment on the contract
3 as required by 80-4-422.

4 (4) The commodity dealer shall submit the assessments required by subsection (1) to the department
5 on a quarterly basis as required by the department.

6 (5) The department shall deposit the assessments in the appropriate contract indemnity account
7 established by [section 1].

8 (6) If the balance of one of the contract indemnity accounts created in [section 1] exceeds the capped
9 amount listed in this subsection (6), the assessment on the type of grain covered by that account is suspended.
10 The assessment must be reinstated if the balance drops below the capped amount. The capped amount is:

- 11 (a) \$10 million for the small grains account;
12 (b) \$1.5 million for the pulse crops account; and
13 (c) \$500,000 for the oil seeds account.

14
15 **NEW SECTION. Section 3. Reimbursements from contract indemnity account -- limits -- proration.**

16 (1) Reimbursements from a contract indemnity account may be made by the department to a grain seller who
17 entered into a contract after [the effective date of this act] in accordance with the provisions of [sections 1 through
18 4] and rules adopted by the department.

19 (2) A grain seller is eligible for reimbursement if the commodity dealer becomes insolvent and does not
20 fully compensate the grain seller in accordance with the contract.

21 (3) If a commodity dealer is insolvent and names the department as the trustee, the department may
22 make reimbursements to grain sellers not fully compensated in accordance with a contract with the commodity
23 dealer.

24 (4) The maximum single reimbursement is 80% of a contract or \$280,000, whichever is less.

25 (5) The department shall make reimbursements in the order claims are received or, in the case of an
26 insolvency, chronologically as determined by the department when the department is named a trustee as
27 provided for in subsection (3).

28 (6) (a) If claims for reimbursements from the contract indemnity account exceed the balance of the
29 account, the department shall prorate the claims and pay the prorated amounts.

30 (b) As future assessments are collected, the department shall continue to reimburse eligible grain sellers

1 until the maximum reimbursement is reached.

2

3 **NEW SECTION. Section 4. Department powers -- rulemaking authority.** (1) The department shall
4 adopt rules to implement the provisions of [sections 1 through 4].

5 (2) Expenses incurred by the department to implement the provisions of [sections 1 through 4] must be
6 reimbursed before claims are reimbursed. Eighty-three percent of the expenses must be paid from the small
7 grains account, 13% of expenses must be paid from the pulse crops account, and 4% from the oil seeds account.

8 (3) The department may establish penalties for failure to collect the assessment provided for in [section
9 2] and any other violation of [sections 1 through 4] or rules adopted by the department.

10 (4) A reimbursement made pursuant to [section 3] constitutes a debt obligation against the commodity
11 dealer who failed to fulfill the contract. The department may attempt to recover the amount that was paid out of
12 the contract indemnity account.

13 (5) The department shall pursue agreements with other states to collect the assessment provided for
14 in [section 2] on grain grown in Montana but sold out of state.

15

16 **Section 5.** Section 17-7-502, MCA, is amended to read:

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

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

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

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

25 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
26 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;
27 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121;
28 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101;
29 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;
30 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-5-306;

1 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105;
 2 44-4-1101; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415;
 3 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416;
 4 [section 1]; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-230; 87-1-603;
 5 87-1-621; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

6 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 7 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 8 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
 9 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
 10 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
 11 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
 12 of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is
 13 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch.
 14 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 17, Ch. 593, L. 2005, and
 15 sec. 1, Ch. 186, L. 2009, the inclusion of 15-31-906 terminates January 1, 2015; pursuant to sec. 73, Ch. 44, L.
 16 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the
 17 supplemental benefit provided by 19-6-709; pursuant to sec. 8, Ch. 330, L. 2009, the inclusion of 87-1-621
 18 terminates June 30, 2013; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30,
 19 2015; pursuant to sec. 8, Ch. 427, L. 2009, the inclusion of 87-1-230 terminates June 30, 2013; pursuant to sec.
 20 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 47, Ch. 19, L. 2011,
 21 the inclusion of 87-1-621 terminates June 30, 2013; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of
 22 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates
 23 June 30, 2019; and pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates
 24 June 30, 2017.)"

25

26 **Section 6.** Section 80-4-422, MCA, is amended to read:

27 **"80-4-422. Delayed payment or purchase contracts.** (1) A commodity dealer who purchases
 28 agricultural commodities by purchase contract shall maintain books, records, and other documents as required
 29 by the department to establish compliance with the provisions of this section.

30 (2) In addition to other required information, a purchase contract must contain or provide for all of the

1 following:

2 (a) the seller's and purchaser's name and address;

3 (b) the conditions of delivery;

4 (c) the amount and kind of agricultural commodities delivered;

5 (d) the price per unit or basis of value;

6 (e) the date payment is to be made;

7 (f) the amount of the assessment required by [section 2]; and

8 ~~(f)~~(g) a notice of financial risk involved in the delayed payment contract, in a form the department shall
9 adopt pursuant to the rulemaking authority provided in 80-4-403.

10 (3) Title to all agricultural commodities sold by purchase contract is in the purchaser as of the time the
11 agricultural commodities are delivered to and in physical control of the purchaser unless the contract provides
12 otherwise. The contract must be signed by both parties and executed in duplicate. One copy must be retained
13 by the commodity dealer, and one copy must be provided to the seller. Upon revocation, suspension, or
14 termination of a commodity dealer's or warehouse operator's license, the department may advance the payment
15 date for all delayed payment contracts to a date not later than 30 days following the effective date of the
16 revocation, suspension, or termination. When not otherwise provided, the purchase price for all agricultural
17 commodities must be determined as of the effective date of revocation, suspension, or termination in accordance
18 with all other provisions of the contract. However, if the business of the commodity dealer is sold to another
19 licensed commodity dealer, purchase contracts may be assigned to the purchasing commodity dealer.

20 (4) Any contract that does not satisfy the conditions imposed by this part is considered a sale other than
21 a purchase contract and is subject to the provisions of 80-4-608."

22

23 NEW SECTION. Section 7. Codification instruction. [Sections 1 through 4] are intended to be codified
24 as an integral part of Title 80, chapter 4, and the provisions of Title 80, chapter 4, apply to [sections 1 through 4].

25

- END -