

HOUSE BILL NO. 269

INTRODUCED BY E. TILLEMAN, M. NIKOLAKAKOS, K. LOVE, G. OVERSTREET, E. BYRNE, R. GREGG

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE ORGANIC COMMODITY ADVISORY COUNCIL; REVISING THE STATE ORGANIC CERTIFICATION PROGRAM; PROVIDING RULEMAKING AUTHORITY; AMENDING ~~SECTION~~ SECTIONS 80-11-601, AND 80-11-602, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 80-11-601, MCA, is amended to read:

**"80-11-601. Plan for establishment of state STATE organic certification program -- ~~submission by governor to U.S. secretary of agriculture -- -- administration by department.~~ (1) ~~Upon petition by 50% or more of certified organic producers, processors, and handlers in Montana, the department shall develop a plan for a state organic certification program for producers and handlers of agricultural products that have been produced using organic methods. The plan must be developed in conformity with the requirements of the Organic Foods Production Act of 1990, 7 U.S.C. 6501, et seq. The state program must be designed to ensure that a product that is sold or labeled as organically produced is produced and handled using organic methods. The state organic certification program may contain requirements that are more restrictive than those contained in the federal act for the organic certification of farms and handling operations and the production and handling of agricultural products that are to be sold or labeled as organically produced.~~**

**(2) ~~Once the plan is developed, the governor, as the governing state official, shall submit the plan for a Montana state organic certification program to the U.S. secretary of agriculture for approval.~~**

**(3) ~~If the state program is approved by the U.S. secretary of agriculture, two-thirds of the certified organic producers, processors, and handlers who petitioned for development of a state plan pursuant to subsection (1) may petition the department for implementation of the Montana state organic certification program.~~**

**(4) ~~Upon receipt and verification of the petition, the department shall implement the program.~~**

1 Implementation must include the establishment of an organic commodity advisory council. The council must be  
2 composed of the director of the department, a consumer member of the public at large, and certified Montana  
3 organic producers, processors, and handlers, a majority of which must be organic producers, to advise the  
4 department regarding:

5 (a) — the adoption of administrative rules to implement the organic certification program;

6 (b) — appropriate research and market development programs for certified organic products;

7 (c) — assessments on certified organic products payable by certified organic producers, processors,  
8 and handlers certified under the state organic certification program, when approved by a majority of those  
9 producers, processors, and handlers, in an amount sufficient to fund the state organic certification program  
10 without negative fiscal impact on the state budget;

11 (d) — assessment collection and enforcement procedures;

12 (e) — appropriate penalty and enforcement provisions applicable to the state organic certification  
13 program;

14 (f) — the awarding of research and marketing contracts; and

15 (g) — any other issues the advisory council considers necessary for proper administration of the state  
16 organic certification program.

17 (1) There is a state organic certification program administered by the department of agriculture.

18 (2) The department may adopt rules as necessary to implement the program consistent with  
19 organic regulations and trade laws of the United States and other markets.

20 (3) The department shall seek input from the organic industry MONTANA ORGANIC ASSOCIATION,  
21 PRODUCERS, HANDLERS, PROCESSORS, AND OTHERS IN THE COMMUNITY on a regular basis as to the need of the  
22 certification program, RESEARCH, MARKETS, AND OTHER MATTERS CONCERNING ORGANICS.

23 (4) — The department is not obligated to continue the program if it is not in compliance with statutory  
24 budget requirements or if the private certifiers are providing full coverage of the state.

25 (5) (4) A state organic certification program may not be construed to apply to organic producers,  
26 processors, and handlers certified solely by other organic certification programs, whether public, private,  
27 foreign, or domestic, nor may the state organic certification program prohibit those other certifying organizations  
28 from certifying and collecting fees from organic producers, processors, handlers, or any other commercial entity

1 in Montana. Organic producers, processors, and handlers may be certified under both the state organic  
2 certification program and programs administered by other certifying organizations."

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4 **SECTION 2.** Section 80-11-602, MCA, is amended to read:

5 **"80-11-602. Account established -- sources -- use -- expenditures.** (1) There is an account in the  
6 state special revenue fund. The following must be placed in the account:

7 (a) the proceeds from all gifts, grants, or donations to the department for development and  
8 administration of the state organic certification ~~plan and~~ program authorized under 80-11-601; and

9 (b) the proceeds of assessments, penalties, and other money collected pursuant to a state organic  
10 certification program when implemented pursuant to 80-11-601.

11 (2) The account must be maintained for the purposes of 80-11-601 and must be separate from all  
12 other accounts of the department.

13 (3) The department may direct the board of investments to invest funds from the account pursuant  
14 to the provisions of the unified investment program for state funds. The income from those investments must be  
15 credited to the account established in this section."

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