WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983

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ENROLLED

Com. Jnl. for
HOUSE BILL No. 1294

(By Mrs. Burke)________________________

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Passed          February 24, 1983

In Effect Ninety Days From Passage
AN ACT to amend chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article two-f, all relating to title; declaration of purpose; definitions; authorization of program by referendum; termination of program by referendum; beef industry self-improvement assessment board; administration by board; report to Legislature; rules and regulations; assessment on sales; diary cattle exempt; reimbursement for collecting; refunds; penalties; separability; and sunset provision.

Be it enacted by the Legislature of West Virginia:

That chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article two-f, to read as follows:

ARTICLE 2F. BEEF INDUSTRY SELF-IMPROVEMENT ASSESSMENT PROGRAM.

§19-2F-1. Title.

1 This article shall be known by the short title of the "Beef Check-off Act of 1983."
§19-2F-2. Declaration of purpose.

1 The purpose of this article is to enhance the sale and thus the profit potential of the state's beef industry by supporting efforts to solve problems in livestock health, production, marketing and breeding; by supporting the research and educational activities of the national livestock and meat board and its beef industry council; and by informing and educating the public about the value of beef and beef products.


1 As used in this article:

2 (a) “Beef industry self-improvement assessment board” or “board” means those persons appointed by the governor from nominations submitted by the incorporated beef producer associations in the state.

3 (b) “Commissioner” means the commissioner of agriculture of the state of West Virginia and his duly authorized agent.

4 (c) “Person” means any individual, partnership, corporation, association, fiduciary or other group of persons whether organized or not.

5 (d) “Producer” means any person in the business of producing beef cattle or causing beef cattle to be produced.


1 (a) None of the provisions of this article shall be authorized until sixty days after being ratified through referendum by a majority of the beef producers participating in the referendum. If a referendum is proposed and defeated, a subsequent referendum shall not be held for a period of at least two years.

2 (b) The commissioner, when petitioned by no less than fifty producers, shall call a public hearing in accordance with the provisions of chapter twenty-nine-a of the code of West Virginia as to whether a referendum should be held and the amount of the assessment and if a majority of those present are in favor, shall notify producers of the date of a pending
referendum by publishing a notice three times in two newspapers of general circulation and such other places as the commissioner may deem necessary.

(c) Producers shall vote at polling places provided in each county for that purpose on ballots furnished by the commissioner. The ballots shall be furnished to producers for voting upon their presentation of proof, such as tax assessment records, sales receipts or income tax records, no more than one year old, showing them to be bona fide producers. The commissioner shall announce the results in two newspapers of general circulation within seventy-two hours and shall preserve all ballots for one year after the date of the referendum.

§19-2F-5. Termination of program by referendum.

The commissioner shall provide for a referendum on continuation or cessation of the program within sixty days after receiving notification in writing signifying by signatures that thirty-three and one-third percent or more of the producers request that the program be terminated. A majority of the producers voting in said referendum must vote for continuation of the program or it shall be terminated ninety days after said referendum. If such a referendum is held and if the program is continued, a subsequent referendum shall not be held for at least two years. Unencumbered money left in the fund upon termination of the program shall be deposited in the general fund of the state of West Virginia.

§19-2F-6. Beef industry self-improvement assessment board; administration of article by board; report to Legislature; rules and regulations.

(a) There is hereby created a West Virginia beef industry self-improvement assessment board consisting of nine persons who are residents of the state and citizens of the United States and who shall be and have been actually engaged in that phase of the cattle industry he represents for the preceding five years. Six members of the board shall be beef producers, one a dairy producer, one a public livestock market representative and one a meat packer. The nine members shall be appointed by the governor for terms of three years and may serve succes-
Provided, That at the inception, three shall be appointed for one year, three for two years and three for three years and that appointments to fill a vacancy shall be only for the unexpired term. In making the appointments, the governor shall take into consideration the recommendations made to him by incorporated organizations in West Virginia who represent or who are engaged in the same type of production as the proposed member of the board. If the governor fails to make an appointment within ninety days after expiration of any term, the board shall make the necessary appointment. Each member shall hold office until the expiration of the term for which such member is appointed and until a successor shall have been duly appointed and qualified. The board shall elect a chairman, a secretary and a treasurer and shall meet at such time and place as called by the chairman or by majority of the board. All meetings shall be held in accordance with the open meetings law. The board shall pay each member a stipend from board collections not to exceed thirty-five dollars per meeting attended and expenses for room, meals and mileage in the same amount and manner as stipulated in the rules and regulations promulgated by the governor for state officials and employees of the state. No member shall receive any other salary or compensation for his services. The board may contract for services, may employ and discharge employees and may provide such facilities and equipment as are necessary for the employees to perform their duties and may cooperate with other state or federal agencies or other organizations whose activities may be beneficial to the purpose of this article. The board shall not expend funds to influence legislation or any political campaign.

(b) The board shall administer the beef industry self-improvement assessment program including, but not limited to, receiving assessment funds, disbursing such funds for research on beef production and beef marketing practices and for educational purposes. The board may accept grants and gifts from any private source for expenditure consistent with the provisions of this article: Provided, That all such activity shall be directed towards increasing the sale of beef and/or beef cattle without reference to any particular firm, individual, brand or trade name.
(c) The board shall submit a report, including a complete fiscal accounting, of activities to the Legislature at the beginning of each annual legislative session.
(d) The board, in order to carry out the provisions of this article, shall have authority to issue rules and regulations after a public hearing following due notice to all interested persons in conformance with the provisions of the state administrative procedure set forth in chapter twenty-nine-a of this code.

§ 19-2F-7. Assessment on sales; dairy cattle exempt; reimbursement for collecting.

(a) All livestock markets, packers, buying stations, order buyers, livestock dealers or other persons purchasing cattle, including direct shipments from farms and other private treaty sales, shall be authorized to deduct the assessment stipulated in the authorizing referendum from the settlement of such cattle and forward it within thirty days to the treasurer of the board. Dairy cattle for milk production purposes are not subject to this assessment. Dairy cattle sold for slaughter or feeding purposes shall be subject to assessment. Five percent of the funds collected shall be retained by the person remitting the funds as reimbursement for their added problems and costs.
(b) The board shall keep accurate records of the amount of assessments and the date on which they were received, the expenditures and the date they were made, and shall preserve such records for at least five years.


(a) Any producer of cattle from whom an assessment has been collected, shall have the right to demand and receive a refund of the total amount of assessment. The demand must be made in writing to the board within thirty days of the assessment and shall contain the name and address of the producer, the amount of the assessment, the name and address of the collecting agent, the date of sale and the invoice number. The board, or its administrative staff, upon determination that the assessment was paid by the producer, shall then make the refund.


(a) When a person who should collect the assessment in
section seven of this article fails to do so, or when a person collecting the assessment fails to forward it within thirty days, the board shall certify same to the commissioner who shall write the person giving him fifteen days to begin the collection or forwarding of the assessment: Provided, That the person may submit to the board justification for nonpayment and thereupon, the board may extend said payment period. If payment is not made within the fifteen-day period or the extension thereof, the commissioner shall revoke such person's license to engage in cattle purchasing activities in the state. Persons having their license revoked under provisions of this section shall not be eligible for relicensing for a period of three years.

§19-2F-10. Separability.

If any of the provisions of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of the article which can be given effect without the invalid provision or application and to this end the provisions of the article are declared to be separable.

§19-2F-11. Termination of program by law.

This program shall be terminated on the first day of July, one thousand nine hundred eighty-eight, unless review of its functions shall be undertaken pursuant to the provisions of sections nine, ten and eleven, article ten, chapter four of this code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

Donald G. Corlew  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Frank C. Black  
Clerk of the Senate

Donald L. Tepp  
Clerk of the House of Delegates

Warren R. Martin  
President of the Senate

John M. Sedge  
Speaker House of Delegates

The within ___________ approved this the 10 ___________ day of ___________, 1983.

John D. Dalton  
Governor