

## Amendment No. 235

Senate Amendment to Senate Bill No. 208

(BDR 50-535)

**Proposed by:** Committee on Natural Resources**Amendment Box:****Resolves Conflicts with:** N/A**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN a 2/3s majority vote requirement for final passage of SB208 (§ 5).

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____

Amend sec. 2, page 2, line 10, by deleting “7,” and inserting “6,”.

Amend sec. 3, page 2, line 12, by deleting “7,” and inserting “6,”.

Amend sec. 4, page 2, line 14, by deleting:

*“establish and administer”* and inserting:*“contract with the Nevada Beef Council, or its successor organization, for the establishment and administration of”.*

Amend sec. 4, page 3, by deleting lines 10 through 17 and inserting:

*“2. The contract between the Department and the Nevada Beef Council, or its successor organization, entered into pursuant to subsection 1 must, without limitation:*

SEG/JRS

Date: 4/15/2005

S.B. No. 208—Requires State Department of Agriculture to establish and administer program of education, research and information on beef under certain circumstances.

*(a) Provide for the remittance of the proceeds from the special assessment collected pursuant to section 5 of this act from the Department to the Nevada Beef Council, or its successor organization;*

*(b) Provide for reimbursement by the Nevada Beef Council, or its successor organization, to the Department for the reasonable and necessary expenses incurred by the Department in the collection of the special assessment pursuant to section 5 of this act;*

*(c) Specify the manner in which the Nevada Beef Council, or its successor organization, or the Department, as appropriate, must pay refunds of the special assessment to any person who requests such a refund in accordance with section 5 of this act; and*

*(d) Require the Nevada Beef Council to prepare an annual budget and submit that budget to the Department for its review.”.*

Amend the bill as a whole by deleting sections 5 and 6, renumbering sections 7 and 8 as sections 6 and 7 and adding a new section designated sec. 5, following sec. 4, to read as follows:

*“Sec. 5. 1. The Department shall fix a special assessment not to exceed \$1 on each head of cattle for which, before the transfer of ownership of the cattle by sale or otherwise, a brand inspector of the Department conducts a brand inspection.*

*2. If a brand inspector of the Department conducts a brand inspection specified in subsection 1, he shall collect the assessment fixed pursuant to subsection 1 at the time that he conducts the brand inspection. Money collected pursuant to this section must be deposited into the State Treasury for credit to the Account for the Program of Education, Research and Information on Beef created pursuant to NRS 561.407 and remitted to the Nevada Beef Council in accordance with the contract entered into pursuant to section 4 of this act.*

*3. A person may, at the time that he pays the special assessment pursuant to this section, request a refund for all or part of the special assessment paid. If a person requests a refund, the brand inspector to whom the assessment is paid shall notify the Nevada Beef Council as soon as practicable after receiving the request. The Nevada Beef Council shall, as soon as practicable after receiving the notice, refund to the person an amount of money that is equal to the amount requested by the person.*

*4. The State Board of Agriculture may audit the financial records or other records of the Nevada Beef Council, or its successor organization, at any time.”.*

Amend sec. 7, page 4, line 5, by deleting:

*“including all penalties,”.*

Amend sec. 7, page 4, line 8, by deleting:

*“assessment and penalties.”* and inserting *“assessment.”*.

Amend the title of the bill to read as follows:

“AN ACT relating to the promotion of beef; requiring the State Department of Agriculture to contract with the Nevada Beef Council for the establishment and administration of a program of education, research and information on beef under certain circumstances; requiring the Department to fix a special assessment on each head of cattle and to submit the money collected from the special assessment to the Nevada Beef Council to carry out the program; providing for the payment of refunds to persons who pay the special assessment; and providing other matters properly relating thereto.”.

Amend the summary of the bill to read as follows:

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“SUMMARY—Requires State Department of Agriculture to contract with Nevada Beef Council for establishment and administration of program of education, research and information on beef under certain circumstances. (BDR 50-535)”.

**If this amendment is adopted, the Legislative  
Counsel's Digest will be changed to read as follows:**

**Legislative Counsel's Digest:**

Under the federal Beef Promotion and Research Act of 1985, a \$1 fee is assessed against livestock owners for each head of cattle. The proceeds from the fee are transferred to the qualified state beef council to be used in the promotion of beef and beef products. (7 U.S.C. §§ 2901 et seq.) In Nevada, the proceeds are deposited into the Account for the Promotion of Beef in the State General Fund. (NRS 561.407)

The United States Eighth Circuit Court of Appeals has held that the assessment required under the Beef Promotion and Research Act of 1985 violates the first amendment rights of livestock owners because it compels the funding of speech. (*Livestock Mktg. Ass'n v. United States Dep't of Agric.*, 335 F.3d 711 (8th Cir. 2003))

This bill changes the name of the Account for the Promotion of Beef to the Account for the Program of Education, Research and Information on Beef. This bill further requires the State Department of Agriculture to contract with the Nevada Beef Council to establish and administer a program of education, research and information on beef and beef products. This bill further requires the State Department of Agriculture to fix a special assessment of \$1 per head on all cattle upon which a brand inspector of the State Department of Agriculture conducts a brand inspection before the transfer of ownership by sale or otherwise of the head of cattle. The proceeds from the special assessment must be credited to the Account for the Program of Education, Research and Information on Beef and then remitted to the Nevada Beef Council.

This bill further requires the contract between the State Department of Agriculture and the Nevada Beef Council to provide for the reimbursement to the State Department of Agriculture for reasonable and necessary expenses incurred by the Department in the collection of the special assessment and to specify the manner in which the Nevada Beef Council or the Department, as appropriate, must pay refunds of the special assessment to any person who properly requests such a refund.

This bill becomes effective only if the federal Beef Promotion and Research Act of 1985 is repealed by Congress or declared unconstitutional by the United States Supreme Court.