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DESCRIPTION

1420

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*Salvatore Riccardi*  
Operator's Signature

*10/6/03*  
Date

2003 HOUSE AGRICULTURE

HB 1420

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10/6/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1420

House Agriculture Committee

☐ Conference Committee

Hearing Date 2--6--03

Tape Number	Side A	Side B	Meter #
TWO	A		00 TO 44.0
Committee Clerk Signature <i>Edward D. Nelson</i>			

Minutes:

CHAIRMAN NICHOLAS : We will open the hearing on HB 1420.

REP. BELTER : For the record I am State Representative Wes Belter. Dist 22.

HB 1420 was introduced because at the time the National Beef Check off provision are now being challenged in the courts. It is taking place in several different states. Eventually I think the whole issue will end up in the Supreme Court. In the court should rule that the national program is unconstitutional, then I think it behooves the State of North Dakota. To reinstate our own program here at the state level. That is what HB 1420 dose. Mr Chairman, I do have amendments. On page two line twenty six, I do want to replace \$.50 cents with \$1.00 dollar. Our current national check off is \$1.00 and I think that if we pass this bill that we should Increase our check of from \$.50 cents to \$1.00 dollar as it currently is on the national program. I think it is important to continue the check off. If we as an industry don't step forward with our dollars we are going to end up being the looser. We are bombarded in Washington with anti

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beef etc.

CHAIRMAN NICHOLAS : Thank you Representative Belter. Do you want to make any comments.

REP. ONSTAD : I am Rep. Kenton Onstad from District four. The purpose of Bill is to allow check off and still allows for refund. Helps in promotion and keeps it viable.

CHAIRMAN NICHOLAS : Thank you Rep. Onstad. We will start testimony on this bill and take testimony on anyone who wants to offer support of this Bill.

ARRON JACOBSON: Rancher from Crosby ND and I am also the Chairman of the ND Beef Commission. We are here today to let you know that we strongly support this Bill.

We have also discussed the \$1.00 dollar amendment. The North Dakota is in support of the dollar instead of fifty cents. I would like to introduce our board, Nancy Jo Bateman.

Alvin Hintz, Jason Schmidt, Shelby Schots. Theresa Takach. That being said we are here in strong support of this Bill.

REPRESENTATIVE FROELICH: Can you explain the current law suit. Why it was filed. Where it is at today.

ARRON JACOBSON: If you would like to wait Nancy is going to cover that material with here testimony.

CHAIRMAN NICHOLAS: Any other questions. Next.

NANCY JO BATEMAN: I have been working with the ND Beef Commission for nineteen years. {{{{please read testimony which is attached.}}}}

REP. FROELICH : If the bill in SD is unconstitutional what would make you think that this bill would be.?

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NANCY JO BATEMAN: As we are going through the Federal Litigation is that the refund provision in State Law is what appears to make state law constitutional because it takes away the question of forced association. If you do not agree with the program, you have the right to get your money back.

REP. FROELICH There is no where in this Bill that if we put this bill in for the producers to vote it down or up. Do you think that is proper. Do you think that as a legislative body pass a piece of legislation with out having the producers vote on it.

NANCY JO BATEMAN. The Federal Law dose have a mechanism built right into it. It out lines how a referendum can be called for nation wide. It needs to be a petition of ten percent of producers across the country. Some of the issues in the SD law suit, had to do with a petition drive that the livestock marketing association conducted and then when USDA went through the verification process to make sure the fact that there were ten percent of the producers and those name were collected in a set period of time that they were valid. They determined that there was not enough signatures a referendum. This is a big issue. At the top of the list.

REPRESENTATIVE BOE: You said that if you did refund. If we went back to this law you would be out of standing for three years?

NANCY JO BATEMAN: The way that this is set up is to be considered as a board member our board members are appointed by the Governor. If you have refunded in the past three years then no you would not be considered a participating producer. And you would not be legible to be on the board.

REPRESENTATIVE KELSCH: What oversight do you have over money. Explain from there.

*John Costa Richardson*  
Operator's Signature

*10/16/03*  
Date

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NANCY JO BATEMAN: Every dollar that comes in through the Beef Check Off program, the check comes to our office and deposited in the state treasury. We voucher for every check and every expenditure. The Beef Commission annually goes through a process and develops a marketing plan, develop a budget, Programming the budget is approved along those lines. If we have expenses they are vouched. Every board meeting our board get a complete Financial statement. They go and approve etc. We are also subject to state audits. They go through with a fine toothed comb. Goes to Fed. From auditors. If there was not beef check off we would be selling beef for less then what we are today.

CHAIRMAN NICHOLAS: Next.

DICK TOKACH: I am in support of the Bill.

THERESA TOKACH: I am one of two National representatives from North Dakota to the cattleman's Beef Promotion and Research Board.

{{{{please see printed testimony}}}}

WADE MOSER: I am with the ND STOCKMANS ASSOCIATION: We do support HB 1420. We often get mixed up, We do not collect the dollar check off. A lot of our producers do pay it. I hope that the program is declared constitutional. People ask us what if it is declared unconstitutional. We told our producers that we will fall back to the state program. That is the reason the legislation is before you today. We feel at this time that the \$.50 cents is our commitment. We would like an opportunity to find out what our producers think about that. We have problems with that amendment. It is a matter of informing our membership.

CHAIRMAN NICHOLAS: Any opposition to Bill.

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GENE SCHMIDT; Made comments as to check offs. There was no answer given to his question.

CHAIRMAN NICHOLAS: Basically I have supported check offs. But check offs that are refundable. You can always get your money back.

CHAIRMAN NICHOLAS: WE WILL CLOSE ON HB 1420:

Richard Costa  
Operator's Signature

10/16/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1420

House Agriculture Committee

☐ Conference Committee

Hearing Date 2--07--03

Tape Number	Side A	Side B	Meter #
ONE		B	TO END
Committee Clerk Signature <i>James D. Elger</i>			

Minutes:

CHAIRMAN NICHOLAS: Committee Members. We will open on HB 1420. Representative Belters amendments. I visited with Representative Belter and his amendments would make those technical changes. It would leave the check off at \$.50 cents as the original bill. I know there was some discussion about going to a dollar. It would stay at \$.50 cents. I visited with Wade Moser from the Stockman's to see what there concessus was. They have a meeting coming up in March and the Stockman's are in support of the \$.50 Cents. They have not taken a consensus vote as to moving it to \$ 1.00 dollar. They would like additional time for discussion. I visited with some of the folks from the Beef Commission and Nance Jo and that seemed to be a good concessus. Before I take a motion on Representative Belters amendments I would like to look at Representative Froelichs amendments. Tell us what your amendments do.

REPRESENTATIVE FROELICH: After some discussion Representative Froelich with



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Hearing Date 2--07--03

Drew his amendments.

CHAIRMAN NICHOLAS: Representative Boe. I would move Representative Belters amendments. Representative Kelsch seconded the motion. A voice vote was taken and passed as to the amendments.

CHAIRMAN NICHOLAS: The Committee has before us HB 1420 as amend mended.

REPRESENTATIVE KELSCH MADE A MOTION FOR A DC PASS,

REPRESENTATIVE BOE SECONDED THE MOTION. THE ROLL CALL VOTE

WAS TAKEN. THERE WERE 9 YES 1 NO 3 ABSENT

REPRESENTATIVE UGLEM CARRIED THE BILL.

CHAIRMAN NICHOLAS CLOSED ON HB 1420.

LR

**FISCAL NOTE**  
Requested by Legislative Council  
01/21/2003

Bill/Resolution No.: HB 1420

**1A. State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

**1B. County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2. Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

This bill does not change the checkoff amount that is available to the state but simply changes various powers and duties of the Commission. Currently, we are operating under a federal order which assesses producers \$1 per head of cattle sold and then authorizes states to keep \$.50 of each dollar. If the federal program was discontinued, we would continue operating on \$.50 per head as allowed by state law.

**3. State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

**A. Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

n/a

**B. Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

n/a

**C. Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

no affect on appropriations

Name:	Nancy Jo Bateman	Agency:	ND Beef Commission
Phone Number:	328-5120	Date Prepared:	01/27/2003

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Operator's Signature

*Nancy Jo Bateman*

Date

10/16/03

30706.0201  
Title.0300

Prepared by the Legislative Council staff for  
Representative Belter  
February 5, 2003

VR  
2/7/03

HOUSE AMENDMENTS TO HOUSE BILL NO. 1420 Agric 2-10-03

Page 2, line 4, replace "Any" with "Each selling agency, livestock auction market, livestock dealer, and any other"

HOUSE AMENDMENTS TO HB 1420 Agric 2-10-03

Page 5, line 1, after "personnel" insert ", including agents,"

HOUSE AMENDMENTS TO HB 1420 Agric. 2-10-03

Page 6, line 24, after the second boldfaced period Insert:

"1."

Page 6, line 30, after the period Insert:

"2."

HOUSE AMENDMENTS TO HB 1420 Agric 2-10-03

Page 7, line 3, replace "1." with "a."

Page 7, line 4, replace the underscored period with ": or"

Page 7, line 5, replace "2." with "b."

Renumber accordingly

HB 1420  
2-7-03

Date:  
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House AGRICULTURE COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Motion Made By

Seconded By

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN NICHOLAS					
VICE CHAIRMAN POLLERT			yes		
REPRESENTATIVE BELTER					
REPRESENTATIVE BOEHNING					
REPRESENTATIVE KELSCH					
REPRESENTATIVE KINGSBURY					
REPRESENTATIVE KREIDT					
REPRESENTATIVE UGLEM					
REPRESENTATIVE WRANGHAM					
REPRESENTATIVE BOE					
REPRESENTATIVE FROELICH					
REPRESENTATIVE MUELLER					
REPRESENTATIVE ONSTAD					

Total (Yes)

No

Absent

Floor Assignment

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Operator's Signature

Date

HB 1420  
2-7-03

Date:  
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House AGRICULTURE COMMITTEE

☐ Check here for Conference Committee

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

Action Taken

DO PASS AS AMENDED

Motion Made By

NEISER

Seconded By

BOE

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN NICHOLAS	<input checked="" type="checkbox"/>				
VICE CHAIRMAN POLLERT	<input checked="" type="checkbox"/>				
REPRESENTATIVE BELTER					
REPRESENTATIVE BOEHNING	<input checked="" type="checkbox"/>				
REPRESENTATIVE KELSCH	<input checked="" type="checkbox"/>				
REPRESENTATIVE KINGSBURY					
REPRESENTATIVE KREIDT	<input checked="" type="checkbox"/>				
REPRESENTATIVE UGLEM	<input checked="" type="checkbox"/>				
REPRESENTATIVE WRANGHAM					
REPRESENTATIVE BOE	<input checked="" type="checkbox"/>				
REPRESENTATIVE FROELICH		<input checked="" type="checkbox"/>			
REPRESENTATIVE MUELLER	<input checked="" type="checkbox"/>				
REPRESENTATIVE ONSTAD	<input checked="" type="checkbox"/>				

Total (Yes)

9

No

1

Absent

3

Floor Assignment

MP

UGLEM

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Salvatore Riccardi

Date

10/16/03

REPORT OF STANDING COMMITTEE (410)  
February 10, 2003 9:34 a.m.

Module No: HR-25-2088  
Carrier: Uglem  
Insert LC: 30706.0201 Title: .0300

**REPORT OF STANDING COMMITTEE**

**HB 1420: Agriculture Committee (Rep. Nicholas, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 1 NAY, 3 ABSENT AND NOT VOTING). HB 1420 was placed on the Sixth order on the calendar.

Page 2, line 4, replace "Any" with "Each selling agency, livestock auction market, livestock dealer, and any other"

Page 5, line 1, after "personnel" insert ", including agents."

Page 6, line 24, after the second boldfaced period insert:

"1."

Page 6, line 30, after the period insert:

"2."

Page 7, line 3, replace "1." with "a."

Page 7, line 4, replace the underscored period with ": or"

Page 7, line 5, replace "2." with "b."

Renumber accordingly

2003 SENATE AGRICULTURE

HB 1420

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Operator's Signature

10/6/03  
Date


2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1420

Senate Agriculture Committee

☐ Conference Committee

Hearing Date 03/14/03

Tape Number	Side A	Side B	Meter #
2	x		555 - end
2		x	0 - 4885
3	x		19 - 65
3	x		1366 - 1644
Committee Clerk Signature 			

Minutes:

Chairman Flakoll opened the hearing on HB 1420. All members were present.

Representative Belter introduced and testified in favor of the bill. Its purpose is to reinstate the state beef check off program in case the national program, which is in the courts, is declared unconstitutional. It is important to continue the program. The agriculture chairman conference in Dallas reinforced the many battles agriculture will face at the national and international levels. It is important to continue the check off program so the livestock industry can be involved in those battles and survive the onslaught of environmental groups and foreign competition.

Senator Christmann, a co-sponsor of the bill, testified in favor of the bill. (meter # 916) As a cattleman, he realizes how well spent his check off dollars are. He has two amendments for the bill, one to change the check off from 50 cents to \$1.00. The old state check off was 50 cents but



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Senate Agriculture Committee  
Bill/Resolution Number HB 1420  
Hearing Date 03/14/03

the national program has been \$1.00. The second amendment adds an emergency clause so, in a worse case scenario, it would be in place if the national program is struck down.

Senator Flakoll asked to be perfectly clear, the beef producers are now paying \$1.00 check off?

Senator Christmann said yes.

Senator Klein asked if the state check off dollars would be for promotional use and not for domestic policy?

Senator Christmann said he thought the money would be in good hands with the North Dakota Beef Commission.

Senator Taylor testified in favor of the bill. (meter # 1273) He is a cattle producer in support of the bill. North Dakota has a good reputation as being progressive and passing this bill would prove how progressive we are. The dollar would be fine, its only .2% on a \$550 calf. The state program has a refund provision.

As far as use on domestic policy, he thinks check off dollars should be used for promotion. He also participates in domestic policy issues but that is through memberships in the North Dakota Stockman's Association, NCBA and RCalf. If we do end up in a state program there are opportunities that could benefit North Dakota producers such as Northern Plains Premium Beef, Beef Centers of Excellence, Agraria Restaurant, Rancher's Gourmet Beef and others.

Nancy Jo Bateman, Executive Director of the North Dakota Beef Commission, testified in favor of the bill. (written testimony) (meter # 1596)

Senator Urlacher asked if a refund can be requested for a portion of the check off or only all of it? (meter # 2927)

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Senate Agriculture Committee  
Bill/Resolution Number HB 1420  
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Ms. Bateman said whatever the producer requested was what was refunded, all or a portion of what was paid.

Senator Flakoll asked how long after a producer requested a refund would they receive the refund?

Ms. Bateman said when the state program was in effect, they processed refunds every week.

Senator Klein asked how long a producer has to request a refund?

Ms. Bateman said within 60 days of the day the cattle are sold.

Senator Klein asked how many dollars are collected in an average year?

Ms. Bateman said the North Dakota Beef Commission collects about \$1.2 million per year.

Federal law mandates that 50 cents go to the National Cattleman's Beef Association. Of the 50 cents that is under the purview of the North Dakota Beef Commission, an additional amount is sent to the NCBA for promotion in more populated areas.

Senator Klein asked if we will continue to see national beef promotion if the national program is struck down? (meter # 3198)

Ms. Bateman said the North Dakota Beef Commission would need to study and prioritize. The funds could be invested in a subsequent national program. Before the national check off there was a national promotion program that was voluntary.

Senator Erbele confirmed all states have been involved in the national check off, is a fee assessed on every animal sold in the country?

Ms. Bateman said yes. Imported cattle, imported beef products are also assessed the check off and these imports account for \$8 - \$10 million.

Are any other states taking this proactive approach?

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Ms. Bateman said several states have existing state laws, mostly west of North Dakota. Montana has a state law, South Dakota does not.

Senator Flakoll asked what work the North Dakota Beef Commission did to get the grass roots support for this bill? How do you assure everyone has their say?

Ms. Bateman said the North Dakota Beef Commission had a resolution at the North Dakota Stockmen's Association convention this past fall requesting their support of the North Dakota Beef Commission in making changes to the state law. The \$1 per head issue was not laid plainly on the table. The North Dakota Stockmen's Association directors voted to support the change to \$1 recently.

Senator Erbele asked what would happen if we did not pass this, would the North Dakota Beef Commission cease to exist? (meter # 3858)

Ms. Bateman said the reason they came with the bill was there was some concern about how smooth a transition could be made from federal to state law since the law was amended back in 1986 with a lot of the federal verbiage. It is very necessary to maintain a solid program.

Senator Klein asked what will happen if this bill fails?

Ms. Bateman said they assume they could revert to the current 50 cent program, the bill makes it cleaner.

Senator Erbele said the main function of the North Dakota Beef Commission is to promote the consumption of beef, please tell us what we have gotten for our dollar? (meter # 4100)

Ms. Bateman said a recent research project shows a weight reduction diet with moderately high protein, largely from beef results in maintenance of muscle mass and loss of more fat. Another is the muscle profiling research, which has analyzed all beef muscles in the chuck and clod and

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developed cooking and cutting techniques to develop beef value cuts to add value to the chuck and clod, representing 50% of the carcass and only 30% of the value. Exports continue to go up. Food safety issues, including mad cow or BSE come into play.

Senator Erbele said his frustration is all the promotion also affects the consumption of imported products. Our consumers don't know the point of origin of their beef. Price to producer is also a concern. Senator Erbele has been out of the cattle business for 10 years but now that he is considering reentering the beef business, calf prices haven't changed in 10 years.

Ms. Bateman said federal law prohibits check off dollars being used for government influencing and lobbying so they don't speak to point of origin labeling. The first step taken in this regard was to get the check off assessed on imported cattle and beef products. She wishes the check off could add more to price per head. She has heard the promotion program has added \$5 or \$5.50 per cwt. return.

Senator Flakoll asked if she could get media people to quit using the term fat cattle and start using the term finished cattle.

Senator Flakoll said in regards to the \$1 debate, would using some of the funds for the Beef Center of Excellence be appropriate?

Ms. Bateman said if the \$1 were to pass, those kinds of programs would be a high priority but she would not like to see a mandate. The board is capable and can make those decisions. They all want a profitable beef industry in North Dakota.

Aaron Jacobsen, chairman of the North Dakota Beef Commission asked Senator Flakoll if there are further amendments added will he have an opportunity to speak to the amendments before the committee?

*Jo Costa Richardson*  
Operator's Signature

*10/16/03*  
Date

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Senator Flakoll said it would be most appropriate to speak to them now.

Mr. Jacobsen said he urges the emergency clause to be accepted and feels it is imperative for the bill to be approved. Regarding the \$1 amendment, the buying power of 50 cents in 1985 is 30 cents now. With 50 cents they will not be able to continue with their current programs. A good example is the project with the Grand Forks Human Nutrition Lab. A study was done with North Dakota producer money (\$20,000) that showed red meat does not hurt calcium retention.

Another \$20,000 was combined with \$180,000 from the NCBA to study if red meat consumption enhances calcium retention.

Senator Klein said everyone seems comfortable with 50 cents. If another organization that represents the beef industry, that represents more of the political or domestic policy would come to your organization and ask for any part of that additional 50 cents, would you provide it to them?

Mr. Jacobsen said under federal law, using check off dollars for lobbying is illegal. The state program was established for research, education and promotion of beef. It scares the dickens out of him to see producer dollars used for special interest groups. He thinks they would lose a lot of dollars to refunds. Will other groups want funding too?

Senator Flakoll asked if it is fair to use the "pay to play" rule for board membership?

Mr. Jacobsen said he wants the people who make spending decisions with check off dollars to believe in the program enough to participate.

He said the board is always supportive of funding research but does not want a mandate. They have funded selenium research at NDSU.

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*Richard*

Date

10/16/03

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Senator Flakoll asked if Mr. Jacobsen could get him a dollar figure of what was invested in the selenium research.

Jerry Doan, rancher from McKenzie from a 5 generation ranch and past chairman of the North Dakota Beef Commission testified in favor of the bill. (meter # 435) He also supports the \$1 amendment. They fought hard to get the check off dollar and it has done a lot of good. He sat on the education subcommittee of the meat board and he has seen the progress they have made with doctors and dietitians. He had a video conference yesterday with the director of Certified Angus Beef. He said the muscling profile research has tremendous potential including one muscle ground product. Regarding price, its hard but he would rather see the check off go to \$2. If we don't do it, who will. Who will go on the Today Show and combat the talk on e coli. Without the check off, we would have bigger price problems.

Marjory Perkins, North Dakota Cattlewomen's Association, testified in favor of the bill.

(written testimony) (meter # 894)

Grady Thorstad, from Northwood, testified in favor of the bill. (meter # 1060) He represents cattle feeders on the North Dakota Beef Commission. The check off dollars are well spent on research and development but should not be spent on lobbying.

Larry Schnell, from Dickinson, testified in favor of the bill. (meter # 1103) He represents the auction barns on the North Dakota Beef Commission. Awareness to consumers is paramount. If there is a problem in the industry, fix it, don't get rid of the check off.

Eldon Hintz, dairy producer representative on the North Dakota Beef Commission , testified in favor of the bill. (meter # 1322)

*Vol Costa Richardson*  
Operator's Signature

*10/16/03*  
Date

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Jack McDonald, North Dakota Newspaper Association, recommended one small change in regard to information on refunds should be part of the public record. (written testimony) (meter # 1511)

Representative Froelich submitted an amendment to direct 50 cents to the North Dakota Beef Commission and 50 cents to R Calf. (meter # 1673) The NCBA has 150 members from North Dakota, R Calf has 1000 North Dakota members. The 50 cents to R Calf would be refundable too.

Senator Nichols asked what are the dues for R Calf? (meter # 1965)

Representative Froelich said \$50.

Senator Klein said there is a reluctance to allow other entities to participate in the use of check off dollars. Are there other groups who would also want funding?

Representative Froelich said R Calf is a national organization, started 6 - 8 years ago. The NCA used to be a grass roots organization and then the check off came in. Producers don't feel fairly treated. If Senator Christmann's amendment is adopted, he thinks there will be many refund requests.

Senator Klein said we will have a difficult time with the commission, maybe the refund method is a good way to fund your organization.

Representative Froelich said the North Dakota Stockmen's Association has 2300 members, not many belong to NCBA. There are some differences on COOL with R Calf. Each organization is focussed on different issues.

Senator Flakoll asked if the amendments allow partial refunds?

Representative Froelich said that is the intent.

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Hearing Date 03/14/03

Gordon Hoberg from Wishek, testified against the bill. (written testimony) (meter # 2432)

Senator Flakoll asked if producers get a vote by requesting a refund? (meter 3466)

Mr. Hoberg said no.

Senator Erbele asked if he was endorsing the R Calf amendment?

Mr. Hoberg said not really, if the bill is passed the money should go to R Calf but his preference would be to kill the bill.

Dr. Richard Bowman, a cattle producer from southwest North Dakota testified in favor of the bill with the R Calf amendment. (meter # 3821) He is a member of the North Dakota Stockmen's Association and R Calf. We are promoting generic beef including imported beef. R Calf is not a PAC. It is an organization of cattlemen and independent cattle feeders. R Calf deals with trade and marketing issues, they have had a representative at the WTO meetings. A lot of trade issues are already out of our hands because they were not addressed at the time. Someone needs to represent cow calf producers. There are not many issues left.

Carol Maher, rancher from Menoken, testified in favor of the R Calf amendment. (written testimony) (meter # 4339)

James Schmidt, livestock producer from south of Menoken, testified in favor of the R Calf amendment. He believes in a voluntary check off. (meter # 4664)

Chairman Flakoll closed the hearing on HB 1420.

Senator Flakoll said Paul Germolis from the attorney general's office will do some checking on the R Calf amendment to see if its possible and under what conditions. (Tape 3 side A meter # 19)

Senator Klein asked if there is a fiscal note?



Page 10  
Senate Agriculture Committee  
Bill/Resolution Number HB 1420  
Hearing Date 03/14/03

Senator Flakoll said there is not a fiscal note and no appropriation.

Senator Erbele said Mr. Hoberg's comments this morning said where does the bill say this is just in case the national program is stuck down. He will talk to Paul Germolis about this.

Senator Erbele and Senator Urlacher said 1420 and 1486 are so similar.

Senator Flakoll said they have a penalty of 2% per month on unpaid assessments.

Chairman Flakoll adjourned the meeting of the Senate Agriculture Committee.

La Costa Richard  
Operator's Signature

10/16/03  
Date

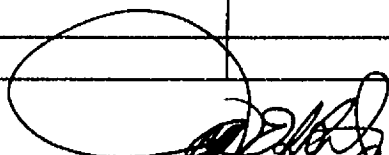
2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1420

Senate Agriculture Committee

☐ Conference Committee

Hearing Date 03/20/03

Tape Number	Side A	Side B	Meter #
1		x	1710 - 3500
Committee Clerk Signature 			

Minutes:

Chairman Flakoll opened the discussion on HB 1420. All members were present.

It was moved by Senator Erbele and seconded by Senator Nichols that the Senate Agriculture Committee take a Do Pass action on HB 1420.

Senator Klein said he has some additional information coming from the Attorney General's office regarding the constitutionality of one of the amendments we discussed last week. The way the bill is crafted, we couldn't give any dollars to a different organization under the gifting laws of the state of North Dakota. The commission would have to provide for contractual agreement with this other group and that is how the cash would have to pass through.

Senator Nichols passed out a budget of the North Dakota Beef Commission from Representative Froelich with regard to the amount of money used for the NCBA.

Senator Nichols asked if there is no problem sending funds to the NCBA?

Page 2

Senate Agriculture Committee  
Bill/Resolution Number HB 1420  
Hearing Date 03/20/03

Senator Klein said apparently the NCBA is chartered under the purview of the state commission and that is allowable since it is part of how the North Dakota Beef Commission was originally chartered. He knows that in proposing the amendments, Senator Christmann believes \$1 is what people are used to paying. There seems to be a disconnect and Senator Klein thinks there will be an increase in refunding if it goes to \$1. We aren't even sure if this bill will be necessary. If the federal check off is struck down and we go to 50 cents, the commission could see how the refunds go, the other group could work with the commission and we can revisit the issue next session. (meter # 2212)

Senator Nichols said another thing we haven't considered is Senator Christmann's amendment for an emergency clause.

Senator Erbele said he has visited with people in the industry and it is very doubtful there will be a ruling before fall. With the country now at war, this is probably not high on the screen.

As Senator Klein said, there are a lot of the same issues as the wheat check off. We have a lot of conflicts among our cattlemen and numbers continue to decline and yet we tend to implode upon each other because of our struggles. There is not a whole lot of support of our North Dakota cattlemen for the NCBA. If it is ruled unconstitutional, we can look at it again next session.

Senator Klein said he has received some calls from people that would like to see the bill killed.

There is some dissatisfaction with the direction of the commission, especially with regard to the NCBA. We need to focus on the 50 cents and the commission needs to look at its budget.

Senator Flakoll said one concern he has is the "pay to play" requirement for board membership because sometimes those things can turn into "good ole boys networks".

*La Costa Richard*  
Operator's Signature

*10/16/03*  
Date

Page 3  
Senate Agriculture Committee  
Bill/Resolution Number HB 1420  
Hearing Date 03/20/03

Senator Urlacher said he has been in contact with a lot of cattlemen who want to stay at the 50 cent level in this bill.

Senator Flakoll clarified this would be a decrease to the producer.

Senator Klein said producers could take their refund and use it for another organization if they are uncomfortable with the way the commission is spending their dollars.

Senator Flakoll said as a reference point, the Wheat Commission has refunds of \$374,000 out of assessments of \$5.5 million, about 7%.

Senator Klein said in two years, we can address some other key issues. The North Dakota Beef Commission can show us what they are doing, how they work with other organizations. The penalty is a bit of a rub.

Senator Erbele agrees. We need this time to see what is going to happen. Once we have that answer, we can do something.

Senator Flakoll said he had once considered requiring some of the money go to the Beef Centers of Excellence and he has backed off that for now. He hopes there will be some talk about money going to some research, North Dakota has as good of researchers as anywhere. In their 2000-2001 program budget, the North Dakota Beef Commission spent \$119,000 for consumer information, \$36,000 for promotion, \$3000 for international promotion, \$300 for industry information, and \$200 for research.

Senator Klein said he has talked to Representative Froelich and he understands and is ready to address the issue next session.

Richard Costa  
Operator's Signature

10/16/03  
Date

Page 4  
Senate Agriculture Committee  
Bill/Resolution Number HB 1420  
Hearing Date 03/20/03

The motion passed on a roll call vote. Voting yes were Senator Flakoll, Senator Erbele, Senator Klein, Senator Urlacher, Senator Nichols and Senator Seymour. There we no negative votes cast. Senator Erbele will carry the bill to the floor.

Chairman Flakoll adjourned the meeting of the Senate Agriculture Committee as all bills have been acted on.

La Costa Richard  
Operator's Signature

10/16/03  
Date

30706.0301  
Title.

Prepared by the Legislative Council staff for  
Representative Froelich  
February 27, 2003

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1420

Page 1, line 1, replace "two" with "three"

Page 1, line 2, after the first "to" insert "assessments and"

Page 7, after line 21, insert:

"SECTION 9. A new section to chapter 4-34 of the North Dakota Century Code is created and enacted as follows:

Assessment for sale of cattle - R-calf - Refund. Each person subject to an assessment under section 4-34-08 is subject to an additional assessment of fifty cents per head for each animal sold. Moneys collected under this section must be remitted to the commission as provided in section 4-34-10. Any person subject to an assessment under this section may request a refund under section 4-34-11. At least once each year, the commission shall direct the state treasurer to forward to r-calf USA all moneys collected by the commission under this section after payment of all refunds and administrative expenses. The commission may retain up to five percent of the amount collected under this section as reimbursement for administrative expenses."

Renumber accordingly

30706.0302  
Title.

Prepared by the Legislative Council staff for  
Senator Christmann  
March 11, 2003

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1420

Page 6, line 27, overstrike "fifty cents" and insert immediately thereafter "one dollar"

Renumber accordingly

Page No. 1

30706.0302

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La Costa Richard  
Operator's Signature

10/16/03  
Date

30706.0303  
Title.

Prepared by the Legislative Council staff for  
Senator Christmann  
March 11, 2003

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1420

Page 1, line 4, remove "and" and after "penalty" insert "; and to declare an emergency"

Page 8, after line 18, insert:

"SECTION 10. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Page No. 1

30706.0303

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*La Costa Richard*  
Operator's Signature

*10/16/03*  
Date



Date: 2/20/03  
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1420

Senate Agriculture Committee

☐ Check here for Conference Committee

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

Action Taken Do Pass

Motion Made By Sen Erbele Seconded By Sen Nichols

Senator	Yes	No	Senators	Yes	No
Senator Flakoll, Chairman	✓		Senator Nichols	✓	
Senator Erbele, Vice Chairman	✓		Senator Seymour	✓	
Senator Klein	✓				
Senator Urlacher	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen Erbele

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

True

**REPORT OF STANDING COMMITTEE (410)**  
March 20, 2003 12:50 p.m.

Module No: SR-50-5310  
Carrier: Erbele  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
HB 1420, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman) recommends  
**DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1420  
was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-50-5310

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*Jo Costa Rickford*  
Operator's Signature

*10/6/03*  
Date

2003 TESTIMONY

HB 1420

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Salvatore Riccardi  
Operator's Signature

10/6/03  
Date

BEEF

# North Dakota Beef Commission

4023 STATE STREET • BISMARCK, ND 58503 • PHONE 701-328-5120 • TOLL FREE 1-877-321-BEEF

## HOUSE AGRICULTURE COMMITTEE HEARING

February 6, 2003

HB 1420 – Presented by Nancy Jo Bateman

Chairman Nicholas, Vice-Chairman Pollert, and members of the committee, I'm Nancy Jo Bateman, executive director of the ND Beef Commission and I appear here today on behalf of the Beef Commission members in support of HB 1420.

As you may be aware, beef producers put into place a national beef checkoff program at the rate of \$1 per head as part of the 1985 farm bill. Since October of 1986 the national beef promotion and research program has been up and running. This program has had admirable results including an increase in demand for beef in the US, the implementation of checkoff funded research which has made beef safer for consumers, nutrition research which has proven that beef plays an important role in health and well-being of Americans, and our most visible program which is consumer advertising that has every housewife answering Beef, when you ask them "What's For Dinner". Even though it continues to work hard for producers, the future of the national beef checkoff program is in question today as the federal court system works to determine if the national beef checkoff program violates free speech and if it's unconstitutional. Differing rulings by two federal judges, one in South Dakota ruling it unconstitutional, and one in Montana ruling it constitutional, would seem to indicate that a final decision will end up coming from the Supreme Court which could mean 1-5 years from now. While this plays out in the court system, the North Dakota Beef Commission appears here today and is trying to be as proactive as we possibly can. The objective being to make sure that regardless of the outcome nationally, North Dakota is in a position to revert back to a strong state beef checkoff program. This is why the amendments to the beef commission's enabling legislation are being offered in HB 1420.

I would like to take a few minutes and walk through these changes with you.

Section 1 and 2 deal with various collection and remittance records that need to be maintained and made available to the Commission and how those records and information may be handled by the Commission. Much of this wording is similar to federal provisions that have been in place since 1986 and it has worked well. The provision allowing particular records to be exempt from the open records laws of the state has been incorporated, again following the example of the federal law. Since the vast majority of checkoff dollars are collected at no cost to the Commission by markets and dealers, it has always been a concern of there's that no one be able to know the identity of their customers or clients that they may be reporting to us. We feel this is a fair request. As a result, #2 under section 1 addresses the various types of information that the commission could consider exempt and then the commission could determine how they wanted to handle that information. In simple terms, this means that if you wanted to know how much a particular individual paid into the program, it would not be available. If you wanted to know the names of every producer that a dealer collected checkoff dollars from, it would not be available. The Commission would also have the authority to determine if names of people receiving refunds would be available for public disclosure. This would not however, restrict the Commission from giving general information like the amount collected by all livestock markets or dealers or the total amount refunded, etc.

Section 3, #8, is a new definition added for a "participating producer". This would be a person that has not requested a refund for 3 years and has his or her checkoff dollars invested in the program. This definition comes into play later concerning qualifications to be a beef commission member.

BEEF

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Operator's Signature

*Nancy Jo Bateman*

Date

10/6/03

Section 4 contains a few grammatical changes, takes out the work exofficio and simply retains the ability to have up to 2 non-voting members on the board. #2 incorporated some additional detail that helps to define that a board seat would be considered vacant if a member fails to attend three consecutive meetings without justification. 3-e incorporates the requirement that to be on the board you must be a participating producer, with the exception of the livestock market representative who is on the board because he represents those collecting, not necessary paying the checkoff. The board felt strongly about this provision because those that make decisions about how another producer's dollars should be spent, should support the program enough to have their own money invested. You need to pay to play.

Section 5 is simply clean up language

Section 6 deals with the powers and duties of the commission and helps to expand those specific duties. #2 is clean up again, #3 inserts the word "agents" which helps to cover groups or individuals that may be contracted with, #4 is clean up, #11, although we always felt we had the authority to prosecute, we felt it should be spelled out, #12 was clarification, #13 again clarification language, #14 again although we assumed we had the authority to accept grants, donations, services, etc, we felt it best to spell it out. We have never had a situation where this has been an issue but as the industry changes, it could very well come into play. Minnesota's beef council currently is involved in a large grant where they are doing education programs on beef irradiation for the SureBeam Corporation that builds irradiation equipment. And finally #15, this gives the Commission the authority to contract with other beef commissions, this being important if there is no national program because close to 1/3 of our North Dakota cattle are sold out-of-state and currently those state beef councils collect and remit that checkoff money back to ND.

Section 7 clears up how and when meetings of the commission can be called.

Section 8 pertains to an exemption that is currently in place in the federal law. If dealers or order buyers buy cattle and only receive a set fee or resell them within 10 days, currently they can sign a form that will exempt them from paying the checkoff again if it has been less than 10 days. The changes in this section allow this 10-day exemption to remain if we are to revert totally back to the state law. It also incorporates a penalty under state law if someone willfully violates the conditions of the exemption.

And finally, section 9 simply changes a "must" to "may" in reference to how late fees are handled on checkoff dollars that are not remitted on time.

That sums up the meat of this bill. Now in anticipation of another question, I want to clarify the status of refunding relative to the beef checkoff. Today, federal law prohibits refunds. However, if we revert back to the state law only, we already have a refund provision in chapter 4-34. The reason it is not included in the bill is that nothing was changed. Currently, that section allows producers 60 days from the time they sold cattle to obtain a refund.

Thank you for your attention and I would welcome any questions.

MY NAME IS THERESA TOKACH AND I AM ONE OF TWO NATIONAL REPRESENTATIVES FROM NORTH DAKOTA TO THE CATTLEMEN'S BEEF PROMOTION AND RESEARCH BOARD. THE OTHER IS JON ERICKSON OF MINOT.

AS A PRODUCER AND ALSO AS VICE-PRESIDENT OF THE NORTH DAKOTA CATTLEWOMEN ORGANIZATION, WHICH REPRESENTS 200 WOMEN IN THE BEEF INDUSTRY, I AM ASKING FOR YOUR SUPPORT OF HB-1420 AND AMENDING THE ASSESSMENT AMOUNT FROM .50 TO \$1.00.

THIS IS NOT AN INCREASE IN THE AMOUNT PRODUCERS WILL BE PAYING BECAUSE THEY HAVE BEEN PAYING THIS AMOUNT SINCE 1986. ALL IT WOULD DO IS CONTINUE THE STATE PROGRAM WITH THE SAME AMOUNT OF ASSESSMENT SHOULD THE NATIONAL CHECKOFF FAIL.

THE BUYING POWER OF THE DOLLAR IS APPROXIMATELY 65% OF WHAT IT WAS IN 1986 WHEN THE NATIONAL PROGRAM WENT INTO AFFECT. THESE DOLLARS ARE NEEDED IN THE AREAS OF BEEF SAFETY, NUTRITION, PROMOTION, RESEARCH, EDUCATION AND INFORMATION. I UNDERSTAND THE BEEF INDUSTRY RANKS SECOND BEHIND WHEAT IN NORTH DAKOTA AND I FEEL WE MUST PROVIDE DOLLARS TO MAINTAIN A HEALTHY AND VIABLE BEEF INDUSTRY FOR THE NEXT GENERATION. AFTER ALL, WHERE WOULD THE INDUSTRY BE TODAY WITHOUT AN ASSESSMENT, SAM ELLIOT AND "BEEF IT'S WHAT'S FOR DINNER".

Testimony House bill 1420

Marjory Perkins, Menoken, N.D.

The NDCW organization has been in existence for over 50 years. Our objective is to promote and educate people concerning the benefits and use of beef products.

Cattlemen have supported the Check Off since the beginning of its existence, to provide funding for our efforts.

We are solidly in support of HB 1420 along with the amendment to increase the check off level to \$1.00 per head. This is the amount producers have paid for the past 16 years, and is necessary to maintain effective research, education, and promotion programs. We support the emergency clause due to the uncertainty we face with the timing of federal court and appeals court decisions on the horizon.

We oppose any amendment that seeks to take the check off dollars or use the Beef Commission collection system to raise dollars for other private organizations. This would set a dangerous precedence. Check off dollars need to be used for education, research & promotion to have the potential to benefit all producers.

Check off dollars should not be drawn into political and lobbying issues. That is why people chose to pay dues to organizations that represent their thoughts and views.

Cattlemen oppose mandating check off dollars being put into designated programs. When and if dollars are available, this decision should be left to the discretion of the members of the Beef Commission.

Friday, March 14, 2003

SENATE AGRICULTURE COMMITTEE  
HB 1420

SENATOR FLAKOLL AND COMMITTEE MEMBERS:

My name is Jack McDonald. I am appearing today on behalf of the North Dakota Newspaper Association and the North Dakota Broadcasters Association. We think this is a good bill, but feel it is a bit too broad in just one area.

Our organizations recognize the need to keep business information confidential and we don't object to most of this bill that exempts records that are really trade secrets or proprietary information. However, when an individual pays assessments under this law, those payments become public funds used by a public agency, the Beef Commission.

We believe information concerning a refund of these public funds should remain public. Therefore, we are proposing the teensy little amendment below and urge you to adopt the amendment and then give the bill a do pass.

If you have any questions, I'd be glad to try and answer them. Thank you for your time and consideration.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL 1420

On page 1, delete lines 19 and 20.

Renumber accordingly



House Bill 1420

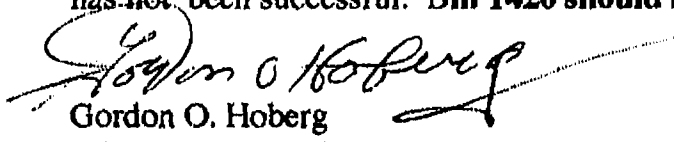
To the 58<sup>th</sup> Legislative Assembly of North Dakota:

This letter concerns House bill N. 1420, which is a bill to create a beef check off fee.

This bill should be defeated for the following reasons:

1. It does not say what the proposed check off money would be used for.
2. It does not give the beef producers a right to vote on whether they want a beef check off. The people paying a check off fee should have the right to decide if they wish to participate. Passage of House bill 1420 would be taxation without representation.
3. The bill, on page 6, creates an assessment of fifty cents (\$.50) per head or the amount assessed pursuant to the Federal Beef Promotion and Research Act of 1985. The Federal Beef Promotion and Research Act assessed one dollar (\$1.00) per head, which means that under this bill a \$1.00 per head may be assessed.
4. The Federal Beef Promotion and Research Act of 1985 is presently being litigated in the courts; and, in the case of Livestock Marketing Associations vs. US Dept of Agriculture which was heard in the Federal Court in South Dakota, the court stated "The Beef Promotion and Research Act which mandate the payment of an assessment by cattle producers is unconstitutional and unenforcable because it violates the parties' rights under the 1<sup>st</sup> amendment to the US Constitution." There are presently something like three lawsuits pending that involve collecting check off fees. All of these cases have been appealed. If these cases are found to be unconstitutional, then House bill 1420 would also be unconstitutional. It seems to me it would be wise to wait with this bill until a final ruling has been made by the courts.

One last comment: The beef producers have paid millions of dollars in beef check off fees in the past years, yet the beef industry is in a deteriorating shape. The beef check off has not been successful. **Bill 1420 should not be passed.**

  
Gordon O. Hoberg  
Wishek, North Dakota

## What is R-CALF USA?

R-CALF USA is a national non-profit cattle association representing only cow/calf producers and independent stockers and feeders.

In 1999 R-CALF USA became a national membership organization and is now the fastest growing cattle association in the U.S. At the time of printing, R-CALF USA is experiencing a growth rate of 25% annually. We now have a national membership of over 6400 cattle producers in 42 states and 30 affiliated organizations. With your support, R-CALF USA will soon be the largest voluntary membership-based cattle association in the U.S.

Since its inception, R-CALF USA has profoundly impacted the U.S. live cattle industry.

- R-CALF USA led the cattle industry to victory by working to pass mandatory country of origin labeling that reserves the USA label for only cattle born, raised, and slaughtered in the U.S.
- R-CALF USA is leading the cattle industry's effort to clarify and enforce the Packers & Stockyards Act by banning packer ownership of livestock, requiring all forward contracts to include a firm base price, and by protecting the cash market from further "thinning."
- R-CALF USA was instrumental in proving that the economic models used by USDA and the International Trade Commission were outdated and incapable of accurately predicting the effects of market concentration, forward contracts, and marketing agreements on the price of cattle. R-CALF USA is presently working with Congress to have these economic models updated.
- R-CALF USA is working hard to achieve meaningful trade safeguards for U.S. cattle producers in the Free Trade Area of the Americas (FTAA) agreement to ensure fairness for U.S. cattle producers.
- R-CALF USA successfully included live cattle under the definition of a perishable and cyclical agricultural product during Congress's debate of Trade Promotion Authority. This designation affords live cattle additional safeguards should rising imports threaten to collapse domestic

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*Salvatore Riccio*  
Operator's Signature

*10/16/03*  
Date

BEEF

# North Dakota Beef Commission

4023 STATE STREET • BISMARCK, ND 58503 • PHONE 701-328-5120 • TOLL FREE 1-877-321-BEEF

## SENATE AGRICULTURE COMMITTEE HEARING

March 14, 2003

HB 1420

Presented by Nancy Jo Bateman, Executive Director, ND Beef Commission

Chairman Flakoll, Vice-Chairman Erbele, and members of the committee, I'm Nancy Jo Bateman, executive director of the ND Beef Commission and I appear here today on behalf of the Beef Commission members in support of HB 1420.

As you may be aware, beef producers put into place a national beef checkoff program at the rate of \$1 per head as part of the 1985 farm bill. Since October of 1986 the national beef promotion and research program has been up and running. This program has had admirable results including an increase in demand for beef in the US, a continual increase in the sale of beef in foreign markets, the implementation of checkoff funded research which has made beef safer for consumers, nutrition research which has proven that beef plays an important role in the health and well-being of Americans, and our most visible program which is consumer advertising that has every housewife answering Beef, when you ask them "What's For Dinner". Even though it continues to work hard for producers, the future of the national beef checkoff program is in question today as the federal court system works to determine if the national beef checkoff program violates free speech and if it's unconstitutional. Differing rulings by two federal judges, one in South Dakota ruling it unconstitutional, and one in Montana ruling it constitutional, would seem to indicate that a final decision will end up coming from the Supreme Court within a time frame that is anybody's guess. While this plays out in the court system, the North Dakota Beef Commission appears here today and is trying to be as proactive as we possibly can. The objective being to make sure that regardless of the outcome nationally, North Dakota is in a position to revert back to a strong state beef checkoff program. This is why the changes to the beef commission's enabling legislation are being offered in HB 1420.

I would like to take a few minutes and walk through these changes with you, and then address the two amendments that have been offered by Senator Christmann on behalf of the Beef Commission.

Section 1 and 2 deal with various collection and remittance records that need to be maintained and made available to the Commission and how those records and information may be handled by the Commission. Much of this wording is similar to federal provisions that have been in place since 1986 and it has worked well. The provision allowing particular records to be exempt from the open records laws of the state has been incorporated, again following the example of the federal law. Since the vast majority of checkoff dollars are collected at no cost to the Commission by markets and dealers, it has always been a concern of there's that no one be able to know the identity of their customers or clients that they may be reporting to us. We feel this is a fair request. As a result, #2 under section 1 addresses the various types of information that the commission could consider exempt and then the commission could determine how they wanted to handle that information. In simple terms, this means that if you wanted to know how much a particular individual paid into the program, it would not be available. If you wanted to know the names of every producer that a dealer collected checkoff dollars from, it would not be available. The Commission would also have the authority to determine if names of people receiving refunds would be available for public disclosure. This would not however, restrict the Commission from giving general information like the amount collected by all livestock markets or dealers or the total amount refunded, etc.

BEEF

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Operator's Signature

*Richard Costa*

10/6/03

Date

Section 3, #8, is a new definition added for a "participating producer". This would be a person that has not requested a refund for 3 years and has his or her checkoff dollars invested in the program. This definition comes into play later concerning qualifications to be a beef commission member.

Section 4 contains a few grammatical changes, takes out the word exofficio and simply retains the ability to have up to 2 non-voting members on the board. #2 incorporated some additional detail that helps to define that a board seat would be considered vacant if a member fails to attend three consecutive meetings without justification. 3-e incorporates the requirement that to be on the board you must be a participating producer, with the exception of the livestock market representative who is on the board because he represents those collecting, not necessary paying the checkoff. The board felt strongly about this provision because those that make decisions about how another producer's dollars are going to be spent, should support the program enough to have their own money invested. You need to pay to play.

Section 5 is simply clean up language

Section 6 deals with the powers and duties of the commission and helps to expand those specific duties. #2 is clean up again, #3 inserts the word "agents" which helps to cover groups or individuals that may be contracted with, #4 is clean up, #11, although we always felt we had the authority to prosecute, we felt it should be spelled out, #12 was clarification, #13 again clarification language, #14 again although we assumed we had the authority to accept grants, donations, services, etc, we felt it best to spell it out. We have never had a situation where this has been an issue but as the industry changes, it could very well come into play. Minnesota's beef council currently is involved in a large grant where they are doing education programs on beef irradiation for the SureBeam Corporation that builds irradiation equipment. And finally #15, this gives the Commission the authority to contract with other beef commissions, this being important if there is no national program because close to 1/3 of our North Dakota cattle are sold out-of-state and currently those state beef councils collect and remit that checkoff money back to ND.

Section 7 clears up how and when meetings of the commission can be called.

Section 8 pertains to an exemption that is currently in place in the federal law. If dealers or order buyers buy cattle and only receive a set fee or resell them within 10 days, currently they can sign a form called a non-producer form that will exempt them from paying the checkoff again if it has been less than 10 days. The changes in this section allow this 10-day exemption to remain if we are to revert totally back to the state law. It also incorporates a penalty under state law if someone willfully violates the conditions of the exemption.

And finally, section 9 simply changes a "must" to "may" in reference to how late fees are handled on checkoff dollars that are not remitted on time.

That sums up the meat of this bill. Now in anticipation of another question, I want to clarify the status of refunding relative to the beef checkoff. Today, federal law prohibits refunds. However, if we revert back to the state law only, we already have a refund provision in chapter 4-34. The reason it is not included in the bill is that nothing was changed. Currently, that section allows producers 60 days from the time they sold cattle to obtain a refund.

Now to the amendments.

Senator Christmann's first amendment applies to Section 8 and changes the beef checkoff assessment, under state law, from \$.50 to \$1 per head. At first glance this would appear like a request to double the beef checkoff. It is not. In effect it is only putting into state law the checkoff rate that producers have been paying in North Dakota since October 1, 1986, over 16

years, that being \$1 per head. With the implementation of the federal law in 1986, the checkoff rate of \$1 per head was established and it superceded the rate of \$.50, which was in state law. This amendment, along with the original bill, has the support of both the ND Stockmen's Association and the ND CattleWomen's organization, both that have members and representative that will speak to you shortly. So there is absolutely no confusion or misinterpretation, this provision is NOT in addition to the federal dollar currently being collected. This change would only come into play if the federal law were declared invalid. If that happened, this amendment would provide for a smooth and seamless, if you will, transition back to the authority of the state law with the least amount of confusion for all collection points and for producers. The only change that producers would see if we revert back to a totally state governed program is that a refund would then be available, under state law, to producers who may choose to not participate in the checkoff funded research, education and promotion programs.

Some have asked how this change could potentially affect the budget and programs of the ND Beef Commission and that is certainly a fair question and one deserving of explanation. A change from a federal dollar to a state dollar should have very little impact on the number of dollars collected by the Commission because the number of cattle subject to the checkoff doesn't change with this bill. However, we realize fully that with the refund option available under state law, there will be dollars going back to producers but we have nothing but guesses about what that amount might be. In terms of dollars available for programs, there would be a definite shift in who has authority over the checkbook. Currently, under federal law, \$.50 of every checkoff dollar must go into national programs under the supervision of the Cattlemen's Beef Board. The ND Beef Commission determines how the remaining \$.50 is spent. Under a total state program, with no national law mandates, the members of the Beef Commission would be responsible for planning, prioritizing, and investing the full dollar in programs that fall within the scope and objectives of the ND Beef Commission. This could mean continued investments in national programs which put our message in front of America's consumers, it could mean additional research possibilities, it could mean expanded statewide programs, it could mean increased funding for export programs, and the list goes on. In all honesty, the Commission has not spent a great deal of time at this point developing their wish list of places and programs where they feel additional investments might be merited because the future will depend a great deal on the outcome of the court cases currently working through the legal system.

This current legal process is why the emergency clause has been requested. Again, trying to be as proactive as possible, rather than reactive, the Beef Commission members feel there is enough uncertainty about the timing of federal appeals court decisions that they felt it prudent to request this. Just to give you an idea of what has happened since we appeared before the House Ag committee on this bill, the Eighth Circuit Court of Appeals scheduled and already held a hearing on the South Dakota checkoff case. While all of this is nothing but the best estimate of USDA and LMA attorneys, a ruling may come as soon as early to mid summer. Even though a decision either way in this case will be appealed to the Supreme Court, there are several scenarios that could make it necessary for states to fall back onto their state laws. As I have emphasized many times, it is the Commission's objective to be as proactive as possible and while we hope that the national program will be upheld, we also want to be as prepared as we possibly can to make a smooth transition from federal to state law if need be. Should the timing be such, this emergency clause would be very important.

Chairman Flakoll, Vice-chairman Erbele and committee members, on behalf of the Beef Commission I would respectfully request that engrossed HB 1420 along with the two amendments offered by Senator Christmann, receive favorable consideration and a do pass recommendation from this committee. We ask for no more and no less. Thank you for your attention.

Richard Costa  
Operator's Signature

10/16/03  
Date

H.B. - 1420

**NORTH DAKOTA BEEF COMMISSION**  
Bismarck, North Dakota

**STATEMENT OF PROJECTED REVENUE AND EXPENDITURES**  
For the Bienniums Ended June 30,  
**UNAUDITED**

Prepared by the North Dakota Beef Commission

	01-03 Biennium	03-05 Biennium
Beginning Balance	\$ 263,824	\$ 333,150
<b>REVENUES:</b>		
Gross Assessment Revenues	2,562,218	2,500,000
Less		
Assessments Remitted To other states	119,927	120,000
Assessment Revenues remitted to Cattlemen's Beef Board	<u>1,234,413</u>	<u>1,250,000</u>
Net Assessment Revenues	\$1,207,878	\$1,130,000
Interest Income	10,320	10,000
Other Revenue	<u>7,970</u>	<u>7,000</u>
Total Revenues	<u>\$1,226,168</u>	<u>\$1,147,000</u>
<b>EXPENDITURE</b>		
Program Expenditures		
International	\$ 6,530	\$ 7,000
Promotion	120,555	100,000
Research	40,000	30,000
Consumer Information	208,687	200,000
Industry Information	<u>22,080</u>	<u>20,000</u>
Total Program Expenditures	\$ 397,852	\$ 357,000
National Cattlemen's Beef Assn. Administration	→ 378,460 <u>380,530</u>	→ 384,000 <u>400,000</u>
Total Expenditures	<u>\$ 1,156,842</u>	<u>\$ 1,141,000</u>
Excess of Revenues Over (Under) Expenditures	\$ 69,326	\$ 6,000
Ending Balance	\$ 333,150	\$ 339,150

Carol Maher -

My husband and I ranch east of Bismarck at Menoken ND.

We have been ranching for 45 years and at Menoken for 41 years. We love what we do and feel fortunate to have accomplished a very good and satisfying life. But over the years we are discovering we can hardly keep going, with free trade, not being fair trade, the same with marketing.

Now our son, his wife and daughter are ranching with us. We hear all the time about how we need to keep our young people in ND, and that is what we want, to keep our son and his family doing what we have for another 40 years.

We belong to the North Dakota Stockmens and I was a ND Cattle women for many years and want to keep working with these organizations, but it seems that we need more. We need someone with a voice for the grassroots cow/calf producer and that seems to be R-CALF USA. In just 4 short years we have seen more progress in this organization. Like getting someone to represent the cow/calf producer on the WTO (World Trade Organization), getting facts and figures out of Washington. Getting COOL (Country of Origin Labeling) on the books. I could go on and on and most of this is volunteer work from the producers themselves with guidance from R-CALF. We are proud of our ND beef products and we want every consumer to compare our product with other countries, and know that we have a safe and good product.

If the Beef-Check-Off is declared unconstitutional and this amendment would go into effect, we, my husband Buck, our son Gary, wife Belinda and grand-daughter Lynsey support the 50 cents to R-Calf and also the 50 cents to the ND Beef Check-off and the day that either one does not do the job for us we will ask for our money back. This is how we know they will be accountable for how they use our money.  
Thank You

*Carol Maher*