

PROPOSED AMENDMENT

SB 55 # 5

DIGEST

Pork assessment. Creates the pork market development program (program). Specifies that the program applies only if assessments are not levied and collected under federal law. Requires the Indiana Pork Producers Association, Inc., to administer the program. Establishes various procedures and requirements for operating the program.

- 1 Page 12, after line 14, begin a new paragraph and insert:
- 2 "SECTION 2. IC 15-19-8 IS ADDED TO THE INDIANA CODE
- 3 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2026]:
- 5 **Chapter 8. Indiana Pork Market Development**
- 6 **Sec. 1. (a) This chapter applies only if all assessment collection**
- 7 **programs and checkoff programs are not operated under the:**
- 8 **(1) Pork Promotion, Research, and Consumer Information**
- 9 **Act (7 U.S.C. 4801 through 7 U.S.C. 4819); and**
- 10 **(2) Pork Promotion and Research Order (7 CFR 1230);**
- 11 **by the IPPA.**
- 12 **(b) If the assessments described under subsection (a) are levied,**
- 13 **the IPPA may not:**
- 14 **(1) collect assessments; or**
- 15 **(2) conduct any other activity that is expressly preempted by**
- 16 **a program described in subsection (a).**
- 17 **(c) Except as provided in subsection (d), this chapter applies to**
- 18 **all types, varieties, and forms of pork marketed or sold as pork by**
- 19 **a producer in Indiana.**
- 20 **(d) Organic hog farmers are exempt from this chapter if an**
- 21 **organic hog farmer:**
- 22 **(1) receives an exemption under the National Organic**
- 23 **Program (NOP) described in 7 CFR 205; and**
- 24 **(2) operates under an NOP approved organic system plan.**
- 25 **Sec. 2. As used in this chapter, "board of directors" refers to the**

governing body of the program.

Sec. 3. As used in this chapter, "first purchaser" refers to the following:

- (1) A person that buys or is engaged in the business of receiving a porcine animal as a commission merchant.
- (2) A person that buys or is engaged in the business of receiving a porcine animal at an auction market.
- (3) A person that buys or is engaged in the business of receiving a porcine animal at a livestock market.
- (4) A producer that raises a porcine animal, slaughters the porcine animal, and sells the pork.
- (5) A person in the business of purchasing a porcine animal on behalf of a producer.

Sec. 4. As used in this chapter, "Indiana Pork Advocacy Coalition" or "INPAC" refers to the Indiana Pork Advocacy Coalition, Inc., an Indiana nonprofit corporation organized under the laws of the State of Indiana on October 12, 2001.

Sec. 5. As used in this chapter, "IPPA" refers to the Indiana Pork Producers Association, Inc., an Indiana nonprofit corporation incorporated under the laws of the State of Indiana on February 13, 1952.

Sec. 6. As used in this chapter, "Indiana Soybean Alliance" refers to the Indiana Soybean Alliance, Inc., an Indiana nonprofit corporation incorporated under the laws of the State of Indiana on July 1, 1997.

Sec. 7. As used in this chapter, "INPAC director" means the executive director of INPAC.

Sec. 8. As used in this chapter, "market" means to advertise:

- (1) the sale;
 - (2) the slaughter for sale; or
 - (3) any other method of disposal;
- of a porcine animal in commerce.

Sec. 9. As used in this chapter, "market value" refers to the following:

- (1) If a porcine animal is slaughtered for sale by a producer, the most recent annual seven-market average for barrows and gilts, as published by the USDA.
- (2) If a porcine animal is imported, the declared value.
- (3) If a pork product is imported, an amount that represents the value of the live porcine animal from that the pork

product was derived, based on the most recent annual seven-market average for barrows and gilts, as published by the USDA.

Sec. 10. As used in this chapter, "National Pork Board" refers to the National Pork Board as established by 7 U.S.C. 4808.

Sec. 11. As used in this chapter, "National Pork Producers Council" refers to the National Pork Producers Council, organized under the laws of the State of Iowa on March 28, 1968.

Sec. 12. As used in this chapter, "person" means:

- (1) an individual;
- (2) a partnership;
- (3) a limited liability company;
- (4) a public or private corporation;
- (5) a political subdivision (as defined in IC 36-1-2-13);
- (6) a cooperative;
- (7) a society;
- (8) an association; or
- (9) a fiduciary.

Sec. 13. As used in this chapter, "porcine animal" means a swine that is raised as a:

- (1) feeder pig that is a young pig sold to another person to be finished for slaughtering over a period of more than one (1) month;
- (2) seedstock pig for breeding purposes and included in the breeding herd; or
- (3) market hog, slaughtered by the producer or sold to be slaughtered, usually within one (1) month of the transfer.

Sec. 14. As used in this chapter, "pork" means the flesh of a porcine animal.

Sec. 15. As used in this chapter, "pork product" means an edible product:

- (1) produced; or
- (2) processed;

in whole or in part from pork.

Sec. 16. As used in this chapter, "producer" means a person engaged in the business of farming and marketing hogs in Indiana under:

- (1) the producer's own name; or
- (2) the name of an entity in which the producer has ownership.

1 **Sec. 17. As used in this chapter, "program" means the Indiana**
 2 **pork marketing program.**

3 **Sec. 18. As used in this chapter, "promotion" means:**

4 **(1) communication directly with pork producers, promoters,**
 5 **purchasers, consumers, and stakeholders;**

6 **(2) technical assistance; and**

7 **(3) trade marketing activities;**

8 **to enhance the marketing opportunities of pork and any product**
 9 **containing pork in domestic and foreign markets and increase**
 10 **access to federal government money available for Indiana pork**
 11 **producers.**

12 **Sec. 19. As used in this chapter, "purchase" means a sale of**
 13 **pork at the first point of delivery when the pork is:**

14 **(1) weighed;**

15 **(2) graded;**

16 **(3) titled; and**

17 **(4) transferred to the purchaser.**

18 **Sec. 20. As used in this chapter, "research" means a study to**
 19 **advance the:**

20 **(1) marketability;**

21 **(2) production;**

22 **(3) product development;**

23 **(4) quality; or**

24 **(5) functional or nutritional value;**

25 **of pork and any product derived from pork, including research**
 26 **activities designed to identify and analyze barriers to domestic and**
 27 **foreign sales of pork.**

28 **Sec. 21. As used in this chapter, "USDA" means the United**
 29 **States Department of Agriculture.**

30 **Sec. 22. As used in this chapter, "voting members" means the**
 31 **voting members of the IPPA.**

32 **Sec. 23. (a) The Indiana pork marketing program is established.**
 33 **The IPPA shall administer the program.**

34 **(b) The board of directors consists of the following voting board**
 35 **members:**

36 **(1) At least three (3) and no more than twelve (12) at large**
 37 **members, each of which are voting members of the IPPA, as**
 38 **follows:**

39 **(A) Each elected by the voting members of the IPPA.**

40 **(B) No more than two (2) at-large members may represent**

- 1 any one (1) county within Indiana.
- 2 (C) Each may serve for a term of two (2) years from the
- 3 date of the member's election.
- 4 (D) Each may not serve more than three (3) consecutive
- 5 terms.
- 6 (2) At least (1) but no more than three (3) affiliated industry
- 7 members, as follows:
- 8 (A) Each elected by the voting members of the IPPA.
- 9 (B) Each of which represents an industry reasonably
- 10 affiliated with the pork industry.
- 11 (C) Each may serve for a term of two (2) years from the
- 12 date of the member's election.
- 13 (D) Each may not serve more than three (3) consecutive
- 14 terms.
- 15 (3) The director of the National Pork Board, who serves as an
- 16 ex officio member.
- 17 (4) The director of the National Pork Producers Council, who
- 18 serves as an ex officio member.
- 19 (5) One (1) member of the board of directors of the IPPA
- 20 appointed by the dean of agriculture at Purdue University,
- 21 whose term expires if the dean appoints a replacement.
- 22 (6) One (1) member of the board of directors of the IPPA
- 23 appointed by the director of INPAC, whose term expires if the
- 24 INPAC director appoints a replacement.
- 25 (7) One (1) member who is the preceding president of the
- 26 IPPA, whose term as a member of the board of directors
- 27 expires when the current president's term concludes.
- 28 (8) The executive director of the IPPA, who serves as an ex
- 29 officio member.
- 30 (9) One (1) appointee of the chief executive officer of the
- 31 Indiana Soybean Alliance, whose term as a member of the
- 32 board of directors expires if the chief executive officer of the
- 33 Indiana Soybean Alliance appoints a replacement.
- 34 (c) In addition to the requirements under subsection (b), a
- 35 member of the board of directors must meet the following criteria:
- 36 (1) Be a registered voter in Indiana.
- 37 (2) Be at least eighteen (18) years of age.
- 38 (3) Be a producer.
- 39 (d) The IPPA shall elect a president, vice president, secretary,
- 40 treasurer, and any other officers deemed necessary by the board

1 of directors.

2 (e) One-third (1/3) of the members of the board of directors
3 constitutes a quorum. An affirmative vote of at least a majority of
4 the quorum is required for the board of directors to act.

5 (f) The board of directors shall meet at least three (3) times in
6 each calendar year:

7 (1) at the call of the president; or

8 (2) at the request of two-thirds (2/3) of the members of the
9 board of directors.

10 (g) Each member of the board of directors who is not a state
11 employee or a member of the general assembly is entitled to
12 reimbursement for mileage, travel expenses, and other expenses
13 actually incurred in connection with the board member's duties in
14 accordance with the IPPA's travel policy. Except as provided
15 subsection (h), the members of the board of directors are not
16 entitled to a salary or per diem as consideration for their service as
17 a member of the board of directors. Reimbursements under this
18 subsection must be paid from funds of the IPPA.

19 (h) Each member of the board of directors who is a state
20 employee is entitled to reimbursement for traveling expenses as
21 provided under IC 4-13-1-4 and other expenses actually incurred
22 in connection with the member's duties as provided in the state
23 policies and procedures established by the Indiana department of
24 administration and approved by the budget agency.
25 Reimbursements under this subsection must be paid from
26 appropriations made to the legislative council or the legislative
27 services agency.

28 (i) A board member continues in office until a successor who
29 meets the applicable qualifications set forth in subsection (b) is
30 elected or appointed.

31 (j) If a vacancy occurs on the board of directors, the appointing
32 authority that appointed the member whose position is vacant shall
33 appoint an individual to fill the vacancy.

34 (k) The members of the board of directors must be elected by a
35 majority vote of the voting members of IPPA at the annual
36 meeting.

37 Sec. 24. (a) When necessary, the IPPA may appoint an
38 individual who:

39 (1) holds an office of importance to the pork industry; or

40 (2) has special expertise concerning the pork industry;

1 to participate in the work of the IPPA.

2 (b) An individual appointed under subsection (a) may not
3 participate in votes taken by the IPPA. However, the appointed
4 individual is eligible for reimbursement for travel expenses in the
5 same manner as IPPA's board members under section 23(g) of this
6 chapter.

7 (c) An individual appointed under this section serves a term of
8 one (1) year but may be reappointed for additional terms.

9 Sec. 25. The IPPA shall do the following:

10 (1) Employ personnel and contract for services that are
11 necessary for the proper implementation of this chapter.

12 (2) Bond the IPPA treasurer and any other person as
13 necessary to ensure adequate protection of funds received and
14 administered by the IPPA.

15 (3) Authorize the expenditure of funds and the contracting of
16 expenditures to conduct proper activities under this chapter.

17 (4) Annually establish priorities and prepare and approve a
18 budget consistent with the estimated resources of the IPPA
19 and the scope of this chapter.

20 (5) Annually provide:

21 (A) an activities report to the legislative council in an
22 electronic format under IC 5-14-6; and

23 (B) an independent audit report to the state board of
24 accounts.

25 (6) Procure and evaluate data and information necessary for
26 the proper implementation of this chapter.

27 (7) Formulate and execute assessment procedures and
28 methods of collection.

29 (8) Receive and investigate complaints and violations of this
30 chapter.

31 (9) Take necessary enforcement action against an individual
32 who violates this chapter.

33 (10) Maintain bylaws and operating procedures governing
34 operations of the IPPA and the administration of funds
35 collected under this chapter.

36 (11) Keep accurate accounts of all receipts and disbursements
37 of funds handled by the IPPA and have the receipts and
38 disbursements audited annually by a certified public
39 accountant.

40 (12) Take any other action necessary to properly implement

1 this chapter.

2 (13) Comply with the requirements under IC 5-14-1.5.

3 **Sec. 26. (a) A producer operating in Indiana that does any of the**
4 **following shall pay an assessment:**

5 (1) Raises and sells a porcine animal as a feeder pig.

6 (2) Raises and sells a porcine animal for slaughter.

7 (3) Raises a porcine animal, slaughters the porcine animal,
8 and sells the pork.

9 (4) Raises a porcine animal for breeding stock.

10 (b) A producer is exempt from paying an assessment on an
11 animal if the producer demonstrates to the IPPA board of
12 directors through appropriate documentation that an assessment
13 was previously paid on the animal in question.

14 **Sec. 27. (a) The first purchaser shall collect an assessment equal**
15 **to thirty-five cents (\$0.35) per one hundred dollars (\$100) of**
16 **market value.**

17 (b) The first purchaser may only impose and collect an
18 assessment on a porcine animal or a pork product once.

19 (c) Only the general assembly may change the rate of the
20 assessment imposed by this section.

21 (d) The first purchaser of a porcine animal or a pork product
22 shall deduct the assessment on the porcine animal or pork product
23 from the money to be paid to the producer or importer based on
24 the sale of the porcine animal or pork product. A first purchaser
25 shall accumulate assessments collected under this section
26 throughout each of the following periods:

27 (1) January, February, and March.

28 (2) April, May, and June.

29 (3) July, August, and September.

30 (4) October, November, and December.

31 (e) Not more than thirty (30) days after the end of each period,
32 the first purchaser shall remit to the IPPA all assessments collected
33 during the period in a manner prescribed by the IPPA.

34 (f) The assessment on the sale of the porcine animal or pork
35 product must occur at the time of first purchase as the payment for
36 the porcine animal or pork product is received by the producer or
37 importer.

38 **Sec. 28. (a) The IPPA shall pay all expenses incurred under this**
39 **chapter with money from the assessments remitted to the IPPA**
40 **under this chapter.**

1 (b) The IPPA may invest all money the IPPA receives under this
2 chapter, including gifts or grants that are given for the express
3 purpose of implementing this chapter, in the same way allowed by
4 law for public funds.

5 (c) The IPPA may expend money from assessments and from
6 investment income not needed for expenses for promotion and
7 research.

8 (d) The IPPA may not use money received, collected, or accrued
9 under this chapter for any purpose other than the purposes
10 authorized by this chapter. The amount of money expended on
11 administering this chapter in the IPPA's fiscal year may not exceed
12 an amount deemed reasonable by the IPPA to enable it to exercise
13 its powers and perform its duties in accordance with this chapter,
14 including the financing of certain plans and projects.

15 (e) The IPPA shall use eighty percent (80%) of the assessment
16 funds collected under section 27 of this chapter to carry out the
17 functions of the National Pork Board that is no longer operating.

18 Sec. 29. (a) Assessments collected by the IPPA under the
19 program are subject to refund requests by a producer if the
20 producer requests a refund under the procedure established by the
21 IPPA.

22 (b) A producer's application for a refund under this section
23 must be made to the IPPA not more than one hundred eighty (180)
24 days after the assessment is deducted from the market value of the
25 porcine animal or pork product.

26 (c) If a refund is due under this section, the IPPA shall remit the
27 refund to the producer not later than thirty (30) days after the date
28 the producer's completed application and proof of assessment are
29 received.

30 Sec. 30. (a) A first purchaser shall keep detailed records of all
31 assessments collected and remitted under this chapter for at least
32 three (3) years.

33 (b) Upon request, a first purchaser shall supply the IPPA with
34 any information from records kept under subsection (a).

35 (c) The IPPA may periodically audit a first purchaser's checkoff
36 assessment and remittance records kept under subsection (a). An
37 audit must be conducted by:

38 (1) a certified public accountant of the IPPA's choosing; or

39 (2) an auditor who is familiar with the:

40 (A) storage;

- 1 (B) conditioning;
- 2 (C) shipping; and
- 3 (D) handling;

4 of agricultural commodities. The costs of the audit shall be paid by
5 the IPPA.

6 Sec. 31. (a) If a first purchaser fails to remit the assessments
7 collected during a period specified in section 29 of this chapter not
8 more than thirty (30) days after the end of the period, the IPPA
9 shall contact the first purchaser and allow the first purchaser to
10 present comments to the IPPA concerning:

- 11 (1) the status and amount of the assessments due; and
- 12 (2) reasons why the IPPA should not bring legal action against
13 the first purchaser.

14 (b) After allowing a first purchaser the opportunity to present
15 comments, the IPPA:

- 16 (1) may adjust the amount of the assessments due, if the first
17 purchaser's comments reveal that the IPPA's figure is
18 inaccurate;

- 19 (2) may assess a penalty against the first purchaser;

- 20 (3) shall:

- 21 (A) assess a fee for an unpaid assessment due to the IPPA
22 from a person responsible for remitting assessments at the
23 rate of two percent (2%) of the amount of the unpaid
24 assessment each month, beginning with the day following
25 the date the assessment is due under this subsection; and

- 26 (B) if there is any remaining amount due after the
27 assessment of the fee under clause (A), assess a fee at the
28 same rate on the corresponding day of each month
29 thereafter until the entire amount of the unpaid assessment
30 is paid;

- 31 (4) shall compute the amounts payable on unpaid assessments
32 under this section monthly and include any unpaid late
33 charges previously applied under this section; and

- 34 (5) shall determine the date of a payment for purposes of this
35 subsection by the postmark applied to the remitting envelope
36 or date Automated Clearing House (ACH) transfer is
37 originated.

- 38 (c) If a first purchaser fails to remit assessments after being
39 allowed to present comments under subsection (a) or to pay any
40 penalty assessed under subsection (b), the IPPA may bring a civil

1 action against the first purchaser in a circuit, superior, or
 2 municipal court of any county. The action must be tried and a
 3 judgment rendered as in any other proceeding for the collection of
 4 a debt. In an action under this subsection, the IPPA may obtain:

- 5 (1) a judgment in the amount of all unremitted assessments
- 6 and any unpaid penalty; and
- 7 (2) an award of the costs of bringing the action.

8 Sec. 32. (a) The IPPA may not use proceeds of the assessment
 9 collected under this chapter to influence legislation or
 10 governmental action or policy.

11 (b) The IPPA may not use proceeds of the assessment collected
 12 under this chapter to communicate information related to the:

- 13 (1) conduct;
- 14 (2) implementation; or
- 15 (3) results;

16 of promotion and research activities to appropriate government
 17 officials.

18 Sec. 33. (a) If a person fails to discharge a duty imposed by this
 19 chapter other than remitted assessments, the IPPA shall allow the
 20 person an opportunity to present comments to the IPPA
 21 concerning reasons why the IPPA should not bring legal action
 22 against the person.

23 (b) If it is necessary to obtain compliance with this chapter, the
 24 IPPA may bring an action against the person in a circuit, superior,
 25 or municipal court of any county seeking an injunction mandating
 26 compliance and any other appropriate legal remedies.

27 (c) In an action under this section, the IPPA may be granted
 28 injunctive relief without establishing the absence of an adequate
 29 remedy at law."

(Reference is to SB 55 as introduced.)