

HOUSE FILE 2372
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HSB 603)

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

A BILL FOR

1 An Act relating to assessments imposed on cattle for purposes of
2 promotion, education, and research, and providing an effective
3 date.

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

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HF 2372

1 Section 1. Section 181.1, Code 2003, is amended by
2 striking the section and inserting in lieu thereof the
3 following:

4 181.1 DEFINITIONS.

5 As used in this chapter, unless the context requires
6 otherwise:

7 1. "Association" means the Iowa beef cattle producers
8 association.

9 2. "Cattle" means any live domesticated bovine animal
10 regardless of age.

11 3. "Council" means the Iowa beef industry council.

12 4. "Federal act" means the federal Beef Promotion and
13 Research Act of 1985, 7 U.S.C., § 2901 et seq.

14 5. "Federal assessment" means an excise tax on the sale of
15 bovine animals imposed pursuant to the federal act.

16 6. "Producer" means any person who owns or acquires
17 ownership of cattle. However, a person shall not be
18 considered a producer if any of the following apply:

19 a. The person's only share in the proceeds of a sale of
20 cattle or beef is a sales commission, handling fee, or other
21 service fee.

22 b. The person acquired ownership of cattle to facilitate
23 the transfer of ownership of such cattle from the seller to a
24 third party; resold such cattle no later than ten days from
25 the date on which the person acquired ownership; and
26 certified, as required by rules adopted by the council.

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

29 8. "Records" means books, papers, documents, accounts,
30 agreements, memoranda, electronic records of accounts, or
31 correspondence relating to a matter regulated under this
32 chapter.

33 9. "Secretary" means the secretary of agriculture.

34 10. "State assessment" means an excise tax on the sale of
35 cattle imposed pursuant to this chapter.

1 Sec. 2. Section 181.2, Code 2003, is amended to read as
2 follows:

3 181.2 DUTIES AND OBJECTS OF ASSOCIATION.

4 The Iowa beef cattle producers association shall do all of
5 the following:

6 1. Aid in the promotion of the beef cattle industry of the
7 state.

8 2. Provide for practical and scientific instruction in the
9 breeding and raising of beef cattle.

10 3. ~~Provide-for-the-inspection-of-herds,premises,~~
11 ~~appliances,methods,-and-feedstuffs-used-in-the-raising-of~~
12 ~~beef-cattle.~~

13 4. Make demonstrations in the feeding of beef cattle and
14 publish suggestions beneficial to such business.

15 5. 4. Aid and promote beef cattle feeding contests, shows,
16 and sales.

17 6. ~~Publish-a-breeders'-directory.~~

18 7. 5. Prepare an annual report of the proceedings and
19 expenditures of the council as provided in section 181.18B.

20 Sec. 3. Section 181.3, subsection 1, unnumbered paragraph
21 1, Code 2003, is amended to read as follows:

22 An ~~executive-committee~~ Iowa beef industry council of the
23 Iowa beef cattle producers association is created. The
24 ~~executive-committee~~ council consists of eight members, as
25 follows including all of the following:

26 Sec. 4. Section 181.3, subsections 2 through 4, Code 2003,
27 are amended to read as follows:

28 2. The Iowa livestock auction market association shall
29 nominate two livestock market representatives. The secretary
30 of agriculture shall appoint one of the nominees or another
31 livestock market representative of the secretary's choice as
32 ~~the-livestock-market-representative-on-the-executive~~
33 ~~committee~~, who shall serve at the pleasure of the secretary.

34 3. The ~~executive-committee~~ council shall elect a
35 chairperson, secretary, and other officers it deems necessary.

1 4. Except for ex officio members, vacancies in the
2 ~~executive-committee~~ council resulting from death, inability or
3 refusal to serve, or failure to meet the qualifications of
4 this chapter, shall be filled by the ~~executive-committee~~
5 council. If the ~~executive-committee~~ council fails to fill a
6 vacancy, the secretary of-agriculture shall fill it. Vacancy
7 appointments shall be only for the remainder of the unexpired
8 term.

9 Sec. 5. Section 181.4, Code 2003, is amended to read as
10 follows:

11 181.4 EMPLOYEES OF ~~COMMITTEE~~ COUNCIL.

12 The ~~executive-committee~~ council may employ two or more
13 competent persons who shall devote their entire time, under
14 the direction of the ~~committee~~ council, in carrying out the
15 provisions of this chapter. The salary of persons so employed
16 shall be set by the ~~executive-committee~~ council, and the
17 persons shall hold office at the pleasure of the ~~executive~~
18 committee council.

19 Sec. 6. Section 181.6A, Code 2003, is amended to read as
20 follows:

21 181.6A ELECTION OF ~~EXECUTIVE-COMMITTEE~~ COUNCIL.

22 1. The Iowa beef cattle producers association shall hold
23 an annual meeting of producers. An election shall be held at
24 the annual meeting, as necessary, for election of producers to
25 the ~~executive-committee~~ council.

26 2. Prior to the annual meeting, the ~~Iowa-beef-cattle~~
27 ~~producers~~ association shall appoint a nominating committee.
28 At least sixty days prior to the annual meeting of the ~~Iowa~~
29 ~~beef-cattle-producers~~ association, the nominating committee
30 shall nominate two producers as candidates for each position
31 on the ~~executive-committee~~ council for which an election is to
32 be held. At least forty-five days prior to the annual meeting
33 of the ~~Iowa-beef-cattle-producers~~ association, additional
34 candidates may be nominated by a written petition of fifty
35 producers. Procedures governing the place of filing and the

1 contents of the petition shall be promulgated and publicized
2 by the ~~executive-committee~~ council.

3 3. Producers attending the annual meeting of the ~~Iowa-beef~~
4 ~~cattle-producers~~ association may vote for one nominee for each
5 position on the ~~executive-committee~~ council for which an
6 election is held. Producers not attending the annual meeting
7 of the ~~Iowa-beef-cattle-producers~~ association may vote by
8 absentee ballot, if the ballot is requested and mailed, with
9 proper postage, to the ~~executive-committee~~ council prior to
10 the annual meeting of the ~~Iowa-beef-cattle-producers~~
11 association. For each position for which an election is held,
12 the candidate receiving the highest number of votes shall be
13 elected.

14 4. Notice of election for ~~executive-committee~~ council
15 membership shall be given by the ~~executive-committee~~ council
16 by publication in a newspaper of general circulation in the
17 state and in any other reasonable manner as determined by the
18 ~~executive-committee~~ council, and shall set forth the date,
19 time, and place of the annual meeting of the ~~Iowa-beef-cattle~~
20 ~~producers~~ association. The ~~executive-committee~~ council shall
21 administer the elections, with the assistance of the secretary
22 ~~of-agriculture~~.

23 Sec. 7. Section 181.7, Code 2003, is amended to read as
24 follows:

25 181.7 RESEARCH AND EDUCATIONAL PROGRAMS.

26 The ~~executive-committee~~ council shall ~~engage-in~~ initiate,
27 administer, or participate in research and education programs
28 directed toward the better and more efficient production,
29 marketing promotion, and utilization of cattle ~~and-veal-calves~~
30 and the marketing of products made ~~therefrom,~~ from cattle.
31 The council shall provide for the methods and means that it
32 determines are necessary to further the purposes of this
33 section including, but not limited to, ~~publie~~ any of the
34 following:

35 1. Providing public relations and other promotion

1 techniques for the maintenance of present markets; ~~make.~~

2 2. Making donations to nonprofit organizations working
3 toward furthering the purposes of this section; assist.

4 3. Assisting in the development of new or larger domestic
5 markets both-domestic-and-foreign for cattle-and-veal-calves
6 and products made therefrom from cattle.

7 4. Assisting in the development of new or larger foreign
8 markets for cattle and products made from cattle.

9 Sec. 8. Section 181.7A, Code 2003, is amended to read as
10 follows:

11 181.7A COLLECTION COMMENCEMENT OF FEDERAL ASSESSMENT --
12 SUSPENSION AND RECOMMENCEMENT OF THE STATE ASSESSMENT.

13 1. Prior to the commencement of the collection of the
14 federal assessment pursuant-to-the-Beef-Promotion-and-Research
15 Act-of-1985, the executive-committee council may seek
16 certification as a qualified state beef council within the
17 meaning of that the federal Act. If-the-executive-committee
18 does-not-receive-certification-as-a-qualified-state-beef
19 council-it-shall,-if-necessary-to-prevent-collection-of-an
20 excise-tax-on-beef-cattle-in-addition-to-the-national
21 assessment,-suspend-the-collection-of-the-excise-tax-provided
22 in-this-chapter.--If-the-executive-committee-does-suspend
23 collection-of-the-excise-tax-provided-in-this-chapter,-the
24 period-of-that-suspension-terminates-upon-expiration-of-the

25 2. The council shall suspend the state assessment upon
26 collection of the federal assessment. The state assessment
27 shall recommence upon the earlier of the following:

28 a. The noncollection of the federal assessment collected
29 pursuant-to-the-Beef-Promotion-and-Research-Act-of-1985. The
30 recommenced state assessment shall be imposed for a four-year
31 period. Its effective date shall be the first date for which
32 the federal assessment is not collected.

33 b. The passage of a special referendum pursuant to section
34 181.19 regardless of whether a federal assessment is being
35 collected.

1 Sec. 9. Section 181.8, Code 2003, is amended to read as
2 follows:

3 181.8 ~~EXAMINING-BOOKS-AND-PAPERS~~ ENTERING PREMISES --
4 EXAMINING RECORDS.

5 The ~~executive-committee-shall-have-power-to~~ council may
6 authorize its agents to enter at a reasonable time upon the
7 premises of any purchaser charged by this chapter with
8 remitting the state assessment to the ~~committee-the-excise-tax~~
9 council, and to ~~cause-to-be-examined-by-such-agent-or-agents,~~
10 ~~all-books,~~ examine records~~,~~documents, and other instruments
11 ~~bearing-upon~~ relating to the amount collection of ~~such-excise~~
12 ~~tax;~~provided,~~however,~~that the state assessment. However,
13 the ~~executive-committee~~ council must first have reasonable
14 grounds to believe that ~~all-such-excise-taxes-have~~ the state
15 assessment has not been remitted or fully accounted for~~,~~as
16 herein-provided.

17 The ~~executive-committee-is-authorized-to~~ council may enter
18 into arrangements with persons purchasing cattle ~~and-veal~~
19 ~~calves-for-slaughter~~ outside of Iowa ~~on-the-basis-provided-in~~
20 ~~section-181-9,~~ this state for remitting the ~~excise-tax~~ state
21 assessment by such ~~buyers~~ purchasers.

22 Sec. 10. NEW SECTION. 181.11 RATE OF ASSESSMENT.

23 A state assessment imposed as provided in this chapter
24 shall be levied and collected from the purchaser on each sale
25 of cattle at a rate provided in this chapter. The state
26 assessment shall be imposed on any person selling cattle and
27 shall be deducted by the purchaser from the price paid to the
28 seller. The purchaser, at the time of the sale, shall make
29 and deliver to the seller, a separate invoice for each sale
30 showing the names and addresses of the seller and the
31 purchaser, the number of cattle sold, and the date of sale.
32 The purchaser shall forward the state assessment to the
33 council at a time prescribed by the council, but not later
34 than the last day of the month following the end of the prior
35 reporting period in which the cattle are sold.

1 Sec. 11. Section 181.12, Code 2003, is amended to read as
2 follows:

3 181.12 REMISSION OF ~~TAX~~ STATE ASSESSMENT ON APPLICATION.

4 A person from whom ~~the-excise-tax~~ a state assessment is
5 collected may, by written application filed with the ~~executive~~
6 ~~committee council~~ council within sixty days after its collection, have
7 the amount remitted to the person by the ~~executive-committee~~
8 ~~council~~ council. The information that the ~~excise-tax~~ state assessment
9 is refundable and the address of the ~~executive-committee~~
10 ~~council~~ council to which application for a refund may be made shall
11 appear on the invoice of sale form supplied by the purchaser
12 to the producer near the area on the form which shows the
13 amount of the ~~excise-tax~~ state assessment paid. The ~~executive~~
14 ~~committee council~~ council shall furnish uniform application for refund
15 forms and envelopes properly addressed to the ~~executive~~
16 ~~committee council~~ council to each purchaser charged by this chapter
17 with remitting the ~~excise-tax~~ state assessment in sufficient
18 number to make the refund forms and envelopes readily
19 available to all producers. A purchaser charged by this
20 chapter with remitting the ~~excise-tax~~ state assessment shall
21 display the application for refund forms and envelopes in a
22 prominent position in its place of business and make them
23 readily available to all producers.

24 Sec. 12. Section 181.13, Code Supplement 2003, is amended
25 to read as follows:

26 181.13 ADMINISTRATION OF MONEYS ORIGINATING FROM STATE
27 ASSESSMENT -- APPROPRIATION.

28 1. All ~~excise-taxes-imposed-and-levied~~ state assessments
29 imposed under this chapter shall be paid to and collected by
30 the ~~executive-committee council~~ council and deposited with the
31 treasurer of state in a separate ~~cattle and-veal-calf~~
32 promotion fund which shall be created by the treasurer of
33 state. The department of administrative services shall
34 transfer moneys from the fund to the ~~executive-committee~~
35 council for deposit into an account established by the

1 ~~executive-committee~~ council in a qualified financial
2 institution. The department shall transfer the moneys as
3 provided in a resolution adopted by the ~~executive-committee~~
4 council. However, the department is only required to transfer
5 moneys once during each day and only during hours when the
6 offices of the state are open. From the moneys collected,
7 deposited, and transferred to the ~~executive-committee~~ council,
8 in accordance with the provisions of this chapter, the
9 ~~executive-committee~~ council shall first pay the costs of
10 referendums held pursuant to this chapter, the costs of
11 collection of such ~~excise-tax~~ state assessments, and the
12 expenses of its agents ~~and-expenses-of-officers-provided-for~~
13 ~~in-section-181-5~~. Except as otherwise provided in section
14 181.19, at least ten percent of the remaining ~~funds~~ moneys
15 shall be remitted to the ~~Iowa-beef-cattle-producers~~
16 association in proportions determined by the ~~executive~~
17 ~~committee~~ council, for use in a manner not inconsistent with
18 section 181.7. The remaining moneys, with approval of a
19 majority of the ~~executive-committee~~ council, shall be expended
20 as the ~~executive-committee~~ council finds necessary to carry
21 out the provisions and purposes of this chapter. However, in
22 no event shall the total expenses exceed the total amount
23 transferred from the fund for use by the ~~executive-committee~~
24 council.

25 2. All moneys deposited in the cattle ~~and-veal-calf~~
26 promotion fund and transferred to the ~~executive-committee~~
27 council pursuant to this section are appropriated and shall be
28 used for the administration of this chapter and for the
29 payment of claims based upon obligations incurred in the
30 performance of activities and functions set forth in this
31 chapter.

32 3. If the state assessment is suspended as provided in
33 section 181.7A or a continuance referendum fails to pass as
34 provided in section 181.19A, moneys remaining in the cattle
35 promotion fund and transferred to the council shall continue

1 to be transferred and expended in accordance with the
2 provisions of this chapter until exhausted.

3 Sec. 13. Section 181.15, Code 2003, is amended to read as
4 follows:

5 181.15 ~~IMPOSITION-FOR-ADDITIONAL-PERIOD~~ REFERENDUM --
6 PROCEDURES.

7 Upon receiving a petition to conduct a referendum as
8 provided in section 181.19 or 181.19A, the secretary shall
9 conduct the referendum as follows:

10 1. The secretary shall provide for the publication of a
11 notice of the referendum for a period of not less than five
12 days in a newspaper of general circulation in the state and in
13 such other newspapers as the secretary may prescribe. The
14 notice of referendum shall set forth the period for voting and
15 the voting places for the referendum and the amount of the
16 state assessment. A referendum shall not be commenced prior
17 to fourteen days after the last day of such period of
18 publication.

19 2. Each producer upon signing a statement certifying that
20 the person is a bona fide producer, ~~as defined in this~~
21 chapter, shall be entitled to one vote. At the close of the
22 referendum period, the secretary shall count and tabulate the
23 ballots filed during the referendum period. The ballots cast
24 in the referendum shall constitute complete and conclusive
25 evidence for use in any determination made by the secretary
26 under the provisions of this chapter.

27 3. The secretary shall tabulate the ballots to determine
28 whether the referendum has passed. If from such tabulation
29 the secretary ~~finds~~ determines that a majority of the total
30 number of producers voting ~~favor~~ approves the assessment
31 ~~imposition of a state assessment, the excise tax provided for~~
32 ~~in section 181-9~~ state assessment shall be levied and imposed
33 ~~for an additional four years from the end of the previous~~
34 ~~taxing period~~ as provided in section 181.11 at a rate provided
35 for in section 181.19.

1 4. The ballots thus cast shall constitute complete and
2 conclusive evidence for use in any finding made by the
3 secretary under the provisions of this chapter. The secretary
4 may prescribe such additional procedures as may be necessary
5 to conduct a referendum.

6 In the event of the failure of any referendum provided for
7 herein to pass, a subsequent referendum may be called by the
8 secretary upon petition therefor by at least one hundred
9 producers within one hundred eighty days after the secretary's
10 determination that the prior referendum has failed. In the
11 event of failure to make such petition within said period, or
12 the second consecutive failure of a referendum to pass, no
13 further referendum shall be conducted and the levy and
14 assessment herein created shall terminate and be of no further
15 force or effect.

16 Sec. 14. Section 181.18B, Code 2003, is amended to read as
17 follows:

18 181.18B REPORT.

19 The executive committee Each year, the council shall each
20 year prepare and submit a report summarizing the activities of
21 the executive committee council under this chapter to the
22 auditor of state and the secretary of agriculture. The report
23 shall show all income, expenses, and other relevant
24 information concerning fees collected and expended under this
25 chapter.

26 Sec. 15. Section 181.19, Code 2003, is amended by striking
27 the section and inserting in lieu thereof the following:

28 181.19 INITIAL AND SPECIAL REFERENDUMS.

29 1. The secretary shall, upon the petition of five hundred
30 producers, conduct an initial referendum to determine whether
31 a state assessment is to be imposed, at a rate established by
32 the council, of not to exceed fifty cents per head on all
33 cattle sold for any purpose.

34 2. The secretary shall, upon the petition of five hundred
35 producers, conduct a special referendum to do any of the

1 following:

2 a. Determine whether a state assessment already imposed
3 shall be increased to a rate, established by the council, not
4 to exceed one dollar per head on all cattle sold for any
5 purpose.

6 b. Determine whether a state assessment suspended pursuant
7 to section 181.7A is to be in addition to a federal
8 assessment. The state assessment shall be imposed at a rate
9 of fifty cents per head on all cattle sold for whatever
10 purpose.

11 3. If a referendum passes, the secretary shall establish
12 an effective date to commence the state assessment. However,
13 the state assessment must be commenced within ninety days from
14 the date that the secretary determines that the referendum has
15 passed.

16 4. If a special referendum to increase the rate of the
17 state assessment does not pass, the result of the special
18 referendum shall not affect the existence or length of the
19 state assessment in effect on the date that the special
20 referendum was conducted.

21 Sec. 16. NEW SECTION. 181.19A CONTINUANCE REFERENDUM.

22 1. The secretary shall, upon the petition of producers,
23 conduct a continuance referendum to determine whether a state
24 assessment should be renewed. The secretary must receive the
25 petition not less than one hundred fifty and not more than two
26 hundred forty days before the four-year anniversary of a state
27 assessment's effective date. The petition must be signed
28 within that period by a number of producers equal to or
29 greater than two percent of the number of producers in this
30 state reported in the most recent United States census of
31 agriculture, requesting a referendum to determine whether to
32 continue the state assessment. The referendum shall be
33 conducted not earlier than thirty days before the four-year
34 anniversary date of the state assessment.

35 2. If the secretary determines that a continuance

1 referendum has passed, the state assessment shall continue in
2 effect for four additional years from the anniversary of its
3 effective date.

4 3. If the secretary determines that the referendum has not
5 passed, the secretary and the council shall terminate the
6 assessment in an orderly manner as soon as practicable after
7 the determination. Another referendum shall not be held for
8 at least one hundred eighty days from the date that the
9 assessment is terminated.

10 4. If no valid petition for a continuance referendum is
11 received by the secretary within the time period provided in
12 this section, the state assessment shall continue in effect
13 for four additional years from the anniversary of its
14 effective date.

15 Sec. 17. RATE OF ASSESSMENT. If a state assessment which
16 has been suspended as provided in section 181.7A, as amended
17 by this Act, is recommenced as provided in that section, as
18 amended by this Act, the rate of the state assessment shall be
19 fifty cents per head on all cattle sold for any purpose,
20 unless another rate is established by referendum conducted
21 pursuant to section 181.19, as amended by this Act.

22 Sec. 18. Sections 181.9, 181.10, 181.14, and 181.16, Code
23 2003, are repealed.

24 Sec. 19. EFFECTIVE DATE. This Act, being deemed of
25 immediate importance, takes effect upon enactment.

26 EXPLANATION

27 This bill amends Code chapter 181, which provides for an
28 excise tax ("checkoff") on the sale of cattle to support
29 marketing, education, and research of beef products as
30 administered by the executive committee of the Iowa beef
31 cattle producers association. The state checkoff is in effect
32 for four years before producers may file a petition for a
33 reverse referendum to determine whether the state checkoff
34 should be continued for another four-year period. The amount
35 of the state checkoff is up to 50 cents per head for cattle

1 other than veal calves, which are assessed up to 35 cents per
2 head.

3 The Iowa checkoff, which allows for refunds, was suspended
4 October 1, 1986, the same day that the federal checkoff
5 commenced under the federal Beef Promotion and Research Act
6 (see 7 U.S.C. § 2901 et seq.), authorizing the United States
7 secretary of agriculture to promulgate a beef promotion and
8 research order requiring beef producers and beef importers to
9 pay the national checkoff. The federal beef promotion and
10 research order does not provide for refunds and its
11 constitutionality has been challenged in federal court based
12 on those grounds.

13 Substantively, the bill amends Code section 181.1, which
14 provides for definitions, including a definition for
15 "producer", which is based on the federal Act.

16 The bill amends Code section 181.7, which relates to
17 research and educational programs by providing for developing
18 both domestic and foreign markets for cattle and cattle
19 products.

20 Code section 181.7A, which provides for the suspension of
21 the state checkoff once its federal counterpart has been
22 imposed. It also provides, consistent with current law, for
23 the recommencement of the state checkoff once the federal
24 assessment is no longer viable. The bill provides that
25 recommencement is triggered when the federal checkoff is no
26 longer being collected or producers pass a special referendum
27 to collect the state checkoff in addition to the federal one.
28 The bill also provides that if the state checkoff is
29 recommenced because the national checkoff is no longer being
30 collected, the state checkoff is to be imposed for a new four-
31 year period, its effective date being the first date that the
32 federal assessment is not collected. The bill provides that
33 if a special referendum passes, its effective date is a date
34 established by the secretary of agriculture, but within 90
35 days from the date that the secretary has determined the

1 referendum has passed. The bill eliminates the lower
2 assessment rate imposed on veal cattle. All cattle are
3 subject to the same 50 cent rate. The bill amends procedures
4 for petitioning for a second referendum if a continuance
5 referendum fails.

6 The bill also makes a number of changes in order to enhance
7 its readability. The bill changes the name of the executive
8 committee to the "Iowa beef industry council". It changes the
9 name of the excise tax from "excise tax" to "state
10 assessment". The bill eliminates sections which refer to
11 referendums which are no longer applicable and rearranges
12 provisions in order to enhance their readability.

13 The bill takes effect upon enactment.

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Rayhons, Ch.
S. Olson
Freyvert

Succeeded by HSB 603
SF/HF 2372 Agriculture

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON DRAKE)

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

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8 2. Provide for practical and scientific instruction in the
9 breeding and raising of beef cattle.

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20 Sec. 3. Section 181.3, subsection 1, unnumbered paragraph
21 1, Code 2003, is amended to read as follows:

22 An ~~executive-committee~~ Iowa beef industry council of the
23 Iowa beef cattle producers association is created. The
24 ~~executive-committee~~ council consists of eight members, as
25 follows including all of the following:

26 Sec. 4. Section 181.3, subsections 2 through 4, Code 2003,
27 are amended to read as follows:

28 2. The Iowa livestock auction market association shall
29 nominate two livestock market representatives. The secretary
30 of agriculture shall appoint one of the nominees or another
31 livestock market representative of the secretary's choice as
32 ~~the-livestock-market-representative-on-the-executive~~
33 ~~committee~~, who shall serve at the pleasure of the secretary.

34 3. The ~~executive-committee~~ council shall elect a
35 chairperson, secretary, and other officers it deems necessary.

1 4. Except for ex officio members, vacancies in the
2 executive-committee council resulting from death, inability or
3 refusal to serve, or failure to meet the qualifications of
4 this chapter, shall be filled by the executive-committee
5 council. If the executive-committee council fails to fill a
6 vacancy, the secretary of-agriculture shall fill it. Vacancy
7 appointments shall be only for the remainder of the unexpired
8 term.

9 Sec. 5. Section 181.4, Code 2003, is amended to read as
10 follows:

11 181.4 EMPLOYEES OF COMMITTEE COUNCIL.

12 The executive-committee council may employ two or more
13 competent persons who shall devote their entire time, under
14 the direction of the committee council, in carrying out the
15 provisions of this chapter. The salary of persons so employed
16 shall be set by the executive-committee council, and the
17 persons shall hold office at the pleasure of the executive
18 committee council.

19 Sec. 6. Section 181.6A, Code 2003, is amended to read as
20 follows:

21 181.6A ELECTION OF EXECUTIVE-COMMITTEE COUNCIL.

22 1. The Iowa beef cattle producers association shall hold
23 an annual meeting of producers. An election shall be held at
24 the annual meeting, as necessary, for election of producers to
25 the executive-committee council.

26 2. Prior to the annual meeting, the Iowa-beef-cattle
27 producers association shall appoint a nominating committee.
28 At least sixty days prior to the annual meeting of the Iowa
29 beef-cattle-producers association, the nominating committee
30 shall nominate two producers as candidates for each position
31 on the executive-committee council for which an election is to
32 be held. At least forty-five days prior to the annual meeting
33 of the Iowa-beef-cattle-producers association, additional
34 candidates may be nominated by a written petition of fifty
35 producers. Procedures governing the place of filing and the

1 contents of the petition shall be promulgated and publicized
2 by the ~~executive-committee~~ council.

3 3. Producers attending the annual meeting of the Iowa-beef
4 ~~cattle-producers~~ association may vote for one nominee for each
5 position on the ~~executive-committee~~ council for which an
6 election is held. Producers not attending the annual meeting
7 of the Iowa-beef-cattle-producers association may vote by
8 absentee ballot, if the ballot is requested and mailed, with
9 proper postage, to the ~~executive-committee~~ council prior to
10 the annual meeting of the Iowa-beef-cattle-producers
11 association. For each position for which an election is held,
12 the candidate receiving the highest number of votes shall be
13 elected.

14 4. Notice of election for ~~executive-committee~~ council
15 membership shall be given by the ~~executive-committee~~ council
16 by publication in a newspaper of general circulation in the
17 state and in any other reasonable manner as determined by the
18 ~~executive-committee~~ council, and shall set forth the date,
19 time, and place of the annual meeting of the Iowa-beef-cattle
20 ~~producers~~ association. The ~~executive-committee~~ council shall
21 administer the elections, with the assistance of the secretary
22 ~~of-agriculture~~.

23 Sec. 7. Section 181.7, Code 2003, is amended to read as
24 follows:

25 181.7 RESEARCH AND EDUCATIONAL PROGRAMS.

26 The ~~executive-committee~~ council shall ~~engage-in~~ initiate,
27 administer, or participate in research and education programs
28 directed toward better and more efficient production,
29 marketing, and utilization of cattle ~~and-veal-calves~~ and
30 products made ~~therefrom~~; from cattle. The council shall
31 provide for the methods and means that it determines are
32 necessary to further the purposes of this section including
33 but not limited to; ~~public~~ any of the following:

- 34 1. Providing public relations and other promotion
35 techniques for the maintenance of present markets; ~~make~~.

1 2. Making donations to nonprofit organizations working
2 toward furthering the purposes of this section; assist.

3 3. Assisting in the development of new or larger markets
4 both domestic and foreign for cattle and veal calves and
5 products made therefrom from cattle.

6 Sec. 8. Section 181.7A, Code 2003, is amended to read as
7 follows:

8 181.7A COLLECTION COMMENCEMENT OF FEDERAL ASSESSMENT --
9 SUSPENSION AND RECOMMENCEMENT OF THE STATE ASSESSMENT.

10 1. Prior to the commencement of the collection of the
11 federal assessment pursuant to the Beef Promotion and Research
12 Act of 1985, the executive committee council may seek
13 certification as a qualified state beef council within the
14 meaning of that the federal Act. If the executive committee
15 does not receive certification as a qualified state beef
16 council it shall, if necessary to prevent collection of an
17 excise tax on beef cattle in addition to the national
18 assessment, suspend the collection of the excise tax provided
19 in this chapter. If the executive committee does suspend
20 collection of the excise tax provided in this chapter, the
21 period of that suspension terminates upon expiration of the

22 2. The council shall suspend the state assessment upon
23 collection of the federal assessment. The state assessment
24 shall recommence upon the earlier of the following:

25 a. The noncollection of the federal assessment collected
26 pursuant to the Beef Promotion and Research Act of 1985. The
27 recommenced state assessment shall be imposed for a four-year
28 period. Its effective date shall be the first date for which
29 the federal assessment is not collected.

30 b. The passage of a special referendum pursuant to section
31 181.19 regardless of whether a federal assessment is being
32 collected.

33 Sec. 9. Section 181.8, Code 2003, is amended to read as
34 follows:

35 181.8 EXAMINING BOOKS AND PAPERS ENTERING PREMISES --

1 EXAMINING RECORDS.

2 ~~The executive-committee-shall-have-power-to~~ council may
3 authorize its agents to enter at a reasonable time upon the
4 premises of any purchaser charged by this chapter with
5 remitting the state assessment to the ~~committee-the-excise-tax~~
6 council, and to ~~cause-to-be-examined-by-such-agent-or-agents,~~
7 ~~all-books,~~ examine records~~,~~-documents, and other instruments
8 ~~bearing-upon~~ relating to the amount collection of such-excise
9 ~~tax,-provided,-however,-that~~ the state assessment. However,
10 the ~~executive-committee~~ council must first have reasonable
11 grounds to believe that ~~all-such-excise-taxes-have~~ the state
12 assessment has not been remitted or fully accounted for~~,as~~
13 ~~herein-provided.~~

14 ~~The executive-committee-is-authorized-to~~ council may enter
15 into arrangements with persons purchasing cattle ~~and-veal~~
16 ~~calves-for-slaughter~~ outside of Iowa on the basis provided in
17 section 181.9, for remitting the ~~excise-tax~~ state assessment
18 by such ~~buyers~~ purchasers.

19 Sec. 10. Section 181.9, unnumbered paragraph 1, Code 2003,
20 is amended to read as follows:

21 ~~No-excise-tax-shall-be-assessed-or-collected~~ A state
22 assessment shall not be imposed under the provisions of this
23 chapter until the ~~secretary of-agriculture-finds~~ determines
24 that the state assessment has been assented-to-by passed by a
25 referendum vote of assenting producers. The secretary, upon
26 the request of any fifty beef producers, shall conduct an
27 initial referendum by written ballot to determine such assent,
28 after giving due notice of intention to conduct the referendum
29 pursuant to section 191.19.

30 Sec. 11. NEW SECTION. 181.11 RATE OF ASSESSMENT.

31 A state assessment imposed as provided in this chapter
32 shall be levied and collected from the purchaser on each sale
33 of cattle at a rate provided in this chapter. The state
34 assessment shall be imposed on any person selling cattle and
35 shall be deducted by the purchaser from the price paid to the

1 seller. The purchaser, at the time of the sale, shall make
2 and deliver to the seller, a separate invoice for each sale
3 showing the names and addresses of the seller and the
4 purchaser, the number of cattle sold, and the date of sale.
5 The purchaser shall forward the state assessment to the
6 council at a time prescribed by the council, but not later
7 than the last day of the month following the end of the prior
8 reporting period in which the cattle are sold.

9 Sec. 12. Section 181.12, Code 2003, is amended to read as
10 follows:

11 181.12 REMISSION OF TAX STATE ASSESSMENT ON APPLICATION.

12 A person from whom ~~the excise-tax~~ a state assessment is
13 collected may, by written application filed with the ~~executive~~
14 ~~committee council~~ council within sixty days after its collection, have
15 the amount remitted to the person by the ~~executive-committee~~
16 council. The information that the ~~excise-tax~~ state assessment
17 is refundable and the address of the ~~executive-committee~~
18 council to which application for a refund may be made shall
19 appear on the invoice of sale form supplied by the purchaser
20 to the producer near the area on the form which shows the
21 amount of the ~~excise-tax~~ state assessment paid. The ~~executive~~
22 ~~committee council~~ council shall furnish uniform application for refund
23 forms and envelopes properly addressed to the ~~executive~~
24 ~~committee council~~ council to each purchaser charged by this chapter
25 with remitting the ~~excise-tax~~ state assessment in sufficient
26 number to make the refund forms and envelopes readily
27 available to all producers. A purchaser charged by this
28 chapter with remitting the ~~excise-tax~~ state assessment shall
29 display the application for refund forms and envelopes in a
30 prominent position in its place of business and make them
31 readily available to all producers.

32 Sec. 13. Section 181.13, Code Supplement 2003, is amended
33 to read as follows:

34 181.13 ADMINISTRATION OF MONEYS ORIGINATING FROM STATE
35 ASSESSMENT -- APPROPRIATION.

1 1. All ~~excise-taxes-imposed-and-levied~~ state assessments
2 imposed under this chapter shall be paid to and collected by
3 the ~~executive-committee~~ council and deposited with the
4 treasurer of state in a separate ~~cattle and-veal-calf~~
5 promotion fund which shall be created by the treasurer of
6 state. The department of administrative services shall
7 transfer moneys from the fund to the ~~executive-committee~~
8 council for deposit into an account established by the
9 ~~executive-committee~~ council in a qualified financial
10 institution. The department shall transfer the moneys as
11 provided in a resolution adopted by the ~~executive-committee~~
12 council. However, the department is only required to transfer
13 moneys once during each day and only during hours when the
14 offices of the state are open. From the moneys collected,
15 deposited, and transferred to the ~~executive-committee~~ council,
16 in accordance with the provisions of this chapter, the
17 ~~executive-committee~~ council shall first pay the costs of
18 referendums held pursuant to this chapter, the costs of
19 collection of such ~~excise-tax~~ state assessments, the expenses
20 of its agents ~~and-expenses-of-officers-provided-for-in-section~~
21 ~~181-5~~. Except as otherwise provided in section 181.19, at
22 least ten percent of the remaining ~~funds~~ moneys shall be
23 remitted to the ~~Iowa-beef-cattle-producers~~ association in
24 proportions determined by the ~~executive-committee~~ council, for
25 use in a manner not inconsistent with section 181.7. The
26 remaining moneys, with approval of a majority of the ~~executive~~
27 ~~committee~~ council, shall be expended as the ~~executive~~
28 ~~committee~~ council finds necessary to carry out the provisions
29 and purposes of this chapter. However, in no event shall the
30 total expenses exceed the total amount transferred from the
31 fund for use by the ~~executive-committee~~ council.

32 2. All moneys deposited in the ~~cattle and-veal-calf~~
33 promotion fund and transferred to the ~~executive-committee~~
34 council pursuant to this section are appropriated and shall be
35 used for the administration of this chapter and for the

1 payment of claims based upon obligations incurred in the
2 performance of activities and functions set forth in this
3 chapter.

4 3. If the state assessment is suspended as provided in
5 section 181.7A or a continuance referendum fails to pass as
6 provided in section 181.19A, moneys remaining in the cattle
7 promotion fund and transferred to the council shall continue
8 to be transferred and expended in accordance with the
9 provisions of this chapter until exhausted.

10 Sec. 14. Section 181.15, Code 2003, is amended to read as
11 follows:

12 181.15 ~~IMPOSITION-FOR-ADDITIONAL-PERIOD~~ REFERENDUM --
13 PROCEDURES.

14 Upon receiving a petition to conduct a referendum as
15 provided in section 181.19 or 181.19A, the secretary shall
16 conduct the referendum as follows:

17 1. The secretary shall provide for the publication of a
18 notice of the referendum for a period of not less than five
19 days in a newspaper of general circulation in the state and in
20 such other newspapers as the secretary may prescribe. The
21 notice of referendum shall set forth the period for voting and
22 the voting places for the referendum and the amount of the
23 state assessment. A referendum shall not be commenced prior
24 to five days after the last day of such period of publication.

25 2. Each producer upon signing a statement certifying that
26 the person is a bona fide producer, ~~as defined in this~~
27 chapter, shall be entitled to one vote. At the close of the
28 referendum period, the secretary shall count and tabulate the
29 ballots filed during the referendum period. The ballots cast
30 in the referendum shall constitute complete and conclusive
31 evidence for use in any determination made by the secretary
32 under the provisions of this chapter.

33 3. The secretary shall tabulate the ballots to determine
34 whether the referendum has passed. If from such tabulation
35 the secretary ~~finds~~ determines that a majority of the total

1 number of producers voting favor approves the assessment
 2 imposition of a state, the ~~excise-tax-provided-for-in-section~~
 3 ~~181.9~~ state assessment shall be ~~levied-and~~ imposed for-an
 4 ~~additional-four-years-from-the-end-of-the-previous-taxing~~
 5 period as provided in section 181.11 at a rate provided for in
 6 section 181.19.

7 4. ~~The-ballots-thus-cast-shall-constitute-complete-and~~
 8 ~~conclusive-evidence-for-use-in-any-finding-made-by-the~~
 9 ~~secretary-under-the-provisions-of-this-chapter.~~ The secretary
 10 may prescribe such additional procedures as may be necessary
 11 to conduct a referendum.

12 ~~In-the-event-of-the-failure-of-any-referendum-provided-for~~
 13 ~~herein-to-pass,-a-subsequent-referendum-may-be-called-by-the~~
 14 ~~secretary-upon-petition-therefor-by-at-least-one-hundred~~
 15 ~~producers-within-one-hundred-eighty-days-after-the-secretary's~~
 16 ~~determination-that-the-prior-referendum-has-failed.--In-the~~
 17 ~~event-of-failure-to-make-such-petition-within-said-period,-or,~~
 18 ~~the-second-consecutive-failure-of-a-referendum-to-pass,-no~~
 19 ~~further-referendum-shall-be-conducted-and-the-levy-and~~
 20 ~~assessment-herein-created-shall-terminate-and-be-of-no-further~~
 21 ~~force-or-effect.~~

22 Sec. 15. Section 181.18B, Code 2003, is amended to read as
 23 follows:

24 181.18B REPORT.
 25 ~~The-executive-committee~~ Each year, the council shall each
 26 year prepare and submit a report summarizing the activities of
 27 the ~~executive-committee~~ council under this chapter to the
 28 auditor of state and the secretary of agriculture. The report
 29 shall show all income, expenses, and other relevant
 30 information concerning fees collected and expended under this
 31 chapter.

32 Sec. 16. Section 181.19, Code 2003, is amended by striking
 33 the section and inserting in lieu thereof the following:

34 181.19 INITIAL AND SPECIAL REFERENDUMS.
 35 1. The secretary shall, upon the petition of five hundred

1 producers, conduct an initial referendum to determine whether
2 a state assessment is to be imposed, at a rate established by
3 the council, of not to exceed fifty cents per head on all
4 cattle sold for any purpose.

5 2. The secretary shall, upon the petition of five hundred
6 producers, conduct a special referendum to do any of the
7 following:

8 a. Determine whether a state assessment already imposed
9 shall be increased to a rate, established by the council, not
10 to exceed one dollar per head on all cattle sold for any
11 purpose.

12 b. Determine whether a state assessment suspended pursuant
13 to section 181.7A is to be in addition to a federal
14 assessment. The state assessment shall be imposed at a rate
15 of fifty cents per head on all cattle sold for whatever
16 purpose.

17 3. If a referendum passes, the secretary shall establish
18 an effective date to commence the state assessment. However,
19 the state assessment must be commenced within ninety days from
20 the date that the secretary determines that the referendum has
21 passed.

22 4. If a special referendum to increase the rate of the
23 state assessment does not pass, the result of the special
24 referendum shall not affect the existence or length of the
25 state assessment in effect on the date that the special
26 referendum was conducted.

27 Sec. 17. NEW SECTION. 181.19A CONTINUANCE REFERENDUM.

28 1. The secretary shall, upon the petition of producers,
29 conduct a continuance referendum to determine whether a state
30 assessment should be renewed. The secretary must receive the
31 petition not less than one hundred fifty and not more than two
32 hundred forty days before the four-year anniversary of a state
33 assessment's effective date. The petition must be signed
34 within that period by a number of producers equal to or
35 greater than two percent of the number of producers in this

1 state reported in the most recent United States census of
2 agriculture, requesting a referendum to determine whether to
3 continue the state assessment. The referendum shall be
4 conducted not earlier than thirty days before the four-year
5 anniversary date of the state assessment.

6 2. If the secretary determines that a continuance
7 referendum has passed, the state assessment shall continue in
8 effect for four additional years from the anniversary of its
9 effective date.

10 3. If the secretary determines that the referendum has not
11 passed, the secretary and the council shall terminate the
12 assessment in an orderly manner as soon as practicable after
13 the determination. Another referendum shall not be held for
14 at least one hundred eighty days from the date that the
15 assessment is terminated.

16 4. If no valid petition for a continuance referendum is
17 received by the secretary within the time period provided in
18 this section, the state assessment shall continue in effect
19 for four additional years from the anniversary of its
20 effective date.

21 Sec. 18. RATE OF ASSESSMENT. If a state assessment which
22 has been suspended as provided in section 181.7A, as amended
23 by this Act, is recommenced as provided in that section, as
24 amended by this Act, the rate of the state assessment shall be
25 fifty cents per head on all cattle sold for any purpose,
26 unless another rate is established by referendum conducted
27 pursuant to section 181.19, as amended by this Act.

28 Sec. 19. Sections 181.5, 181.10, 181.14, and 181.16, Code
29 2003, are repealed.

30 Sec. 20. EFFECTIVE DATE. This Act, being deemed of
31 immediate importance, takes effect upon enactment.

32 EXPLANATION

33 This bill amends Code chapter 181, which provides for an
34 excise tax ("checkoff") on the sale of cattle to support
35 marketing, education, and research of beef products as

1 administered by the executive committee of the Iowa beef
2 cattle producers association. The state checkoff is in effect
3 for four years before producers may file a petition for a
4 reverse referendum to determine whether the state checkoff
5 should be continued for another four-year period. The amount
6 of the state checkoff is up to 50 cents per head for cattle
7 other than veal calves, which are assessed up to 35 cents per
8 head.

9 The Iowa checkoff, which allows for refunds, was suspended
10 October 1, 1986, the same day that the federal checkoff
11 commenced under the federal Beef Promotion and Research Act
12 (see 7 U.S.C. § 2901 et seq.), authorizing the United States
13 secretary of agriculture to promulgate a beef promotion and
14 research order requiring beef producers and beef importers to
15 pay the national checkoff. The federal beef promotion and
16 research order does not provide for refunds and its
17 constitutionality has been challenged in federal court based
18 on those grounds.

19 Substantively, the bill amends Code section 181.1, which
20 provides for definitions, including a definition for
21 "producer", which is based on the federal Act.

22 Code section 181.7A, which provides for the suspension of
23 the state checkoff once its federal counterpart has been
24 imposed. It also provides, consistent with current law, for
25 the recommencement of the state checkoff once the federal
26 assessment is no longer viable. The bill provides that
27 recommencement is triggered when the federal checkoff is no
28 longer being collected or producers pass a special referendum
29 to collect the state checkoff in addition to the federal one.
30 The bill also provides that if the state checkoff is
31 recommenced because the national checkoff is no longer being
32 collected, the state checkoff is to be imposed for a new four-
33 year period, its effective date being the first date that the
34 federal assessment is not collected. The bill provides that
35 if a special referendum passes, its effective date is a date

1 established by the secretary of agriculture, but within 90
 2 days from the date that the secretary has determined the
 3 referendum has passed. The bill eliminates the lower
 4 assessment rate imposed on veal cattle. All cattle are
 5 subject to the same 50 cent rate. The bill amends procedures
 6 for petitioning for a second referendum if a continuance
 7 referendum fails.

8 The bill also makes a number of changes in order to enhance
 9 its readability. The bill changes the name of the executive
 10 committee to the "Iowa beef industry council". It changes the
 11 name of the excise tax from "excise tax" to "state
 12 assessment". The bill eliminates sections which refer to
 13 referendums which are no longer applicable and rearranges
 14 provisions in order to enhance their readability. The bill
 15 also eliminates Code section 181.5 which refers to
 16 compensation paid to officers of the association.

17 The bill takes effect upon enactment.

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