



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

April 11, 1975

Honorable Thomas S. Foley
Chairman, Committee on Agriculture
House of Representatives
Washington, D. C. 20515

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.

Honorable Thomas S. Foley

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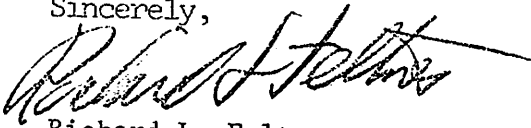
H.R. 3718 contains authority for an appropriation to cover the costs incurred by the Department in developing an order and conducting a referendum. Because of the number of beef producers (approximately 2 million), these costs would be relatively large. We estimate that an appropriation of about \$750,000 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