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APPROVED  
MAY 28 1976

5/28/76

THE WHITE HOUSE ACTION  
WASHINGTON Last Day: May 28

May 26, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON ✓  
SUBJECT: H.R. 7656 - Beef Research and Information Act

Posted  
5/28/76  
To Archives  
5/28/76

Attached for your consideration is H.R. 7656, sponsored by Representative Foley and 20 others.

The enrolled bill authorizes cattle producers to establish, finance and carry out a coordinated program of research, producer and consumer education, and promotion to improve, maintain and develop markets for their products.

A detailed description of the provisions of the enrolled bill is provided in OMB's enrolled bill report at Tab A.

Justice, the Federal Trade Commission, HEW and the Counsel's Office (Schmults) recommend disapproval of the enrolled bill. Their major concerns are that the bill would: (1) Be anticompetitive and raise beef prices while not necessarily increasing the demand for beef over the long term; (2) continue the trend toward promotional boards for major agricultural commodities; (3) place program control entirely in the hands of the cattle industry -- consumer interests would not be given adequate consideration; (4) create administrative and enforcement problems; (5) unduly use Federal assistance to promote the consumption of a product that may be a contributing factor to vascular and heart disease; and (6) present other technical problems.

CEA, which earlier recommended disapproval, has advised they have no objection to approval.

Agriculture, Max Friedersdorf, Bill Gorog, OMB and I recommend approval of the enrolled bill.



DECISION

Sign H.R. 7656 (Tab B)

Approve RE 7 Disapprove \_\_\_\_\_

Disapprove H.R. 7656 and prepare veto message.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_

THE WHITE HOUSE  
WASHINGTON

May 27, 1976

MR PRESIDENT:

H.R. 7656 - Beef Research  
and Information Act

Should you decide to sign the above bill, Secretary Butz would like to be present and bring four people from the industry for a photosession.

Do you approve Secretary Butz being present when the bill is signed?

Yes

JKF

No

Jim Connor

cc: Jerry Jones

*Notified Jim Connaught  
approved 8 AM 5/28/76 x  
JKF*



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

MAY 21 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 7656 - Beef Research  
and Information Act  
Sponsors - Rep. Foley (D) Washington and  
20 others

Last Day for Action

May 28, 1976 - Friday

Purpose

Authorizes cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion to improve, maintain and develop markets for their products.

Agency Recommendations

Office of Management and Budget	Approval
Department of Agriculture	Approval
Department of Commerce	No objection
Federal Trade Commission	Disapproval (Veto Message attached)
Department of Justice	Disapproval (Veto Message attached)
Council of Economic Advisers	Disapproval
Department of Health, Education and Welfare	Disapproval

Discussion

H.R. 7656 would authorize the Secretary of Agriculture to establish a 68-member Beef Board composed of cattle producers. Establishment of the Beef Board or any order issued under this Act would require approval through a beef producer

referendum in which (a) at least 50 percent of the registered producers of cattle participated and (b) not less than two-thirds of the producers voting favored the order. The Beef Board and orders administered by it would assist cattle producers in establishing, financing, and carrying out a program of research, producer and consumer education, and promotion to improve, maintain, and develop markets for their products. Orders could be suspended or terminated. Certain breeding animals and cattle slaughtered by a producer for his own home consumption would not be subject to the assessments provided in this Act. The Secretary could prohibit brand name advertising, and "false or misleading" practices would not be allowed in any of the Beef Board's activities.

The program would be financed entirely by a producer paid assessment of not to exceed one-half of one percent of the live animal value levied on each transaction where a producer sells or otherwise transfers ownership of cattle. The purchaser at the point of slaughter would remit the assessment to the Beef Board. Any other purchaser would hold the assessment collected and pay that amount to any person to whom he subsequently sells the cattle, along with the additional assessment resulting from the increase in the value of the animal during his ownership. Initially, it is expected that a rate of assessment would be set at three-tenths of one percent -- this rate would generate an estimated \$35 million annually. Producers not favoring the program could demand and receive a refund of their assessment.

The enrolled bill would require the posting of a bond or other security to assure that the Government is reimbursed for the out-of-pocket expenses, except for Federal salary costs, it incurs incident to the conduct of any referendum held by the Secretary under this Act. All costs incurred by Agriculture in administering the program would be defrayed by the producer assessments.

The general scheme and purpose of H.R. 7656 is similar to the statutory authorities enacted for cotton in 1966 and for potatoes in 1971. The enrolled bill is nearly identical in form and substance to the Egg Research and Consumer Information Act which you approved on October 1, 1974. Also, promotional authorities similar to those provided by the enrolled bill have been available for over 38 years under the provisions of the Agricultural Marketing Act of 1937. New commodity coverage has been provided several times under amendments to the Act in recent years, but never for cattle or cattle products.

In initially reporting on predecessor legislation, Agriculture opposed enactment "at this time" because of several substantive problems including the requirement for Federal payment of referendum and program administration costs. Agriculture's report also cited, but did not concur in, the concerns held by this Office and several other Executive agencies that:

"The involvement of the Federal Government in the promotion of a particular commodity at the expense of other commodities would compel other commodity groups to seek similar assistance in order to maintain their share of the food market. The net effect of such action would be to unnecessarily increase costs to both producers and consumers."

Subsequently, ameliorating committee amendments resolved Agriculture's concerns, and following your decision to not oppose the bill, both the Department and this Office submitted supplemental reports to Congress which expressed no objection to enactment of the bill.

In its report on H.R. 7656, the House Agriculture Committee took note of the financial difficulties which many cattlemen have faced in recent years,

and proceeded to argue that:

" ... The bill does not provide cattlemen with a Government handout, rather it provides for a self-help program. Under this program, money derived from cattlemen will be spent on research projects designed to increase the efficiency of beef production, improve nutrition and human health, develop new beef products, and facilitate improved methods of marketing and distribution of beef. Progress in any of these areas will help consumers and thus create expanded markets for beef."

\* \* \* \* \*

"The order would make funds available for market research to determine consumers' needs and desires as they pertain to beef. This will allow the beef industry to meet their specifications for different types of beef products and new or better ways to use them. There is also a need for production research and development -- to do more in the development of new and different beef products."

H.R. 7656 passed in the House by 229 to 189 and in the Senate by 47 to 36.

Agency views on the enrolled bill tend to follow those taken at the time Agriculture's initial report was submitted. Accordingly, Agriculture recommends approval, Commerce has no objection to approval, and FTC, Justice, CEA and HEW all recommend disapproval. The latter agencies' major concerns are that the bill would: (1) be anticompetitive and raise beef prices while not necessarily increasing the demand for beef over the long term; (2) continue the trend toward promotional boards for major agricultural commodities; (3) place program control entirely in the hands of the cattle industry -- consumer interests would not be given adequate consideration; (4) create administrative and enforcement problems; (5) unduly use Federal assistance to promote the consumption of a product that may be a contributing factor to



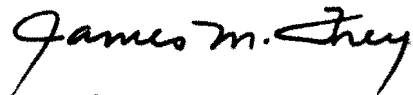
vascular and heart disease; and (6) present other technical problems.

However, in its enrolled bill letter, Agriculture cites the Federal commodity promotion programs already in existence, and asserts that:

" ... a policy of not opposing attempts by commodity groups to obtain Federal legislation to authorize self-help programs has been clearly established. Consequently, we believe that Presidential approval of this bill is not only desirable but necessary to insure equitable marketing opportunities for agricultural commodity groups. Failure to approve H.R. 7656 would be considered a discriminatory action against the cattle industry -- the largest and one of the most vital segments of American agriculture."

With respect to the anticompetitive/inflation argument, Agriculture states that:

"Even if all of the assessment was reflected in prices paid by consumers, it would result in an increase of only a fraction of a cent per pound in retail beef prices. This increase, however, would likely be more than offset by increased efficiency in the beef production and marketing system which likely would result from research supported by program funds."



Assistant Director for  
Legislative Reference

Enclosure

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: May 21

Time: 515pm

FOR ACTION:

Bill Seidman *sign*

Paul Leach *sign*

Max Friedersdorf *sign*

Ken Lazarus *note*

Dick Parsons *note*

Dawn Bennett

cc (for information):

Jack Marsh

Jim Cavanaugh

Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: May 22

Time: noon

SUBJECT:

Enrolled Bill H.R. 7656 - Beef Research and Information Act

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.  
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: May 21

Time: 515pm

FOR ACTION:

Bill Seidman  
Paul Leach  
Max Friedersdorf  
Ken Lazarus  
Dick Parsons  
Dawn Bennett

cc (for information):

Jack Marsh  
Jim Cavanaugh  
Ed Schmults

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May 22

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SUBJECT:

Enrolled Bill H.R. 7656 - Beef Research and Information Act

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

Have discussed with Ed Schmults who agrees with Justice and CEA that, on the merits, the bill should be vetoed. The fact that five other boards exist should not be used to justify Federal entry into this area. However, any veto message should not raise the dietary issue in the absence of conclusive research on either side of the issue.

*Barry Roth for  
Ken Lazarus.*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please

THE WHITE HOUSE

WASHINGTON

May 21, 1976

MEMORANDUM FOR: JIM CAVANAUGH  
FROM: MAX L. FRIEDERSDORF *M.L.F.*  
SUBJECT: Enrolled Bill HR 7656 - Beef Research and  
Information Act

The Office of Legislative Affairs concurs with the agencies  
that the subject bill be signed (we have requested a signing ceremony).

Attachments



DEPARTMENT OF AGRICULTURE  
OFFICE OF THE SECRETARY  
WASHINGTON, D. C. 20250

May 14, 1976

Honorable James T. Lynn  
Director, Office of Management and Budget  
Washington, D.C. 20503

Dear Mr. Lynn:

This is to report on the enrolled enactment of H.R. 7656, the proposed Beef Research and Information Act.

The Department recommends that the President approve this bill.

H.R. 7656 is enabling legislation which would provide beef producers with authority to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products. Similar authority has been granted producers of other agricultural commodities, including wheat, cotton, potatoes, and milk. The most recent such authority was provided to egg producers under the Egg Research and Consumer Information Act, approved by the President on October 1, 1974. Questions relating to Federal support of agricultural commodity promotion programs were resolved during consideration of enabling legislation for these products, and a policy of not opposing attempts by commodity groups to obtain Federal legislation to authorize self-help programs has been clearly established. Consequently, we believe that Presidential approval of this bill is not only desirable but necessary to insure equitable marketing opportunities for agricultural commodity groups. Failure to approve H.R. 7656 would be considered a discriminatory action against the cattle industry--the largest and one of the most vital segments of American agriculture.

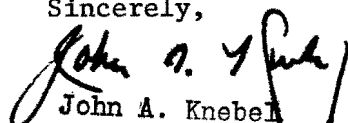
The proposed legislation would authorize the Secretary to issue an order providing for the establishment of a Beef Board of not more than 68 members. Beef Board members would be cattle producers appointed by the Secretary from qualified nominees representing producers from geographic areas designated by the Secretary. The Board would develop and carry out, subject to the Secretary's approval, a coordinated program of beef research, producer and consumer education, and promotion funded by producer assessments. Before the order could be established, it must be approved by

producers in a referendum. Passage of the referendum would require approval by at least two-thirds of those producers voting. If the proposed program is approved by producers and put into effect, those individuals not favoring the program would have the right to demand and receive a refund. The bill also includes provisions for the suspension and termination of the order.

The maximum rate of assessment which would be paid by producers to support the program is fixed by the proposed legislation at one-half of one percent (0.5 percent) of the live animal value. Initially, it is expected that the rate of assessment would be set at three-tenths of one percent (0.3 percent). Based on this rate, it is estimated that the revenue generated by the proposed program would approximate \$35 million annually. Even if all of the assessment was reflected in prices paid by consumers, it would result in an increase of only a fraction of a cent per pound in retail beef prices. This increase, however, would likely be more than offset by increased efficiency in the beef production and marketing system which likely would result from research supported by program funds.

The bill is unique with respect to commodity promotion enabling legislation in that it requires that the Department be reimbursed for all costs it incurs incident to the conduct of the referendum--with the exception of Federal salary costs. If the order is approved by producers, the program would become completely self-financing. All costs, including those incurred by USDA in administering the program, would be defrayed by producer assessment.

Sincerely,

  
John A. Knebel  
Acting Secretary



**GENERAL COUNSEL OF THE  
UNITED STATES DEPARTMENT OF COMMERCE**  
Washington, D.C. 20230

MAY 18 1976

Honorable James T. Lynn  
Director, Office of Management  
and Budget  
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the views of this Department concerning H. R. 7656, an enrolled enactment

"To enable cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer information, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products,"

to be cited as the "Beef Research and Information Act."

This Department would have no objection to approval by the President of H. R. 7656.

Enactment of this legislation would not involve the expenditure of any funds by this Department.

Sincerely,

A handwritten signature in black ink, appearing to read "J. B. Smith".

General Counsel



**Department of Justice**  
**Washington, D.C. 20530**

May 20, 1976

Honorable James T. Lynn  
Director, Office of Management  
and Budget  
Washington, D.C. 20503

Dear Mr. Lynn:

In compliance with your request, I have examined a facsimile of the enrolled bill (H.R. 7656), "To enable cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products."

The enrolled bill would authorize the Secretary of Agriculture to administer a nationwide promotional program for cattle, beef, and beef products, and to disburse funds for those purposes. The Secretary would conduct a referendum of producers to determine whether producers favor such a program. If one-half of registered producers vote and two-thirds of them favor the proposition, the Secretary will issue an order establishing the program, appoint up to sixty-eight producer representatives to a Beef Board to formulate promotional and research plans, and obligate slaughterers to collect and turn over to the Beef Board up to one-half per centum of the value of all beef handled by them. Only individuals slaughtering their own animals for personal consumption are exempt from the plan; other producers must demand their money back if they choose not to participate in the program. The Department of Agriculture estimates that the assessments would come to \$40 million annually, that developing an order and conducting a referendum would cost \$350,000, and that administrative costs will run \$100,000 each year that the program endures. The Department of Justice cannot know how much its enforcement efforts will cost. No estimate exists of the costs of the program to beef producers and slaughterers.





On April 8, 1975 we telephonically explained to Mr. Peterson of your office our objections to S. 722, a very similar bill. Also, on September 25, 1974, we transmitted our recommendation that the President veto Egg Board legislation similar to this. We adhere to the views we expressed on those occasions. To them we would add the thought that this bill must now be regarded as the second or third in what, if not stopped now, promises to be a long parade of similarly wasteful bills creating Rice Boards, Hog Boards, Plum Boards, and so on. That is, at present, there are a number of generic advertising programs supporting various farm commodities. However, only four we know of are administered by the Secretary of Agriculture as this one would be: those under the Wool Act of 1954, the Cotton Research and Promotion Act of 1966, the Potato Research and Promotion Act of 1971, and the Egg Research and Consumers Information Act of 1974. From the dates alone, it can be seen that these bills are flying out of the hopper at an accelerating pace. Not only do we understand that others are in contemplation but we have seen a proposal for a similar program for freestone peaches. Moreover, if beef, which is enjoying increased per capita consumption, gets a program, pork and veal, which are suffering from declining per capita consumption, may think they need one. We feel strongly that continued attachment to the goals of efficient, deregulated production requires that the stream be cut off before it becomes irresistible.

The Department's objections to the bill are explained below:

1. The Bill is unnecessary and costly.

Nothing in the antitrust laws forbids private persons and concerns from forming voluntary trade associations to engage in research and promotion. The American Soybean Association, for example, does extensive trade promotion and market development for soybeans and soybean products. Except in twelve states which have adopted soybean check-off systems, the Association is voluntarily supported by its members. There are numerous other, successful, voluntary associations. Manifestly, beef producers can do the same things without involving the Secretary of Agriculture. Moreover, there are already several states with similar beef programs, and presently cattlemen voluntarily spend \$5 million on television promotion of beef. The Department of Agriculture itself spends some \$50 million on beef research and several other government units have made elaborate investigations into the farm-retail price spread.

The Department of Agriculture estimates the cost of a referendum will be \$350,000. The sum will not be reimbursed unless the referendum succeeds. Though the amount is a small one and the risk may not be great, the principle of such expenditures is a bad one and should be disapproved.

Finally, there are other costs associated with adopting this legislation whose amounts cannot be known:

(a) The bill provides that a person subject to an order may apply to the Secretary of Agriculture for an administrative hearing. Following that, he may apply to a District Court for review of the Secretary's decision. Whether this will or will not happen with frequency cannot be predicted. To the extent it occurs at all, however, the time and attention of the Secretary, his aides, his attorneys, and, on application for review, our attorneys will be taken up with purely private disputes among the members of an essentially private trade association.

(b) On reference of a matter by the Secretary of Agriculture, the Attorney General of the United States is to institute civil suits to collect unpaid assessments and civil penalties as well as to prevent and restrain other disobedience of the order. Bearing in mind that participation in the order is supposed to be voluntary and that the ends of the Board are private, we believe it altogether inappropriate that an "enforcement" mechanism exist and that the Department of Justice should be in any way involved in collecting the Board's dues. Such costs as are involved should plainly not come from the federal treasury as this bill would provide.

(c) The Department of Agriculture is to be reimbursed its out-of-pocket expenses, not the wages of its personnel who administer the program. We have no estimate of how much those will be but they must be significant. We know of no estimate for the cost to producers of collecting, segregating, banking, and remitting assessments to the Board, issuing receipts to sellers, and performing the other administrative tasks involved in operating the check-off system. Considering, however, that there are thousands of cattlemen selling 30 million animals a year, these costs must be substantial. They will almost certainly be passed on to the consumer as another increment in the growing farm-retail price spread.

2. The Commercial Beef Industry Does Not Need the Treatment Extended by this Bill

Where farms and farmers are concerned, it is possible to make the case that they should be treated differently from other enterprises. In the case of many crops, the producers are uncollectibly numerous, individually insignificant as producers, dependent upon the vagaries of weather, and incapable of changing the quantity or kind of their production once it is planted. Not only are their activities land-intensive but their crops tend to be geographically concentrated and the land they cultivate becomes the principal asset underlying the financial and commercial activity of whole regions. Under such circumstances, for government to make it possible for them to work together to promote their products may seem an appropriately public activity, especially where crop surpluses may not only affect large numbers of producers but, by devaluing land, may imperil the financial stability of whole communities.

Beef production does not fall in this mold. Most cattle are finished at large, multimillion dollar enterprises called feed lots that can continuously control input and, at some four months range, output. Units like these are perfectly competent to promote their own wares without help from the government.

3. The Bill is Designed to Promote the Sale of Beef, Rather than to Inform Consumers

If in fact it provides for federally supervised dissemination of information on beef products to consumers, something affirmative might be said for the bill, since it is consumers who will end up paying for it. It does not, however, have that in mind. Section 7(a) requires that every program "shall be directed toward increasing the general demand for cattle, beef, or beef products." Nowhere in the bill is there authorization to collect and disseminate any information that might deter beef consumption, even though the Department of Health, Education and Welfare is spending millions to acquire it. In consequence, should that body of medical opinion that holds beef consumption to increase the risk of cardiovascular disease prevail, the Secretary might find himself promoting the consumption of injurious substances.

4. The Bill Provides Unnecessarily Wide Coverage

Marketing orders authorized to promote commodities under the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. §608c(6)(I)) are limited to regional production or marketing areas unless the Secretary finds a national order is necessary. 7 U.S.C. §608c(11).

We think that principle is a sound one and that no bill like this should be enacted unless it makes allowance for differences in regional practices and preferences, and for competition between different producing regions in getting beef to market inexpensively. We also think it clear that, if anyone in the beef production business can fairly be thought of as a farmer it is the man who owns a ranch and raises the cattle or runs a dairy herd. He should be the one to vote this bill up or down in referendum, not the feed lot operator who is in business rather than farming and who has the clerical assistance to take advantage of the proviso authorizing persons to apply for refunds from the board.

5. The Bill Keeps Information Gathered By  
The Board Secret from Those With a  
Need for it.

Section 7(c) requires slaughterers to keep such books and make such reports as the Secretary and the Beef Board demand. Quite apart from the inequity of imposing the cost of these reports on persons not engaged in beef production, the provision has two serious problems:

(a) It prevents agencies, such as the Department of Justice or the FTC, from obtaining access to the reports even though each may have need for it. In antitrust litigation, the Department has encountered this problem with data collected under other forms of marketing orders. Because of similar provisions, reports of business transactions maintained by the Department of Agriculture have been held unavailable to subpoena, even in criminal cases. If the information had been collected by a private trade association for like purposes, it would be available, under whatever protective terms are appropriate, to any agency or litigant who needs it. Certainly no bill extending the good offices of the Secretary of Agriculture to a private, voluntary group should hide from the rest of government the information it generates.

(b) Section 7(c) apparently permits both individual firm data and "intentions" information to be made accessible to the members of the Beef Board. Although the members are forbidden to disclose the data, nothing forbids them from using the information in the conduct of their own businesses nor from taking advantage of it to speculate in beef futures. Since

Section 8(b) looks to a Board made up of persons engaged in the beef production business, it is clear that neither hazard is insignificant. We think that no bill like this should become law unless it forbids commercial or speculative use by any Board member of any information gained by him in that capacity and limits the information to be given the Board to those kinds of general industry data that the Secretary deems necessary for the Board to carry out its functions.

6. Beef Board Membership and Rules.

Sections 8(a) and (b) of the bill declare that the Beef Board shall have not more than sixty-eight members, all of them cattle producers and subsection (f) states that it shall keep such records and make such reports to the Secretary as he prescribes. We cannot pretend to be experts in marketing order or promotion order administration. Nonetheless, we have had occasion recently to consider the composition of marketing order committees and boards. As a result, we have concluded that each such board should include and have in attendance at all its meetings, representatives of consumers, representatives of those commercial activities liable to be affected by the Secretary's orders, and representatives of the Secretary. We also believe that the transactions at every meeting of such boards should be recorded. These other representatives can recommend ways of accommodating the several interests at stake. Where differences are reconciled, they can, using the facilities of the relevant Board, file timely dissents from, or criticisms or analyses of the Board's recommendations to the Secretary. In that way, the Secretary, on whom falls the burden of lending official sanction to proposals to aid limited sectors of society, can reasonably expect each recommendation to be accompanied by a full and fair discussion of the effect each proposal is likely to have on the community as a whole. It is in connection with ensuring that the Secretary, and those with standing to seek review of his decisions, have available a record of what occurred at Board meetings that we believe such Boards ought not to be created unless an obligation to record their sessions is a part of their constitutive statute.

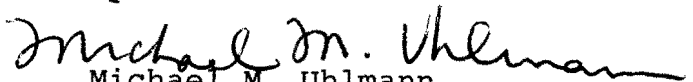
7. Refunds and Personal Applications.

Section 12 of the Act provides that producers who do not wish to support the program may apply for and receive refunds, if they demand them on forms prescribed by the Beef Board within sixty days after the end of the month in which

paid. The Board has sixty days from demand within which to refund the money if an applicant submits satisfactory proof of payment. If the bill is to receive any consideration at all, it ought to provide instead that producers who do not wish to support the program may exempt themselves from assessments simply by saying that to those to whom they sell and, if need be, filling out an appropriate form. If participation is to be voluntary, so should submitting to collections be voluntary. Handling assessments of money that are to be subsequently returned simply imposes unnecessary costs on slaughterers, the Secretary, and the Board. Moreover, given the present high costs of money and the length of time the Board may keep a non-participating producer's money, we think that taking and holding assessments from an unwilling producer without payment of interest on returned assessments would impose an arbitrary expense on those who do not wish to participate.

A suggested veto message is transmitted herewith.

Sincerely,

  
Michael M. Uhlmann  
Assistant Attorney General

Proposed Memorandum by the President of the  
United States Withholding Approval of the  
Bill (H.R. 7656) Entitled "The Beef Research  
and Consumer Information Act"

I am withholding my approval of H.R. 7656, a bill  
"to enable cattle procedures to establish, finance,  
and carry out a coordinated program of research,  
producer and consumer education, and promotion to  
improve, maintain, and develop markets for cattle, beef, and  
beef products."

There are several technical reasons why I decline  
to sign H.R. 7656 but they are subsidiary to three  
objections, each of which would be dispositive of  
my decision.

First, in my view the bill is inflationary. As  
I have said to you, my leading priority as President  
is to work with the Congress to bring inflation under  
control and I cannot in good conscience approve any  
legislation that would tend to thwart that objective.  
At a time when all of us are concerned about food  
prices, we should not impose additional costs on food  
handlers which are certain to be passed on to the ultimate  
consumers unless there is a clear benefit to the public.  
This bill provides no such public benefit.

Second, this bill would require the Department  
of Agriculture to promote the sale of beef rather than  
to dispense objective consumer information about the

proper role of beef in the American diet. Many scientists and doctors are now attempting to learn more about the relationship between the consumption of certain foods (including beef) and the development of cardiovascular diseases. Until we have more advanced scientific knowledge about these questions, I do not believe that a federal agency should be engaged in a promotional rather than an informational activity.

Third, I do not regard the kind of activity that this bill has in mind to be appropriate for the Secretary of Agriculture. Just as I do for other sectors of the economy, I have every hope that the domestic cattle and beef production business will find ways to grow and become more efficient. That does not, however, argue that government should become involved in managing or supporting what is essentially trade association activity designed to influence the domestic economy favorably to a particular line of goods. The activity itself may be laudably competitive; nonetheless, it is private, domestic, commercial activity and should be carried out by private, voluntary associations. I am well aware that the Department of Agriculture administers other programs similar to that proposed here; however, it is the policy of this administration to get government out of business rather than more deeply involved in it. In due course,



I hope that we can reconsider some of these laws.  
In the meantime, as long as they are on the books,  
you may be assured we shall endeavor to execute them  
faithfully.

For the foregoing reasons, I am returning  
H.R. 7656 without my signature.

Gerald A. Ford

The White House

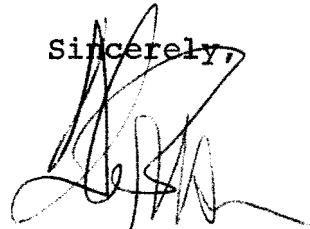
THE CHAIRMAN OF THE  
COUNCIL OF ECONOMIC ADVISERS  
WASHINGTON

May 18, 1976

Dear Mr. Frey:

This is in response to your request for CEA's views on Enrolled Bill H. R. 7656, Beef Research and Information Act. We recommend, on economic grounds that the bill be vetoed. It is of questionable economic value to producers, it involves the Federal Government still more deeply in promotional services for agricultural commodities, services which are not provided to producers in other competitive industries, and it is likely to increase the cost of beef to consumers. These costs could amount to \$100 million per year.

Sincerely,



Alan Greenspan

Mr. James Frey  
Assistant Director for  
Legislative Reference  
Office of Management and Budget  
Washington, D. C. 20503





DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
OFFICE OF THE SECRETARY  
OFFICE OF CONSUMER AFFAIRS  
WASHINGTON, D.C. 20201

May 18, 1976

MEMORANDUM FOR: JAMES M. FREY  
ASSISTANT DIRECTOR FOR LEGISLATIVE REFERENCE

FROM: Michael Sterlacci *MS*  
General Counsel (OCA)

SUBJECT: Enrolled Bill H.R. 7656, an act "to enable cattle producers to establish, finance and carry out a coordinated program of research, producer and consumer information, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products.

Donald Hirsch has asked me to respond for the Department of Health, Education, and Welfare to your request for views on the Enrolled Bill H.R.7656.

The Office of Consumer Affairs does not recommend that this measure be signed into law. The Department of Agriculture, the Department of Commerce, the State Department, the American Meat Institute, the American National Cattleman's Association, and countless corporations are all energetically pursuing some or all of the activities provided for by this act. Consumers have no difficulty in finding information on beef and beef products. If they are buying less beef today it is because our recent economic problems have altered their food buying habits.

At the same time, when consumers do buy beef or when they pay Federal taxes, they are paying for all the above-mentioned activity already going on in support of the beef industry. There appears to be little need to establish the Department of Agriculture as a collector of assessments from cattle producers--assessments which also would be passed on to the consumer--for a fund to support a Beef Board to do even more research, information and promotion. Moreover, the act requires that individual producers who do not wish to pay the assessment would have to pay it and then request a refund within 60 days on a form to be developed for the purpose. Thus, the act creates a system, to be implemented, presumably, by a new bureaucracy within the Department of Agriculture, which calculatedly coerces individual producers who do not wish to fill out another form every time they sell some cattle to pay the assessment.

The question of whether beef needs additional promotion in the face of a world protein shortage also arises. Viewed in this light, the subject act appears to us to run counter to established U. S. policy.

Finally, we wonder where the practice of establishing such Federally administered food industry boards will end. An Egg Board already exists and some of its promotion of eggs has resulted in action by the FTC. Will the practice stop with the Beef Board, or will there be a Federally administered Chicken Council, a Potato Panel, a Lamb League, ad infinitum? There would seem to be little countervailing pressure and, as each precedent is set, it will become more and more difficult to end the practice as industries that aspire to employ the Department of Agriculture as a collection agent point to the panoply of existing boards and ask why they should be discriminated against.

#####

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: May 21

Time: 515pm

FOR ACTION: Bill Seidman  
Paul Leach  
Max Friedersdorf  
Ken Lazarus  
Dick Parsons  
Dawn Bennett

cc (for information): Jack Marsh  
Jim Cavanaugh  
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: May 22

Time: noon

SUBJECT:

Enrolled Bill H.R. 7656 - Beef Research and Information Act

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

*Judy -*

*I concur with Justice. However, since Paul Leach has the lead, I will defer to his recommendation.*



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please

John C. Cannon  
Staff Secretary

THE WHITE HOUSE

WASHINGTON

May 25, 1976

MEMORANDUM FOR: JUDY JOHNSTON

FROM: DAWN D. BENNETT *DB*

RE: Enrolled Bill H. R. 7656 - Beef  
Research and Information Act

I suggest veto of the above legislation. The Bill merely promotes a private concern (beef) with governmental sanction, while not providing a concomitant benefit to the consumer. Passage of the legislation may also spawn more organizations of this type - a side effect of dubious necessity. Since there are many other organizations which provide information on beef and beef products, the measure is also redundant.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: May 21

Time: 515pm

FOR ACTION: Bill Seidman  
Paul Leach  
Max Friedersdorf  
Ken Lazarus  
Dick Parsons  
Dawn Bennett

cc (for information): Jack Marsh  
Jim Cavanaugh  
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: May 22

Time: noon

SUBJECT:

Enrolled Bill H.R. 7656 - Beef Research and Information Act

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

*A PROVAL  
RECOMMENDED*

*W. G. ...  
for LWS*

*5-23-76*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please

James M. Cannon  
For the President

5/24/76

Judy:

Per our conversation --

Please add to the file. Thanks.

Katie

A handwritten signature in black ink, appearing to be 'Katie', written in a cursive style.





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET

DATE: 5-24-76

TO: Bob Linder

FROM: Jim Frey

Attached is a second views  
letter from CEA on H.R. 7656.  
Please note change in recommendation  
to "No objection".

THE CHAIRMAN OF THE  
COUNCIL OF ECONOMIC ADVISERS  
WASHINGTON

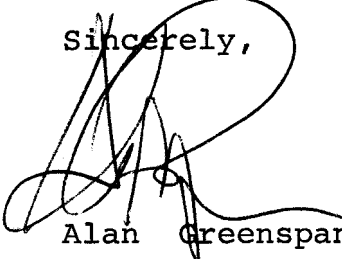
May 21, 1976

Dear Mr. Frey:

This is in response to your request for CEA's views on Enrolled Bill H. R. 7656, Beef Research and Information Act. We have reservations about the bill. It would appear to be of questionable value to producers. Also, the bill involves the Federal government still more deeply in the promotional activities for agricultural commodities, and it is likely to increase the cost of beef to consumers.

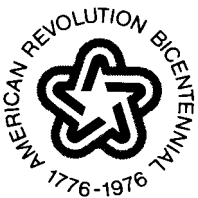
Inasmuch as these costs would appear to be minor, however, and the President has already taken a position of not opposing this bill we do not propose that the President veto the bill.

Sincerely,



Alan Greenspan

Mr. James Frey  
Assistant Director for  
Legislative Reference  
Office of Management and Budget  
Washington, D. C. 20503



MEMORANDUM

THE WHITE HOUSE

WASHINGTON

May 25, 1976

NOTE FOR JUDY JOHNSTON

FROM: TERRI OCHAL

SUBJECT: H.R. 7656: Beef Research and Information Act

Mr. Seidman has just returned from travel status and has reviewed the enrolled bill H.R. 7656: Beef Research and Information Act. He has noted no comment because he has little contact with the beef issues. Pls note this for your files due to William Gorog's recommended approval for Mr. Seidman on May 23.

Attachment

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: May 21

Time: 515pm

FOR ACTION: Bill Seidman  
Paul Leach  
Max Friedersdorf  
Ken Lazarus  
Dick Parsons  
Dawn Bennett

cc (for information): Jack Marsh  
Jim Cavanaugh  
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: May 22

Time: noon

SUBJECT:

Enrolled Bill H.R. 7656 - Beef Research and Information Act

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

*No Comment  
JTB*

*APPROVAL  
RECOMMENDED*

*WJ  
for LWS*

*5-23-76*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please



OFFICE OF MANAGEMENT AND BUDGET

Date: May 21, 1976

TO : Robert D. Linder

FROM: James M. Frey *JM Frey*  
Assistant Director for  
Legislative Reference

Re: H.R. 7656

The views letter of the Federal Trade Commission with Veto Message has not been received as yet, but is expected to arrive Monday morning, May 24. We will send it over as early as possible.



OFFICE OF MANAGEMENT AND BUDGET

Date: May 21, 1976

TO : Robert D. Linder

FROM: James M. Frey *Frey*  
Assistant Director for  
Legislative Reference

Re: H.R. 7656

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EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

MAY 21 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 7656 - Beef Research  
and Information Act  
Sponsors - Rep. Foley (D) Washington and  
20 others

Last Day for Action

May 28, 1976 - Friday

Purpose

Authorizes cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion to improve, maintain and develop markets for their products.

Agency Recommendations

Office of Management and Budget	Approval
Department of Agriculture	Approval
Department of Commerce	No objection
Federal Trade Commission	Disapproval (Veto Message attached)
Department of Justice	Disapproval (Veto Message attached)
Council of Economic Advisers	Disapproval
Department of Health, Education and Welfare	Disapproval

Discussion

H.R. 7656 would authorize the Secretary of Agriculture to establish a 68-member Beef Board composed of cattle producers. Establishment of the Beef Board or any order issued under this Act would require approval through a beef producer

## BEEF RESEARCH AND INFORMATION ACT

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SEPTEMBER, 3, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. POAGE, from the Committee on Agriculture,  
submitted the following

### REPORT together with DISSENTING VIEWS

[To accompany H.R. 7656]

The Committee on Agriculture, to whom was referred the bill (H.R. 7656) to enable cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer information, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

Page 11, line 15, following the word "Secretary" delete the words "for his approval" and insert in lieu thereof "and to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry for their approval".

Page 14, line 19, delete section 9 in its entirety and insert in lieu thereof a new section 9 as follows:

Sec. 9. The Secretary shall conduct a referendum as soon as practicable among producers who at any time, during a consecutive twelve-month representative period preceding the date of the referendum, as determined by the Secretary, have been engaged in the production of cattle for the purpose of ascertaining whether the issuance of an order is approved or favored by such producers. The Secretary shall establish a procedure whereby all known cattle producers are notified of the referendum and the time and place of balloting and qualified producers may register with the Agriculture Stabilization and Conservation Service in person or by mail to vote in such a referendum during a period ending not less than ten days



prior to the date of the referendum. No order issued pursuant to this Act shall be effective unless the Secretary determines (1) that votes were cast by at least 50 percent of the registered producers, and (2) that the issuance of such order is approved or favored by not less than two-thirds of the producers voting in such referendum. The Secretary shall be reimbursed from assessments collected by the Beef Board for any expenses incurred for the conduct of the referendum. Eligible voter lists and ballots cast in the referendum shall be retained by the Secretary for a period of not less than 12 months after they are cast for audit and recount in the event the results of the referendum are challenged and either the Secretary or the Courts determine a recount and retabulation of results is appropriate.

#### PURPOSE

The Beef Research and Information Act is specific enabling legislation. It would allow the cattle producers of the United States, with the cooperation of the U.S. Department of Agriculture, to draft and put to referendum a national plan through which individual cattle producers might uniformly assess themselves a modest amount for the purpose of beef market development. Funds would be used for a coordinated program of research, consumer information, producer information and promotion designed to strengthen the beef industry's position in the marketplace, and to maintain and expand domestic and foreign markets.

The Department of Agriculture administers several commodity research and promotion programs funded by producer assessments. H.R. 7656 is closely patterned after the Cotton Research and Promotion Act and the Egg Research and Consumer Information Act, but has several unique features; particularly, the calculation and collection of assessments through a value-added approach and the procedure for the conduct of the producer referendum to determine whether producers favor the program.

#### NEED

Beef is a basic and natural source of human protein. It is enjoyed by nearly all of the 68 million households in the United States. The per capita consumption of beef increased from 56 lbs. in 1957 to 117 lbs. in 1974. The supply will increase to meet increases in consumption if cattlemen can foresee a reasonable and dependable profit.

Beef cattle is the largest sector of American agriculture. Since 1957, cash receipts from cattle and calves have accounted for more than 20 percent of all agricultural income; and since 1967, for more than 25 percent. In addition to the 1.8 million farms and ranches with cattle (131.8 million head on January 1, 1975), several million more Americans indirectly depend upon beef for their livelihood—farmers who grow grain and other feed for the cattle; factory workers who manufacture machinery, pharmaceuticals and related items used by cattlemen; meat processors who slaughter, pack and transport beef; meat cutters and retail clerks who prepare and sell beef; and many more.

Cattle can convert renewable resources and raw materials, which are not nutritionally usable by humans, into a palatable high-quality protein necessary for the human diet. Cattle and other ruminant animals make an economic use of about 890 million acres of pasture, grass and grazing land—39 percent of the total land area of the United States.

During the last 3 years there have been widespread losses in the livestock industry. The inventory value of all cattle, as reported by the USDA, dropped from \$40.9 billion on January 1, 1974, to \$20.9 billion on January 1, 1975. Although there have been improvements to some sectors of the livestock industry in the last 8 months, many ranchers producing feeder cattle still are experiencing financial difficulties. Some cattlemen have been bankrupted, and many more, faced with predictions that it will take 2 years to work out of this depressing cattle cycle, are selling their herds and switching to other enterprises. The economic repercussions of these losses are still being felt by financial institutions, allied industries and the entire economies of many communities.

Beef boycotts and "Eat Less Beef" campaigns also have damaged and discouraged cattlemen. If cattlemen know that consumers will continue to buy beef, then cattlemen will increase production—and both parties will benefit.

Average beef prices have not increased in relation to disposable income. During the past 5 years, average retail beef prices increased 39 percent, but disposable income increased 42 percent. During the past 20 years, beef prices increased 98 percent, but disposable income increased 165 percent. The percentage of net disposable income spent on beef has not changed since 1950.

It is against this backdrop of concern that the Beef Research and Information Act is reported by the Committee. The bill does not provide cattlemen with a Government handout, rather it provides for a self-help program. Under this program, money derived from cattlemen will be spent on research projects designed to increase the efficiency of beef production, improve nutrition and human health, develop new beef products, and facilitate improved methods of marketing and distribution of beef. Progress in any of these areas will help consumers and thus create expanded markets for beef.

How would the money be spent? This bill will allow cattlemen to spend their own money on consumer information and education programs—youth education in schools as well as adult education. The education programs developed by this legislation should supply consumers with information on the economics of buying beef and beef products, on how to get more for the food dollar, on how to select and prepare the most economic beef cuts.

The order would make funds available for market research to determine consumers' needs and desires as they pertain to beef. This will allow the beef industry to meet their specifications for different types of beef products and new or better ways to use them. There is also a need for production research and development—to do more in the development of new and different beef products. The program might devise new techniques of canning, freezing or freeze drying or otherwise preparing or preserving fresh meat; techniques that are desirable to the consumers and cost savers for the beef industry. It is

Important that there be continued nutritional research to increase existing knowledge of the nutritional value of beef and beef products. Today, consumers are growing more aware of the importance of good meat and are demonstrating their concern by wanting to know nutritional information about the food they eat.

The program will also enable production research on cattle and forages to be carried out so that beef can be produced more efficiently and economically. There is a need to conduct research on cattle diseases, cattle feed rations and efficiency, genetics and environmental considerations. At the moment the industry is facing a standstill in developing new means to increase production—with little Federal money committed to further agricultural research in this important area.

The program will also help develop better means of product distribution. There is a need to move beef from the point of production to the point of consumption as efficiently as possible—improving processing, transportation, storage and handling. Such improvements could be a factor in lowering retail beef prices. The Beef Board may at its discretion supply producers with current and projected supply and demand statistics. This will help producers in the prices they receive for beef and consumers in the prices they pay for beef. However, the Beef Board is expected to refrain from any attempts to control or manipulate the production and marketing of beef in order to artificially increase beef prices.

One of the critical needs of the industry is to develop foreign markets to allow production to be maintained at full capacity and provide a climate of stability for the industry. The benefits to the U.S. balance of payments that would accrue from increased marketing abroad is important to the domestic economy. The Committee expects that the Beef Board will give proper emphasis to this activity in the projects which it carries out.

The Committee views this as self-help legislation. An order pursuant to this Act can only be activated after adequate hearings are held by the Secretary of Agriculture and after the plan is approved in referendum by two-thirds of the eligible producers voting, provided that the persons voting constituted at least half of those who had registered prior to the referendum. The plan will be detailed in an order to be prepared by the Secretary and it is on this order that livestock producers will vote. In preparing the order the Committee suggests that the Secretary consult with interested parties including livestock industry leaders who were instrumental in the development of this legislation.

The program if approved by producers in a referendum, will not result in any cost to the Government since producers are to reimburse the Secretary for the cost of the referendum and for any administrative expenses incurred. The cost of the referendum would be borne by the Government only if the program fails in the referendum.

The Committee agrees with Assistant Secretary of Agriculture Richard L. Feltner, as stated in his letter to Chairman Foley on June 16, 1975, that the "value-added" approach is an equitable and practicable collection system and that it will be largely self-policing. It is expected that enforcement among producers can be accomplished on a complaint basis, as necessary. For purposes of administering

the Act, the Beef Board shall act as an agency of the Department of Agriculture.

The Committee envisions that the collection system will be easy to administer. Producers will be assessed a specified percentage of the total sale price of cattle involved in each sales transaction, except that the Beef Board could exempt breeding animals until time of slaughter. Rather than remitting the assessment to the Beef Board each time animals are sold, it is envisioned that the assessments will be passed on to the next producers and finally remitted by the slaughterer to the Beef Board when the animals are slaughtered. Since livestock generally increases in value during each ownership, assessments will almost always be greater when a producer sells livestock than when the same producers bought the animal.

Since producers may obtain a refund from the Beef Board for any assessment that he has paid (but none that he has collected from other producers) the program is entirely voluntary. If a producer requests a refund, he would be required to show proof of assessments collected when he purchased the cattle and proof of assessments paid when he sold them.

The rate of assessment is to be set forth in the order. The Committee intends for certain parameters to be set on the rate of assessment in the order on which producers will vote in the referendum. The Committee received testimony that a reasonable program would involve the expenditure of \$30-\$40 million per year. The rate of collection to raise this sum is estimated at 0.3 percent of gross sales. The order could provide for such an assessment with authority in the Board to vary the rate slightly, such as to five-tenths percent (0.5 percent). It is expected that any substantial increase, however, such as beyond 0.5 percent could be made only if the need arises and only if it is approved by producers in a referendum.

The Act gives the Secretary specific guidelines to follow in certifying organizations that might nominate members for the Beef Board. In this regard, the Committee intends that general farm organizations be considered for certification as well as cattlemen's organizations.

Where more than one organization is certified in a geographic area, such organizations should caucus, with the organizations representing the larger assessments having proportionately larger voices.

Ultimately, it is the American consumer and her counterpart around the world who will help to determine the success or failure of this program. Thus it would be unrealistic to suppose that the interest and satisfaction of the consumer would not be a concern in every undertaking of the Beef Board.

Accordingly, the Committee intends for the Beef Board to solicit consumer input—ideas, suggestions and recommendations on problems that need attention, projects which deserve priority, etc. This consumer input could be obtained through special consultants, or by advisory committees.

#### BRIEF EXPLANATION OF THE LEGISLATION

The bill provides for—

1. A program of research, producer and consumer information and promotion to improve production, marketing and utilization of cattle,

beef and beef products to be carried out with funds derived from producer assessments.

2. The program to become effective if a beef research and promotion order issued by the Secretary of Agriculture after due notice and opportunity for a hearing and containing terms and conditions for operation of the program is approved in a producer referendum.

3. A two-step process referendum procedure in order for the order to become effective—registration of qualified producers at least 10 days prior to referendum; and approval of an order by at least two-thirds of producers voting in the referendum in which at least 50 percent of the registered voters cast their ballots.

4. The program to be carried out by a Beef Board of not more than 68 members and an executive committee consisting of Board members; the Board to be appointed by the Secretary for 3-year terms from nominations submitted by eligible producer organizations with representation on Board to reflect proportion of cattle produced in each geographical area.

5. Assessments to fund program to be collected through value-added assessment system. Each buyer of cattle would collect assessment from the producer-seller, with the slaughterer required to remit the assessments to the Beef Board.

6. Rate of assessment to be prescribed in order and to cover expenses of program as well as the expenses incurred by the Secretary in conduct of referendum and otherwise in administration of the Act so that there would be no cost to the Government if the order were to become effective.

7. Producer to have right to obtain refund of assessment if requested not more than 60 days after end of month in which assessment paid.

8. Board to submit plans and projects to Secretary for approval and to submit its fiscal year budget for approval to the Secretary and Agriculture Committees of House and Senate.

9. Board to carry out its projects through contracts with other organizations for conduct of desired research, education and promotion.

10. The national program not to preempt or interfere with programs carried out by State Beef Boards.

11. Suspension or termination of the order by the Secretary if he finds it obstructs the policy of the Act, with provision for a referendum on suspension or termination if requested by producers.

#### SECTION-BY-SECTION ANALYSIS

The preamble entitles the Act as the "Beef Research and Information Act."

*Section 2, Legislative Findings and Declaration of Policy*, explains the need for the program and the importance of the beef industry to the general economy of the nation. It states that cattle, beef and beef products either move in interstate commerce or directly burdens or affects interstate commerce; that it is essential and in the public interest to provide a procedure through producer assessments for development and financing of a program of research, consumer and producer information and promotion to strengthen the cattle and beef industry's position in the marketplace and maintain and expand markets and uses for U.S. beef.

*Section 3, Definitions*, defines pertinent terms used throughout the the Act.

*Section 4, Beef Research and Promotion Order*, authorizes the Secretary of Agriculture, subject to the provisions of this Act, to issue or amend an order applicable to producers and slaughterers in all areas of the United States, i.e., the 50 States and the District of Columbia.

*Section 5, Notice and Hearing*, provides for the Secretary to give due notice and opportunity for hearing upon a proposed order if he has reason to believe it will effectuate the purposes of the Act. A request for a hearing and order may be made by an organization certified under section 15, or by any interested person affected by the Act, including the Secretary.

*Section 6, Findings and Issuance of an Order*, requires the Secretary, following notice and hearing, to issue an order if he finds and sets forth in the order based on the evidence adduced at the hearing that the order will effectuate the declared policy of this Act.

*Section 7, Permissive Terms in Order*, provides for one or more of the following in the order:

(a) Plans for advertising, promotion, producer information and consumer information, provided that such plans be directed toward increasing the general demand for cattle, beef, or beef products and the disbursement of funds for such purposes. No reference to private brand or trade names can be made if the Secretary determines it will discriminate against other persons.

(b) Research and market development projects with respect to the sale, distribution, marketing, utilization or production of cattle, beef or beef products and the creation of new beef products, that would lead to expanded production, marketing, and utilization of cattle, beef, or beef products and the disbursement of funds for such purposes.

(c) Slaughterers to maintain and make available for inspection books and records and to file reports, as provided in the order, so that information may be made available to the Beef Board and the Secretary as appropriate for administration of the Act. All such information shall be kept confidential by the USDA, the Beef Board and contracting agencies having access to the information. The information may be disclosed only in a suit or administrative hearing involving the order under which the information was acquired. This provision does not prohibit issuance of general statements based on reports of persons subject to the order, or relating to refunds so long as they do not identify any particular persons, nor does this section prohibit publication of information relating to violations of the order by particular persons.

(d) Terms and conditions, not inconsistent with the Act, necessary to effectuate other provisions of the order.

*Section 8, Required Terms in Order*, requires each order to contain the following:

(a) Appointment by the Secretary of a Beef Board of not more than 68 members, and alternates, to administer the order, to make necessary rules and regulations not inconsistent with the order, to receive, investigate and report to the Secretary complaints of violations and recommend amendments to the order. The Beef Board may appoint from its members an executive committee of from seven to eleven members and may employ a staff. The term of appointments

beef and beef products to be carried out with funds derived from producer assessments.

2. The program to become effective if a beef research and promotion order issued by the Secretary of Agriculture after due notice and opportunity for a hearing and containing terms and conditions for operation of the program is approved in a producer referendum.

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(a) Plans for advertising, promotion, producer information and consumer information, provided that such plans be directed toward increasing the general demand for cattle, beef, or beef products and the disbursement of funds for such purposes. No reference to private brand or trade names can be made if the Secretary determines it will discriminate against other persons.

(b) Research and market development projects with respect to the sale, distribution, marketing, utilization or production of cattle, beef or beef products and the creation of new beef products, that would lead to expanded production, marketing, and utilization of cattle, beef, or beef products and the disbursement of funds for such purposes.

(c) Slaughterers to maintain and make available for inspection books and records and to file reports, as provided in the order, so that information may be made available to the Beef Board and the Secretary as appropriate for administration of the Act. All such information shall be kept confidential by the USDA, the Beef Board and contracting agencies having access to the information. The information may be disclosed only in a suit or administrative hearing involving the order under which the information was acquired. This provision does not prohibit issuance of general statements based on reports of persons subject to the order, or relating to refunds so long as they do not identify any particular persons, nor does this section prohibit publication of information relating to violations of the order by particular persons.

(d) Terms and conditions, not inconsistent with the Act, necessary to effectuate other provisions of the order.

*Section 8, Required Terms in Order*, requires each order to contain the following:

(a) Appointment by the Secretary of a Beef Board of not more than 68 members, and alternates, to administer the order, to make necessary rules and regulations not inconsistent with the order, to receive, investigate and report to the Secretary complaints of violations and recommend amendments to the order. The Beef Board may appoint from its members an executive committee of from seven to eleven members and may employ a staff. The term of appointments

to the Board are 3 years (with a maximum of 6 consecutive years)—initial terms to be for 1, 2, and 3 years. Because the proposed 68-member Beef Board is unusually large and would become cumbersome, an executive committee is imperative. The geographic areas from which the greatest assessments are collected (the largest cattle-producing States) should have the most voice on the executive committee.

(b) Members of the Beef Board to be appointed by the Secretary from nominations by eligible producer organizations within a geographic area. (Criteria for certifying an eligible organization are in Section 15.) If the Secretary determines that the interests of a substantial number of producers are not represented by such organizations, nominations may be made in the manner authorized by the Secretary so that representation of producers on the Board reflects the proportion of cattle produced in each geographical area. Each designated geographical area is entitled to at least one member on the Board. The Beef Board shall redesignate from time to time (with the Secretary's approval) representation on the Board so that it continues to reflect the proportion of cattle in each geographical area.

(c) Provision for the Beef Board to submit to the Secretary for his approval any plans or projects for advertising, sales promotion, consumer information, producer information, and research. (The Secretary cannot initiate plans or projects; he can only approve or reject plans originated by the Beef Board.) Plans or projects can become effective only after receiving his approval.

(d) Provision for the Beef Board to submit to the Secretary and to the House Committee on Agriculture and Senate Committee on Agriculture and Forestry for prior approval each annual budget of anticipated expenses and disbursements.

(e)(1) Provision for an assessment, based on value of the cattle in the transaction, to be paid by each seller of cattle to the purchaser when the producer sells or otherwise transfers ownership. This is the "value added" feature, under which each buyer collects the assessment from the seller and the assessment stays with the owner of the cattle until slaughter. Thus, each producer-seller pays his fair share, based on the value he has added to the cattle. The slaughterer is required to collect the assessment, based on the value of the transaction, from the producer who sold him the cattle or arranged for its slaughter, and remit the total assessment to the Beef Board. It is expected that the collection system will be largely self-policing and that enforcement among producers can be accomplished on a complaint basis as necessary. In the event no sales transaction occurs at point of slaughter (such as a packer slaughtering his own cattle or a producer taking his own animal to a locker plant for slaughter for home consumption), a fair value shall be attributed to the cattle for the purpose of determining the assessment. The Beef Board may exempt or vary the assessment on breeding animals until time of slaughter. (This is necessary, because breeding animals normally do not fit the "value added" concept, since they usually decrease in value as they grow older. They will be assessed at time of slaughter, however, and details on this will be spelled out in the order.) By basing assessments on the value of the sales transaction, rather than on each animal, the problem of accounting for an assessment on an animal that dies or decreases in value is minimized. Most cattle are purchased in groups

or pens or loads; so even if one animal of a group were to die the transaction normally would not decrease in value.

The Beef Board may collect directly from any producer any assessment collected which is not passed along due to the loss in value of the cattle.

(e)(2) The rate of assessment shall be prescribed in the order and shall cover expenses (including provision for a reserve) as the Secretary finds are reasonable and likely to be incurred by the Beef Board and any referendum and administrative costs incurred by the Secretary. The program will thus involve no governmental costs unless the program fails to carry in the producer referendum.

(e)(3) To facilitate the collection of assessments, the Beef Board may specify different collection and remittance procedures for slaughterers of different classes to recognize differences in marketing practices or procedures. (A large slaughterer might be required to remit weekly or monthly, while a small slaughterer might be required to remit quarterly or annually.)

(e)(4) If necessary, the Secretary may sue any person, subject to the order for collection of the assessment. The U.S. district courts are vested with jurisdiction over such suits regardless of the amount in controversy.

(f) The Beef Board must maintain records and submit reports to the Secretary and an accounting of all receipts and disbursements.

(g) The Beef Board may enter into contracts or agreements with other organizations to carry out activities authorized by the order and for the payments of their cost with funds collected under the order. The contract must provide for the contractor to submit a plan together with a budget showing estimated costs for approval by the Secretary, and for the contractor to keep accurate records and make reports and an accounting for funds received and expended.

(h) No funds collected by the Beef Board may be used to influence governmental policy or action, except to recommend amendments to the order.

(i) Members of the Beef Board shall serve without compensation but may be reimbursed for their reasonable expenses.

*Section 9, Requirement of Referendum and Cattle Producer Approval*, provides for the Secretary to conduct a referendum of producers who were engaged in cattle production during a 12-month representative period to ascertain whether the order is approved by them. The Secretary is required to publicize the referendum and provide for registration of qualified producers with ASCS in person or by mail at least 10 days prior to the date of the referendum. No order can become effective unless the Secretary determines that votes were cast by at least 50 percent of registered producers and the order is favored by not less than two-thirds of the producers voting in the referendum. Eligible voter lists and ballots cast must be retained for at least 12 months for audit and recount if the results of the referendum are challenged and the Secretary or the courts so requires. The Secretary must be reimbursed for expenses incurred for the conduct of the referendum from assessments collected by the Beef Board.

*Section 10, Suspension and Termination of Orders*, provides for the Secretary to terminate or suspend operations of an order or a provision in an order if he finds it does not effectuate the policy of the Act. The

Secretary may conduct a referendum approving the order to determine whether producers favor termination or suspension. Suspension or termination is required 6 months after approval by a majority of the producers voting who during a representative period were cattle producers and produced more than 50 percent of the cattle produced by those voting in the referendum.

*Section 11, Provisions Applicable to Amendments*, states that the same provisions applicable to orders shall apply to any amendments thereto.

*Section 12, Producer Refund*, specifies that any producer, upon request, may obtain a refund of the assessment that he paid but not of the assessment that he collected from other producers. He must request the refund within 60 days after the end of the month in which the sale or slaughter of the cattle occurred and the Beef Board must issue the refund within 60 days after the request is received.

*Section 13, Petition and Review*, (a) authorizes any person subject to an order to petition the Secretary for modification or exemption from any provision of an order which he believes not in accordance with law and obtain a hearing on his petition. The Secretary's ruling on the petition is final if in accordance with law.

(b) The U.S. district courts in the district in which the petitioner resides or has his principal place of business are vested with jurisdiction to review the ruling if a complaint is filed within 20 days from entry of the ruling. If the court finds that the ruling is not in accord with law, it would remand the proceeding to the Secretary with directions to make a proper ruling or take further proceedings.

*Section 14, Enforcement*, (a) The U.S. district courts are vested with jurisdiction to enforce the order and regulations issued pursuant to this Act and prevent and restrain persons from violations. The Secretary must refer civil actions to the Attorney General, except that he may handle minor violations by suitable written notice or warning.

(b) Any person violating any provision of an order is liable for payment of a civil penalty of not less than \$1,000 or more than \$10,000 recoverable in a civil suit brought by the United States. The remedies of this section are in addition to other available remedies.

*Section 15, Certification of Organizations*, spells out the criteria for the Secretary to follow in certifying organizations that may request issuance of an order and nominate members for the Beef Board. Main considerations are: geographic territory covered; nature and size of the organization's total active membership and proportion of such total accounted for by cattle producers, and volume of cattle produced by the members in each State; extent to which the membership is represented in setting the organization's policies; evidence of stability and permanency of the organization; sources from which funds are derived, functions of the organization and the organization's ability and willingness to further the aims and objectives of this Act. The main consideration shall be whether its producer membership consists of a substantial number of producers who produce a substantial number of cattle, subject to the provisions of the Act, i.e. whether sales of such cattle are subject to payment of the assessment. Thus organizations which largely represent persons who produce breeding cattle would not be given the same consideration as an organization which primarily represents persons engaged in the production of cattle for slaughter. The Secretary's determination is final. When more than one organiza-

tion is certified in a geographic area, such organizations may caucus to determine the area's nominations.

*Section 16, State Beef Boards*, makes clear that this Act shall not preempt or interfere with the workings of any State Beef Board, State beef council or State beef promotion organization.

*Section 17, Regulations*, authorizes the Secretary to issue regulations—with the force and effect of law—necessary to carry out the provisions of this Act.

*Section 18, Investigations: Power to Subpoena and Take Oaths and Affirmation: Aids of Courts*, authorizes the Secretary to make any investigation deemed necessary to carry out his responsibilities under the Act or to investigate any suspected violation of the Act or of an order or rule or regulation issued under the Act. The Secretary may administer oaths and affirmations, subpoena witnesses and records, and may invoke the aid of the courts of the United States in requiring attendance and testimony of witnesses and production of documents. Failure to obey a court order may be punished by the court as a contempt.

*Section 19, Separability*, states that if any provision of this Act is held invalid, it will not affect the validity of the remainder of the Act.

*Section 20, Authorization*, authorizes money in the Treasury to be appropriated to carry out the provisions of this Act but not to pay any expenses of the Beef Board.

*Section 21, Effective Date*, states that the Act shall take effect upon enactment.

#### COMMITTEE CONSIDERATION

The Subcommittee on Livestock and Grains held hearings on April 14, 1975, on H.R. 3718, a predecessor bill to H.R. 7656. At the hearing Congressman Sebelius testified in support of the bill, and a statement in support of the bill was received from Congressman Hightower. Various producer groups likewise strongly supported the concept contained in the bill, with some suggesting technical and clarifying language changes.

Representatives of the Beef Development Task Force which developed the beef research and information plan embodied in the bill explained to the Subcommittee its various features. The Task Force was comprised of representatives of the American National Cattlemen's Association, the National Livestock Feeders Association, the National Livestock and Meat Board, United Dairy Industry Association, Competitive Livestock Marketing Association, National Livestock Dealers Association, Central Public Markets and American National Cow Belles. Other producer groups testifying in support of the concept of the bill included the National Milk Producers Association, the National Livestock Feeders Association, Texas and Southwest Cattle Raisers Association, Independent Cattlemen's Association.

The American Farm Bureau stated that it was in support of the bill if there were revised procedures for the referendum for determining whether producers favored the program. As introduced, H.R. 3718 provided for the program to become effective if in a referendum of producers it were approved by at least two-thirds of the producers voting or a majority of the producers voting who owned not less than two-thirds of the cattle owned by producers voting in the referendum. The American Farm Bureau recommended a change which called for

a referendum to be conducted by a two-step process. Under its proposal registration, in person or by mail, would be required of those who wished to vote in the referendum not less than 10 days prior to the date of the referendum.

The Amalgamated Meat Cutters and Butcher Workmen Union testified in opposition to the bill. Representatives from the U.S. Department of Agriculture likewise opposed the bill primarily for two reasons: First, H.R. 3718 provided for the cost of the referendum to be borne by the Department of Agriculture. It was then estimated that the cost would be approximately \$750,000. In addition, the USDA expressed concern regarding its ability to enforce assessment requirements with respect to assessments collected on sales of each individual animal—particularly since it claimed it would be impractical to expect cattlemen to maintain complete and accurate records of assessments collected on some 40 million head of cattle slaughtered annually. (H.R. 3718, unlike H.R. 7656, required all persons engaged in the sale of cattle to maintain and make available for inspection books and records and file reports.)

In a business meeting held May 8, 1975, the sponsors of the bill were asked to meet with representatives of the Department of Agriculture, the Farm Bureau and other interested groups in an attempt to resolve their differences and to provide technical clarification of some of the provisions of the bill. When this work was completed, H.R. 7656 was introduced which reflected the technical changes agreed upon and a markup session was held on H.R. 7656 on June 16, 1975.

Apart from clarification of a number of provisions, H.R. 7656 made two substantive changes in the proposed legislation. First, it provided for the cost of the referendum to be paid for from assessments, if the program came into effect after the referendum. In addition, it provided that assessments would be based on the total value of cattle involved in a sales transaction rather than on the value of each individual animal and that only slaughterers are required to maintain records of sales transactions, rather than imposing these requirements on all livestock producers.

There was received from the USDA in a letter dated June 16, a revision of its position on the bill in the light of the changes which had been incorporated into H.R. 7656. It stated that if the Committee concurs that the collection system will be largely self-policing and that adequate enforcement among producers can be accomplished on a complaint basis as necessary that it would have no legal or administrative objections to the bill. This correctly expresses the position of the Committee regarding the bill particularly in view of the size of the cattle industry and the complexity of cattle-marketing operations.

Representatives of the USDA changed their estimate on the cost of the referendum from \$750,000 to \$319,000. After discussion, the Subcommittee, with a quorum present, by a voice vote unanimously reported the bill to the full Committee with the recommendation that it be passed.

The House Committee on Agriculture met to consider H.R. 7656 on July 10, 1975, at which time a quorum was present. The Committee voted to amend the bill in two particulars: An amendment offered by Mr. Melcher was adopted which changed the procedure for the referendum of producers on the order to conform to the proposal

espoused by the American Farm Bureau Federation. Under the amendment, registration of qualified producers was required at least 10 days prior to the date of the referendum for the order to become effective if at the referendum votes were cast by at least 50 percent of the registered producers and the order approved by not less than two-thirds of the producers voting in the referendum.

The second amendment adopted by the Committee required that the Beef Board submit its annual budget for approval to the Agriculture Committees of the House and Senate, in addition to the Secretary of Agriculture. The Committee then voted to report the bill by a voice vote with the recommendation that it pass.

On July 17, 1975, at a business meeting the Committee considered, but rejected, by a vote of 12 to 15, a motion to reconsider H.R. 7656.

#### DEPARTMENTAL POSITION

The U.S. Department of Agriculture submitted the following report on H.R. 3718, the predecessor bill to H.R. 7656, and the bill on which the hearing was held by the Subcommittee on Livestock and Grains on April 14, 1975:

DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., April 11, 1975.*

HON. THOMAS S. FOLEY,  
*Chairman, Committee on Agriculture,  
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: We appreciate this opportunity to respond to your request for a report on H.R. 3718, a bill "To enable cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products."

H.R. 3718 would authorize the Secretary to issue an order providing for the establishment of a Beef Board which would consist of up to 68 members to develop, subject to the Secretary's approval, appropriate plans or projects for research, advertising, promotion and consumer education with respect to cattle, beef, and beef products. Members of the Beef Board would be appointed by the Secretary from qualified nominees representing producers from regions of the United States designated by the Secretary. Producer approval by referendum would be required before the order could become effective. After the order is approved, the Secretary may conduct a referendum to determine if producers favor termination of that order.

With the exception of costs incurred by the Department in developing the order and conducting the referendum, the program would be self-financing. After approval of the order, USDA administrative costs would be defrayed by assessment. The assessment paid by producers and collected by purchasers or handlers to support the order will be based on the value of cattle, beef, or beef products sold. The purchaser at the point of slaughter will remit the assessment to the Beef Board. Any other purchaser will hold the assessment, and pay the same to any person to whom he subsequently sells the cattle, along

with the added assessment resulting from the increase in value of the cattle under his ownership. Such purchasers are considered to be producers for purposes of assessment. Producers not favoring the program would have the right to demand and receive a refund of their assessment.

This Department currently administers several commodity research and promotion programs funded by producer assessments. The proposed Beef Research and Consumer Information Act is closely patterned after the Cotton Research and Promotion Act and the Egg Research and Consumer Information Act which was approved in the last Congress as Public Law 93-428. However, this proposed bill contains a unique feature with regard to the calculation and collection of assessments which presents serious legal and administrative problems.

The assessment procedure currently contained in the bill would present serious legal problems. The proposed legislation requires that each time cattle are sold the seller must pay the purchaser an assessment based on the sale price of the animal. Cattle sold for breeding purposes are exempt from this requirement. The purchaser is required to collect that assessment and pay the same to any person to whom he subsequently sells the animal, along with an added assessment based on the increase in value of the animal under his ownership. The purchaser at the point of slaughter must receive from the seller the total assessment based upon the sale price of the animal at the time of slaughter, and that amount must be paid to the Beef Board. If the animal increases in value through the production process, as would normally be the case, the assessment based on the value of the cattle at the point of slaughter should equal the total of the prior assessments. However, if the sales value of an animal declines or if an animal dies after any assessment has been collected on that animal, or if heifers purchased as feeders should be diverted for breeding purposes, the owner would technically be entitled to retain all or part of the assessments paid to him by other producers, since there is no provision in the bill for this money to be remitted to the Beef Board. In our opinion, the omission of such procedures represents a serious deficiency in the bill and could raise constitutional problems.

Further, we believe it would be administratively impossible to enforce the provision which requires that assessments be made and collected for each sale. Reasonable enforcement would require detailed recordkeeping and periodic audits to insure compliance with this provision. Cattlemen would be required to keep records of assessments collected on each individual animal. There are about 40 million cattle slaughtered annually. Because of the complexity of the cattle production and marketing system, it would be impractical to expect cattlemen to accurately maintain records of assessments collected and paid. Thus, it would be virtually impossible to determine compliance with the proposed bill.

As long as the principle of assessments based on value added is retained in the bill, the problems associated with determining compliance appear insurmountable. We shall be glad to assist the Congress or the industry in appropriate revision of the bill to overcome these difficulties.

H.R. 3718 contains authority for an appropriation to cover the costs incurred by the Department in developing an order and conducting a referendum. Because of the number of beef producers (approximately 2 million), these costs would be relatively large. We estimate that an appropriation of about \$750,000 would be needed to cover the Department's costs in developing an order, holding hearings, and conducting the referendum which would be associated with any beef promotion program of this magnitude. After approval of the order, USDA administrative costs approximating \$100,000 to \$150,000 annually would be defrayed by assessment. Beef Board expenditures would depend on the amount of revenue generated by the assessment but would approximate \$40 million annually. These are rough estimates since we have had no experience with programs of this nature in the beef industry.

With respect to the provisions of Public Law 91-190, Section 102 (2)(C), we believe this legislation would have no significant impact on the quality of the environment.

Because of the above problems and the President's moratorium on new Federal spending programs we cannot support enactment of H.R. 3718 at this time.

The Office of Management and Budget advises that while there is no objection to the submission of this report, enactment of H.R. 3718 would not be in the long-run interest of agriculture, the food industry, or consumers in general. The involvement of the Federal Government in the promotion of a particular commodity at the expense of other commodities would compel other commodity groups to seek similar assistance in order to maintain their share of the food market. The net effect of such action would be to unnecessarily increase costs to both producers and consumers.

Sincerely,

RICHARD L. FELTNER,  
*Assistant Secretary.*

After the hearing, the bill was changed to take account of suggestions made at the hearing and introduced in revised form as H.R. 7656. The Department's position on H.R. 7656 is set forth in the following letter:

DEPARTMENT OF AGRICULTURE,  
*Washington, D.C., June 16, 1975.*

HON. THOMAS S. FOLEY,  
*Chairman, Committee on Agriculture,  
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to the request of June 13 from the Committee's staff for the Department's position on H.R. 7656, a bill "to enable cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer information, and to improve, maintain, and develop markets for cattle, beef products."

Department personnel have worked closely with the Beef Development Task Force in redrafting H.R. 3718 which was introduced on June 5 as H.R. 7656. The administrative and legal problems referred to in the report of April 11 on H.R. 3718 have been largely overcome.



However, the Department's concern with the "value added" features have not been fully eliminated. H.R. 7656 requires each producer-buyer and slaughterer to collect from the producer-seller an assessment based on the value of the cattle involved in a transaction. But only slaughterers are required to maintain and make available for inspection records of such transactions. The Department recognizes that because of the size of the cattle industry and the complexity of cattle marketing, the assessment method contained in the bill provides for an equitable and practicable collection system.

The Department also agrees with the Beef Development Task Force that the collection system will be largely self-policing and that adequate enforcement among producers can be accomplished on a complaint basis as necessary. If the Committee concurs with this view of enforcement requirements, and so indicates in its report on the bill, the Department has no legal or administrative objections to the enactment of H.R. 7656.

The Administration's position with respect to new Federal spending programs and the objections of the Office of Management and Budget to promotion programs for agricultural commodities remain as stated in the April 11 report on H.R. 3718.

Sincerely,

RICHARD L. FELTNER,  
*Assistant Secretary.*

#### CURRENT AND FIVE SUBSEQUENT FISCAL YEAR COST ESTIMATE

Pursuant to clause 7 of Rule XIII of the Rules of the House of Representatives, the Committee estimates that no cost would be incurred by the Federal Government during the current and the five subsequent fiscal years as a result of the enactment of this legislation if producers approve the order.

This bill provides for the Secretary of Agriculture to be reimbursed from assessments collected by the Beef Board for any referendum and administrative costs.

The Agricultural Stabilization and Conservation Service, USDA, which likely would conduct the referendum, estimates that the cost of the referendum (including the prior registration) would be \$370,000. This expense would be borne by the Government only if producers would vote against the program in the referendum.

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4), Rule XI of the Rules of the House of Representatives, the Committee estimates that enactment of H.R. 7656 would have no noticeable inflationary impact on consumer prices.

Cattle producers are not able to pass on their increased costs in the prices they receive for their livestock. Prices received by livestock producers are determined instead by such factors as supply and demand. Geographic dispersion, large numbers of individual cattlemen (1,881,010 cattle farms in 1974), the highly competitive nature of the marketplace and strong individualism have prevented and will continue to prevent cattlemen from organizing either to limit cattle production or to control the level of prices they receive.

Even if the entire assessment of three-tenths percent (0.3%) could be passed on, it should amount to less than one-third of one cent ( $\frac{1}{3}\%$ ) per pound of retail beef. The objectives of the program are to seek and promote more efficiency in the production, marketing and purchasing of beef, which should result in savings to consumers that will probably outweigh any additional costs in beef if they were to occur as a result of the assessment system.

#### OVERSIGHT STATEMENT

No summary of oversight findings and recommendations made by the Committee on Government Operations under clause 2(b)(2) of Rule X of the Rules of the House of Representatives was available to the Committee with reference to the subject matter specifically addressed by H.R. 7656.

No specific oversight activities, other than the hearings accompanying the Committee's consideration of H.R. 7656, were made by the Committee within the definition of Rule XI of the House of Representatives.

#### BUDGET ACT COMPLIANCE (SECTION 208 AND SECTION 403)

The provisions of clause 1(3)(B) and clause 1(3)(C) of Rule XI of the House of Representatives and section 308(a) and section 403 of the Congressional Budget Act of 1974 (relating to estimates of new budget authority or new or increased tax expenditures and the estimate and comparison prepared by the Director of the Congressional Budget Office), are not considered applicable because the bill should have no effect on existing spending estimates for fiscal year 1976.

## DISSENTING VIEWS OF HON. FRED RICHMOND

The Beef Research and Promotion Act was reported out of the Agriculture Committee amid much questionable parliamentary maneuvering by its supporters, without a full airing of the many problems associated with this legislation, and without an opportunity for all those who had amendments to offer them. In addition, this highly controversial legislation was reported by the committee on a voice vote, with many Members absent from the meeting.

Those who support this legislation assume that advertising and promoting beef, our most expensive food, is in the public interest, and should be encouraged. They claim that consumers need to eat more beef, and they are prepared to convince us this is so. Yet, there is absolutely no consumer involvement in this entire program. Sixty million dollars will be collected through this act, to be spent on convincing Americans to eat more beef, and not one consumer will have a say in designing the promotions, setting research priorities, or deciding in any way how the money is spent.

There is no provision in this act for nutrition education, and there are real questions about the health value of grain-fattened beef. Neither is there any provision in the bill for researching the health value of grass-fed beef. Many suggest the public health would be improved if Americans ate leaner, less fatty beef.

### MISLEADING ADVERTISING IS MAIN SOURCE OF AMERICAN NUTRITION INFORMATION

The sad fact is that advertising is the main source of nutrition information for most Americans. The abject failure of the Department of Agriculture to provide Americans with the information they need in an accurate, unbiased manner is one of the most serious failures of America's rotting food and nutrition policy. The persistence of heart disease, the alarming rise of cancer of the colon, soaring cholesterol levels, and a population of Americans that in too many instances weigh too much for their own good can all be traced to television and other kinds of advertising which push products that are highly profitable. Never in any of this advertising are there any attempts to fit the product into an overall plan of sound nutrition that would be of great help to Americans whose last brush with the subject of nutrition was in a high school health course.

The Beef Research and Promotion Act with a balanced board of consumers and producers would be a good way to break this nutrition knowledge gap and force commercial advertisers to become more concerned with the overall public health impact of their promotion efforts.

The current media blitz on behalf of Proctor & Gamble's latest junk food, Pringles, is a good example of the worst kind of food product promotion that is not in the best interest of Americans' pocketbooks or nutritional well-being.

For the U.S. Congress to pass up this opportunity to provide an example for the food industry to provide consumer information along with product promotion would be a serious breach of public trust. Real questions have been raised in this committee this year about the value of the current beef grading system to consumers. Consumers are faced with the paradox that the most expensive, highest grade beef may not be the healthiest. To compound this confusion by allowing a Beef Board that does nothing but promote the broader consumption of this product seems to me to be the height of irresponsibility.

CONSUMERS BEAR THE COST OF THIS BILL AND HAVE NO VOICE IN  
SETTING POLICY

The cattlemen who support this legislation claim they will pay the cost of this legislation. This is not the case. The assessments required of producers under this act will be passed along each step of the food chain, to the consumer. And the price of meat will rise.

Cattle producers are not going to accept less returns for their cattle. The price of beef will rise to account for the advertising this bill creates. Under this bill, each link in the chain—producer, feedlot operator, packer, shipper, wholesaler, and retailer will add to the assessment or pass it along to the consumer. The feedlots will raise their price to the packers, the packers will raise their price to the consumer. The consumer, with no voice in this program, will be forced to pay for the whole thing.

Consumers must have a voice in setting the policies that determine the design of this consumer promotion, education, and research act. They are the ones being educated—the ads are for consumers. To be most effective, the promotion activities of the Board need consumer input. Fifty percent of the members of the Board administering the funds collected under this act should be consumers, to give the consumer a voice equal to the voice of agribusiness.

So, too, must the Board have the input of general farm organizations, such as the NFU, NFO, Grange, and Farm Bureau. These organizations represent many cattle producers, yet they are excluded from representation on the governing board. The membership of the NFO, for example, is 25-30 percent cattle producers, while the Farm Bureau membership is 40-50 percent cattle producers.

There are other problems with this legislation. Cattle producers are required to contribute to the program; they can get a refund, but only after applying for it in writing. Participants should contribute on a voluntary basis, and these voluntary contributions should be sent directly to the Board, rather than being passed along by the middlemen.

The supporters of this bill have tried to stack all the cards on their side. They are trying to require payment from producers. They tried to weigh votes in the referendum establishing the program in favor of the large, agribusiness cattle producers, rather than the smaller, family-type operations. They have tried steadfastly to exclude consumers from any input whatsoever in this program, and have threatened to abandon their plan if consumers are represented on the Board.

THE BILL IS NOTHING MORE THAN A THINLY DISGUISED TAX

One additional consideration needs to be made in order to completely understand what this act will do. The funds collected to promote and publicize beef will be used by public relations firms and advertising agencies who compete with each other for commodity markets. The money spent will be wasted on large advertising fees, and jet-setting and executive suites for the large cattle barons running the program. The National Farmers Organization has put it succinctly:

While cattlemen were going broke [and face major credit problems] major attention was put on this new proposal to tax them a little more for the benefit of those Fifth Avenue public relations consultants who can get the OK of the Secretary of Agriculture on fat consulting contracts.

This tax on cattlemen is nothing more than a slush fund for the high-living supporters of this bill, and for the public relations outfits who must get their fat contracts approved by the Secretary of Agriculture. Obviously, the opportunities for abuse of the bill are rampant since the funds, and their use, cannot be audited by the Comptroller General. This alone should raise serious problems of accountability for the program to consumers, producers, and the Congress who will set this plan in motion. If this bill passes in its present form, we will be taxing Americans, both producers and consumers, without insuring that the funds will be used properly, or be subject to audit by an unbiased third party.

I plan to offer a series of amendments when this bill comes to the House floor, that among other things would add consumers, along with general farm organizations, to the governing board created by this bill. Consumers need to be heard in this program.

Even that may not be enough to prevent this bill from doing serious damage to consumers and small cattlemen alike. Efforts must be made to mandate voluntary contributions to this program, to require significant nutrition education, and to insure that the funds in the program are not misused. If such measures are not included in this bill, then I believe it should be defeated, in order that consumers, cattlemen and the Congress may turn their attention to more serious matters.

FRED RICHMOND.

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## BEEF RESEARCH AND INFORMATION ACT

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NOVEMBER 19 (legislative day, NOVEMBER 18), 1975.—Ordered to be printed

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Mr. ALLEN, from the Committee on Agriculture and Forestry, submitted the following

### REPORT

[To accompany H.R. 7656]

The Committee on Agriculture and Forestry, to which was referred the bill (H.R. 7656) to enable cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer information, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products, having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

#### SHORT EXPLANATION

H.R. 7656, as amended by the Senate Committee on Agriculture and Forestry, authorizes the Secretary of Agriculture to issue a national order providing for the establishment of a Beef Board consisting of not more than 68 members, and alternates therefor.

(1) The Beef Board would develop, subject to the Secretary's approval, a program of research, producer and consumer information, and promotion designed to strengthen the cattle and beef industry's position in the marketplace, and maintain and expand domestic and foreign markets and uses for United States beef. The program would be financed from assessments paid by cattle producers. The Beef Board shall appoint from its members an executive committee, consisting of not less than seven nor more than eleven members broadly representative of the industry, to employ a staff, and conduct routine business, within the policies determined by the Beef Board.

(2) Members of the Beef Board would be cattle producers appointed by the Secretary from qualified nominees representing producers from each beef-producing geographic area.

(3) Approval by referendum among cattle producers engaged in the production of cattle, during a representative period as determined by the Secretary, would be required before the order could become effective. The order would not be effective unless the Secretary determines that it is approved or favored by not less than two-thirds of the producers voting in the referendum, or by a majority of the producers voting in the referendum if such majority produced not less than two-thirds of the cattle owned by producers voting in the referendum.

(4) The order could be terminated or suspended by the Secretary if he found that it obstructs or does not tend to effectuate the purposes of the bill. The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 percent or more of the number of producers voting in the referendum approving the order, to determine if the producers favor the termination or suspension of the order.

(5) Funds to carry out the beef research and promotion program formulated by the Beef Board would be collected through a "value added" assessment system. Each buyer of cattle would collect an assessment from the producer-seller (based on the value of the cattle involved), and pass it on to the next buyer, with the slaughterer required to remit the assessment to the Beef Board. (If no sales transaction occurs at the point of slaughter—such as a producer taking his own animal to a locker plant for slaughter for home consumption—a fair value is to be attributed to the cattle at the time of slaughter.)

—The Beef Board may exempt from or vary the assessment on breeding animals until time of slaughter.

—The rate of assessment would be prescribed in the order, and the assessments are to cover all expenses of the beef research and promotion program, including the expenses incurred by the Secretary in conducting the referendum and otherwise administering the bill.

(6) The Secretary could sue any person subject to the order for collection of any assessments not voluntarily paid. Producers not favoring the program would, however, have the right to obtain refund of the assessment if requested not more than 60 days after the end of the month in which the sale or slaughter of the cattle occurred. The Beef Board is to make a refund of the assessment within 60 days after the request is made.

(7) Persons failing or refusing to collect any assessments required of them (or otherwise violating any provision of the order issued by the Secretary) shall be liable for a penalty of not less than \$1,000 nor more than \$10,000.

(8) The Beef Board is to submit to the Secretary, for approval, all plans and projects. The Board is to submit its fiscal year budget to the Secretary for approval. Copies of the budget are also to be submitted to the House Committee on Agriculture and Senate Committee on Agriculture and Forestry.

#### COMMITTEE AMENDMENTS

The Committee adopted three basic amendments to H.R. 7656, as passed by the House, as follows:

1. On page 10, line 4, strike out "may" and insert "shall".

On page 10, line 6, insert immediately after "members" the following: "who are broadly representative of the industry".

The House bill authorizes the Beef Board to appoint an executive committee for the purposes of employing a staff and conducting routine business within the policies determined by the Beef Board.

The Senate amendments require the appointment of such an executive committee and provide that the members of the committee must be broadly representative of the industry.

2. On page 11, lines 12 and 13, strike out "and to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry".

On page 11, line 14, strike out "their" and insert "his".

On page 11, line 18, insert immediately after "projects." the following: "The Beef Board shall also submit copies of such budgets to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry."

The Senate amendments delete the requirement that the annual budgets of the Beef Board be approved by the House and Senate Agriculture Committees. However, as provided in the House bill, copies of the budgets are to be submitted to such committees.

3. On page 15, line 1, strike out everything after "producers." through "referendum." in line 7.

On page 15, lines 9 and 10, strike out the following: "(1) that votes were cast by at least 50 per centum of the registered producers, and (2)".

On page 15, line 12, insert immediately after "referendum" the following: ", or by a majority of the producers voting in such referendum if such majority owned not less than two-thirds of the cattle owned by producers voting in the referendum. For purposes of determining the number of cattle owned by producers voting, each producer shall be credited with the largest number of cattle owned on any one day during the representative period".

On page 15, line 15, strike out everything after "referendum." through line 2 on page 16.

The House bill provides for approval of the order by referendum among "registered" cattle producers. The Secretary is to register the producers not less than 10 days prior to the date of the referendum. The order, to be effective, must be approved by at least two-thirds of the producers voting in the referendum, and at least 50 percent of the registered producers must vote in such referendum.

The Senate amendments delete the registration requirement of the House bill and otherwise modify the referendum provision. Under the

Senate amendments, the order would not be effective unless the Secretary determines that it is approved or favored by not less than two-thirds of the producers voting in the referendum, or by a majority of the producers voting in the referendum if such majority produced not less than two-thirds of the cattle owned by producers voting in the referendum. Also, the Senate amendments delete the provision of the House bill requiring the posting of sureties with the Secretary prior to the holding of a referendum.

## COMMITTEE CONSIDERATION

### I.

The Department of Agriculture currently administers several commodity research and promotion programs authorized by Federal statutes which are funded by producer assessments. H.R. 7656, the proposed Beef Research and Consumer Information Act, is closely patterned after the Cotton Research and Promotion Act and after the Egg Research and Consumer Information Act which was approved in the last Congress as Public Law 93-428.

H.R. 7656 would make funds available for market research to determine consumers' needs and desires as they pertain to beef. This will allow the beef industry to meet their specifications for different types of beef products and new or better ways to use them. There is also a need for production research and development—to do more in the development of new and different beef products. The program might devise new techniques of canning, freezing or freeze drying or otherwise preparing or preserving fresh meat; techniques that are desirable to the consumers and cost savers for the beef industry. It is important that there be continued nutritional research to increase existing knowledge of the nutritional value of beef and beef products. Today, consumers are growing more aware of the importance of good meat and are demonstrating their concern by wanting to know nutritional information about the food they eat.

The program authorized by H.R. 7656 will also enable production research on cattle and forages to be carried out so that beef can be produced more efficiently and economically. There is a need to conduct research on cattle diseases, cattle feed rations and efficiency, genetics and environmental considerations. At the moment the industry is facing a standstill in developing new means to increase production—with little Federal money committed to further agricultural research in this important area.

The program will also help develop better means of product distribution. There is a need to move beef from the point of production to the point of consumption as efficiently as possible—improving processing, transportation, storage and handling. Such improvements could be a factor in lowering retail beef prices. The Beef Board may at its discretion supply producers with current and projected supply and demand statistics. This will help producers in the prices they receive for beef and consumers in the prices they pay for beef. However, the Beef Board is expected to refrain from any attempts to control or manipulate the production and marketing of beef in order to artificially increase beef prices.

One of the critical needs of the industry is to develop foreign markets to allow production to be maintained at full capacity and provide a climate of stability for the industry. The benefits to the U.S. balance of payments that would accrue from increased marketing abroad is important to the domestic economy. The Committee expects that the Beef Board will give strong emphasis to this activity in the projects which it carries out.

## II

The original bills introduced to establish a beef research and promotion program were S. 777 and H.R. 3718.

S. 772 was introduced in the Senate on February 20, 1975, and hearings were held by the Subcommittee on Research and General Legislation, Committee on Agriculture and Forestry, on April 14, 1975.

A companion bill, H.R. 3718, was introduced in the House of Representatives on February, 24 1975, and hearings were held by the Subcommittee on Livestock and Grains, Committee on Agriculture on April 14, 1975.

At the hearings on S. 772 and H.R. 3718, the Department of Agriculture stated that it could not support the legislation as introduced, because (1) the producer assessment procedure presented legal problems and (2) the President's moratorium on new Federal spending programs would not permit appropriations for conducting the producer referendum.

Subsequently, the assessment process was modified to take account of the major objections of the Department of Agriculture.

The original bills and H.R. 7656 contain provisions to reimburse the Government for program costs. Under the original bills and H.R. 7656, the program, if approved by producers in a referendum, will not result in any cost to the Government since producers are to reimburse the Secretary—from assessments collected—for the cost of the referendum and for any administrative expenses incurred. The cost of the referendum would, therefore, be borne by the Government only if the program fails in the referendum.

## III

A new bill making changes in the manner of collecting assessments was introduced on June 5, 1975, as H.R. 7656. The bill was amended by the House Committee on Agriculture and subsequently passed by the House of Representatives on October 2, 1975.

On November 5, 1975, the Committee on Agriculture and Forestry adopted three basic amendments to H.R. 7656 and ordered the bill reported to the Senate. The amendments are discussed in that part of this report entitled "Committee Amendments".

## IV

The Committee believes that the major emphasis of the program authorized by H.R. 7656 should not be on advertising and paid media promotion, but rather on consumer information and education programs along with research into health and techniques for expanding and developing new markets. This approach will enable such programs to help both producers and consumers.

To date, most beef education and promotion programs have been conducted by the Beef Industry Council of the National Livestock and Meat Board, which operates on voluntary collections, and some 27 State beef councils. In 1974, the Beef Industry Council invested about \$1.5 million in programs of information, education, promotion, and nutrition research. In addition, the State beef councils collected

about \$2 million, most of which was spent in the States where collected. This total of \$3.5 million, when compared to total cattle sales, amounts to only 1/66 of one percent, far less than what some other commodities spend. Even so, the Beef Industry Council and State beef councils have been successful, but inadequate. It is projected that an assessment rate of 3/10 of one percent under this legislation will amount to \$30 million to \$40 million a year.

As stated in the bill, the program authorized by H.R. 7656 is not to preempt or interfere with the workings of existing State beef councils or boards. On the contrary, it is understood that approximately 10 percent of the total collections will be invested with State beef councils, providing such councils qualify as a contracting organization and submit programs that are complimentary to the national program.

## SECTION-BY-SECTION ANALYSIS

### *Short title*

The first section provides that the Act shall be known as the "Beef Research and Information Act".

### *Section 2. Legislative Findings and Declaration of Policy*

Section 2 explains the need for the program and the importance of the beef industry to the general economy of the nation. It states that cattle, beef and beef products either move in interstate commerce or directly burden or affect interstate commerce; that it is essential and in the public interest to provide a procedure through producer assessments for development and financing of a program of research, consumer and producer information and promotion to strengthen the cattle and beef industry's position in the marketplace and maintain and expand markets and uses for U.S. beef. Section 2 also provides that nothing in the bill should be construed as intending to control production.

### *Section 3. Definitions*

Section 3 defines pertinent terms used throughout the Act.

### *Section 4. Beef Research and Promotion Order*

Section 4 directs the Secretary of Agriculture, subject to the provisions of the Act, to issue or amend an order applicable to producers and slaughterers in all areas of the United States.

### *Section 5. Notice and Hearing*

Section 5 requires the Secretary to give due notice and opportunity for hearing upon a proposed order if he has reason to believe it will effectuate the purposes of the Act. An order may be submitted and a hearing may be requested by any organization certified under section 15, or by any interested person affected by the Act, including the Secretary.

### *Section 6. Findings and Issuance of an Order*

Section 6 requires the Secretary, following notice and hearing, to issue an order if he finds and sets forth in the order based on the evidence introduced at the hearing that the order will effectuate the declared policy of this Act.

### *Section 7. Permissive Terms in Order*

Section 7 provides for one or more of the following terms and conditions in the order:

(a) Provisions for plans or projects for advertising, promotion, producer information and consumer information, provided that such plans be directed toward increasing the general demand for cattle, beef, or beef products and the disbursement of funds for such purposes. No reference to private brand or trade names can be made if the Secretary determines it will discriminate against other persons.

(8)

(b) Provisions for research, market development projects, and studies with respect to the sale, distribution, marketing, utilization or production of cattle, beef or beef products and the creation of new products that would lead to expanded production, marketing, and utilization of cattle, beef, or beef products and the disbursement of funds for such purposes.

(c) Provisions under which slaughterers are to maintain and make available for inspection books and records and to file reports, as provided in the order, so that information may be made available to the Beef Board and the Secretary as appropriate for administration of the Act. All such information shall be kept confidential by the USDA, the Beef Board and contracting agencies having access to the information. Information may be disclosed only as deemed relevant by the Secretary and then only in a suit or administrative hearing involving the order under which the information was acquired. This provision does not prohibit issuance of general statements based on reports of persons subject to the order, or relating to refunds so long as they do not identify any particular persons, nor does this section prohibit publication of information relating to violations of the order by particular persons.

(d) Terms and conditions, not inconsistent with the Act, necessary to effectuate other provisions of the order.

### *Section 8. Required Terms in Order*

Section 8 provides that each order contain provisions for the following:

(a) Appointment by the Secretary of a Beef Board of not more than 68 members, and alternates, to administer the order, to make necessary rules and regulations not inconsistent with the order, to receive, investigate and report to the Secretary complaints of violations and recommended amendments to the order. The term of appointments to the Board are 3 years (with a maximum of 6 consecutive years)—initial terms to be for 1, 2, and 3 years. The Beef Board shall appoint from its members an executive committee, consisting of not less than seven nor more than eleven members who are broadly representative of the industry, with authority to employ a staff and conduct routine business within the policies determined by the Board. The geographic areas from which the greatest assessments are collected (the largest cattle-producing States) should have the most voice on the executive committee.

(b) Members of the Beef Board are to be appointed by the Secretary from nominations by eligible producer organizations within a geographic area. (Criteria for certifying an eligible organization are in section 15.) If the Secretary determines that the interests of a substantial number of producers are not represented by such organizations, nominations may be made in the manner authorized by the Secretary so that representation of producers on the Board reflects the proportion of cattle produced in each geographical area. Each designated geographical area is entitled to at least one member on the Board. The Beef Board shall redesignate from time to time (with the Secretary's approval) representation on the Board so that it continues to reflect the proportion of cattle in each geographical area.

(c) The Beef Board is to submit to the Secretary for his approval any plans or projects for advertising, sales promotion, consumer



information, producer information, and research. (The Secretary cannot initiate plans or projects; he can only approve or reject plans originated by the Beef Board.) Plans or projects can become effective only after receiving his approval.

(d) The Beef Board is to submit to the Secretary for prior approval each annual budget of anticipated expenses and disbursements. Copies of the budget shall also be forwarded by the Beef Board to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry.

(e)(1) An assessment, based on value of the cattle in the transaction, is to be paid by each seller of cattle to the purchaser when the producer sells or otherwise transfers ownership. This is the "value added" feature, under which each buyer collects the assessment from the seller and the assessment stays with the owner of the cattle until slaughter. Thus, each producer-seller pays his fair share, based on the value he has added to the cattle. The slaughterer is required to collect the assessment, based on the value of the transaction, from the producer who sold him the cattle or arranged for its slaughter, and remit the total assessment to the Beef Board. It is expected that the collection system will be largely self-policing and that enforcement among producers can be accomplished on a complaint basis as necessary. In the event no sales transaction occurs at point of slaughter (such as a packer slaughtering his own cattle or a producer taking his own animal to a locker plant for slaughter for home consumption), a fair value shall be attributed to the cattle for the purpose of determining the assessment. The Beef Board may exempt or vary the assessment on breeding animals until time of slaughter. (This is necessary, because breeding animals normally do not fit the "value added" concept, since they usually decrease in value as they grow older. They will be assessed at time of slaughter, however.) By basing assessments on the value of the sales transaction, rather than on each animal, the problem of accounting for an assessment on an animal that dies or decreases in value is minimized.

The Beef Board may collect directly from any producer any assessment collected which is not passed along due to the loss in value of the cattle.

(e)(2) The rate of assessment shall be prescribed in the order and shall cover expenses (including provision for a reserve) as the Secretary finds are reasonable and likely to be incurred by the Beef Board and any referendum and administrative costs incurred by the Secretary. The program will thus involve no governmental costs unless the program fails to carry in the producer referendum.

(e)(3) To facilitate the collection of assessments, the Beef Board may specify different collection and remittance procedures for slaughterers of different classes to recognize differences in marketing practices or procedures. (A large slaughterer might be required to remit weekly or monthly, while a small slaughterer might be required to remit quarterly or annually.)

(e)(4) If necessary, the Secretary may sue any person, subject to the order for collection of the assessment. The U.S. district courts are vested with jurisdiction over such suits regardless of the amount in controversy.

(f) The Beef Board must maintain records, submit such reports to the Secretary as he may prescribe, and account for all receipts and disbursements.

(g) The Beef Board may enter into contracts or agreements with other organizations to carry out activities authorized by the order and for the payments of their costs with funds collected under the order. (Other organizations may include State or other producer organizations conducting activities which will contribute to the accomplishment of the objectives outlined in sections 7 (a) and (b) of the Act.) All contracts with other organizations may provide for the contractor to submit to the Beef Board a plan together with a budget showing estimated costs for approval by the Secretary, and for the contractor to keep accurate records and make reports and an accounting for funds received and expended.

(h) No funds collected by the Beef Board may be used to influence governmental policy or action, except to recommend amendments to the order.

(i) Members of the Beef Board shall serve without compensation but may be reimbursed for their reasonable expenses.

#### *Section 9. Requirement of Referendum and Cattle Producer Approval.*

Section 9 requires the Secretary to conduct a referendum to obtain approval of cattle producers before the order can become effective. Approval must be made by not less than two-thirds of the producers voting, or by a majority of the producers voting if such majority owned not less than two-thirds of the cattle owned by producers voting. To be eligible to vote, producers must have been engaged in the production of cattle at any time during a consecutive twelve-month representative period preceding the date of the referendum. The largest number owned on any one day during the representative period will be used to determine the number of cattle owned by a producer. The Beef Board will reimburse the Secretary for expenses incurred in conducting the referendum.

#### *Section 10. Suspension and Termination of Orders*

Section 10 provides for the Secretary to terminate or suspend operations of an order or a provision in an order if he finds it does not effectuate the policy of the Act. The Secretary may conduct a referendum at any time and shall hold a referendum upon request by 10 percent or more of producers voting in the referendum approving the order to determine whether producers favor termination or suspension. Suspension or termination of an order by the Secretary is required 6 months after approval by a majority of the producers voting who during a representative period were cattle producers and produced more than 50 percent of the cattle produced by those voting in the referendum.

#### *Section 11. Provisions Applicable to Amendments*

Section 11 states that the same provisions applicable to orders shall apply to any amendments thereto.

#### *Section 12. Producer Refund*

Section 12 specifies that any producer, upon request, may obtain a refund of the assessment that he paid but not of the assessment that he collected from other producers. He must request the refund

information, producer information, and research. (The Secretary cannot initiate plans or projects; he can only approve or reject plans originated by the Beef Board.) Plans or projects can become effective only after receiving his approval.

(d) The Beef Board is to submit to the Secretary for prior approval each annual budget of anticipated expenses and disbursements. Copies of the budget shall also be forwarded by the Beef Board to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry.

(e)(1) An assessment, based on value of the cattle in the transaction, is to be paid by each seller of cattle to the purchaser when the producer sells or otherwise transfers ownership. This is the "value added" feature, under which each buyer collects the assessment from the seller and the assessment stays with the owner of the cattle until slaughter. Thus, each producer-seller pays his fair share, based on the value he has added to the cattle. The slaughterer is required to collect the assessment, based on the value of the transaction, from the producer who sold him the cattle or arranged for its slaughter, and remit the total assessment to the Beef Board. It is expected that the collection system will be largely self-policing and that enforcement among producers can be accomplished on a complaint basis as necessary. In the event no sales transaction occurs at point of slaughter (such as a packer slaughtering his own cattle or a producer taking his own animal to a locker plant for slaughter for home consumption), a fair value shall be attributed to the cattle for the purpose of determining the assessment. The Beef Board may exempt or vary the assessment on breeding animals until time of slaughter. (This is necessary, because breeding animals normally do not fit the "value added" concept, since they usually decrease in value as they grow older. They will be assessed at time of slaughter, however.) By basing assessments on the value of the sales transaction, rather than on each animal, the problem of accounting for an assessment on an animal that dies or decreases in value is minimized.

The Beef Board may collect directly from any producer any assessment collected which is not passed along due to the loss in value of the cattle.

(e)(2) The rate of assessment shall be prescribed in the order and shall cover expenses (including provision for a reserve) as the Secretary finds are reasonable and likely to be incurred by the Beef Board and any referendum and administrative costs incurred by the Secretary. The program will thus involve no governmental costs unless the program fails to carry in the producer referendum.

(e)(3) To facilitate the collection of assessments, the Beef Board may specify different collection and remittance procedures for slaughterers of different classes to recognize differences in marketing practices or procedures. (A large slaughterer might be required to remit weekly or monthly, while a small slaughterer might be required to remit quarterly or annually.)

(e)(4) If necessary, the Secretary may sue any person, subject to the order for collection of the assessment. The U.S. district courts are vested with jurisdiction over such suits regardless of the amount in controversy.

(f) The Beef Board must maintain records, submit such reports to the Secretary as he may prescribe, and account for all receipts and disbursements.

(g) The Beef Board may enter into contracts or agreements with other organizations to carry out activities authorized by the order and for the payments of their costs with funds collected under the order. (Other organizations may include State or other producer organizations conducting activities which will contribute to the accomplishment of the objectives outlined in sections 7 (a) and (b) of the Act.) All contracts with other organizations may provide for the contractor to submit to the Beef Board a plan together with a budget showing estimated costs for approval by the Secretary, and for the contractor to keep accurate records and make reports and an accounting for funds received and expended.

(h) No funds collected by the Beef Board may be used to influence governmental policy or action, except to recommend amendments to the order.

(i) Members of the Beef Board shall serve without compensation but may be reimbursed for their reasonable expenses.

#### *Section 9. Requirement of Referendum and Cattle Producer Approval.*

Section 9 requires the Secretary to conduct a referendum to obtain approval of cattle producers before the order can become effective. Approval must be made by not less than two-thirds of the producers voting, or by a majority of the producers voting if such majority owned not less than two-thirds of the cattle owned by producers voting. To be eligible to vote, producers must have been engaged in the production of cattle at any time during a consecutive twelve-month representative period preceding the date of the referendum. The largest number owned on any one day during the representative period will be used to determine the number of cattle owned by a producer. The Beef Board will reimburse the Secretary for expenses incurred in conducting the referendum.

#### *Section 10. Suspension and Termination of Orders*

Section 10 provides for the Secretary to terminate or suspend operations of an order or a provision in an order if he finds it does not effectuate the policy of the Act. The Secretary may conduct a referendum at any time and shall hold a referendum upon request by 10 percent or more of producers voting in the referendum approving the order to determine whether producers favor termination or suspension. Suspension or termination of an order by the Secretary is required 6 months after approval by a majority of the producers voting who during a representative period were cattle producers and produced more than 50 percent of the cattle produced by those voting in the referendum.

#### *Section 11. Provisions Applicable to Amendments*

Section 11 states that the same provisions applicable to orders shall apply to any amendments thereto.

#### *Section 12. Producer Refund*

Section 12 specifies that any producer, upon request, may obtain a refund of the assessment that he paid but not of the assessment that he collected from other producers. He must request the refund

within 60 days after the end of the month in which the sale or slaughter of the cattle occurred and the Beef Board must issue the refund within 60 days after the request is received.

*Section 13. Petition and Review*

Section 13 authorizes any person subject to an order to petition the Secretary for modification or exemption from any provision of an order which he believes not in accordance with law and obtain a hearing on his petition. The Secretary's ruling on the petition is final if in accordance with law.

Section 13 also vests the U.S. district courts in the district in which the petitioner resides or has his principal place of business with jurisdiction to review the ruling if a complaint is filed within 20 days from entry of the ruling. If the court finds that the ruling is not in accord with law, it would remand the proceeding to the Secretary with directions to make a proper ruling or take further proceedings.

*Section 14. Enforcement*

Section 14 vests the U.S. district courts with jurisdiction to enforce the order and regulations issued pursuant to this Act and prevent and restrain persons from violations. The Secretary must refer civil actions to the Attorney General, except that he may handle minor violations by suitable written notice or warning.

Section 14 also provides that any person violating any provision of an order is liable for payment of a civil penalty of not less than \$1,000 or more than \$10,000 recoverable in a civil suit brought by the United States. The remedies of this section are in addition to other available remedies.

*Section 15. Certification of Organizations*

Section 15 spells out the criteria for the Secretary to follow in certifying organizations that may request issuance of an order and nominate members for the Beef Board. Main considerations are: geographic territory covered; nature and size of the organization's total active membership and proportion of such total accounted for by cattle producers, and volume of cattle produced by the members in each State; extent to which the membership is represented in setting the organization's policies; evidence of stability and permanency of the organization; sources from which funds are derived, functions of the organization and the organization's ability and willingness to further the aims and objectives of this Act. The main consideration shall be whether its producer membership consists of a substantial number of producers who produce a substantial number of cattle, subject to the provisions of the Act; i.e. whether sales of such cattle are subject to payment of the assessment. Thus, organizations which largely represent persons who produce breeding cattle would not be given the same consideration as an organization which primarily represents persons engaged in the production of cattle for slaughter. The Secretary's determination is final. When more than one organization is certified in a geographic area, such organizations may caucus to determine the area's nominations.

*Section 16. State Beef Boards*

Section 16 makes clear that this Act shall not preempt or interfere with the workings of any State beef board, State beef council or State beef promotion organization. (State organizations receiving funds under contracts awarded in accordance with Section 8(g) of the Act would, however, be subject to provisions of the Act relating to expenditures of such funds.)

*Section 17. Regulations*

Section 17 authorizes the Secretary to issue regulations—with the force and effect of law—necessary to carry out the provisions of this Act.

*Section 18. Investigations: Power to Subpoena and Take Oaths and Affirmation Aids of Courts*

Section 18 authorizes the Secretary to make any investigation deemed necessary to carry out his responsibilities under the Act or to investigate any suspected violation of the Act or of an order or rule or regulation issued under the Act. The Secretary may administer oaths and affirmations, subpoena witnesses and records, and may invoke the aid of the courts of the United States in requiring attendance and testimony of witnesses and production of documents. Failure to obey a court order may be punished by the court as a contempt.

*Section 19. Separability*

Section 19 states that if any provision of the Act is held invalid, it will not affect the validity of the remainder of the Act.

*Section 20. Authorization*

Section 20 authorizes money in the Treasury to be appropriated to carry out the provisions of the Act but not to pay any expenses of the Beef Board.

*Section 21. Effective Date*

Section 21 states that the Act shall take effect upon enactment.

## DEPARTMENTAL VIEWS

## I

The U.S. Department of Agriculture submitted the following report on H.R. 3718, the predecessor bill to H.R. 7656, and the bill on which the hearing was held by the Subcommittee on Livestock and Grains, of the House Committee on Agriculture on April 14, 1975:

DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY,  
Washington, D.C., April 11, 1975.

HON. THOMAS S. FOLEY,  
Chairman, Committee on Agriculture,  
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We appreciate this opportunity to respond to your request for a report on H.R. 3718, a bill "To enable cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products."

H.R. 3718 would authorize the Secretary to issue an order providing for the establishment of a Beef Board which would consist of up to 68 members to develop, subject to the Secretary's approval, appropriate plans or projects for research, advertising, promotion and consumer education with respect to cattle, beef, and beef products. Members of the Beef Board would be appointed by the Secretary from qualified nominees representing producers from regions of the United States designated by the Secretary. Producer approval by referendum would be required before the order could become effective. After the order is approved, the Secretary may conduct a referendum to determine if producers favor termination of that order.

With the exception of costs incurred by the Department in developing the order and conducting the referendum, the program would be self-financing. After approval of the order, USDA administrative costs would be defrayed by assessment. The assessment paid by producers and collected by purchasers or handlers to support the order will be based on the value of cattle, beef, or beef products sold. The purchaser at the point of slaughter will remit the assessment to the Beef Board. Any other purchaser will hold the assessment, and pay the same to any person to whom he subsequently sells the cattle, along with the added assessment resulting from the increase in value of the cattle under his ownership. Such purchasers are considered to be producers for purposes of assessment. Producers not favoring the program would have the right to demand and receive a refund of their assessment.

This Department currently administers several commodity research and promotion programs funded by producer assessments. The proposed Beef Research and Consumer Information Act is closely

patterned after the Cotton Research and Promotion Act and the Egg Research and Consumer Information Act which was approved in the last Congress as Public Law 93-428. However, this proposed bill contains a unique feature with regard to the calculation and collection of assessments which presents serious legal and administrative problems.

The assessment procedure currently contained in the bill would present serious legal problems. The proposed legislation requires that each time cattle are sold the seller must pay the purchaser an assessment based on the sale price of the animal. Cattle sold for breeding purposes are exempt from this requirement. The purchaser is required to collect that assessment and pay the same to any person to whom he subsequently sells the animal, along with an added assessment based on the increase in value of the animal under his ownership. The purchaser at the point of slaughter must receive from the seller the total assessment based upon the sale price of the animal at the time of slaughter, and that amount must be paid to the Beef Board. If the animal increases in value through the production process, as would normally be the case, the assessment based on the value of the cattle at the point of slaughter should equal the total of the prior assessments. However, if the sales value of an animal declines or if an animal dies after any assessment has been collected on that animal, or if heifers purchased as feeders should be diverted for breeding purposes, the owner would technically be entitled to retain all or part of the assessments paid to him by other producers, since there is no provision in the bill for this money to be remitted to the Beef Board. In our opinion, the omission of such procedures represents a serious deficiency in the bill and could raise constitutional problems.

Further, we believe it would be administratively impossible to enforce the provision which requires that assessments be made and collected for each sale. Reasonable enforcement would require detailed recordkeeping and periodic audits to insure compliance with this provision. Cattlemen would be required to keep records of assessments collected on each individual animal. There are about 40 million cattle slaughtered annually. Because of the complexity of the cattle production and marketing system, it would be impractical to expect cattlemen to accurately maintain records of assessments collected and paid. Thus, it would be virtually impossible to determine compliance with the proposed bill.

As long as the principle of assessments based on value added is retained in the bill, the problems associated with determining compliance appear insurmountable. We shall be glad to assist the Congress or the industry in appropriate revision of the bill to overcome these difficulties.

H.R. 3718 contains authority for an appropriation to cover the costs incurred by the Department in developing an order and conducting a referendum. Because of the number of beef producers (approximately 2 million), these costs would be relatively large. We estimate that an appropriation of about \$750,000 would be needed to cover the Department's costs in developing an order, holding hearings, and conducting the referendum which would be associated with any beef promotion program of this magnitude. After approval of the order, USDA administrative costs approximating \$100,000 to \$150,000

annually would be defrayed by assessment. Beef Board expenditures would depend on the amount of revenue generated by the assessment but would approximate \$40 million annually. These are rough estimates since we have had no experience with programs of this nature in the beef industry.

With respect to the provisions of Public Law 91-190, Section 102(2)(C), we believe this legislation would have no significant impact on the quality of the environment.

Because of the above problems and the President's moratorium on new Federal spending programs we cannot support enactment of H.R. 3718 at this time.

The Office of Management and Budget advises that while there is no objection to the submission of this report, enactment of H.R. 3718 would not be in the long-run interest of agriculture, the food industry, or consumers in general. The involvement of the Federal Government in the promotion of a particular commodity at the expense of other commodities would compel other commodity groups to seek similar assistance in order to maintain their share of the food market. The net effect of such action would be to unnecessarily increase costs to both producers and consumers.

Sincerely,

RICHARD L. FELTNER,  
*Assistant Secretary.*

The Department of Agriculture submitted a similar report on S. 772.

## II

After the hearings on H.R. 3718, the legislation was changed to take account of suggestions made at the hearings and introduced in revised form as H.R. 7656. The Department's position on H.R. 7656 is set forth in the following letter:

DEPARTMENT OF AGRICULTURE,  
*Washington, D.C., June 16, 1975.*

HON. THOMAS S. FOLEY,  
*Chairman, Committee on Agriculture,  
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to the request of June 13 from the Committee's staff for the Department's position on H.R. 7656, a bill "to enable cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer information, and to improve, maintain, and develop markets for cattle, and beef products."

Department personnel have worked closely with the Beef Development Task Force in redrafting H.R. 3718 which was introduced on June 5 as H.R. 7656. The administrative and legal problems referred to in the report of April 11 on H.R. 3718 have been largely overcome. However, the Department's concern with the "value added" features have not been fully eliminated. H.R. 7656 requires each producer-buyer and slaughterer to collect from the producer-seller an assessment based on the value of the cattle involved in a transaction. But only slaughterers are required to maintain and make available for inspection records of such transactions. The Department recognizes that because

of the size of the cattle industry and the complexity of cattle marketing, the assessment method contained in the bill provides for an equitable and practicable collection system.

The Department also agrees with the Beef Development Task Force that the collection system will be largely self-policing and that adequate enforcement among producers can be accomplished on a complaint basis as necessary. If the Committee concurs with this view of enforcement requirements and so indicates in its report on the bill, the Department has no legal or administrative objections to the enactment of H.R. 7656.

The Administration's position with respect to new Federal spending programs and the objections of the Office of Management and Budget to promotion programs for agricultural commodities remain as stated in the April 11 report on H.R. 3718.

Sincerely,

RICHARD L. FELTNER,  
*Assistant Secretary.*

[NOTE.—The Beef Development Task Force was formed on a broad base cattle industry and marketing basis in 1974, in order to develop a program which now is incorporated in the Beef Research and Information Act. The Organizations represented on the Beef Development Task Force are as follows: American National Cattle-men's Association; National Livestock Feeders Association; National Live Stock & Meat Board; United Dairy Industry Association; American National CowBelles; Competitive Livestock Marketing Association; National Livestock Dealers Association; and Central Public Markets.]

## III

The Department of Agriculture submitted the following report on H.R. 7656, as amended by the Committee on Agriculture and Forestry:

U.S. DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., November 10, 1975.*

HON. HERMAN E. TALMADGE,  
*Chairman, Committee on Agriculture and Forestry,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This responds to a request from your staff for our comments on H.R. 7656, the proposed "Beef Research and Information Act," as it was marked up in Committee on November 5, 1975.

We have no objection to the enactment of this proposed bill if amended to provide that the Department shall be reimbursed for any costs it incurs in the conduct of the referendum regardless of the outcome of the referendum.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,  
*Under Secretary.*

## COST ESTIMATE

In accordance with section 252 of the Legislative Reorganization Act of 1970, the Committee estimates that no measurable cost would be incurred by the Federal Government as the result of enactment of H.R. 7656. The Committee estimates that only minimal administrative expenses would be incurred in the initial establishment of the Beef Board.

It is expected that the Agricultural Stabilization and Conservation Service (ASCS) of the Department of Agriculture will organize and conduct the referendum through their county offices. This will utilize existing personnel and require an estimated cash outlay of \$6,500.

The ASCS estimates (see following table) that the total cost of a referendum would be \$319,900 at 25% participation, \$379,660 at 33% participation, and would be paid to the Department of Agriculture by the Beef Board from assessed funds. Until a successful referendum is passed, however, the costs would be paid by the Department of Agriculture.

### ESTIMATES FOR HOLDING A BEEF PRODUCERS REFERENDUM

[1,881,010 cattle farms in 1974]

	33 percent return	25 percent return <sup>1</sup>
<b>Washington:</b>		
Preparation and mailing procedure.....	\$500	\$500
Printing of ballot (1,000,000 at \$6.00 per thousand).....	6,000	6,000
<b>County office:</b>		
Discussion and accepting ballots, processing absentee requests (average = 5 minutes per producer):		
5 minutes × 630,000 producers = 6,560 days × \$36.00.....	236,160	
5 minutes × 470,250 producers = 4,900 days × \$36.00.....		176,400
<b>Reviewing and counting ballots:</b>		
1 county committeeman at ½ day each.....	15	15
1 CED at ½ day.....	25	25
Report.....	10	10
Subtotal.....	50	50
All counties (2,740 × 50).....	137,000	137,000
<b>Total estimate.....</b>	<b>379,660</b>	<b>319,900</b>

<sup>1</sup> Based on past experience with MQ referenda, percent return likely to be about 25 percent.

## BEEF RESEARCH AND INFORMATION ACT

DECEMBER 10, 1975.—Ordered to be printed

Mr. POAGE, from the committee of conference,  
submitted the following

### CONFERENCE REPORT

[To accompany H.R. 7656]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7656) to enable cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer information, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 5, 18, and 19.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 6, 7, 8, 9, 11, 12, 13, 15, 16, and 17, and agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

On page 2, line 14, of the Senate engrossed amendments, strike out "never" and insert *not*

And the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

Strike out the matter proposed to be stricken by the Senate amendment, and on page 15, line 15, of the House engrossed bill, after the period insert the following:

*In any such referendum under this Act, a producer shall be permitted to vote in person or by mail as determined by the Secretary. Such producer shall submit his vote in a separate, sealed envelope provided by the Secretary, and shall submit separately a form, provided by the Secretary and completed by such person, containing information, which shall include the number of cattle such producer claims credit*

for during the representative period, to be used in determining the eligibility of the producer to vote in the referendum. Such vote and form shall be submitted to the locally designated official appointed by the Secretary to conduct the referendum. During the 10-day period (excluding Saturdays, Sundays, and holidays) beginning on the day immediately following the last day on which votes may be submitted, such local referendum agent shall afford any person (1) an opportunity to review, in the local offices of the Department, the eligibility criteria submitted by any producer who has voted in the referendum, and (2) an opportunity to submit to the local referendum agent a written statement challenging the eligibility of any producer who has voted in the referendum. Before counting the vote of any producer, the agent shall review the producer's eligibility to vote and any challenge thereto. If the local referendum agent determines that such producer is ineligible to vote, he shall notify such producer by registered or certified mail that his ballot has been marked "challenged". Ballots so cast shall be segregated and no such ballot shall be counted until the challenge has been removed. Such person whose ballot has been challenged may appeal to the Secretary within three days after he has been so notified. The Secretary shall decide within seven days after the appeal is perfected whether the producer was eligible to vote. If the appeal is denied, the Secretary shall notify the producer by registered or certified mail and the producer may within three days of the receipt of such notice appeal to the United States District Court in the district wherein he resides. The decision of such court shall be final and not appealable. If the Secretary decides that the producer was qualified to vote, the word "challenged" shall be stricken from the producer's ballot and the ballot shall be treated as if it had not been challenged. The Secretary shall insure that information with regard to voting and the challenging of ballots is generally publicized in the community. Prior to the holding of the referendum, sureties shall have posted a bond or other security, acceptable to the Secretary, in an amount which the Secretary shall determine to be sufficient to pay any expenses incurred for the conduct of the referendum. For the purpose of this section, the term "expenses incurred for the conduct of the referendum" shall include all costs incurred by the Government in connection therewith, except for salaries of Government employees.

And the Senate agree to the same.

W. R. POAGE,  
BOB BERGLAND,  
JERRY LITTON,  
TOM HARKIN,  
JACK HIGHTOWER,  
WILLIAM C. WAMPLER,  
KEITH G. SEBELIUS,  
CHARLES THONE,

*Managers on the Part of the House.*

HERMAN E. TALMADGE,  
GEORGE MCGOVERN,  
DICK CLARK,  
PATRICK LEAHY,  
ROBERT DOLE,  
MILTON R. YOUNG,  
HENRY BELLMON,

*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7656) to enable cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer information, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

Except for clarifying, clerical, and necessary conforming changes, the differences between the two Houses and the adjustments made in the committee of conference are noted below. (Amendments numbered 5 and 19 are not dealt with below because they deal with clarifying, clerical, and necessary conforming changes.)

### AMENDMENT NO. 1.—FALSE OR MISLEADING CLAIMS OR STATEMENTS

The Senate amendment provided that no advertising, consumer education, or sales promotion programs established under the Act shall make use of (a) false or misleading claims in behalf of cattle, beef, or beef products, or (b) false or misleading statements with respect to quality, value, or use of any competing product.

The House bill did not contain a comparable provision.

The House receded.

### AMENDMENTS NO. 2 AND 3.—EXECUTIVE COMMITTEE OF THE BEEF BOARD

The House bill authorized the Beef Board to appoint an executive committee for the purposes of employing a staff and conducting routine business within the policies determined by the Beef Board.

The Senate amendments required the appointment of such an executive committee and provided that the members of the committee must be broadly representative of the industry.

The House receded.

### AMENDMENT NO. 4.—NOMINATIONS TO THE BEEF BOARD BY GENERAL FARM ORGANIZATIONS

The Senate amendment authorized the Secretary to make appointments to the Beef Board from nominations submitted by general farm organizations.

The House bill did not contain a comparable provision. However, the House bill provided specific guidelines for the Secretary to follow in certifying organizations that may nominate members for the Beef Board. The report of the House Committee on Agriculture states that



"the Committee intends that general farm organizations be considered for certification as well as cattlemen's organizations".

The House receded.

AMENDMENTS NO. 6, 7, AND 8.—SUBMISSION OF ANNUAL BUDGETS OF THE BEEF BOARD TO THE HOUSE AND SENATE AGRICULTURE COMMITTEES

The Senate amendment deleted the requirement in the House bill that the annual budgets of the Beef Board be approved by the House and Senate Agriculture Committees. However, under the Senate amendments, copies of the budgets are to be submitted to such Committees as provided in the House bill.

The House receded.

AMENDMENT NO. 9.—EXEMPTION OF CATTLE SLAUGHTERED FOR A PRODUCER'S HOME CONSUMPTION

The Senate amendment provided that cattle slaughtered for his own home consumption by a producer who has been the sole owner of such cattle shall not be subject to assessment.

The House bill did not contain a comparable provision.

The House receded.

AMENDMENT NO. 10.—LIMITATION ON RATE OF ASSESSMENT

The Senate amendment provided that the aggregate rate of assessment shall "never" exceed one-half of 1 percent.

The House bill did not contain a comparable provision.

The committee of conference agreed to the Senate amendment but changed the word "never" to "not".

AMENDMENTS NO. 11, 12, 13, AND 14.—CONDUCT OF REFERENDUM

The House bill provided for approval of the order by a referendum among "registered" cattle producers. Under the House bill, the Secretary is to register the producers not less than 10 days prior to the date of the referendum. The order to be effective must be approved by at least two-thirds of the producers voting in the referendum, and at least 50 percent of the registered producers must vote in such referendum.

The Senate amendments deleted the registration requirement of the House bill and otherwise modified the referendum provision. Under the Senate amendments, the order would not be effective unless it is approved by not less than two-thirds of the producers voting in the referendum, or by a majority of producers voting in the referendum if such majority owned not less than two-thirds of the cattle owned by producers voting in the referendum. Also, the Senate amendments deleted—

(a) the provision in the House bill requiring that eligible voter lists and ballots cast in the referendum be retained for a period of not less than 12 months after they are cast for audit

and recount in the event the results of the referendum are challenged; and

(b) the provision in the House bill requiring that sureties post a bond or security prior to the holding of the referendum sufficient to pay the costs—such as printing ballots and preparation and mailing procedures of the referendum—should the order fail to gain the approval of the producers.

The committee of conference agreed to the Senate amendments with certain modifications. Under the language agreed to by the committee of conference, producers are required to submit evidence of their eligibility to vote at the time of voting and may vote either in person or by mail as determined by the Secretary. A detailed procedure is provided under which any person may challenge the eligibility of any person who has voted in the referendum. Persons whose ballots are challenged may appeal to the Secretary and, in the event of an adverse ruling, obtain judicial review in the United States district court. The Secretary is to insure that information with regard to voting and the challenging of ballots is generally publicized in the community.

In addition, under the language agreed to by the committee of conference, the Secretary is to take such precautions as he deems necessary to assure that the Government is reimbursed for its out-of-pocket expenses incident to the conduct of the referendum whether or not the order is approved. Such out-of-pocket expenses would include all costs incurred by the Government (except the salaries of Federal employees). The items of costs could include the following:

COST OF HEARINGS

1. Travel for Federal employees
2. Per diem for Federal employees
3. Transcript
4. Printing of record
5. Facilities

COST OF REFERENDUM

6. Preparation of ballots
7. Printing of ballots

AMENDMENTS NO. 15, 16, AND 17.—PENALTY FOR VIOLATING ANY PROVISION OF THE ORDER OR FAILING TO COLLECT OR REMIT ANY ASSESSMENT

The House bill provided that any person violating any provision of an order or failing or refusing to collect or remit any assessment is liable for payment of a civil penalty of not less than \$1,000 or more than \$10,000 recoverable in a civil suit brought by the United States.

The Senate amendments retained the civil penalty provision but modified it to provide that—

(a) no penalty is applicable unless the violation of the order or the failure or refusal to collect or remit any assessment is "willful"; and

(b) the maximum penalty which may be collected shall not exceed \$1,000.

The House receded. The penalty would, of course, be in addition to any assessment payable by the producer or slaughterer.

AMENDMENT No. 18.—CONSUMER REPRESENTATION ON RESEARCH AND PROMOTION BOARDS

The Senate bill added a new section to the House bill requiring that at least 25 percent of the members of the Beef Board, the Egg Board, the Cotton Board, the Potato Board, and the Wool Councils be persons appointed by the Secretary from nominations submitted by the membership of bona fide consumer organizations. The organizations must be knowledgeable and experienced in issues relating to food and nutrition policy, specially qualified to represent the interests of consumers, and have no interest directly or indirectly (a) in any food industry corporation or other organization or (b) in any person or entity engaged in the commercial production of the product or commodity promoted by the particular board or in sale, promotion, or distribution of such product or commodity.

The House bill did not contain a comparable provision.

The committee of conference agreed to delete the Senate amendment. However, the conferees intend that the Beef Board solicit consumer input—ideas, suggestions, and recommendations—on problems that need attention and projects that deserve priority. Accordingly, the conferees recommend that the Secretary appoint five consumer advisors to the Beef Board. Such advisors shall be persons determined by the Secretary to be knowledgeable in nutrition and food. It is expected that the Beef Board shall reimburse the consumer advisors for the reasonable expenses they incur in performing their duties as advisors.

W. R. POAGE,  
BOB BERGLAND,  
JERRY LITTON,  
TOM HARKIN,  
JACK HIGHTOWER,  
WILLIAM C. WAMPLER,  
KEITH G. SEBELIUS,  
CHARLES THONE,

*Managers on the Part of the House.*

HERMAN E. TALMADGE,  
GEORGE MCGOVERN,  
DICK CLARK,  
PATRICK LEAHY,  
ROBERT DOLE,  
MILTON R. YOUNG,  
HENRY BELLMON,

*Managers on the Part of the Senate.*

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## BEEF RESEARCH AND INFORMATION ACT

APRIL 15, 1976.—Ordered to be printed

Mr. POAGE, from the committee of conference,  
submitted the following

### CONFERENCE REPORT

[To accompany H.R. 7656]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H.R. 7656 to enable cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer information, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 5, 11, 12, 13, 18, and 19.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 6, 7, 8, 9, 15, 16, and 17, and agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

On page 2, line 14, of the Senate engrossed amendments, strike out "never" and insert *not*

And the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: Restore the matter stricken out by such amendment and amend such matter to read as follows:

*Eligible voter lists and ballots cast in the referendum shall be retained by the Secretary for a period of not less than twelve months after they are cast for audit and recount in the event the results of the referendum are challenged and either the Secretary or the Courts determine a recount and retabulation of results is appropriate. Prior*

to the holding of the referendum, sureties shall have posted a bond or other security, acceptable to the Secretary, in an amount which the Secretary shall determine to be sufficient to pay any expenses incurred for the conduct of the referendum. For the purpose of this section, the term "expenses incurred for the conduct of the referendum" shall include all costs incurred by the Government in connection therewith, except for salaries of Government employees.

And the Senate agree to the same.

W. R. POAGE,  
JOHN MELCHER,  
BOB BERGLAND,  
JERRY LITTON,  
TOM HARKIN,  
JACK HIGHTOWER,  
WILLIAM C. WAMPLER,  
KEITH G. SEBELIUS,  
CHARLES THONE,

*Managers on the Part of the House.*

HERMAN E. TALMADGE,  
GEORGE MCGOVERN,  
JAMES B. ALLEN,  
DICK CLARK,  
PATRICK J. LEAHY,  
ROBERT DOLE,  
MILTON R. YOUNG,  
HENRY BELLMON,

*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7656) to enable cattle producers to establish, finance, and carry out a coordinated program of research, producer, and consumer information, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

Except for clarifying, clerical, and necessary conforming changes, the differences between the two Houses and the adjustments made in the committee of conference are noted below. (Amendments numbered 5 and 19 are not dealt with below because they deal with clarifying, clerical, and necessary conforming changes.)

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The Senate amendment provided that no advertising, consumer education, or sales promotion programs established under the Act shall make use of (a) false or misleading claims in behalf of cattle, beef, or beef products, or (b) false or misleading statements with respect to quality, value, or use of any competing product.

The House bill did not contain a comparable provision.

The House receded.

### AMENDMENTS NO. 2 AND 3.—EXECUTIVE COMMITTEE OF THE BEEF BOARD

The House bill authorized the Beef Board to appoint an executive committee for the purposes of employing a staff and conducting routine business within the policies determined by the Beef Board.

The Senate amendments required the appointment of such an executive committee and provided that the members of the committee must be broadly representative of the industry.

The House receded.

### AMENDMENT NO. 4.—NOMINATIONS TO THE BEEF BOARD BY GENERAL FARM ORGANIZATIONS

The Senate amendment authorized the Secretary to make appointments to the Beef Board from nominations submitted by general farm organizations.

The House did not contain a comparable provision. However, the House bill provided specific guidelines for the Secretary to follow in certifying organizations that may nominate members for the Beef

Board. The report of the House Committee on Agriculture states that "the Committee intends that general farm organizations be considered for certification as well as cattlemen's organizations".

The House receded.

AMENDMENTS NO. 6, 7, AND 8.—SUBMISSION OF ANNUAL BUDGETS OF THE BEEF BOARD TO THE HOUSE AND SENATE AGRICULTURE COMMITTEES

The Senate amendment deleted the requirement in the House bill that the annual budgets of the Beef Board be approved by the House and Senate Agriculture Committees. However, under the Senate amendments, copies of the budgets are to be submitted to such Committees as provided in the House bill.

The House receded.

AMENDMENT NO. 9.—EXEMPTION OF CATTLE SLAUGHTERED FOR A PRODUCER'S HOME CONSUMPTION

The Senate amendment provided that cattle slaughtered for his own home consumption by a producer who has been the sole owner of such cattle shall not be subject to assessment.

The House bill did not contain a comparable provision.

The House receded.

AMENDMENT NO. 10.—LIMITATION ON RATE OF ASSESSMENT

The Senate amendment provided that the aggregate rate of assessment shall "never" exceed one-half of 1 percent.

The House bill did not contain a comparable provision.

The committee of conference agreed to the Senate amendment but changed the word "never" to "not".

AMENDMENTS NO. 11, 12, 13, AND 14.—CONDUCT OF REFERENDUM

The House bill provided for approval of the order by a referendum among "registered" cattle producers. Under the House bill, the Secretary is to register the producers not less than 10 days prior to the date of the referendum. The order to be effective must be approved by at least two-thirds of the producers voting in the referendum, and at least 50 percent of the registered producers must vote in such referendum.

The Senate amendments deleted the registration requirement of the House bill and otherwise modified the referendum provision. Under the Senate amendments, the order would not be effective unless it is approved by not less than two-thirds of the producers voting in the referendum, or by a majority of producers voting in the referendum if such majority owned not less than two-thirds of the cattle owned by producers voting in the referendum. Also, the Senate amendments deleted—

(a) the provision in the House bill requiring that eligible voter lists and ballots cast in the referendum be retained for a period of not less than 12 months after they are cast for audit

and recount in the event the results of the referendum are challenged; and

(b) the provision in the House bill requiring that sureties post a bond or security prior to the holding of the referendum sufficient to pay the costs—such as printing ballots and preparation and mailing procedures of the referendum—should the order fail to gain the approval of the producers.

The Senate receded to the House provisions relating to the registration and voting procedures and retention of eligible voter lists and ballots cast in the referendum.

The committee of conference agreed to a modification of the House provision for reimbursing the Government for the costs of conducting the referendum. Under the language agreed to, the Secretary is to take such precautions as he deems necessary to assure that the Government is reimbursed for its out-of-pocket expenses incident to the conduct of the referendum whether or not the order is approved. Such out-of-pocket expenses would include all costs incurred by the Government (except the salaries of Federal employees). The items of costs could include the following:

COST OF HEARINGS

1. Travel for Federal employees.
2. Per diem for Federal employees
3. Transcript
4. Printing of record
5. Facilities

COST OF REFERENDUM

6. Preparation of ballots
7. Printing of ballots

AMENDMENTS NO. 15, 16, AND 17.—PENALTY FOR VIOLATING ANY PROVISION OF THE ORDER OR FAILING TO COLLECT OR REMIT ANY ASSESSMENT

The House bill provided that any person violating any provision of an order or failing or refusing to collect or remit any assessment is liable for payment of a civil penalty of not less than \$1,000 or more than \$10,000 recoverable in a civil suit brought by the United States.

The Senate amendments retained the civil penalty provision but modified it to provide that—

(a) no penalty is applicable unless the violation of the order or the failure or refusal to collect or remit any assessment is "willful"; and

(b) the maximum penalty which may be collected shall not exceed \$1,000.

The House receded. The penalty would, of course, be in addition to any assessment payable by the producer or slaughterer.

AMENDMENT NO. 18.—CONSUMER REPRESENTATION ON RESEARCH AND PROMOTION BOARDS

The Senate bill added a new section to the House bill requiring that at least 25 percent of the members of the Beef Board, the Egg Board,

the Cotton Board, the Potato Board, and the Wool Councils be persons appointed by the Secretary from nominations submitted by the membership of bona fide consumer organizations. The organizations must be knowledgeable and experienced in issues relating to food and nutrition policy, specially qualified to represent the interests of consumers, and have no interest directly or indirectly (a) in any food industry corporation or other organization or (b) in any person or entity engaged in the commercial production of the product or commodity promoted by the particular board or in sale, promotion, or distribution of such product or commodity.

The House bill did not contain a comparable provision.

The committee of conference agreed to delete the Senate amendment. However, the conferees intend that the Beef Board solicit consumer input—ideas, suggestions, and recommendations—on problems that need attention and projects that deserve priority. Accordingly, the conferees recommend that the Secretary appoint five consumer advisors to the Beef Board. Such advisors shall be persons determined by the Secretary to be knowledgeable in nutrition and food. It is expected that the Beef Board shall reimburse the consumer advisors for the reasonable expenses they incur in performing their duties as advisors.

W. R. POAGE,  
JOHN MELCHER,  
BOB BERGLAND,  
JERRY LITTON,  
TOM HARKIN,  
JACK HIGHTOWER,  
W. C. WAMPLER,  
KEITH G. SEBELIUS,  
CHARLES THONE,

*Managers on the Part of the House.*

HERMAN E. TALMADGE,  
GEORGE MCGOVERN,  
JAMES B. ALLEN,  
DICK CLARK,  
PATRICK J. LEAHY,  
ROBERT DOLE,  
MILTON R. YOUNG,  
HENRY BELLMON,

*Managers on the Part of the Senate.*

○

# Ninety-fourth Congress of the United States of America

## AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,  
one thousand nine hundred and seventy-six*

### An Act

To enable cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer information, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Beef Research and Information Act".*

#### LEGISLATIVE FINDINGS AND DECLARATION OF POLICY

SEC. 2. Beef constitutes one of the basic, natural foods in the diet. It is produced by many individual cattle producers throughout the United States. Cattle, beef, and beef products move in interstate and foreign commerce and those which do not move in such channels of commerce directly burden or affect interstate commerce of cattle, beef, and beef products. The maintenance and expansion of existing markets and the development of new or improved markets and uses are vital to the welfare of cattle producers and those concerned with marketing, using, and processing beef as well as the general economy of the Nation. The production and marketing of cattle, beef, and beef products by numerous individual persons in the cattle and beef industry have prevented the development and carrying out of adequate and coordinated programs of research, information, and promotion necessary for the maintenance of markets and the development of new products of, and markets for cattle, beef, or beef products. Without an effective and coordinated method for assuring cooperative and collective action in providing for and financing such programs, individual cattle producers are unable to provide, obtain, or carry out the research, consumer and producer information, and promotion necessary to maintain and improve markets for cattle, beef, and beef products.

It has long been recognized that it is in the public interest to provide an adequate, steady supply of high quality beef and beef products readily available to the consumers of the Nation. Maintenance of markets and the development of new markets, both domestic and foreign, are essential to the cattle industry if the consumers of beef and beef products are to be assured of an adequate, steady supply of such products at reasonable prices.

It is therefore declared to be the policy of the Congress and the purpose of this Act that it is essential and in the public interest, through the exercise of the powers provided herein, to authorize and enable the establishment of an orderly procedure for the development and the financing through an adequate assessment of an effective and continuous coordinated program of research, consumer information, producer information, and promotion designed to strengthen the cattle and beef industry's position in the marketplace, and maintain and expand domestic and foreign markets and uses for United States beef. Nothing in this Act shall be construed to mean, or provide for, control of production or otherwise limit the right of individual cattle producers to produce cattle or beef.

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "Secretary" means the Secretary of Agriculture or any other officer or employee of the Department of Agriculture to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

(b) The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(c) The term "cattle" means live domesticated bovine quadrupeds.

(d) The term "beef" means the flesh of cattle.

(e) The term "beef products" means products produced in whole or in part from cattle, exclusive of milk and products made therefrom.

(f) The term "producer" means any person who owns or acquires ownership of cattle: *Provided*, That a person shall not be considered to be a producer if his only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee.

(g) The term "producer-buyer" means a producer who buys cattle.

(h) The term "producer-seller" means a producer who sells cattle.

(i) The term "United States" means the fifty States of the United States of America and the District of Columbia.

(j) The term "promotion" means any action to advance the image or desirability of beef and beef products.

(k) The term "research" means any type of research to advance the desirability, marketability, production, or quality of cattle, beef, and beef products.

(l) The term "consumer information" means facts, data, and other information that will assist consumers and other persons in making evaluations and decisions regarding the purchasing, preparation, and utilization of beef and beef products.

(m) The term "producer information" means facts, data, and other information that will assist producers in making decisions that lead to increased efficiency, lower cost of production, a stable supply of cattle, and the development of new markets.

(n) The term "marketing" means the sale or other disposition of cattle, beef, or beef products, in any channel of commerce.

(o) The term "commerce" means interstate, foreign, or intrastate commerce.

(p) The term "transaction" means the transfer of ownership of cattle or beef through a sale, trade, or other means of exchange.

(q) The term "slaughterer" means any person, specified in the order or the rules and regulations issued thereunder, who slaughters cattle, including cattle of his own production.

BEEF RESEARCH AND PROMOTION ORDER

SEC. 4. To effectuate the declared policy of this Act, the Secretary shall, subject to the provisions of this Act, issue and from time to time amend an order applicable to producers and slaughterers. Such an order shall be applicable to all areas in the United States.

NOTICE AND HEARING

SEC. 5. Whenever the Secretary has reason to believe that the issuance of an order will tend to effectuate the declared policy of this Act, he shall give due notice and opportunity for hearing upon a proposed order. Such hearing may be requested and proposal for an order submitted by an organization certified pursuant to section 15 of this



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Act, or by any interested person affected by the provisions of this Act, including the Secretary.

FINDING AND ISSUANCE OF AN ORDER

SEC. 6. After notice and opportunity for hearing as provided in section 5, the Secretary shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing, that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this Act.

PERMISSIVE TERMS IN ORDER

SEC. 7. Any order issued pursuant to this Act shall contain one or more of the following terms and conditions, and except as provided in section 8, no others:

(a) Providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for advertising, promotion, producer information, and consumer information with respect to the use of cattle, beef, or beef products and for the disbursement of necessary funds for such purposes: *Provided, however,* That any such plan or project shall be directed toward increasing the general demand for cattle, beef, or beef products. No reference to a private brand or trade name shall be made if the Secretary determines that such reference will result in undue discrimination against the cattle, beef, or beef products of other persons. No such advertising, consumer education, or sales promotion programs shall make use of false or misleading claims in behalf of cattle, beef, or beef products, or false or misleading statements with respect to quality, value, or use of any competing product.

(b) Providing for, establishing, and carrying on research, market development projects, and studies with respect to sale, distribution, marketing, utilization, or production of cattle, beef, or beef products, and the creation of new products thereof, to the end that the production, marketing, and utilization of cattle, beef, or beef products may be encouraged, expanded, improved, or made more acceptable, and the data collected by such activities may be disseminated, and providing for the disbursement of necessary funds for such purposes.

(c) Providing that slaughterers shall maintain and make available for the inspection such books and records as may be required by any order or regulations issued pursuant to this Act and for the filing of reports by such persons at the time, in the manner, and having content prescribed by the order or regulations to the end that information and data shall be made available to the Beef Board and to the Secretary which is appropriate or necessary to the effectuation, administration, or enforcement of the Act, or of any order or regulation issued pursuant to this Act: *Provided, however,* That all information so obtained shall be kept confidential by all officers and employees of the Department of Agriculture and of the Beef Board, and by all officers and employees of contracting agencies having access to such information, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which he or any officer of the United States is a party, and involving the order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (1) the issuance of general statements based upon the reports of the number of persons subject to an order or

statistical data collected therefrom, which statements do not identify the information furnished by any person, (2) the publication of general statements relating to refunds made by the Beef Board during any specific period, which statements do not identify any person to whom refunds are made, or (3) the publication by direction of the Secretary of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person. Any such officer or employee violating the provision of the subsection shall, upon conviction, be subjected to a fine of not more than \$1,000 or to imprisonment for not more than one year, or to both, and if an officer or employee of the Beef Board or the Department of Agriculture, he shall be removed from office.

(d) Terms and conditions incidental to and not inconsistent with the terms and conditions specified in this Act and necessary to effectuate the other provisions of such order.

REQUIRED TERMS IN ORDER

SEC. 8. Any order issued pursuant to this Act shall contain the following terms and conditions:

(a) Providing for the establishment and appointment, by the Secretary, of a Beef Board which shall consist of not more than sixty-eight members, and alternates therefor, and defining its powers and duties which shall include only the powers (1) to administer such order in accordance with its terms and provisions, (2) to make rules and regulations to effectuate the terms and provisions of such order, (3) to receive, investigate, and report to the Secretary complaints of violations of such order, (4) to recommend to the Secretary amendments to such order. The term of an appointment to the Beef Board shall be for three years with no member serving more than six consecutive years, except that initial appointment shall be proportionately for one, two, and three years: *Provided*, That the Beef Board shall appoint from its members an executive committee, consisting of not less than seven nor more than eleven members who are broadly representative of the industry, with authority to employ a staff and conduct routine business within the policies determined by the Beef Board.

(b) Providing that the Beef Board, and alternates therefor, shall be composed of cattle producers appointed by the Secretary from nominations submitted by eligible producer organizations, associations, general farm organizations, or cooperatives, within the geographic area, and certified pursuant to section 15, or, if the Secretary determines that substantial number of producers are not members of or their interests are not represented by any such eligible organizations, associations, or cooperatives, from nominations made by such producers in the manner authorized by the Secretary so that the representation of producers on the Board shall reflect, to the extent practicable, the proportion of cattle produced in each geographic area of the United States as defined by the Secretary: *Provided*, That the Beef Board shall from time to time, with the approval of the Secretary, redesignate representation on the Beef Board so as to reflect the proportion of cattle in each geographic area: *Provided*, *however*, That each such designated geographic area shall be entitled to at least one representative on the Beef Board.

(c) Providing that the Beef Board shall, subject to the provisions of subsection (g) of this section, develop and submit to the Secretary for his approval any advertising, sales promotion, consumer information, producer information, research, and development plans or proj-

ects, and that any such plan or project must be approved by the Secretary before becoming effective.

(d) Providing that the Beef Board shall, subject to the provisions of subsection (g) of this section, submit to the Secretary for his approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of advertising, promotion, producer information, consumer information, research, and development projects. The Beef Board shall also submit copies of such budgets to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry.

(e) Providing, that—

(1) In each transaction where a producer sells or otherwise transfers ownership of cattle to any other producer, each such producer-seller shall pay to the producer-buyer and each producer-buyer shall collect from the producer-seller an assessment based on the value of the cattle involved in the transaction. Each producer who sells to a slaughterer or otherwise arranges for the slaughter of his cattle shall pay to the slaughterer and the slaughterer shall collect from such producer an assessment based on the value of the cattle involved. The slaughterer shall remit assessment(s) collected to the Beef Board in the manner prescribed by the order or the regulations issued thereunder, including any assessment(s) due at time of slaughter on cattle of his own production. In the event no sales transaction occurs at the point of slaughter, a fair value shall be attributed to the cattle at the time of slaughter for the purposes of determining the assessment: *Provided*, That the Beef Board may exempt from or vary the assessment on transactions of breeding animals or classes of breeding animals until time of slaughter: *Provided further*, That cattle slaughtered for his own home consumption by a producer who has been the sole owner of such cattle shall not be subject to assessments provided in this Act: *Provided further*, That the Beef Board may collect directly from any producer any assessments that he collected under the provisions of this Act, which are not passed along in the usual manner due to the loss in value of the cattle.

(2) The rate of assessment shall be as prescribed by the order except the aggregate rate shall not exceed one-half of 1 percent and shall provide for such expenses and expenditures, including provision for a reasonable reserve, and any referendum and administrative costs incurred by the Secretary under this Act, as the Secretary finds are reasonable and likely to be incurred by the Beef Board under the order during any period specified by him.

(3) To facilitate the collection of assessments, the Beef Board may specify different procedures for slaughterers, or classes of slaughterers, to recognize differences in marketing practices or procedures utilized in the industry.

(4) The Secretary may maintain a suit against any person subject to the order for the collection of such assessment and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.

(f) Providing that the Beef Board shall maintain such books and records and prepare and submit such reports from time to time to the

Secretary as he may prescribe, and for appropriate accounting by the Beef Board with respect to the receipt and disbursement of all funds entrusted to it.

(g) Providing that the Beef Board, with the approval of the Secretary, may enter into contracts or agreements for development and carrying out the activities authorized under the order pursuant to section 7 (a) and (b) and for the payment of the cost thereof with funds collected pursuant to the order. Any such contract or agreement shall provide that such contractors shall develop and submit to the Beef Board a plan or project together with a budget or budgets which shall show estimated costs to be incurred for such plan or project, and that any such plan or project shall become effective upon the approval of the Secretary, and further, shall provide that the contracting parties shall keep accurate records of all of their activities and make periodic reports to the Beef Board of activities carried out and an accounting for funds received and expended, and such other reports as the Secretary may require.

(h) Providing that no funds collected by the Beef Board under the order shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (a) (4) of this section.

(i) Providing the Beef Board members, and alternates therefore, shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Beef Board.

#### REQUIREMENT OF REFERENDUM AND CATTLE PRODUCER APPROVAL

SEC. 9. The Secretary shall conduct a referendum as soon as practicable among producers who at any time, during a consecutive twelve-month representative period preceding the date of the referendum, as determined by the Secretary, have been engaged in the production of cattle for the purpose of ascertaining whether the issuance of an order is approved or favored by such producers. The Secretary shall establish a procedure whereby all known cattle producers are notified of the referendum and the time and place of balloting and qualified producers may register with the Agriculture Stabilization and Conservation Service in person or by mail to vote in such a referendum during a period ending not less than ten days prior to the date of the referendum. No order issued pursuant to this Act shall be effective unless the Secretary determines (1) that votes were cast by at least 50 per centum of the registered producers, and (2) that the issuance of such order is approved or favored by not less than two-thirds of the producers voting in such referendum. The Secretary shall be reimbursed from assessments collected by the Beef Board for any expenses incurred for the conduct of the referendum. Eligible voter lists and ballots cast in the referendum shall be retained by the Secretary for a period of not less than twelve months after they are cast for audit and recount in the event the results of the referendum are challenged and either the Secretary or the Courts determine a recount and retabulation of results is appropriate. Prior to the holding of the referendum, sureties shall have posted a bond or other security, acceptable to the Secretary, in an amount which the Secretary shall determine to be sufficient to pay any expenses incurred for the conduct of the referendum. For the purpose of this section, the term "expenses incurred for the conduct of the referendum" shall include all costs incurred by the Government in connection therewith, except for salaries of Government employees.

SUSPENSION AND TERMINATION OF ORDERS

SEC. 10. (a) The Secretary shall, whenever he finds that any order issued under this Act, or any provision(s) thereof, obstructs or does not tend to effectuate the declared policy of this Act, terminate or suspend the operation of such order or such provision(s) thereof.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 per centum or more of the number of producers voting in the referendum approving the order, to determine whether such producers favor the termination or suspension of the order, and he shall suspend or terminate such order six months after he determines that suspension or termination of the order is approved or favored by a majority of the producers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production of cattle, and who produced more than 50 per centum of the volume of cattle produced by the producers voting in the referendum.

(c) The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this Act.

PROVISIONS APPLICABLE TO AMENDMENTS

SEC. 11. The provisions of this Act applicable to orders shall be applicable to amendments to orders.

PRODUCER REFUND

SEC. 12. Notwithstanding any other provisions of this Act, any producer against whose cattle any assessment is made and collected from him under authority of this Act and who is not in favor of supporting the programs as provided for herein shall have the right to demand and receive from the Beef Board a refund of such assessment: *Provided*, That such demand shall be made in accordance with regulations on a form and within a time period prescribed by the Board and approved by the Secretary but in no event more than sixty days after the end of the month in which the sale or slaughter of said cattle occurred and upon submission of proof satisfactory to the Board that the producer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand is received therefor: *Provided, however*, That no producer shall claim or receive a refund of any portion of an assessment which he collected from other producers.

PETITION AND REVIEW

SEC. 13. (a) Any person subject to any order may file a written petition with the Secretary, stating that any such order or any provision of such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(d) The district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date

of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with the law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 14(a) of this Act.

ENFORCEMENT

SEC. 14. (a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order or regulation made or issued pursuant to this Act. Any civil action authorized to be brought under this Act shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this Act shall be construed as requiring the Secretary to refer to the Attorney General minor violations of this Act whenever he believes that the administration and enforcement of the program would be adequately served by suitable written notice or warning to any person committing such violation.

(b) Any person who willfully violates any provision of any order issued by the Secretary under this Act, or who willfully fails or refuses to collect or remit any assessment duly required of him thereunder, shall be liable to a penalty of not more than \$1,000 for each such violation which shall accrue to the United States and may be recovered in a civil suit brought by the United States: *Provided*, That subsections (a) and (b) of this section shall be in addition to, and not exclusive of, the remedies provided now or hereafter existing at law or in equity.

CERTIFICATION OF ORGANIZATIONS

SEC. 15. The eligibility of any organization to represent producers of any designated geographic area of the United States to request the issuance of an order under section 5, and to participate in the making of nominations under section 8(b) shall be certified by the Secretary. Certification shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including, but not limited to, the following:

(a) geographic territory covered by the organization's active membership,

(b) nature and size of the organization's active membership, proportion of total of such active membership accounted for by producers of cattle, and the volume of cattle produced by the organization's active membership in each such State,

(c) the extent to which the cattle producer membership of such organization is represented in setting the organization's policies,

(d) evidence of stability and permanency of the organization,

(e) sources from which the organization's operating funds are derived,

(f) functions of the organization, and

(g) the organization's ability and willingness to further the aims and objectives of this Act:

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*Provided, however,* That the primary consideration in determining the eligibility of an organization shall be whether its producer membership consists of a substantial number of producers who produce a substantial volume of cattle subject to the provisions of this Act. The Secretary shall certify any organization which he finds to be eligible under this section and his determination as to eligibility shall be final. Where more than one organization is certified in any geographic area, such organizations may caucus to determine the area's nominations under section 8(b).

STATE BEEF BOARDS

SEC. 16. Nothing in this Act shall be construed to preempt or interfere with the workings of any beef board, beef council, or other beef promotion entity organized and operating within and by authority of any of the several States.

REGULATIONS

SEC. 17. The Secretary is authorized to issue regulations with the force and effect of law as may be necessary to carry out the provisions of this Act and the powers vested in him by this Act.

INVESTIGATIONS: POWER TO SUBPENA AND TAKE OATHS AND  
AFFIRMATIONS: AID OF COURTS

SEC. 18. The Secretary may make such investigation as he deems necessary for the effective carrying out of his responsibilities under this Act or to determine whether a producer or slaughterer of cattle or any other person has engaged or is about to engage in any acts or practice which constitute or will constitute a violation of any provisions of this Act, or of any order, or rule or regulation issued under this Act. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena to, any person, including a producer, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

SEPARABILITY

SEC. 19. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

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AUTHORIZATION

SEC. 20. There is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this Act. The funds so appropriated shall not be available for payment of the expenses or expenditures of the Beef Board in administering any provisions of any order issued pursuant to the terms of this Act.

EFFECTIVE DATE

SEC. 21. This Act shall take effect upon enactment.

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*



3

May 17, 1976

Dear Mr. Director:

The following bills were received at the White House on May 17th:

S. 510 ✓  
H.R. 7656 ✓  
H.R. 8957 ✓  
H.R. 12216 ✓

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder  
Chief Executive Clerk

The Honorable James T. Lynn  
Director  
Office of Management and Budget  
Washington, D.C.