

Be. au 3/26/85 De Cas. +19 (p. 1270)

House File 692

AGRICULTURE: Vande Hoef, Chair; Hutchins and Hester

Place On Calendar

HOUSE FILE 692

BY COMMITTEE ON AGRICULTURE

(Formerly House Study Bill 277)

Passed House, Date 3-26-85 (p. 1077) Passed Senate, Date 4-17-85 (p. 1440)

Vote: Ayes 94 Nays 0 Vote: Ayes 41 Nays 0

Approved May 15, 1985

A BILL FOR

1 An Act relating to the Iowa dairy industry commission.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 692

1 Section 1. Section 179.1, subsection 3, Code 1985, is
2 amended to read as follows:

3 ~~3. The term "producer" shall mean and include every~~
4 "Producer" means a person who produces milk or cream from cows
5 and thereafter sells the same as milk, cream, or other dairy
6 products.

7 Sec. 2. Section 179.1, subsection 4, Code 1985, is amended
8 by striking the subsection and inserting in lieu thereof the
9 following:

10 4. "First purchaser" means a person who buys milk from a
11 producer and resells that milk or products made from the milk
12 to another person.

13 Sec. 3. Section 179.1, subsection 5, Code 1985, is amended
14 to read as follows:

15 5. "Collection period" means a calendar month year.

16 Sec. 4. Section 179.1, Code 1985, is amended by adding the
17 following new subsections:

18 NEW SUBSECTION. 6. "Nutrition education" means activities
19 intended to broaden the understanding of sound nutritional
20 principles including the role of milk in a balanced diet.

21 NEW SUBSECTION. 7. "Promotion" means actions including
22 but not limited to advertising, sales, promotion, and
23 publicity to advance the image and sales of and demand for
24 milk.

25 NEW SUBSECTION. 8. "Research" means studies testing the
26 effectiveness of market development and promotion efforts,
27 studies relating to the nutritional value of milk and to
28 product utilization, and other related efforts to expand
29 demand for milk.

30 Sec. 5. Section 179.2, unnumbered paragraph 1, Code 1985,
31 is amended to read as follows:

32 1. There is created an Iowa dairy industry commission,
33 referred to in this chapter as the commission. The commission
34 shall be composed of the head of the dairy science department
35 and the head of the food technology department of Iowa State

1 ~~University of science and technology~~, the secretary of
2 agriculture or the secretary's designee, the dean of
3 agriculture at Iowa state university of science and technology
4 or the dean's designee, and ~~nine~~ sixteen members appointed by
5 the secretary of agriculture as provided in this section.

6 Sec. 6. Section 179.2, unnumbered paragraphs 2 and 3, Code
7 1985, are amended by striking the paragraphs.

8 Sec. 7. Section 179.2, unnumbered paragraphs 4, 5, 6, and
9 7, Code 1985, are amended to read as follows:

10 2. Commissioners shall serve until their successors are
11 duly appointed and qualify. Vacancies occurring in the
12 membership of the commission resulting from ~~removal from the~~
13 ~~district~~, death, inability or refusal to serve, or failure to
14 meet the definition of a producer, shall be filled within
15 three months of the time the vacancy occurs in the manner
16 ~~provided in this section~~ by the commission. Vacancy
17 appointments shall be only for the remainder of the unexpired
18 term. A commissioner shall not serve more than two
19 consecutive full terms.

20 3. Appointive members of the commission shall receive
21 forty dollars for each day spent on official business of the
22 commission, not to exceed six hundred dollars per annum, and
23 their actual necessary expenses, while engaged in commission
24 activity.

25 4. When a national promotional order is established by the
26 United States department of agriculture pursuant to the dairy
27 ~~product-stabilization~~ Dairy Product Stabilization Act of 1983,
28 collection of the excise tax in section 179.5 shall be
29 suspended for the period in which the national order is in
30 effect. The commission shall continue to operate thereafter
31 for only ~~such~~ the period of time ~~as is~~ necessary to pay
32 refunds and disburse the funds remaining in the dairy industry
33 fund for the purposes enumerated in this chapter. Upon
34 completion of these acts, the existence of the Iowa dairy
35 industry commission shall be suspended. The secretary of

1 agriculture shall certify the suspension of the commission as
2 of a date certain to the Iowa dairy industry commission and
3 the Iowa state dairy association. When the existence of the
4 commission is suspended, the terms of office being served by
5 individual commissioners shall ~~also be suspended~~ terminate.

6 5. When the national promotional order expires, the period
7 of suspension of the excise tax in section 179.5 shall
8 terminate and the secretary of agriculture shall take such the
9 steps ~~as are~~ necessary to collect that excise tax and
10 otherwise fulfill the duties of the commission, except that of
11 expending funds collected under the excise tax, until those
12 duties can be resumed by the reactivated commission. When the
13 national promotional order expires, the period of suspension
14 of the commission shall terminate ~~and the terms of office of~~
15 ~~the individual commissioners shall continue and the period of~~
16 ~~the suspension shall not be counted to determine the time left~~
17 ~~in the terms of office. Vacancies occurring in the commission~~
18 ~~during the period of suspension shall be filled when the~~
19 ~~suspension is terminated.~~ The secretary of agriculture shall
20 call the first meeting of the reactivated commission. Upon
21 reactivation, the commission shall reimburse the secretary of
22 agriculture for any expenses incurred in carrying out the
23 duties provided in this paragraph.

24 Sec. 8. Section 179.2, Code 1985, is amended by adding the
25 following new subsections:

26 NEW SUBSECTION. 6. When the national dairy promotion
27 program expires and the suspension of the Iowa dairy industry
28 commission terminates pursuant to subsection 5, all first
29 purchasers shall, in a manner designed to reflect their pro-
30 portionate contributions to the national dairy promotion
31 program in its most recently completed fiscal year, nominate
32 two resident producers for each of the sixteen offices of the
33 commission. The secretary of agriculture shall then appoint
34 one nominee from each set of two nominees as commissioners of
35 the reactivated Iowa dairy industry commission. The secretary

1 of agriculture shall stagger the terms of the reactivated
2 commission resulting in as nearly as possible one third of the
3 commissioners serving for one year, one third of the
4 commissioners serving for two years, and one third of the
5 commissioners serving for three years. After the initial
6 staggering of terms by the secretary, commissioners shall be
7 appointed to three-year terms.

8 NEW SUBSECTION. 7. After the reactivated commission has
9 been formed, nominations for commissioners shall be made by
10 first purchasers in a manner designed to reflect their
11 proportionate contributions to the Iowa dairy industry
12 commission in its most recently completed fiscal year.

13 Sec. 9. Section 179.3, subsection 8, Code 1985, is amended
14 to read as follows:

15 8. To keep accurate books, records, and accounts of all
16 its dealings, which books, records, and accounts shall be open
17 ~~to inspection and audit by the board of directors of the Iowa~~
18 ~~state dairy association or its representatives, and~~ shall be
19 audited annually by the auditor of state.

20 Sec. 10. Section 179.4, Code 1985, is amended by striking
21 the section and inserting in lieu thereof the following:

22 179.4 EXPENDITURE OF FUNDS.

23 Funds collected through the excise tax are to be used for
24 purposes of advertising and promotion, product, process, and
25 nutrition, dietetics, and physiology research, nutrition
26 education, public relations, research and development, and for
27 other activities that contribute to producer efficiency and
28 productivity. In addition, the commission shall use these
29 funds to maintain existing markets, to make contributions to
30 organizations working toward the purposes of this section, and
31 to assist in the development of new or enlarged markets for
32 milk, both domestic and foreign. The primary purpose for use
33 of these funds is to increase consumption of milk. The
34 commission may contract for advertising, publicity, sales
35 promotion, research, and educational services the committee

1 deems appropriate to further the objectives of this section.
2 Sec. 11. Section 179.5, Code 1985, is amended to read as
3 follows:

4 179.5 EXCISE TAX.

5 1. ~~Except as otherwise provided in section 179.137 there~~
6 There is hereby levied and imposed an excise tax on all
7 producers within the state of one-cent-per-pound-or-fraction
8 thereof-upon-all-butterfat-in-cream-and-four-cents-per
9 hundredweight-or-fraction-thereof-in three fourths of one
10 percent of the gross value of milk produced in the state
11 during-the-period-beginning-May-1-and-terminating-June-30,
12 annually; provided, however, that the provisions of this
13 section shall not apply to butterfat in milk and cream
14 produced outside the state.

15 2. All taxes levied and imposed under this chapter shall
16 be deducted from the price charged received by the producer
17 and shall be collected by the first dealer; ~~provided, however,~~
18 that purchaser, except as follows:

19 a. Where if the producer produces milk ~~or cream~~ from cows
20 and thereafter sells the ~~same as~~ milk, ~~cream,~~ or other dairy
21 products, directly to the consumer, the taxes aforesaid shall
22 be remitted by ~~such~~ that producer.

23 b. Where if the producer sells milk, ~~cream or other dairy~~
24 products to any dealer a first purchaser outside the state,
25 the taxes aforesaid ~~shall be~~ are due and payable by ~~such~~ that
26 producer before the shipment is made, except that the
27 commission may make ~~such~~ agreements with extra state dealers
28 purchasers for the keeping of records and the collection of
29 the taxes aforesaid as are necessary to secure the payment of
30 the ~~said~~ taxes within the time fixed by this chapter.

31 All taxes levied and imposed under this chapter and any
32 ~~voluntary other~~ contributions made to the dairy industry
33 commission, shall be paid to and collected by the secretary-of
34 the commission who within thirty days after the end of the
35 month during which the milk was marketed. The commission

1 shall remit the taxes and other contributions to the treasurer
2 of the state, ~~quarterly~~ each quarter, and at the same time
3 render to the state comptroller an itemized and verified
4 report showing the source from which ~~said~~ the taxes and
5 voluntary contributions were obtained. All ~~such~~ taxes and
6 voluntary contributions received, collected and remitted shall
7 be placed in a special fund by the treasurer of state, and the
8 state comptroller, to be known as the "Dairy Industry Fund" to
9 be used by the Iowa dairy industry commission for the purposes
10 set out in this chapter and to administer and enforce the laws
11 relative ~~thereto~~ to this chapter. Funds deposited in the
12 dairy industry fund are appropriated for the purpose of
13 carrying out the provisions of this chapter.

14 Any A person from whom the excise tax provided in this
15 chapter is collected may, by application filed with ~~this~~ the
16 commission within thirty days after the collection of ~~said~~ the
17 tax, have ~~said~~ the tax ~~remitted~~ refunded to that person by the
18 commission.

19 Sec. 12. Section 179.6, Code 1985, is amended to read as
20 follows:

21 179.6 PRODUCERS' RECORDS.

22 Every producer shipping milk, ~~cream or other dairy products~~
23 to ~~any dealer~~ a first purchaser outside of Iowa who is not by
24 agreement with the commission collecting the tax imposed by
25 this chapter, and every first ~~dealer~~ purchaser within the
26 state and every producer distributing milk, ~~cream, or other~~
27 ~~dairy products~~ directly to the consumer, shall keep a complete
28 and accurate record of all ~~butterfat taxed by this chapter in~~
29 milk ~~or cream~~ produced, ~~bottled, processed or distributed~~ by
30 the person during ~~any~~ the period for which an excise tax levy
31 is imposed under ~~the provisions of~~ this chapter. ~~Such~~ The
32 records shall be in ~~such~~ the form and contain ~~such~~ the
33 information as prescribed by the commission, shall by rule
34 ~~prescribe and~~ shall be preserved by the person charged with
35 their making for a period of two years, and shall be offered

1 or submitted for inspection at any time upon written or oral
2 request by the commission or its duly authorized agent or
3 employee.

4 Sec. 13. Section 179.7, Code 1985, is amended to read as
5 follows:

6 179.7 RETURNS FILED WITH COMMISSION.

7 Every person charged by this chapter or by agreement with
8 the commission with the keeping of records provided for in
9 this chapter shall at ~~such~~ the times as the commission may by
10 rule require, file with the commission a return on forms to be
11 prescribed and furnished by the commission stating. Producers
12 shall state the quantity of dairy-products milk produced.
13 First purchasers shall state the quantity of milk handled,
14 bottled, processed, or distributed, and-butterfat-content-of
15 all-milk-or-cream-produced-by, delivered to, or purchased by
16 such the person from the ~~various~~ producers of dairy products
17 or their agents in the state ~~during-the-collection-period~~
18 ~~prescribed-in-section-179.5,-subsection-1,~~ and as a result of
19 ~~any a~~ referendum. ~~Such-return~~ Returns shall contain such
20 other information as the commission may require, and shall be
21 made in triplicate, one copy of which shall be for the files
22 of the person making the return, and one copy available at the
23 office of ~~such the~~ the person, for the use of ~~his~~ the person's
24 patrons, and the original filed with the commission.

25 Sec. 14. Section 179.8, Code 1985, is amended by adding
26 the following new unnumbered paragraph:

27 NEW UNNUMBERED PARAGRAPH. No more than five percent of the
28 excise tax collected and received by the commission pursuant
29 to section 179.5 shall be utilized for administrative expenses
30 of the commission.

31 Sec. 15. Section 179.10, Code 1985, is amended to read as
32 follows:

33 179.10 REPORT.

34 The commission shall on or before the first day of March of
35 each year make a full and complete report of its doings for

1 the previous calendar year ~~to the board of directors of the~~
2 ~~Iowa state dairy association, which~~ to the secretary of
3 agriculture. The report shall show the amount of money
4 received and the expenditures thereof, and shall be printed in
5 the annual agricultural ~~year-book~~ yearbook issued by the
6 secretary of agriculture ~~of the state.~~

7 Sec. 16. Section 179.13, Code 1985, is amended by striking
8 the section and inserting in lieu thereof the following:

9 179.13 REFERENDUM.

10 At a time designated by the commission within eighteen
11 months after termination of the national promotional order
12 made pursuant to the Dairy Product Stabilization Act of 1983,
13 the commission shall conduct a referendum under administrative
14 procedures prescribed by the department of agriculture.

15 Upon signing a statement certifying to the department that
16 the person is a bona fide producer as defined in this chapter,
17 each producer is entitled to one vote in each referendum.
18 When the secretary is required to determine the approval or
19 disapproval of producers under this section, the secretary
20 shall consider the approval or disapproval of a cooperative
21 association of producers, engaged in a bona fide manner in
22 marketing milk, as the approval or disapproval of the
23 producers who are members of or contract with the cooperative
24 association of producers. If a cooperative association elects
25 to vote on behalf of its members, the cooperative association
26 shall provide each producer on whose behalf the cooperative
27 association is expressing approval or disapproval with a
28 description of the question presented in the referendum
29 together with a statement of the manner in which the
30 cooperative association intends to cast its vote on behalf of
31 the membership. The information shall inform the producer of
32 procedures to follow to cast an an individual ballot if the
33 producer chooses to do so within the period of time
34 established by the secretary for casting ballots. The
35 notification shall be made at least thirty days prior to the

1 referendum and shall include an official ballot. The ballots
2 shall be tabulated by the secretary and the vote of the
3 cooperative association shall be adjusted to reflect the
4 individual votes.

5 The department shall count and tabulate the ballots filed
6 during the referendum within thirty days of the close of the
7 referendum. If from the tabulation the department determined
8 that a majority of the total number of producers voting in the
9 referendum favors the proposal, the excise tax provided for in
10 this chapter shall be continued. The ballots cast pursuant to
11 this section constitute complete and conclusive evidence for
12 use in determinations made by the department under this
13 chapter.

14 The secretary may conduct a referendum at any time after
15 the Iowa dairy industry commission is reactivated, and shall
16 hold a referendum on request of a representative group
17 comprising ten percent or more of the number of producers
18 eligible to vote, to determine whether the producers favor the
19 termination or suspension of the excise tax. The secretary
20 shall suspend or terminate collection of the excise tax within
21 six months after the secretary determines that suspension or
22 termination of the excise tax is favored by a majority of the
23 producers voting in the referendum, and shall terminate the
24 excise tax in an orderly manner as soon as practicable after
25 the determination.

26 EXPLANATION

27 This bill provides for the resumption of the Iowa dairy
28 industry commission and of the dairy excise tax upon termina-
29 tion of a national promotional order established by the United
30 States department of agriculture pursuant to the Dairy Product
31 Stabilization Act of 1983.

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Study Bill 277

Agriculture: Koenigs, Chair; De Groot and Hatch.

HOUSE FILE 692

BY (PROPOSED COMMITTEE ON AGRICULTURE BILL)

*Now
HF 692*

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the Iowa dairy industry commission.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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5 ~~and thereafter sells the same as milk, cream, or other dairy~~
6 ~~products.~~

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8 by striking the subsection and inserting in lieu thereof the
9 following:

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11 producer and resells that milk or products made from the milk
12 to another person.

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19 intended to broaden the understanding of sound nutritional
20 principles including the role of milk in a balanced diet.

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22 but not limited to advertising, sales, promotion, and
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26 effectiveness of market development and promotion efforts,
27 studies relating to the nutritional value of milk and to
28 product utilization, and other related efforts to expand
29 demand for milk.

30 Sec. 5. Section 179.2, unnumbered paragraph 1, Code 1985,
31 is amended to read as follows:

32 1. There is created an Iowa dairy industry commission,
33 referred to in this chapter as the commission. The commission
34 shall be composed of ~~the head of the dairy science department~~
35 ~~and the head of the food technology department of Iowa State~~

1 ~~University of science and technology~~, the secretary of
2 agriculture or the secretary's designee, the dean of
3 agriculture at Iowa state university of science and technology
4 or the dean's designee, and ~~nine~~ sixteen members appointed by
5 the secretary of agriculture as provided in this section.

6 Sec. 6. Section 179.2, unnumbered paragraphs 2 and 3, Code
7 1985, are amended by striking the paragraphs.

8 Sec. 7. Section 179.2, unnumbered paragraphs 4, 5, 6, and
9 7, Code 1985, are amended to read as follows:

10 2. Commissioners shall serve until their successors are
11 duly appointed and qualify. Vacancies occurring in the
12 membership of the commission resulting from ~~removal from the~~
13 ~~district~~, death, inability or refusal to serve, or failure to
14 meet the definition of a producer, shall be filled within
15 three months of the time the vacancy occurs in the manner
16 ~~provided in this section~~ by the commission. Vacancy
17 appointments shall be only for the remainder of the unexpired
18 term. A commissioner shall not serve more than two
19 consecutive full terms.

20 3. Appointive members of the commission shall receive
21 ~~forty~~ sixty dollars for each day spent on official business of
22 the commission, not to exceed six hundred dollars per annum,
23 and their actual necessary expenses, while engaged in
24 commission activity.

25 4. When a national promotional order is established by the
26 United States department of agriculture pursuant to the ~~dairy~~
27 ~~product-stabilization~~ Dairy Product Stabilization Act of 1983,
28 collection of the excise tax in section 179.5 shall be
29 suspended for the period in which the national order is in
30 effect. The commission shall continue to operate thereafter
31 for only ~~such~~ the period of time ~~as is~~ necessary to pay
32 refunds and disburse the funds remaining in the dairy industry
33 fund for the purposes enumerated in this chapter. Upon
34 completion of these acts, the existence of the Iowa dairy
35 industry commission shall be suspended. The secretary of

1 agriculture shall certify the suspension of the commission as
2 of a date certain to the Iowa dairy industry commission and
3 the Iowa state dairy association. When the existence of the
4 commission is suspended, the terms of office being served by
5 individual commissioners shall ~~also be suspended~~ terminate.

6 5. When the national promotional order expires, the period
7 of suspension of the excise tax in section 179.5 shall
8 terminate and the secretary of agriculture shall take such the
9 steps as are necessary to collect that excise tax and
10 otherwise fulfill the duties of the commission, except that of
11 expending funds collected under the excise tax, until those
12 duties can be resumed by the reactivated commission. When the
13 national promotional order expires, the period of suspension
14 of the commission shall terminate ~~and the terms of office of~~
15 ~~the individual commissioners shall continue and the period of~~
16 ~~the suspension shall not be counted to determine the time left~~
17 ~~in the terms of office. Vacancies occurring in the commission~~
18 ~~during the period of suspension shall be filled when the~~
19 ~~suspension is terminated.~~ The secretary of agriculture shall
20 call the first meeting of the reactivated commission. Upon
21 reactivation, the commission shall reimburse the secretary of
22 agriculture for any expenses incurred in carrying out the
23 duties provided in this paragraph.

24 Sec. 8. Section 179.2, Code 1985, is amended by adding the
25 following new subsections:

26 NEW SUBSECTION. 6. When the national dairy promotion
27 program expires and the suspension of the Iowa dairy industry
28 commission terminates pursuant to subsection 5, all first
29 purchasers shall, in a manner designed to reflect their pro-
30 portionate contributions to the national dairy promotion
31 program in its most recently completed fiscal year, nominate
32 two resident producers for each of the sixteen offices of the
33 commission. The secretary of agriculture shall then appoint
34 one nominee from each set of two nominees as commissioners of
35 the reactivated Iowa dairy industry commission. The secretary

1 of agriculture shall stagger the terms of the reactivated
2 commission resulting in as nearly as possible one third of the
3 commissioners serving for one year, one third of the
4 commissioners serving for two years, and one third of the
5 commissioners serving for three years. After the initial
6 staggering of terms by the secretary, commissioners shall be
7 appointed to three-year terms.

8 NEW SUBSECTION. 7. After the reactivated commission has
9 been formed, nominations for commissioners shall be made by
10 first purchasers in a manner designed to reflect their
11 proportionate contributions to the Iowa dairy industry
12 commission in its most recently completed fiscal year.

13 Sec. 9. Section 179.3, subsection 8, Code 1985, is amended
14 to read as follows:

15 8. To keep accurate books, records, and accounts of all
16 its dealings, which books, records, and accounts ~~shall be open~~
17 ~~to inspection and audit by the board of directors of the Iowa~~
18 ~~state dairy association or its representatives, and~~ shall be
19 audited annually by the auditor of state.

20 Sec. 10. Section 179.4, Code 1985, is amended by striking
21 the section and inserting in lieu thereof the following:

22 179.4 EXPENDITURE OF FUNDS.

23 Funds collected through the excise tax are to be used for
24 purposes of advertising and promotion, product, process, and
25 nutrition research, nutrition education, public relations,
26 research and development, and for other activities that
27 contribute to producer efficiency and productivity. In
28 addition, the commission shall use these funds to maintain
29 existing markets, to make contributions to organizations
30 working toward the purposes of this section, and to assist in
31 the development of new or enlarged markets for milk, both
32 domestic and foreign. The primary purpose for use of these
33 funds is to increase consumption of milk. The commission may
34 contract for advertising, publicity, sales promotion, re-
35 search, and educational services the committee deems appro-

1 priate to further the objectives of this section.

2 Sec. 11. Section 179.5, Code 1985, is amended to read as
3 follows:

4 179.5 EXCISE TAX.

5 1. ~~Except as otherwise provided in section 179-13, there~~
6 There is hereby levied and imposed an excise tax on all
7 producers within the state of one-cent-per-pound-or-fraction
8 ~~thereof-upon-all-butterfat-in-cream-and-four~~ fifteen cents per
9 hundredweight ~~or-fraction-thereof~~ in milk produced in the
10 state ~~during-the-period-beginning-May-1-and-terminating-June~~
11 ~~30, annually, provided, however, that the provisions of this~~
12 ~~section shall not apply to butterfat in milk and cream~~
13 ~~produced outside the state.~~

14 2. All taxes levied and imposed under this chapter shall
15 be deducted from the price charged by the producer and shall
16 be collected by the first dealer, ~~provided, however, that~~
17 purchaser, except as follows:

18 a. Where If the producer produces milk ~~or-cream~~ from cows
19 and thereafter sells the ~~same-as~~ milk, ~~cream,~~ or other dairy
20 products, directly to the consumer, the taxes aforesaid shall
21 be remitted by such that producer.

22 b. Where If the producer sells milk, ~~cream-or-other-dairy~~
23 products to any dealer a first purchaser outside the state,
24 the taxes aforesaid ~~shall be~~ are due and payable by such that
25 producer before the shipment is made, except that the
26 commission may make such agreements with extra state dealers
27 purchasers for the keeping of records and the collection of
28 the taxes aforesaid as are necessary to secure the payment of
29 the ~~said~~ taxes within the time fixed by this chapter.

30 All taxes levied and imposed under this chapter and any
31 ~~voluntary other~~ contributions made to the dairy industry
32 commission, shall be paid to and collected by the secretary-of
33 the commission who within thirty days after the end of the
34 month during which the milk was marketed. The commission
35 shall remit the taxes and other contributions to the treasurer

1 of the state, ~~quarterly~~ each quarter, and at the same time
2 render to the state comptroller an itemized and verified
3 report showing the source from which ~~said~~ the taxes and
4 voluntary contributions were obtained. All such taxes and
5 voluntary contributions received, collected and remitted shall
6 be placed in a special fund by the treasurer of state, and the
7 state comptroller, to be known as the "Dairy Industry Fund" to
8 be used by the Iowa dairy industry commission for the purposes
9 set out in this chapter and to administer and enforce the laws
10 relative ~~thereto~~ to this chapter. Funds deposited in the
11 dairy industry fund are appropriated for the purpose of
12 carrying out the provisions of this chapter.

13 Any A person from whom the excise tax provided in this
14 chapter is collected may, by application filed with this the
15 commission within thirty days after the collection of ~~said the~~
16 tax, have ~~said the~~ tax remitted refunded to that person by the
17 commission.

18 Sec. 12. Section 179.6, Code 1985, is amended to read as
19 follows:

20 179.6 PRODUCERS' RECORDS.

21 Every producer shipping milk, ~~cream or other dairy products~~
22 to ~~any dealer~~ a first purchaser outside of Iowa who is not by
23 agreement with the commission collecting the tax imposed by
24 this chapter, and every first ~~dealer~~ purchaser within the
25 state and every producer distributing milk, ~~cream, or other~~
26 ~~dairy products~~ directly to the consumer, shall keep a complete
27 and accurate record of all ~~butterfat taxed by this chapter in~~
28 ~~milk or cream produced, bottled, processed or distributed by~~
29 the person during any the period for which an excise tax levy
30 is imposed under ~~the provisions of~~ this chapter. Such The
31 records shall be in such the form and contain such the
32 information as prescribed by the commission, ~~shall by rule~~
33 ~~prescribe and~~ shall be preserved by the person charged with
34 their making for a period of two years, and shall be offered
35 or submitted for inspection at any time upon written or oral

S.F. _____ H.F. _____

1 request by the commission or its duly authorized agent or
2 employee.

3 Sec. 13. Section 179.7, Code 1985, is amended to read as
4 follows:

5 179.7 RETURNS FILED WITH COMMISSION.

6 Every person charged by this chapter or by agreement with
7 the commission with the keeping of records provided for in
8 this chapter shall at such the times as the commission may by
9 rule require, file with the commission a return on forms to be
10 prescribed and furnished by the commission stating. Producers
11 shall state the quantity of dairy-products milk produced.
12 First purchasers shall state the quantity of milk handled,
13 bottled, processed, or distributed, and-butterfat-content-of
14 all-milk-or-cream-produced-by, delivered to, or purchased by
15 such the person from the various producers of dairy products
16 or their agents in the state during-the-collection-period
17 prescribed-in-section-179-6,-subsection-1, and as a result of
18 any a referendum. Such-return Returns shall contain such
19 other information as the commission may require, and shall be
20 made in triplicate, one copy of which shall be for the files
21 of the person making the return, and one copy available at the
22 office of such the person, for the use of his the person's
23 patrons, and the original filed with the commission.

24 Sec. 14. Section 179.8, Code 1985, is amended by adding
25 the following new unnumbered paragraph:

26 NEW UNNUMBERED PARAGRAPH. No more than five percent of the
27 excise tax collected and received by the commission pursuant
28 to section 179.5 shall be utilized for administrative expenses
29 of the commission.

30 Sec. 15. Section 179.10, Code 1985, is amended to read as
31 follows:

32 179.10 REPORT.

33 The commission shall on or before the first day of March of
34 each year make a full and complete report of its doings for
35 the previous calendar year to-the-board-of-directors-of-the

1 ~~Iowa-state-dairy-association~~; which to the secretary of
2 agriculture. The report shall show the amount of money
3 received and the expenditures thereof, and shall be printed in
4 the annual agricultural ~~year-book~~ yearbook issued by the
5 secretary of agriculture ~~of-the-state~~.

6 Sec. 16. Section 179.13, Code 1985, is amended by striking
7 the section and inserting in lieu thereof the following:

8 179.13 REFERENDUM.

9 At a time designated by the commission within eighteen
10 months after termination of the national promotional order
11 made pursuant to the Dairy Product Stabilization Act of 1983,
12 the commission shall conduct a referendum under administrative
13 procedures prescribed by the department of agriculture.

14 Upon signing a statement certifying to the department that
15 the person is a bona fide producer as defined in this chapter,
16 each producer is entitled to one vote in each referendum.
17 When the secretary is required to determine the approval or
18 disapproval of producers under this section, the secretary
19 shall consider the approval or disapproval of a cooperative
20 association of producers, engaged in a bona fide manner in
21 marketing milk, as the approval or disapproval of the
22 producers who are members of or contract with the cooperative
23 association of producers. If a cooperative association elects
24 to vote on behalf of its members, the cooperative association
25 shall provide each producer on whose behalf the cooperative
26 association is expressing approval or disapproval with a
27 description of the question presented in the referendum
28 together with a statement of the manner in which the
29 cooperative association intends to cast its vote on behalf of
30 the membership. The information shall inform the producer of
31 procedures to follow to cast an an individual ballot if the
32 producer chooses to do so within the period of time
33 established by the secretary for casting ballots. The
34 notification shall be made at least thirty days prior to the
35 referendum and shall include an official ballot. The ballots

1 shall be tabulated by the secretary and the vote of the
2 cooperative association shall be adjusted to reflect the
3 individual votes.

4 The department shall count and tabulate the ballots filed
5 during the referendum within thirty days of the close of the
6 referendum. If from the tabulation the department determined
7 that a majority of the total number of producers voting in the
8 referendum favors the proposal, the excise tax provided for in
9 this chapter shall be continued. The ballots cast pursuant to
10 this section constitute complete and conclusive evidence for
11 use in determinations made by the department under this
12 chapter.

13 The secretary may conduct a referendum at any time after
14 the Iowa dairy industry commission is reactivated, and shall
15 hold a referendum on request of a representative group
16 comprising ten percent or more of the number of producers
17 eligible to vote, to determine whether the producers favor the
18 termination or suspension of the excise tax. The secretary
19 shall suspend or terminate collection of the excise tax within
20 six months after the secretary determines that suspension or
21 termination of the excise tax is favored by a majority of the
22 producers voting in the referendum, and shall terminate the
23 excise tax in an orderly manner as soon as practicable after
24 the determination.

25 EXPLANATION

26 This bill provides for the resumption of the Iowa dairy
27 industry commission and of the dairy excise tax upon termina-
28 tion of a national promotional order established by the United
29 States department of agriculture pursuant to the Dairy Product
30 Stabilization Act of 1983.

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HOUSE FILE 692

AN ACT

RELATING TO THE IOWA DAIRY INDUSTRY COMMISSION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 179.1, subsection 3, Code 1985, is amended to read as follows:

3. ~~The term "producer" shall mean and include every~~
"Producer" means a person who produces milk or cream from cows and thereafter sells the same as milk, cream, or other dairy products.

Sec. 2. Section 179.1, subsection 4, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

4. "First purchaser" means a person who buys milk from a producer and resells that milk or products made from the milk to another person.

Sec. 3. Section 179.1, subsection 5, Code 1985, is amended to read as follows:

5. "Collection period" means a calendar month year.

Sec. 4. Section 179.1, Code 1985, is amended by adding the following new subsections:

NEW SUBSECTION. 6. "Nutrition education" means activities intended to broaden the understanding of sound nutritional principles including the role of milk in a balanced diet.

NEW SUBSECTION. 7. "Promotion" means actions including but not limited to advertising, sales, promotion, and publicity to advance the image and sales of and demand for milk.

NEW SUBSECTION. 8. "Research" means studies testing the effectiveness of market development and promotion efforts, studies relating to the nutritional value of milk and to product utilization, and other related efforts to expand demand for milk.

Sec. 5. Section 179.2, unnumbered paragraph 1, Code 1985, is amended to read as follows:

1. There is created an Iowa dairy industry commission, referred to in this chapter as the commission. The commission shall be composed of the ~~head-of-the-dairy-science-department and the head-of-the-food-technology-department-of-Iowa-State University-of-science-and-technology,~~ the secretary of agriculture or the secretary's designee, the dean of agriculture at Iowa state university of science and technology or the dean's designee, and ~~nine~~ sixteen members appointed by the secretary of agriculture as provided in this section.

Sec. 6. Section 179.2, unnumbered paragraphs 2 and 3, Code 1985, are amended by striking the paragraphs.

Sec. 7. Section 179.2, unnumbered paragraphs 4, 5, 6, and 7, Code 1985, are amended to read as follows:

2. Commissioners shall serve until their successors are duly appointed and qualify. Vacancies occurring in the membership of the commission resulting from ~~removal-from-the district,~~ death, inability or refusal to serve, or failure to meet the definition of a producer, shall be filled within three months of the time the vacancy occurs in the manner ~~provided in this section by the commission.~~ Vacancy appointments shall be only for the remainder of the unexpired term. A commissioner shall not serve more than two consecutive full terms.

3. Appointive members of the commission shall receive forty dollars for each day spent on official business of the commission, not to exceed six hundred dollars per annum, and their actual necessary expenses, while engaged in commission activity.

4. When a national promotional order is established by the United States department of agriculture pursuant to the dairy product-stabilization Dairy Product Stabilization Act of 1983, collection of the excise tax in section 179.5 shall be suspended for the period in which the national order is in effect. The commission shall continue to operate thereafter for only such the period of time ~~as is~~ necessary to pay refunds and disburse the funds remaining in the dairy industry fund for the purposes enumerated in this chapter. Upon completion of these acts, the existence of the Iowa dairy industry commission shall be suspended. The secretary of agriculture shall certify the suspension of the commission as of a date certain to the Iowa dairy industry commission and the Iowa state dairy association. When the existence of the commission is suspended, the terms of office being served by individual commissioners shall ~~also be suspended~~ terminate.

5. When the national promotional order expires, the period of suspension of the excise tax in section 179.5 shall terminate and the secretary of agriculture shall take such the steps ~~as are~~ necessary to collect that excise tax and otherwise fulfill the duties of the commission, except that of expending funds collected under the excise tax, until those duties can be resumed by the reactivated commission. When the national promotional order expires, the period of suspension of the commission shall terminate ~~and the terms of office of the individual commissioners shall continue and the period of the suspension shall not be counted to determine the time left in the terms of office. Vacancies occurring in the commission during the period of suspension shall be filled when the suspension is terminated.~~ The secretary of agriculture shall call the first meeting of the reactivated commission. Upon reactivation, the commission shall reimburse the secretary of agriculture for any expenses incurred in carrying out the duties provided in this paragraph.

Sec. 8. Section 179.2, Code 1985, is amended by adding the following new subsections:

NEW SUBSECTION. 6. When the national dairy promotion program expires and the suspension of the Iowa dairy industry commission terminates pursuant to subsection 5, all first purchasers shall, in a manner designed to reflect their proportionate contributions to the national dairy promotion program in its most recently completed fiscal year, nominate two resident producers for each of the sixteen offices of the commission. The secretary of agriculture shall then appoint one nominee from each set of two nominees as commissioners of the reactivated Iowa dairy industry commission. The secretary of agriculture shall stagger the terms of the reactivated commission resulting in as nearly as possible one third of the commissioners serving for one year, one third of the commissioners serving for two years, and one third of the commissioners serving for three years. After the initial staggering of terms by the secretary, commissioners shall be appointed to three-year terms.

NEW SUBSECTION. 7. After the reactivated commission has been formed, nominations for commissioners shall be made by first purchasers in a manner designed to reflect their proportionate contributions to the Iowa dairy industry commission in its most recently completed fiscal year.

Sec. 9. Section 179.3, subsection 8, Code 1985, is amended to read as follows:

8. To keep accurate books, records, and accounts of all its dealings, which books, records, and accounts ~~shall be open to inspection and audit by the board of directors of the Iowa state dairy association or its representatives, and shall be audited annually by the auditor of state.~~

Sec. 10. Section 179.4, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

179.4 EXPENDITURE OF FUNDS.

Funds collected through the excise tax are to be used for purposes of advertising and promotion, product, process, and nutrition, dietetics, and physiology research, nutrition education, public relations, research and development, and for other activities that contribute to producer efficiency and productivity. In addition, the commission shall use these funds to maintain existing markets, to make contributions to organizations working toward the purposes of this section, and to assist in the development of new or enlarged markets for milk, both domestic and foreign. The primary purpose for use of these funds is to increase consumption of milk. The commission may contract for advertising, publicity, sales promotion, research, and educational services the committee deems appropriate to further the objectives of this section.

Sec. 11. Section 179.5, Code 1985, is amended to read as follows:

179.5 EXCISE TAX.

1. ~~Except as otherwise provided in section 179.137, there~~ There is hereby levied and imposed an excise tax on all producers within the state of one-cent-per-pound-or-fraction thereof-upon-all-butterfat-in-cream-and-four-cents-per hundredweight-or-fraction-thereof-in three fourths of one percent of the gross value of milk produced in the state during-the-period-beginning-May-1-and-terminating-June-30, annually; provided, however, that the provisions of this section shall not apply to butterfat in milk and cream produced outside the state.

2. All taxes levied and imposed under this chapter shall be deducted from the price charged received by the producer and shall be collected by the first dealer; ~~provided, however, that purchaser, except as follows:~~

a. Where if the producer produces milk or cream from cows and thereafter sells the same as milk, cream, or other dairy products, directly to the consumer, the taxes aforesaid shall be remitted by such that producer.

b. Where if the producer sells milk, cream or other dairy products to any dealer a first purchaser outside the state, the taxes aforesaid ~~shall be~~ are due and payable by such that producer before the shipment is made, except that the commission may make such agreements with extra state dealers purchasers for the keeping of records and the collection of the taxes aforesaid as are necessary to secure the payment of the said taxes within the time fixed by this chapter.

All taxes levied and imposed under this chapter and any voluntary other contributions made to the dairy industry commission, shall be paid to and collected by the secretary of the commission who within thirty days after the end of the month during which the milk was marketed. The commission shall remit the taxes and other contributions to the treasurer of the state quarterly each quarter, and at the same time render to the state comptroller an itemized and verified report showing the source from which said the taxes and voluntary contributions were obtained. All such taxes and voluntary contributions received, collected and remitted shall be placed in a special fund by the treasurer of state and the state comptroller, to be known as the "Dairy Industry Fund" to be used by the Iowa dairy industry commission for the purposes set out in this chapter and to administer and enforce the laws relative thereto to this chapter. Funds deposited in the dairy industry fund are appropriated for the purpose of carrying out the provisions of this chapter.

Any A person from whom the excise tax provided in this chapter is collected may, by application filed with this the commission within thirty days after the collection of said the tax, have said the tax remitted refunded to that person by the commission.

Sec. 12. Section 179.6, Code 1985, is amended to read as follows:

179.6 PRODUCERS' RECORDS.

Every producer shipping milk, cream or other dairy products to any dealer a first purchaser outside of Iowa who is not by agreement with the commission collecting the tax imposed by this chapter, and every first dealer purchaser within the state and every producer distributing milk, cream or other dairy products directly to the consumer, shall keep a complete and accurate record of all butterfat taxed by this chapter in milk or cream produced, bottled, processed or distributed by the person during any the period for which an excise tax levy is imposed under the provisions of this chapter. Such The records shall be in such the form and contain such the information as prescribed by the commission, shall-by-rule prescribe and shall be preserved by the person charged with their making for a period of two years, and shall be offered or submitted for inspection at any time upon written or oral request by the commission or its duly authorized agent or employee.

Sec. 13. Section 179.7, Code 1985, is amended to read as follows:

179.7 RETURNS FILED WITH COMMISSION.

Every person charged by this chapter or by agreement with the commission with the keeping of records provided for in this chapter shall at such the times as the commission may by rule require, file with the commission a return on forms to be prescribed and furnished by the commission stating. Producers shall state the quantity of dairy products milk produced. First purchasers shall state the quantity of milk handled, bottled, processed, or distributed, and butterfat content of all milk or cream produced by, delivered to, or purchased by such the person from the various producers of dairy products or their agents in the state during the collection period prescribed in section 179.5, subsection 1, and as a result of any a referendum. Such return Returns shall contain such other information as the commission may require, and shall be made in triplicate, one copy of which shall be for the files

of the person making the return, and one copy available at the office of such the person, for the use of his the person's patrons, and the original filed with the commission.

Sec. 14. Section 179.8, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. No more than five percent of the excise tax collected and received by the commission pursuant to section 179.5 shall be utilized for administrative expenses of the commission.

Sec. 15. Section 179.10, Code 1985, is amended to read as follows:

179.10 REPORT.

The commission shall on or before the first day of March of each year make a full and complete report of its doings for the previous calendar year to the board of directors of the Iowa state dairy association, which to the secretary of agriculture. The report shall show the amount of money received and the expenditures thereof, and shall be printed in the annual agricultural year-book yearbook issued by the secretary of agriculture of the state.

Sec. 16. Section 179.13, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

179.13 REFERENDUM.

At a time designated by the commission within eighteen months after termination of the national promotional order made pursuant to the Dairy Product Stabilization Act of 1983, the commission shall conduct a referendum under administrative procedures prescribed by the department of agriculture.

Upon signing a statement certifying to the department that the person is a bona fide producer as defined in this chapter, each producer is entitled to one vote in each referendum. When the secretary is required to determine the approval or disapproval of producers under this section, the secretary shall consider the approval or disapproval of a cooperative association of producers, engaged in a bona fide manner in

marketing milk, as the approval or disapproval of the producers who are members of or contract with the cooperative association of producers. If a cooperative association elects to vote on behalf of its members, the cooperative association shall provide each producer on whose behalf the cooperative association is expressing approval or disapproval with a description of the question presented in the referendum together with a statement of the manner in which the cooperative association intends to cast its vote on behalf of the membership. The information shall inform the producer of procedures to follow to cast an individual ballot if the producer chooses to do so within the period of time established by the secretary for casting ballots. The notification shall be made at least thirty days prior to the referendum and shall include an official ballot. The ballots shall be tabulated by the secretary and the vote of the cooperative association shall be adjusted to reflect the individual votes.

The department shall count and tabulate the ballots filed during the referendum within thirty days of the close of the referendum. If from the tabulation the department determined that a majority of the total number of producers voting in the referendum favors the proposal, the excise tax provided for in this chapter shall be continued. The ballots cast pursuant to this section constitute complete and conclusive evidence for use in determinations made by the department under this chapter.

The secretary may conduct a referendum at any time after the Iowa dairy industry commission is reactivated, and shall hold a referendum on request of a representative group comprising ten percent or more of the number of producers eligible to vote, to determine whether the producers favor the termination or suspension of the excise tax. The secretary shall suspend or terminate collection of the excise tax within six months after the secretary determines that suspension or

termination of the excise tax is favored by a majority of the producers voting in the referendum, and shall terminate the excise tax in an orderly manner as soon as practicable after the determination.

DONALD D. AVENSON
Speaker of the House

ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 692, Seventy-first General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved _____, 1985

TERRY E. BRANSTAD
Governor