

1999 HOUSE APPROPRIATIONS

HB 1465

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HOUSE BILL 1465

House Appropriations Committee
Hearing Date January 26, 1999

Tape Number	Side A	Side B	Meter #
ONE	x		2.3 - 4.6
Committee Clerk Signature <i>Kathleen Jones</i>			

Minutes:

A BILL for an ACT to create and enact a new section to chapter 4-01 of the North Dakota Century Code, relating to investigations of beef industry trade issues by the agriculture commission; to provide an appropriation; and to declare an emergency.

1A: 2.0 Chairman Dalrymple called the hearing to order.

1A: 2.3 Rep. Lundgren, District 28, expressed her concerns as to the laws of this country protecting US producers from excessive imports, but in order for the International Trade Commission and the Dept. of Commerce to enforce these laws, there must be a petition for import relief on behalf of US cattle producers. The petition was filed by RCALF (Ranchers/Cattlemen Action Legal Foundation) and because of this decision the investigation will go forward. (See enclosed testimony.)

1A: 7.1 Rep. Poolman question how the amount of \$150,000. was determined. Rep Lundgren stated that they were being kind to the state's tight budget. Ten percent of the cattle in this country are located in seven states. If the total was divided equally, North Dakota share would be \$270,000.

1A: Senator Bill Bowman, District 39, spoke in support of this bill. In his community Canadian cattle trucks are dumping waste because the Canadian law will not let them dump this waste in Canada. RCALF could assist in preventing this in the future.

1A: 9.8 Rep. Carlson asked that within the total \$85.9 ag budget of funding if there was any moneys available to help protect our producers? The general condenses was there should be.

1A: 10.9 Rep. Dennis Renner, District 31, spoke briefly in support of HB 1465.

1A:11.6 Leo McDonnell, President of RCALF gave an overview of the history, the officers, and the organization. (Note enclosed testimony.) Mr. McDonnell went on to explain the cases under current actions and the needs of protection for several ag industry groups. (Note enclosed testimony.)

1A: 26.9 Chairman Dalrymple asked about the attitude of the Canadian government and if a in person discussion would help resolve the situation? Mr. McDonnell stated he clearly did not feel anything could be accomplished by speaking with the Canadian Government. Canada has a very indifferent attitude towards American producers and expressed his opinion as to the needed legal frame work which should continue.

1A:29.3 Wade Moser, President of the ND Stockman's Association, spoke in favor of HB 1465. When questioned about the possible use of check-off dollars, Mr. Moser stated he believes a different vehicle needs to be created. Mr. Moser stated that most of the North Dakota Producers have already contributed to RCALF.

1A: 36.0 Rep. Froelich, District 35, spoke in support of HB 1465. He believes that we could create more economic development in this state by supporting this bill.

1A:38.2 Jim Harmon, President of the North Dakota Farm Bureau, informed the committee that the Board of NDFB has passed a policy in favor of RCALF. The Bureau stands in favor of HB 1465.

1A: 41.0 Richard Schlosser, member of North Dakota Farmers Union, spoke in favor of HB 1465. His Board is also issuing a policy regarding RCALF.

1A: 42.5 Larry Schnell, ND Livestock Marketing Association spoke in favor of HB 1465.

1A: 46.7 Jim Small, local ranchers, spoke in favor of RCALF and handed out a web page from the Internet. He invited the committee members to check the web site.

2A: 0.4 Mark Trechok, Executive Secretary of Dakota Resource Council, spoke in favor of RCALF and HB 1465.

With no additional speakers, the hearing was closed.


1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1465

House Appropriations Committee

Conference Committee

Hearing Date 2/9/99

Tape Number	Side A	Side B	Meter #
1	x		9.5-22.6
2	x		36.5-48.4
Committee Clerk Signature 			

Minutes:

(9.5) Chairman Dalrymple opened the hearing on HB 1465 in the Roughrider Room and gave a brief explanation of the bill.

(12.1) Rep. Nichols: "Has anyone from the Beef Commission indicated whether or not that they would put some dollars together, to help with this effort, if this legislation were enacted?"

(12.3) Chairman Dalrymple answered "no."

(13.6) Rep. Kerzman resisted the proposed amendments for HB 1465.

(14.2) Rep. Lloyd resisted the amendments for the bill, because of the excessive amount of cattle being dumped into North Dakota from Canada.

(16.1) Rep. Huether agreed with Rep. Lloyd, and resisted the amendment.

(18.0) Rep. Carlson supported the amendments, and commented that he felt that the commission had the money to spend and should prioritize their spending.

(18.6) Rep. Gulleson responded to Rep. Carlson and felt that the language needs to be there and resisted the amendments.

(23.6) Chairman Dalrymple decided to hold the bill.

(36.5--tape 2, side a) Chairman Dalrymple reopened the hearing on HB 1465 in the Roughrider Room.

(41.2) Rep. Timm moved to pass the amendments .0102, which was seconded by Rep. Monson.

The amendments for HB 1465 were passed.

HB 1465 was passed.

Date: 2/9/99
 Roll Call Vote #: /

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 1465

House Appropriations Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DNP

Motion Made By Wentz Seconded By Carlson

Representatives	Yes	No	Representatives	Yes	No
Chairman Dalrymple	X		Nichols		X
Vice-Chairman Byerly	X		Poolman		X
Aarsvold		X	Svedjan	X	
Bernstein	X		Timm	X	
Boehm		X	Tollefson	X	
Carlson	X		Wentz	X	
Carlisle	X				
Delzer	X				
Gulleson		X			
Hoffner		X			
Huether		X			
Kerzman		X			
Lloyd		X			
Monson		X			

Total (Yes) 10 No 10

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2/9/99
 Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1465

House Appropriations Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number 0102

Action Taken Do Pass

Motion Made By Timm Seconded By Monson

Representatives	Yes	No	Representatives	Yes	No
Chairman Dalrymple	X		Nichols		X
Vice-Chairman Byerly	X		Poolman	X	
Aarsvold		X	Svedjan	X	
Bernstein	X		Timm	X	
Boehm	X		Tollefson	X	
Carlson	X		Wentz	X	
Carlisle	X				
Delzer	X				
Gulleson		X			
Hoffner		X			
Huether		X			
Kerzman		X			
Lloyd		X			
Monson	X				

Total (Yes) 13 No 7

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2/9/99
 Roll Call Vote #: 2

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1465

House Appropriations Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Dr. Pass

Motion Made By Gulleson Seconded By Aarsvold

Representatives	Yes	No	Representatives	Yes	No
Chairman Dalrymple	X		Nichols	X	
Vice-Chairman Byerly	X		Poolman	X	
Aarsvold		X	Svedjan	X	
Bernstein	X		Timm	X	
Boehm	X		Tollefson	X	
Carlson	X		Wentz	X	
Carlisle	X				
Delzer		X			
Gulleson		X			
Hoffner		X			
Huether	X				
Kerzman		X			
Lloyd	X				
Monson	X				

Total (Yes) 15 No 5

Absent 0

Floor Assignment Boehm

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1465: Appropriations Committee (Rep. Dalrymple, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1465 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 4-34-01 of the North Dakota Century Code, relating to the purposes of the Beef Promotion Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-34-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-34-01. Purposes. The purposes of this chapter are:

1. To provide and participate in programs to increase the consumption of domestic beef through such means as advertising, research, consumer information, industry information, sales promotion, and education, but at no time may false or unwarranted claims be made on behalf of the beef industry.
2. To support beef promotion, research, and education activities of the national beef promotion and marketing organizations with not less than fifty percent of the assessments collected.
3. To initiate, encourage, and sponsor research designed to solve problems in the beef industry.
4. To enhance the sale and production of North Dakota beef cattle.
5. To support the commission's involvement in the resolution of trade issues."

Renumber accordingly

1999 SENATE AGRICULTURE

HB 1465

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1465

Senate Agriculture Committee

Conference Committee

Hearing Date 3/12/99

Tape Number	Side A	Side B	Meter #
1	X		5135-END
1		X	0-4825
3/25 1		X	3480-END
3/25 2	X		0-1740
Committee Clerk Signature <i>Jocia Ferguson</i>			

Minutes:

Senator Wanzek called the meeting to order, roll call was taken, all were present.

Senator Wanzek opened the hearing on HB 1465.

Representative Lundgren introduced the bill. Testimony enclosed.

Senator Kroepin: Will putting a label on help?

Representative Lundgren: It depends on the process through which the meat is sold.

Senator Klein: Why isn't the federal government doing more, isn't this a national issue?

Representative Lundgren: I agree with you, I wish they would do more.

Senator Klein: This should be a national effort.

Representative Lundgren: I absolutely agree.

Senator Sand: This isn't a democrat or republican issue, both parties want cheap food.

Representative Lundgren: I agree.

Wade Moser from the ND Stockmen's Association spoke on the bill. Handouts were passed around. They would support the bill with the proposed amendments to put the bill back in its' original form.

Senator Bowman spoke. Asked the committee to kill the amendments the House put on.

Senator Wanzek: Do we run the risk of setting precedence?

Senator Bowman: We are trying to enforce laws that are already on books. The cattle men don't ask for a lot.

Representative Froelich spoke on the bill. Testimony enclosed.

Senator Sand: Are these feeder or fat cattle coming over?

Representative Froelich: I don't believe we have many feeder cattle.

Representative Meyer spoke on the bill. Asked the committee to reconsider the bill in its' original form.

Representative Renner spoke on the bill.

Representative Froelich spoke again.

Senator Sand: The problem is in Washington.

Representative Froelich: I agree but we can't get them to do a thing about it.

Senator Sand: Level playing field is not the real argument, as far as I'm concerned the real argument is in both our capital.

Senator Kinnoin: The unfortunate thing is the American farmer cannot go to Canada and do the same thing that the Canadians can come down here and do.

Senator Wanzek: In many ways there seems to be a double standard.

Nancy Jo Bateman from the ND Beef Commission spoke on the bill. Testimony enclosed.

Dick Talkech spoke neutrally on the bill.

Mark Sitz from the ND Farmer's Union spoke on the bill. They would support the bill with the proposed amendments to bring the bill back to it's original form.

Senator Urlacher: Are Farmer's Union participating or can they participate in the funding of the RCALF program?

Mark Sitz: I can't answer that for sure, I believe we are.

Brian Kramer from the ND Farmer's Bureau spoke on the bill. Would support the bill in it's original form.

Senator Urlacher: Can or have you participated in the RCALF?

Brian Kramer: I am not certain, I believe we can and I believe there are some ramifications if we do.

Senator Wanzek: I don't believe there is anything in the century codes that would prohibit.

Brian Kramer: Correct.

Eugene Schaaf spoke on the bill.

Senator Wanzek closed the hearing on HB 1465.

MARCH 25, 1999

Amendments were proposed to the bill.

Representative Lundgren stood and explained what had happened with the bill since the hearing.

Discussion was held.

Senator Kroeplin made the motion for a Do Pass on the amendments.

Senator Mathern seconded.

Motion failed.

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Senate Agriculture Committee

Bill/Resolution Number Hb 1465

Hearing Date 3/12/99

Discussion was held.

Senator Bowman spoke on the amendments. Asked that the bill be killed because the issue became political. Said he is still going to work to get the money.

Discussion was held.

Senator Klein made the motion for a Do Not Pass.

Senator Urlacher seconded.

Discussion was held.

ROLL CALL: 6 Yes, 1 No

CARRIER: Senator Wanzek

Date: 3/25
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1465

Senate Agriculture Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Amendments

Motion Made By Kroeplin Seconded By Mathern

Senators	Yes	No	Senators	Yes	No
Senator Wanzek		✓			
Senator Klein		✓			
Senator Sand		✓			
Senator Urlacher		✓			
Senator Kinnoin		✓			
Senator Kroeplin	✓				
Senator Mathern	✓				

Total (Yes) 2 No 5

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

X

Date: 3/25
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1465

Senate Agriculture Committee

Subcommittee on _____
or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Klein Seconded By Urlacher

Senators	Yes	No	Senators	Yes	No
Senator Wanzek	✓				
Senator Klein	✓				
Senator Sand	✓				
Senator Urlacher	✓				
Senator Kinnoin	✓				
Senator Kroeplin		✓			
Senator Mathern	✓				

Total (Yes) 6 No 1

Absent _____

Floor Assignment Senator Wanzek

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 25, 1999 12:17 p.m.

Module No: SR-54-5603
Carrier: Wanzek
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1465, as engrossed: Agriculture Committee (Sen. Wanzek, Chairman) recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1465 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

HB 1465

**Written Testimony of Roger Johnson
Commissioner of Agriculture
North Dakota Department of Agriculture
House Bill 1465
January 26, 1999
House Appropriations Committee
Roughrider Room**

Chairman Dalrymple and Committee members.

I rise to support HB 1465. The livestock industry in North Dakota is being devastated by low prices. Current data shows that, on average, our cattle producers have made no money for the past four years, 1994 - 1997. Many of the state's producers have gone out of business and numerous others will quit if the prices do not rebound soon.

Economists tell us that this situation is caused by an oversupply of cattle in the United States. However, recent numbers indicate that the American cattlemen will wean the smallest calf crop since 1951; at the same time, Canadian cattle numbers are nearing record highs. Canadian livestock exports to the U.S. have increased from 800,000 in 1990 to 1.3 million in 1997. It appears that Canadian importation is one of the major reasons why the lower weaning numbers do not reflect higher prices.

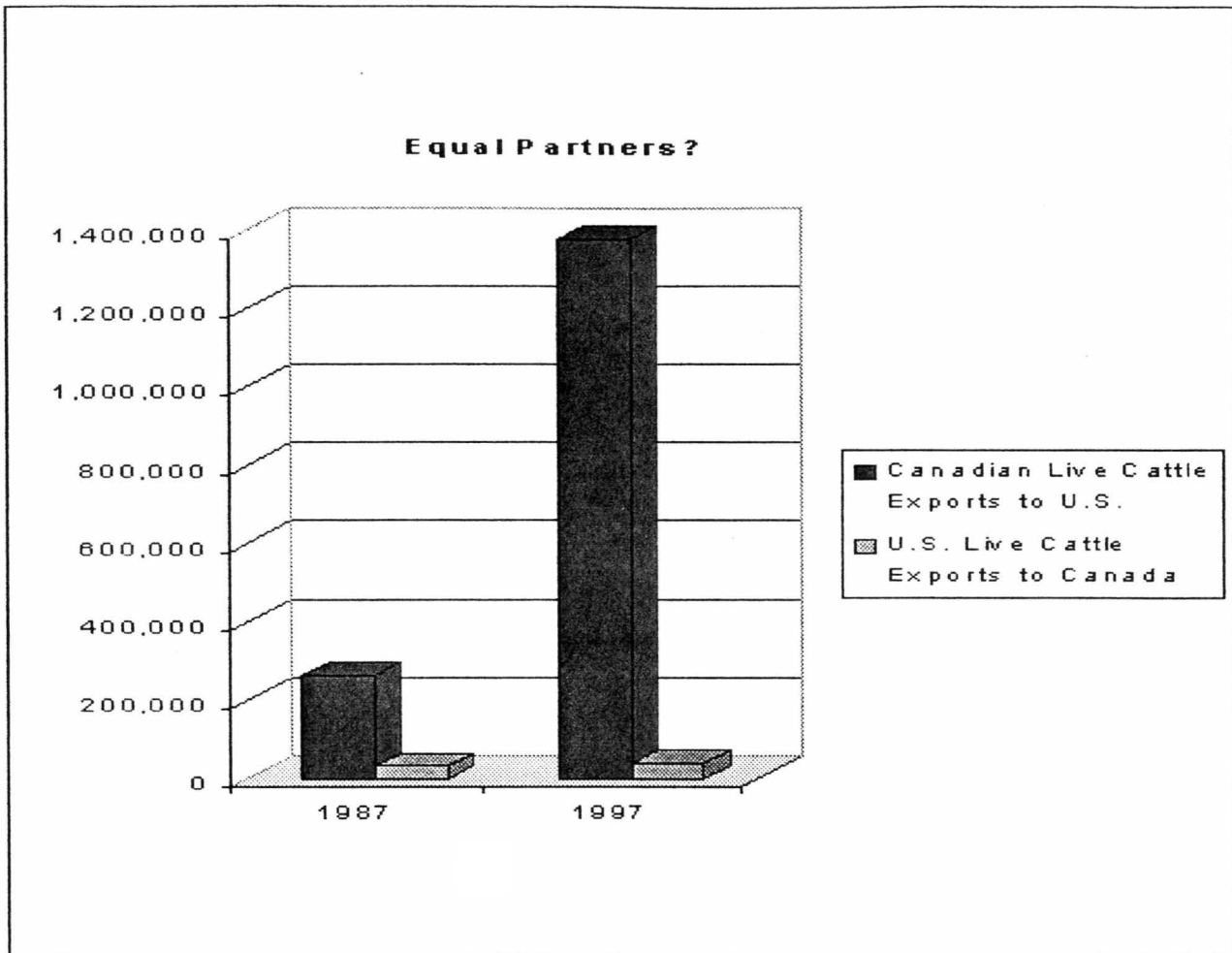
This bill would allow the Commissioner to investigate the dumping of Canadian cattle into the U.S. market. The intent of this bill is to use the requested funds to directly support R-CALF. Leo McDonnell, who is here today, formed R-CALF to unmask the dumping of cattle from Canada by showing that Canadians are selling cattle in the US at less than their cost of production. The International Trade Commission has since agreed with R-CALF by finding evidence that American farmers might have been hurt by imports of live Canadian cattle. The case now moves to the Commerce Department, which will investigate whether there has been dumping of cattle into the U.S. market and will determine what type of import restrictions, if any, are justified.

The Saskatchewan provincial government and the Canadian Cattlemen's Association take this issue very seriously. In fact, they have hired attorneys to fight it in the United States. R-CALF has received great support from producers to pursue this case: however, more funds are needed to ensure the satisfactory completion of this process.

I urge you to support North Dakota cattlemen by voting for this bill.

Thank you.

	1987	1997
Canadian Live Cattle Exports to U.S.	262,000	1,377,000
U.S. Live Cattle Exports to Canada	33,000	41,000



WESTERN Livestock Reporter

The national livestock weekly designed for cattlemen!

Official USDA Reports

Billings, Montana, January 6, 1999

Fifty-Eighth Year No. 23

Canadian province to fight R-CALF petitions

The Saskatchewan provincial government has come to the aid of cattle ranchers embroiled in a trade war with the United States.

Justice Minister John Nilson has hired lawyers in Washington, D.C., to work on behalf of Saskatchewan cattlemen during investigation of a trade action against Canadian produc-

ers who export cattle to the United States.

The action was launched in November by Ranchers-Cattlemen Action Legal Foundation (R-CALF).

The group claims Canadian cattle producers benefit from unfair government subsidies and dump cattle in the United States at prices below produc-

tion costs.

Hal Cushon of the Saskatchewan Agriculture Department called the claims "laughable."

Targets of criticism by the U.S. cattlemen include an income stabilization program that lets farmers receive government funds to match a small percentage of their profits. U.S.

investigators have examined the program and found it is available generally, and thus is not a subsidy for producers of any particular commodity, Cushon said.

The U.S. cattlemen also claim the Canadian Wheat Board manipulates prices to keep them low, so cattle producers can buy cheap barley for feed.

"The laughable thing about that is, because of the crops we've grown we're actually importing higher-priced U.S. barley into southern Alberta," Cushon said.

"If the wheat board is manipulating the market to keep prices low, then how can our

Continued on page 2

R-CALF

Continued from page 1

farmers afford to buy high-priced U.S. barley?"

Lawyers hired by the government of Saskatchewan will work with those representing other provinces, the Canadian government and farm groups.

"We're all on the same team here, but we each have our own little piece of the action, so we each have our own legal counsel to handle that," Cushon said.

R-CALF received standing to present the petitions Dec. 22. The first step in the study will occur Jan. 18 when the U.S. International Trade Commission is to make a preliminary determination as to whether there has been injury or threats of injury caused by Canadian and Mexican cattle imports to the U.S. industry. —AP

WADE MOSER

Testimony of Rep. Deb Lundgren
House Appropriations Committee * Rep. Jack Dalrymple, Chairman
26 January 1999

Chairman Dalrymple, members of the committee, my name is Deb Lundgren. I am a farm wife from south central North Dakota, and a Representative of District 28. I am here to introduce House Bill 1465.

Last week, the US International Trade Commission ruled in favor of an RCALF (Ranchers / Cattlemen Action Legal Foundation) petition that claimed American farmers have been hurt by imports of live Canadian cattle. The decision moves the case into the Commerce Department where allegations of "dumping" will be investigated. Antidumping (A/D) and countervailing duty (CVD) investigations examine whether imports from a particular country or countries are entering the United States at unfairly low prices (i.e. "dumped") or at prices which reflect a benefit from a subsidy, (i.e. "countervailed") and which are causing or threatening economic harm to a domestic industry.

At the current time, USDA 'beef production' numbers include all cattle slaughtered in the US whether they were raised in this country or imported. The imported beef is then labeled "U.S. Beef Production." This gives an inaccurate picture of the current beef industry, causing market analysts to simply and incorrectly blame producers for overproduction.

There are laws which protect US producers from excessive imports, but in order for the ITC (International Trade Commission) and the Department of Commerce to enforce these laws, there must be a petition for import relief filed on behalf of US cattle producers. The petition was filed by RCALF and because of the decision last week, the investigation will go forward.

The purpose of HB 1465 is to allow North Dakota to participate in the legal actions being brought against Canada for the practices of dumping and countervailing. I am offering amendments to the bill which reflect the recent action by the ITC. It is no longer necessary to request an investigation. An investigation will now progress under the Commerce Department. It is not necessary for the agriculture commissioner to "determine that sufficient evidence" exists. That determination has been made. The reference to RCALF has been added to assure that the already filed and ruled on petition's efforts are not unnecessarily duplicated.

North Dakota's participation in such an action is a positive step toward addressing the current crisis in the cattle industry. I ask your support on behalf of the producers in our great state.

Proposed Amendments to House Bill No. 1465

- Page 1, line 2: after “to” remove “investigations of” and add “the”
- Page 1, line 7: remove “Investigations - “
- Page 1, line 8: replace “may” with “shall” and remove “conduct an investigation into, participate in the”
- Page 1: remove lines 9 through 12
- Page 1, line 13: remove “commissioner may” and after “remedies” insert “against Canada”; after “halt” remove “the”; after “dumping” insert “and/”
- Page 1, line 14: after “duty” add “on behalf of the cattle industry in this state.”
- Page 1: remove lines 15 and 16
- Page 1, line 20: replace “implementing this Act” with “for the purpose of supporting legal efforts of the Ranchers-Cattlemen Action Legal Foundation”

HB 1465 as amended:

A BILL for an Act to create and enact a new section to chapter 4-01 of the North Dakota Century Code, relating to the beef industry trade issues by the agriculture commissioner; to provide an appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 4-01 of the North Dakota Century Code is created and enacted as follows:

Trade issues - Remedies.

The agriculture commissioner shall pursue available remedies against Canada to halt dumping and/or seek the imposition of a countervailing duty on behalf of the cattle industry in this state.

SECTION 2. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$150,000, or so much the sum as may be necessary, to the agriculture commissioner for the purpose of supporting legal efforts of the Ranchers-Cattlemen Action Legal Foundation, for the biennium beginning July 1, 1999, and ending June 30, 2001.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

WHAT IS R-CALF?

R-CALF Ranchers-Cattlemen Action Legal Foundation

A group of concerned cattlemen, women and agriculture related business's have organized a legal foundation to initiate action to effectively deal with the negative impact of imports on profitability in the cattle industry.

What impact have imports had on cattlemen?

Live cattle imports have increased since the early 1980's from around 2.5% of domestic production to nearly 8% by 1995. Coupled with beef imports this impact has been as high as 18% in recent years. Exports are only 8% of our production and are expected to have peaked for the next few years while imports in 1998 are projected to reach record levels. Based on industry standard historical supply-price relationships, beef & live imports in recent years may have had an annual negative impact on per calf value of \$200.00 or on a net trade basis (imports minus exports) a loss in calf value of \$100/calf. This loss amounts to nearly 25% of the value of a calf.

What impact have beef and cattle imports had on our U.S. agriculture states economy?

Using these supply-price relationships in the United States the loss in value from imports alone to cattle producers is nearly \$8 billion or on a net trade basis (imports minus exports) of \$4 billion.

Isn't this just a normal cattle cycle?

No! In the 70's and the 80's the fed cattle market was down for 2 years respectively--- '75 & '76 and '85 & '86. However the cattle industry has just entered its 5th consecutive of declining prices. Although exports have expanded markets with a promised increase in demand, imports continue to increase and have more than offset declining U.S. cow herd numbers which traditionally has sparked increased cattle prices. The majority of these imports the last year have been dumped into the U.S. at below the foreign countries cost of production which would be in violation of U.S. trade regulations.

Why haven't producers and our political representatives been made aware of this impact?

Live cattle imports are included in what USDA calls "beef production" and what market analysts label "U.S. Beef Production". By doing this they have been able to mask the severe impact live cattle imports have had on cattle producers - and at the same time blaming U.S. producers for a supply glut.

Are there laws protecting or safeguarding the U.S. producers from excessive and damaging imports?

Yes there are. Federal laws and regulations are fairly strong in addressing injury to domestic industries from significant import supplies, dumping violations, subsidized imported commodities, and unfair trade practices.

Why haven't they been enforced?

The U.S. International Trade Commission (ITC) and the Department of Commerce are the enforcement and administrative agencies for these laws - but their hands are generally tied until the cattle industry formally files a petition for 'import relief' requiring the ITC to initiate an investigation and take action. Cases have been successfully filed by the U.S. Steel Industry, tomato growers, strawberry producers, crawfish producers, wheat gluten industry, etc...

How significant will this case be?

The U.S. cattle industry with 1.2 million producers is one of the larger industries in the United States. Gross revenue producer sales in 1997 were over \$33 billion making it the largest revenue sector in agriculture.

How long does a case take?

Countervailing (subsidy) and Anti-dumping cases generally take 8 to 12 month's. Section 301 cases can take up to 12 to 18 month's.

How will this benefit cattle producers?

By raising the cost of procuring imports by requiring them to do away with unfair trade practices or by putting penalties on these types of imports to insure trade is fair---then it should insure that artificially distorted low import prices do not continue to put downward pressure of the U.S. market.

What happens if we do nothing?

Just look at the sheep industry where sheep numbers have gone from 45 million head to 20 million to 9 million in 1996 to 7.6 million in 1998. Yet, 'lamb and mutton supplies' (including imports) in the U.S. have increased from 363 million pounds in 1980 to 397 million pounds in 1997 while imports increased from 10% in 1980 to nearly 40% in 1998. In the mean time retail prices have increased steadily due to strong demand even though it's a relatively small market. Today the American Sheep Industry is trying to rally what's left of its producers to file an import relief case.

Frequently Asked Questions About the R-CALF Petitions

R-Calf (Ranchers-Cattlemen Action Legal Foundation) on behalf of cattle producers in the United States has filed three petitions with the U.S. government seeking investigations of whether injurious unfair trade practices are occurring:

- (1) antidumping petition on live cattle from Canada;
- (2) countervailing duty petition on live cattle from Canada;
- (3) antidumping petition on live cattle from Mexico

What is dumping and how does an antidumping case work?

Dumping is defined under U.S. law and under international agreement to include several situations: (1) exporting to a foreign country for less than the same product is sold in the home country; (2) selling for export at a price which is less than constructed value (used in situations where home market prices are below the full cost of production over time).

For relief to be provided to an industry in the United States (such as U.S. cattlemen), a petition must be filed by or on behalf of an industry, dumping must be found, material injury (or the threat of such injury) must be found that is caused by the dumped imports. The Petitions filed by R-Calf and the many associations and individual ranchers supporting the R-Calf effort is the necessary first step for investigations being conducted.

What is different about a countervailing duty case?

A countervailing duty case involves allegations that a foreign government has conferred certain benefits on its companies and that such benefits on exported product cause material injury (or threat) to an industry in the United States. R-Calf's counsel reviewed more than 100 different programs available from the Canadian or provincial governments and has alleged that 34 of the programs confer benefits which should be actionable under U.S. law.

Has R-Calf alleged significant dumping and subsidy margins?

Yes. R-Calf's counsel has estimated that dumping margins on imported live cattle from Canada may be in the 10-40% range (i.e., dumping margins may exceed \$100-200/head), dumping margins on imported live cattle from Mexico may be in the 50-100% range (well above \$200/head) and that the net subsidies on the programs where sufficient information was available on live cattle imports from Canada may be more than 10%.

Are the petitions filed by R-Calf the start of a lawsuit?

No. The petitions filed by R-Calf request the United States government to conduct an investigation into whether injurious dumping and injurious subsidization is occurring. Domestic producers (such as the groups and individuals supporting R-Calf), foreign producers, importers and (in the countervailing duty case) the foreign government participate and supply information that is available to them. However, two government entities in the United States gather the facts, evaluate the information supplied to them and render a decision if investigations are initiated.

What is required for investigations to be initiated and how can individuals or organizations help?

Petitions must be filed alleging the elements of the statute (e.g., injurious dumping; injurious subsidization) and there must be sufficient support from domestic producers to satisfy U.S. law for standing. The standing test is two prong:

- (1) do those in support of the petition being investigated account for at least 25 percent of U.S. production (either volume or value basis)?
- (2) Is there more support for than opposition to initiation by domestic producers (again measured on a production basis)?

It is in every U.S. cattleman's or cattlegirl's interest to have the U.S. government know your position. Do you support, oppose or take no position on the government initiating these investigations?

What happens if investigations are started and injurious dumping and subsidies are found?

Antidumping and countervailing duty cases if successful result in foreign producers and U.S. importers having an incentive to permit conditions of fair trade to be restored: if foreign producers don't charge or importers don't agree to pay a fair price for imported cattle, the U.S. government will collect the difference (fair value - import price) as an additional duty.

Please note: the moneys collected do not go to U.S. producers but to the U.S. Treasury. Relief for U.S. producers comes from the foreign product facing higher prices in the market (which reduces supply and increases prices for domestic producers).

Cases take about one year from initiation, although importers may face potential liability for dumping or subsidization within 3 - 7 months of the cases being brought.

Isn't it better to negotiate or legislate than pursue trade cases?

Each approach is appropriate for certain situations. Issues such as country of origin are currently the subject of negotiations within the World Trade Organization. Country of origin labelling was properly the subject of legislative efforts earlier this year. Similarly, efforts to reduce market access barriers in foreign countries can be handled through negotiation or through pursuit of dispute settlement depending on whether the existing barrier is contrary to existing U.S. rights. By international agreement, when an industry has a problem with low priced imports, the appropriate approach to address the problem is through an antidumping or countervailing duty case where dumping or subsidization is involved. The problems addressed in the petitions filed by R-Calf are injurious dumping and injurious subsidization. The correct approach to these problems is seeking relief under U.S. laws.

TESTIMONY HOUSE BILL 1465

Prepared by Leo McDonnell

Tuesday, January 26, 1999

Chairman Dalrymple and members of the Appropriations Committee, for the record I am Leo McDonnell of Midland Bull Test, of Columbus Montana.

R-CALF (Ranchers-Cattlemen Action Legal Foundation) is a nonprofit corporation filed in the State of Montana. There are four directors: Leo McDonnell, Columbus, Montana; Jack McNamee of Miles City, Montana; Kathleen Kelley of Meeker, County and Herman Schumacher of Herreid, South Dakota.

Other officers of interest would be John Weber of Weber-Dobson, CPA of Billings, Montana. John is the Treasurer. Also, Karen Budd-Fallon of Cheyenne, Wyoming is the attorney who prepare and filed the R-CALF Foundation documents including by-laws.

Under US trade laws it is generally required that domestic industry take the self-initiative to file a petition case requesting an investigation and the enforcement of trade laws that may be in violation. The Department of Commerce (DOC) and US International Trade Commission (USITC) who are empowered with the investigative and enforcement of trade laws do not have the ability to self-initiate a case. R-CALF was formed to file the petition cases on behalf of the US cattle industry, and to gather the necessary funds to finance this process.

One of the requirements to have the petition cases investigated is that R-CALF represent a minimum of 25% of US production and that there be more support than opposition by domestic producers. In 5 ½ months R-CALF has gained the support of 26,000 individual cattle producers and over 130 associations from across the US. The support for R-CALF now represent well over 50% of the US cattle herd.

R-CALF has two cases as of today being investigated: a countervailing (Subsidy or subsidy - like action) against Canada and an antidumping case against Canada. The following is a list of questions frequently asked about R-CALF and the legal process.

While it is true that Canada sought during the negotiations of CFTA (Canadian Free Trade Agreement) and the NAFTA to eliminate the applicability of the US antidumping law to imports from Canada, the United States firmly rejected this effort. Indeed, article 1902 of the CFTA and Article 1902 of the NAFTA state as follows:

“Each party reserves the right to apply its antidumping and countervailing duty law to goods imported from the territory of any other party.”

In fact, Mexico today has two antidumping cases against the US today: one on beef and on live cattle.

Also, Canada has filed antidumping cases against the US in recent years on such commodities as potatoes, lettuce, apples, etc.

In 1996 the US tomato industry filed an antidumping case against Mexico. At this time Mexico was dumping tomatoes into US at \$1 to \$3/box. Out of this case it was resolved that Mexico would not sell tomatoes into the US for less than \$\$5.14/box. In the first year following this the gross sales to US tomato producers increased by \$60 million and interestingly enough the price received by Mexican tomato producers also improved.

Antidumping and countervailing remedies are designed to return on injured US industry back to a “fair value” so trade does not damage that industry.

When one looks at trade from Canada it becomes very clear that the US cattle industry, our communities and businesses, and our state agricultural economies have been significantly injured from Canadian beef and live cattle imports.

Changes In Canadian Trade Since 1987

	<u>1987 beef</u>	<u>1987 cattle</u>
Canadian imports to US	191 million lbs	262,000
US exports to Canada	37 million lbs	33,000
	<u>1997 beef</u>	<u>1997 cattle</u>
Canadian imports to US	712 million lbs	1,377,000
US exports to Canada	283 million lbs	41,000

1998 Canadian cattle imports have remained about the same as 1997 and 1998 beef imports from Canada have risen by an additional 15% or so. While US exports to Canada have declined.

On a net trade basis (imports minus exports) and converting beef to a live animal equivalent the US cattle industry went from a trade deficit with Canada in 1987 of approximately 450,000 to over 2,000,000 by 1997 and 1998.

The supply impact alone from Canadian imports is estimated to have cost US cattle producers nearly \$60/head. In North Dakota with 900,000 calves produced annually that is a loss of \$5.4 million annually on a supply impact basis alone. This does not include the loss due displacement of production or the import that artificially cheap imports from dumping and subsidies have on our domestic market.

The damage does not stop at the producer though as it has a ripple effect through main street North Dakota, as communities are hollowed out and wither. It is said that revenue turns over 7 times in a community and the loss to North Dakota using the economic multiplier may well be \$35 million annually.

We are at a crossroads in our agricultural industries and states. We need to either effectively address the economic damage being done to agriculture from unregulated and unlawful imports, and concentration of the processing segment or we will be left to deal with the tremendous social problems as our farmers and ranchers forced to exit their businesses and homes and our rural communities dry up and blow away.

There is no other opportunities today that can have as immediate and positive long term import as the process the R-CALF has started.

Unfortunately, the legal cost of filing and actively being involved in these cases is \$1.7 million dollars. The law firm retained is Stewart & Stewart of Washington DC and our monthly obligations are \$121,000 starting last September. To date cattle producers and main street business and banks have donated over \$825,000.

Thank you for allowing me the opportunity to speak today.

Respectfully submitted, Leo McDonnell, President R-CALF



Leo McDonnell of R-CALF answers Frequently Asked Questions About the R-CALF Petitions

R-Calf (Ranchers-Cattlemen Action Legal Foundation) on behalf of cattle producers in the United States has filed three petitions with the U.S. government seeking investigations of whether injurious unfair trade practices are occurring:

- (1) antidumping petition on live cattle from Canada;
- (2) countervailing duty petition on live cattle from Canada;
- ~~(3) antidumping petition on live cattle from Mexico~~

What is dumping and how does an antidumping case work?

Dumping is defined under U.S. law and under international agreement to include several situations: (1) exporting to a foreign country for less than the same product is sold in the home country; (2) selling for export at a price which is less than constructed value (used in situations where home market prices are below the full cost of production over time).


For relief to be provided to an industry in the United States (such as U.S. cattlemen), a petition must be filed by or on behalf of an industry, dumping must be found, material injury (or the threat of such injury) must be found that is caused by the dumped imports. The Petitions filed by R-Calf and the many associations and individual ranchers supporting the R-Calf effort is the necessary first step for investigations being conducted.

What is different about a countervailing duty case?

A countervailing duty case involves allegations that a foreign government has conferred certain benefits on its companies and that such benefits on exported product cause material injury (or threat) to an industry in the United States. R-Calf's counsel reviewed more than 100 different programs available from the Canadian or provincial governments and has alleged that 34 of the programs confer benefits which should be actionable under U.S. law.

Has R-Calf alleged significant dumping and subsidy margins?

Yes. R-Calf's counsel has estimated that dumping margins on imported live cattle from Canada may be in the 10-40% range (i.e., dumping margins may exceed \$100-200/head), dumping margins on imported live cattle from Mexico may be in the 50-100% range (well above \$200/head) and that the net subsidies on the programs where



sufficient information was available on live cattle imports from Canada may be more than 10%.

Are the petitions filed by R-Calf the start of a lawsuit?

No. The petitions filed by R-Calf request the United States government to conduct an investigation into whether injurious dumping and injurious subsidization is occurring. Domestic producers (such as the groups and individuals supporting R-Calf), foreign producers, importers and (in the countervailing duty case) the foreign government participate and supply information that is available to them. However, two government entities in the United States gather the facts, evaluate the information supplied to them and render a decision if investigations are initiated.

What is required for investigations to be initiated and how can individuals or organizations help?

Petitions must be filed alleging the elements of the statute (e.g., injurious dumping; injurious subsidization) and there must be sufficient support from domestic producers to satisfy U.S. law for standing. The standing test is two prong:

- (1) do those in support of the petition being investigated account for at least 25 percent of U.S. production (either volume or value basis)?
- (2) Is there more support for than opposition to initiation by domestic producers (again measured on a production basis)?

It is in every U.S. cattleman's or cattlemaster's interest to have the U.S. government know your position. Do you support, oppose or take no position on the government initiating these investigations?

To let the U.S. Department of Commerce know your views you can e-mail the information needed to Commerce, you can send a letter to Commerce, you can send a letter, fax or e-mail to R-Calf or its counsel or you can call R-Calf or its counsel. The addresses are provided below. **Please take the time to be counted. These cases provide an important opportunity to restore conditions of fair trade in the United States. Commerce will need your name, address, phone, number of head of cattle (excluding breeding bulls and milking cows but including culls) as of January 1, 1998 and July 1, 1998 and an identification of all trade associations that you belong to.**

Mr. Richard Moreland
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Room 3099
Washington, D.C. 20230
Commerce e-mail:
industry_response@ita.doc.gov.

Mr. Leo McDonnell, Jr.
R-Calf
P.O. Box 1489
Columbus, MT 59019

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Terence P. Stewart, Esq.
Law Offices of Stewart and Stewart
2100 M Street, N.W.
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Fax: 202-466-1286
Telephone: 202-785-4185

e-mail: cattletraderelief@stewartlaw.com

What happens if investigations are started and injurious dumping and subsidies are found?

Antidumping and countervailing duty cases if successful result in foreign producers and U.S. importers having an incentive to permit conditions of fair trade to be restored: if foreign producers don't charge or importers don't agree to pay a fair price for imported cattle, the U.S. government will collect the difference (fair value – import price) as an additional duty.

Please note: the moneys collected do not go to U.S. producers but to the U.S. Treasury. Relief for U.S. producers comes from the foreign product facing higher prices in the market (which reduces supply and increases prices for domestic producers).

Cases take about one year from initiation, although importers may face potential liability for dumping or subsidization within 3 – 7 months of the cases being brought.

Will the R-Calf cases initiate a “trade war” with Canada and Mexico?

No. The United States, Mexico and Canada are all members of the World Trade Organization. Countries are not allowed to take retaliation for other countries pursuing rights under the WTO. Antidumping and countervailing duty cases are specifically authorized by international agreement.

Moreover, each of the three countries have used antidumping and/or countervailing duty measures in the past on agricultural products without retaliation

occurring. For example, the U.S. has investigated dumping of fresh tomatoes from Mexico, swine and pork from Canada to name just a few. Canada has investigated imports of U.S. potatoes, iceberg lettuce, apples and sugar under its antidumping law and corn under its countervailing duty law. Similarly, Mexico has investigated alleged dumping of apples and high fructose corn syrup from the U.S. Each country has the right to investigate allegations of unfair trade practices that cause harm to their industries.

Hasn't Mexico retaliated by filing beef and cattle antidumping cases against the U.S.?

No. The Mexican producers of live cattle and beef and the Mexican producers of live swine had filed antidumping petitions with the Mexican government in the summer this year (there were press releases of the filings by July), long before R-Calf had decided to file petitions.

Isn't it better to negotiate or legislate than pursue trade cases?

Each approach is appropriate for certain situations. Issues such as country of origin are currently the subject of negotiations within the World Trade Organization. Country of origin labelling was properly the subject of legislative efforts earlier this year. Similarly, efforts to reduce market access barriers in foreign countries can be handled through negotiation or through pursuit of dispute settlement depending on whether the existing barrier is contrary to existing U.S. rights. By international agreement, when an industry has a problem with low priced imports, the appropriate approach to address the problem is through an antidumping or countervailing duty case where dumping or subsidization is involved. The problems addressed in the petitions filed by R-Calf are injurious dumping and injurious subsidization. The correct approach to these problems is seeking relief under U.S. laws.

Hasn't Mexico become a major market for beef and beef variety meats?

Mexico is an important export market destination for U.S. beef producers. Under the WTO and NAFTA, U.S. producers have excellent access to the Mexican market. Under both agreements, Mexico (as well as the U.S. and Canada) maintain the right to address alleged unfair trade practices through their antidumping laws. As noted before, the Mexican beef producers had prepared and filed an antidumping petition with their government long before R-Calf's cases were prepared for filing. Mexico's right to investigate alleged unfair trade practices of its trading partners, including the U.S., would exist whether or not the U.S. government investigates alleged unfair trade practices on the importation of live cattle from Mexico. On live cattle, the U.S. runs a huge trade deficit with Mexico. Finally, the press reports of an agreement with the Mexican cattle industry not to pursue the Mexican case on live cattle if the U.S. case on live cattle is defeated **does not extend to beef.**

**R-CALF'S ANSWERS TO FREQUENTLY ASKED QUESTIONS ABOUT THE
UNFAIR IMPORT INVESTIGATIONS OF LIVE CATTLE FROM CANADA
AND MEXICO**

On December 22, 1998, the U.S. Department of Commerce determined to initiate countervailing and antidumping investigations of imports of live cattle from Canada and an antidumping investigation of imports of live cattle from Mexico in response to petitions that were filed by the Ranchers-Cattlemen Action Legal Foundation (R-CALF). For the benefit of the more than 100 trade associations and 26,000 individual ranchers who supported R-CALF's efforts to have these investigations initiated, R-CALF has prepared this set of Questions and Answers.

Q: What reasons did the Commerce Department give for initiating the investigations?

A: The Department found that R-CALF had satisfied the statutory elements for initiation of antidumping and countervailing duty investigations. In particular, for each of the three petitions, the Department found that R-CALF:

- 1. Met the statutory standing requirements;**
- 2. Provided adequate and accurate evidence to support its allegations that imports of live cattle from Canada and Mexico are being or are likely to be sold at prices that are below fair value and that imports of live cattle from Canada are benefiting from countervailable subsidies;**
- 3. Provided adequate and accurate evidence to support its allegations that the domestic industry is materially injured by reason of imports of live cattle from Canada and Mexico.**

Q: What were the dumping and subsidy margins found by Commerce?

A: The dumping margins found by Commerce in its initiation notices are substantial and, collectively, amount to margins ranging between \$100 and \$200 per head of imported cattle, depending on whether the cattle are imported from Canada or Mexico. Thus, the margins are within the ranges indicated by R-CALF in its petitions.

Q: What is the next stage in the investigations?

A: The next stage in the investigations is the preliminary determination of injury or threat of injury by the U.S. International Trade Commission. The ITC's determination, which is due out by January 18, 1999, answers the question of whether there is a "reasonable indication of material injury or threat of material injury by reason of" the dumped and subsidized imports. The ITC must make an affirmative finding in each case in order for the case to proceed.

Assuming that happens, the Commerce Department will collect information and data from Canadian and Mexican producers and the Canadian federal and provincial governments and make its preliminary determinations regarding dumping and countervailable subsidies. The Department's preliminary determination in the countervailing duty investigation is due out in late February 1999. The preliminary antidumping determination is scheduled to be issued in mid-May 1999.

It should be noted that these deadlines can be extended by the Commerce Department should the circumstances so require. The Commerce Department may choose to extend the deadlines if, for example, it finds that all parties are cooperating and that the case is extraordinarily complicated by the number of parties who must be investigated. The preliminary subsidy determination can be extended up to 5 weeks and the preliminary dumping determination can be extended up to about 7 weeks.

Q. When will the domestic cattle industry begin to see some effects in the market from these cases?

A: The Commerce Department's preliminary determination in the subsidy investigation is due out within 95 to 130 days from the date of initiation, and the preliminary dumping determinations are due out in 140 to 190 days, depending on whether the Department extends the deadlines as previously discussed. The preliminary determinations will trigger the requirement of payment of cash deposits or posting of bonds by importers who continue to import cattle at prices below fair value and/or have benefited from countervailable subsidies, and expose the importers to possible additional liability. Thus, the domestic industry could expect to see some impact on prices for imports once the Commerce Department's preliminary determinations are issued. To the extent that the margins cause imports to be "priced out of the market," the domestic industry could also expect to see some reduction in import volumes at this time, which also would lessen the impact of imports on domestic prices.

To: Chairman Wanzek, and Senate Agriculture Committee Members
From: Aaron B. Jacobson

Mr. Chairman I am faxing this to Bismarck to be presented to the Senate Agriculture Committee to voice My opposition to Senate Bill # 1465 in it's current form as I am in the heat of calving and find it to difficult to get to Bismarck Myself to testify.

I trust the technical aspects as well as the guidelines the ND Beef Commission must follow to stay in compliance with the federal program will be explained to You in the hearing.

Bill # 1465 as it originally passed the House Agriculture committee was a good bill with good intentions, in its original form it would have given \$150,000 to R-Calf. The House Appropriations Committee hog hosed the bill and created the bill You are currently looking at. Causing the ND Beef Commission to become involved in trade issues is something that I believe is wrong, if You look at the current purposes of the NDBC You will see they are for the general promotion of our Product and thus for the good of all who pay the mandatory \$1 per head. By trying to become involved with trade issues the NDBC would most certainly end up in a position where some of those who are paying the \$1 per head would not agree with the positions taken and could be affected adversely by the involvement, thus using their mandatory payment against their wishes. Ranchers have already given very generously to R-Calf and are hoping our government will support them on this issue financially. South Dakota has just recently given R-Calf \$75,000, and Montana is currently looking at also donating to R-Calf.

Chairman Wanzek and Committee Members I urge You to either amend this bill to resemble its original form or to vote Do Not Pass. The bill in its current form will cause more problems in our states beef industry in the long run than it can possibly solve in the short term.

Sincerely,



Aaron B. Jacobson
Windy Prairie Ranch
Box 561
Crosby ND 58730
701-965-8894

**Testimony of Rep. Deb Lundgren
Senate Agriculture Committee * Senator Terry Wanzek, Chairman
12 March 1999**

Chairman Wanzek, members of the committee, my name is Deb Lundgren. I am a farm wife from south central North Dakota, and a Representative of District 28. I am here to re-introduce HB 1465 in it's intended form.

HB1465 was completely re-written in the House. As it currently stands, this bill creates an unworkable function of the beef commission. In it's present form, this bill must be defeated. I would like to amend the bill back to it's ^{original} ~~current~~ form, the purpose of which was to allow North Dakota to participate in the ongoing investigation against Canadian cattle being illegally 'dumped' into the United States.

In January, the US International Trade Commission ruled in favor of an RCALF (Ranchers / Cattlemen Action Legal Foundation) petition that claimed American farmers have been hurt by imports of live Canadian cattle. The decision moves the case into the Commerce Department where allegations of "dumping" will be investigated. Antidumping (A/D) and countervailing duty (CVD) investigations examine whether imports from a particular country or countries are entering the United States at unfairly low prices (i.e. "dumped") or at prices which reflect a benefit from a subsidy, (i.e. "countervailed") and which are causing or threatening economic harm to a domestic industry.

At the current time, USDA 'beef production' numbers include all cattle slaughtered in the US whether they were raised in this country or imported. The imported beef is then labeled "U.S. Beef Production." This gives an inaccurate picture of the current beef industry, causing market analysts to simply and incorrectly blame producers for overproduction.

There are laws which protect US producers from excessive imports, but in order for the ITC (International Trade Commission) and the Department of Commerce to enforce these laws, there must be a petition for import relief filed on behalf of US cattle producers. The petition was filed by RCALF and because of the January decision, the investigation will go forward. The rewritten bill references the ITC case numbers which assures that the already filed and ruled on petition's efforts will not be unnecessarily duplicated.

North Dakota's participation in such an action is a positive step toward addressing the current crisis in the cattle industry. South Dakota has taken this step, other states are currently looking at taking this step...please allow North Dakota to participate on behalf of the producers in our great state.

HB 1465 as amended:

A BILL for an Act to create and enact a new section to chapter 4-01 of the North Dakota Century Code, relating to the beef industry trade issues by the agriculture commissioner; to provide an appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 4-01 of the North Dakota Century Code is created and enacted as follows:

Trade issues - Remedies.

The agriculture commissioner shall pursue available remedies against Canada to halt dumping and/or seek the imposition of a countervailing duty on behalf of the cattle industry in this state.

SECTION 2. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$150,000, or so much the sum as may be necessary, to the agriculture commissioner for the purpose of supporting the international trade commission investigations No. 701-TA-386 and No. 731-TA-812, for the biennium beginning July 1, 1999, and ending June 30, 2001.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

To: LRC 6057734576 Bob Mercer - Gov Office (605) 773-6115 12-Feb-99 11:37 Pg 1 of 1



STATE OF SOUTH DAKOTA
WILLIAM J. JANKLOW, GOVERNOR

For Immediate Release: Friday, February 12, 1999
For More Information: Bob Mercer or Mike Mueller, 773-3212

Janklow Earmarks Funding for R-CALF Trade Challenge

(Pierre) – Gov. Bill Janklow said Friday he will provide up to \$75,000 in state funds to support U.S. beef producers in their legal challenge against Canada over unfair trade practices. Janklow said he would pay the money directly to the law firm representing the Ranchers-Cattlemen Action Legal Foundation, known as R-CALF.

South Dakota becomes the first state government to support the R-CALF effort, according to the organization's officials. R-CALF is seeking federal government action to halt unfair pricing of Canadian livestock in U.S. markets. One potential step is to impose a countervailing duty, or penalty, on live cattle imports from Canada.

The R-CALF funding issue was brought to the governor by a bipartisan group of South Dakota legislators. Thirteen lawmakers, led by prime sponsor Sen. Paul Symens, D-Amherst, had introduced legislation, SB 181, calling for state funding of R-CALF. The legislation now is unnecessary.

Co-sponsors included five other senators – Eric Bogue, R-Dupree; Arnold Brown, R-Brookings; Bob Duxbury, D-Wessington; Jim Hutmacher, D-Chamberlain; and Marguerite Kleven, R-Sturgis – and seven House of Representatives members: Ted Klaudt, R-Walker; Jim Lintz, R-Hermosa; Ken McNenny, R-Sturgis; Bill Napoli, R-Rapid City; Ken Wetz, R-Newell; Mike Wilson, D-Rapid City; and Kevin Crisp, R-Dell Rapids.

Janklow said other legislators such as Sen. Bob Benson, R-Clearfield, also had worked to impress upon him the importance of the R-CALF action. Funding will come from the state's Future Fund, which is paid by employers for use in developing South Dakota. "This is a jobs issue," Janklow said.

EXECUTIVE OFFICE

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TIM JOHNSON
SOUTH DAKOTA

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SIOUX FALLS, SD 57101
(605) 332-8838

TOLL FREE
1-800-837-0038

October 9, 1998

Chairman Lynn Bragg
International Trade Commission
500 E Street, SW
Washington, DC 20436

Dear Chairman Bragg:

Farmers and ranchers are now suffering under near insurmountable economic dire straits. At a time when United States beef cattle producers struggle with poor prices, concentration in the meatpacking and retail food industries, and less share of the consumer dollar, it is vital that in this world of global trade, partners trade by the same rules.

Live cattle imports have risen since the early 1980s from 1 percent of domestic production to around 8 percent today. Imports of live cattle into the United States from Canada and Mexico totaled 2 million head last year, at a value of \$1.1 billion. Canada alone sends over half of its domestic production of beef cattle into the United States. As a result of Northern Plains states' inspections of Canadian livestock shipments in recent months, it is evident that inspection disparity exists between exports of domestic live cattle to Canada and exports of Canadian live cattle into our nation. The alleged disparity has led to upcoming bilateral discussions and negotiations between our governments, which is a good start.

Last week, an organization representing cattle producers (Ranchers - Cattlemen Action Legal Foundation R-CALF) filed ~~petitions with the United States Department of Commerce and the International Trade Commission (ITC)~~. Specifically, the R-CALF petitions include an antidumping petition on live cattle from Canada, a countervailing duty petition on live cattle from Canada, and an antidumping petition on live cattle from Mexico. R-CALF contends that on a net supply basis, the beef and live cattle trade imbalance costs domestic producers around \$100 a calf per year.

While I enthusiastically support fair and free trade among our neighbors, I stress the importance of a set of parameters that all trading partners adhere to insuring fair trade.

I encourage the ITC and Commerce Department to investigate the allegations made by the R-CALF petitions on behalf of domestic cattle producers. If your thorough analysis determines that trade policy or behavior undermines fair competition for America's cattle producers, I implore you to act aggressively to correct the disparity. I look forward to your cooperation on this matter.

Sincerely,



Tim Johnson
United States Senate

Panel: Canadian cattle imports hurt U.S. farmers

Washington (AP)

The U.S. International Trade Commission has found evidence that American farmers might have been hurt by imports of live Canadian cattle.

The decision on Wednesday means the case now moves to the Commerce Department, which will investigate whether Canadian cattle have indeed been dumped or subsidized into this country at less than fair value.

"The crisis in the cattle industry is real and imports are part of the problem," said Leo McDonnell, president of the Ranchers-Cattlemen Action Legal Foundation, or R-CALF, which brought the trade petition.

Leland Swenson, president of the National Farmers Union, said, "Many family ranchers have already gone out of business due to low cattle prices and those who are still in business are barely making ends meet."

In its petitions filed late last year, R-CALF charged Canada and Mexico with unfair policies in live cattle trade with United States. The commission's ruling found there was no indication of injury from imports from Mexico.

The petition process, though over a significant hurdle, is still far from over. A decision from Commerce is not expected until early May. Once the Commerce Department finishes its investigation, the case could go back to the ITC.

If successful, the R-CALF action could require foreign producers to sell their products at a fair price or importers to pay the difference to the U.S. government as an additional duty.

R-CALF supporters blame the North American Free Trade Agreement approved by Congress in 1993 for opening the gates to Canadian and Mexican imports — many of which are believed to be subsidized by their governments — without providing U.S. producers equal benefits in exports.

Many ranchers believe those imported cattle have driven down market prices in the United States and increased the financial pressure that can force cattle producers out of business.

The logo consists of the word "BEEF" in a bold, sans-serif font, positioned above a stylized graphic of a cow's head in profile, facing right.

North Dakota Beef Commission

4023 STATE STREET • BISMARCK, ND 58501 • PHONE 701-328-5120

SENATE AGRICULTURE COMMITTEE HEARING

HOUSE BILL 1465

MARCH 12, 1999

Testimony presented by Nancy Jo Bateman, Executive Director

Chairman Wanzek, Vice Chairman Klein, and senate ag committee members, I'm Nancy Jo Bateman. I serve as the executive director for the ND Beef Commission and am also a rancher with my husband in my spare time. I am here today to visit with you about House Bill 1465 and to bring to light some information that may have a significant impact on the future of this bill.

As you may or may not be aware, House Bill 1465 started its journey through the legislature as an R-CALF funding bill. As the House approached cross-over, the bill was totally changed in the House Appropriations committee, R-CALF and the appropriation were deleted, and the Beef Commission act was brought into the picture and amended to give the Commission authority to deal in trade issues. The thinking behind this seemed to be that beef checkoff dollars could be accessed rather than general funds. I want to be very clear with my comments on behalf of the Beef Commission from here on. The ND Beef Commission is neither for or against the R-CALF trade issue. A position has never been taken for a number of reasons that I will explain shortly. But please understand that the comments I make from here forward have no reflection on the merit of R-CALF and beef industry trade issues.

The concerns that you need to be aware of in regards to giving the Beef Commission authority to handle trade issues have their beginnings in a federal act and order. In 1986, the beef industry began a \$1 per head beef checkoff program which was part of the 1985 Farm Bill. It is called the Beef Promotion and Research Act. This federal law, as it exists today is what make the Beef Commission very different from most other state commodity groups, including the Wheat Commission which you have dealt with recently, also on trade issues.

Considerations were made when this federal law was drafted to incorporate existing state beef checkoffs into it. This included North Dakota because we had an existing state statute and also had the vehicle or mechanism in place to collect the checkoff. With the implementation of the \$1 checkoff, state beef commissions, including North Dakota's, had to become what the federal law called a "qualified state beef council." If you refer to your handout, the highlighted part of the federal order on page two gives you the definition of a qualified state beef council. We were certified by the Beef Promotion and Research Board to be the collecting agency, to carry out the programs and to abide by the federal law. In becoming "qualified" it basically caused the state and federal checkoff laws to act as one, with the \$.50 state checkoff being counted as part of the federal \$1.



The federal law had one provision that we have had to adhere to strictly as the Commission has spent producer checkoff dollars. That section is highlighted in two places on page three, outlining prohibited expenditures of checkoff funds. Those sections say that **no funds collected by the Beef Promotion and Research Board or any qualified state beef council can be used for the purpose of influencing governmental policy or action.** Based on this provision, the Beef Promotion & Research Board has ruled and informed states that supporting the R-CALF initiative is not a legal use of checkoff funds.

If the Beef Commission had authority to become involved in trade issues, through the bill being considered, we end up with two possible scenarios, neither of which seems very positive.

First, the language could be added to the Century Code, the Beef Commission members could simply decide not to fund trade issues based on the federal law, and those producers strongly supporting the R-CALF initiative would have been given false hope of funding and then not only been disappointed about the original bill but also with the Beef Commission.

Or

In what I consider the worst possible situation, the Commission goes against the federal law and funds trade issues. Then the Beef Promotion and Research Board revoke our "qualified" status. At this point, the state and federal law would function independently of each other with the federal law requiring \$1 per head to be paid and the state law requiring another \$.50 per head for a total of \$1.50 per head for our state's ranchers. Considering the current state of agriculture and the cattle business in particular, I do not think this outcome is one the legislature wants to take credit for.

In conclusion, I hope I have been able to demonstrate the inherent problems with HB 1465 as it stands today. If the original intent of providing support for beef industry trade issues is still the underlying purpose for this bill then some serious work is still needed. And it would be the Beef Commission's desire to be left out of the issue and the bill for the reasons that I have just outlined. The Beef Commission firmly believes that policy issues like this are the reason we have many other policy making farm organizations. These issues need to stay in their hands, both from a philosophical and legal standpoint.

Friday
July 18, 1986

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Part V

**Department of
Agriculture**

Agricultural Marketing Service

7 CFR Part 1260

**Beef Promotion and Research Order;
Final Rule**

*Specific excerpts as they
relate to H.B. 1465.*

Title 7 of the CFR, Part 1260 is amended as follows:

PART 1260—BEEF PROMOTION AND RESEARCH

1. The authority citation for Part 1260 is revised to read as follows:

Authority: 7 U.S.C. 2901 *et. seq.*

2. Present Subpart A is redesignated Subpart B.

3. A new subpart A is added as follows:

Subpart A—Beef Promotion and Research Order

Definitions

Sec.	
1260.101	Department.
1260.102	Secretary.
1260.103	Board.
1260.104	Committee.
1260.105	Person.
1260.106	Collecting person.
1260.107	State.
1260.108	United States.
1260.109	Unit.
1260.110	Referendum.
1260.111	Fiscal year.
1260.112	Federation.
1260.113	Established national nonprofit industry-governed organizations.
1260.114	Eligible organizations.
1260.115	Qualified State beef council.
1260.116	Producer.
1260.117	Importer.
1260.118	Cattle.
1260.119	Beef.
1260.120	Beef products.
1260.121	Imported beef or beef products.
1260.122	Promotion.
1260.123	Research.
1260.124	Consumer information.
1260.125	Industry information.
1260.126	Plans and projects.
1260.127	Marketing.
1260.128	Act.
1260.129	Customs Service.
1260.130	Part and subpart.

Cattlemen's Beef Promotion and Research Board

1260.141	Establishment and membership.
1260.142	Term of office.
1260.143	Nominations.
1260.144	Nominee's agreement to serve.
1260.145	Appointment.
1260.146	Vacancies.
1260.147	Procedure.
1260.148	Compensation and reimbursement.
1260.149	Powers of the Board.
1260.150	Duties of the Board.
1260.151	Expenses.

Beef Promotion Operating Committee

1260.161	Establishment and membership.
1260.162	Term of office.
1260.163	Vacancies.
1260.164	Procedure.
1260.165	Compensation and reimbursement.
1260.166	Officers of the Committee.
1260.167	Powers of the Committee.
1260.168	Duties of the Committee.

1260.169 Promotion, research, consumer information and industry information.

Assessments

1260.172	Assessments.
1260.173	Refunds.
1260.174	Procedure for obtaining refund.
1260.175	Late-payment charge.
1260.176	Adjustment of accounts.
1260.181	Qualified State beef councils.

Reports, Books and Records

1260.201	Reports.
1260.202	Books and records.
1260.203	Confidential treatment.

Miscellaneous

1260.211	Proceedings after termination.
1260.212	Effect of termination or amendment.
1260.213	Removal.
1260.214	Personal liability.
1260.215	Patents, copyrights, inventions and publications.
1260.216	Amendment.
1260.217	Separability.

Subpart A—Beef Promotion and Research Order

Definitions

§ 1260.101 Department.

"Department" means the United States Department of Agriculture.

§ 1260.102 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in the Secretary's stead.

§ 1260.103 Board.

"Board" means the Cattlemen's Beef Promotion and Research Board established pursuant to the Act and this subpart.

§ 1260.104 Committee.

"Committee" means the Beef Promotion Operating Committee established pursuant to the Act and this subpart.

§ 1260.105 Person.

"Person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

§ 1260.106 Collecting person.

"Collecting person" means the person making payment to a producer for cattle, or any other person who is responsible for collecting and remitting an assessment pursuant to the Act, the order and regulations prescribed by the Board and approved by the Secretary.

§ 1260.107 State.

"State" means each of the 50 States.

§ 1260.108 United States.

"United States" means the 50 States and the District of Columbia.

§ 1260.109 Unit.

"Unit" means each State, group of States or class designation which is represented on the Board.

§ 1260.110 Referendum.

"Referendum" means the referendum to be conducted by the Secretary pursuant to the Act whereby producers and importers shall be given the opportunity to vote to determine whether the continuance of this subpart is favored by a majority of producers and importers voting.

§ 1260.111 Fiscal year.

"Fiscal year" means the calendar year or such other annual period as the Board may determine.

§ 1260.112 Federation.

"Federation" means the Beef Industry Council of the National Live Stock and Meat Board, or any successor organization to the Beef Industry Council, which includes as its State affiliates the qualified State beef councils.

§ 1260.113 Established national nonprofit industry-governed organizations.

"Established national nonprofit industry-governed organizations" means organizations which:

(a) Are nonprofit organizations pursuant to sections 501(c) (3), (5) or (6) of the Internal Revenue Code (26 U.S.C. 501(c) (3), (5) and (6));

(b) Are governed by a board of directors representing the cattle or beef industry on a national basis; and

(c) Were active and ongoing before the enactment of the Act.

§ 1260.114 Eligible organization.

"Eligible organization" means any organization which has been certified by the Secretary pursuant to the Act and this Part as being eligible to submit nominations for membership on the Board.

§ 1260.115 Qualified State beef council.

"Qualified State beef council" means a beef promotion entity that is authorized by State statute or a beef promotion entity organized and operating within a State that receives voluntary assessments or contributions; conducts beef promotion, research, and consumer and industry information programs; and that is certified by the Board pursuant to this subpart as the beef promotion entity in such State.

§ 1260.169 Promotion, research, consumer information and industry information.

The Committee shall receive and evaluate, or on its own initiative, develop and submit to the Secretary for approval any plans and projects for promotion, research, consumer information and industry information authorized by this subpart. Such plans and projects shall provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate plans or projects for promotion, research, consumer information and industry information, with respect to beef and beef products designed to strengthen the beef industry's position in the marketplace and to maintain and expand domestic and foreign markets and uses for beef and beef products;

(b) The establishment and conduct of research and studies with respect to the sale, distribution, marketing, and utilization of beef and beef products and the creation of new products thereof, to the end that marketing and utilization of beef and beef products may be encouraged, expanded, improved or made more acceptable in the United States and foreign markets;

(c) Each plan or project authorized under paragraph (a) and (b) of this section shall be periodically reviewed or evaluated by the Committee to ensure that each such plan or project contributes to an effective program of promotion, research, consumer information and industry information. If it is found by the Committee that any such plan or project does not further the purposes of the Act, then the Committee shall terminate such plan or project;

(d) In carrying out any plan or project of promotion or advertising implemented by the Committee, no reference to a brand or trade name of any beef product shall be made without the approval of the Board and the Secretary. No such plans or projects shall make use of any unfair or deceptive acts or practices, including unfair or deceptive acts or practices with respect to the quality, value or use of any competing product; and

(e) No funds collected by the Board under this subpart shall in any manner be used for the purpose of influencing governmental policy or action, except to recommend to the Secretary amendments to this Part.

§ 1260.181 Qualified State beef councils.

(a) Any beef promotion entity that is authorized by State statute or is organized and operating within a State, that receives assessments or contributions from producers and conducts beef promotion, research, consumer information and/or industry information programs may apply for certification of qualification so that producers may receive credit pursuant to § 1260.172(a)(3) for contributions to such organization. The Board shall review such applications for certification and shall make a determination as to certification of such applicant.

(b) In order for the State beef council to be certified by the Board as a qualified State beef council, the council must:

(1) Conduct activities as defined in Section 1260.169 that are intended to strengthen the beef industry's position in the marketplace;

(2) Submit to the Board a report describing the manner in which assessments are collected and the procedure utilized to ensure that assessments due are paid;

(3) Certify to the Board that such council will collect assessments paid on cattle originating from the State or unit within which the council operates and shall establish procedures for ensuring compliance with this subpart with regard to the payment of such assessments;

(4) Certify to the Board that such organization shall remit to the Board assessments paid and remitted to the council, minus authorized credits issued to producers pursuant to § 1260.172(a)(3), by the last day of the month in which the assessment was remitted to the qualified State beef council unless the Board determines a different date for remittance of assessments.

(5) Councils which are authorized or required to pay refunds to producers must certify to the Board that any requests from producers for refunds from the council for contributions to such council by the producer will be honored by forwarding to the Board that portion of such refunds equal to the amount of credit received by the producer for contributions to the council pursuant to § 1260.172(a)(3);

(6) Certify to the Board that the council will furnish the Board with an annual report by a certified public accountant of all funds remitted to such council pursuant to this subpart and any other reports and information the Board or Secretary may request; and

(7) Not use council funds collected pursuant to this subpart for the purpose of influencing governmental policy or action, or to fund plans or projects which make use of any unfair or deceptive acts or practices including unfair or deceptive acts or practices with respect to the quality, value or use of any competing product.