

*Substituted by  
SF 173  
(P. 533) 3/8/95*

FILED FEB 21 1995

SENATE FILE 173  
BY COMMITTEE ON AGRICULTURE

*WITHDRAWN*

(SUCCESSOR TO LSB 1618SC)

Passed Senate, Date \_\_\_\_\_ Passed House, 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, and providing an effective date.

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

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WITHDRAWN

S.F. 173

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 IOWA EGG COUNCIL AND TAX  
20 ASSESSMENT.

21 1. 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 establish an  
25 Iowa egg council and to impose an assessment as provided in  
26 section 196A.15. The referendum shall be conducted within  
27 sixty days following receipt of the petition. The petitioners  
28 shall guarantee payment of the cost of the referendum by  
29 providing evidence of financial security as required by the  
30 department.

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

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

1 ~~producers.--However, the subsequent referendum shall not be~~  
2 ~~held within one hundred eighty days.~~

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

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

17     1. A referendum shall be conducted as follows:

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

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

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

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

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

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

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

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

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

29 196A.5 COMPOSITION OF COUNCIL.

30 The Iowa egg council established under this chapter shall  
31 be composed of ~~four-egg seven~~ producers, ~~one-from-each~~  
32 ~~district, two-egg-processors, and one-hatchery-operator-who~~  
33 ~~shall-be-appointed-pursuant-to-this-chapter.~~ Each council  
34 member must be a natural person who is a producer or an  
35 officer, equity owner, or employee of a producer. A producer

1 shall not be represented more than once on the council. Two  
2 persons shall represent large producers, two persons shall  
3 represent medium producers, and three persons shall represent  
4 small producers. The council shall adopt rules pursuant to  
5 chapter 17A establishing classifications for large, medium,  
6 and small producers. The following persons or their designees  
7 shall serve as ex officio nonvoting members:

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

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

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

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

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

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

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

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

1     Sec. 6.   NEW SECTION.   196A.5B   ELECTION AND APPOINTMENT  
2 PROCEDURES.

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

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

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

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

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

1 administering an election, upon request to the secretary by  
2 the council.

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

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

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

9 196A.13 PROHIBITED ACTIONS.

10 The council shall not do any of the following:

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

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

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

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

32 5. Make any contribution ~~out-of-the-funds~~ of the council  
33 moneys, either directly or indirectly, to any political party  
34 or organization or in support of any a political candidate for  
35 public office, or make payments to a political candidate or

1 including but not limited to a member of Congress or the Iowa  
2 legislature general assembly for honorariums, speeches, or for  
3 any other purposes above actual and necessary expenses.

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

6 196A.14 COMPENSATION.

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

9 Payment shall be made from amounts collected from the tax

10 assessment. ~~No~~ A member of the council shall not be a  
11 salaried employee of the council or any organization or agency  
12 receiving ~~funds~~ moneys from the council. ~~The council shall~~  
13 ~~meet at least once every three months, and at other times it~~  
14 ~~deems necessary.~~

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

17 196A.15 TAX ASSESSMENT.

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

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

1 Sec. 12. Section 196A.16, subsection 5, Code 1995, is  
2 amended to read as follows:

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

5 Sec. 13. Section 196A.19, unnumbered paragraph 2, Code  
6 1995, is amended to read as follows:

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

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

20 196A.24 PURCHASERS OUTSIDE IOWA.

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

23 Sec. 15. Sections 196A.2, 196A.3, 196A.6, 196A.7, 196A.8,  
24 196A.9, 196A.10, and 196A.18, Code 1995, are repealed.

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

1 reelected for an additional term. However, the member's term  
2 completed prior to the effective date of this Act shall be  
3 counted as a full term under this Act.

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

8 Sec. 18. EFFECTIVE DATE. This Act, being deemed of  
9 immediate importance, takes effect upon enactment.

10 EXPLANATION

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

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

34 The bill amends provisions prohibiting the council from  
35 engaging in certain activities. The bill provides that upon

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1 board approval the council may become a dues-paying member of  
2 an organization carrying out a purpose related to the  
3 increased consumption and utilization of eggs and egg by-  
4 products.

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

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

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

18 Finally, the bill requests that the Code editor consider  
19 transferring the provisions of chapter 196A to or near chapter  
20 184, and renumbering its sections to enhance readability.  
21 This would place the provisions of chapter 196A with chapters  
22 governing other promotion boards.

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SENATE FILE 173

S-3096

- 1 Amend Senate File 173 as follows:  
2 1. Page 1, by inserting before line 1 the  
3 following:  
4 "Sec. \_\_\_\_ . Section 196.1, Code 1995, is amended by  
5 adding the following new subsection:  
6 NEW SUBSECTION. 3A. "Department" means the  
7 department of inspections and appeals, as established  
8 in section 10A.102.  
9 Sec. \_\_\_\_ . Section 196.1, subsection 9, Code 1995,  
10 is amended to read as follows:  
11 9. ~~"Secretary", "department", and "package" have~~  
12 ~~the meanings ascribed to them~~ "Package" means the same  
13 as defined in section 189.1.  
14 Sec. \_\_\_\_ . Section 196.2, Code 1995, is amended to  
15 read as follows:  
16 196.2 ENFORCEMENT.  
17 The secretary department shall enforce the  
18 ~~provisions of this chapter~~, and may make adopt rules  
19 pursuant to chapter 17A and consistent with  
20 regulations of the United States government as they  
21 exist on July 1, 1985, pursuant to the Agricultural  
22 Marketing Act of 1946, 7 U.S.C. § 1621 et seq., and  
23 the Egg Products Inspection Act of 1970, 21 U.S.C. §  
24 1044 et seq."  
25 2. Page 8, line 15, by striking the word "board"  
26 and inserting the following: "council".  
27 3. By renumbering as necessary.

By DENNIS H. BLACK

S-3096 FILED MARCH 6, 1995

*Adopted*  
*3-8-95*  
*(P. 553)*