

1 HOUSE BILL NO. 51
 2 INTRODUCED BY J. READ
 3 BY REQUEST OF THE DEPARTMENT OF LIVESTOCK
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LIVESTOCK INDEMNITY PROVISIONS;
 6 CREATING A STATUTORY APPROPRIATION FOR AN INDEMNITY FUND FOR DEPOPULATION
 7 ASSOCIATED WITH CERTAIN DISEASES; REVISING CLASSIFICATION CRITERIA FOR ANIMALS
 8 ELIGIBLE FOR COMPENSATION; REVISING THE CLAIMS PROCESS; CREATING A STATE SPECIAL
 9 REVENUE ACCOUNT; REVISING THE SALE OF A CONDEMNED CARCASS; REMOVING COUNTY
 10 OBLIGATION FROM INDEMNITY PAYMENTS; AMENDING SECTIONS 17-7-502, 81-2-201, 81-2-203, 81-2-
 11 204, 81-2-208, 81-2-209, AND 81-2-210, MCA; REPEALING SECTIONS 81-2-202, 81-2-205, 81-2-206, AND
 12 81-2-207, MCA; AND PROVIDING AN EFFECTIVE DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15
16 **Section 1.** 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
19 the 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
21 both 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
24 statutory 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; 5-
26 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-
27 807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121; 15-1-218;
28 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-

1 70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-
2 112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-
3 506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; [20-15-328]; 20-26-617; 20-26-1503; 22-
4 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-
5 1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102;
6 46-32-108; 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-
7 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-
8 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-
9 1-113; 81-2-203; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-526; 85-20-1504; 85-20-1505; [85-25-102];
10 87-1-603; 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

11 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
12 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
13 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
14 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined
15 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have
16 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the
17 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement
18 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410
19 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental
20 benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on
21 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
22 terminates June 30, 2025; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30,
23 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025;
24 pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8,
25 Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec.
26 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017,
27 the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-
28 209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates

1 June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June
2 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; pursuant to
3 sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023; pursuant to secs. 1, 2, 3, Ch. 139,
4 L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion
5 of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004
6 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30,
7 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; and
8 pursuant to sec. 15, Ch. 574, L. 2021, the inclusion of 46-32-108 terminates June 30, 2023.)"

9

10 **Section 2.** Section 81-2-201, MCA, is amended to read:

11 **"81-2-201. Classification of animals as to compensation for slaughter.** Animals slaughtered due
12 to disease under the direction of the department by order of the board ~~are divided into two classes for the~~
13 ~~purposes of compensation:~~ may be paid for at 100% of the appraised value.

14 (1) ~~Animals determined by the department to be affected with an incurable disease that are~~
15 ~~destroyed by order of the board are designated as animals of class 1, and unless otherwise provided, each of~~
16 ~~the animals must be paid for on the basis of 75% of its appraised value. The county in which the animal was~~
17 ~~owned at the time it was determined to be affected with an incurable disease is liable in part, as later provided,~~
18 ~~for an indemnity to be paid for the animal. The ownership and county are determined by an affidavit of the~~
19 ~~owner of the animal or the owner's agent. Each animal directed to be destroyed must be appraised by a~~
20 ~~representative or an authorized agent of the department with the owner agreeing in writing as to the value of~~
21 ~~the animal. When appraised, due consideration must be given to its breeding value as well as its dairy or meat~~
22 ~~value and the condition of the animal as to the disease and the present and probable effect of the disease on~~
23 ~~the animal. In the absence of an agreement, there must be appointed three competent, disinterested parties,~~
24 ~~one appointed by the department, one by the owner, and a third by the first two, to appraise each animal, taking~~
25 ~~into consideration its breeding value as well as its dairy or meat value and the condition of the animal as to the~~
26 ~~disease and the present probable effect of the disease on the animal. The judgment of the majority is the~~
27 ~~judgment of the appraisers and is binding on both parties as the final determination of indemnity to be paid for~~
28 ~~each animal. The total compensation of each group of appraisers is limited to \$5 for the group appraisal, one-~~

1 half of which must be paid by the department. The total amount of indemnity paid by the state and a county for
2 an animal may not exceed the actual sound value of an animal of its class, and the total combined amount of
3 indemnity paid for the animal by the state and a county may not exceed the sum of \$100 for a registered
4 purebred animal or the sum of \$50 for a grade animal. Animals presented for appraisal as purebreds must be
5 accompanied by their registration papers at the time of appraisal, or they must be appraised as grades. If
6 purebreds are less than 3 years old and not registered, the department may grant a reasonable time for their
7 registration and presentation of their registration papers to the appraiser. Registration papers must accompany
8 the claim for indemnity. Eligible animals include cattle, domestic bison, sheep, goats, swine, alternative
9 livestock, and poultry.

10 (2) Animals of class 1 must be paid for on the basis of their full appraised value as determined in
11 this section if no evidence of incurable disease is disclosed by autopsy, bacteriologic, serologic, microscopic, or
12 other findings. The total combined amount of indemnity paid by the state and a county for an animal may not
13 exceed the actual sound value of an animal of its class. The total combined amount of indemnity paid by the
14 state and a county for the animal may not exceed \$100 for a registered purebred animal or \$50 for a grade
15 animal. Diseases for which animals are eligible for indemnity include foreign animal diseases as classified by
16 the United States department of agriculture, bovine tuberculosis, brucellosis, and chronic wasting disease.

17 (3) ~~Animals that are determined by the department to be affected with or exposed to foot and mouth~~
18 ~~disease, rinderpest, contagious pleura pneumonia, surra, or other infectious, contagious, communicable, or~~
19 ~~dangerous disease, which is not of its nature necessarily fatal, and that are destroyed by order of the~~
20 ~~department as a sanitary safeguard are designated as animals of class 2, and each animal must be paid for on~~
21 ~~the basis of its full appraised value. The appraised value must be determined in the manner set out in~~
22 ~~subsection (1). The appraisal of the animals must be based on the meat, dairy, or breeding value of the animal,~~
23 ~~but when appraisal is based on breeding value of the animal, an appraisal may not exceed three times its meat~~
24 ~~or dairy value. The total amount of indemnity paid by the state for an animal may not exceed the actual sound~~
25 ~~value of an animal in its class. An indemnity for a class 2 animal may not be paid by a county. In the case of~~
26 ~~destruction of an animal afflicted with brucellosis, also known as Bang's disease, an indemnity may not be paid~~
27 ~~for the animal unless the board, in its discretion, determines the best interests of this state will be served by~~
28 ~~payment of an indemnity. In this event, the board shall set out standards of indemnity by rules and may not pay~~

1 in excess of \$100 for a registered purebred animal or \$50 for a grade animal. In all cases in which the federal
 2 government or an agency other than the state compensates the owner in whole or in part for livestock
 3 destroyed as a sanitary safeguard, the amount of compensation from the state must be determined under 81-2-
 4 240.

5 ~~(4)~~(3) Animals that are injured or killed while they are being inspected or tested under an order of the
 6 department or its agent and that do not come within either class 1 or class 2 may be paid for at their full
 7 appraised value if the claim for the animal is recommended for payment at a meeting of the board. ~~When~~when
 8 it is shown that the injury or death of the animal was not proximately due to the negligence of the owner or the
 9 owner's agent, ~~the whole claim, when approved, must be paid out of department funds. The limit of indemnity~~
 10 ~~for an animal paid for by the state may not exceed that fixed by this section for class 2 animals."~~

11

12 **Section 3.** Section 81-2-203, MCA, is amended to read:

13 **"81-2-203. Indemnity -- ~~from what funds paid~~ special revenue account -- purpose -- uses.** ~~In~~
 14 payment for animals or property destroyed by order of the department, the state shall pay one-half of the
 15 indemnity out of the money at the disposal of the department. ~~The county liable in part for the indemnity shall~~
 16 ~~pay one-half of the total indemnity out of the general fund of the county.~~ (1) There is an account in the state
 17 special revenue fund established by 17-2-102 to be known as the indemnity special revenue account. The
 18 account is administered by the department.

19 (2) The department may deposit in the indemnity special revenue account an amount up to
 20 \$10,000 annually. The principal may not exceed \$100,000, and interest earned in the account is retained.

21 (3) Funds are statutorily appropriated to the department, as provided in 17-7-502, for the purpose
 22 of indemnity payments as authorized in 81-2-201."

23

24 **Section 4.** Section 81-2-204, MCA, is amended to read:

25 **"81-2-204. Presentation of claims for indemnity.** Claims against the state and county that arise
 26 from the destruction of animals or property by order of the department ~~must be made on forms provided by the~~
 27 ~~department. They~~ must contain an affidavit by the owner or the owner's agent with knowledge of the animal or
 28 property, certifying to the ownership of the animal or property, ~~the county in which they are owned,~~ and that the

1 animal or property has been destroyed under the law and the rules of the department. ~~These claims must be~~
2 ~~accompanied by a certificate from the department that the animal or property was ordered destroyed.~~ The
3 claims must ~~also~~ be accompanied by a certificate of appraisal ~~as appraisal is determined under 81-2-201,~~
4 together with an account of sale showing the net proceeds from the sale of the animal, if any, paid to the owner
5 of the animal."

6

7 **Section 5.** Section 81-2-208, MCA, is amended to read:

8 **"81-2-208. Sale of condemned carcasses -- disposition of proceeds.** When the carcass of an
9 animal ordered destroyed under this chapter is found on official postmortem inspection to be fit for human
10 consumption, the owner must receive the net proceeds from the sale of the carcass. The proceeds must be
11 deducted from the owner's claim against the state and county for the slaughter. ~~A representative of the~~
12 ~~department may, when considered advisable or necessary or when it is desired by the owner, sell the carcass~~
13 ~~on terms that the representative considers to be in the best interests of this state, and the net proceeds~~
14 ~~obtained from the sale must be paid to the owner. This procedure does not invalidate the owner's claim for~~
15 ~~indemnity for any balance due the owner."~~

16

17 **Section 6.** Section 81-2-209, MCA, is amended to read:

18 **"81-2-209. When no indemnity.** (1) The owner of an animal or property destroyed under this chapter
19 is entitled to indemnity, except in the following cases:

- 20 (a) animals belonging to the United States;
- 21 (b) animals brought into this state that violate this chapter or rules of the department;
- 22 (c) animals that the owner or claimant knew to be diseased or had notice of the disease at the time
23 they came into the owner's or claimant's possession;
- 24 (d) animals that had the disease for which they were slaughtered or that were destroyed because
25 of exposure to the disease at the time of their arrival in this state. ~~However, a class 2 animal shipped into this~~
26 ~~state under department rules and accompanied by the proper certificate of health from a recognized state or~~
27 ~~federal veterinarian may be paid for when payment is authorized by the department.;~~
- 28 (e) animals that have not been in this state for at least 120 days before the discovery of the

1 disease. However, class 2 animals that have not been in the state for 120 days may be paid for when payment
2 is authorized by the department.;

3 (f) when the owner or agent has not used reasonable diligence to prevent disease or exposure to
4 disease;

5 (g) when the owner or agent has not complied with the rules of the department with respect to
6 animals condemned;

7 (h) when animals condemned are not destroyed within 60 days after they are determined to be
8 affected with or exposed to a disease that requires them to be destroyed by order of the department.

9 (2) Compensation or indemnity will not be paid for the destruction of livestock affected with
10 tuberculosis or other infectious, contagious, communicable, or dangerous disease unless the entire herd or
11 band of affected livestock is under the supervision of the department for the eradication of the disease."

12

13 **Section 7.** Section 81-2-210, MCA, is amended to read:

14 **"81-2-210. Compensation from federal government or other agency.** (1) If the federal government
15 or an agency other than the state ~~or county~~ compensates the owner for livestock or property destroyed by order
16 of the department, the amount of the compensation from the federal government or other agency ~~shall~~must be
17 deducted from the owner's claim as filed against the state ~~and county~~, that is, from the balance that remains
18 after the net salvage price received from the sale or other disposal of the condemned animal has been
19 deducted from the appraised value.

20 (2) If the owner or agent of the livestock or property destroyed by order of the department forfeits
21 an indemnity, which the owner would otherwise be entitled to from the federal government or compensating
22 agency other than the state ~~or county~~, by violation of the rules of the federal government or other agency, an
23 amount equal to the indemnity, which would have been paid by the federal government or other indemnifying
24 agency but for the forfeiture ~~shall~~must also be deducted from the owner's claim; that is, the balance that
25 remains after the net salvage price received from the sale or other disposal of the condemned animal has been
26 deducted from the appraised value."

27

28 NEW SECTION. **Section 8. Repealer.** The following sections of the Montana Code Annotated are

- 1 repealed:
- 2 81-2-202. Payment for other personal property.
- 3 81-2-205. Indemnity for class 2 animals in state less than 120 days.
- 4 81-2-206. Verification and payment of claims.
- 5 81-2-207. Payment from county funds.

6

7 NEW SECTION. **Section 9. Effective date.** [This act] is effective July 1, 2023.

8

- END -