

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

3035

2001 HOUSE AGRICULTURE

HCR 3035

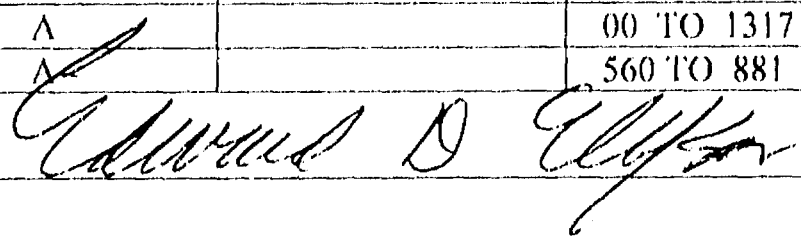
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3035

House Agriculture Committee

☐ Conference Committee

Hearing Date 2--16--01

Tape Number	Side A	Side B	Meter #
ONE	A		3808 to 6200
TWO	A		00 TO 1317
THREE	A		560 TO 881
Committee Clerk Signature 			

Minutes:

CHAIRMAN NICHOLAS: Committee members we will open on HCR 3035.

REPRESENTATIVE FAIRFIELD: She read testimony which is attached. Please see.

SEN. BOWMAN: I come from an area where we ship a lot of our cattle out of state for processing. We send them down to the feed lots. I went down to study the cattle industry to find out what happens to our cattle when they hit the Kansas feed lots and then have to go to the packers. There having a lot of the same frustrations that we have. Once these cattle go into a concentrated feed yard like a hundred thousand head that is owned by Cargill. You find out that they own the majority of the cattle. It is not the farmers anymore that own the cattle. That is called captive supply. That is the cattle in their system. What dose that do to effect the cash market. I have a pretty good evidence here that I think. The yellow line is the cash market and the green line is the percent of cattle in the system. You can definitely see that when the cash price goes down, the green line goes up. You don't have to be a great economist to figure that

out. You just have to be able to read the lines. There is a direct correlation even though certain economists have nice contracts with certain Agr. institutions in America will say you are wrong. This data does not say you are wrong. This is an independent study. It has no affiliation with any of them. The next thing is we have to figure out where the ND farmer is going to be in the future. It is getting harder to make a profit. Tyson control the chicken market. The profit for the chicken raiser is very marginal. Thank you

CHAIRMAN NICHOLAS: Anyone else in support of this legislation.

WAYNE CARLSON: I am the Livestock Services Coordinator for the Department of Agriculture. Please read prepared testimony. I urge a "do pass"

JOHN CRABTREE: Please see printed testimony. I encourage you to act boldly and support this resolution. Thank you.

RICHARD SCHLOSSER: I am here on behalf of the N.D. FARMERS UNION in support of HCR 3035. On the national level this has been a priority of theirs as to these practices. captive supplies are a disadvantage to farmers. The bottom line as far as our organization is concerned is dealing with livestock production is best left in the hands of independents.

WADE MOSER: I am with the ND STOCKMANS ASSOCIATION. A lot has been covered this morning. Ten years ago we would see several feedlots coming to ND. and wanting our producers and wanting our producers to put cattle in their lots on a retained ownership basis. We don't see nearly as much of that anymore. Simply because they are going to the packers. Price reporting. Today we see more and more people pricing their cattle on a grid. You get paid by the quality of the cattle that you have. The grid price is based on the cash price with

some premiums or discounts. We see that when the packers are out of the market it that definitely changes the floor price or the grid price. There was a law that was passed in 1999 that was called the MANDATORY recording act. We thought this would help us get a handle on what the price was. There was some loopholes created for the packers called the three sixty provision. It means that if there are three or more packers buying cattle in a half day period then you reported the price. If there were less then three they did not have to report the price. If a packer bought more then sixty percent of the volume they did not have to report the price. We have a big mess on our hand now. We like the resolution

Representative Lemieux: should we have a little more language in this bill as to where the department of justice is in this. We are asking congress to do something. We have to have some teeth in the Bill. The answer is something has to be done. We have had a lot of frustration with the justice department. There not dealing the way they should. This has been a wake up call as far as the way the justice department operates.

SCOTT FREY; Printed testimony from Donald Nelson.

WE CLOSE THE HEARING ON HCR 3035.

1A:1317

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1A:560 VICE CHAIRMAN JOHNSON: We will reopen the hearing on HCR 3035.

Representative Lemieux: There was a suggestion that we amend this HCR. I would like to add some language to this HCR. I would like to move that we use the language in the amendment.

Page 4

House Agriculture Committee

Bill/Resolution Number HCR 3035

Hearing Date 2--16--01

Representative Lemieux made a motion for a DO PASS and Representative seconded the motion.. A motion was then made for a DO PASS WITH AMENDMENTS. Representative Koppang made the motion and Representative Renner seconded. A ROLL CALL WAS TAKEN.....THERE WERE \*\*\*13 YES.....0 NO.....AND 2 ABSENT\*\*\*  
REPRESENTATIVE LEMIEUX WILL CARRY THE BILL.

1A:881

VK  
2/16/01

**HOUSE AMENDMENTS TO HCR 3035 HOUSE AGR. 2-16-01**  
Page 1, line 1, after "owning" Insert a comma

Page 1, line 2, remove "or", after "feeding" Insert ", or controlling", and after "slaughter" Insert  
"and to amend the federal Packers and Stockyards Act to accomplish this goal"

Page 1, line 16, replace "or" with a comma and after "feeding" Insert ", or controlling"

Page 1, line 17, after "slaughter" Insert "and to amend the federal Packers and Stockyards Act  
to accomplish this goal"

Renumber accordingly

2-16-01

Date:  
Roll Call Vote #:2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

HCR 3035

House AGRICULTURE

Committee

☐ Subcommittee on \_\_\_\_\_

or

☐ Conference Committee

Legislative Council Amendment Number

KOPPANG - RENNER  
WITH AMENDMENTS

Action Taken

DO PASS

Motion Made By

LEMIEUX

Seconded By

PIETSCH

Representatives	Yes	No	Representatives	Yes	No
Eugene Nicholas, Chairman			Rod Froelich	✓	
Dennis E. Johnson - Vice Chairman	✓		Doug Lemieux	✓	
Rick Berg	✓		Philip Mueller	✓	
Michael Brandenburg	✓		Kenton Onstad	✓	
Joyce Kingsbury	✓		Sally M. Slandvig	✓	
Myron Koppang	✓		Dennis J. Renner	✓	
Edward H. Lloyd	✓		Dwight Wrangham		
Bill Pietsch	✓				

Total (Yes)

13

No

0

Absent

2

Floor Assignment

LEMIEUX

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



**REPORT OF STANDING COMMITTEE**

HCR 3035: Agriculture Committee (Rep. Nicholas, Chairman) recommends  
**AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS**  
(13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HCR 3035 was placed on the  
Sixth order on the calendar.

Page 1, line 1, after "owning" Insert a comma

Page 1, line 2, remove "or", after "feeding" Insert ", or controlling", and after "slaughter" Insert  
"and to amend the federal Packers and Stockyards Act to accomplish this goal"

Page 1, line 16, replace "or" with a comma and after "feeding" Insert ", or controlling"

Page 1, line 17, after "slaughter" Insert "and to amend the federal Packers and Stockyards Act  
to accomplish this goal"

Renumber accordingly

2001 SENATE AGRICULTURE

HCR 3035

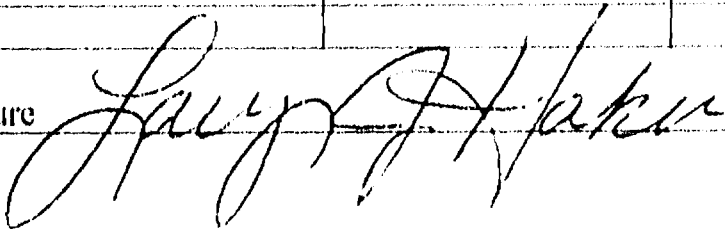
## 2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3035

Senate Agriculture Committee

☐ Conference Committee

Hearing Date March 16, 2001

Tape Number		Side A	Side B	Meter #
March 16	2	X		0.0 - 23.7
March 29	1	X		1.0 - 7.0
Committee Clerk Signature 				

Minutes:

### March 16, 2001

REP. FAIRFIELD; Sponsor, introduced the resolution to the committee. We are seeing a few giant multi national corporations string a hold on agriculture. Even though we may not always reference market concentration expressly in other policy discussion it is really underlying every agricultural issue facing American farmers today, from the producers inability to get a fair price, access to local markets, chemical harmonization, research, value added processing to world trade. The increasing power of agribusiness in the market place is fundamental to the discussion of the future of farm policy. Aim of this resolution is to support critical livestock markets reforms through banning packer ownership of livestock. The issue of vertical integration in agriculture and it affect on producers market and the retail sector are really common and accepted components of today's economic reality. I believe that we can not stress enough the importance of competition in the marketplace. In this market orientated economy that we live in

competition is an article of faith yet competition has been severely limited if not eliminated by vertical integration by a small concentration of firms. Large meat packers have continued without challenge to acquire small packers often just to shut down the plant and eliminate competition. The same packers continue to feed more and more of their own livestock and rapidly increase the captive supplies to contracts and other non negotiated sales leaving smaller producers with the a market lack even acceptance of competition. Unless the marketplace is competitive producers will never get a fair shake. Packer ownership of livestock compromises a rural quality of life.

SENATOR BOWMAN; Cosponsor, testified in support of this resolution. There is no question that the cattle that are owned within the system by the big boys control the cash price. As there are fewer and fewer people that compete the problems are going to continue to get worse. Hopefully this resolution will help this.

SENATOR WANZEK; When you say control what are you exactly all encompassing that?

SENATOR BOWMAN; They own the cattle within the system. They can bring in their own feed in. Free enterprise system works, it's worked for all these years until we have eliminated the competition.

JOHN CRABTREE; Commission of the Future of Agriculture, testified in support of this bill. See attached testimony.

JOHN CRABTREE; Mr. Chairman I would like to answer the question you asked before. The question about controlling livestock, there is certainly ownership relationships between packers and contract growers. They don't actually transfer of ownership of livestock but they aren't the negotiated contract that you are talking about. Packers don't always want to own cattle for 90 days or 100 days, sometimes they like to have a contract that allows them to have that ownership

at the end of that period of time but not stand the risk of owning them throughout that 90 - 100 day period. It is done frequently in feedlots. The reason for it is, if the cattle die then the person who owns them, the packers don't own them but they have the ability to control them to require that that those cattle come to them when they are ready for market. They are in the ownership position by they haven't actually taken the risk of actually owning the cattle. That is what controlling is about. The packers should be able to take that much control over production. The legislation in the Senate right now would not prohibit the kind of activities that you are talking about. It specifically wouldn't prohibit a cooperative relationship like that from even owning the small packing.

SENATOR KLEIN; Your testimony says consumers saw no decrease in the price they paid for pork in the grocery store in 98 -99 and I know for a fact that in those years we featured more pork items at the lowest price that we've seen in years, sold more pork trimmings and more half hogs at the lowest prices we'd see in years this to me doesn't say that in that particular part of your testimony.

JOHN CRABTREE; Congress did a study on the national retail pork prices and the decrease was about 3% across the board. I think that what happened regionally in retain pork was significantly different than what happened across this country too. That statement is based on the Congressional report, GAO report I believe. Nationally it was accurate.

WAYNE CARLSON; Livestock Services Coordinator - ND Dept. of Agriculture, testified in support of this resolution. See attached testimony.

The hearing was closed.

Page 4  
Senate Agriculture Committee  
Bill/Resolution Number HCR 3035  
Hearing Date March 16, 2001

March 29, 2001

Discussion was held.

SENATOR NICHOLS moved for a DO PASS and be placed on the Consent Calendar.

SENATOR ERBELE seconded the motion.

Roll call vote: 6 Yeas, 0 No, 0 Absent and Not voting.

SENATOR NICHOLS will carry the bill.

Date: 3-29-01  
Roll Call Vote #: /

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. Hek 3025

Senate Agriculture Committee

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Sen. Nichols Seconded By Sen. Erbele

Senators	Yes	No	Senators	Yes	No
Senator Wanzek - Chairman	✓		Senator Kroeplin	✓	
Senator Erbele - Vice Chairman	✓		Senator Nichols	✓	
Senator Klein	✓				
Senator Urlacher	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Nichols

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

Consent Calendar

**REPORT OF STANDING COMMITTEE (410)**  
March 29, 2001 11:10 a.m.

Module No: SR-55-7110  
Carrier: Nichols  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HCR 3035: Agriculture Committee (Sen. Wanzek, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3035 was placed on the Tenth order on the calendar.**



2001 TESTIMONY

HCR 3035

P 1

Rep. FARM 1-2

It isn't difficult to find controversy in ag policy. There seem to be chasms of differing opinion. However, one area where there seems to be growing consensus is in the area of market concentration, vertical integration and anti-competitive practices. More and more, we are seeing a few giant multi-national corporations with a stranglehold on agriculture.

Even though we may not always reference market concentration expressly in other policy discussions, it is underlying every agricultural issue facing American farmers today...from the producer's inability to get a fair price, access to local markets, chemical harmonization, research, value-added processing to world trade.

(It was mentioned repeatedly at yesterday's committee hearing on HB 1430, the corporate farming law, and it is at the heart of two bills relating to anti-trust enforcement and the contract producer's bill of rights.)

The increasing power of agribusiness in the marketplace is fundamental to the discussion of the future of farm policy.

This resolution is really self-explanatory. It's aim...to support critical livestock market reforms by banning packer ownership of livestock.

Since, the issue of vertical integration in agriculture and its effects on producers, markets, and the retail sector are accepted and common components of today's <sup>ag policy discussions</sup> ~~economic reality~~, I'm sure no explanation is necessary. I am confident that your position on the agriculture committee has already afforded you considerable education on market concentration.

However, I don't think we can stress enough the importance of competition in the marketplace. In the market-oriented economy that we live in, competition is an article of faith. Yet, competition has been severely limited if not eliminated by vertical integration by a small concentration of firms.

Large meatpackers have continued, without challenge, to acquire smaller packers, often just to shut down the plant and eliminate competition. The same packers continue to feed more and more of their own livestock and rapidly increase their captive supplies through contracts and other non-negotiated sales, leaving smaller producers with a market that lacks even a semblance of competition.

Vertical integration by non-producers is the single biggest threat to competitive markets. Simply, when packers own livestock from birth to slaughter, independent livestock producers are relegated to the position of residual suppliers.

Decreased competition means that producers can expect the lowest price and be treated in the worst fashion. The bottom line is that unless the marketplace is competitive, producers will never get a fair shake.

P 2

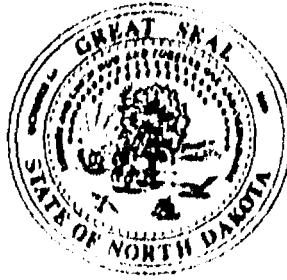
Packer ownership of livestock compromises our rural quality of life, displaces producers, expedites the shift of control over decision making away from independent producers, contributes to rural depopulation and forces producers even further down the path toward a completely unsustainable, unprofitable and unjust system.

We pass many resolutions in this body. Most that have no more impact than a letter of position on an issue to Congress. However, this resolution may actually help move positive Congressional action.

Bi-partisan legislation has been introduced in Congress to ban packer ownership of livestock. Having an important agricultural state like North Dakota recognize the importance of this issue may be a catalyst to passing a piece of legislation that could literally change the course of agriculture in this nation.

This committee has an opportunity with this resolution...an opportunity to make a positive impact on the lives of livestock producers by helping direct this nation's ag policy away from the present course of consolidation and anti-competitive market practices toward an economic system that ensures independent producers have the opportunity to own and control their own livestock, define their own destiny and remain contributing members of their communities and country.

COMMISSIONER OF AGRICULTURE  
ROXIE JOHNSON



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DEPARTMENT OF AGRICULTURE  
State of North Dakota  
600 E. Boulevard Ave. Dept. 602  
Bismarck, ND 58505-0020

11:00  
3035

**Testimony of Wayne R. Carlson  
Livestock Services Coordinator  
North Dakota Department of Agriculture  
House Concurrent Resolution 3035  
House Agriculture Committee  
Peace Garden Room  
February 16, 2001**

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Chairman Nicholas and members of the House Agriculture Committee, my name is Wayne Carlson. I am the Livestock Services Coordinator for the Department of Agriculture. I am here today in support of House Concurrent Resolution 3035, which urges Congress to support efforts to prohibit meatpackers from owning or feeding livestock for more than 14 days before slaughter.

The present policies of the Packers and Stockyards Administration allow the packing industry to own livestock. This may have worked in the past; however, with the increased concentration of the packing industry, the possibility of manipulation in the livestock markets has been amplified. For an example, two of the largest packers (ConAgra & Cargill) have cattle feeding operations that rank in the top five largest feeding operations in the nation. These two companies have feedlots for about 750,000 head. In one year they can fatten approximately 1.5 million feeder cattle, which is approximately 1½ percent of the 98 million cattle there are in the US. The packing industry has argued that this is a small percentage of livestock, and they have had very

little impact on the price of cattle. However, one can see the significance of this number when you compare it to the number of cattle in North Dakota. These two companies fatten  $1\frac{1}{2}$  times the number of feeder calves produced in the entire state of North Dakota. Imagine the financial impact North Dakota producers would have if they were able to market all the calves produced in our state under one exclusive marketing agreement.

Allowing packers to own livestock does provide them with the opportunity to partially or completely withdraw from the market at any given time, or to saturate the market with their livestock. Because the packing industry is so concentrated a slight variation in just one of the packer's buying patterns can have a significant impact on the market. Requiring packers to be out of the commodity market for 14 days before slaughter would eliminate any perceived or real market advantage for the packers.

Mr. Chairman and committee members, I urge a "do pass" on House Concurrent Resolution 3035. Thank you. I would be happy to answer any questions.

HCR  
3035

**John Crabtree**  
**Executive Director**  
**Commission on the Future of Agriculture**  
**Testimony on HCR 3035**

Mr. Chairman and committee members, thank you for the opportunity to appear before you in support of House Concurrent Resolution 3035.

In 1999 I worked closely with Senators Bob Kerrey (NE), Chuck Grassley (IA), Tim Johnson (SD), and Craig Thomas (WY) to introduce legislation that would prohibit packer ownership of livestock. This bipartisan group of Senators introduced the legislation in late November 1999. The bill was reintroduced this year with Senator Tom Daschle (SD) replacing retired Senator Bob Kerrey on the bill.

The introduction of this bill was precipitated by the economic debacle in the hog market in the winter of 1998 and 1999. In January 1999, family farmers were paid 8 cents per pound for their hogs, the lowest price paid since the Great Depression. At the same time meatpackers were posting record profits and consumers saw no decrease in the price they paid for pork in the grocery store.

The inequitable market access and anti-competitive behaviors of meatpackers are destroying livestock markets, to the detriment of farmers, ranchers and rural communities. Farmers and ranchers know it and they want it stopped. Don't take my word for it, go out in the countryside and ask them.

Farmers and ranchers ultimately derive their income from the agricultural marketplace. They have always been in a position of weakness in selling their product to large processors. Today, however, the position of the farmers and ranchers has become far weaker as consolidation in agribusiness has reached all time highs and as meatpackers seek to own and control livestock production. The result is the smallest farm share of the consumer dollar in history and an increasing loss of family farms and ranches.

One example of the troublesome nature of vertical integration is Smithfield Foods. Smithfield had sales of \$4 billion in 1999; they own 675,000 sows in operations in North Carolina, South Carolina, Colorado, Virginia, and Utah; and produces hogs in Mexico and Brazil through a subsidiary. Smithfield hogs are also finished in Iowa, Minnesota, and South Dakota. This total gives Smithfield approximately 15% of the total national swine production. Smithfield Foods also operates six packing plants that account for over 20% of the national pork slaughter. Smithfield is over 60% integrated, meaning that they own, from birth to slaughter, over 60% of their total annual slaughter.

This level of integration is especially troublesome in the Sioux Falls - Sioux City region. John Morrell Inc., a packing company owned by Smithfield Foods, operates plants in both Sioux Falls, South Dakota and Sioux City, Iowa. Smithfield Foods' level of livestock ownership (vertical integration) jeopardizes market access for independent pork producers throughout the region. Smithfield slaughters approximately 7.7 million

HCR 3075

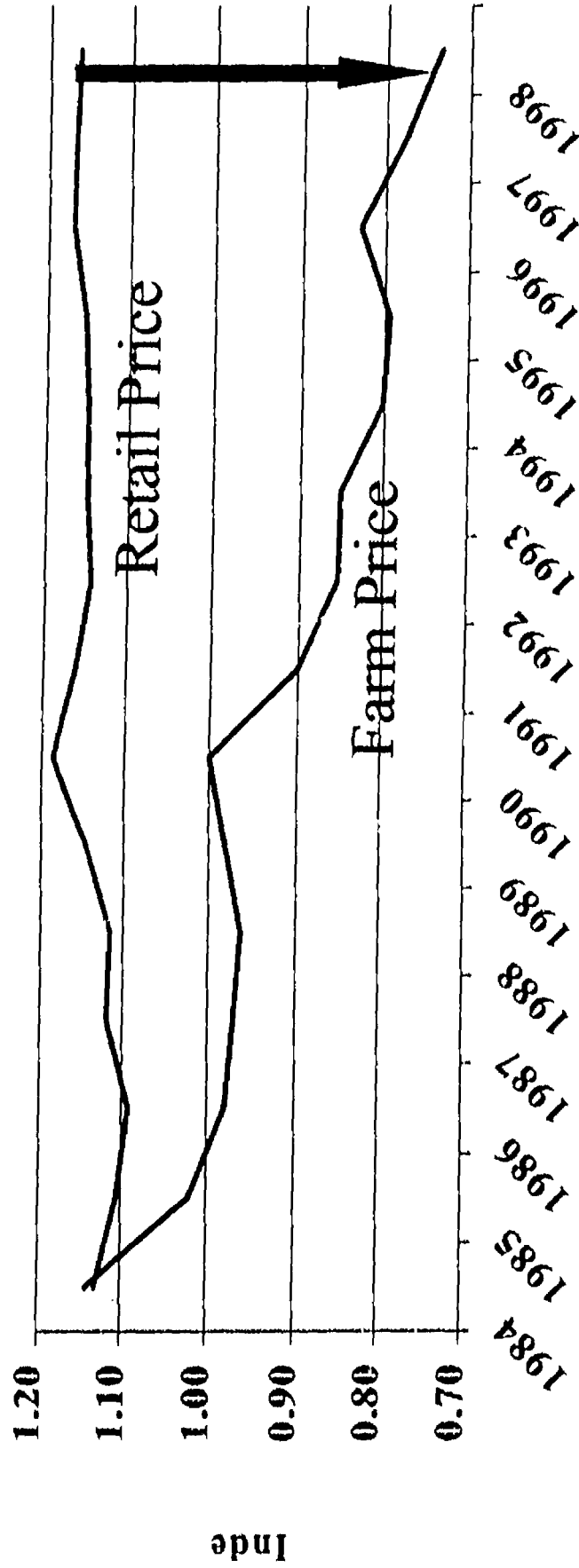
hogs annually in John Morrell plants in Sioux Falls, South Dakota (4.3 million head) and Sioux City, Iowa (3.4 million head). Smithfield currently own over 50% of the annual regional slaughter.

Four meatpackers now control 82% of all beef processing and four packers control 58% of all pork processing. In the last two years, 25% of all pork producers went out of business. Forty-five large corporate pork producers, with several packers in the lead, raise over 40% of all the hogs in this country. Independent livestock producers are becoming residual suppliers with virtually no competition in the market for their livestock. The level of integration by Smithfield will no doubt pressure IBP, the other major hog buyer in the region, to increase their own level of integration, leading to even less market access for farmers. The purchase of IBP by Tyson Foods will create pressure to vertically integrate beef production far beyond current levels.

You have the opportunity to send a message that North Dakota wishes to keep livestock production in the hands of our farmers and ranchers. I encourage you to act boldly and support this resolution. Thank you.

# Retail Cost versus Farm Value for a Market Basket of Food\*

The increasing gap between retail food prices and farm prices in the 1990's is due largely to exploitation of market power, and not to extra services provided by processors and retailers.



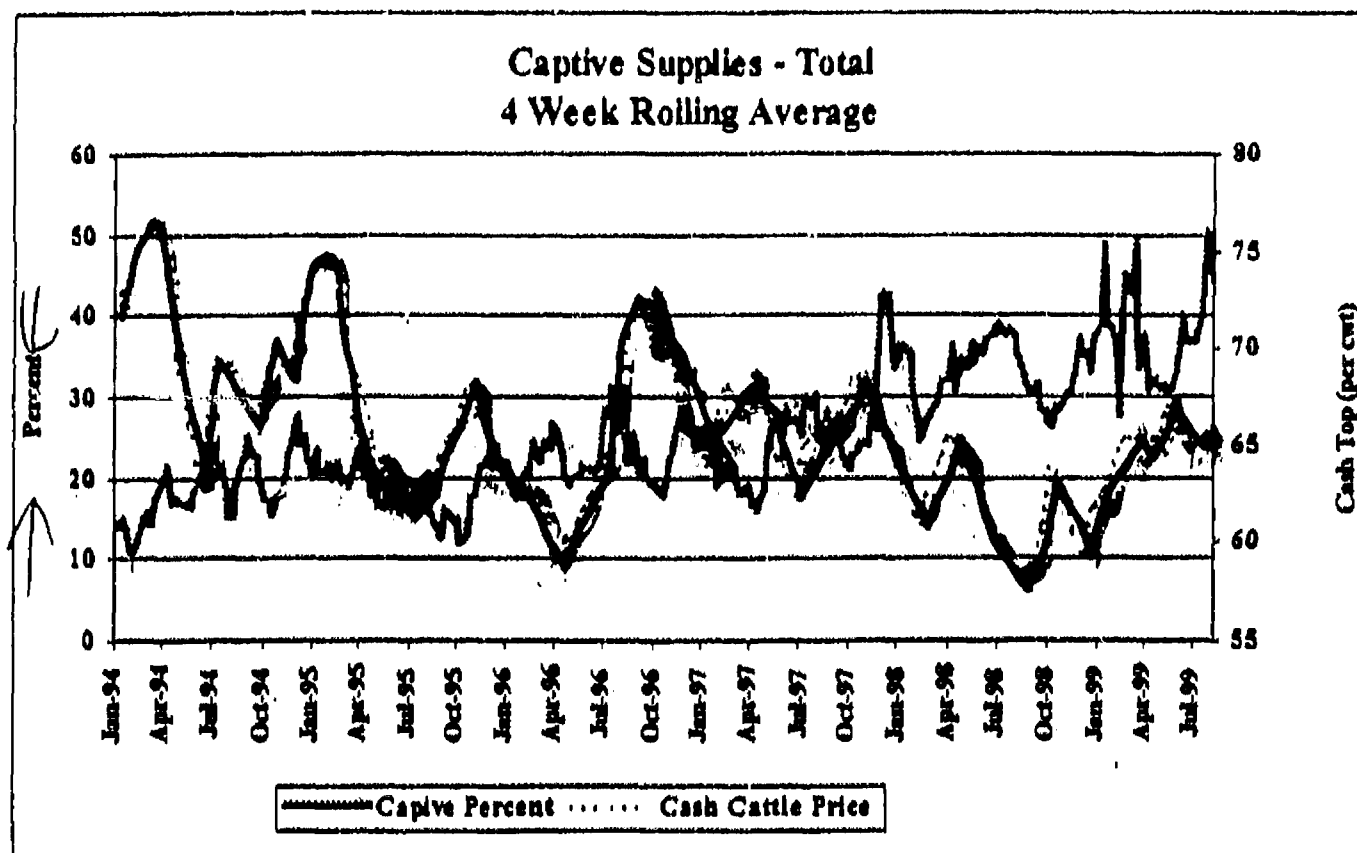
\*Both indices are corrected for inflation

C. Robert Taylor  
Alfa Farmers Eminent Scholar  
Auburn University



Do you think Captive Supply has an effect on the Cash market?

Look at the charts on the following pages and form your own opinion.



1402 3035

107th CONGRESS  
1st Session  
S. 142

To amend the Packers and Stockyards Act, 1921, to make it unlawful for a packer to own, feed, or control livestock intended for slaughter.

IN THE SENATE OF THE UNITED STATES

January 22, 2001

Mr. JOHNSON (for himself, Mr. GRASSLEY, Mr. THOMAS, and Mr. DASCHLE) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Packers and Stockyards Act, 1921, to make it unlawful for a packer to own, feed, or control livestock intended for slaughter.

*Be It enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PROHIBITION ON PACKERS OWNING, FEEDING, OR CONTROLLING LIVESTOCK.**

- (a) IN GENERAL.- Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended--
- (1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;
  - (2) by inserting after subsection (e) the following:

(f) Own, feed, or control livestock intended for slaughter (for more than 14 days prior to slaughter and acting through the packer or a person that directly or indirectly controls, or is controlled by or under common control with, the packer), except that this subsection shall not apply to--

    - (1) a cooperative, if a majority of the ownership interest in the cooperative is held by active cooperative members that--
      - (A) own, feed, or control livestock; and
      - (B) provide the livestock to the cooperative for slaughter; or
    - (2) a packer that is owned or controlled by producers of a type of livestock, if during a calendar year the packer slaughters less than 2 percent of the head of that type of livestock slaughtered in the United States; or; and
    - (3) in subsection (h) (as so redesignated), by striking "or (e)" and inserting "(e), or (f)"
- (b) EFFECTIVE DATE-
- (1) IN GENERAL.- Subject to paragraph (2), the amendments made by subsection (a) take effect on the date of enactment of this Act.
  - (2) TRANSITION RULES.- In the case of a packer that on the date of enactment of this Act owns, feeds, or controls livestock intended for slaughter in violation of section 202(f) of the Packers and Stockyards Act, 1921 (as amended by subsection (a)), the amendments made by subsection (a) apply to the packer--
    - (A) in the case of a packer of swine, beginning on the date that is 18 months after the date of enactment of this Act; and
    - (B) in the case of a packer of any other type of livestock, beginning as soon as practicable, but not later than 180 days, after the date of enactment of this Act, as determined by the Secretary of Agriculture.

HCR 3035

## **Dakota Resource Council**

418 Rosser Ave. Suite 301b  
Bismarck, North Dakota 58501  
ph. (701) 224-8587 fax (701) 224-0198  
e-mail: <drc@btigate.com>

TESTIMONY ON HCR 3035  
HOUSE AGRICULTURE COMMITTEE  
16 FEBRUARY, 2001

My name is Donald Nelson, a farmer and rancher from Keene. As chair of Dakota Resource Council (DRC) I am presenting our testimony in favor of HCR 3035.

We support this resolution because it mirrors in part the stance that DRC and the Western Organization of Resource Councils have taken on captive supplies, and on the use of ambiguous and packer-preferential forward contracts in a highly concentrated segment of the cattle industry. These practices lead to a dysfunctional and uncompetitive cattle market whose characteristics include:

- Extremely thin cash markets, with a weekly marketing window of only about 30 minutes;
- Failure to reward quality;
- Lack of innovation;
- Decline in food safety in the processing segment of the industry.

Besides causing these problems, the use of "formula-priced" forward contracts to increase captive supply is, we believe, a violation of Section 202 of the Packers and Stockyards Act.

DRC and the Western Organization of Resource Councils (WORC) have been addressing the issue of packer concentration for more than 10 years, and I have been personally involved for most of that time. These years of work culminated in a petition for rulemaking on captive supply and procurement practices which we filed in 1996. Sadly, former Secretary of Agriculture Dan Glickman had neither the vision nor the courage to deal meaningfully with the petition. He failed to act, even though the U. S. Department of Agriculture's own Texas Procurement Study, completed two years ago this month, proved that captive supply cost producers \$41,28 per head in 1999. That amounts to \$1.23 billion for the 29,836,000 head of fed steers and heifers sold that year.

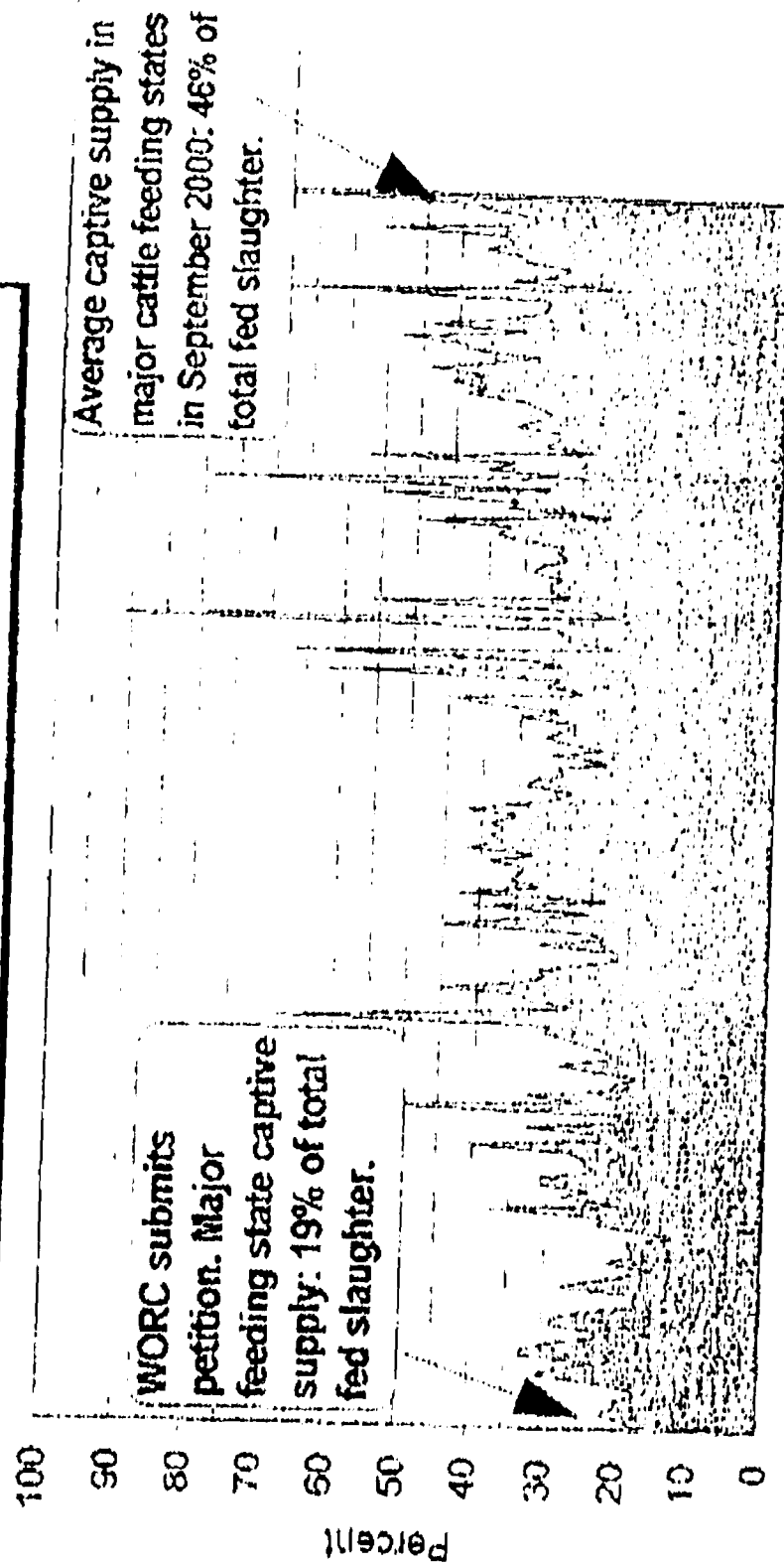
The proposed rules submitted by WORC and DRC would: 1) Prohibit packers from procuring cattle for slaughter through the use of a forward contract, unless the contract contains a firm base price that can be equated to a fixed dollar amount on the day the contract is signed, and the forward contract is offered or bid in an open public manner; 2) Prohibit packers from owning and feeding cattle, unless the cattle they feed or own are sold for slaughter in an open public market. These proposed rules are straightforward and easy to understand and would prevent price discrimination, without undue government intrusion on a case by case basis after the fact.

On September 21, Neil Harl, a highly respected Professor of Economics at Iowa State University, in testimony on these proposed rules, said U. S. agriculture is in the midst of the greatest, most far-reaching structural transformation of the past century. It is characterized by a deadly combination of concentration (in both input supply and output processing) and vertical integration from the top down. The agricultural sector is more vulnerable than at any time in the modern era. Input suppliers and output processors seem bent on achieving, unprecedented control over producers and over the production processes. One casualty of this is free, open, and competitive markets, which are the genius of our economic system.

On the same day that Harl spoke, a call to the Oklahoma Department of Agriculture yielded this response. "Trade is at a standstill, no sales confirmed, feedlots receiving light inquiries from buyers, 64,400 head this week, 59,800 formula cattle to be shipped this week." When packers can begin every month with 30 to 50% formula cattle, they can depress a good cattle market \$3-5 per head, and a bad cattle market \$5-10 according to Les Messinger. This puts millions of dollars in extra profit into the packers' pockets. Messinger is a member of the Chicago Mercantile Exchange and a manager with Barnes Brokerage Company. He trades cattle for 30 feedlots and feeds cattle in five lots in Nebraska, Kansas, and Texas. If Messinger's numbers are right, think, think of the profits accruing to packers in a situation where, as in the example from Oklahoma in September, formula cattle account for 92% of sales, the remaining 8% of cattle sold for cash are used to price the other 92%, and the packers are the biggest players on both sides of the futures market.

It's not a pretty thought. Please vote a DO PASS on HCR 3035 and make a start in fixing our dysfunctional cattle market.

# 6-State Captive Supplies 1997-2000



October 1996

September 2000

Captive supplies as a % of total volume of slaughter cattle reported by USDA in Texas, Oklahoma, Kansas, Colorado, Nebraska and Wyoming. Captive supply includes cattle fed by or for packers, contract or formula agreements, cattle financed by packers and slaughtered by the same packer, and cattle committed to packers with the price non-negotiated prior to change in ownership.

**John Crabtree**  
**Executive Director**  
**Commission on the Future of Agriculture**  
**Testimony on HCR 3035**

Mr. Chairman and committee members, thank you for the opportunity to appear before you in support of House Concurrent Resolution 3035.

In 1999 I worked closely with Senators Bob Kerrey (NE), Chuck Grassley (IA), Tim Johnson (SD), and Craig Thomas (WY) to introduce legislation that would prohibit packer ownership of livestock. This bipartisan group Senators introduced the legislation in late November 1999. The bill was reintroduced this year with Senator Tom Daschle (SD) replacing retired Senator Bob Kerrey on the bill.

The introduction of this bill was precipitated by the economic debacle in the hog market in the winter of 1998 and 1999. In January 1999, family farmers were paid 8 cents per pound for their hogs, the lowest price paid since the Great Depression. At the same time meatpackers were posting record profits and consumers saw no decrease in the price they paid for pork in the grocery store.

The inequitable market access and anti-competitive behaviors of meatpackers are destroying livestock markets, to the detriment of farmers, ranchers and rural communities. Farmers and ranchers know it and they want it stopped. Don't take my word for it, go out in the countryside and ask them.

Farmers and ranchers ultimately derive their income from the agricultural marketplace. They have always been in a position of weakness in selling their product to large processors. Today, however, the position of the farmers and ranchers is becoming far weaker as consolidation in agribusiness has reached all time highs and as meatpackers seek to own and control livestock production. The result is the smallest farm share of the consumer dollar in history and an increasing loss of family farms and ranches.

One example of the troublesome nature of vertical integration is Smithfield Foods. Smithfield had sales of \$4 billion in 1999; they own 675,000 sows in operations in North Carolina, South Carolina, Colorado, Virginia, and Utah; and produces hogs in Mexico and Brazil through a subsidiary. Smithfield hogs are also finished in Iowa, Minnesota, and South Dakota. This total gives Smithfield approximately 15% of the total national swine production. Smithfield Foods also operates six packing plants that account for over 20% of the national pork slaughter. Smithfield is over 60% integrated, meaning that they own, from birth to slaughter, over 60% of their total annual slaughter.

This level of integration is especially troublesome in the Sioux Falls - Sioux City region. John Morrell Inc., a packing company owned by Smithfield Foods, operates plants in both Sioux Falls, South Dakota and Sioux City, Iowa. Smithfield Foods' level of livestock ownership (vertical integration) jeopardizes market access for independent pork producers throughout the region. Smithfield slaughters approximately 7.7 million

hogs annually in John Morrell plants in Sioux Falls, South Dakota (4.3 million head) and Sioux City, Iowa (3.4 million head). Smithfield currently own over 50% of the annual regional slaughter.

Four meatpackers now control 82% of all beef processing and four packers control 58% of all pork processing. In the last two years, 25% of all pork producers went out of business. Forty-five large corporate pork producers, with several packers in the lead, raise over 40% of all the hogs in this country. Independent livestock producers are becoming residual suppliers with virtually no competition in the market for their livestock. The level of integration by Smithfield will no doubt pressure IBP, the other major hog buyer in the region, to increase their own level of integration, leading to even less market access for farmers. The purchase of IBP by Tyson Foods will create pressure to vertically integrate beef production far beyond current levels.

Livestock production is crucial to the future of North Dakota as well as the Midwest and Great Plains region. However, we must ask ourselves – Who will own the livestock? Who will control livestock production? And who will benefit from that production. If two or three trans-national meatpacking corporations are allowed to own the livestock and control the production of livestock, then it must follow, as the night the day, that they will extract virtually all of the economic benefit from livestock production.

You have the opportunity to send a message that North Dakota wishes to keep livestock production in the hands of our farmers and ranchers. I encourage you to act boldly and support this resolution. Thank you.

107th CONGRESS

1st Session

S. 142

To amend the Packers and Stockyards Act, 1921, to make it unlawful for a packer to own, feed, or control livestock intended for slaughter.

IN THE SENATE OF THE UNITED STATES

January 22, 2001

Mr. JOHNSON (for himself, Mr. GRASSLEY, Mr. THOMAS, and Mr. DASCHLE) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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A BILL

To amend the Packers and Stockyards Act, 1921, to make it unlawful for a packer to own, feed, or control livestock intended for slaughter.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PROHIBITION ON PACKERS OWNING, FEEDING, OR CONTROLLING LIVESTOCK.**

(a) IN GENERAL- Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended--

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(2) by inserting after subsection (e) the following:

(f) Own, feed, or control livestock intended for slaughter (for more than 14 days prior to slaughter and acting through the packer or a person that directly or indirectly controls, or is controlled by or under common control with, the packer), except that this subsection shall not apply to--

(1) a cooperative, if a majority of the ownership interest in the cooperative is held by active cooperative members that--

(A) own, feed, or control livestock; and

(B) provide the livestock to the cooperative for slaughter; or

(2) a packer that is owned or controlled by producers of a type of livestock, if during a calendar year the packer slaughters less than 2 percent of the head of that type of livestock slaughtered in the United States; or; and

(3) in subsection (h) (as so redesignated), by striking 'or (e)' and inserting '(e), or (f)'.

(b) EFFECTIVE DATE-

(1) IN GENERAL- Subject to paragraph (2), the amendments made by subsection (a) take effect on the date of enactment of this Act.

(2) TRANSITION RULES- In the case of a packer that on the date of enactment of this Act owns, feeds, or controls livestock intended for slaughter in violation of section 202(f) of the Packers and Stockyards Act, 1921 (as amended by subsection (a)), the amendments made by subsection (a) apply to the packer--

(A) in the case of a packer of swine, beginning on the date that is 18 months after the date of enactment of this Act; and

(B) in the case of a packer of any other type of livestock, beginning as soon as practicable, but not later than 180 days, after the date of enactment of this Act, as determined by the Secretary of Agriculture.



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**Testimony of Wayne R. Carlson  
Livestock Services Coordinator  
North Dakota Department of Agriculture  
House Concurrent Resolution 3035  
Senate Agriculture Committee  
Roosevelt Garden Room  
March 16, 2001**

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Chairman Wanzek and members of the Senate Agriculture Committee, my name is Wayne Carlson. I am the Livestock Services Coordinator for the Department of Agriculture. I am here today in support of House Concurrent Resolution 3035, which urges Congress to support efforts to prohibit meatpackers from owning or feeding livestock for more than 14 days before slaughter.

The present policies of the Packers and Stockyards Administration allow the packing industry to own livestock. This may have worked in the past; however, with the increased concentration of the packing industry, the possibility of manipulation in the livestock markets has been amplified. For an example, two of the largest packers (ConAgra & Cargill) have cattle feeding operations that rank in the top five largest feeding operations in the nation. These two companies have feedlots for about 750,000 head. In one year they can fatten approximately 1.5 million feeder cattle, which is approximately 1 1/2 percent of the 98 million cattle there are in the US. The packing industry has argued that this is a small percentage of livestock, and they have had very

little impact on the price of cattle. However, one can see the significance of this number when you compare it to the number of cattle in North Dakota. These two companies fatten 1½ times the number of feeder calves produced in the entire state of North Dakota. Imagine the financial impact North Dakota producers would have if they were able to market all the calves produced in our state under one exclusive marketing agreement.

Allowing packers to own livestock does provide them with the opportunity to partially or completely withdraw from the market at any given time, or to saturate the market with their livestock. Because the packing industry is so concentrated a slight variation in just one of the packer's buying patterns can have a significant impact on the market. Requiring packers to be out of the commodity market for 14 days before slaughter would eliminate any perceived or real market advantage for the packers.

Mr. Chairman and committee members, I urge a "do pass" on House Concurrent Resolution 3035. Thank you. I would be happy to answer any questions.