

FEB 16 1995

Place On Calendar

*Substituted for
SF 173
3-8-95*

HOUSE FILE 179
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HSB 52)

Passed House, ^(p. 654) Date 3/1/95

Passed Senate, ^(p. 553) Date 3/8/95

Vote: Ayes 94 Nays 0

Vote: Ayes 49 Nays 0

Approved March 14, 1995

A BILL FOR

1 An Act relating to eggs and poultry by reorganizing the statutory
2 provisions and providing for the administration of the Iowa
3 egg council, assessments and refunds, and the repeal of
4 certain sections, and providing an effective date.

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

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HOUSE FILE 179

H-3216

1 Amend House File 179 as follows:

10 2 1. Page 8, line 34, by striking the word "board"
11 3 and inserting the following: "council".

12 ^(p. 655) *Adopted 3-1-95* By VANDE HOEF of Osceola
H-3216 FILED FEBRUARY 27, 1995

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HF 179

1 Section 1. Section 196.1, Code 1995, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 3A. "Department" means the department of
4 inspections and appeals, as established in section 10A.102.

5 Sec. 2. Section 196.1, subsection 9, Code 1995, is amended
6 to read as follows:

7 9. ~~"Secretary", "department", and "package" have the~~
8 ~~meanings ascribed to them~~ "Package" means the same as defined
9 in section 189.1.

10 Sec. 3. Section 196.2, Code 1995, is amended to read as
11 follows:

12 196.2 ENFORCEMENT.

13 The secretary department shall enforce ~~the provisions of~~
14 this chapter, and may ~~make~~ adopt rules pursuant to chapter 17A
15 and consistent with regulations of the United States
16 government as they exist on July 1, 1985, pursuant to the
17 Agricultural Marketing Act of 1946, 7 U.S.C. § 1621 et seq.,
18 and the Egg Products Inspection Act of 1970, 21 U.S.C. § 1044
19 et seq.

20 Sec. 4. Section 196A.1, Code 1995, is amended to read as
21 follows:

22 196A.1 DEFINITIONS.

23 As used in this chapter, unless the context indicates
24 otherwise:

25 1. "Assessment" means an excise tax on the sale of eggs as
26 provided in this chapter.

27 ~~1.~~ 2. "Council" means the Iowa egg council.

28 ~~2. "District" means a producer district established by the~~
29 ~~Iowa poultry association, incorporated. The Iowa poultry~~
30 ~~association, incorporated shall establish four districts in~~
31 ~~this state from which egg producers shall be appointed to~~
32 ~~serve on the Iowa egg council pursuant to this chapter.~~

33 ~~3. "Hatchery operator" means any person who operates a~~
34 ~~hatchery licensed under chapter 168 and who is actively~~
35 ~~engaged in the business of hatching or selling chickens for~~

1 ~~commercial-purposes.~~

2 3. "Egg by-product" means a product produced in whole or
3 in part from eggs or spent fowl.

4 4. "Eggs" means eggs produced from a layer-type chicken.
5 "Eggs" includes shell eggs or eggs broken for further
6 processing, but does not include fertile eggs that are
7 incubated, hatched, or used for vaccines.

8 ~~4.~~ 5. "Market development" means research and educational
9 programs which are directed toward:

10 a. Better and more efficient production, marketing, and
11 utilization of ~~poultry-and-poultry-products~~ eggs or egg by-
12 products produced for resale.

13 b. Better methods, including, but not limited to, public
14 relations and other promotion techniques, for the maintenance
15 of present markets and for the development of new or larger
16 domestic or foreign markets and for the sale of ~~poultry-and~~
17 ~~poultry-products~~ eggs or egg by-products.

18 c. Prevention, modification, or elimination of trade
19 barriers which obstruct the free flow of ~~poultry-and-poultry~~
20 ~~products~~ eggs or egg by-products to market.

21 ~~5.--"Poultry-and-poultry-products"--means-layer-type-chicken~~
22 ~~hens-and-eggs,-including-hatching-eggs,-and-their-products.~~

23 6. "Processor" means the first purchaser of eggs from a
24 producer, or a person who both produces and processes eggs.

25 7. "Producer" means any person who owns, or contracts for
26 the care of, five-hundred thirty thousand or more layer-type
27 ~~chickens,-the-eggs-of-which-are-sold-in-this-state-through~~
28 ~~commercial-channels,-including,-but-not-limited-to,-eggs-for~~
29 ~~hatching,-which-have-been-produced-by-the-producer's-own-flock~~
30 raised in this state.

31 8. "Purchaser" means a person who resells eggs purchased
32 from a producer or offers for sale a product produced from
33 such the eggs for any purpose.

34 9. "Qualified financial institution" means a bank, credit
35 union, or savings and loan as defined in section 12C.1.

1 Sec. 5. Section 196A.4, Code 1995, is amended to read as
2 follows:

3 196A.4 ESTABLISHMENT OF IOWA EGG COUNCIL AND ~~TAX~~

4 ASSESSMENT.

5 1. The secretary shall call and the department shall
6 conduct a referendum upon the department's receipt of a
7 petition which is signed by at least twenty producers
8 requesting a referendum to determine whether to establish an
9 Iowa egg council and to impose an assessment as provided in
10 section 196A.15. The referendum shall be conducted within
11 sixty days following receipt of the petition. The petitioners
12 shall guarantee payment of the cost of the referendum by
13 providing evidence of financial security as required by the
14 department.

15 2. The department shall give notice of the referendum on
16 the question whether to establish a council and to impose an
17 assessment by publishing the notice for a period of not less
18 than five days in at least one newspaper of general
19 circulation in the state. The notice shall state the voting
20 places, period of time for voting, and other information
21 deemed necessary by the department. A referendum shall not be
22 commenced until five days after the last date of publication.

23 3. Each producer who signs a statement certifying that the
24 producer is a bona fide producer shall be entitled to one
25 vote. At the close of the referendum, the secretary shall
26 count and tabulate the ballots cast. If a majority of voters
27 favor establishing an Iowa egg council and imposing ~~a tax~~ an
28 assessment, ~~an Iowa egg~~ a council shall be established, and
29 ~~the tax~~ an assessment shall be imposed commencing not more
30 than sixty days following the referendum as determined by the
31 ~~Iowa egg~~ council and shall continue for a period of five years
32 unless extended as provided ~~under this chapter~~ in section
33 196A.4A. If a majority of the voters do not favor
34 establishing ~~an Iowa egg~~ the council and imposing the tax
35 assessment, the ~~tax will not be imposed nor will the~~ council

1 shall not be established and an assessment shall not be
2 imposed until another referendum is held under this chapter
3 and a majority of the voters favor approve establishing a
4 council and imposing the tax assessment. If a referendum
5 should fail, another referendum shall not be held within one
6 hundred eighty days.

7 ~~Subsequent referendums to extend the imposition of the tax~~
8 ~~shall be held every five years in the year prior to the~~
9 ~~expiration of the tax in force; however, upon receipt of a~~
10 ~~petition signed by at least fifty producers requesting a~~
11 ~~referendum election to determine whether to terminate the~~
12 ~~establishment of the Iowa egg council and to terminate the~~
13 ~~imposition of the excise tax as provided herein, the secretary~~
14 ~~shall call a referendum to be conducted within sixty days~~
15 ~~following the receipt of the petition. The petitioners shall~~
16 ~~guarantee the payment of the costs of such referendum. If the~~
17 ~~majority of the voters of any subsequent referendum do not~~
18 ~~favor an extension, an additional referendum may be held when~~
19 ~~the secretary receives a petition signed by at least fifty~~
20 ~~producers. However, the subsequent referendum shall not be~~
21 ~~held within one hundred eighty days.~~

22 4. Immediately after passage of the question at the
23 referendum, the secretary shall appoint seven members to the
24 council in accordance with section 196A.5 based on nominations
25 made by the Iowa poultry association. The association shall
26 nominate and the secretary shall appoint two members
27 representing large producers, two members representing medium
28 producers, and three members representing small producers.
29 The department, in consultation with the association, shall
30 determine initial classifications for small, medium, and large
31 producers. The secretary shall complete the appointments
32 within thirty days following passage of the question at the
33 referendum.

34 Sec. 6. NEW SECTION. 196A.4A REFERENDUMS CONDUCTED
35 DURING THE TENURE OF THE COUNCIL AND ASSESSMENT.

- 1 1. A referendum shall be conducted as follows:
- 2 a. A referendum to extend the imposition of the assessment
- 3 imposed pursuant to section 196A.4 shall be held every five
- 4 years in the year prior to the expiration of the assessment in
- 5 force.
- 6 b. The secretary shall call, and the department shall
- 7 conduct, a referendum upon the department's receipt of a
- 8 petition which is signed by at least twenty producers
- 9 requesting a referendum to determine whether to terminate the
- 10 council and the imposition of the assessment. The referendum
- 11 shall be conducted within sixty days following receipt of the
- 12 petition. The petitioners shall guarantee payment of the cost
- 13 of the referendum by providing evidence of financial security
- 14 as required by the department.
- 15 2. The following procedures shall apply to a referendum:
- 16 a. The department shall give notice of the referendum on
- 17 the question whether to continue the council and the
- 18 assessment by publishing the notice for a period of not less
- 19 than five days in at least one newspaper of general
- 20 circulation in the state. The notice shall state the voting
- 21 places, period of time for voting, and other information
- 22 deemed necessary by the department. A referendum shall not be
- 23 commenced until five days after the last date of publication.
- 24 b. Upon signing a statement certifying to the secretary
- 25 that a person is a bona fide producer, the person is entitled
- 26 to one vote in each referendum conducted pursuant to this
- 27 section. The department shall conduct the referendum and
- 28 count and tabulate the ballots filed during the referendum
- 29 within thirty days following the close of the referendum.
- 30 (1) If a majority of the total number of producers voting
- 31 in the referendum approves the continuation of the council and
- 32 the assessment as provided in the referendum, the council
- 33 shall remain in existence and the assessment shall be levied
- 34 as provided in this chapter.
- 35 (2) If a majority of the total number of producers voting

1 in referendum held pursuant to this section do not approve
2 continuing the council and the assessment as provided in the
3 referendum, the secretary shall terminate collection of the
4 assessment on the first day of the year for which the
5 referendum was to continue. The secretary shall terminate the
6 activities of the council in an orderly manner as soon as
7 practicable after the determination. An additional referendum
8 may be held as provided in section 196A.4. However, the
9 subsequent referendum shall not be held within one hundred
10 eighty days.

11 Sec. 7. Section 196A.5, Code 1995, is amended to read as
12 follows:

13 196A.5 COMPOSITION OF COUNCIL.

14 The Iowa egg council established under this chapter shall
15 be composed of ~~four-egg~~ seven producers, ~~one-from-each~~
16 ~~district, two-egg-processors, and one-hatchery-operator-who~~
17 ~~shall-be-appointed-pursuant-to-this-chapter.~~ Each council
18 member must be a natural person who is a producer or an
19 officer, equity owner, or employee of a producer. A producer
20 shall not be represented more than once on the council. Two
21 persons shall represent large producers, two persons shall
22 represent medium producers, and three persons shall represent
23 small producers. The council shall adopt rules pursuant to
24 chapter 17A establishing classifications for large, medium,
25 and small producers. The following persons or their designees
26 shall serve as ex officio nonvoting members:

27 1. ~~The secretary or-the-secretary's-representative, the.~~

28 2. ~~The~~ director of the Iowa department of economic
29 development, ~~and-the.~~

30 3. ~~The~~ chairperson of the poultry science section of the
31 department of animal science at Iowa State University of
32 science and technology ~~or-the-chairperson's-representative~~
33 ~~shall-serve-as-ex-officio-nonvoting-members-of-the-council.~~

34 ~~The-council-shall-annually-elect-a-chairperson-from-its~~
35 membership.

1 Sec. 8. NEW SECTION. 196A.5A TERMS AND ADMINISTRATION
2 PROCEDURES.

3 1. A person shall serve as a member on the council for a
4 term of three years. A person may serve as a member on the
5 council for more than one term. However, if a person serves
6 for two complete consecutive terms, the person must wait at
7 least twelve months prior to serving another term.

8 2. The council shall elect a chairperson, and other
9 officers as needed, from among its voting members who shall
10 serve for a one-year term, and may be reelected to serve
11 subsequent terms according to procedures adopted by the
12 council.

13 3. A majority of voting members of the council present
14 during a meeting shall constitute a quorum. A majority of the
15 members present during a meeting is necessary to carry out the
16 duties and exercise the powers of the council as provided in
17 this chapter, unless the council requires a greater number.

18 4. The council shall meet at least once every three months
19 and at other times the council determines are necessary.

20 Sec. 9. NEW SECTION. 196A.5B ELECTION AND APPOINTMENT
21 PROCEDURES.

22 1. The council shall appoint a committee to nominate
23 candidates to stand for election to the council. The council
24 may require that the committee nominate candidates to be
25 appointed by the council to fill a vacancy in a position for
26 the unexpired term of a member. The committee shall be
27 comprised of five producers, including the chairperson of the
28 council who shall serve as the chairperson of the nominating
29 committee. The nominating committee shall include at least
30 one member of the council whose term is next to expire. The
31 committee shall also include at least one producer who is
32 classified as a large producer, if a member whose term is to
33 expire represents large producers; at least one producer who
34 is classified as a medium producer, if a member whose term is
35 to expire represents medium producers; and at least one

1 producer who is classified as a small producer, if a member
2 whose term is to expire represents small producers.

3 2. The council shall appoint a producer to fill a member's
4 position occurring because of a vacancy on the council. The
5 person appointed to fill the vacancy must meet the same
6 requirements as a person elected to that position. The person
7 shall serve for the remainder of the unexpired term.

8 3. A notice of an election for members of the council
9 shall be provided by the council by publication in a newspaper
10 of general circulation in the state and in any other
11 reasonable manner required by the council. The notice shall
12 include the period of time for voting, voting places, and any
13 other information determined necessary by the council.

14 Sec. 10. Section 196A.11, Code 1995, is amended by adding
15 the following new subsection:

16 NEW SUBSECTION. 2A. Administer elections for members of
17 the council and provide for the appointment of persons to fill
18 vacancies occurring on the council, as provided in section
19 196A.5B. The department may assist the council in
20 administering an election, upon request to the secretary by
21 the council.

22 Sec. 11. Section 196A.12, subsection 4, Code 1995, is
23 amended to read as follows:

24 4. Enter into arrangements for the collection of the tax
25 on-eggs assessment.

26 Sec. 12. Section 196A.13, Code 1995, is amended to read as
27 follows:

28 196A.13 PROHIBITED ACTIONS.

29 The council shall not do any of the following:

30 1. Become a dues-paying member of any ~~other-firm,~~
31 ~~association,~~ organization ~~or-corporation,~~ including but not
32 limited to a firm, association, or corporation, regardless of
33 whether the organization is public or private. However, upon
34 approval by the board, the council may become a dues-paying
35 member of an organization carrying out a purpose related to

1 the increased consumption and utilization of eggs or egg by-
2 products.

3 2. ~~Furnish, directly or indirectly, any~~ Provide direct or
4 indirect financial support to or for any other person, firm,
5 ~~association, organization or corporation, public or private,~~
6 except as provided in subsection 1 or for contracts for
7 ~~services rendered or to be rendered for~~ related to research,
8 and promotional, and or public relations programs, and or for
9 the administrative expenses of the Iowa-egg council.

10 3. Act, directly or indirectly, in any capacity in
11 marketing or making contracts for the marketing of eggs or
12 poultry egg by-products.

13 4. Act, directly or indirectly, in any capacity in selling
14 or contracting for the selling of ~~egg-producing or poultry-~~
15 producing egg or egg by-product equipment.

16 5. Make any contribution ~~out-of-the-funds~~ of the council
17 moneys, either directly or indirectly, to any political party
18 or organization or in support of any a political candidate for
19 public office, or make payments to a political candidate ~~or~~
20 including but not limited to a member of Congress or the Iowa
21 legislature general assembly for honorariums, speeches, or for
22 any other purposes above actual and necessary expenses.

23 Sec. 13. Section 196A.14, Code 1995, is amended to read as
24 follows:

25 196A.14 COMPENSATION.

26 Members of the council may receive payment for their actual
27 expenses and travel in performing official council functions.
28 Payment shall be made from amounts collected from the ~~tax~~
29 assessment. ~~No~~ A member of the council shall not be a
30 salaried employee of the council or any organization or agency
31 receiving funds moneys from the council. ~~The council shall~~
32 ~~meet at least once every three months, and at other times it~~
33 ~~deems necessary.~~

34 Sec. 14. Section 196A.15, Code 1995, is amended to read as
35 follows:

1 196A.15 TAX ASSESSMENT.

2 If approved by a majority of voters at a referendum as
3 provided in this chapter, a tax to be an assessment amount set
4 by the council at not more than five cents for each thirty
5 dozen eggs ~~sold by a producer will~~ produced in this state
6 shall be imposed on the producer at the time of delivery to a
7 purchaser who will deduct the tax assessment from the price
8 paid to the producer at the time of sale. The assessment
9 shall not be refundable. The assessment is due to be paid to
10 the council within thirty days following each calendar
11 quarter, as provided by the council.

12 PARAGRAPH DIVIDED. If the producer sells eggs to a
13 purchaser outside the state of Iowa, the producer shall deduct
14 the tax from the amount received from the sale and shall
15 forward the amount deducted to the council within thirty days
16 following each calendar quarter. If the producer and
17 processor are the same person, then that person shall pay the
18 tax assessment to the council within thirty days following
19 each calendar quarter.

20 Sec. 15. Section 196A.16, subsection 5, Code 1995, is
21 amended to read as follows:

22 5. The rate of withholding and the total amount of tax
23 assessment withheld.

24 Sec. 16. Section 196A.19, unnumbered paragraph 2, Code
25 1995, is amended to read as follows:

26 Moneys collected, deposited in the fund, and transferred to
27 the council as provided in this chapter are subject to audit
28 by the auditor of state. The moneys transferred to the
29 council, shall be used by the Iowa-egg council first for the
30 payment of collection expenses, second for payment of the
31 costs and expenses arising in connection with conducting
32 referendums, and third for market development. Moneys
33 remaining after a referendum is held when a majority of the
34 voters do not favor extending the tax assessment shall
35 continue to be expended in accordance with this chapter until

1 exhausted.

2 Sec. 17. Section 196A.24, Code 1995, is amended to read as
3 follows:

4 196A.24 PURCHASERS OUTSIDE IOWA.

5 The secretary may enter into arrangements with purchasers
6 from outside Iowa for payment of the ~~tax~~ assessment.

7 Sec. 18. Sections 196A.2, 196A.3, 196A.6, 196A.7, 196A.8,
8 196A.9, 196A.10, and 196A.18, Code 1995, are repealed.

9 Sec. 19. IMPLEMENTATION. The council shall implement this
10 Act, which may include providing for the early termination of
11 the terms, nomination of candidates, elections, and the
12 establishment of staggered terms for members elected after the
13 effective date of this Act. The council may provide for
14 shorter or longer terms for members first elected after the
15 effective date of this Act. However, a term shall not be
16 longer than three years. The term of a member elected prior
17 to the effective date of this Act shall terminate not later
18 than July 1, 1998. Notwithstanding this Act, a member serving
19 on the council on the effective date of this Act may be
20 reelected for an additional term. However, the member's term
21 completed prior to the effective date of this Act shall be
22 counted as a full term under this Act.

23 Sec. 20. CODE EDITOR. The Code editor is requested to
24 consider transferring the provisions of chapter 196A to or
25 near chapter 184, and renumbering its sections to enhance
26 readability, including sections amended by this Act.

27 Sec. 21. EFFECTIVE DATE. This Act, being deemed of
28 immediate importance, takes effect upon enactment.

29 EXPLANATION

30 This bill amends a number of provisions relating to egg
31 production by amending chapters 196 and 196A. The bill amends
32 chapter 196 by providing that the department of inspections
33 and appeals rather than the department of agriculture and land
34 stewardship is responsible for the inspection of egg handlers.

35 Chapter 196A provides for the establishment of the Iowa egg

1 council and assessment of an excise tax upon eggs used to
2 support market development of eggs or egg by-products,
3 including spent poultry and spent poultry products. The bill
4 amends a number of definitions. It changes the name of "tax"
5 to "assessment", which is consistent with the definition of
6 the tax imposed by other commodity organizations. It changes
7 the definition of producer subject to the assessment to mean a
8 person who owns or controls 30,000 or more layer-type
9 chickens. Currently, the term producer means a person who
10 owns or controls 500 or more layer-type chickens. It strikes
11 definitions relating to districts and hatchery operators.

12 Under current law, the council is comprised of four egg
13 producers each representing a different district, two egg
14 processors, and one hatchery operator. The bill provides
15 that the council is composed of seven producers who represent
16 large, medium, and small producers. The bill reduces the
17 number of producers required to call a referendum to establish
18 or terminate a council and assessment from 50 to 20 producers.
19 The bill reduces the terms of council members from four to
20 three years, and limits the number of consecutive terms that a
21 member may serve from three to two terms.

22 The bill amends provisions prohibiting the council from
23 engaging in certain activities. The bill provides that upon
24 board approval the council may become a dues-paying member of
25 an organization carrying out a purpose related to the
26 increased consumption and utilization of eggs and egg by-
27 products.

28 The bill provides that an assessment imposed under the
29 chapter must be paid to the council within 30 days following
30 each calendar quarter, as provided by the council.

31 The bill provides that the existing council must implement
32 the bill, which may provide for the early termination of
33 terms, nominating candidates, conducting new elections, and
34 establishing staggered terms for newly elected members.

35 The bill repeals a number of sections. With one exception,

1 these provisions have been rewritten in other sections of the
2 bill. The bill eliminates section 196A.18, which provides
3 that a producer who has paid a nonrefundable promotion import
4 tax in another state on eggs produced in Iowa may, by
5 application to the council, secure a refund.

6 Finally, the bill requests that the Code editor consider
7 transferring the provisions of chapter 196A to or near chapter
8 184, and renumbering its sections to enhance readability.

9 This would place the provisions of chapter 196A with chapters
10 governing other promotion boards.

11 The bill becomes effective upon enactment.

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VandeHoef ch.

HSB 52
Agriculture

MAY
Main

Succeed
HOUSE FILE 179
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON EDDIE)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to eggs and poultry by reorganizing the statutory
2 provisions and providing for the administration of the Iowa
3 egg council, assessments and refunds, and the repeal of
4 certain sections.

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

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1 Section 1. Section 196A.1, Code 1995, is amended to read
2 as follows:

3 196A.1 DEFINITIONS.

4 As used in this chapter, unless the context indicates
5 otherwise:

6 1. "Assessment" means an excise tax on the sale of eggs as
7 provided in this chapter.

8 ~~1.~~ 2. "Council" means the Iowa egg council.

9 ~~2.--"District" means a producer district established by the~~
10 ~~Iowa poultry association, incorporated.--The Iowa poultry~~
11 ~~association, incorporated shall establish four districts in~~
12 ~~this state from which egg producers shall be appointed to~~
13 ~~serve on the Iowa egg council pursuant to this chapter.~~

14 ~~3.--"Hatchery operator" means any person who operates a~~
15 ~~hatchery licensed under chapter 168 and who is actively~~
16 ~~engaged in the business of hatching or selling chickens for~~
17 ~~commercial purposes.~~

18 3. "Egg by-product" means a product produced in whole or
19 in part from eggs or spent fowl.

20 4. "Eggs" means eggs produced from a layer-type chicken.
21 "Eggs" includes shell eggs or eggs broken for further
22 processing, but does not include fertile eggs that are
23 incubated, hatched, or used for vaccines.

24 ~~4.~~ 5. "Market development" means research and educational
25 programs which are directed toward:

26 a. Better and more efficient production, marketing, and
27 utilization of ~~poultry-and-poultry-products~~ eggs or egg by-
28 products produced for resale.

29 b. Better methods, including, but not limited to, public
30 relations and other promotion techniques, for the maintenance
31 of present markets and for the development of new or larger
32 domestic or foreign markets and for the sale of ~~poultry-and~~
33 ~~poultry-products~~ eggs or egg by-products.

34 c. Prevention, modification, or elimination of trade
35 barriers which obstruct the free flow of ~~poultry-and-poultry~~

1 products eggs or egg by-products to market.

2 5. ~~---"Poultry and poultry products" means layer-type chicken~~
3 ~~hens and eggs, including hatching eggs, and their products.~~

4 6. "Processor" means the first purchaser of eggs from a
5 producer, or a person who both produces and processes eggs.

6 7. "Producer" means any person who owns, or contracts for
7 the care of, five-hundred thirty thousand or more layer-type
8 chickens, ~~the eggs of which are sold in this state through~~
9 ~~commercial channels, including, but not limited to, eggs for~~
10 ~~hatching, which have been produced by the producer's own flock~~
11 raised in this state.

12 8. "Purchaser" means a person who resells eggs purchased
13 from a producer or offers for sale a product produced from
14 such the eggs for any purpose.

15 9. "Qualified financial institution" means a bank, credit
16 union, or savings and loan as defined in section 12C.1.

17 Sec. 2. Section 196A.4, Code 1995, is amended to read as
18 follows:

19 196A.4 ESTABLISHMENT OF EGG COUNCIL AND TAX ASSESSMENT.

20 1. The secretary shall call and the department shall
21 conduct a referendum upon the department's receipt of a
22 petition which is signed by at least twenty producers
23 requesting a referendum to determine whether to establish an
24 Iowa egg council and to impose an assessment as provided in
25 section 196A.15. The referendum shall be conducted within
26 sixty days following receipt of the petition. The petitioners
27 shall guarantee payment of the cost of the referendum by
28 providing evidence of financial security as required by the
29 department.

30 2. The department shall give notice of the referendum on
31 the question whether to establish a council and to impose an
32 assessment by publishing the notice for a period of not less
33 than five days in at least one newspaper of general
34 circulation in the state. The notice shall state the voting
35 places, period of time for voting, and other information

1 deemed necessary by the department. A referendum shall not be
2 commenced until five days after the last date of publication.

3 3. Each producer who signs a statement certifying that the
4 producer is a bona fide producer shall be entitled to one
5 vote. At the close of the referendum, the secretary shall
6 count and tabulate the ballots cast. If a majority of voters
7 favor establishing an Iowa egg council and imposing a tax an
8 assessment, ~~an Iowa egg~~ a council shall be established, and
9 ~~the tax an assessment~~ shall be imposed commencing not more
10 than sixty days following the referendum as determined by the
11 ~~Iowa egg~~ council and shall continue for a period of five years
12 unless extended as provided ~~under this chapter~~ in section
13 196A.4A. If a majority of the voters do not favor
14 establishing ~~an Iowa egg~~ the council and imposing the tax
15 assessment, ~~the tax will not be imposed nor will the~~ council
16 shall not be established and an assessment shall not be
17 imposed until another referendum is held under this chapter
18 and a majority of the voters favor approve establishing a
19 council and imposing the tax assessment. If a referendum
20 should fail, another referendum shall not be held within one
21 hundred eighty days.

22 ~~Subsequent referendums to extend the imposition of the tax~~
23 ~~shall be held every five years in the year prior to the~~
24 ~~expiration of the tax in force; however, upon receipt of a~~
25 ~~petition signed by at least fifty producers requesting a~~
26 ~~referendum election to determine whether to terminate the~~
27 ~~establishment of the Iowa egg council and to terminate the~~
28 ~~imposition of the excise tax as provided herein, the secretary~~
29 ~~shall call a referendum to be conducted within sixty days~~
30 ~~following the receipt of the petition. The petitioners shall~~
31 ~~guarantee the payment of the costs of such referendum. If the~~
32 ~~majority of the voters of any subsequent referendum do not~~
33 ~~favor an extension, an additional referendum may be held when~~
34 ~~the secretary receives a petition signed by at least fifty~~
35 ~~producers. However, the subsequent referendum shall not be~~

1 held-within-one-hundred-eighty-days-

2 4. Immediately after passage of the question at the
3 referendum, the secretary shall appoint seven members to the
4 council in accordance with section 196A.5 based on nominations
5 made by the Iowa poultry association. The association shall
6 nominate and the secretary shall appoint two members
7 representing large producers, two members representing medium
8 producers, and three members representing small producers.
9 The department, in consultation with the association, shall
10 determine initial classifications for small, medium, and large
11 producers. The secretary shall complete the appointments
12 within thirty days following passage of the question at the
13 referendum.

14 Sec. 3. NEW SECTION. 196A.4A REFERENDUMS CONDUCTED
15 DURING THE TENURE OF THE COUNCIL AND ASSESSMENT.

16 1. A referendum shall be conducted as follows:

17 a. A referendum to extend the imposition of the assessment
18 imposed pursuant to section 196A.4 shall be held every five
19 years in the year prior to the expiration of the assessment in
20 force.

21 b. The secretary shall call, and the department shall
22 conduct, a referendum upon the department's receipt of a
23 petition which is signed by at least twenty producers
24 requesting a referendum to determine whether to terminate the
25 council and the imposition of the assessment. The referendum
26 shall be conducted within sixty days following receipt of the
27 petition. The petitioners shall guarantee payment of the cost
28 of the referendum by providing evidence of financial security
29 as required by the department.

30 2. The following procedures shall apply to a referendum:

31 a. The department shall give notice of the referendum on
32 the question whether to continue the council and the
33 assessment by publishing the notice for a period of not less
34 than five days in at least one newspaper of general
35 circulation in the state. The notice shall state the voting

1 places, period of time for voting, and other information
2 deemed necessary by the department. A referendum shall not be
3 commenced until five days after the last date of publication.

4 b. Upon signing a statement certifying to the secretary
5 that a person is a bona fide producer, the person is entitled
6 to one vote in each referendum conducted pursuant to this
7 section. The department shall conduct the referendum and
8 count and tabulate the ballots filed during the referendum
9 within thirty days following the close of the referendum.

10 (1) If a majority of the total number of producers voting
11 in the referendum approves the continuation of the council and
12 the assessment as provided in the referendum, the council
13 shall remain in existence and the assessment shall be levied
14 as provided in this chapter.

15 (2) If a majority of the total number of producers voting
16 in referendum held pursuant to this section do not approve
17 continuing the council and the assessment as provided in the
18 referendum, the secretary shall terminate collection of the
19 assessment on the first day of the year for which the
20 referendum was to continue. The secretary shall terminate the
21 activities of the council in an orderly manner as soon as
22 practicable after the determination. An additional referendum
23 may be held as provided in section 196A.4. However, the
24 subsequent referendum shall not be held within one hundred
25 eighty days.

26 Sec. 4. Section 196A.5, Code 1995, is amended to read as
27 follows:

28 196A.5 COMPOSITION OF COUNCIL.

29 The Iowa egg council established under this chapter shall
30 be composed of ~~four-egg~~ Seven producers, ~~one-from-each~~
31 ~~district, two-egg-processors, and one-hatchery-operator-who~~
32 ~~shall-be-appointed-pursuant-to-this-chapter.~~ Each council
33 member must be a natural person who is a producer or an
34 officer, equity owner, or employee of a producer. A producer
35 shall not be represented more than once on the council. Two

1 persons shall represent large producers, two persons shall
 2 represent medium producers, and three persons shall represent
 3 small producers. The council shall adopt rules pursuant to
 4 chapter 17A establishing classifications for large, medium,
 5 and small producers. The following persons or their designees
 6 shall serve as ex officio nonvoting members:

7 1. The secretary or-the-secretary's-representative,-the.

8 2. The director of the Iowa department of economic
 9 development,-and-the.

10 3. The chairperson of the poultry science section of the
 11 department of animal science at Iowa State University of
 12 science and technology or-the-chairperson's-representative
 13 shall-serve-as-ex-officio-nonvoting-members-of-the-council:-
 14 The-council-shall-annually-elect-a-chairperson-from-its
 15 membership.

16 Sec. 5. NEW SECTION. 196A.5A TERMS AND ADMINISTRATION
 17 PROCEDURES.

18 1. A person shall serve as a member on the council for a
 19 term of three years. A person may serve as a member on the
 20 council for more than one term. However, if a person serves
 21 for two complete consecutive terms, the person must wait at
 22 least twelve months prior to serving another term.

23 2. The council shall elect a chairperson, and other
 24 officers as needed, from among its voting members who shall
 25 serve for a one-year term, and may be reelected to serve
 26 subsequent terms according to procedures adopted by the
 27 council.

28 3. A majority of voting members of the council present
 29 during a meeting shall constitute a quorum. A majority of the
 30 members present during a meeting is necessary to carry out the
 31 duties and exercise the powers of the council as provided in
 32 this chapter, unless the council requires a greater number.

33 4. The council shall meet at least once every three months
 34 and at other times the council determines are necessary.

35 Sec. 6. NEW SECTION. 196A.5B ELECTION AND APPOINTMENT

1 PROCEDURES.

2 1. The council shall appoint a committee to nominate
3 candidates to stand for election to the council. The council
4 may require that the committee nominate candidates to be
5 appointed by the council to fill a vacancy in a position for
6 the unexpired term of a member. The committee shall be
7 comprised of five producers, including the chairperson of the
8 council who shall serve as the chairperson of the nominating
9 committee. The nominating committee shall include at least
10 one member of the council whose term is next to expire. The
11 committee shall also include at least one producer who is
12 classified as a large producer, if a member whose term is to
13 expire represents large producers; at least one producer who
14 is classified as a medium producer, if a member whose term is
15 to expire represents medium producers; and at least one
16 producer who is classified as a small producer, if a member
17 whose term is to expire represents small producers.

18 2. The council shall appoint a producer to fill a member's
19 position occurring because of a vacancy on the council. The
20 person appointed to fill the vacancy must meet the same
21 requirements as a person elected to that position. The person
22 shall serve for the remainder of the unexpired term.

23 3. A notice of an election for members of the council
24 shall be provided by the council by publication in a newspaper
25 of general circulation in the state and in any other
26 reasonable manner required by the council. The notice shall
27 include the period of time for voting, voting places, and any
28 other information determined necessary by the council.

29 Sec. 7. Section 196A.11, Code 1995, is amended by adding
30 the following new subsection:

31 NEW SUBSECTION. 2A. Administer elections for members of
32 the council and provide for the appointment of persons to fill
33 vacancies occurring on the council, as provided in section
34 196A.5B. The department may assist the council in
35 administering an election, upon request to the secretary by

1 the council.

2 Sec. 8. Section 196A.12, subsection 4, Code 1995, is
3 amended to read as follows:

4 4. Enter into arrangements for the collection of the tax
5 on-eggs assessment.

6 Sec. 9. Section 196A.13, Code 1995, is amended to read as
7 follows:

8 196A.13 PROHIBITED ACTIONS.

9 The council shall not do any of the following:

10 1. Become a dues-paying member of any ~~other-firm,~~
11 ~~association,~~ organization ~~or-corporation,~~ including but not
12 limited to a firm, association, or corporation, regardless of
13 whether the organization is public or private. However, upon
14 approval by the board, the council may become a dues-paying
15 member of an organization carrying out a purpose related to
16 the increased consumption and utilization of eggs or egg by-
17 products.

18 2. ~~Furnish, directly or indirectly, any~~ Provide direct or
19 indirect financial support to or for any other person, firm,
20 ~~association, organization or corporation, public or private,~~
21 except as provided in subsection 1 or for contracts for
22 ~~services rendered or to be rendered for~~ related to research,
23 and promotional, and or public relations programs, and or for
24 the administrative expenses of the Iowa-egg council.

25 3. Act, directly or indirectly, in any capacity in
26 marketing or making contracts for the marketing of eggs or
27 poultry egg by-products.

28 4. Act, directly or indirectly, in any capacity in selling
29 or contracting for the selling of egg-producing ~~or-poultry-~~
30 ~~producing~~ egg or egg by-product equipment.

31 5. Make any contribution ~~out-of-the-funds~~ of the council
32 moneys, either directly or indirectly, to any political party
33 or organization or in support of any a political candidate for
34 public office, or make payments to a political candidate ~~or~~
35 including but not limited to a member of Congress or the Iowa

1 legislature general assembly for honorariums, speeches, or for
2 any other purposes above actual and necessary expenses.

3 Sec. 10. Section 196A.14, Code 1995, is amended to read as
4 follows:

5 196A.14 COMPENSATION.

6 Members of the council may receive payment for their actual
7 expenses and travel in performing official council functions.

8 Payment shall be made from amounts collected from the tax
9 assessment. No A member of the council shall not be a

10 salaried employee of the council or any organization or agency
11 receiving funds moneys from the council. ~~The council shall~~
12 ~~meet at least once every three months, and at other times it~~
13 ~~deems necessary.~~

14 Sec. 11. Section 196A.15, Code 1995, is amended to read as
15 follows:

16 196A.15 TAX ASSESSMENT.

17 If approved by a majority of voters at a referendum as
18 provided in this chapter, a tax to be an assessment amount set
19 by the council at not more than five cents for each thirty
20 dozen eggs ~~sold by a producer will~~ produced in this state
21 shall be imposed on the producer at the time of delivery to a
22 purchaser who will deduct the tax assessment from the price
23 paid to the producer at the time of sale. The assessment
24 shall not be refundable. The assessment is due to be paid to
25 the council within thirty days following each calendar
26 quarter, as provided by the council.

27 PARAGRAPH DIVIDED. If the producer sells eggs to a
28 purchaser outside the state of Iowa, the producer shall deduct
29 the tax from the amount received from the sale and shall
30 forward the amount deducted to the council within thirty days
31 following each calendar quarter. If the producer and
32 processor are the same person, then that person shall pay the
33 tax assessment to the council within thirty days following
34 each calendar quarter.

35 Sec. 12. Section 196A.16, subsection 5, Code 1995, is

1 amended to read as follows:

2 5. The rate of withholding and the total amount of tax
3 assessment withheld.

4 Sec. 13. Section 196A.19, unnumbered paragraph 2, Code
5 1995, is amended to read as follows:

6 Moneys collected, deposited in the fund, and transferred to
7 the council as provided in this chapter are subject to audit
8 by the auditor of state. The moneys transferred to the
9 council, shall be used by the Iowa-egg council first for the
10 payment of collection expenses, second for payment of the
11 costs and expenses arising in connection with conducting
12 referendums, and third for market development. Moneys
13 remaining after a referendum is held when a majority of the
14 voters do not favor extending the tax assessment shall
15 continue to be expended in accordance with this chapter until
16 exhausted.

17 Sec. 14. Section 196A.24, Code 1995, is amended to read as
18 follows:

19 196A.24 PURCHASERS OUTSIDE IOWA.

20 The secretary may enter into arrangements with purchasers
21 from outside Iowa for payment of the tax assessment.

22 Sec. 15. Sections 196A.2, 196A.3, 196A.6, 196A.7, 196A.8,
23 196A.9, 196A.10, and 196A.18, Code 1995, are repealed.

24 Sec. 16. IMPLEMENTATION. The council shall implement this
25 Act, which may include providing for the early termination of
26 the terms, nomination of candidates, elections, and the
27 establishment of staggered terms for members elected after the
28 effective date of this Act. The council may provide for
29 shorter or longer terms for members first elected after the
30 effective date of this Act. However, a term shall not be
31 longer than three years. The term of a member elected prior
32 to the effective date of this Act shall terminate not later
33 than July 1, 1998. Notwithstanding this Act, a member serving
34 on the council on the effective date of this Act may be
35 reelected for an additional term. However, the member's term

1 completed prior to the effective date of this Act shall be
2 counted as a full term under this Act.

3 Sec. 17. CODE EDITOR. The Code editor is requested to
4 consider transferring the provisions of chapter 196A to or
5 near chapter 184, and renumbering its sections to enhance
6 readability, including sections amended by this Act.

7

EXPLANATION

8 This bill amends a number of provisions in chapter 196A
9 providing for the establishment of the Iowa egg council and
10 assessment of an excise tax upon eggs used to support market
11 development of eggs or egg by-products, including spent
12 poultry and spent poultry products. The bill amends a number
13 of definitions. It changes the name of "tax" to "assessment",
14 which is consistent with the definition of the tax imposed by
15 other commodity organizations. It changes the definition of
16 producer subject to the assessment to mean a person who owns
17 or controls 30,000 or more layer-type chickens. Currently,
18 the term producer means a person who owns or controls 500 or
19 more layer-type chickens. It strikes definitions relating to
20 districts and hatchery operators.

21 Under current law, the council is comprised of four egg
22 producers each representing a different district, two egg
23 processors, and one hatchery operator. The bill provides
24 that the council is composed of seven producers who represent
25 large, medium, and small producers. The bill reduces the
26 number of producers required to call a referendum to establish
27 or terminate a council and assessment from 50 to 20 producers.
28 The bill reduces the terms of council members from four to
29 three years, and limits the number of consecutive terms that a
30 member may serve from three to two terms.

31 The bill amends provisions prohibiting the council from
32 engaging in certain activities. The bill provides that upon
33 board approval the council may become a dues-paying member of
34 an organization carrying out a purpose related to the
35 increased consumption and utilization of eggs and egg by-

1 products.

2 The bill provides that an assessment imposed under the
3 chapter must be paid to the council within 30 days following
4 each calendar quarter, as provided by the council.

5 The bill provides that the existing council must implement
6 the bill, which may provide for the early termination of
7 terms, nominating candidates, conducting new elections, and
8 establishing staggered terms for newly elected members.

9 The bill repeals a number of sections. With one exception,
10 these provisions have been rewritten in other sections of the
11 bill. The bill eliminates section 196A.18, which provides
12 that a producer who has paid a nonrefundable promotion import
13 tax in another state on eggs produced in Iowa may, by
14 application to the council, secure a refund.

15 Finally, the bill requests that the Code editor consider
16 transferring the provisions of chapter 196A to or near chapter
17 184, and renumbering its sections to enhance readability.
18 This would place the provisions of chapter 196A with chapters
19 governing other promotion boards.

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HOUSE FILE 179

AN ACT

RELATING TO EGGS AND POULTRY BY REORGANIZING THE STATUTORY PROVISIONS AND PROVIDING FOR THE ADMINISTRATION OF THE IOWA EGG COUNCIL, ASSESSMENTS AND REFUNDS, AND THE REPEAL OF CERTAIN SECTIONS, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 196.1, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. "Department" means the department of inspections and appeals, as established in section 10A.102.

Sec. 2. Section 196.1, subsection 9, Code 1995, is amended to read as follows:

9. ~~"Secretary", "department", and "package" have the meanings ascribed to them~~ "Package" means the same as defined in section 189.1.

Sec. 3. Section 196.2, Code 1995, is amended to read as follows:

196.2 ENFORCEMENT.

The secretary department shall enforce the provisions of this chapter, and may make adopt rules pursuant to chapter 17A and consistent with regulations of the United States government as they exist on July 1, 1985, pursuant to the Agricultural Marketing Act of 1946, 7 U.S.C. § 1621 et seq., and the Egg Products Inspection Act of 1970, 21 U.S.C. § 1044 et seq.

Sec. 4. Section 196A.1, Code 1995, is amended to read as follows:

196A.1 DEFINITIONS.

As used in this chapter, unless the context indicates otherwise:

1. "Assessment" means an excise tax on the sale of eggs as provided in this chapter.

2. "Council" means the Iowa egg council.

~~2. "District" means a producer district established by the Iowa poultry association, incorporated. The Iowa poultry association, incorporated, shall establish four districts in this state from which egg producers shall be appointed to serve on the Iowa egg council pursuant to this chapter.~~

~~3. "Hatchery operator" means any person who operates a hatchery licensed under chapter 168 and who is actively engaged in the business of hatching or selling chickens for commercial purposes.~~

3. "Egg by-product" means a product produced in whole or in part from eggs or spent fowl.

4. "Eggs" means eggs produced from a layer-type chicken. "Eggs" includes shell eggs or eggs broken for further processing, but does not include fertile eggs that are incubated, hatched, or used for vaccines.

4. 5. "Market development" means research and educational programs which are directed toward:

a. Better and more efficient production, marketing, and utilization of poultry and poultry products eggs or egg by-products produced for resale.

b. Better methods, including, but not limited to, public relations and other promotion techniques, for the maintenance of present markets and for the development of new or larger domestic or foreign markets and for the sale of poultry and poultry products eggs or egg by-products.

c. Prevention, modification, or elimination of trade barriers which obstruct the free flow of poultry and poultry products eggs or egg by-products to market.

~~5. "Poultry and poultry products" means layer-type chicken hens and eggs, including hatching eggs, and their products.~~

6. "Processor" means the first purchaser of eggs from a producer, or a person who both produces and processes eggs.

7. "Producer" means any person who owns, or contracts for the care of, five-hundred thirty thousand or more layer-type chickens, the eggs of which are sold in this state through commercial channels, including, but not limited to, eggs for hatching, which have been produced by the producer's own flock raised in this state.

8. "Purchaser" means a person who resells eggs purchased from a producer or offers for sale a product produced from such the eggs for any purpose.

9. "Qualified financial institution" means a bank, credit union, or savings and loan as defined in section 12C.1.

Sec. 5. Section 196A.4, Code 1995, is amended to read as follows:

196A.4 ESTABLISHMENT OF IOWA EGG COUNCIL AND TAX ASSESSMENT.

1. The secretary shall call and the department shall conduct a referendum upon the department's receipt of a petition which is signed by at least twenty producers requesting a referendum to determine whether to establish an Iowa egg council and to impose an assessment as provided in section 196A.15. The referendum shall be conducted within sixty days following receipt of the petition. The petitioners shall guarantee payment of the cost of the referendum by providing evidence of financial security as required by the department.

2. The department shall give notice of the referendum on the question whether to establish a council and to impose an assessment by publishing the notice for a period of not less than five days in at least one newspaper of general circulation in the state. The notice shall state the voting places, period of time for voting, and other information deemed necessary by the department. A referendum shall not be commenced until five days after the last date of publication.

3. Each producer who signs a statement certifying that the producer is a bona fide producer shall be entitled to one

vote. At the close of the referendum, the secretary shall count and tabulate the ballots cast. If a majority of voters favor establishing an Iowa egg council and imposing a tax an assessment, an Iowa egg a council shall be established, and the tax an assessment shall be imposed commencing not more than sixty days following the referendum as determined by the Iowa egg council and shall continue for a period of five years unless extended as provided under this chapter in section 196A.4A. If a majority of the voters do not favor establishing an Iowa egg the council and imposing the tax assessment, the tax will not be imposed nor will the council shall not be established and an assessment shall not be imposed until another referendum is held under this chapter and a majority of the voters favor approve establishing a council and imposing the tax assessment. If a referendum should fail, another referendum shall not be held within one hundred eighty days.

Subsequent referendums to extend the imposition of the tax shall be held every five years in the year prior to the expiration of the tax in force; however, upon receipt of a petition signed by at least fifty producers requesting a referendum election to determine whether to terminate the establishment of the Iowa egg council and to terminate the imposition of the excise tax as provided herein, the secretary shall call a referendum to be conducted within sixty days following the receipt of the petition. The petitioners shall guarantee the payment of the costs of such referendum. If the majority of the voters of any subsequent referendum do not favor an extension, an additional referendum may be held when the secretary receives a petition signed by at least fifty producers. However, the subsequent referendum shall not be held within one hundred eighty days.

4. Immediately after passage of the question at the referendum, the secretary shall appoint seven members to the council in accordance with section 196A.5 based on nominations

made by the Iowa poultry association. The association shall nominate and the secretary shall appoint two members representing large producers, two members representing medium producers, and three members representing small producers. The department, in consultation with the association, shall determine initial classifications for small, medium, and large producers. The secretary shall complete the appointments within thirty days following passage of the question at the referendum.

Sec. 6. NEW SECTION. 196A.4A REFERENDUMS CONDUCTED DURING THE TENURE OF THE COUNCIL AND ASSESSMENT.

1. A referendum shall be conducted as follows:

a. A referendum to extend the imposition of the assessment imposed pursuant to section 196A.4 shall be held every five years in the year prior to the expiration of the assessment in force.

b. The secretary shall call, and the department shall conduct, a referendum upon the department's receipt of a petition which is signed by at least twenty producers requesting a referendum to determine whether to terminate the council and the imposition of the assessment. The referendum shall be conducted within sixty days following receipt of the petition. The petitioners shall guarantee payment of the cost of the referendum by providing evidence of financial security as required by the department.

2. The following procedures shall apply to a referendum:

a. The department shall give notice of the referendum on the question whether to continue the council and the assessment by publishing the notice for a period of not less than five days in at least one newspaper of general circulation in the state. The notice shall state the voting places, period of time for voting, and other information deemed necessary by the department. A referendum shall not be commenced until five days after the last date of publication.

b. Upon signing a statement certifying to the secretary that a person is a bona fide producer, the person is entitled to one vote in each referendum conducted pursuant to this section. The department shall conduct the referendum and count and tabulate the ballots filed during the referendum within thirty days following the close of the referendum.

(1) If a majority of the total number of producers voting in the referendum approves the continuation of the council and the assessment as provided in the referendum, the council shall remain in existence and the assessment shall be levied as provided in this chapter.

(2) If a majority of the total number of producers voting in referendum held pursuant to this section do not approve continuing the council and the assessment as provided in the referendum, the secretary shall terminate collection of the assessment on the first day of the year for which the referendum was to continue. The secretary shall terminate the activities of the council in an orderly manner as soon as practicable after the determination. An additional referendum may be held as provided in section 196A.4. However, the subsequent referendum shall not be held within one hundred eighty days.

Sec. 7. Section 196A.5, Code 1995, is amended to read as follows:

196A.5 COMPOSITION OF COUNCIL.

The Iowa egg council established under this chapter shall be composed of ~~four-egg seven~~ producers, ~~one-from-each district, two-egg-processors, and one-hatchery-operator who shall be appointed pursuant to this chapter.~~ Each council member must be a natural person who is a producer or an officer, equity owner, or employee of a producer. A producer shall not be represented more than once on the council. Two persons shall represent large producers, two persons shall represent medium producers, and three persons shall represent small producers. The council shall adopt rules pursuant to

chapter 17A establishing classifications for large, medium, and small producers. The following persons or their designees shall serve as ex officio nonvoting members:

1. The secretary or the secretary's representative, the,
2. The director of the Iowa department of economic development, and the,
3. The chairperson of the poultry science section of the department of animal science at Iowa State University of science and technology or the chairperson's representative shall serve as ex officio nonvoting members of the council. The council shall annually elect a chairperson from its membership.

Sec. 8. NEW SECTION. 196A.5A TERMS AND ADMINISTRATION PROCEDURES.

1. A person shall serve as a member on the council for a term of three years. A person may serve as a member on the council for more than one term. However, if a person serves for two complete consecutive terms, the person must wait at least twelve months prior to serving another term.

2. The council shall elect a chairperson, and other officers as needed, from among its voting members who shall serve for a one-year term, and may be reelected to serve subsequent terms according to procedures adopted by the council.

3. A majority of voting members of the council present during a meeting shall constitute a quorum. A majority of the members present during a meeting is necessary to carry out the duties and exercise the powers of the council as provided in this chapter, unless the council requires a greater number.

4. The council shall meet at least once every three months and at other times the council determines are necessary.

Sec. 9. NEW SECTION. 196A.5B ELECTION AND APPOINTMENT PROCEDURES.

1. The council shall appoint a committee to nominate candidates to stand for election to the council. The council

may require that the committee nominate candidates to be appointed by the council to fill a vacancy in a position for the unexpired term of a member. The committee shall be comprised of five producers, including the chairperson of the council who shall serve as the chairperson of the nominating committee. The nominating committee shall include at least one member of the council whose term is next to expire. The committee shall also include at least one producer who is classified as a large producer, if a member whose term is to expire represents large producers; at least one producer who is classified as a medium producer, if a member whose term is to expire represents medium producers; and at least one producer who is classified as a small producer, if a member whose term is to expire represents small producers.

2. The council shall appoint a producer to fill a member's position occurring because of a vacancy on the council. The person appointed to fill the vacancy must meet the same requirements as a person elected to that position. The person shall serve for the remainder of the unexpired term.

3. A notice of an election for members of the council shall be provided by the council by publication in a newspaper of general circulation in the state and in any other reasonable manner required by the council. The notice shall include the period of time for voting, voting places, and any other information determined necessary by the council.

Sec. 10. Section 196A.11, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. Administer elections for members of the council and provide for the appointment of persons to fill vacancies occurring on the council, as provided in section 196A.5B. The department may assist the council in administering an election, upon request to the secretary by the council.

Sec. 11. Section 196A.12, subsection 4, Code 1995, is amended to read as follows:

4. Enter into arrangements for the collection of the tax on-eggs assessment.

Sec. 12. Section 196A.13, Code 1995, is amended to read as follows:

196A.13 PROHIBITED ACTIONS.

The council shall not do any of the following:

1. Become a dues-paying member of any ~~other-firm, association, organization or corporation,~~ including but not limited to a firm, association, or corporation, regardless of whether the organization is public or private. However, upon approval by the council, the council may become a dues-paying member of an organization carrying out a purpose related to the increased consumption and utilization of eggs or egg by-products.

2. ~~Furnish, directly or indirectly, any~~ Provide direct or indirect financial support to or for any other person, firm, association, organization or corporation, public or private, except as provided in subsection 1 or for contracts for services rendered or to be rendered for related to research, and promotional, and or public relations programs, and or for the administrative expenses of the Iowa-egg council.

3. Act, directly or indirectly, in any capacity in marketing or making contracts for the marketing of eggs or ~~poultry egg by-products.~~

4. Act, directly or indirectly, in any capacity in selling or contracting for the selling of ~~egg-producing-or-poultry-producing egg or egg by-product equipment.~~

5. Make any contribution ~~out-of-the-funds~~ of the council ~~moneys~~, either directly or indirectly, to any political party or organization or in support of ~~any a~~ political candidate for public office, or ~~make~~ payments to a political candidate or including but not limited to a member of Congress or the Iowa legislature general assembly for honorariums, speeches, or for any other purposes above actual and necessary expenses.

Sec. 13. Section 196A.14, Code 1995, is amended to read as follows:

196A.14 COMPENSATION.

Members of the council may receive payment for their actual expenses and travel in performing official council functions. Payment shall be made from amounts collected from the ~~tax assessment.~~ No A member of the council shall not be a salaried employee of the council or any organization or agency receiving funds moneys from the council. The-council-shall meet-at-least-once-every-three-months,-and-at-other-times-it deems-necessary.

Sec. 14. Section 196A.15, Code 1995, is amended to read as follows:

196A.15 TAX ASSESSMENT.

If approved by a majority of voters at a referendum as provided in this chapter, a-tax-to-be an assessment amount set by the council at not more than five cents for each thirty dozen eggs sold-by-a-producer-will produced in this state shall be imposed on the producer at the time of delivery to a purchaser who will deduct the tax assessment from the price paid to the producer at the time of sale. The assessment shall not be refundable. The assessment is due to be paid to the council within thirty days following each calendar quarter, as provided by the council.

PARAGRAPH DIVIDED. If the producer sells eggs to a purchaser outside the state of Iowa, the producer shall deduct the tax from the amount received from the sale and shall forward the amount deducted to the council within thirty days following each calendar quarter. If the producer and processor are the same person, then that person shall pay the tax assessment to the council within thirty days following each calendar quarter.

Sec. 15. Section 196A.16, subsection 5, Code 1995, is amended to read as follows:

5. The rate of withholding and the total amount of tax assessment withheld.

Sec. 16. Section 196A.19, unnumbered paragraph 2, Code 1995, is amended to read as follows:

Moneys collected, deposited in the fund, and transferred to the council as provided in this chapter are subject to audit by the auditor of state. The moneys transferred to the council, shall be used by the Iowa-egg council first for the payment of collection expenses, second for payment of the costs and expenses arising in connection with conducting referendums, and third for market development. Moneys remaining after a referendum is held when a majority of the voters do not favor extending the tax assessment shall continue to be expended in accordance with this chapter until exhausted.

Sec. 17. Section 196A.24, Code 1995, is amended to read as follows:

196A.24 PURCHASERS OUTSIDE IOWA.

The secretary may enter into arrangements with purchasers from outside Iowa for payment of the tax assessment.

Sec. 18. Sections 196A.2, 196A.3, 196A.6, 196A.7, 196A.8, 196A.9, 196A.10, and 196A.18, Code 1995, are repealed.

Sec. 19. IMPLEMENTATION. The council shall implement this Act, which may include providing for the early termination of the terms, nomination of candidates, elections, and the establishment of staggered terms for members elected after the effective date of this Act. The council may provide for shorter or longer terms for members first elected after the effective date of this Act. However, a term shall not be longer than three years. The term of a member elected prior to the effective date of this Act shall terminate not later than July 1, 1998. Notwithstanding this Act, a member serving on the council on the effective date of this Act may be reelected for an additional term. However, the member's term completed prior to the effective date of this Act shall be counted as a full term under this Act.

Sec. 20. CODE EDITOR. The Code editor is requested to consider transferring the provisions of chapter 196A to or near chapter 184, and renumbering its sections to enhance readability, including sections amended by this Act.

Sec. 21. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

RON J. CORBETT
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 179, Seventy-sixth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved March 14, 1995

TERRY E. BRANSTAD
Governor