

2023 HOUSE AGRICULTURE

HB 1436

2023 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Room JW327C, State Capitol

HB 1436
1/26/2023

Relating to the definition of a cattle industry representative, the election and terms of members to the North Dakota beef commission, and requiring livestock auction markets and livestock dealers to forward names of cattle sellers; and to provide an effective date.

Chairman Thomas call the meeting to order at 9:09 AM

Members present: Chairman Thomas, Representatives Beltz, Christy, Finley-DeVille, Fisher, Henderson, Kiefert, Olson, Prichard, Schreiber-Beck, Tveit, VanWinkle. Member absent: Representative Headland

Discussion Topics:

- Tribal member
- Balloting
- Maintaining the list of cattle producers
- Voter
- Beef check-off

In favor:

Representative Mike Beltz, District 20, Primary bill sponsor (no written testimony)
Frank Tomac, Cattle Rancher from Sioux County ND, #17223
August Heupel, President, IBand, #17219
Kerry Dockter, Past President of IBand, #17221
Larry Kinev, Dawson Rancher, IBand (no written testimony)
Kenny Graner, Huff ND Rancher, #17226
Shelly Ziesch, ND Farmers Union, #17020
Baillie Graner, Mandan Cattle Producer and Farmer, #17220
Scott Shively, Towner ND, #17227
Sam Wagner, Ag and Food Field Organizer, Dakota Resource Council, #16932

Opposed:

Julie Ellingson, ND Stockmen's Association, #17225
Jason Leiseth, ND Stockmen's Association (no written testimony)
Jason Schmidt, Medina ND Rancher, Past President of the ND Stockmen's Association (no written testimony)
Kenton Holle, Mandan ND Dairy Farmer (no written testimony)
Warren Zenker, Gackle ND Rancher (no written testimony)
Tim Erbele, Cattlemen's Beef Board (no written testimony)
Mark Wagner, Dickey County Rancher, and Farmer (no written testimony)
Craig Kemmet, Director of the ND Stockmen's Association and Tappen Farmer (no written testimony)

Additional written testimony:

House Agriculture Committee

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Ron Volk, Sentinel Butte, ND, #16680

Ryan Brokaw, Brokaw Ranch, Forbes, ND #16832

Donald Nelson, Keene ND Rancher, #16944

Dylan Stearns, Bar S Rancher, #16968

Loren Patrie, ND Cattle Producer, #17026

Jason Quandt, Quandt Brother Cattle Company, #17032

Alan Qual, Dairy Farmer, #16998

Chairman Thomas appointed a subcommittee to work on amendments. Representative Fisher to serve as Chairman along with Representatives Keifert, Olson and Tveit.

Chairman Thomas adjourned the meeting at 10:55 AM

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Room JW327C, State Capitol

HB 1436
01/26/2023

Sub Committee

Relating to the definition of a cattle industry representative, the election and terms of members to the North Dakota beef commission, and requiring livestock auction markets and livestock dealers to forward names of cattle sellers; and to provide an effective date.
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Chairman Fisher called the meeting to order at 2:30 PM

Members present: Chairman Fisher, Representatives Kiefert, Olson, Tveit,

Discussion Topics:

- Cattle representative
- Voting members
- Actively engaged.
- Qualified voter
- Term dates
- Brand Inspectors
- Director designee
- Expiring

Chairman Fisher lead the discussion on what changes need to be put in an amendment for the next subcommittee meeting.

Chairman Fisher adjourned the meeting at 3:18 PM

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Room JW327C, State Capitol

HB 1436
02/02/2023

Sub Committee

Relating to the definition of a cattle industry representative, the election and terms of members to the North Dakota beef commission, and requiring livestock auction markets and livestock dealers to forward names of cattle sellers; and to provide an effective date.
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Chairman Fisher called the meeting to order at 2:47 PM

Members present: Chairman Fisher, Representatives Kiefert, Olson, Tveit.

Discussion Topics:

- Auction market description
- Feeder cow
- Cow calf pares
- Beef producer

Chairman Fisher presented a working amendment for the sub-committee to review, #19393 #19389, #19391.

Representative Olson moved to approve the amendment as worked.
Representative Tveit seconded.

Unanimous voice vote.

Motion passed.

Chairman Fisher adjourned the meeting at 3:25 PM

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee Room JW327C, State Capitol

HB 1436
02/03/2023

Relating to the definition of a cattle industry representative, the election and terms of members to the North Dakota beef commission, and requiring livestock auction markets and livestock dealers to forward names of cattle sellers; and to provide an effective date.

Chairman Thomas call the meeting to order at 2:23 PM

Members present: Chairman Thomas, Vice Chairman Beltz, Representatives Christy, Finley-DeVille, Fisher, Headland, Henderson, Olson, Pritchard, Schreiber-Beck, Tveit, VanWinkle. Member absent: Representative Kiefert

Discussion Topics:

- Election process
- Complications

Representative Fisher reported on the subcommittee work and presented a proposed amendment #19391, LC #23.0591.01001, and moved to adopt.
Representative Henderson seconded.

Roll call vote:

Representatives	Vote
Representative Paul J. Thomas	Y
Representative Mike Beltz	Y
Representative Josh Christy	Y
Representative Lisa Finley-DeVille	Y
Representative Jay Fisher	Y
Representative Craig Headland	Y
Representative Donna Henderson	Y
Representative Dwight Kiefert	AB
Representative SuAnn Olson	Y
Representative Brandon Prichard	Y
Representative Cynthia Schreiber-Beck	Y
Representative Bill Tveit	Y
Representative Lori VanWinkle	Y

Motion passed 12-0-1

Representative Schreiber-Beck moved a do not pass as amended.
Representative Beltz seconded.

Roll call vote:

Representatives	Vote
Representative Paul J. Thomas	Y
Representative Mike Beltz	Y
Representative Josh Christy	Y
Representative Lisa Finley-DeVille	Y
Representative Jay Fisher	Y
Representative Craig Headland	Y
Representative Donna Henderson	N
Representative Dwight Kiefert	AB
Representative SuAnn Olson	N
Representative Brandon Prichard	N
Representative Cynthia Schreiber-Beck	Y
Representative Bill Tveit	Y
Representative Lori VanWinkle	N

Motion passed 8-4-1

Representative Schreiber-Beck will carry the bill.

Chairman Thomas adjourned the meeting at 2:53 PM

Diane Lillis, Committee Clerk

off 2-3-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1436

- Page 1, line 17, replace "has been" with "is"
- Page 3, line 3, remove "an"
- Page 3, line 3, remove the overstrike over "in"
- Page 3, line 3, remove the overstrike over the first "the"
- Page 3, line 6, remove "representative"
- Page 3, line 9, overstrike "subsection" and insert immediately thereafter "section"
- Page 3, line 22, after "secretary-treasurer" insert an underscored comma
- Page 3, line 22, replace the first "December 31, 2023" with "June 30, 2024"
- Page 3, line 22, replace the second "December 31, 2023" with "June 30, 2024"
- Page 3, line 24, remove "two-year"
- Page 3, line 25, replace "December 31, 2025" with "June 30, 2026"
- Page 3, line 27, remove "three-year"
- Page 3, line 28, replace "December 1, 2026" with "June 30, 2027"
- Page 3, line 30, remove "one-year"
- Page 3, line 31, replace "December 31, 2024" with "June 30, 2025"
- Page 4, line 3, replace "January 1, 2024" with "July 1, 2024"
- Page 4, line 4, replace "January 11, 2024" with "July 1, 2024"
- Page 4, line 12, replace "January 1, 2024" with "July 1, 2024"
- Page 4, line 18, replace "January 1, 2024" with "July 1, 2024"
- Page 6, line 11, after "service" insert "or the director's designee"
- Page 6, line 12, after the underscored period insert "The director may compile a list and determine eligible voters from public livestock markets, the commission, or other means necessary."
- Page 6, line 15, after "that" insert "fiscal"
- Re-number accordingly

REPORT OF STANDING COMMITTEE

HB 1436: Agriculture Committee (Rep. Thomas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (8 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1436 was placed on the Sixth order on the calendar.

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Page 6, line 15, after "that" insert "fiscal"

ReNUMBER accordingly

TESTIMONY

HB 1436

ND House Agriculture Committee;

Please consider this my written testimony in favor of HB1436. For years the ND Beef Commission board has been appointed by the governor while both the corn and soybean boards are elected. This has allowed one group to control the board by playing politics. It is only right and fair that the producers who pay into the checkoff be allowed to vote and elect the Beef commission board, as it is the producer's money and they have the right to elect who oversees how it's used. Again, please vote in favor of HB1436.

Thank you

Ronald Volk

Sentinel Butte, ND

To whom it may concern,

I am writing about House Bill 1436. I feel that the Beef commission should be elected by North Dakota voters and not be appointed by the governor. We feel that the beef commission should be treated the same as any other check off. Your corn, soybeans and other commodities are elected by North Dakota voters, so why should the Beef commission be any different?

Thanks,

Brokaw Ranch

Ryan & Marcie Brokaw

Forbes ND

Testimony HB1436

Sam Wagner
Ag and Food Field Organizer
Dakota Resource Council
1720 Burnt Boat Dr. Ste 104
Bismarck ND 58503
Testimony in Support for HB 1436

To the Honorable Chairman and the members of the Committee We submit these remarks on behalf of DRC.

Mr Chairman,

We would like to offer testimony in support of of HB1436 for the following reasons:

- 1. This bill gives more people a fair chance to participate in the North Dakota Beef Commission.** HB1436 will end a system where independent cattle producers have to join memberships of an organization to be considered for the beef board. As it stands now the people that may be needed to advocate change in the cattle and beef industry are the ones who will be looked over in favor of those that support the status quo. If HB1436 were to be passed it would be the producers who could, with their votes, determine if they are satisfied with the status quo or opt for a change in leadership.
- 2. This bill has a nomination process.** With the current system it is possible for people that no one wants in leadership positions to nominate themselves and put in an application to be appointed with no oversight of their peers. With HB1436 it is now required to get 5 nominations in writing to run for a spot on the board. This is not an absurdly high threshold but it will at least require some people to make it public that they are running for a spot on the board.
- 3. This bill provides accountability for improper conduct.** As the current law stands, the only way to get a commission member to step down is if they miss three consecutive meetings, become ineligible to serve via their qualifications to hold office, or break the law in the Century Code per section 44 02 01. In HB1436 the bill would provide a way for the citizens to have a recall effort of their elected officials if they feel they are not upholding the standards of the office they are held to.
- 4. This is how all the other commodity checkoff programs conduct business.** Corn, Soybean, Wheat, and Barley board positions are elected, so why can't beef.

This is common sense legislation. We recommend a DO PASS.

Good Morning and thank you Chairman Thomas and Agriculture committee members for this hearing and your service.

My name is Donald Nelson, I farm and ranch in Keene ND and have for over 40 years I am submitting testimony in favor of HB1436 and oppose a similar bill HB1275 which both deal with changes to the North Dakota Beef Commission.

HB1436 is a much stronger bill that makes some much needed changes that beef producers have called on for years. We have a broken cattle market that needs to be fixed. This bill is a start and will let all cattle producers have a voice in where and how their checkoff dollars are spent.

As of January 24th US Cattle Report on slaughter in the 5 major feeding areas of the US, only 8 strings of 100 head or larger of slaughter cattle were sold on cash negotiated sales all of last week compared to 21 the week before and 26 the week before that, among all 5 major feeding areas of the US, yet slaughter numbers were basically normal! That is woefully pathetic! Corbitt Wall of the National Beef Wire reported that this was less than 50,000 head for all of last week and when he started working for USDA Market News in 1996 before mandatory price reporting it was over 500,000 HEAD per DAY on negotiated cash sales.

We can argue different solutions but ultimately it comes down to 2 things: industry (packer) concentration and integration fueled by our very own producer mandated checkoff dollars with one mandated voice controlling those dollars.

HB1436 is not by any means a magic bullet that will solve all of our problems but if we have to start anywhere, this is a solid first step.

The Beef Commission members are currently appointed by the governor by recommendation and not elected. The way the system is set up, it will only favor the status quo. Appointments require people to be cooperative with the powers that be, change will never come from the people in power. This causes frustration and our only outlet is to opt out of the checkoff. Producers request their checkoff dollars back, because they don't feel like a part of the system and in some cases they feel it's actively fighting against them. Their voice should be listened to, not ridiculed. Currently it's the only way to show your dissatisfaction with the checkoff program since commissioners are appointed and not elected like most other commodity checkoff groups.

I have been calling for changes to the cattle markets and checkoffs since 1987, before I was affiliated with any associations or groups. I have spoken all across the US since then and testified more than once here in Bismarck and usually the first question I got was did you request your money back (I have requested the forms but never gone through and got my money back as I believe in the original intent of the checkoff). Those that do are "branded" greedy and malcontents and ignored.

It's now been 36 years since I first started advocating changes to our cattle markets and producers are still waiting even though the solutions have been in front of State and Federal

legislators for years. Doing nothing is no longer an option. So do something and start the process before we lose our industry like the independent hog and poultry producers did. We have lost all our open and fair competitive markets as well as free market price discovery.

Ultimately if we stay this course we lose our freedom to ranch on our own terms, instead of for some multinational corporation.

So please vote in favor of HB1426 and oppose HB1275 which basically offers no change. Thank you!

Sincerely
Donald Nelson

North Dakota House Agriculture Committee,

I am a fifth generation farmer and rancher in southern North Dakota and I am in support of House Bill 1436. I believe the North Dakota Beef Commission will better serve our state's producers if they were elected by the residents. The already established relationships between the board and local producers will only encourage more communication, ideas, and efficiency to improve our state's leading industry. I feel with the monetary donations that North Dakota ranchers give to fund this commission, we should have a vote on who represents our industry, similar to any other commodity check off. Please consider my written testimony in support HB 1436 so the state of North Dakota can continue to have generations of ranchers.

Thank you,

Bar S Ranch
Dylan Stearns
701-710-0464
Ludden, ND

House Agriculture Members,

I am opposing HB 1436 as a Dairy Farmer.

Dairy beef represents 20% of the Beef processed in the United States. Under the current selection process for the N.D. Beef Commission, dairy farmers have a fair representation on the Beef Commission.

If this bill is passed dairy farmers' opportunity to be represented will be gone.

Please vote do not pass on HB 1436.

Thank you.

Alan Qual

13407 73rd ST SE

Lisbon, ND 58054

701-680-1210



Contact:
Matt Perdue, Lobbyist
mperdue@ndfu.org | 701.641.3303

**Testimony of
Shelly Ziesch
North Dakota Farmers Union
Before the
House Agriculture Committee
January 26, 2023**

Chairman Thomas and members of the committee,

Thank you for the opportunity to testify on House Bill No. 1436. My name is Shelly Ziesch, I am a 4th generation rancher from Pettibone, ND. My family runs 600 cow/calf pairs. We also raise corn, soybeans, wheat, oats and alfalfa. I am a member of the North Dakota Farmers Union Board of Directors, representing District 6, which stretches from Wells County to Dickey County. I am here today on behalf of NDFU.

NDFU supports HB 1436, which establishes an election process for the North Dakota Beef Commission. Under current law, the governor appoints every member of the beef commission. Six of those nine appointments are made from nominations by specific groups. This process is unusual for checkoff board elections. Of the 10 commodity councils in North Dakota, eight have elected boards.

Research and promotion is important to the success of farmers and ranchers. That is why we believe it is important that all participating producers have equal opportunity to serve on the checkoff board. We also believe that all producers should have the opportunity to vote for their representatives on the commission. In addition to the beef checkoff, my family pays into the corn, soybean and wheat checkoffs. These other checkoffs are highly successful and are proof that an election process works.

HB 1436 also establishes a referendum process for the state beef checkoff. Currently, North Dakota producers pay two dollars per head into the beef checkoff. The first dollar goes to the Cattlemen's Beef Board, the national checkoff group. The second dollar goes to the North Dakota Beef Commission. The national beef checkoff currently has a referendum process. The referendum process included in HB 1436 requires a more stringent process for the state checkoff. It requires at least 15 percent of producers to sign the petition versus the national 10 percent requirement. HB 1436 also requires geographic diversity in who signs the petition. Finally, HB 1436 allows for an upward adjustment in the value of the assessment, while the national referendum process only allows suspension or termination of the checkoff.

NDFU recognizes this is a contentious issue. We are committed to working with all stakeholders to make any improvements necessary to provide an effective and efficient election process.

We respectfully request a "Do Pass" recommendation on HB 1436. I will stand for any questions.

Testimony HB 1436

Loren and Patti Patrie

4250 2nd St. NE

Bowdon, ND 58418

Testimony in support for HB 1436

Honorable Chairman Glenn Thompson and members of the ND House Agriculture Committee:

As independent cattle producers we do not have a voice on the ND Beef Commission. This bill—HB 1436—will give us a vote and ability to determine our representative. We pay money to be part of the Commission and would like to see this bill pass so that there is a process in which we may participate.

Thank you for the opportunity to participate today. We recommend a DO PASS.

To Whom it May Concern:

I am writing in favor of HB1436. As a farmer and rancher in North Dakota, it is extremely important for the boards that affect our industry to have the voice of a producer. This is not an uncommon ask or request as currently the corn and soybean boards are elected by members of the checkoff. As a cattle producer we are asking for the same, for these positions not to be appointed by the Governor's Office but elected by the members of the checkoff. We appreciate your time and consideration.

Thank you!

Jason Quandt

Quandt Brother Cattle Company

Testimony in Support HB 1436

Hello and Good Morning Chairman Thomas, and members of the House Ag Committee. My name is August Heupel. I am a rancher from Medina along with being the current Vice President of I-BAND. I am testifying today in support of HB 1436.

I am going to touch on just a couple reasons why I believe HB1436 will be a success for North Dakota cattle producers.

1. HB 1436 will provide a voice for producers in the state who don't belong to a organization such as North Dakota Stockmen's Association, I-BAND etc. North Dakota producers would be able to vote on an individual they feel best represents them, or if they are so inclined can run for the seat themselves. A Beef Commission board voted on by actively engaged ranchers who pay into the checkoff is the fairest, purest form of representation.
2. HB 1436 would align the Beef Commission along with the other commodity groups in the state, like the Corn Growers and Soybean Council for example. Each of these commodity groups have elected positions, voted on by producers of each respective commodity. Why should the North Dakota Beef Commission be any different?

The final point I would like to make this morning is on elections in general. Elections are the peoples voice for change. Respectfully, each committee member here this morning was elected to represent their district. This is a basic constitutional right for the people to be heard and represented. How would things look in North Dakota today if we were represented by individuals who were appointed rather than elected? I am certainly glad our state isn't run that way and I don't believe our Beef Commission should be either. Lets give a voice back to the producers.

Thank you Chairman Thomas, and Ag Committee members for taking the time to hear my Testimony this morning.

Good Morning, Ag house Committee Members and Chairman Thomas.

I am here in favor of HB 1436.

I am a young cattle producer and farmer from South of Mandan in district 31. HB 1436 would give me the opportunity to be fairly represented with an elected official in a job position that promotes my direct business. Having elected individuals would allow all areas of the state, in each district, be fairly represented. Right now where our current beef commissioners reside, there are large gaps of producers who do not have anyone even close to where they live. If we were to go by the new laws districts; 1, 2, 4 would have no one. Having defined districts will also give producers a direct contact who they can share with any promotional ideas for their area. Here are examples current cattle organizations that elect their board based on districts; ND Stockmans, ND Cattlewomen, I-BAND. These organization understand that each area has their own unique ideas that needs to be represented and recognized.

The voting for qualified individuals to the beef commission would not open to the general public. It would be closed to just of those of us who are producers and know cows. We don't need an appointed board because we will KNOW the individuals in our area and who we will want to nominate and vote. We know who can best promote our ND beef in our area.

On the website of the Beef Commission, it states that they are "Funded by Beef Farmers and Ranchers". I believe that those same farmers and rancher should be able to choose who represents them in spending our money. Other boards are designed this way, and we should be no exception. Taxation without representation.

Baillie Graner

TESTIMONY

Good Morning Chairman Thomas & Ladies & Gentlemen of the House Ag Committee,

My name is Kerry Dockter and I am the past president of IBand and am here in support of HB1436.

I am actually thrilled to be here this morning and see many familiar faces that have been involved in the study of the makeup of the Beef Commission Board since probably the last legislative session and most recently through the meetings and hearings of the interim session.

This bill 1436 addresses many points that were discussed in the interim committee and I personally thank Representative Beltz for recognizing these points and bringing them forward in this bill.

Some of these points are:

1. It creates an election process comparable to the other commodity groups checkoff programs in the state.
2. It allows representation from all segments of the livestock industry throughout the state.
3. It allows producers who pay into the checkoff to be on the Beef Commission Board without having to be a member or have an affiliation with any one organization.
4. The process will develop a more diverse board with different opinions and visions as to how our checkoff dollars may be best used to promote our industry and the superior product we produce in North Dakota.

I thank you for your time. Are there any questions that I may answer?

My name is Frank Tomac, cattle rancher from Sioux County.

I am in favor of HB 1436.

This bill solves a problem that's been gnawing at cattle producers statewide for many years.

It gives the producers of the state a democratic way to seat who THEY want to best serve them on the ND Beef Commission.

It doesn't take away any specific group that's represented now, such as the dairy producers, the feeder council or the livestock marketers. All of those can still be elected.

HB 1436 DOES create a better avenue for cattle producers statewide to voice their opinion, concerns and even ideas through their local representatives, who more than likely every producer will know or get to know through this election process.

It will better align all commodity groups in the state of ND by making all commodities elected.

One big concern I have is on Page 1, Section 1, Definition #4; where it states in part "an individual who has been a beef producer".....

To me this means anyone who has ever been a producer and paid the beef checkoff, both past and present! A Cattle Industry Representative needs to be a CURRENT producer, whether it be beef, dairy or feeder. I don't want individuals who had cows 20 years ago to be able to vote. We need current cattle producers to represent the cattle producers on the ND Beef Commission.

Thank You

FrankTomac
9999 57th Ave SW
Watauga, SD 57660
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(H) 701-522-3430
(C) 701-426-5015

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.

HB1436

Kenny Graner, Rancher, Huff, ND

Good morning Chairman Thomas and members of the House Ag Committee. I am Kenny Graner and I farm and ranch with my wife and children south of Mandan and I am testifying in support of House Bill 1436. I would like to thank all the sponsors of this Bill.

House Bill 1436 gives equal opportunity and access to run for a position on the North Dakota Beef Commission Board. This Bill that will inspire participation amongst **ALL cattle producers** paying into the Beef Checkoff program.

As a producer, I have always been frustrated with the make up and structure of the Beef Checkoff board. Every other commodity checkoff in the state of North Dakota has a board made up of **elected members**. Most of the members of the Beef Checkoff are all from the same organization. I believe the board should be elected by their peers rather than appointed by recommendations of one organization to the governor. The board will be more fair and balanced by utilizing the democratic procedure of election, just as you were elected to the House.

This Bill does not change the functions and responsibilities of the Beef checkoff of investing in research, promotion and education. It will, however, open the board up to new visions and ideas.

Thank you!

I open myself up to any questions.

Kenny Graner

701-471-8879

Scott Shively

Box 55,

Towner, N.D. 58788

701-721-3423 oaklnfarm@yahoo.com

Testimony in support of ND House Bill #1436

Chairman Thomas, Vice Chair Beltz and members of the House Ag Committee I want to thank you for the opportunity to testify on behalf of #1436. I am here independently representing myself as I am currently not a member of any organization. I have spent the past three years intensively studying the Beef Checkoff at the national level as well as the North Dakota Beef Commission and the state's share of the checkoff. I have attended 5 quarterly NDBC board meetings, two NDBC budget meetings, three legislative hearings related to the NDBC and two producer education meetings sponsored by the beef commission.

I want the committee and everyone else in the room to know who exactly owns the Beef Checkoff. The Beef Checkoff at the federal and the state level is owned by the people who pay the checkoff. The state's ½ of the federal program and the state checkoff are not owned by the state nor is the checkoff owned by any state or federal commodity group including the North Dakota Stockman's Association or NCBA the group it affiliates with. The Beef Checkoff is not owned by the North Dakota Beef Commission even though it is charged with administering the checkoff. The Beef Checkoff is simply owned by the people who pay the fee, tax or assessment. It is their fund for promotion, education and research that supports North Dakota and U.S. beef producers. The North Dakota Beef Commission while created by ND statute is owned by the payers of the Beef Checkoff.

I am proudly serving on a coalition working with U.S. Senators seeking some reforms in the Beef Checkoff at the federal level. We are hoping to get the reforms incorporated into the farm bill. I think that is a really important step but meaningful reform must start at the state level. In 1985 I voted for the Beef

Checkoff and support a Beef Checkoff that lives up to the promise of being apolitical -avoiding politics and political groups.

For the 35 years of the Beef Checkoff and the 7 years of North Dakota Beef Checkoff the North Dakota Stockman's Association has controlled the North Dakota Beef Commission. The records show that the majority of the money at their discretion has been allocated to NCBA. There are two ways to make the system just and fair to the producers who pay the checkoff. One would be to give representation to all interested groups. The problem with that is how do you decide which groups deserve how much representation. I would argue the group that has the largest membership represents only a small minority of producers wishes. Clearly an election with the payers of the Beef Checkoff having an opportunity to seek a position or decide who is elected to the ND Beef Commission is the most equitable solution. I believe the opportunity for producers to lobby or influence the actions of the NDBC is also an important part of the checkoff and commission.

ND House Bill #1436 creates an election where every producer has a chance to be elected or choose who is elected to the North Dakota Beef Commission. One of the promises of the Beef Checkoffs is that they would be apolitical. That has not been the case at both the state and federal level and that has eroded overall support for the checkoffs. In making the process fairer in North Dakota we would both by example and action take a leadership role in making the federal checkoff more responsible to all the producers who own the Beef Checkoff. The other approach is a big nothing and an insult to those who pay the checkoff.

Again the number one issue is fairness. You can't get any fairer than Democracy. The other side's arguments will be, why change what is working so well. Who is it working for? I would answer NDSA and NCBA. The second important question is will the board be better and the checkoff work better with the potential for diversity on the board? I believe that producers from different viewpoints would go a long way to educate producers on their checkoff.

Believe it or not many producers from around the country are watching and waiting for the outcome of HB#1436 hoping the Beef Checkoff will come closer to

living up to it's promise. No lobbying-no policy influencing- no politics. Thank you and I would be happy to answer any questions.

23.0591.01001

Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1436

Introduced by

Representatives Beltz, D. Anderson, Kempenich, Nelson, Schreiber-Beck, Weisz
Senators Piepkorn, Weber, Weston

1 A BILL for an Act to create and enact four new sections to chapter 4.1-03 of the North Dakota
2 Century Code, relating to the creation of beef commission districts, the selection of commission
3 members, and the referral of cattle assessments; to amend and reenact sections 4.1-03-01,
4 4.1-03-02, 4.1-03-03, 4.1-03-04, and 4.1-03-12 of the North Dakota Century Code, relating to
5 the definition of a cattle industry representative, the election and terms of members to the North
6 Dakota beef commission, and requiring livestock auction markets and livestock dealers to
7 forward names of cattle sellers; and to provide an effective date.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. AMENDMENT.** Section 4.1-03-01 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **4.1-03-01. Definitions.**

12 As used in this chapter:

- 13 1. "Beef producer" means any person that has an ownership interest in cattle.
- 14 2. "Cattle" means live domesticated bovine animals.
- 15 3. "Cattle feeder" means a person in the business of feeding cattle for the purpose of
16 adding weight to the cattle prior to slaughter.
- 17 4. "Cattle industry representative" means an individual who ~~has been~~ is a beef producer,
18 cattle feeder, dairy producer, or representative of a public livestock market in this state.
- 19 5. "Commission" means the North Dakota beef commission.
- 20 ~~5-6.~~ "Dairy producer" means any person in the business of producing and selling milk from
21 cows.
- 22 ~~6-7.~~ "Livestock auction market" means a public market or private buying station in which
23 livestock is offered for sale or sold.

1 ~~7-8.~~ "Livestock dealer" means a person that purchases cattle and is required to be licensed
2 under chapter 36-04.

3 ~~8-9.~~ "Participating producer" means a producer that has not obtained a refund of any
4 assessment paid on the sale of cattle under this chapter for the preceding three years.

5 10. "Public livestock market" means a livestock auction market, public market, or private
6 buying station in which livestock is offered for sale, auctioned, or sold and which is
7 required to be licensed under chapter 4.1-27 or 4.1-28.

8 **SECTION 2. AMENDMENT.** Section 4.1-03-02 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **4.1-03-02. North Dakota beef commission - Membership - Qualifications.**

11 ~~1.~~ The North Dakota beef commission consists of:

12 ~~a.~~ Three beef producers;

13 ~~b.~~ One cattle feeder;

14 ~~c.~~ One dairy producer;

15 ~~d.~~ One representative of a public livestock market; and

16 ~~e.~~ Three at-large representatives.

17 ~~2.~~ The governor shall appoint:

18 ~~a.~~ Each beef producer from a list of at least two names submitted by the North
19 Dakota stockmen's association;

20 ~~b.~~ The cattle feeder from a list of at least two names submitted by the North Dakota
21 stockmen's association feeder council;

22 ~~c.~~ The dairy producer from a list of at least two names submitted by the milk-
23 producers association of North Dakota;

24 ~~d.~~ The representative of a public livestock market from a list of at least two names
25 submitted by the North Dakota livestock marketing association; and

26 ~~e.~~ The three at-large representatives.

27 ~~3. a.~~ The commission consists of one cattle industry representative elected from each
28 of the nine districts listed in section 6 of this Act. The commission chair, vice-chair, and
29 secretary-treasurer serving on December 31, 2023, may continue to serve in those positions as
30 provided under section 4.1-03-03.

31 1. Each member of the commission must:

- 1 (1)a. Be a United States citizen and a resident of this state;
- 2 (2)b. Be a resident of the district the member represents; and
- 3 c. Be ~~an~~ actively engaged ~~in that phase of the~~ cattle industry ~~the member~~
- 4 represents; and
- 5 (3) ~~Have been actively engaged in that phase of the cattle industry for a period~~
- 6 ~~of five years~~representative.
- 7 b-2. Each member of the commission, ~~except~~unless the member is a representative of a
- 8 public livestock market, must be a participating producer.
- 9 e-3. For purposes of this ~~subsection~~section, "actively engaged" means that the individual:
- 10 (1)a. Has an ownership interest in ~~an~~the cattle operation that qualifies the individual as
- 11 a cattle industry representative and which is of sufficient scope and significance
- 12 as to constitute a distinct activity; and
- 13 (2)b. Has and regularly exercises direct control of the cattle operation for the preceding
- 14 three years.

15 **SECTION 3. AMENDMENT.** Section 4.1-03-03 of the North Dakota Century Code is

16 amended and reenacted as follows:

17 **4.1-03-03. Term of office.**

- 18 1. ~~The~~Except as otherwise provided in this section, the term of office for each member is
- 19 three years and begins on July first. The terms must be staggered so ~~that~~ no more
- 20 than three terms expire each year.
- 21 2. The terms of all commission members, except the commission chair, vice-chair, and
- 22 secretary-treasurer, serving on ~~December 31, 2023~~June 30, 2024, expire on
- 23 ~~December 31, 2023~~June 30, 2024.
- 24 a. The commission chair, serving on December 31, 2023, represents district six, as
- 25 established under section 6 of this Act, for a ~~two-year~~ term expiring on
- 26 ~~December 31, 2025~~June 30, 2026.
- 27 b. The commission vice-chair serving on December 31, 2023, represents district
- 28 five, as established by section 6 of this Act, for a ~~three-year~~ term expiring on
- 29 ~~December 1, 2026~~June 30, 2027.

- 1 c. The commission secretary-treasurer serving on December 31, 2023, represents
2 district nine, as established by section 6 of this Act, for a ~~one-year~~ term expiring
3 on ~~December 31, 2024~~June 30, 2025.
- 4 3. Between October 1, 2023, and December 31, 2023, districts one, two, three, four,
5 seven, and eight, as established under section 6 of this Act, each shall elect a
6 commission member with a term beginning ~~January 1, 2024~~July 1, 2024. The initial
7 terms of individuals elected to begin serving as commission members on ~~January 11,~~
8 ~~2024~~July 1, 2024, are:
- 9 a. One year for commission members representing districts one and two;
10 b. Two years for commission members representing districts three and seven; and
11 c. Three years for commission members representing districts four and eight.
- 12 4. Between October 1, 2023, and December 31, 2023, before the pending expiration of
13 the terms of the chair, vice-chair, and secretary-treasurer serving on December 31,
14 2023, and the expiration of each initial term of the individuals elected to begin serving
15 as commission members on ~~January 1, 2024~~July 1, 2024, and thereafter before the
16 expiration of a commission member's term, the respective district shall elect an
17 individual to serve as a commission member to represent that district in the
18 succeeding term.
- 19 5. A member of the commission may not serve more than two consecutive terms. If an
20 individual is appointed after August 1, 2009, to complete a vacancy, that service is not
21 counted as a term, for purposes of this section, unless the duration of that service
22 exceeds one year. The service of the initial term of one year beginning ~~January 1,~~
23 ~~2024~~July 1, 2024, under subsection 3 for commission members of districts one and
24 two may not be counted for purposes of this subsection.

25 **SECTION 4. AMENDMENT.** Section 4.1-03-04 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **4.1-03-04. Vacancy.**

28 ~~If a member's office is vacant, the position must be filled, for the remainder of the term, in~~
29 ~~the same manner as the original appointment. A member's office is vacant if:~~

- 30 1. ~~At any time during a member's term the member ceases to possess any of the~~
31 ~~qualifications provided for in this chapter;~~

- 1 2: ~~Any event enumerated in section 44-02-01 occurs; or~~
2 3: ~~The commission determines that a member has failed to attend three consecutive~~
3 ~~meetings of the commission without justification~~If at any time during a commission
4 member's term the member ceases to possess the qualifications to hold office or a
5 vacancy otherwise occurs, the commission, by majority vote, shall appoint another
6 qualified cattle industry representative for the remainder of the term. If an individual is
7 appointed by the commission to complete a vacancy, that service is not counted as a
8 term for purposes of section 4.1-03-03, unless the duration of that service exceeds
9 one year.

10 **SECTION 5. AMENDMENT.** Section 4.1-03-12 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **4.1-03-12. Collection of assessment.**

- 13 1. Each livestock auction market and livestock dealer shall:
14 a. Collect the assessments due under this chapter by deducting the assessments
15 from any credit given or payment made to the seller of the cattle, at the time of
16 the transaction; ~~and~~
17 b. Forward the assessments to the commission in accordance with section
18 4.1-03-13; ~~and~~
19 c. Provide the name and address of the seller of the cattle to the commission.
20 2. a. If a person sells North Dakota cattle outside this state or if a person sells North
21 Dakota cattle to an out-of-state buyer, the person shall forward any assessments
22 due under this chapter to the commission in accordance with section 4.1-03-13.
23 b. This subsection does not apply if the assessment has been paid to a brand
24 inspector in another state or to another qualified state beef council.
25 3. Any other person selling cattle in this state shall forward any assessments due under
26 this chapter to the commission in accordance with section 4.1-03-13.

27 **SECTION 6.** A new section to chapter 4.1-03 of the North Dakota Century Code is created
28 and enacted as follows:

29 **Geographical districts.**

30 The state consists of the following districts:

- 1 1. District one: Barnes, Cass, Cavalier, Eddy, Foster, Grand Forks, Griggs, Nelson,
- 2 Pembina, Ramsey, Steele, Towner, Traill, and Walsh Counties;
- 3 2. District two: Dickey, LaMoure, McIntosh, Ransom, Richland, and Sargent Counties;
- 4 3. District three: Kidder, Logan, and Stutsman Counties;
- 5 4. District four: Burleigh, Emmons, Sheridan, and Wells Counties;
- 6 5. District five: Benson, Bottineau, McHenry, Pierce, Renville, and Rollette Counties;
- 7 6. District six: Burke, Divide, McKenzie, McLean, Mountrail, Ward, and Williams
- 8 Counties;
- 9 7. District seven: Billings, Dunn, Golden Valley, Oliver, and Mercer Counties;
- 10 8. District eight: Adams, Bowman, Hettinger, Slope, and Stark Counties; and
- 11 9. District nine: Grant, Morton, and Sioux Counties.

12 **SECTION 7.** A new section to chapter 4.1-03 of the North Dakota Century Code is created
13 and enacted as follows:

14 **Director of the North Dakota state university extension service - Nomination and**
15 **election of district commission candidates.**

- 16 1. a. The director of the North Dakota state university extension service or the
- 17 director's designee shall oversee district representative commission member
- 18 nominations and elections. The director may compile a list and determine eligible
- 19 voters from public livestock markets, the commission, or other means necessary.
- 20 b. Between October first and December thirty-first of each year, the director shall
- 21 conduct the nominating and election process to elect successors for districts with
- 22 terms expiring that fiscal year.
- 23 c. The director shall notify, by mail or electronic means, no fewer than forty-five nor
- 24 more than sixty days before the district representative commission election, all
- 25 known cattle industry representatives in the respective district and request
- 26 nominations for district representative commission candidates.
- 27 d. To be eligible as a candidate in a district commission election, at least five cattle
- 28 industry representatives who reside in the district must nominate the candidate in
- 29 writing. A cattle industry representative may not self-nominate.
- 30 e. Upon receiving the district commission nominations, the director shall certify that
- 31 nominated candidates meet the requirements of section 4.1-03-02. The director

- 1 shall prepare the election ballots with the names of the certified nominated district
2 commission candidates. Each ballot also must include a statement indicating:
3 (1) The date, time, and location the director will open the ballots and tabulate
4 the results;
5 (2) The last date by which the ballots must be postmarked or filed with the
6 director; and
7 (3) Any cattle industry representative in the district may be present at the time
8 the ballots are opened and tabulated.
9 f. The director shall hold the district commission election by mail paper ballot. The
10 director shall mail the ballots to each known cattle industry representative in the
11 district at least thirty days before the election.
12 g. The director shall canvass the votes. The director shall notify the commission and
13 the governor that the election has taken place, and provide to the commission
14 and the governor the name and address and term of the newly elected district
15 representative commission member.
16 2. If the cattle industry representatives in a district fail to elect an individual, as required
17 by this section, the director shall notify the commission and the governor. The
18 governor shall appoint a cattle industry representative who meets the requirements of
19 section 4.1-03-02 to serve as the district commission member for the district.

20 **SECTION 8.** A new section to chapter 4.1-03 of the North Dakota Century Code is created
21 and enacted as follows:

22 **Election costs - Responsibility.**

23 All costs of holding district commission member nominations and elections under section 6
24 of this Act are the responsibility of the commission.

25 **SECTION 9.** A new section to chapter 4.1-03 of the North Dakota Century Code is created
26 and enacted as follows:

27 **Referendums - Assessments.**

- 28 1. If petitioned by at least fifteen percent of the cattle industry representatives of the
29 state, the commission shall conduct a referendum among the cattle industry
30 representatives to determine the amount by which the assessment imposed under
31 section 4.1-03-11 should be adjusted.

- 1 2. No more than fifty percent of the cattle industry representatives who signed the
2 petition may reside in the same district.
- 3 3. The commission shall hold an assessment referendum by mail paper ballot. The
4 commission shall prepare the ballots with the petitioned amount by which the
5 assessment imposed under section 4.1-03-11 is proposed to be adjusted and
6 distribute the ballots to each cattle industry representative at least thirty days before
7 the last date for filing ballots.
- 8 4. Each ballot must include a statement indicating:
 - 9 a. The date the petition was filed and the number of signatures on the petition;
 - 10 b. The date, time, and location the commission will open the ballots and tabulate the
11 results;
 - 12 c. The last date by which the ballots must be postmarked or filed with the
13 commission; and
 - 14 d. Any cattle industry representative may be present at the time the ballots are
15 opened and tabulated.
- 16 5. The date selected by the commission for the opening and tabulation of the ballots
17 must be at least five days after the date by which the ballots must be postmarked or
18 filed with the commission.
- 19 6. The commission shall canvass the votes. If the majority of voting cattle industry
20 representatives vote in favor of the proposed change, the commission shall submit a
21 bill to the next legislative assembly to propose amending the statutory assessment in a
22 manner consistent with the results of the vote.
- 23 7. All costs of holding an assessment referendum under this section are the responsibility
24 of the commission.

25 **SECTION 10. EFFECTIVE DATE.** Section 2 of this Act becomes effective on January 1,
26 2024.

23.0591.01001
Title.

Prepared by the Legislative Council staff for
Representative Fisher
February 2, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1436

- Page 1, line 17, replace "has been" with "is"
- Page 3, line 3, remove "an"
- Page 3, line 3, remove the overstrike over "in"
- Page 3, line 3, remove the overstrike over the first "the"
- Page 3, line 6, remove "representative"
- Page 3, line 9, overstrike "subsection" and insert immediately thereafter "section"
- Page 3, line 22, after "secretary-treasurer" insert an underscored comma
- Page 3, line 22, replace the first "December 31, 2023" with "June 30, 2024"
- Page 3, line 22, replace the second "December 31, 2023" with "June 30, 2024"
- Page 3, line 24, remove "two-year"
- Page 3, line 25, replace "December 31, 2025" with "June 30, 2026"
- Page 3, line 27, remove "three-year"
- Page 3, line 28, replace "December 1, 2026" with "June 30, 2027"
- Page 3, line 30, remove "one-year"
- Page 3, line 31, replace "December 31, 2024" with "June 30, 2025"
- Page 4, line 3, replace "January 1, 2024" with "July 1, 2024"
- Page 4, line 4, replace "January 11, 2024" with "July 1, 2024"
- Page 4, line 12, replace "January 1, 2024" with "July 1, 2024"
- Page 4, line 18, replace "January 1, 2024" with "July 1, 2024"
- Page 6, line 11, after "service" insert "or the director's designee"
- Page 6, line 12, after the underscored period insert "The director may compile a list and determine eligible voters from public livestock markets, the commission, or other means necessary."
- Page 6, line 15, after "that" insert "fiscal"
- Re-number accordingly

23.0591.01000
 Sixty-eighth
 Legislative Assembly
 of North Dakota

Introduced by
 Representatives Beltz, D. Anderson, Kempenich, Nelson, Schreiber-Beck, Weisz
 Senators Piepkorn, Weber, Weston

A BILL for an Act to create and enact four new sections to chapter 4.1-03 of the North Dakota Century Code, relating to the creation of beef commission districts, the selection of commission members, and the referral of cattle assessments; to amend and reenact sections 4.1-03-01, 4.1-03-02, 4.1-03-03, 4.1-03-04, and 4.1-03-12 of the North Dakota Century Code, relating to the definition of a cattle industry representative, the election and terms of members to the North Dakota beef commission, and requiring livestock auction markets and livestock dealers to forward names of cattle sellers; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:
SECTION 1. AMENDMENT. Section 4.1-03-01 of the North Dakota Century Code is amended and reenacted as follows:

4.1-03-01. Definitions.

As used in this chapter:

1. "Beef producer" means any person that has an ownership interest in cattle.
2. "Cattle" means live domesticated bovine animals.
3. "Cattle feeder" means a person in the business of feeding cattle for the purpose of adding weight to the cattle prior to slaughter.
4. "Cattle industry representative" means an individual a person who has been is a beef producer, cattle feeder, dairy producer, or representative of a public livestock market in this state who exercises control of livestock.
5. "Commission" means the North Dakota beef commission.
- 5.6. "Dairy producer" means any person in the business of producing and selling milk from cows.
- 6.7. "Livestock auction market" means a public market or private buying station in which livestock is offered for sale or sold.
- 7.8. "Livestock dealer" means a person that purchases cattle and is required to be licensed under chapter 36-04.
- 8.9. "Participating producer" means a producer that has not obtained a refund of any assessment paid on the sale of cattle under this chapter for the preceding three years
10. "Public livestock market" means a livestock auction market, public market, or private buying station in which livestock is offered for sale, auctioned, or sold and which is

Page No. 1 23.0591.01000

Sixty-eighth
 Legislative Assembly

required to be licensed under chapter 4.1 - 27 or 4.1 - 28 .

SECTION 2. AMENDMENT. Section 4.1-03-02 of the North Dakota Century Code is amended and reenacted as follows:

4.1-03-02. North Dakota beef commission - Membership - Qualifications.

~~1. The North Dakota beef commission consists of:~~

- ~~a. Three beef producers;~~
- ~~b. One cattle feeder;~~
- ~~c. One dairy producer;~~
- ~~d. One representative of a public livestock market; and~~
- ~~e. Three at-large representatives.~~

~~2. The governor shall appoint:~~

- ~~a. Each beef producer from a list of at least two names submitted by the North Dakota stockmen's association;~~
- ~~b. The cattle feeder from a list of at least two names submitted by the North Dakota stockmen's association feeder council;~~
- ~~c. The dairy producer from a list of at least two names submitted by the milk producers association of North Dakota;~~
- ~~d. The representative of a public livestock market from a list of at least two names submitted by the North Dakota livestock marketing association; and~~
- ~~e. The three at-large representatives.~~

3. a. The commission consists of one cattle industry representative elected from each of the nine districts listed in section 6 of this Act. The commission chair, vice - chair, and secretary-treasurer serving on December 31, 2023, may continue to serve in those positions as provided under section 4.1 - 03 - 03 .

1. Each member of the commission must:

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~~(1)a. Be a United States citizen and a resident of this state;~~

~~(2)b. Be a resident of the district the member represents; and~~

c. Be an actively engaged in that phase of the cattle industry ~~the member represents; and~~

~~(3) Have been actively engaged in that phase of the cattle industry for a period of five years representative.~~

b.2. Each member of the commission, ~~except~~unless the member is a representative of a public livestock market, must be a participating producer.

c.3. For purposes of this subsection, "actively engaged" means that the individual:

(1)a. Has an ownership interest in ~~an~~the cattle operation that qualifies the individual as a cattle industry representative and which is of sufficient scope and significance as to constitute a distinct activity; and

(2)b. Has and regularly exercises direct control of the cattle operation for the preceding three years.

SECTION 3. AMENDMENT. Section 4.1-03-03 of the North Dakota Century Code is

amended and reenacted as follows:

4.1-03-03. Term of office.

1. ~~The~~Except as otherwise provided in this section, the term of office for each member is three years and begins on July first. The terms must be staggered so that no more than three terms expire each year.

2. The terms of all commission members, except the commission chair, vice-chair, and secretary-treasurer serving on December 31, 2023, expire on ~~December 31, 2023~~June 30, 2024.

a. The commission chair, serving on December 31, 2023, represents district six, as established under section 6 of this Act, for a ~~two-year~~ term expiring on ~~December 31, 2025~~June 30, 2026.

b. The commission vice-chair serving on December 31, 2023, represents district five, as established by section 6 of this Act, for a ~~three-year~~ term expiring on ~~December 1, 2026~~June 30, 2027.

c. The commission secretary-treasurer serving on December 31, 2023, represents district nine, as established by section 6 of this Act, for a ~~one-year~~ term expiring on ~~December 31, 2024~~June 30, 2025.

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3. Between October 1, 2023, and December 31, 2023, districts one, two, three, four, seven, and eight, as established under section 6 of this Act, each shall elect a commission member with a term beginning January 1, 2024. The initial terms of individuals elected to begin serving as commission members on January 11, 2024, are:

- a. One year for commission members representing districts one and two;
- b. Two years for commission members representing districts three and seven; and
- c. Three years for commission members representing districts four and eight.

4. Between October 1, 2023, and December 31, 2023, before the pending expiration of the terms of the chair, vice-chair, and secretary-treasurer serving on December 31, 2023, and the expiration of each initial term of the individuals elected to begin serving as commission members on ~~January~~July 1, 2024, and thereafter before the expiration of a commission member's term, the respective district shall elect an individual to serve as a commission member to represent that district in the succeeding term.

5. A member of the commission may not serve more than two consecutive terms. ~~If an individual is appointed after August 1, 2009, to complete a vacancy, that service is not counted as a term, for purposes of this section, unless the duration of that service exceeds one year.~~ The service of the initial term of one year beginning ~~January~~July 1, 2024, under subsection 3 for commission members of districts one and two may not be counted for purposes of this subsection.

SECTION 4. AMENDMENT. Section 4.1-03-04 of the North Dakota Century Code is amended and reenacted as follows:

4.1-03-04. Vacancy.

~~If a member's office is vacant, the position must be filled, for the remainder of the term, in the same manner as the original appointment. A member's office is vacant if:~~

1. ~~At any time during a member's term the member ceases to possess any of the qualifications provided for in this chapter;~~

- ~~2. Any event enumerated in section 44-02-01 occurs; or~~
~~3. The commission determines that a member has failed to attend three consecutive meetings of the commission without justification. If at any time during a commission member's term the member ceases to possess the qualifications to hold office or a~~

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vacancy otherwise occurs, the commission, by majority vote, shall appoint another qualified cattle industry representative for the remainder of the term. If an individual is appointed by the commission to complete a vacancy, that service is not counted as a term for purposes of section 4.1 - 03 - 03, unless the duration of that service exceeds one year.

SECTION 5. AMENDMENT. Section 4.1-03-12 of the North Dakota Century Code is amended and reenacted as follows:

4.1-03-12. Collection of assessment.

1. Each livestock auction market and livestock dealer shall:
 - a. Collect the assessments due under this chapter by deducting the assessments from any credit given or payment made to the seller of the cattle, at the time of the transaction; and
 - b. Forward the assessments to the commission in accordance with section 4.1-03-13; and
 - c. Provide the name and address of the seller of the cattle to the commission.
2. a. If a person sells North Dakota cattle outside this state or if a person sells North Dakota cattle to an out-of-state buyer, the person shall forward any assessments due under this chapter to the commission in accordance with section 4.1-03-13.
 - b. This subsection does not apply if the assessment has been paid to a brand inspector in another state or to another qualified state beef council.
3. Any other person selling cattle in this state shall forward any assessments due under this chapter to the commission in accordance with section 4.1-03-13.
4. If a brand inspector obtains the name and address of the seller, the brand inspector shall provide the commission with name and address of the seller.

SECTION 6. A new section to chapter 4.1-03 of the North Dakota Century Code is created and enacted as follows:

Geographical districts.

The state consists of the following districts:

1. District one: Barnes, Cass, Cavalier, Eddy, Foster, Grand Forks, Griggs, Nelson, Pembina, Ramsey, Steele, Towner, Traill, and Walsh Counties;
2. District two: Dickey, LaMoure, McIntosh, Ransom, Richland, and Sargent Counties;
3. District three: Kidder, Logan, and Stutsman Counties;
4. District four: Burleigh, Emmons, Sheridan, and Wells Counties;

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5. District five: Benson, Bottineau, McHenry, Pierce, Renville, and Rollette Counties;
6. District six: Burke, Divide, McKenzie, McLean, Mountrail, Ward, and Williams Counties;
7. District seven: Billings, Dunn, Golden Valley, Oliver, and Mercer Counties;

8. District eight: Adams, Bowman, Hettinger, Slope, and Stark Counties; and
9. District nine: Grant, Morton, and Sioux Counties.

SECTION 7. A new section to chapter 4.1-03 of the North Dakota Century Code is created and enacted as follows:

**Director or director's Designee of the North Dakota state university extension service -
Nomination and election of district commission candidates.**

1. a. The director of the North Dakota state university extension service shall oversee district representative commission member nominations and elections.
b. Between October first and December thirty-first of each year, the director shall conduct the nominating and election process to elect successors for districts with terms expiring that fiscal year.
c. The director shall notify, by mail or electronic means, no fewer than forty - five nor more than sixty days before the district representative commission election, all known cattle industry representatives in the respective district and request nominations for district representative commission candidates.
d. To be eligible as a candidate in a district commission election, at least five cattle industry representatives who reside in the district must nominate the candidate in writing. A cattle industry representative may not self - nominate .
e. Upon receiving the district commission nominations, the director shall certify that nominated candidates meet the requirements of section 4.1 - 03 - 02. The director shall prepare the election ballots with the names of the certified nominated district commission candidates. Each ballot also must include a statement indicating:
(1) The date, time, and location the director will open the ballots and tabulate the results;
(2) The last date by which the ballots must be postmarked or filed with the director; and

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- (3) Any cattle industry representative in the district may be present at the time the ballots are opened and tabulated.
f. The director shall hold the district commission election by mail paper ballot. The director shall mail the ballots to each known cattle industry representative in the district at least thirty days before the election.
g. The director shall canvass the votes. The director shall notify the commission and the governor that the election has taken place, and provide to the commission and the governor the name and address and term of the newly elected district representative commission member.
2. If the cattle industry representatives in a district fail to elect an individual, as required by this section, the director shall notify the commission and the governor. The governor shall appoint a cattle industry representative who meets the requirements of section 4.1 - 03 - 02 to serve as the district commission member for the district .

SECTION 8. A new section to chapter 4.1-03 of the North Dakota Century Code is created and enacted as follows:

Election costs - Responsibility .

All costs of holding district commission member nominations and elections under section 6 of this Act are the responsibility of the commission.

SECTION 9. A new section to chapter 4.1-03 of the North Dakota Century Code is created and enacted as follows:

Referendums - Assessments .

1. If petitioned by at least fifteen percent of the cattle industry representatives of the state, the commission shall conduct a referendum among the cattle industry representatives to determine the amount by which the assessment imposed under section 4.1 - 03 - 11 should be adjusted .

2. No more than fifty percent of the cattle industry representatives who signed the petition may reside in the same district.

3. The commission shall hold an assessment referendum by mail paper ballot. The commission shall prepare the ballots with the petitioned amount by which the assessment imposed under section 4.1 - 03 - 11 is proposed to be adjusted and

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distribute the ballots to each cattle industry representative at least thirty days before the last date for filing ballots.

4. Each ballot must include a statement indicating:

a. The date the petition was filed and the number of signatures on the petition;

b. The date, time, and location the commission will open the ballots and tabulate the results;

c. The last date by which the ballots must be postmarked or filed with the commission; and

d. Any cattle industry representative may be present at the time the ballots are opened and tabulated.

5. The date selected by the commission for the opening and tabulation of the ballots must be at least five days after the date by which the ballots must be postmarked or filed with the commission.

6. The commission shall canvass the votes. If the majority of voting cattle industry representatives vote in favor of the proposed change, the commission shall submit a bill to the next legislative assembly to propose amending the statutory assessment in a manner consistent with the results of the vote.

7. All costs of holding an assessment referendum under this section are the responsibility of the commission.

SECTION 10. EFFECTIVE DATE. Section 2 of this Act becomes effective on January 1, 2024.

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