

1                                   **DAIRY COMMISSION AMENDMENTS**

2   2020 GENERAL SESSION

3   STATE OF UTAH

4   **Chief Sponsor: Casey Snider**

5   Senate Sponsor: Scott D. Sandall

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7 **LONG TITLE**

8 **General Description:**

9           This bill modifies provisions related to the Dairy Commission.

10 **Highlighted Provisions:**

11           This bill:

- 12           ▶ modifies provisions related to membership on the Dairy Commission;
- 13           ▶ addresses the Dairy Commission's powers, duties, and functions, including selection
- 14 of an administrator;
- 15           ▶ addresses collection of certain assessments if not paid on time;
- 16           ▶ clarifies how money may be withdrawn from accounts of the commission; and
- 17           ▶ makes technical and conforming amendments.

18 **Money Appropriated in this Bill:**

19           None

20 **Other Special Clauses:**

21           This bill provides a special effective date.

22 **Utah Code Sections Affected:**

23 AMENDS:

24           **4-22-103**, as renumbered and amended by Laws of Utah 2017, Chapter 345

25           **4-22-106**, as renumbered and amended by Laws of Utah 2017, Chapter 345

26           **4-22-201**, as renumbered and amended by Laws of Utah 2017, Chapter 345

27           **4-22-202**, as renumbered and amended by Laws of Utah 2017, Chapter 345

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29 *Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section 4-22-103 is amended to read:

31 **4-22-103. Utah Dairy Commission created.**

32 (1) There is created an independent state agency known as the Utah Dairy Commission.

33 (2) ~~[The]~~ Subject to Subsection (5), the Utah Dairy Commission consists of ~~[13]~~ 11

34 members as follows:

35 ~~[(a) the commissioner of agriculture and food, or the commissioner's representative;]~~

36 ~~[(b) the dean of the College of Agriculture at Utah State University, or the dean's~~  
37 ~~representative;]~~

38 ~~[(c) the president of the Utah Dairy Women's Association or the president of the Utah~~  
39 ~~Dairy Women's Association's representative;]~~

40 ~~[(d) a member from District 1, northern Cache County, which member shall have a~~  
41 ~~Cornish, Lewiston, Richmond/Cove, or Trenton mailing address;]~~

42 ~~[(e) a member from District 2, central Cache County and Rich County, which member~~  
43 ~~shall have a Newton, Clarkston, Amalga, Smithfield, Benson, Hyde Park, Mendon, or~~  
44 ~~Petersboro mailing address;]~~

45 ~~[(f) a member from District 3, southern Cache County, which member shall have a~~  
46 ~~Logan, Providence, Nibley, Hyrum, Paradise, Wellsville, College Ward, Young Ward, or~~  
47 ~~Millville mailing address;]~~

48 ~~[(g) a member from District 4, Box Elder County;]~~

49 ~~[(h) a member from District 5, Weber and Morgan Counties;]~~

50 ~~[(i) a member from District 6, Salt Lake, Davis, Utah, and Tooele Counties;]~~

51 ~~[(j) a member from District 7, Wasatch, Summit, Duchesne, Uintah, and Daggett~~  
52 ~~Counties;]~~

53 ~~[(k) a member from District 8, Millard, Beaver, Iron, and Washington Counties;]~~

54 ~~[(l) a member from District 9, Sanpete, Carbon, Emery, Grand, Juab, and San Juan~~  
55 ~~Counties; and]~~

56 ~~[(m) a member from District 10, Piute, Wayne, Kane, Garfield, and Sevier Counties.]~~

57 ~~[(3) The ex officio members listed in Subsections (2)(a) and (b) shall serve without a~~

58 ~~vote.]~~

59 (a) nine voting members as follows:

60 (i) two from District 1, which consists of Cache and Rich Counties;

61 (ii) four members from District 2, which consists of Box Elder, Weber, Morgan, Salt  
62 Lake, Davis, Utah, and Tooele Counties; and

63 (iii) three members from District 3, which consists of Millard, Beaver, Iron,  
64 Washington, Sanpete, Carbon, Emery, Grand, Juab, San Juan, Piute, Wayne, Kane, Garfield,  
65 and Sevier Counties; and

66 (b) two nonvoting members as follows:

67 (i) the commissioner or the commissioner's designee; and

68 (ii) the dean of the College of Agriculture at Utah State University, or the dean's  
69 designee.

70 ~~[(4)]~~ (3) The voting members listed in [Subsections (2)(d) through (m)] Subsection  
71 (2)(a) shall be elected to four-year terms of office as provided in Section 4-22-105.

72 ~~[(5) Members]~~ (4) A voting member shall enter office on July 1 of the year in which  
73 [they are] the member is elected. The commission shall stagger the voting members' terms so  
74 that no more than three voting members' terms expire in a given year.

75 ~~[(6) The commission, by two-thirds vote, may alter the boundaries comprising the~~  
76 ~~districts established in this section to maintain equitable representation of active milk~~  
77 ~~producers on the commission.]~~

78 (5) (a) To maintain equitable representation of active milk producers on the  
79 commission, the commission may, by a two-thirds vote:

80 (i) alter the boundaries comprising the districts established in Subsection (2)(a); or

81 (ii) increase or decrease the number of voting members in each district without altering  
82 the total number of commission members.

83 (b) If the commission increases the number of voting members in a district under this  
84 Subsection (5), a new member will be elected as provided in Section 4-22-105.

85 (c) If the commission decreases the number of voting members in a district under this

86 Subsection (5), each member representing the district will continue in office through the end of  
87 the member's term and the member whose term expires first will not be replaced or reelected  
88 upon expiration of the member's term.

89 (d) If the commission acts under this Subsection (5), it shall report the changes to the  
90 Natural Resources, Agriculture, and Environment Interim Committee.

91 [~~7~~ Each] (6) A member shall be:

92 (a) a citizen of the United States;

93 (b) [~~26~~ 21] years of age or older;

94 (c) an active milk producer with five consecutive years of experience in milk  
95 production within this state immediately preceding election; and

96 (d) a resident of Utah and the district represented.

97 Section 2. Section **4-22-106** is amended to read:

98 **4-22-106. Commission powers, duties, and functions.**

99 The commission has and shall exercise the following functions, powers, and duties:

100 (1) to [~~employ and fix the salary of a full-time administrator, not a member of the~~  
101 ~~commission,]~~ use one of the following means to administer the policies adopted, and perform  
102 the duties assigned, by the commission;

103 (a) employ and fix the compensation of one or more individuals who are not members  
104 of the commission; or

105 (b) retain and fix the compensation of an entity, including an entity engaged in  
106 activities similar to the commission;

107 (2) to conduct a campaign of research, nutritional education, and publicity, showing the  
108 value of milk, cream, and dairy products;

109 (3) to encourage local, national, and international use of Utah dairy products and  
110 by-products, through [~~advertising~~] marketing or otherwise;

111 (4) to investigate and participate in studies of problems peculiar to producers in Utah  
112 and to take [~~all~~] the actions consistent with this chapter in an effort to promote, protect, and  
113 stabilize the state dairy industry;

114 (5) to sue and be sued, prosecute actions in the name of the state for the collection of  
115 the assessment imposed by Section 4-22-201, enter into contracts, and incur indebtedness in  
116 furtherance of the commission's business activities;

117 (6) to cooperate with any local, state, or national organization engaged in activities  
118 similar to those of the commission;

119 (7) to accept grants, donations, or gifts for use consistent with this chapter; and

120 (8) to do [aH] other things necessary for the efficient and effective management and  
121 operation of the commission's business.

122 Section 3. Section 4-22-201 is amended to read:

123 **4-22-201. Assessment imposed on sale of milk or cream produced, sold, or**  
124 **contracted for sale in state -- Time of assessment -- Collection by dealer or**  
125 **producer-handler -- Penalty for delinquent payment or collection -- Statement to be given**  
126 **to producer.**

127 (1) An assessment of 10 cents is imposed upon each 100 pounds of milk or cream  
128 produced and sold, or contracted for sale, through commercial channels in this state.

129 (2) The assessment shall be:

130 (a) based upon daily or monthly settlements; and

131 (b) due at a time set by the commission, which may not be later than the last day of the  
132 month next succeeding the month of sale.

133 (3) (a) The assessment shall be:

134 (i) assessed against the producer at the time the milk or milk fat is delivered for sale;

135 (ii) deducted from the sales price; and

136 (iii) collected by the dealer or producer-handler.

137 (b) The proceeds of the assessment shall be paid directly to the commission who shall  
138 issue a receipt to the dealer or producer-handler.

139 (c) If a dealer or producer-handler fails to remit the proceeds of the assessment or  
140 deduct the assessment on time[;]:

141 (i) a penalty equal to 10% of the amount due [shat] is to be added to the assessment[-];

142 and

143 (ii) the commission may bring an action against the dealer or producer-handler for:

144 (A) injunctive relief compelling payment of the assessment and penalty;

145 (B) damages, including interest at the statutory prejudgment rate from the date the  
146 payment was due;

147 (C) costs of collection, including reasonable attorney fees, whether incurred in  
148 litigation or otherwise; and

149 (D) other relief to which the commission may be entitled at law or in equity.

150 (4) (a) At the time of payment of the assessment, the dealer or producer-handler shall  
151 deliver a statement to the producer calculating the assessment.

152 (b) The commission may require other relevant information to be included in the  
153 statement.

154 (5) If the mandatory assessment required by the Dairy and Tobacco Adjustment Act of  
155 1983, Pub. L. No. 98-180, 97 Stat. 1128 (1150.152), is abolished, a producer who objects to  
156 payment of the assessment imposed under this section may, by January 31, submit a written  
157 request to the commission for a refund of the amount of the assessment the producer paid  
158 during the previous year.

159 Section 4. Section **4-22-202** is amended to read:

160 **4-22-202. Revenue from assessment used to promote dairy industry -- Deposit of**  
161 **money -- Annual audit of books, records, and accounts -- Annual financial report to**  
162 **producers.**

163 (1) The revenue derived from the assessment imposed by Section **4-22-201** shall be  
164 used exclusively for the:

165 (a) administration of this chapter; and

166 (b) promotion of the state's dairy industry.

167 (2) The commission may deposit the proceeds of the assessment in one or more  
168 accounts in one or more banks approved by the state as depositories.

169 [~~2~~] (3) (a) [A] The commission shall keep a voucher, receipt, or other written record

170 for each withdrawal from the [~~Utah Dairy Commission Fund shall be kept by the~~] commission  
171 accounts.

172 (b) [~~No funds shall~~] Money may not be withdrawn from the [~~fund~~] commission  
173 accounts except:

174 (i) upon order of the commission[~~;~~]; or

175 (ii) pursuant to a procedure adopted by the commission if the withdrawal is  
176 subsequently ratified by the commission.

177 [~~(3) The commission may deposit the proceeds of the assessment in one or more~~  
178 ~~accounts in one or more banks approved by the state as depositories.]~~

179 (4) The books, records, and accounts of the commission's activities are public records.

180 (5) (a) The accounts of the commission shall be audited once annually by a licensed  
181 accountant selected by the commission and approved by the state auditor.

182 (b) The results of the audit shall be submitted to the:

183 (i) commissioner;

184 (ii) commission; and

185 (iii) Division of Finance.

186 (c) [~~It is the responsibility of the~~] The commission [~~to~~] shall send annually a financial  
187 report to each producer.

188 Section 5. **Effective date.**

189 If approved by two-thirds of all the members elected to each house, this bill takes effect  
190 upon approval by the governor, or the day following the constitutional time limit of Utah  
191 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,  
192 the date of veto override.