

# MICROFILM DIVIDER

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ROLL NUMBER

DESCRIPTION

4020

2005 SENATE AGRICULTURE

SCR 4020


2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4020

Senate Agriculture Committee

☐ Conference Committee

Hearing Date February 4, 2005

Tape Number	Side A	Side B	Meter #
1	x		4415 - end
1		x	0 - 3486
Committee Clerk Signature 			

Minutes:

**Chairman Flakoll** opened the hearing on SCR 4020, a resolution urging the President of the United States and the United States Secretary of Agriculture to continue the ban on importing cattle from Canada until a full and complete investigation of Canadian feeding methods and supplies can be conducted and methods for determining risk designations can be reviewed and evaluated. All members were present.

**Senator Klein** introduced the resolution. BSE concerns have grown. This resolution is not protectionist, we are concerned about the food chain. We want to send a message to the Canadians that we need to check on how they are determining the risk in their feed. Ruminant byproducts have been found in Canadian feed after the 1996 ban. There are still some concerns that need to be addressed before the border opens.

**Senator Erbele** asked if this resolution is media driven. (meter 4596)

**Senator Klein** said it is driven by a number of factors. It is more science driven, are they feeding according to the rules and regulations

**Senator Taylor** asked about the investigative team going into Canada.

**Senator Klein** said he doesn't know.

**Senator Taylor** asked if the president will change his mind.

**Senator Klein** said the people of North Dakota think this is an important issue.

**Senator Flakoll** asked about the differences in rules and regulations in the US and Canada.

**Senator Klein** said how long the feed has been ruminant free is an issue. Other people will testify about other differences.

**Senator Flakoll** asked if we run the risk of implying the US is also at risk since we have found a BSE animal here.

**Senator Klein** said there are always implications We want to send the message to Canada to make sure they are on track.

**Doug Goehring**, a producer from south central North Dakota, testified in favor of the resolution.

The issue is sound science. There is an antigen, there is an incubation period. What criteria is used for risk designation. Until Canada's risk determination is moved to moderate or medium, they would have to reach 11 head, in the US it would be over 100 head. That raises concerns.

We can't be emotionally, politically or economically driven on this issue or we violate the trade laws. There are some issues surrounding the 1997 feed ban. In the US, we have complied. We are also asking the USDA to look at the continent of origin vs the country of origin. This is not a North American beef herd.

**Senator Erbele** asked if there are 3 separate herds, is this not a North American problem. (meter 5593)

**Mr. Goehring** said it is specifically a North American problem. We need to determine where the problem exists. Consumer confidence can be affected.

**Senator Klein** said he is getting reports that Canadians are taking aggressive strides in establishing their own slaughter houses and feedlots. They may process their own beef, bypassing our facilities. Is this a concern.

**Mr. Goehring** said they have to deal with their export situation themselves. They have had BSE cases.

**Senator Flakoll** said maybe the problem is failure to test and the feedmill's failure to follow the feed ban. It will take a while to clean out the system.

**Mr. Goehring** said we need transparency with Canada.

**Roger Johnson**, Agriculture Commissioner, testified in favor of the resolution. (written testimony) (meter 30 side B tape 1) There are troubling reports that Canada is not following the feed ban. There have been 4 separate cases of BSE, 3 in Canada and 1 Canadian cow found in Washington. Recent reports in the press and from CFIA (Canadian Food Inspection Agency), say that feeds that were supposed to be 100% plant based contained animal parts. Over 50% of the samples in a very recent study were shown to contain animal parts. The border will open on March 7 unless USDA changes its mind or Congress steps in. There have been deficiencies in the investigation in Canada. Our own state veterinarian has strong feelings it was inadequate. The feed cohorts of the BSE animals should be traced back. The rule bans live animals over 30 months of age but allows meat of any age. We are really saying Canadian slaughter and

inspection is better than ours. We have tested 10 times more cattle than Canada has and there should be a higher test level when the prion is known to exist.

**Senator Klein** asked if Mr. Johnson has forwarded his concerns to our congressional delegation.

**Mr. Johnson** said yes, he has made his views known frequently to our delegation and to USDA by phone, letter, written testimony and personal meetings. He has a monthly teleconference with other state agriculture commissioners and USDA.

**Senator Flakoll** asked if the delegation is on the same page on this issue.

**Mr. Johnson** said the only entity not on the same page is USDA. The final rule of USDA established a new minimum risk category that has been defined so it includes Canada and several other countries. This definition allows Canada to have up to 11 new cases in every year before they would move to a higher risk level.

**Senator Flakoll** asked if a state can make their own laws to prohibit Canadian cattle.

**Mr. Johnson** said yes, there is a legal basis. The Board of Animal Health has that authority.

This is part of an ongoing issue that has existed for years between US livestock producers and Canada regarding Canada's rules that are seen by some to keep US cattle out of their country.

Blue tongue, anaplasmosis, TB and brucellosis have been the diseases of interest in this matter.

Senator Taylor asked if the investigative team now in Canada is doing unannounced visits or guided tours.

**Mr. Johnson** said he suspects the truth is somewhere in between. He is not involved and only has the word of USDA and its inspectors. He believes they have the authority to make unannounced visits.

**Senator Erbele** said a week ago he was at a summit of agriculture leaders in Memphis. USDA gave assurances to the attendees that Canada's food supply is as safe as ours. NCBA was there saying the same thing. This is a hard locomotive to stop. Shouldn't we also send this resolution to Congress. Shouldn't we also include that the border opening coincide with the opening of our export markets.

**Mr. Johnson** said he agrees. Congress has the authority to stop this but it would be difficult and isn't likely. Our efforts need to be aimed at USDA. There is a third option, a lawsuit.

**Senator Erbele** said the machinery is too slow.

**Mr. Johnson** said he agrees. The proper focus is USDA. They could make a reversal.

**Senator Flakoll** said both chambers could move rapidly on this.

**Senator Erbele** asked about USDA and NCBA assurances that this is safe. They were told there is sound science, pseudo science and political science.

**Mr. Johnson** said Senator Erbele has accurately quoted undersecretary Bill Hawks, that is phrase he is fond of using. There is a lot of political pressure from the administration to open the border, that, in his opinion, is overriding the sound science. There is disagreement within USDA among scientists as to whether this is the way to go. There are a number of state veterinarians that disagree with this rule. There is a presumption that sound science is objective and easy to qualify. There are a lot of professional scientists with expertise on this issue with different views, there is not a consensus among them. This decision is not in agreement with the internationally accepted sound science standards. There was no minimum risk category in the international protocol, USDA has made a new category. The prion exists in Canada.

**Senator Urlacher** asked if tests have been run on Canadian feed and have found animal parts.  
(meter 2122)

**Mr. Johnson** said yes. The Canadian food inspection agency participated in the study. 57% of the samples pulled contained animal parts on feed samples labeled plant only. They were not necessarily ruminant animal parts.

**Senator Urlacher** asked if there is a division of opinion of veterinarians, what is their solution.

**Mr. Johnson** said a major difference of opinion exists over the traceback on the feed and birth cohorts. Dr. Shuler, our former state vet who now works for the federal government, strongly believed this. The USDA did not do this. They looked at all animals in the herd where the positive animal was born. If you explore the feed cohorts, you trace all the animals that ate the same feed which vastly increased the number of animals to be tested. This was not done.

**Woody Barth**, North Dakota Farmers Union. Testified in favor of the resolution. (written testimony) (meter 2527)

**Senator Flakoll** asked if this issue could result in damage to our livestock industry too.

**Mr. Barth** said if we had a case, we would have to deal with it on a case by case basis.

**Kenny Graner**, cow calf producer from Morton county, testified in favor of the resolution. He thinks he would be directly affected by the border opening and the safety of our consumers could be affected too. (meter 2729)

**Senator Erbele** said the timing is tough. What do you think about adding language to time the opening of the export market with the opening of the border.

**Mr. Graner** said this is essential.



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**Joe Keller** has an interest in producing livestock and testified in favor of the resolution.

Including the export clause is a great idea. It is important to get this to Washington as soon as possible. (meter 2912)

**Senator Flakoll** asked if we should be sending this to anyone else.

**Mr. Keller** said the president and Agriculture Commissioner are the most important.

Senator Urlacher said in some cases a lawsuit could hold this up and give us some more time.

**Mr. Keller** said that would be great. This resolution is not a waste.

**Brian Kramer**, North Dakota Farm Bureau, testified in favor of the resolution. There is another lawsuit being filed by American Meat Institute to allow the importation of cattle over 30 months of age.

**Chairman Flakoll** closed the hearing on SCR 4020.

**Senator Erbele** moved the amendments 53072.0100.

**Senator Taylor** seconded the motion.

The motion passed on a roll call vote 6-0-0.

**Senator Erbele** moved a do pass as amended on SCR 4020.

**Senator Taylor** seconded the motion.

The motion passed on a roll call vote 6-0-0.

**Senator Taylor** will carry the bill.

Date: 2/4/05  
Roll Call Vote # 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO.**

Senate Agriculture Committee

☐ Check here for Conference Committee

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

Action Taken Amendment 53072.0100 Move the amendment

Motion Made By Sen. Erbele Seconded By Sen. Taylor

Senators	Yes	No	Senators	Yes	No
Senator Flakoll	✓		Senator Seymour	✓	
Senator Erbele	✓		Senator Taylor	✓	
Senator Klein	✓				
Senator Urlacher	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

Date: 2/4/05  
Roll Call Vote # 2

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 4020**

Senate Agriculture Committee

☐ Check here for Conference Committee

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

Action Taken Do Pass As Amended

Motion Made By Sen Erbele Seconded By Sen Taylor

Senators	Yes	No	Senators	Yes	No
Senator Flakoll	✓		Senator Seymour	✓	
Senator Erbele	✓		Senator Taylor	✓	
Senator Klein					
Senator Urlacher	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Taylor

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

**REPORT OF STANDING COMMITTEE**

**SCR 4020: Agriculture Committee (Sen. Flakoll, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4020 was placed on the Sixth order on the calendar.

Page 1, line 25, after "evaluated" insert ", and to open the border with Canada at such time as the opening of our export markets"

Renumber accordingly

2005 TESTIMONY

SCR 4020

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**Testimony of Roger Johnson  
Agriculture Commissioner  
Senate Concurrent Resolution 4020  
Senate Agriculture Committee  
Roosevelt Room  
February 4, 2005**

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Chairman Flakoll and members of the Senate Agriculture Committee, I am Agriculture Commissioner Roger Johnson. I am here today in support of Senate Concurrent Resolution 4020, which urges the President of the United States and United States Secretary of Agriculture to continue the ban on importing cattle from Canada until a full and complete investigation of Canadian feeding methods and supplies can be conducted and methods for determining risk designations can be reviewed and evaluated.

I believe that it is imperative that we appeal to federal authorities to keep the U.S. border closed to Canadian beef imports in light of the announcement made by the Canadian Food Inspection Agency earlier this month, that a cow, born in March, 1998, in Alberta, tested positive for Bovine Spongiform Encephalopathy (BSE). The Canadians have said that the animal may have contracted the disease by consuming contaminated feed that had been produced before the 1997 ban on feed containing ruminant tissue. BSE is thought to be spread principally through cattle feed containing protein from infected cattle.

This, coupled with reports on Canadian television of frequent violations of the feed ban in Canada, should have led USDA to withdraw or at least suspend its rule that will allow a resumption of Canadian beef imports into this country. USDA continues to insist that it will reopen the border to Canadian imports.

The basis for USDA opening the border to Canadian imports is the current rule that has been published and will go into effect on March 7, 2005. There are a number of issues that must be addressed before trade is resumed. I do not believe the current rule addresses those issues.

This rule is very vague and inconsistent with respect to the feed ban requirements. The Final Rule states that meat and edible products from bovines can be imported into the United States only if they are "derived from bovines that have been subject to a ruminant feed ban equivalent to" the U.S. Food and Drug Administration feed ban that is enforced in the United States. Recent reports of Canadian feed ban violations and the most recent discovery of BSE indicates that this may not be strictly observed in Canada.

In light of the two recent cases in Canada and Canadian television reports of violations of the feed ban, it is imperative that USDA take the following steps before the border is reopened for all trade from Canada:

- All feed cohorts of the confirmed BSE cases should be traced back, slaughtered and tested.
- The US should ban the import of any beef from Canada older than 30 months of age.
- The US should require an audit of the Canadian feed industry to ensure compliance with the feed ban.
- The US should insist that Canada's testing requirements for BSE in high risk cattle be held to higher standards than those in the US because countries with known positives should meet higher standards.
- The US should first be assured that we will be able to re-establish trade with our major trading partners if trade with Canada resumes.

Common sense dictates that the border should remain closed until we first know when the Canadian feed ban truly became effective and what's really going on in Canada relative to their beef herd. Reopening the border now will make it much more difficult for the US to regain the beef exports markets that we lost last year when a single Canadian-born cow, infected with BSE, was found in Washington State. We cannot expect our trading partners to start buying our beef again, if we allow importation of live cattle and beef from cattle of any age from a country with a proven history of BSE.

It is important that we regain our export markets before we allow any additional Canadian beef into the US market. In 2002 we exported 9% of our beef production or 2.45 billion pounds.



Total value was equal to \$2.61 billion. Japan was our largest customer of beef exports valued at \$854 million. In the same year, Canadian exports to the US of live cattle and beef products totaled 3.22 billion pounds valued at \$3.2 billion.

If the border were to open tomorrow, Canadian exports to the US would likely be even higher due to the backlog of feeder cattle and meat products in Canada. In the current Economic Analysis of the final rule, USDA states that the backlog in Canada may amount to 394,500 fed cattle under 30 months of age and about 204,000 feeder cattle. The backlog of animals over 30 months of age (not eligible for importation under the rule) may number about 462,500 head. In addition, USDA expects a large increase in cow slaughter (over the age of 30 month) in Canada which will be exported as processed beef into the US. As a result of this increase, US and North Dakota cattle producers would likely face major price declines if the increased Canadian imports are resumed before US exports are reestablished.

It is imperative that we send the message in this concurrent resolution to the President and USDA that the border remained closed to live cattle imports until the US can be assured that all these issues are addressed.

Chairman Flakoll and committee members, I urge a "do pass" on SCR 4020. I would be happy to answer any questions you may have.

# North Dakota Farmers Union

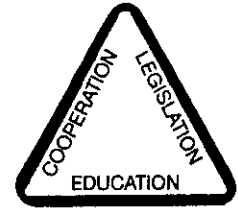
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SCR 4020

Senate Agriculture

Chairman Flakoll and members of the Senate Agriculture Committee,

My name is Woody Barth; I am here representing over 35,000 members of North Dakota Farmers Union. I am here to testify in support of SCR 4020.

North Dakota Farmers Union believes that our state needs to send a message urging the President and the USDA to rescind the ruling that will open the U.S. border to imports of live Canadian cattle in March. We believe that the current decision is "totally irresponsible" in light of another BSE-infected cow discovered in that country.

The ruling to reopen the border sends a negative message to family farmers and ranchers that the Administration cares more about mega feedlots and meat processors than the well being of producers. It also leaves consumers doubting the safety and wholesomeness of their meat products and the security of our food.

Canada's feed ban that went into effect in August of 1997 has not prevented disease outbreaks in the Canadian herd. Last summer, U.S. authorities turned back seven separate shipments of feed because they were contaminated with unknown animal parts. This is a clear indicator that the 1997 feed ban law is not being enforced. How could this happen in a 'minimal-risk' region?"

It is irresponsible to allow Canadian beef imports to resume when we have not firmly re-established our beef export markets to countries that have banned our products. U.S. beef exports have declined by over \$2 billion since the 2003 discovery of a BSE-infected cow in the U.S. that was of Canadian origin. Most international customers still impose and maintain a ban on U.S. beef as a result.

The Administration seems to be basing its decision regarding Canadian cattle imports on politics rather than sound science and consumer food safety. Now, more than ever, consumers deserve country-of origin labeling information on meat products.

We strongly urge a do pass on the SCR 4020.

Thank you Chairman Flakoll and members of the committee. I will answer any questions at this time.