

North Dakota Stockmen's Association
Testimony to the House Agriculture Committee on HB 1436
Jan. 26, 2023

Good morning, Chairman Thomas and members of the House Agriculture Committee. My name is Julie Ellingson and I represent the North Dakota Stockmen's Association, a 93-year-old beef cattle trade organization comprised of more than 3,100 cattle-ranching members.

We rise in opposition to HB 1436. The North Dakota Beef Commission configuration and seating process has served the industry well since its inception. It includes the full spectrum of North Dakota's beef industry and provides opportunities for individuals or organizations to nominate representatives for the three at-large seats on the board. We support the Commission's beef demand-building work and are proud of those serving at the state level who have risen in the national leadership ranks and given North Dakota ranchers a more resounding voice on a larger stage. The system, in our view, is working and so sweeping, complicated and costly changes are not necessary to ensure a robust board reflective of the industry.

That being said, some, as you've heard, believe an election process would be better. Obviously, it is the process that put you in your own seats and one that our organization would absolutely be actively engaged in if it was the process, so our leaders gave HB 1436 a thorough, good faith review and consideration. The bill, however, has many

inherent flaws that make it cumbersome and wasteful of producers' research, education and promotion dollars without making meaningful differences that will increase beef demand.

The bill has many parts, so bear with me as I go through it section by section, beginning with 4.1-03.01, the definitions, and, particularly, the new definition for "cattle industry representative," the entities that will be able to vie for Beef Commission seats and call for and vote on a referendum. The definition aggregates all those who serve on the Commission currently – producers, feeders, dairy producers and auction market folks – into one category, but, strangely, defines those representatives as those who "have been" beef or dairy producers, feeders or market representatives. "Has been" obviously is past tense, and so this bill appears to afford the possibility of Commission votes to be cast and possibly even seats to be held by those who have exited the industry. Under these procedures, is it possible that the majority of the board could be those who are retired and have no vested interest anymore? Later in the bill, in Section 2, there is conflicting language in describing "actively engaged" producers and a three-year preceding interest. At best, these references appear to set different criteria for those people getting to vote than those getting to serve.

In Section 2, 4.1-03-02, the designated slots for the different industry sectors are struck and, so, no longer would there be an assured representative of feeders, dairy producers or auction markets. This legislature will be hearing no less than a half-dozen bills aimed

at growing the animal feeding sector this session alone, but, conversely, HB 1436 would eliminate the slot feeders have on the Commission.

Same goes for the dairy industry, which is significant to the beef industry. On a national level, dairy beef has accounted for between 18 and 24 percent of the total U.S. beef supply since 2002. With just 37 or 38 dairies in North Dakota, the chances of a dairyman or woman prevailing under the 1436 structure would be slim.

Ditto for livestock markets. While they could run for spots, not all the districts have an auction market in them, so they wouldn't be able to run in all districts and would be at a competitive disadvantage.

The bill looks to retain the officers serving on the Commission as of Dec. 31 of this year and includes procedures for elections for six districts. The terms of the Beef Commission members conclude on June 30, though, so it will not be known until then what districts those officers reside in and which would need a separate election in order to ensure one representative from each of the nine districts established under HB 1436.

Section 3 has some wonky dates, setting the terms of the officers 10 days different than the rest of the Commission members. Plus, the bill uses January dates when the

Commission members' terms are traditionally based on the July 1 to June 30 fiscal year, like the Commission's financial fiscal year.

Section 5 raises some important privacy questions, requiring livestock auction markets to turn over their private business information – the names and mailing addresses of their customers – an overreach of government in our eyes. To make matters worse, there is no protection for these records and, so, the information could become vulnerable to open records requests from individuals ranging from salesmen to opportunistic anti-agricultural activists. The bill aims to use this information to build the now non-existent master list from which to conduct elections. It's important to note, though, that this would not be a complete list anyway, as Beef Commission records indicate that, since 2018, as much as 40.7 percent of the North Dakota checkoff collections were remitted from outside the state – primarily South Dakota – and those markets would not be compelled to comply with North Dakota law, so the database could have some substantial gaps.

Section 7 spells out a new process for nominations and elections. The timeline calls for Extension to notify cattle industry representatives of the opportunity to nominate individuals between 45 and 60 days before elections are to begin Oct. 1. That means that, between Aug. 1 and Aug. 15 this year, a mailing must go to all “known industry representatives.” Remember, that is all those who have been beef or dairy producers, cattle feeders or market representatives. No such mailing list currently exists of all the

folks who are currently those things, let alone of those who used to be. And how long does “has been” go back to? One year? Two years? Three years? Until someone dies? Where can those names and their current contact information be obtained and how many will there be once it is? Who will generate, verify and then maintain that list, especially now, in time to effectuate the election process that would begin this summer. With two recent employee retirements, the Beef Commission is currently staffed at 50 percent and is without an executive officer.

That same list would be used for the referendum process spelled out in Section 9, but how do we identify, notify and certify those who are eligible to call for and vote in a referendum? The referendum appears to be a two-step process, requiring a vote of producers first and then a legislative step following. What happens once the question hits the legislature? Would you as lawmakers be able to amend that bill? If so, how would adjustments be reconciled and, what happens if the legislative vote has a completely different outcome than the referendum? Which would prevail?

The biggest question producers have about HB 1436 is how much implementation would cost. The mailings would, of course, require envelopes, paper, ballots and at least three postage stamps per cattle industry representative. A rough stab in the dark would put that cost at \$3 to \$3.50 per person. That doesn't include the cost of list development and maintenance, software development or staffing. The biggest missing variable is how many cattle industry representatives there would be. NASS tells us that there were

just shy of 9,000 beef operations in the state in 2017, but how many cattle sellers are part of those operations? Many would have more than one. Mine, for example, could be as many eight. And, of course, we haven't yet considered the other industry sectors or the "has-beens" that are also comprised in the definition. It is unfortunate there is no fiscal note for the bill, because, for the same reason the legislature enlists analysts to help develop a financial forecast, the industry wants to know the costs associated with this proposal and potential implications for its beef research, promotion and education projects. Right now, that is only a guessing game.

Everyone in this room wants a sound beef checkoff oversight board that is representative of the state's cattle industry and considers the viewpoints of all, and we have one. You can make a reasonable argument for an election, but HB 1436 isn't it. It creates a cumbersome process that will cost the industry an undetermined amount of money, infringe on private businesses and silence or neutralize the voices of actively engaged producers, not empower them. We urge you to reject this bill and give HB 1436 a do-not-pass recommendation.