

SENATE BILL NO. 208—SENATOR RHODS

MARCH 21, 2005

Referred to Committee on Natural Resources

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)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

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.

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))



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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.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 561.407 is hereby amended to read as follows:
561.407 1. The Account for the ~~Promotion~~ *Program of Education, Research and Information on* Beef is hereby created in the State General Fund.

2. The interest and income earned on the money in the Account for the ~~Promotion~~ *Program of Education, Research and Information on* Beef, after deducting any applicable charges, must be credited to the Account.

Sec. 2. Chapter 575 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 6, inclusive, of this act.

Sec. 3. *As used in sections 3 to 6, inclusive, of this act, "Department" means the State Department of Agriculture.*

Sec. 4. 1. *The Department shall contract with the Nevada Beef Council, or its successor organization, for the establishment and administration of a program of education, research and information on beef designed to:*

(a) Increase the consumption of beef and beef products by members of the general public;

(b) Gather, publicize and disseminate accurate and scientific information that emphasizes the importance of the use and consumption of beef and beef products in relation to the public



1 *health, the economy, and the diet and proper nutrition of children*
2 *and adults;*

3 (c) *Study the methods which are employed in producing,*
4 *processing, manufacturing, marketing and distributing beef and*
5 *beef products in order to comply with the sanitary and other*
6 *regulations which are imposed by local, state and federal*
7 *governmental entities;*

8 (d) *Gather and disseminate information regarding the high*
9 *standards which are observed and imposed upon the cattle*
10 *industry to ensure the production of pure and wholesome beef and*
11 *beef products;*

12 (e) *Gather and disseminate information regarding the harmful*
13 *effects on the public health resulting from the disintegration or*
14 *instability of the cattle industry, the factors and conditions unique*
15 *to the cattle industry which tend to cause an unbalanced*
16 *production of beef, and the price of beef and beef products in*
17 *relation to the cost of other items of food in a balanced diet; and*

18 (f) *Gather and disseminate information regarding the*
19 *nutritional qualities of beef and beef products, public consumption*
20 *patterns and trends, and the factors which tend to promote*
21 *increased consumption of beef and beef products, stabilize the*
22 *industry and foster an improved understanding and more efficient*
23 *cooperation among producers and processors of beef and the*
24 *members of the public who consume beef.*

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

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

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

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

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



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

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

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

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

25 **Sec. 6. Any assessment levied pursuant to section 5 of this**
26 **act constitutes a personal debt of the person so assessed. If a**
27 **person fails to pay an assessment, the Department may, at any**
28 **time within 3 years after the date of delinquency, bring and**
29 **maintain a civil action against the person to recover the amount of**
30 **the delinquent assessment.**

31 **Sec. 7. This act becomes effective on the date on which the**
32 **Beef Promotion and Research Act of 1985, 7 U.S.C. §§ 2901 et seq.,**
33 **is:**

- 34 1. Repealed by the Congress of the United States; or
35 2. Declared to be unconstitutional by the United States
36 Supreme Court,
37 ➤ whichever occurs first.

