

Senate Study Bill 3131 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON SENG)

A BILL FOR

1 An Act providing for the administration of certain excise taxes
2 imposed on the sale of cattle.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 181.1, subsection 3, Code 2016, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:

4 3. "*Executive committee*" means the executive committee of
5 the association as created in section 181.3.

6 Sec. 2. Section 181.1, subsection 6, paragraph b, Code 2016,
7 is amended to read as follows:

8 b. The person acquired ownership of cattle to facilitate
9 the transfer of ownership of such cattle from the seller to a
10 third party; resold such cattle no later than ten days from the
11 date on which the person acquired ownership; and certified as
12 required by rules adopted by the ~~council~~ executive committee.

13 Sec. 3. Section 181.2, Code 2016, is amended to read as
14 follows:

15 **181.2 Duties and objects of association.**

16 The Iowa beef cattle producers association shall do all of
17 the following:

18 1. Aid in the marketing and promotion of the cattle industry
19 of the state.

20 2. ~~Provide for practical and scientific instruction in~~
21 ~~the breeding and raising of cattle~~ Conduct research on beef
22 production and evaluate Iowa beef production needs.

23 3. ~~Make demonstrations in the feeding of cattle and publish~~
24 ~~suggestions beneficial to such business~~ Provide educational
25 materials and opportunities to consumers, producers, and youth
26 regarding the benefits of Iowa's beef cattle industry.

27 4. ~~Aid and promote cattle feeding contests, shows, and~~
28 ~~sales.~~

29 5. ~~4.~~ Prepare an annual report of the proceedings and
30 expenditures of the ~~council~~ executive committee as provided in
31 section 181.18B.

32 Sec. 4. Section 181.3, Code 2016, is amended to read as
33 follows:

34 **181.3 ~~Iowa beef industry council~~ Executive committee —**
35 **creation and operation.**

1 1. An ~~Iowa beef industry council~~ executive committee of the
2 Iowa beef cattle producers association is created. The ~~council~~
3 executive committee consists of ~~eight~~ ten members, including
4 all of the following:

5 a. Five producers elected by the Iowa beef cattle producers
6 association pursuant to section 181.6A.

7 b. Two producers appointed by the Iowa cattlemen's
8 association.

9 c. One livestock market representative appointed pursuant to
10 subsection 2.

11 ~~e.~~ d. The secretary of agriculture or a designee, who shall
12 serve as a ~~voting~~ an ex officio, voting member.

13 ~~d.~~ e. The dean of the college of agriculture and life
14 sciences of Iowa state university of science and technology or
15 a designee, who shall serve as a ~~voting~~ an ex officio, voting
16 member.

17 2. The Iowa livestock auction market association shall
18 nominate two livestock market representatives. The secretary
19 of agriculture shall appoint one of the nominees or another
20 livestock market representative of the secretary's choice, who
21 shall serve at the pleasure of the secretary.

22 3. The ~~council~~ executive committee shall elect a
23 chairperson, secretary, and other officers it deems necessary.

24 4. Except for ex officio members, vacancies in the ~~council~~
25 executive committee resulting from death, inability or refusal
26 to serve, or failure to meet the qualifications of **this chapter**
27 shall be filled by the ~~council~~ executive committee. If the
28 ~~council~~ executive committee fails to fill a vacancy, the
29 secretary shall fill it. Vacancy appointments shall be only
30 for the remainder of the unexpired term.

31 Sec. 5. Section 181.4, Code 2016, is amended to read as
32 follows:

33 **181.4 ~~Employees of council~~ Executive committee — employees.**

34 The ~~council~~ executive committee may employ two or more
35 competent persons who shall devote their entire time, under

1 the direction of the ~~council~~ executive committee, in carrying
2 out the provisions of this chapter. The salary of persons so
3 employed shall be set by the ~~council~~ executive committee, and
4 the persons shall hold office at the pleasure of the ~~council~~
5 executive committee.

6 Sec. 6. Section 181.6A, Code 2016, is amended to read as
7 follows:

8 **181.6A ~~Election of council~~ Executive committee — election.**

9 1. The Iowa beef cattle producers association shall hold an
10 annual meeting of producers. An election shall be held at the
11 annual meeting, as necessary, for election of producers to the
12 ~~council~~ executive committee.

13 2. Prior to the annual meeting, the association shall
14 appoint a nominating committee. At least sixty days prior to
15 the annual meeting of the association, the nominating committee
16 shall nominate two producers as candidates for each position
17 on the ~~council~~ executive committee for which an election is to
18 be held. At least forty-five days prior to the annual meeting
19 of the association, additional candidates may be nominated by
20 a written petition of fifty producers. Procedures governing
21 the place of filing and the contents of the petition shall be
22 promulgated and publicized by the ~~council~~ executive committee.

23 3. Producers attending the annual meeting of the
24 association may vote for one nominee for each position on the
25 ~~council~~ executive committee for which an election is held.
26 Producers not attending the annual meeting of the association
27 may vote by absentee ballot if the ballot is requested and
28 mailed, with proper postage, to the ~~council~~ executive committee
29 prior to the annual meeting of the association. For each
30 position for which an election is held, the candidate receiving
31 the highest number of votes shall be elected.

32 4. Notice of election for ~~council~~ executive committee
33 membership shall be given by the ~~council~~ executive committee by
34 publication in a newspaper of general circulation in the state
35 and in any other reasonable manner as determined by the ~~council~~

1 executive committee, and shall set forth the date, time, and
2 place of the annual meeting of the association. The ~~council~~
3 executive committee shall administer the elections, with the
4 assistance of the secretary.

5 Sec. 7. Section 181.7, Code 2016, is amended to read as
6 follows:

7 **181.7 ~~Research~~ Executive committee — research and education**
8 **programs.**

9 The ~~council~~ executive committee shall initiate, administer,
10 or participate in research and education programs directed
11 toward the better and more efficient production, promotion, and
12 utilization of cattle and the marketing of products made from
13 cattle. The ~~council~~ executive committee shall provide for the
14 methods and means that it determines are necessary to further
15 the purposes of [this section](#), including but not limited to any
16 of the following:

17 1. Providing public relations and other promotion
18 techniques for the maintenance of present markets.

19 2. Making donations to nonprofit organizations furthering
20 the purposes of [this section](#).

21 3. Assisting in the development of new or larger domestic
22 markets for products made from cattle.

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

25 Sec. 8. Section 181.7A, Code 2016, is amended to read as
26 follows:

27 **181.7A Commencement of federal assessment — suspension and**
28 **recommencement of state assessment.**

29 1. Prior to the commencement of the collection of the
30 federal assessment, the ~~council~~ executive committee may seek
31 certification as a qualified state beef council within the
32 meaning of the federal Act.

33 2. The ~~council~~ executive committee shall suspend the state
34 assessment upon collection of the federal assessment. The
35 state assessment shall recommence upon the earlier of the

1 following:

2 *a.* The noncollection of the federal assessment. The
3 recommenced state assessment shall be imposed for a four-year
4 period. Its effective date shall be the first date for which
5 the federal assessment is not collected.

6 *b.* The passage of a special referendum pursuant to section
7 181.19 regardless of whether a federal assessment is being
8 collected.

9 Sec. 9. Section 181.8, Code 2016, is amended to read as
10 follows:

11 **181.8 Entering Executive committee — entering premises —**
12 **examining records.**

13 1. The ~~council~~ executive committee may authorize its
14 agents to enter at a reasonable time upon the premises of any
15 purchaser charged by [this chapter](#) with remitting the state
16 assessment to the ~~council~~ executive committee, and to examine
17 records and other instruments relating to the collection of the
18 state assessment. However, the ~~council~~ executive committee
19 must first have reasonable grounds to believe that the state
20 assessment has not been remitted or fully accounted for.

21 2. The ~~council~~ executive committee may enter into
22 arrangements with persons purchasing cattle outside of this
23 state for remitting the state assessment by such purchasers.

24 Sec. 10. Section 181.11, Code 2016, is amended to read as
25 follows:

26 **181.11 Collection of state assessment.**

27 A state assessment imposed as provided in [this chapter](#)
28 shall be levied and collected from the purchaser on each sale
29 of cattle at a rate provided in [this chapter](#). The state
30 assessment shall be imposed on any person selling cattle and
31 shall be deducted by the purchaser from the price paid to the
32 seller. The purchaser, at the time of the sale, shall make and
33 deliver to the seller a separate invoice for each sale showing
34 the names and addresses of the seller and the purchaser, the
35 number of cattle sold, and the date of sale. The purchaser

1 shall forward the state assessment to the ~~council~~ executive
2 committee at a time prescribed by the ~~council~~ executive
3 committee, but not later than the last day of the month
4 following the end of the prior reporting period in which the
5 cattle are sold.

6 Sec. 11. Section 181.12, Code 2016, is amended to read as
7 follows:

8 **181.12 Remission of state assessment on application.**

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

27 Sec. 12. Section 181.13, Code 2016, is amended to read as
28 follows:

29 **181.13 Administration of moneys originating from state**
30 **assessment — appropriation.**

31 1. All state assessments imposed under ~~this chapter~~
32 shall be paid to and collected by the ~~council~~ executive
33 committee and deposited with the treasurer of state in a
34 separate cattle promotion fund which shall be created by
35 the treasurer of state. The department of administrative

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

23 2. All moneys deposited in the cattle promotion fund
24 and transferred to the ~~council~~ executive committee pursuant
25 to [this section](#) are appropriated and shall be used for
26 the administration of [this chapter](#) and for the payment of
27 claims based upon obligations incurred in the performance of
28 activities and functions set forth in [this chapter](#).

29 3. If the state assessment is suspended as provided in
30 section 181.7A or a continuance referendum fails to pass as
31 provided in [section 181.19A](#), moneys remaining in the cattle
32 promotion fund and transferred to the ~~council~~ executive
33 committee shall continue to be transferred and expended in
34 accordance with the provisions of [this chapter](#) until exhausted.

35 Sec. 13. Section 181.17, Code 2016, is amended to read as

1 follows:

2 **181.17 Producers not members.**

3 A producer who is not a member of the Iowa beef cattle
4 producers association shall be entitled to vote in elections
5 of persons to be members of the ~~council~~ executive committee in
6 the same manner as if the producer were a member. The members
7 elected to the ~~council~~ executive committee shall elect from
8 their number the officers referred to in [section 181.1A](#).

9 Sec. 14. Section 181.18, Code 2016, is amended to read as
10 follows:

11 **181.18 Rules.**

12 All rules ~~of the council heretofore or hereinafter~~
13 ~~promulgated~~ adopted by the executive committee shall be subject
14 to the provisions of [chapter 17A](#).

15 Sec. 15. Section 181.18B, Code 2016, is amended to read as
16 follows:

17 **181.18B Report.**

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

24 Sec. 16. Section 181.19, subsections 1 and 2, Code 2016, are
25 amended to read as follows:

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

31 2. The secretary shall, upon the petition of five hundred
32 producers, conduct a special referendum to do any of the
33 following:

34 a. Determine whether a state assessment already imposed
35 shall be increased to a rate, established by the ~~council~~

1 executive committee, not to exceed one dollar per head on all
2 cattle sold for any purpose.

3 *b.* Determine whether a state assessment suspended pursuant
4 to [section 181.7A](#) is to be in addition to a federal assessment.
5 The state assessment shall be imposed at a rate of fifty cents
6 per head on all cattle sold for whatever purpose.

7 Sec. 17. Section 181.19A, subsection 3, Code 2016, is
8 amended to read as follows:

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

15 Sec. 18. TRANSITION — APPOINTMENT AND TERMS OF EXECUTIVE
16 COMMITTEE MEMBERS.

17 1. This Act's amendments changing the name of the "Iowa beef
18 industry council" to the "executive committee" of the Iowa beef
19 cattle producers association shall not affect the appointment
20 or term of office of a member who served on the Iowa beef
21 industry council immediately prior to the effective date of
22 this Act. That member shall continue to serve on the executive
23 committee until the member's term expires.

24 2. The executive committee of the Iowa beef cattle producers
25 association created in section 181.3 as amended in this Act may
26 establish initial terms for the two members appointed by the
27 Iowa cattlemen's association under that section to ensure those
28 members serve staggered terms. The executive committee shall
29 operate under 101 IAC 1.5 and 1.6 until the appointment of the
30 new members.

31 Sec. 19. TRANSITION — ADMINISTRATIVE RULES AND OTHER
32 ACTIONS AND DOCUMENTS. Any rule, form, order, or directive
33 promulgated by the Iowa beef industry council created in
34 section 181.3, in force and effect immediately prior to the
35 effective date of this Act, shall continue in full force and

1 effect until the earlier of the following:

2 1. It is amended, rescinded, or supplemented by the
3 affirmative action of the executive council of the Iowa beef
4 cattle producers association created in section 181.3, as
5 amended in this Act.

6 2. It expires by its own terms.

7 EXPLANATION

8 The inclusion of this explanation does not constitute agreement with
9 the explanation's substance by the members of the general assembly.

10 GENERAL. This bill relates to the powers and duties of the
11 Iowa beef cattle producers association (IBCPA). It changes the
12 name of its governing entity from "Iowa beef industry council"
13 (council) to "executive committee" (committee) and adds two
14 new voting members who are producers appointed by the Iowa
15 cattlemen's association (amended Code section 181.3). The bill
16 also eliminates certain IBCPA duties, including eliminating
17 requirements to conduct instruction regarding the breeding and
18 raising of cattle and to engage in activities that demonstrate
19 or promote cattle feeding. Instead, the IBCPA would be
20 required to engage in marketing, research, and education
21 efforts (Code section 181.2).

22 TRANSITIONAL PROVISIONS. The bill does not affect the
23 appointment or term of office of a current member of the
24 council due to its name change to a committee. It authorizes
25 the committee to establish the initial terms of office for
26 the two new appointed members. Until the new members are
27 appointed, the committee's quorum and voting requirements
28 remain unchanged. Any rule or other legal document in effect
29 immediately prior to the bill's effective date continues in
30 full force and effect until amended, rescinded, or supplemented
31 by the executive committee or it expires by its own terms.

32 BACKGROUND. Code chapter 181 provides that upon the passage
33 of a referendum of cattle producers, there is imposed an
34 assessment, which is an excise tax or "checkoff", on the sale
35 of each head of cattle paid by producers (Code sections 181.15

1 and 181.19), collected by first purchasers, and forwarded to
2 the council (Code section 181.11), but subject to a producer's
3 right to demand a refund (Code section 181.12). The state
4 checkoff has been superceded by a federal checkoff under the
5 terms of the federal Beef Promotion and Research Act of 1985
6 (7 U.S.C. §2901 et seq.). Under that Act, the IBCPA has
7 been certified to serve as a "qualified state beef council"
8 administering the federal checkoff in this state although the
9 council is authorized to seek certification (Code section
10 181.7A). The council's voting members include five producers
11 who are elected at IBCPA's annual meeting (Code section
12 181.6A), one representative of the Iowa livestock auction
13 market association appointed by the secretary of agriculture
14 from two nominations submitted by that association or another
15 livestock market representative, the secretary of agriculture,
16 and the dean of the college of agriculture and life sciences of
17 Iowa state university of science and technology (Code section
18 181.3).