

103  
**BEEF AND DAIRY CHECKOFF PROGRAMS  
(S. 1557 AND S. 1564)**

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Y 4. AG 8/3: S. HRG. 103-1061

Beef and Dairy Checkoff Programs (S...

**HEARING**

BEFORE THE

SUBCOMMITTEE ON  
DOMESTIC AND FOREIGN MARKETING AND  
PRODUCT PROMOTION

OF THE

COMMITTEE ON AGRICULTURE,  
NUTRITION, AND FORESTRY  
UNITED STATES SENATE

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

ON

BEEF AND DAIRY CHECKOFF PROGRAMS (S. 1557 and S. 1564)

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AUGUST 5, 1994

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Printed for the use of the  
Committee on Agriculture, Nutrition, and Forestry



U.S. GOVERNMENT PRINTING OFFICE

20-318 CC

WASHINGTON : 1995

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For sale by the U.S. Government Printing Office  
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

ISBN 0-16-052156-4



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## S. 1557 AND S. 1564 BEEF AND DAIRY CHECKOFF PROGRAMS

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FRIDAY, AUGUST 5, 1994

U.S. SENATE,  
SUBCOMMITTEE ON DOMESTIC AND FOREIGN MARKETING, AND  
PRODUCT PROMOTION, OF THE COMMITTEE ON AGRICULTURE,  
NUTRITION, AND FORESTRY,  
Washington, DC.

The subcommittee met, pursuant to notice, at 10:09 a.m., in room SR-332, Russell Senate Office Building, Hon. David L. Boren, Chairman of the subcommittee, presiding.

Present or submitting a statement: Senators Leahy, Boren, Baucus, Feingold, Cochran, McConnell, Craig, Grassley, and Kohl.

### STATEMENT OF HON. DAVID L. BOREN, A U.S. SENATOR FROM OKLAHOMA

Senator BOREN. The committee will come to order. Today's hearing is intended to focus on both the beef industry Long-Range Plan and proposed changes to the National Dairy Promotion and Research Board contained in Senate bill 1557 and Senate bill 1564. The subcommittee will examine how various organizations, producer members and checkoff contributors will be represented under the consolidation plan of the Beef Industry Council and the Cattlemen's Beef Board, the U.S. Meat Export Federation, and the National Cattlemen's Association.

It is my understanding that the consolidation plan is aimed at making the beef industry efforts for promoting beef and research activities more efficient by reducing overhead and duplication between the four groups who share similar interests. The net effect of the consolidation is intended to provide more money for market development, industry promotion and research, instead of overhead, salaries, and staff costs.

Because the plan proposes merging groups with separate missions, and some have missions related to lobbying and others are primarily concentrated on market development and research, the subcommittee is interested in determining how checkoff dollars will remain separate from lobbying activities as required by the Beef Promotion and Research Act of 1985.

I remember well the creation of the Beef Checkoff Program which has turned out to be one of the most successful programs of its kind in the country. This program has an exemplary record of complying with the terms of the 1985 Act.

In fact, the Beef Promotion Research Program was recently audited by the U.S. Department of Agriculture and it passed with flying colors.

We will also solicit testimony on the effect of the industry consolidation on State level promotion and research groups, because there is a very important relationship between the national effort and what is being at the State level.

Our second panel will examine the effects of two bills, Senate bill 1557 and Senate bill 1564 and the Dairy Promotion and Research Program. Senate bill 1557, proposed by Senator Kohl is intended to provide for direct election of board members of the Dairy Promotion and Research Board. Currently nominations are taken for the Secretary of Agriculture for his appointment to the Dairy Board.

And finally, the subcommittee will examine S. 1564, proposed by our Colleague on this committee, Senator Feingold, which would amend the Dairy Promotion and Research Program to ban block voting by cooperatives, assess defective imports of dairy products and sunset the promotion program to coincide with the reauthorization of the Dairy Commodity Program.

I want to thank all of those who will be serving as witnesses today. We have an excellent cross section, I believe, of those that are impacted by this piece of legislation and by the consolidation plan and we look forward to hearing from all of you. I want to turn to my Colleagues first and ask if there are any opening comments that they would like to make. Senator Feingold.

#### STATEMENT OF HON. RUSSELL D. FEINGOLD, A U.S. SENATOR FROM WISCONSIN

Senator FEINGOLD. I want to thank you, Mr. Chairman. I first thank the Chairman of the Full Committee, Senator Leahy, for his willingness to have this hearing and especially my friend and Chairman of the subcommittee, Senator Boren, for graciously agreeing to hold this hearing. The more senior Members can correct me, but it is hard to imagine a busier time around here and it is very appreciated that the Chairman has taken the time to do this now.

While it may appear that we are addressing separate and unrelated issues today on the two panels, the Beef Promotion Program and the Dairy Promotion Program, I believe that the two issues really are quite related. They are both about accountability; they are both about producer representation; and they are both about equity and fair treatment for all farmers. To me the purpose of this hearing is neither to debate the effectiveness of these programs, nor to debate whether they should or should not be continued. I think that is up to the producers.

We have called this hearing to pursue the question of whether changes in the respective programs are needed to address the three issues I just mentioned. Our first panel addresses them in the context of the beef industry's Long-Range Plan to unify the cattle industry organization. Our second panel addresses those issues in the context of the various proposals to reform the National Dairy Promotion and Research Board, as the Chairman has said.



Congress, at the request of agricultural producers, has created over 16 promotion and research programs for agricultural commodities ranging from limes to dairy products. The checkoff programs are designed to strengthen the respective product's position in the marketplace and to expand opportunities for farmers. In all cases, the programs are funded directly by all producers of the respective commodity. More importantly, however, the programs were designed to be operated and controlled entirely by the producers who foot the bill. They were also designed to ensure adequate representation. Whether that is actually occurring, however, has come into question at least by some groups. That is a key point, because there is a lot of money at stake here.

Together the 16 promotion programs collect nearly \$1-million-per year from farmers. The dairy and beef promotion programs account for together nearly one-third of that entire amount. Dairy farmers pay over \$225-million-per-year for State, regional and national promotion of milk and dairy products. The Dairy Board is the largest of the 16 commodity promotion programs with the beef checkoff being a close second, a collection roughly involving \$80-million-per-year; and that one is from, of course, both cattle producers and dairy farmers.

When both cattle prices and milk prices are at their lowest levels in years as they are now and when the amount of promotion money in question is over one-quarter of a billion dollars, I think it is incumbent upon the lawmakers who authorize these programs to at least respond when producers raise concerns about the programs. And they have raised some pretty strong concerns.

With regard to beef program, over recent months, I have heard from both beef and dairy producers across the country who are concerned about the beef industry Long-Range Plan that would unify the National Livestock and Meat Board, the Cattlemen's Beef Board, the Meat Export Federation, and the National Cattlemen's Association.

I would like to take the opportunity provided by this hearing to address some of those concerns. They include such concerns as to whether it is appropriate for the Cattlemen's Beef Board to consolidate in any way with their largest contractors, the Beef Industry Council, the National Cattlemen's Association, and the Meat Export Federation. I am also concerned about whether checkoff paying producers will be well represented by the unified organization; whether all producers will be treated fairly under this reorganization; and whether it is appropriate for the Beef Board to establish a more formal relationship with a trade association that actively lobbies Congress and the administration, given that under the law, checkoff dollars cannot be used for lobbying or influencing government action or policy.

These concerns raise the broader questions about the common practice of checkoff programs contracting with trade associations and whether there is an indirect and inappropriate subsidy provided to those trade associations. This hearing will examine some of these issues, as well as the process that has been used to establish the beef industry unification proposal.

Very briefly, Mr. Chairman, as to the dairy portion, the same issues come up—accountability, producer representation, and equity.

And I think they are the key to the controversies that have surrounded the National Dairy Board for the last several years. The National Dairy Board has been one of the most controversial aspects of dairy policy in recent years. Producers have not only raised objections to the practice of cooperative block voting in producer referenda, a practice unique to the Dairy Board, they have actually asked the practice to be prohibited.

They have also suggested alternative reforms to the program which the Chairman alluded to, such as equal treatment of domestic producers with importers, so that we do not disadvantage our own producers relative to our foreign competitors. We have for years exempted the importers from assessments that we place on our own producers. The issue of regular Congressional review of the promotion program through the reauthorization process is another suggested reform. And finally, improved representation on the Dairy Board by establishing elected boards rather than politically appointed members.

As the Chairman has indicated, both I and my senior Senator from Wisconsin have introduced bills with regard to these issues and I understand Senator Kohl will be here at some point to present his proposals and concerns. From my perspective, I am still considering ways to improve the National Dairy Board and make it more accountable to producers. So my bill is not cut in stone; it is rather in a fluid development process, if you will. If what we learn today adds to the knowledge of some needed changes, I am happy to work with others to add additional items to the bill.

On both panels we have both very knowledgeable and dedicated individuals testifying, all of whom care very deeply about these checkoff programs. I want to add to the Chairman's remarks, I am very pleased that you are all here and I know we can learn from your experience. I welcome you and I again thank the Chair.

[The prepared statement of Senator Feingold follows:]

#### STATEMENT OF SENATOR RUSSELL D. FEINGOLD

I want to first express my thanks to my friend and Chairman, Senator Boren, for graciously agreeing to hold this hearing during a very busy time in this legislative session. We all have a lot on our schedules, but I appreciate his recognition that the issues we are to address today are very important and are worth some of our time today.

While it may appear that we are addressing separate and unrelated issues today on our two panels—the Beef Promotion Program and Dairy Promotion Program—I believe that both matters before this committee today are quite related.

They are both about accountability. They are both about producer representation. They are both about equity and fair treatment of all farmers.

The purpose of this hearing is neither to debate the effectiveness of these programs, nor to determine whether they should or should not be continued. We've called this hearing to pursue the question of whether changes in the respective programs are needed to address the three issues of accountability, representation, and equity.

Our first panel addresses them in the context of the beef industry's Long-Range Plan to unify the Cattlemen's Beef Board, the Beef Industry Council, the Meat Export Federation, and the National Cattlemen's Association. Our second panel addresses those issues in the context of various proposals to reform the National Dairy Promotion and Research Board that have been suggested in the last year, including the initiatives contained in the S. 1564, the Dairy Promotion Program Improvement Act of 1993 which I introduced last year and S. 1557 introduced by Senator Kohl.

Over the past 30 years Congress, at the request of agricultural producers, has created a number of promotion and research programs for over 16 agricultural commodities ranging from limes to dairy products. The programs—known as checkoff

programs—were designed to strengthen the respective product's position in market-place and to expand opportunities for farmers. In all cases the programs are funded directly by farmers.

More importantly, however, the programs were designed to be operated and controlled entirely by the producers who foot the bill.

That is a key point because there is a lot of money at stake here. Together the 16 promotion programs collect nearly \$1-billion-per-year from farmers. The dairy and beef promotion programs account for nearly one-third that amount.

Dairy farmers pay over \$225-million-per-year for State, regional, and national promotion of milk and dairy products. One-third of that amount goes to the National Dairy Promotion and Research Board. The Dairy Board is the largest of the 16 commodity promotion programs. The beef checkoff is the second largest program collecting roughly \$80-million-per-year from both dairy farmers and cattle producers.

When both cattle prices and milk prices are at their lowest levels in years as they are now, and when the amount of promotion money in question is over one-quarter of a billion dollars, it is incumbent upon the lawmakers who authorized these programs to respond when producers raise concerns about their programs.

#### *The beef industry Long-Range Plan*

Over the last year the National Livestock and Meat Board, the Cattlemen's Beef Board, the Meat Export Federation and the National Cattlemen's Association joined forces to work on a joint plan designed to better position beef in the marketplace and to improve the organizational efficiency and effectiveness of the various beef promotion groups. Those are very laudable goals.

The conclusion was reached that the current structure of the beef industry organizations is incapable of achieving those goals. It was recommended, alternatively, that the four organizations be consolidated or unified.

However, there is some discomfort, uncertainty and in some cases opposition to this plan among some dairy and beef producers and their respective organizations. I want to take the opportunity provided by this hearing to address some of these concerns.

These concerns and questions include:

- whether it is appropriate for the Cattlemen's Beef Board, to consolidate in any way with their largest contractors, the Beef Industry Council, the National Cattlemen's Association, and the Meat Export Federation;
- whether checkoff paying producers will be well-represented by the unified organization;
- whether all producers will be treated fairly under this reorganization; and
- whether it is appropriate for the Beef Board to establish a more formal relationship with a trade association that actively lobbies Congress and the administration given that checkoff dollars cannot be used for lobbying.

Some within the beef industry are concerned that implementation of the Long-Range Plan will bring the program into question by checkoff paying producers and reduce support for a program they view as crucial to their survival. Indeed, the Long-Range Plan's goals of greater efficiency and effectiveness are commendable. Getting the biggest bang for the buck is extremely important in these promotion programs funded by farmer dollars—but not at the cost of the integrity of the program.

Now is the time to raise these issues so those with concerns can be heard and a discussion can begin.

#### *The National Dairy Board Reforms*

These same three issues—accountability, producer representation, and equity—are the key to the controversy surrounding the National Dairy Board for the last several years.

The August, 1993 producer referendum on whether the National Dairy Promotion and Research Board should be continued raised more questions than it answered. That is because many dairy cooperatives chose to cast votes en bloc for their membership. While dissenters from the co-op vote were able to vote individually, many producers claimed the process stacked the deck against those seeking reform.

The use of bloc voting not only angered dairy farmers but it also created costly administrative burdens. Because of the controversy surrounding bloc voting, Secretary Espy did public service announcements encouraging farmers to vote prior to the referendum. After the referendum, USDA staff had to spend many weeks verifying the votes that were cast by cooperatives. Additionally, the integrity of the 1993 vote is now being questioned in the courts because of the prevalence of cooperative bloc voting last year.

The results of that vote were not surprising. 78,000 producer ballots were cast in the referendum with 63 percent of those cast en bloc. Virtually 100 percent of those bloc votes were cast as yes votes. Of the 28,000 producers who voted individually, 75 percent voted to eliminate the Board.

While bloc voting seems virtually indefensible and is eliminated in S. 1564, I want to hear about this issue from the perspectives of our witnesses representing producers and cooperatives.

Among additional concerns about the National Dairy Board is the charge that domestic producers are treated inequitably compared to importers of dairy products. The program does not charge foreign dairy products exported to the United States for our promotion efforts even though they appear to benefit from the program. S. 1564 would change this situation and treat all producers fairly.

An additional concern relates to the way in which dairy farmers are selected to the Board of Directors of this program. Critics charge that the current nomination and appointment process makes Dairy Board members accountable only to politicians. If we are to make the National Dairy Board truly a program by and for dairy farmers then those board members should be directly elected by farmers and be accountable only to them. This change is made by a bill introduced by my Colleague Senator Kohl and I support that provision. I look forward to the input from our witnesses on this matter.

It is not for Congress to decide whether these promotion programs should continue. That is a decision for the producers—be they dairy farmers or cattlemen. It is, however, the job of Congress to ensure that these programs are accountable to the producers who pick up the check, that they properly represent the interests of producers, and treat them equitably regardless of size or nature of the operation. This hearing should help us learn more about how those goals might be accomplished.

Senator BOREN. Thank you very much, Senator Feingold. We value your leadership on agricultural issues. You always present a very thoughtful and well reasoned point of view and you are always able to listen to and willing to listen to both sides of an issues. We appreciate the comments that you just made.

Senator CRAIG, do you have any opening comments you would like to make this morning?

#### STATEMENT OF HON. LARRY E. CRAIG, A U.S. SENATOR FROM IDAHO

Senator CRAIG. Mr. Chairman, let me first of all thank you and our Chairman of the whole committee for having these hearings. They are extremely timely, as I think Senator Feingold has mentioned as it relates to the kind of reorganizational examination that both the dairy industry and the beef industry of our country is going through. And I am pleased that they are doing exactly what they are doing. And I say that because I had only one concern as I became an advocate of beef checkoff, both as a legislator and as a producer, was that the money would be used well; that it would not get caught up in large bureaucracies; that it would actually get to the ground.

And I think both industries have demonstrated their constant willingness to monitor that very aspect of a billion-dollars-worth of money flowing and the importance that it can have for the industries. And I think that has already been clearly demonstrated in the ability of the industries to move toward new product, to advance effective promotion, and to do some of the research that is required. I look at what is going on right now, the concern that we have and the administration has as it relates to the proper handling of beef carcasses, and the industry is moving ahead very aggressively to recognize this, to deal with it by establishing good research and to bring that to us, and hopefully we can move aggres-

sively with that. Now that kind of thing I think is positive for both industries.

But I, as a former producer, now go constantly back to the ground, as most of us do and I think we recognize or certainly I do, that these are well accepted programs within both industries today. While there may be some disagreement, as Senator Feingold has mentioned among producers, as to where and how and why. I think there is a general consensus that the dollar used is checked off as being used effectively, and that the organizations constantly work to examine themselves and to restructure when necessary to create greater efficiencies.

So for us to monitor, that is an appropriate responsibility and I think that is what these hearings are all about in part, along with the legislation involved. While it is not my subcommittee, I am hear because both of these industries are of great importance to my State of Idaho and their effective management of their resource is also important to me. Thank you.

Senator BOREN. Thank you very, very much. Your own experience in agriculture is valuable to us as we continue our deliberations.

Senator Baucus, any opening comments?

#### STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA

Senator BAUCUS. Yes, thank you very much, Mr. Chairman. I am pleased you are holding this hearing. Mr. Chairman, I think you know, because we have known each other a long time, that the largest sector of Montana's agriculture industry is feed cattle. Therefore, it is a very important subject to me, and as I have said many times before, there are many beef cattle producers in Montana. In fact, in Montana cattle, the number of head of cattle outnumber people at least three to one. We have 800,000 people and we have over 2½ million head of cattle in our State, so this is important.

Senator BOREN. I have heard the story about the tourist. He stopped the rancher and asked him why there were more cattle than there were people in Montana and he said, actually we prefer them. Is that really true?

[Laughter.]

Senator BAUCUS. And that was with some frequency, Mr. Chairman. In addition, I have co-chaired, along with Senator Wallop from Wyoming, the Senate beef caucus for many, many years, and it is because the beef cattle industry is so important to us.

As you said, today's hearings we will look at the Long-Range Planning Task Force for the beef industry. This was an effort announced last December by the National Cattlemen's Association, the Beef Industry Council, the Meat Board, the Cattlemen's Meat Board, and the U.S. Export Federation. In announcing the Task Force, the Chairman, Rob Adams, spoke of the goal of turning an inward focus into a consumer focused approach. That is a change which I applaud. I think it makes sense and I am quite optimistic with the results of that task force.

As you have indicated and I think Senator Feingold indicated, some have been critical of this effort, at least they raised concerns for a couple of reasons. I must say, I hear those criticisms, but I think that once we look into them more deeply, we will better realize that we should not be worried about them. I say that because a year ago a great deal of enthusiasm was generated by a proposal we all call the Clinton administration to reinvent government. The idea was to create more user friendly government—that was widely hailed. It was thought of as being a good idea to inject more efficiency into Federal bureaucracy and as I say it is widely praised.

In this Task Force, we have an industry attempting to accomplish that same goal. The Task Force addresses eight key leverage points, the concept of a more efficient organization to guide that process. This effort appeared important last December. That importance was highlighted by the decrease in price drops of beef and cattle. Now, although the markets, as we know, appear to be stabilizing. There is no reason to ever become complacent. The public demand for beef has dropped over the past 10 years, while total meat consumption has increased. As pork and poultry have become increasingly tough competitors, it is apparent that the beef industry must follow suit.

The unified organizational structure, I think, is not only a positive step in that direction, but I think is a necessary step. And I will admit there are concerns in a major change like this. But I am confident that this process has been well handled from the start and the Task Force has operated in a very reasoned and opened manner.

The producers in Montana, as you might guess, Mr. Chairman, are fairly conservative. Montana beef producers are conservative folks. They are usually slow to embrace change. But they are supportive of this action. And in some cases, have even expressed concern that the merger could be accomplished more quickly.

Another concern is the fear that the checkoff dollars might be funneled into lobbying, an illegal use of those funds. I believe that concern, although I hear it, is unfounded and I say that because for some time the beef industry groups have very carefully followed established accounting practices which track staff time and expenditures to ensure that checkoff funds are used in a legal manner. Auditors have carefully analyzed these procedures and they have been satisfied. I believe that if the four groups emerged, the tracking of these expenditures would probably become easier, not more difficult.

So I suggest that we ask some questions. We try to figure out to the degree to which this makes sense. But I believe that after the dust settles and the cloud has cleared, that we will find it is a good idea and we can proceed forward. Thank you very much.

Senator BOREN. Thank you very much, Senator Baucus. It is always good to have you part of our proceedings, both on this committee, and Senator Baucus and I have the privilege of serving on both this committee and the Finance Committee together where we end up working on many agriculture-related issues on that panel, because agriculture is often disadvantaged by tax policy and we are constantly fighting battles there together for what we believe are sound and fair policy.

[The prepared statement of Senator Baucus follows:]

STATEMENT OF SENATOR MAX BAUCUS

Thank you, Mr. Chairman—and thank you for calling this important hearing today. I am pleased that we have the opportunity to consider the confirmation of these nominees. I believe that these are both important positions but I will focus my remarks toward the position of Assistant Secretary for Science and Education.

This century has seen a remarkable progress in American Agriculture. Three revolutions have resulted in a transition away from subsistence farming by a significant portion of the population. Through the advances of the mechanization of agriculture, the chemical revolution, and the green revolution each American farm family now feeds 80 people. Fifteen years ago that same family fed just 47 other people.

The progress in agricultural production continues today with genetic mapping, ongoing varietal development and other technological advances. But the need for research is not over.

In Montana, agriculture remains the largest single contributor to our economy. Each year, production agriculture generates \$2 billion in sales for our State economy. At the present time, the Agricultural Research Service of the U.S. Department of Agriculture annually invests less than \$6 million in 3 research locations in the State. That represents an investment of research and development of three-tenths of 1 percent of the agricultural receipts.

That level can be viewed in one of two ways. Either limited research investment has yielded great results or we have a level of investment which is absurd. I lean toward the latter opinion.

Recently, the administration brought forward a budget which would close nearly 15 percent of the research facilities operated by the ARS. One of those facilities recommended for closure is the Northern Plains Soil and Water Research Center in Sidney, MT.

That recommend closure would come on the heels of the loss of 4 ARS scientists in Montana over the past 2 years. That follows a reduction at the Sidney Station of 50 percent of their budget in the past 10 years. When will this hemorrhaging stop?

Agriculture, as you know is not a special interest group. It is a hundred-billion-dollar industry and a significant employer. Improvements in efficiency have allowed the farm population to migrate to the cities over the past century. Today, 2 percent of our citizenry produces a safe food supply for not only the United States, but for a significant part of the world.

If we still relied on technology from the era of World War I, we would need 31 million farm workers to maintain our level of production. That's seven times the current farm population. This efficiency is a result of an aggressive research effort.

Today, wheat yields average 39.4 bushels per acre. That's up from 26.5 during 1965, your first year at Texas A&M. 1993 agricultural exports represented 10 percent of the total U.S. exports. Those exports generated \$60 million in economic activity and supported 900,000 full time jobs. Those are important considerations.

Ever-increasing demands are made on the farmers who produce our food and fiber. The restrictions of conservation compliance plans, wetlands protection, pesticide-use regulations, and clean water legislation necessitate the development and adoption of new technologies. The producers of today need the tools to bring their production in-line with new requirements. The research functions of USDA have an obligation to conduct the research necessary to enable producers to meet the demands of tomorrow.

Dr. Amador, I have heard you described as an outstanding plant pathologist and agronomist who has contributed to both science and education during your 30 years in the Texas A&M University System. That you have the Distinguished Chairman of the House Agriculture Committee in your corner, speaks volumes about your abilities. You are highly respected by your colleagues and by the industry you have served.

I find your resume impressive. However, I'd like to know more about your research philosophy, your management philosophy, and your goals for the position to which you are nominated. I look forward to hearing your statement and responses.

Senator BOREN. Senator Cochran, do you have any opening comments that you would like to add?

Senator COCHRAN. Mr. Chairman, I do have an opening statement and I would like to have it printed in the record if we can get unanimous consent to do that.

Senator BOREN. I think we can do that. Without objection.

**STATEMENT OF HON. THAD COCHRAN, A U.S. SENATOR  
FROM MISSISSIPPI**

Senator COCHRAN. I do want to say that I am very pleased to see that Jim Newsome from Mississippi is a part of the first panel which will testify this morning. He is executive director of the Mississippi Cattlemen's Association and also director of the Cattle Industry Board there. He has had a lot of personal experience. He is a cattle farmer well respected and we are really proud of the role he has played, not only in Mississippi, but nationally. He is looked to for leadership at the national level and we are very proud of him. We are glad he is here this morning. Thank you.

[The prepared statement of Senator Cochran follows:]

**STATEMENT OF SENATOR THAD COCHRAN**

Mr. Chairman, the beef and dairy industries are a vital part of Mississippi's agricultural economy with an annual farm value of over \$250 and \$100 million, respectively. I am committed to doing everything possible to insure the stability of these industries through strong domestic and export market opportunities. I believe that U.S. beef and dairy producers have outstanding leaders who are qualified to evaluate their current status and to set long-range goals for their respective industries.

I am supportive of the existing Beef and Dairy Promotion and Research Programs. It is my desire that we continue to work with the farmer-elected industry leaders and cooperatives to assist them in their efforts to improve the production and marketing of U.S. beef and dairy products, while providing consumers with the safest and most wholesome food in the world.

Mr. Chairman, I am also very pleased to introduce to this committee, Mr. Jim Newsome. Jim is currently the executive director of both the Mississippi Cattlemen's Association and the Cattle Industry Board of Mississippi. In this position he oversees the administrative operations of the cattlemen's legislative activities, membership programs, magazine and beef promotion and research efforts.

In addition, Jim is the owner of Newsome Farms, a purebred Limousin and commercial cow/calf operation. He has done an outstanding job over the past 5 years in providing excellent leadership on both the State and national levels. I look forward to the testimony of the witnesses.

Senator BOREN. Thank you very much and your full statement will appear in the record.

Senator COCHRAN. This is a very interesting subject to me because as a child I was taken around Oklahoma by my father who was in the process of founding the Oklahoma Cattlemen's Association. So from the very earliest age, I followed the efforts of this industry and marketing and research efforts as well. So this is a very important proposal, and as you have indicated, we are very fortunate to have some of the real leaders in the industry here with us today.

Before we turn to our first panel, I noticed that our colleague, Senator Kohl has joined us, and as I indicated he is the principle author of Senate bill 1557, the bill to provide for direct elections of the members of the Dairy Board. We welcome you, Senator Kohl. We will hear your testimony first and then we will turn back to our panel discussion of the beef industry-wide Long-Range Plan. We welcome you.



STATEMENT OF HON. HERB KOHL, A U.S. SENATOR  
FROM WISCONSIN

Senator KOHL. I thank you very much, Senator Boren and I am pleased that you give me the opportunity to speak today on a matter that is very important to me and to the farmers of Wisconsin—dairy and beef promotion. We congratulate you and my good friend and my colleague, Senator Feingold for your leadership on this issue and for your diligence in pursuing some of the concerns that we both share.

I would also like to recognize as a panelist this morning Stewart Huber, who is president of the Farmers Union Milk Marketing Cooperative. He is a member of the first panel today and he is a valued member of my Agriculture Advisory Committee in Wisconsin. I have known Stewart for many years and he is a respected voice in my State, as well as nationally.

Mr. Chairman, agricultural promotion has become a big business in this country. The annual budget of the National Dairy Promotion Board, for example, is about \$70 to \$75 million a year. But this \$75 million is not money that comes from the Federal Treasury. Every dime comes directly out of the pockets of dairy farmers themselves. And it is precisely because the National Dairy Board is farmer-funded that I believe that the Board should be as accountable to the farmers as possible.

Last summer a national referendum was held giving dairy producers the opportunity to vote on whether or not the National Dairy Board should continue. The referendum was held after 16,000 dairy producers, more than 10 percent of dairy farmers nationwide, signed a petition to the Secretary of Agriculture calling for the referendum. Farmers signed this petition for a number of reasons. Some felt that they could no longer afford the promotion assessment that is taken out of their milk checks every month. Others were frustrated with what they perceive to be a lack of clear benefits from the promotion activities. And still others were alarmed by certain promotional activities undertaken by the Board with which they did not agree.

But overriding all of these concerns was the fact that dairy farmers have no direct power over the promotion activities which they fund from their own pockets. When the outcome of the referendum on continuing the National Dairy Board was announced, it had passed overwhelmingly. But because nearly 90 percent of all votes cast in favor of continuing the Board were cast by block voting cooperatives, there has been skepticism among dairy farmers about the validity of the vote.

While I believe that dairy promotion activities are important for enhancing markets for dairy products, it matters more what dairy farmers believe. After all, they are the ones who pay hundreds or thousands of dollars every year for these promotion activities and they are the ones who have no direct say over who represents them on the Board. It was for that reason that I introduced the National Dairy Promotion Reform Act. The intent of this legislation is not to rehash the referendum debate of last year which has been a contentious one, instead the intent is to look forward.

My bill would give dairy farmers a more direct role in the selection of their representatives on the National Dairy Board by allow-

ing farmers to directly elect the Board members, instead of having them appointed by the Secretary of Agriculture. Further, although this legislation would continue the right of farmer cooperatives to nominate individual members to be on the Board, block voting by cooperatives would be prohibited for the purposes of the election itself.

I am a strong supporter of the use of block voting by cooperatives on technical issues such as market order matters. That is appropriate and frankly I believe it is necessary. But on the issue of who represents farmers on the National Dairy Board, I believe that farmers ought to speak for themselves.

I am also a cosponsor of Senator Feingold's Dairy Promotion Program Improvement Act which makes other needed improvements to the Dairy Promotion Program. And I thank Senator Feingold for his leadership on this legislation.

In closing, I would like also to express my interest in the matters to be raised today regarding beef for consolidation. It is crucial that there be a strict separation between promotion and lobbying activities and that the promotion funds that come out of farmers' pockets be used as efficiently and effectively as possible.

So again, Mr. Chairman, I thank you for the opportunity to speak here today. I look forward to reviewing the hearing record and I thank the committee for holding this hearing Senator BOREN. Thank you very much, Senator Kohl. We appreciate your outlining the reasons that you had for introducing your particular proposed piece of legislation. Let me ask my colleagues, are there any questions? Senator Feingold, any questions of Senator Kohl? Senator Craig? Any questions? Let me ask just one question. If we go to direct election of members of the Dairy Board, is there some danger we might lose geographical balance in representation around the country or is that something that should be structured in the legislation?

Senator KOHL. I think that could be structured very easily. But the point of it is that if we are going to ask farmers to put up as much money as they do for dairy promotion activities, they should feel that they have a way to directly express themselves in selecting the people who are going to determine how that money is being spent. And if it needs to be done with geographical balance, I think that makes good sense.

Senator BOREN. Thank you very much. We appreciate your comments and we appreciate you taking time to join us and lead off as our first witness this morning.

[The prepared statement of Senator Kohl follows:]

#### STATEMENT OF SENATOR HERB KOHL

Thank you for giving me the opportunity to testify today on a matter that is very important to me and to the farmers of Wisconsin—dairy and beef promotion. And I congratulate you Senator Feingold for your leadership on this issue, and your diligence in pursuing some of the concerns that we both share.

Agricultural promotion has become a big business in this country. The annual budget of the National Dairy Promotion Board, for example, is about \$70-75 million. But this \$75 million is not money that comes from the Federal treasury. Every dime comes directly out of the pockets of dairy farmers themselves.

And it is precisely because the National Dairy Board is farmer-funded that I believe that the Board should be as accountable to the farmers as possible.

Last summer, a national referendum was held giving dairy producers the opportunity to vote on whether or not the National Dairy Board should continue. The referendum was held after 16,000 dairy producers, more than 10 percent of dairy farmers nationwide, signed a petition to the Secretary of Agriculture calling for the referendum.

Farmers signed this petition for a number of reasons. Some felt they could no longer afford the promotion assessment that is taken out of their milk checks every month. Others were frustrated with what they perceived to be a lack of clear benefits from the promotion activities. And still others were alarmed by certain promotion activities undertaken by the Board with which they did not agree. But overriding all of these concerns was the fact that dairy farmers have no direct power over the promotion activities which they fund from their own pockets.

When the outcome of the referendum on continuing the National Dairy Board was announced, it had passed overwhelmingly. But because nearly 90 percent of all votes cast in favor of continuing the Board were cast by bloc-voting cooperatives, there has been skepticism among dairy farmers about the validity of the vote.

While I believe that dairy promotion activities are important for enhancing markets for dairy products, it matters more what dairy farmers believe. After all, they are the ones who pay hundreds or thousands of dollars every year for these promotion activities. And they are the ones who have no *direct* say over who represents them on that Board.

It was for that reason that I introduced the National Dairy Promotion Reform Act (S. 1557). The intent of this legislation is not to re-hash the referendum debate of last year, which has been a contentious one. Instead, the intent is to look forward.

My bill would give dairy farmers a more direct role in the selection of their representatives on the National Dairy Board, by allowing farmers to directly elect the Board members, instead of having them appointed by the Secretary of Agriculture.

Further, although my legislation would continue the right of farmer cooperatives to nominate individual members to be on the ballot, bloc voting by cooperatives would be prohibited for the purposes of the election itself. I am a strong supporter of the use of bloc voting by cooperatives on technical issues such as market order matters. That is appropriate, and frankly, I believe it is necessary. However, on the issue of "who represents farmers on the National Dairy Board?" farmers ought to speak for themselves.

I am also a cosponsor of Sen. Feingold's Dairy Promotion Program Improvement Act (S. 1564) which makes other needed improvements to the Dairy Promotion Program. And I thank Senator Feingold for his leadership on this legislation.

In closing I would also like to express my interest in the matters to be raised today regarding beef board consolidation. It is crucial that there be a strict separation between promotion and lobbying activities, and that the promotion funds that come out of farmers pockets be used as efficiently as possible.

Again, Mr. Chairman, I thank you for the opportunity to testify today. I look forward to reviewing the hearing record. I thank the committee for holding this hearing.

Senator BOREN. I am going to introduce the members of our panel now. Let me say that we will have joining both panels some technical experts from the department who will be present to answer any questions. We will not ask them to make opening comments, but they will be joining the panel and they will be available to make comments if they are addressed or they want to add a technical point for clarification to us. And I will ask them to come on up at this time. Mr. Ken Clayton, the deputy administrator of the marketing programs of the Agricultural Marketing Service; Barry Carpenter, who is the director of the livestock and seed division of the Agricultural Marketing Service; and Silvio Capponi, the deputy director of the dairy division of the Agricultural Marketing Service.

The members of our first panel who will be making opening statements for us, Mr. James Webb, chairman of the beef industry Long-Range Plan Oversight Committee of Phoenix, Arizona. Mr. Webb, we are very glad to have you. Mr. Stewart Huber, president of the Farmers Union Milk Marketing Cooperative of Madison, Wisconsin; Mr. David Fugate, chairman of the Tennessee Beef In-

dustry Council; Mr. Jim Newsome, executive director of the Cattle Industry Board, Mississippi Cattlemen's Association, who has been referred to by Senator Cochran; and Mr. Bob Drake of the National Cattlemen's Association in Washington, DC.

Let me say, seeing his title listed as Washington, DC is a little strange for me, since he really is from Davis, Oklahoma and has been a great leader in the Oklahoma Cattlemen's Association and a close advisor to me on all agricultural matters before he assumed his current leadership position with the National Cattlemen's Association which is a matter of great pride to those of us in the State of Oklahoma.

We appreciate all of you being here. What I am going to ask, so that we can stay on schedule, I think perhaps this would be the best way to handle our situation this morning, is that we have each member of the panel provide an opening statement. I do not know, do we have the timekeeper here? OK. If you could, hold your comments within 5 minutes. We will receive the full statements of each of you for the record. And if you could summarize your statements and hit those points that you particularly feel are important, it would help us to move along.

I know Mr. Webb is going to give a little bit of the historical summary of how some of these proposals evolve. So he may have to take a little bit longer than that. We will understand. Then I think what we will do is we will go down the panel and have all five of you make comments. I will call on Mr. Webb first and then Mr. Huber, Mr. Fugate, Mr. Newsome, and then Mr. Drake. And then we will open to questions to all of you from the members of the committee. I think that would save our time if we proceed in that matter.

So Mr. Webb, we welcome you. We know that you have shared this Long-Range Plan Oversight Committee and we welcome your comments and your setting the historic perspective for us.

**STATEMENT OF JAMES M. WEBB, CHAIRMAN, BEEF INDUSTRY LONG-RANGE PLAN OVERSIGHT COMMITTEE/CATTELMEN'S BEEF PROMOTION AND RESEARCH BOARD, PHOENIX, AZ**

Mr. WEBB. Thank you, Mr. Chairman. My name is Jim Webb. I am a cattleman from Phoenix, Arizona, fourth generation Arizona rancher. I am chairman of the Cattlemen's Beef Promotion Research Board and I also chair the beef industry Long-Range Plan Oversight Committee and sit on the Arizona Beef Council.

As you have requested I will discuss four topics. The beef industry Long-Range Plan and recommended unified structure; separation of industry promotion funds from lobbying and governmental activity funds; how the unified structure concept will affect State-level groups; and how the Cattlemen's Beef Board oversees the Beef Checkoff Program.

The beef industry Long-Range Plan was developed by a task force charged with the mission of increasing the overall effectiveness, efficiency and marketing capabilities of beef producers collective contributions to four major beef organizations—the Beef Industry Council, the National Livestock and Meat Board, the National Cattlemen's Association, United States Meat Export Federation and the Cattlemen's Beef Board.

The Task Force was made up of 1 elected officer from each of the 4 organizations and 10 at-large beef producers. They had only one goal—to develop a single, unified plan to better position beef in the consumer marketplace. Task force members not only drew from their own experiences, but also called in over 70 other business leaders to provide their insight. Producers, packers, retailers, marketers, and competitors from poultry and other protein industries. Their collective message was clear. The U.S. beef industry has for too long been production driven rather than consumer driven. The industry has been more sensitive to its own concerns rather than needs and preferences of consumers.

As a result, beef market share is declining. During the past decade average per capita meat consumption rose but at the same time beef consumption dropped 10 pounds. Beef share of consumer expenditures for red meat and poultry has dropped from almost 60 percent in 1980 to less than 50 percent in 1992, and is projected to continue dropping through the year 2000. We cannot let this happen.

Unfortunately, mixed messages coming from the industry has sent confusing signals to the marketplace. Having four separate industry organizations has meant four plans and four ways of managing issues. That has created industry confusion, lack of cooperation and sometimes conflict. We have provided copies of the Long-Range Plan, along with our written testimony. The plan outlines eight key issues called leverage points or strategic points of impact that can help us achieve our vision of a dynamic and profitable beef industry that concentrates resources around a unified plan, consistently meets consumer needs, and increases market share.

The Task Force felt that to fully realize the opportunities inherent in each leverage point, the four beef industry organizations need to establish one unified structure. The structure must achieve four very critical criteria. It must focus on the key outcomes in the leverage points. It must provide coordination and cooperation among all participants. It must provide control which enables the organization to correct its course as the environment dictates. It must be cost-effective, making the most efficient use of financial and human resources.

The Task Force did not develop a detailed organizational structure. It felt it should be comprised of and serve all stakeholders, including dairy and veal producers, anyone who invests in the beef industry. The Oversight Committee formed to implement the Long-Range Plan, includes the 1994 chairman or president, two additional officers or designees, and the CEO from each of the four organizations. The committee also includes 4 at-large members from the Long-Range Planning Task Force for a total of 20 members, plus a project leader and a facilitator.

The committee is responsible for keeping the industry focused on the Long-Range Plan and developing a unified structure proposal. Actually at this point, we are still in the information gathering stage. No specific structure proposal has been approved. Several concepts and criteria are being reviewed. Oversight Committee members have met with grassroots membership of each of the four organizations, as well as the leadership and such related agricultural organizations of the National Farmers Union, American Farm

Bureau Federation, Livestock Marketing Association, National Milk Producers Federation, and others.

Next week, we meet for a second time with the Federation of State Beef Councils. We want to be sure we do this right. So we have allowed substantial time and opportunity for input and for questions and concerns to be raised now, so they can be addressed as the structure is developed. One such concern is designing a structure that will fit within the existing Beef Promotion and Research Act and Order.

As chairman of the Beef Board, I believe the Beef Board can participate with other industry organizations in a unified effort. However, I believe the Beef Board must retain the capability, identity, and authority to discharge the specific functions it is required to perform under the Beef Promotion and Research Act and Order to ensure its overall accountability for the Beef Checkoff Program.

The Beef Board Executive Committee adopted a set of general guidelines developed by its administration's subcommittee. The guidelines were designed to ensure compliance with the Beef Promotion and Research Act and Order and to guarantee representation of all segments of the beef industry. I am submitting a copy of the guidelines with my written testimony.

Let me summarize some key points in the guidelines. Structure of State organizations should be decided individually by the States. Checkoff dollars must be segregated from membership dues and other revenue. All checkoff dollars must be used as intended by the Act and Order. The unified structure must include an audit function that ensures separation of checkoff and noncheckoff financial resources. Lobbying cannot be funded even indirectly with checkoff dollars. The new organization must provide for the strict separation of dues dollars from all checkoff funds. We do that now.

In its contractual relationship with the National Cattlemen's Association, the U.S. Meat Export Federation, the Beef Industry Council and other organizations which manage checkoff funded programs, the Beef Board has conducted periodic contract compliance audits and established a cost recovery concept. This means that contractors may only be reimbursed for costs actually incurred on behalf of the Board and may not profit from their relationship with the Board. The accounting procedures followed to establish this concept can also ensure segregation of checkoff funds from other revenue sources in a unified structure. The Cattlemen's Beef Board has oversight responsibility for the Beef Checkoff Program. Systems we have in place to carry out the program and to ensure compliance are detailed in the written testimony we are submitting for the record.

Board members are dedicated to providing producer contributors with the greatest possible return on their investment and to continually improve the effectiveness of the Beef Checkoff Program. That is why I believe the beef industry Long-range Plan was approved by such a resounding majority of the Beef Board. The Oversight Committee process for developing a structure to implement the plan calls for a joint meeting of the executive committees of the four organizations in early September.

USDA will receive the proposal following this meeting. A unified structure proposal will be finalized in October. The proposal will be

announced by early November. The four organizations could vote on it by January 30, 1995, and the new structure could be operational by July 1995. Obviously, the Beef Board's participation would be subject to approval by USDA.

Mr. Chairman, I thank you for the opportunity to make these comments.

Senator BOREN. Thank you very much, Mr. Webb. Let me say also that I have been asked by Senator Leahy, of course, the Chairman of this Full Committee—the Committee of Agriculture—to submit a statement for him for the record and also Senator McConnell of Kentucky has asked that I submit a statement for him for the record. So they will be entered.

[The prepared statements of Senators Leahy, McConnell, and Grassley follow, respectively.]

#### STATEMENT OF SENATOR PATRICK J. LEAHY

Mr. Chairman, I appreciate your holding this hearing today as the subcommittee looks at some possible changes to the Beef and Dairy Promotion Programs.

The USDA administers 16 promotion and checkoff programs. It is important that these programs evolve to meet the needs of the changing market so that the producer dollars are spent wisely.

I am aware that a coalition of beef industry groups have come together in support of a single unified promotion program. This effort is similar in some respects to the recent merger of the programs of the United Dairy Industry Association (UDIA) and the National Dairy Board. In this day of tight budgets, it makes sense to get the most efficient use of the producers' promotion dollars.

I commend the beef industry for trying to do the same. This centralization, however, does raise some questions. One of the "stakeholders" involved in the beef industry's long-range plan is the National Cattleman's Association (NCA). We often see our friends from the NCA here testifying before our committee and throughout the halls of Congress lobbying us and our colleagues.

One of the tenets of these promotion programs is that promotion funds must not be used for lobbying activities, which is why I have noted the involvement of the NCA in this venture. I am sure that diverting promotion dollars to lobbying activities is not the intent of the NCA or any of the groups involved in this process. I will be looking closely at the development of this single beef industry organization to make sure that there is no possibility that this could occur. There have been cases in promotion programs where these relationships have been called into question, and it undermines the public and producer trust in these programs.

I also have questions about the representation of dairy producers on the new unified beef industry board. Dairy producers contribute about 25 percent of all beef checkoff dollars. After looking over the beef industry report, I have been assured by a Vermont dairy farmer who was on the beef industry Task Force, that dairy interests will be represented. As the details of the beef industry proposal are developed, I will be watching closely to see that happens.

Dairy producers have recently reaffirmed their own promotion program in a referendum last year, but it was not without controversy. Many dairy farmers, over 22,000, voted against the National Dairy Board in the referendum conducted last year.

I do not think there is any disagreement that dairy farmers need to promote their product, nor is there disagreement that the National Dairy Board needs to be accountable to the farmers who are paying the bill. The main issue at stake in this controversy is how the voting occurs.

I know that some of the witnesses here today are concerned that the cooperatives to which they belong do not represent their views and object to the concept of bloc voting, the practice where cooperatives vote on behalf of their members.

By nature, by charter and by law, cooperatives are run by the members of the cooperative. It is important that cooperatives represent the majority of producers' views, but producers have a responsibility to involve themselves in the process. I would prefer to see dairy farmers work within their organizations to affect change, so that dairy farmers can speak with a unified voice. But I understand the calls for change and I am sympathetic, for there is nothing more frustrating than to have someone speak on your behalf and not represent your point of view.

I know that Senator Feingold has introduced legislation to eliminate bloc voting for future referenda on the National Dairy Board. I will closely review today's record as the committee considers this matter.

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#### STATEMENT OF SENATOR MITCH McCONNELL

Mr. Chairman, last year the beef industry as a whole created a task force to develop a long-range plan that would effectively meet higher consumer expectations and focus on domestic and international marketing. In December 1993, the industry announced their findings from the study of the challenges they face. After their thorough evaluation of their assets and opportunities, the industry came up with a set of *long-range goals* to better the beef industry. They answered the call from consumers all across the country who had expectations—people wanted better quality beef at affordable prices. The industry was able to assess their situation and come up with a plan to better serve and meet consumer demands and also expand their own opportunities for growth.

By combining the four existing national organizations—the Beef Industry Council of the Meat Board, Cattleman's Beef Board, the National Cattleman's Association, and the U.S. Meat Export Federation—the beef industry will be a single, *unified* industry that will be more efficient, effective, and responsive, for its membership.

Kentucky has more beef-cattle producers than any State east of the Mississippi River, so it is extremely important to have an efficient organization that will best serve our hard-working beef producers. I am proud to say that Kentucky has already streamlined their beef organizations resulting in an increase in efficiency and effectiveness that is productive for producers.

In regards to dairy, the impact of eliminating the ability of farmer cooperatives to vote on behalf of their members would have significant ramifications for all farmer cooperatives.

Agricultural producers voluntarily join cooperatives because they believe the cooperative can improve their farm earnings. The agreement between cooperatives and their farmer members is contractual. It is established by the membership agreement, cooperative bylaws, and articles of incorporation. The decision on how to vote is determined by the Board of Directors which is democratically elected by the membership.

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#### STATEMENT OF SENATOR CHARLES E. GRASSLEY

Mr. Chairman, I just have a brief observation on this morning's proceedings. It is my understanding that testimony will be given on the merger of the National Cattleman's Association and the Beef Industry Council. From this Senator's point of view, the merger of these two groups is a step in the right direction.

As the Senators on this committee know, the prior 12 months have been very difficult for cattle producers. And the last 2 months have been particularly devastating. The sharp decline in beef prices has resulted in losses to producers of between \$125 to \$200 per head. An often cited reason for this steep decline is the oversupply of beef on the market—which is due to an increase in the number of cattle being slaughtered as well as the weight of those cattle.

These facts are all well known to the people in this room and my intent is not to preach to the choir on the decline of cattle prices. My point is—that the promotion of beef products to increase consumer demand is vital in times of rising supplies and falling prices. It is also vital that the beef industry react *quickly* in reaction to these market forces.

The industry itself—represented by the groups here today—is best equipped to determine what type of organization will allow it to respond quickly and effectively to a rapidly changing market. Congress should not—and will not—dictate to you the means of achieving this goal.

Although no one will argue that certain members of the beef industry should be excluded in these discussions, I for one, believe that the beef industry's Long-Range Plan goes a long way towards achieving efficiency in the industry. And under these difficult market circumstances, efficiency in promotion should be the ultimate goal.

Senator BOREN. I would announce that we will keep the hearing record open for 30 days following the hearing for any others, individual or groups, that might wish to submit testimony to be included as a part of this record.



Mr. Huber, we welcome you.

**STATEMENT OF STEWART G. HUBER, PRESIDENT, FARMERS UNION MILK MARKETING COOPERATIVE, MADISON, WI**

Mr. HUBER. Thank you very much, Chairman Boren, members of the committee. My name is Stewart Huber. I am a Wisconsin dairy farmer. I appear here today on behalf of over 10,500 family dairy farmers who belong to Farmers Union Milk Marketing Cooperative, who like myself, sell milk and dairy beef for a living and are subject to the mandatory checkoff programs affecting both commodities.

Our members want to be sure their checkoff dollars are being wisely and properly used. We thank you for holding this timely hearing and affording us an opportunity to present our views. Our written testimony, submitted for the record, contains specific recommendations for both beef and dairy checkoff programs. However, our oral testimony shall be limited only to the beef program, specifically to the proposed reorganization plan.

I want to make it clear at the outset that although I am a member of Beef Board, I am appearing here today only on behalf of the aforementioned dairy producer group. At first blush, the special Task Force recommendation to combine the functions of the U.S. Meat Export Federation, the Beef Industry Council, the National Cattlemen's Association, and the Beef Board into one super corporation might seem to make sense. Wouldn't it make sense to get rid of the duplication and turf wars over where the checkoff dollars are spent, sharpen the focus and speak with a single, unified voice as the proponents' spouse?

So why do dairy producers who contribute about a fourth of the checkoff dollars have such strong reservations about the proposal? First of all, the enabling Act is very clear in prohibiting any lobbying or activities which would influence government activities or policies with checkoff dollars. We suggest the creation of such a super corporation whose stated objective is to speak with a single, unified voice would clearly be in conflict with the intent of the act, especially since the NCA, a lobbying group, would become one of the four principle stakeholders.

Instead of having an arm's length contracting relationship with the Board, it would become a key player. It is no secret that NCA and dairy organizations have been logger heads over dairy supply management proposals in the recent past which probably accounts for the fact that poll after poll indicates that dairymen have the most negative attitudes toward the Beef Checkoff Program of any of the producer groups.

We suspect that the creation of the super board would only compound those negative suspicions that checkoff dollars may be ending up for political activity adversely affecting those who pay the bill. Even with a current arm's length contracting relationship, separation of informational and political activities get fuzzy.

I hold in my hand a sophisticated, bimonthly issues management publication produced by the NCA with checkoff dollars for the beef industry. While the publication deals with some very positive, nutritional, and marketing information, it sometimes may have crossed the line on prohibited activities when it has taken firm po-

sitions on controversial and politically charged issues such as NAFTA, GATT, and BGH, for example. Congressman Dan Glickman's remarks which are quoted in our written testimony regarding separation of lobbying activities, mirror ours exactly.

Our second major concern with the concept is the fact that the current Beef Board's major contracting organizations who benefit financially from checkoff dollars would under this proposal now become three-quarters of the stakeholders of the new corporation. We see an accountability problem here. The Meat Export Federation is not directly accountable to any beef producers. The National Cattlemen's Association is accountable only to its dues paying members, which in the case of Wisconsin, was only 170 of my State's 40,600 cattle producers in 1993.

In the bylaws of the Wisconsin Beef Industry Council which spends half of every beef checkoff dollar raised in my State, guarantees effective control to this group by giving eight seats to the State NCA Chapter. We believe it was never the intent of the Congress when it passed this enabling legislation to grant to organizations that are accountable only to some producers the right to speak for and decide the policy for a very diverse and sometimes competitive industry, while at the same time profiting handsomely from it.

And finally, we believe the timetable for the implementation does not allow enough time for public scrutiny. The final draft is to be made public in October and the final Board vote taken at the NCA convention in January 1995. We believe such narrow window review to be totally inadequate.

We shall be available to answer questions on either our written or oral testimony, Mr. Chairman.

Senator BOREN. Thank you very much, Mr. Huber. Thank you for your testimony.

Mr. David Fugate of Tennessee Beef Industry Council, we welcome you.

#### **STATEMENT OF DAVID FUGATE, CHAIRMAN, TENNESSEE BEEF INDUSTRY COUNCIL, FRANKLIN, TN**

Mr. FUGATE. Mr. Chairman, and Members of the subcommittee, my name is David Fugate. I own and operate a beef cattle farm and raise tobacco with my father and sons in Tennessee. I am the sixth generation beef producer on the same farm. I serve as Chairman of the Tennessee Beef Industry Council or TBIC representing 66,000 beef and dairy farmers in Tennessee. In addition, I am a long-standing member of the Tennessee Farm Bureau and a director on the Beef Promotion and Research Board. The TBIC is the promotion and marketing arm of the Tennessee beef industry. It represents all segments of the beef industry through its board of directors which is elected by all eight of the industry organizations in Tennessee.

First of all, let me say that the Tennessee beef producers we represent continue to support the Beef Checkoff Program. A recent study in Tennessee showed 87 percent support for the program. Tennessee has the third largest number of beef and dairy producers in the Nation behind Texas and Missouri. These 66,000 producers raise approximately 2.44 million head of beef and dairy cattle.

There are approximately 1.1 million beef and dairy cattle producers who contribute to the checkoff.

According to the NCA, 92 percent of cattle producers have herds of less than 100 head, while 81 percent have less than 50 head. In Tennessee, 79 percent of cattle producers have less than 50 head of cattle. The TBIC serves an important role in communicating to these 66,000 beef and dairy producers, collecting the \$1 checkoff, promoting beef consumption in our State, and supporting the Beef Promotion and Research Board, the Beef Industry Council of the National Livestock and Meat Board, and the U.S. Meat Export Federation.

The TBIC board of directors is responsible for allocations of the 50 cents that remains in Tennessee for programs which meet the objectives of the Act and the Order. Issues brought forth by the TBIC are done so only for the benefit of the beef industry. Raising questions and voicing concerns should not be construed as opposition. We are concerned that the steps taken by our industry have a positive outcome on our ability to effectively and efficiently provide a quality product to our customer and a profitable market for our producers.

The TBIC Board first reviewed the long-range proposal on February 11, 1994. We support most of the eight named leverage points designed for industry progress. Whether this progress can be better achieved through a merger of present organizations is the point in question. The following issues were raised which we believe need to be addressed. And some of these have already been mentioned.

Number 1, merging organizations may eliminate the grassroots producer representation which is present under the current board of directors, and this is very important to us in Tennessee. Producer input and control at the State level was paramount in the minds of the producers in 1988 when they approved the self-imposed tax, or the checkoff.

Number 2, the legality of joining all four organizations is also at issue.

Number 3, there is concern over how a single, unified organizational structure will positively affect the industry. Each organization has a unique function within the beef industry. Each has a unique role. We do not need a structure that adversely affects one or more segments of the industry.

Number 4, the feasibility of keeping checkoff dollars separate from dues dollars is also a point of concern. Operating funds provided by the checkoff program have strict guidelines set forth by the Act and Order and should not have even the appearance of misuse. The structure currently under consideration incorporates the legislative acts of one industry group with industry groups which are prohibited by law from legislative activities. There must be a separation to effectively represent the industry with regard to our legislative arm.

Number 5, the proposed time for evaluating and voting on a unified structure does not take into consideration a realistic timetable for gaining producer input. State Beef Councils will need adequate time to effectively communicate with their grassroots producers for their reactions and input.

Number 6, what is the cost comparison of the two plans?

Number 7, the impact on current relationship between the QSBCs or the State Beef Councils and other industry organizations must be considered. The QSBCs will need to be assured that programs developed nationally can be effectively rolled out to consumers in State.

Number 8, the future of the multispecies organizations, the U.S. Meat Export Federation and the National Livestock and Meat Board must be clarified. Each competing meat product will need their own producer representation.

The TBIC has no hidden agenda. Its mission is to effectively maintain and build demand for beef within Tennessee, nationally and internationally through support and extension of national and State market development programs, thereby increasing the opportunity for all segments of the beef industry to earn an adequate return on investment. The industry structure that best serves our producers and our industry as a whole is our end goal.

When the structural plan is presented, it may answer in full all these concerns. If so, the Tennessee Beef Industry Council will support any changes that improves the beef industry without compromising the checkoff's effectiveness or our producers best interest.

Senator BOREN. Thank you very much.

Mr. Newsome?

**STATEMENT OF JIM NEWSOME, EXECUTIVE DIRECTOR, CATTLE INDUSTRY BOARD, INC., MISSISSIPPI CATTLEMEN'S ASSOCIATION, JACKSON, MS**

Mr. NEWSOME. Good morning, Mr. Chairman. I am Jim Newsome and I serve as executive director of the Mississippi Cattlemen's Association and the Mississippi Cattle Industry Board which is Mississippi's qualified State beef council. I am also a cattle producer and serve on the board of a major beef breed association.

I appreciate the opportunity to testify before you about concerns over our industry plan and structure. However, at the same time, I apologize for you having to spend time on an issue that I feel should be resolved internally, when you have issues to consider that are of greater importance to this country.

The Mississippi Cattlemen's Association was responsible for establishing a State checkoff program 30 years ago, long before a national program became a reality. Mississippi's promotion and research program and policies are the result of cooperative effort among our State's beef, dairy, and veal producers, as well as packers, processors, livestock markets, general farm groups, and others. And we have their support.

In Mississippi, as in 17 other States, the Beef Promotion Program and cattle industry organizations share staff, management, offices, and equipment. This combined effort at the State level has provided numerous efficiencies for the checkoff dollars. There is more cooperation and less duplication of programs. In addition, there is less conflict, fewer turf battles, fewer overall differences among the Mississippi Cattle Industry Board, the Mississippi Cattlemen's Association, and other groups.

Recognizing the need for a unified effort to overcome both internal and external industry programs, the elected leaders of the four national organizations last year formed the Long-Range Planning Task Force. The Task Force's charter was to develop a long-range strategic plan focusing on domestic marketing, international marketing, issues management, efficient and effective use of industry resources, an industry structure.

The Task Force concluded that the current organizational structure presents numerous impediments to overall success of the industry. The industry does not have a single, unified plan with measurable objectives and results. Multiple organizations and boards result in inefficient utilization of time and resources. There is confusion over who is the primary spokesperson for the industry on various issues. And last, coordination and cooperation among State and national organizations is lacking.

The Task Force analyzed the current industry organizations and found that, as an industry, the structural criteria of focus, coordination, control, and cost effectiveness could not be met.

The Long-Range Plan calls for uniting organizational resources in order to help achieve desired outcomes. Our goal is simple—to cut out waste and duplication, cut down on bureaucracy, reduce overhead, and improve efficiency and effectiveness. The industry should speak with one voice. It should have one clearly defined plan of action with measurable objectives and accountable results.

Mr. Chairman, I am not implying that the national organizations when considered separately are inefficient. Nor am I implying that they perform inadequately. We have a good working relationship with each. However, when you consider that each has separate offices, boards, administrators and staff, and that they are competing for the same producer investment, one can easily understand producer concerns about inefficiencies.

Mississippi's cattle industry, as well as many other States, support the industry-wide, Long-Range Plan. We support the Oversight Committee's efforts to come up with a proposal for implementation of the plan. When a final plan is presented, we will carefully evaluate it, and then at that time, we will pass judgment on whether or not we accept it.

Mississippi cattle producers expect the highest return for their investment; whether they are checkoff dollars, dues dollars or come from other sources. We believe the direction of the Long-Range Plan is correct. Thank you.

Senator BOREN. Thank you very, very much. Our concluding member of this panel is Mr. Drake. We welcome you and your testimony.

#### STATEMENT OF BOB DRAKE, PRESIDENT-ELECT, NATIONAL CATTLEMEN'S ASSOCIATION, WASHINGTON, DC

Mr. DRAKE. Good morning, Mr. Chairman and thank you for your kind remarks a minute ago. I do want you to understand that all of Oklahoma is going to miss your wise counsel out here in the Senate. By the same token, those of us who are familiar with where you are going to the presidency of our alma mater, are looking forward to it being bigger and bigger and better and better.

Senator BOREN. Thank you.

Mr. DRAKE. My name is Bob Drake. I am a cattle producer from Davis, Oklahoma. I am here today representing the National Cattlemen Association, NCA, as the president-elect. I am also a member of the Beef Board and the beef industry's Long-Range Plan Oversight Committee.

NCA members hold the majority stake in the Beef Checkoff Program. NCA, its affiliates, and the 230,000 producers they represent account for about 67 percent of the total U.S. cattle herd. The fact that NCA helped give birth to the beef checkoff makes our accountability for its continued success even stronger and our commitment to the Long-Range Plan critical.

The major reasons for the success of the 1985 initiative was that those who drafted it listened more closely to what producers wanted. We brought the checkoff initiative to Washington and we worked with Congress to craft enabling legislation to ensure that this would be a program run for producers by producers. And by the way in Oklahoma, I was the chairman of that effort and we had every single agricultural entity in our State on board and the strongest entity that I worked with was Oklahoma's farmers union and a number of my good friends in that union.

In 1992 though, we recognized that our industry is not as successful as it could be. Some producers started wondering why we did not have one long-range plan for the beef industry. The officers of the four organizations saw the need for a change. They saw the need for a single, unified plan versus four individual plans. This is how the beef industry's long-range plan, released last December, came about. Many, including Members of this subcommittee, have asked, where does NCA fit in a unified structure? Specifically, how will NCA separate its lobbying activities from those activities conducted on behalf of the Beef Board?

The Beef Promotion and Research Act of 1985 is very clear about contractors and accounting and we do not anticipate any change in our procedures. NCA is now and has been since 1988, a contractor to the Beef Board to conduct programs under the industry information section. We instituted strict accounting procedures which traced staff times and overhead costs back to the checkoff projects or lobbying efforts as appropriate. These procedures have been scrutinized by both the USDA and the Beef Board. Over the years they have been improved to the point that we are very confident of our ability to ensure the separation.

I know there was a statement made about an issues management that we send out by bimonthly and it has this disclaimer: Each issue summary also contains a list of management strategies that are being implemented for each issue. Some of the strategies are supported by checkoff funds and some are not. All are listed for your information, because that goes to many of the leaders across the country, and we feel it is very important.

As a contractor with the Beef Board, NCA's goal has been to enhance the marketing environment for beef. For instance, we have helped to move the industry to respond to consumer demand for less fat in beef. We have instituted a voluntary beef quality assurance program that is now in 41 States. We have increased education and public information regarding concerns about animal

care, the environment and food safety. These are the type of NCA programs that are paid for by checkoff dollars.

Checkoff dollars are in no way used to subsidize lobbying activities or other programs. NCA has worked too hard to pass this very successful program to ever jeopardize the checkoff by using any funds for any unauthorized program. When dairy producers sell their product as beef, checkoff funded programs conducted by NCA benefit the dairy producer.

The most recent example is the work being done to push the surplus of beef on the market through the marketing chain. Information efforts geared toward our marketing partners to inform them of the good value on beef, as well as media relations, work to let the consumer know of the current market situation and all have benefited, both the dairy and the beef producers. Even in noncheckoff funded areas, NCA and the dairy organizations agree on most issues—in environmental, trade, nutrition, meat inspection, animal care, and all the policy issues that dairy and beef producers work together.

However, it is a fact of life that there will be times when agricultural groups will not always agree. It is important to remember that currently it is the individual NCA member, via majority, who sets the policy and priorities. That grassroots, bottomup involvement, is what has made the beef industry as strong as it is today. It is the process that was responsible for establishing the beef checkoff. Our members are adamant that some kind of grassroots policy process and involvement of grassroots' producers will be in place in any unified structure.

And at this time, it is the hope of the NCA membership that the Long-Range Plan will be implemented. Thank you, Mr. Chairman.

Senator BOREN. Thank you very much, Mr. Drake. Let me ask if our three representatives from the marketing service have any comments to add at this point.

Mr. CLAYTON. Mr. Chairman, we just appreciate being here and would like to be helpful.

Senator BOREN. We thank you very much for being a part of our procedure this morning. Let me turn first to Senator Feingold for any questions that he might have.

Senator FEINGOLD. I thank you, Mr. Chairman. I do have a fair number of questions. Let me begin by expressing my genuine respect for the industry that our witnesses represent. The cattle and beef industry are terribly important, not just to certain States, but to the whole country. And I hope you will take my comments in that spirit.

I also want to join, especially Mr. Drake's remarks about the Chairman. We always refer to each other as friends around here, but Senator Boren truly is my friend and I am going to miss him and the University of Oklahoma is extremely fortunate, as you know, to be getting him.

Let me start with Mr. Webb. Mr. Webb, it is my understanding, as you have expressed, that you have already achieved the conceptual agreement for this reorganization and consolidation. But you have indicated that there is still work and approval to be done on the structure of the plan, and I understand that the end date goal is the end of January, based on what you have indicated, for that

to be achieved. Review, if you would, when each of the participating groups will approve the structure and which group will approve what?

Mr. WEBB. The timetable that the Oversight Committee has established for the process of coming up with the structure is to have a proposal on the table for the four organizations' executive committees around the first of September. That proposal will be discussed and modified by those executive committees. They will, whatever the modifications are, then go to all of the national organizations, all of the State affiliates, the State Beef Councils to be reviewed and input sent back.

Around the middle of October, the four boards of which Stewart, David, Bob sit on, will meet and discuss the revisions that have come forward out of the grassroots and discuss any other changes that need to be made to that plan. And if they then substantially agree, that proposal would be finalized and would be sent back to the country for discussion and debate and could be voted on as early as, I would say mid-November by one of the organizations and would be completed by all the organizations by January 30th.

Senator FEINGOLD. So each will separately have to approve, prior to the final approval at the end of January. And I assume when each of these groups meet, they will be struggling with whether this will be one organization with one board and one CEO or whether it will end up being a looser structure in which of the groups maintain the respective board, CEOs and staff.

My question really has to do with some of the comments were made about the timing and the desire for more grassroots' involvement. Is there reason why the deadline could not be moved back, let us say 6 months to perhaps the summer meetings to allow more input? In effect, my question is, what is the rush?

Mr. WEBB. The Long-Range Plan Task Force began meeting over 2 years ago now. The plan was presented in December 1993. We have had 8 leverage teams with over 200 plus participants meet to discuss the type of structure. The expenditure of funds that we are doing to come to this discussion needs to have a final ending point to it. Therefore, the Oversight Committee, all four organizations, have embraced the concept of getting it out in the country, getting input back, and then either deciding to do it or deciding not to do it.

Senator FEINGOLD. By the end of January then. I hope you will consider the alternative, but I appreciate your answer. Let me turn to Mr. Drake. Obviously, I appreciate your desire to have this whole industry operate as efficiency as possible and as soon as possible. It is an admirable goal.

But based on the accounts I have seen, the current structure is still returning about \$5 for every dollar invested by farmers and obviously that is a pretty good return that you should be proud of. It seems to me that waiting 6 or 8 months, given that record, would not necessarily be a hardship on the industry and it might be to the advantage of the Oversight Committee to wait a bit, so that some of these other concerns might be resolved.

For example, the Colorado Beef Council passed a resolution, I think, just yesterday or just the last couple of days saying, "the Colorado Beef Council is opposed to any industry committee whose



process is rushed and ambiguous, making it impossible to obtain the grassroots' opinions and involvement to pass the referendum." I know you do not necessarily agree with that characterization, but it reflects a view. And the resolution goes on to make some stronger statements. I would ask, Mr. Chairman, if I could make a copy of that resolution part of the record.

Senator BOREN. Without objection.

Senator FEINGOLD. Would you, Mr. Drake, like to comment on the proposed time line and why we cannot push this process back a little bit for more input?

Mr. DRAKE. Senator, you are certainly right about the \$5. I believe it was \$5.80 and we are very pleased with that. By the way, we all think that those four organizations have done an admirable job over all of these years. But we think, by the same token, that they can do better with the efforts that we are putting in right now. So the timeframe, as Mr. Webb just said, we are looking at already a couple of years. And it is extremely hard to keep staff on all of these associations when you continue to hold them out. What is going to happen? Where are we going to be fit? How are we going to be fit?

Many of the people out in the country are concerned that it is not fast enough. In fact, I would say, we hear much more from those than we hear from those that feel that we are going too fast. So while certainly your remarks are well taken, many of us have spent a great part of this year meeting and we are about to fruition to bring something forward; to have the executive committees look at it; to refine it, if they feel necessary; to have the boards come in and look at it; and then we will, if it is passed, and as Mr. Webb again said, we will then carry it forward to the membership.

So I feel that it is a timeframe that has allowed and will continue to allow those people that are interested in making comments to come in and do so.

Senator FEINGOLD. Have you actually lost any staff in any of the groups, as a result of not having this consolidation occurring more quickly?

Mr. DRAKE. Well, certainly there has been some sort of turnover, whether it has—

Senator FEINGOLD. Because of that, do you think?

Mr. DRAKE. You could not identify it with that. I would not even try to identify it with that. But we are all human beings and we like to know what is going on out there and we would like to have it done as quickly as possible where we see that we can get it done.

Senator FEINGOLD. It reminds me of how I feel about health care right now. Let me turn to Mr. Huber. Mr. Huber, in your statement you commented that you felt the timetable might be at least a little bit too urgent. What would you propose for a time line for the finalization of this consolidation process?

Mr. HUBER. First of all, thank you for asking that question. I think that, as Mr. Webb said, the final details have not been even worked out as to what the structure is going to be. It will not be presented until October and then to be acted upon by January seems much too aggressive in our view. That certainly, I think, that the people at GAO ought to look at the whole structure and see if it complies with the Act. I would think that 6 months is cer-

tainly not an unreasonable kind of proposal. And I would even suggest a year is more practical.

Senator FEINGOLD. Thank you, Mr. Huber. Mr. Fugate, what about your view of the appropriate time line?

Mr. FUGATE. The State Beef Council is going to want to get input from each member of the State Beef Council. And these people represent eight different organizations in the State whose various meeting times are not necessarily going to coincide with our proposed schedule. We want to be sure that each council member can represent his organization, the producers that he represents.

So I think that it is a little ambitious, given the fact that we do not have the final details, the answers to the questions we have raised to think that we are going to be able to get broad input to our State council so that its representatives to the U.S. Meat Export Federation and the Beef Industry Council will know exactly how they are to vote on this issue. That is where we are coming from. We would like to have a little more time to get some input when we get the answers. We think the answers will probably satisfy us, but we need to know.

Senator FEINGOLD. Looking at the 6 months or the year?

Mr. FUGATE. I think the 6 months is more reasonable.

Senator FEINGOLD. Going back to Mr. Webb and Mr. Drake for a minute. I have a copy here of a memo from the Minnesota Beef Council to the Long-Range Plan Oversight Committee. That memo expressed the desire that when the final structure is approved that all the different organizations would vote simultaneously, so that no organizations feel pressured into approving the plan because all the others have.

Do either of you think that is a reasonable proposal? Does it present any problems for you?

Mr. WEBB. Mr. Chairman, Mr. Senator, the Oversight Committee has discussed that. The Beef Board has discussed it. There was a lot of discussion about the expense of meeting again. We have a meeting in December and if the proposal is out, has been reviewed by the executive committees and the boards once prior to the December meeting, then I think that the majority of the Board would feel comfortable in voting on it in December. That does not preclude the Beef Industry Council or the National Livestock and Meat Board or the U.S. Meat Export Federation from meeting with the Beef Board or with the National Cattlemen in voting at that time.

Senator FEINGOLD. Mr. Drake?

Mr. DRAKE. Certainly the Oversight Committee has discussed this at great length. The National Cattlemen will be meeting in Nashville in January of next year. At that time, we will be voting on this proposal. We recognize and appreciate that the other three organizations may at their desire have a vote before and certainly the Oversight Committee can recommend, but those organizations are still entities and we respect their decision.

Senator FEINGOLD. Let me turn to a different set of questions that have to do with the input from the grassroots' level that was referred to by some of our witnesses. If you could outline for me, Mr. Webb, just very briefly again, what steps the Oversight Com-

mittee has taken to get the plan out to the grassroots' level for consideration?

Mr. WEBB. The Long-Range Plan Task Force presented the plan to each of the four organizations which then voted on it and approved in concept the plan and authorized further exploration of the unified structure. The plan was then taken to all of the national organizations, as outlined in my testimony, and to the States, both the qualified State Beef Councils and the State cattlemen's groups, and there has been a very aggressive introduction of that plan throughout the country.

Senator FEINGOLD. Let me be a little more specific. I realize that was some of the material you presented before. Have there been any round table discussions or outreach meetings involving various sectors of the industry; for example, organizations representing other aspects of the beef industry, general farm organizations, organizations representing the dairy industry and the various breed associations? Has that occurred?

Mr. WEBB. Yes.

Senator FEINGOLD. All right, thank you. Mr. Fugate, as a member of the Beef Board and chairman of the TBIC, do you have any comments or insight as to whether the question I just asked, whether in fact, in your view, there has been adequate outreach and opportunity to comment on the matter? What is sort of the feeling in the countryside on that issue of grassroots' input?

Mr. FUGATE. In Tennessee, we have had questions from Farm Bureau, for example, with regard to the details. And I think that we still lack some answers to details there. We are still short of some details that the people are interested in. Though I do not think that we have enough details out before our producers to have had adequate discussion. I think we are still fuzzy about details.

Senator FEINGOLD. Have you received response to the concerns of the Tennessee Beef Council raised in your March 4, 1994, memo to the Oversight Committee? Have you gotten anything back?

Mr. FUGATE. They acknowledged receipt but as of yet, we have not received answers because the process is still underway. We know they are coming, but we do not have them yet.

Senator FEINGOLD. Mr. Newsome, your organization represents both members of your State Cattlemen's Association, as well as the beef council, how do you feel about the grassroots' involvement in reacting and trying to get input for this plan?

Mr. NEWSOME. I think when you look at our structure, it is up to the individual States to make that grassroots' contact. The Long-Range Task Force Committee presented the plan to the national organizations. The State affiliates, the qualified State Beef Councils were at those meetings. And I think it is again up to those State groups to come back home and then to not only meet with their State boards involved, but also as in our instance, we are made up of county cattlemen's associations, myself and our staff, very aggressively attend those county cattlemen associations to get that information to the grassroots' level.

When you look at our qualified State Beef Council Board, it is made up of representatives from the Cattlemen's Association, Farm Bureau, the Dairy Council, the Veal Association, the Livestock Market's Association, the Cattlewomen, the Meat Packers Associa-

tion, across all groups. So even when we present it on a State level to that group, then it becomes the responsibility of that board member to take that information back to the group they represent. So at least in our situation, I feel comfortable that we have gotten the information to our grassroots' cattlemen.

Senator FEINGOLD. Thank you, Mr. Newsome. Let me turn to a dairy farmer, Mr. Huber, and see what he thinks about the input in the countryside. Is there any awareness there in Wisconsin and other States you work in, of what is being planned here?

Mr. HUBER. Let me say that the qualified beef council in our State, as I mentioned briefly in my remarks, has in its bylaws a provision that says that seven of the seats shall be filled with NCA members and one shall be filled with a national Cattlewomen's Association member which gives it effective control of that qualified beef council in terms of the vote.

Wisconsin Farmers Union last summer asked for a single seat on that Board and the Board denied it a seat, even though Wisconsin Farmers Union does represent several thousand beef and cattle producers. And also while we understand that there are only 170 total paid NCA members in our State, now this is probably the poorest State in terms of NCA membership of any State in the Nation. But in our particular case, we have a problem.

Senator FEINGOLD. Thank you. Mr. Webb, I also have in the file several memos and letters asking questions about the Long-Range Plan from other State beef councils—Tennessee, Washington, Minnesota, California, and appreciate your testimony about how the Oversight Committee has chosen to address some of these concerns. But it does not seem like that some of these groups have actually received a formal response for some of their concerns. How has the Oversight Committee attempted to respond directly to those who have questions or concerns?

Mr. WEBB. Senator, I have personally met with most of those State executives in a meeting situation where we have discussed it. The Oversight Committee has not come to a conclusion on structure which is really what everyone wants to know, and until it does, a lot of the questions just cannot be answered.

Senator FEINGOLD. So you feel these folks would not necessarily be dissatisfied, but see it as part of an ongoing process or do you think some of them would like more direct response?

Mr. WEBB. I think their questions have to do with some of the details of the structure which we do not have yet to be able to relate.

Senator FEINGOLD. Fair enough. Mr. Chairman, I still have a bit more here. Shall I just keep going or do you want to—

Senator BOREN. Why don't you ask a few more, the most important ones.

Senator FEINGOLD. I think I am going to move on and come back perhaps if there is time to questions regarding the unified structure. But I think we ought to get into one of the subjects that was raised by many of the panelists. One of the biggest concerns that I have heard regarding the Long-Range Plan has to do with the inclusion of the National Cattlemen's Association in the unified organization. NCA, as we know, has been a contractor for beef for

checkoff dollars to conduct industry information and issues management.

Some producers have raised concerns that even closer association of NCA will bring into question compliance with the statutory prohibition on checkoff dollars being used to influence Government action or policy. Mr. Drake, obviously, you are more aware than anyone that the NCA has received checkoff funds annually ranging from \$3 to \$5 million. There is some concern that the level of funding has helped NCA become a stronger overall force in policy-making and that the money spent for industry information and issues management has, in effect, indirectly subsidized the overhead and other costs of NCA.

I am not suggesting that any improprieties have taken place. I know that the NCA contracts have been carefully audited by the Beef Board and the integrity of the use of the checkoff funds have been upheld, as the Chairman has indicated. I am concerned, however, about the suggestion that such large sums of money have helped NCA grow in size, influence and in terms of its attractiveness to potential membership. Another concern that I have heard is that the association dollars are fungible. That is, that the checkoff funds used for industry information free up other funds that can be used for the purpose of influencing Government action.

How would you, Mr. Drake, respond to that concern that has been raised?

Mr. DRAKE. Certainly as to the figures, I do not have those with me and I will be happy to get any of those figures that you request and have them to you next week. But I will say that the National Cattlemen's Association has and will continue to follow the Act and the Order. We have been audited, as you suggested by the USDA and by the Cattlemen's Beef Board, and very strongly the evidence indicates that NCA fully complies with the Act and the Order.

And our effectiveness in carrying out the programs are well documented and we certainly are very pleased with our staff for the work they have done over all of these years when it relates to these funds.

Senator FEINGOLD. Let me turn to the folks from USDA for a moment. Mr. Carpenter, has the USDA in their oversight of any of the 16 authorized checkoff programs ever addressed this issue of fungibility, to the extent to which these dollars can be interchanged?

Mr. CARPENTER. We focus directly on the requirements of the Act and the Order and require the programs to have an accounting system where we can trace the funds to make sure that moneys from the checkoff program are spent for appropriate programs. So, as far as what proportion of the contracting organizations work is related to doing checkoff activities versus other activities, we have not attempted to set any limits on that.

Senator FEINGOLD. How, for example, do you handle a joint event, say a convention or a board meeting that conducted business relating to both legislative activities and checkoff projects, how is that allocated for the purpose of reimbursement by the Beef Board?

Mr. CARPENTER. The allocations would relate directly to the projects that are being carried out in those meetings. If their meet-

ings are to conduct business that has been or projects that have been approved by the Board, then those would be reimbursed to those contractors.

Senator FEINGOLD. Let me ask this then. The reimbursement, it sounds like, would take place even if the costs would have been incurred, regardless of whether the checkoff activities had taken place; is that right?

Mr. CARPENTER. No, they are only proportionate to the checkoff activities. If a meeting is conducted that has no checkoff activities and no projects that have been approved, then there would be no checkoff dollars.

Senator FEINGOLD. Then how does the USDA interpret the statutory prohibition on checkoff dollars being used to influence Government action or policy? What is your interpretation of that language?

Mr. CARPENTER. Our interpretation is that we keep those separate. For any activities that are considered to be influencing Government, we do not approve budgets or projects that relate. Our involvement is focused directly on reviewing projects and reviewing budgets and what the objectives of those projects and budgets are. If there are any indications that there are activities that relate to influencing Government, then we do not approve those budgets.

Senator FEINGOLD. Is there any actual prohibition of the percentage of a trade association's budget that can come from checkoff dollars?

Mr. CARPENTER. No.

Senator FEINGOLD. Mr. Drake, have the staffing levels of NCA grown since they began to receive checkoff dollars?

Mr. DRAKE. Senator, I would have to get those figures from the National Cattlemen, because regrettably I did not bring those figures with me. I do not have them.

Senator FEINGOLD. Mr. Chairman, I need to get into some material about some gray areas in the Long-Range Plan in terms of lobbying, but I again defer, if you wish.

Senator BOREN. No, go ahead.

Senator FEINGOLD. There are some components of the Long-Range Plan outlined in last year's task force that have caused additional concern. Under the current contracting arrangement, the NCA on behalf of the Beef Board, conducts, as you have indicated, some excellent projects aimed at improving the quality of beef and informing producers of ways in which they can become more efficient. And I commend you for that work. I know that it has helped both beef and dairy producers.

However, some of the joint projects such as the one Mr. Huber mentioned might be a little more gray in terms of whether they could be interpreted as an attempt to influence Government action or policy which is prohibited by the statute that we were just talking about. Mr. Huber mentioned earlier a publication called, "*Issues Affecting the Beef Industry*" which NCA produces and published on behalf of the Beef Board and I would like copies of that passed around.

You will note that in June-July issue, Congressional strategies are outlined in terms of influencing legislative action on BST, for example. In the October-November issue last year, strategies were

outlined to advise Congress on language needed to implement NAFTA and to establish to decisionmakers and Congress the importance of NAFTA to the beef industry.

Let me turn to Mr. Carpenter. Is funding the publication, this publication which appears to be a tool for lobbying Congress, an appropriate use of checkoff dollars, given the prohibition on the use of checkoff funds to influence Government action or policy?

Mr. CARPENTER. Funding of this publication is primarily by checkoff dollars. The intent of this particular publication is to inform those people that are dealing with beef-related issues and enable them to address any issues that come up in that area. The subject matter or the research of the projects behind the various information items are funded or not funded, depending on what their impact may be and what their limitations are. We do not specifically review all of the publications that the various contractors put out. In some cases, there may be some items in there that we would question.

But the project level where the actual expenses are incurred to carry out these programs is where we do focus our attention. And the various items that may be in here that relate to influencing Government activities or actions, the projects to get to that point would not have been funded by checkoff dollars.

Senator FEINGOLD. So is this an appropriate use of checkoff dollars, if they were used for this?

Mr. CARPENTER. If they were used for this, it would certainly be questionable.

Senator FEINGOLD. Thank you. I am glad Mr. Huber entered this into the record, because I think it illustrates a couple of points. First it illustrates how blurry the line can become between industry information and influencing Government policy. Second, it represents that NCA does not and cannot represent the interest of all the producers who pay the checkoff. I have very vocal dairy farmers in Wisconsin, many of whom oppose NAFTA overwhelmingly, oppose the use of BST overwhelmingly, and all of whom contribute to the checkoff.

Mr. Chairman, I am almost done, but at this point I would like to just hold up one more example of the need for caution in this area. I would like to hold up one of these and distribute copies of an advertisement that the NCA's Beef Board ran in the *Washington Post* on February 23, 1994. The ad promotes the role of the cattle producers as sound stewards of the land. At first glance, this is just an activity associated with NCA's issues management contract designed to enhance the image of the cattle industry.

However, the fact that it appeared in the *Washington Post* on the same day that the Senate Committee on Environment and Public Works met to markup the Clean Water Act Amendments could possibly create questions about the intent of the advertisement. Some might suggest that the current separation of checkoff dollars from lobbying activities is already blurry. And I raise this because after reviewing the Task Force Report and the Long-Range Plan, I have some similar concerns about how efforts to influence government action may be even more so as part of this unified organization.

If checkoff dollars are involved, I do not believe some of the items contained in the Long-Range Plan are appropriate, and there are

other examples that I will not go through. I would like, if I could, Mr. Chairman, to put those in the record.

Senator BOREN. Sure. I would be happy to have them in the record.

Senator FEINGOLD. They have to do with (trade strategies, information management) and some of the other issues relating to the leverage points in the Long-Range Plan.

I would like to turn to Mr. Carpenter again. If implementation of these action points were funded with checkoff dollars, would that violate the statute?

Mr. CARPENTER. Yes. I do not believe the intent of the Long-Range Plan is that all issues covered there are solely the responsibility of the checkoff program. It is an industry-wide plan and there may be different players that are responsible for carrying out different parts of that Long-Range plan.

Senator FEINGOLD. Even if it was not funded with checkoff dollars, does the Beef Board's involvement in molding these types of strategies push the boundaries of the statute?

Mr. CARPENTER. It may push the boundaries, yes.

Senator FEINGOLD. I thank you. Mr. Chairman, you have been enormously patient and I appreciate your indulgence.

Senator BOREN. Not at all. I thank the senator. Let me say, there is a vote on the floor so I am going to try to abbreviate my questions. Let me go back to the publications and ask Mr. Drake, as I understand it, the funding for any lobbying on the issues that are referred to in these publications is now being undertaken separately and not with checkoff dollars; is that correct?

Mr. DRAKE. That is absolutely correct, Senator.

Senator BOREN. On the funding of the publications themselves, was that all with checkoff dollars, or was that also apportioned to some degree, or do you know?

Mr. DRAKE. Just a moment. Senator, I will have to get you that answer. I cannot answer that.

Senator BOREN. Let me just ask—and again, I think Mr. Drake may be, as a cattle breeder may have good hands-on experience on this question. But I would welcome the comments of others of you as well. The Beef Promotion Act, of course, requires the establishment of the operating committee, the Beef Promotion Operating Committee, and it is charged with developing plans or projects for promotion, advertising, research, and so on.

In putting plans together it is to the greatest extent practicable to take into account similarities and differences between certain kinds of beef—beef products, veal, etc.—and also to ensure that segments of the beef industry that enjoy unique consumer identity receive equitable and fair treatment under the act. I just wonder how that is carried out, and if there are any appreciable differences or similarities between the beef from dairy cattle and regular beef. Is there some kind of a unique consumer identity, or is there some effort to work with the dairy industry here in terms of the marketing of beef which comes out of the dairy industry? Any of you feel free to comment on that. Mr. Webb, you may want to comment.

Mr. WEBB. Thank you. Mr. Chairman, the Act and order does not make any distinction as to the origin of the cattle, the beef in the beef products. Once you take the hide off, it is all beef. The Beef



Board does not do any promotion activities, nor does the operating committee. We do that with national organizations. They present programs which take into account hamburger, steaks, roasts, the hard-to-sell products and they promote those as well as provide consumer information, research, and industry information for the image of the industry.

Senator BOREN. Now the Beef Board does not do that?

Mr. WEBB. The Beef Board contracts—

Senator BOREN. Contracts with others to do that. Entering into those contracts tries to take into account on a fair basis the differences of specific kinds of products?

Mr. WEBB. Yes.

Senator BOREN. Let me ask, Mr. Huber indicated concern about the proposed merger when he talked about contracting organizations who benefit financially from checkoff dollars—I think I quote you correctly—becoming three-fourths of the stakeholders of the new corporation. I guess the issue you are raising is, how does the promotion board remain independent of contractors and accountable to producers who fund the checkoff? Does your concern about this relationship stem from your observation with the Dairy Promotion Program and its unified structure, or are you coming at it from a different direction?

Mr. HUBER. I would separate those two. I really am suggesting here dealing only with the beef side of it. Obviously, I think that a better—there is nothing wrong with the current situation where the Beef Board has a contracting relationship with each of its principal contractors. But to actually put those contractors, those organizations that are being contracted with into a majority position in terms of where the industry should go, that is our primary concern here. That this is probably not going to keep the accountability going to the people who are paying the bill, but rather to the people who are involved in the promotion activities themselves.

Senator BOREN. So it does not stem from any experience with the dairy program as you have seen it or the unified structure there?

Mr. HUBER. I understood this panel was to speak only on the beef side. I have some concerns about that, but that is already a done deal pretty much, I guess.

Senator BOREN. Right, but you have some similar concerns in that regard?

Mr. HUBER. Probably not as serious as I do in terms of the beef problem simply because at that point you are actually putting together at least two organizations who have promotion activities. Here we have organizations with dissimilar kinds of responsibilities.

Senator BOREN. I might ask Mr. Webb to comment on this. As I understand it, the contractors are reimbursed only for expenses made in behalf of the Beef Board, and they do not receive additional benefits beyond the reimbursement for those activities undertaken for the board; is that correct?

Mr. WEBB. That is correct. The Beef Board has a cost recovery system. You have to incur the expense. You have to submit receipts, time sheets, bills. They are examined and then they are reimbursed on the basis of the cost expended. The organization cannot make a profit on the checkoff dollar.

Senator BOREN. Thank you very much. I apologize, we have run out of time. We have to go over and cast this vote. If I could let me ask—we will try to come right back and not be gone more than 5 minutes, as quickly as we can walk or jog over there. Let me ask that the members of the next panel come onto the table and be taking the places at the table so that we can move right into our discussion; Mr. Brubaker, Mr. Giessel, Mr. Giacomini, and Mr. Call, if you could join the group at the table.

Let me thank the members of the panel, and as I say, the record will remain open for you to submit additional information as you desire or a further response to some of the questions as you desire. We thank you very much for your contribution to our understanding of this important issue.

[Recess.]

Senator BOREN. Let me say, we will resume, those that are out in the hall that are going to join us. We will now turn to the two pieces of legislation that specifically are in the dairy area, S. 1557, as I indicated earlier in my opening statement, and also S. 1564. Our panel will be asked to comment on those particular issues.

Let me say, I will reintroduce you just briefly and I will introduce you in the order in which I will call upon you. First is Herman Brubaker of Milk Marketing, Inc. of West Alexandria, Ohio representing the National Milk Producers Federation. We are very glad to have you with us. And Tom Giessel, vice president of the Kansas Farmers Union, and my neighbor. We are very glad to have you here with us today. And Mr. Robert Giacomini, chairman of the National Dairy Promotion Research Board, and Mr. David Call of the Family Farm Defenders of Bardstown, Kentucky. We are very glad to have all of you with us.

I would suggest that we follow the same procedure that we did with the first panel and ask each one of you just to go in order and make your opening statements. Again, we will accept your full statements into the record as if you had presented them here. If you could, so that we can save time and go right to the questions, just summarize and hit the high points of your statements, we would appreciate it.

I am sorry we are running a little behind, but one of the things I have been working on reforming and reorganizing the Senate, which I hope we will be voting on in September before I leave here for good. Maybe I can have some impact on the way we can do our business in a little more orderly fashion. Among my proposals is to have committees meet at certain times and floor action occur at certain times so that we can do our business in an uninterrupted fashion. But it is probably too much to hope for that we would get more efficient around here, but we are going to try.

But we welcome all of you. Mr. Brubaker, we will begin with you.

**STATEMENT OF HERMAN M. BRUBAKER, MILK MARKETING, INC., WEST ALEXANDRIA, OH, REPRESENTING NATIONAL MILK PRODUCERS FEDERATION**

Mr. BRUBAKER. Good afternoon, Mr. Chairman. My name Herman Brubaker and I appreciate the opportunity to appear before the Senate subcommittee on behalf of dairy cooperatives. I have

been an active dairy farmer for more than 38 years and operate a family partnership with my wife and 2 of our sons.

I am chair and president of the board of directors of Milk Marketing, Inc., a dairy cooperative based in Strongsville, Ohio. I represent MMI nationally as vice president of National Milk Producers Federation and for 6 years I was a member of the National Dairy Promotion Board. I am currently chairman of the United Dairy Industry Association and a newly formed Dairy Management, Inc. I testify today on behalf of the National Milk Producers Federation.

The National Milk Producers Federation represents this Nation's dairy cooperatives and their dairy farmer members who are located in each of the lower 48 States. Since 1916 the Federation has been dedicated to protecting, promoting, and supporting the economic well-being of dairy farmers and their milk marketing cooperatives.

Because of the Federation's long-standing support for cooperatives I am here today to express the Federation's opposition to certain provisions in the proposed National Dairy Board Promotion Reform Act of 1993 and the Dairy Promotion Program Improvement Act of 1993. Specific provisions of the bills effectively could eliminate representative voting, one of the cornerstones of cooperatives, and would terminate the National Dairy Promotion program; and program dairy farmers across the country supported in a recent referendum by over 71 percent.

The frequently used term bloc voting misstates a representative process that is fundamental to cooperatives and in my opinion is more democratic than the voting process of our Nation's representative Government. For many decades, Congress has sought to maintain and expand strong markets for dairy products, encouraging collective action by dairy farmers. To achieve this goal, Congress passed legislation allowing cooperative associations to act collectively in promotion and marketing order referenda. The statutory provision which allows representative voting by cooperative empowers producers to act together in their own economic interest to ensure stable and profitable agricultural markets.

In judicial challenges contending that too much voting power is vested in cooperatives, the Supreme Court specifically has upheld representative voting. The Supreme Court said this is not an unreasonable provision as the cooperative is the marketing agent of those for whom it votes. In case after case, lower courts have concluded that representative voting by cooperatives, as it applies to market order and promotional referenda, is sound policy and good law. This is consistent with the congressional intent and it is constitutional.

The relationship between a cooperative and a producer is one of a contractual nature. Among many components, the contract specifically addresses the cooperative's procedure for defining its policy and position on market order and promotion issues as well as the parameters for which a cooperative will represent a producer in representative voting. To eliminate representative voting from the contracts existing between producer and cooperative would serve only to diminish the cooperative's ability to speak on behalf of its majority membership, thus handicapping efforts to market produce efficiently for the entire cooperative membership.

The balloting procedures under Federal statute and regulation provide one, and only one, vote to each producer. Since one dissenting vote in the promotion referenda nullifies one cooperative representative vote the result is precisely the same as if each producer voted independently. Cooperatives do not vote on their own behalf. Federal statute simply allows them to cast votes for their members and in the best interest of the majority of their members. It is this collective interest and stable markets which is advanced by allowing cooperatives to act and vote collectively.

For producers in every State, membership in an agricultural cooperative is wholly voluntary. No one is required to belong to a cooperative and no cooperative is required to utilize the concept of representative voting. While the vast majority of producers concur with the decisions of their respective cooperative, a producer who does not concur with their cooperative position can, one, pursue the cooperative to change its position. Two, withdraw as a member of the cooperative. Three, vote for cooperative leaders who adequately reflect their views. Four, run for a leadership position in the cooperative. Join a cooperative that agrees with their views. Join a cooperative that is committed to not exercising representative voting. Or most importantly, for promotional referenda, cast their individual vote dissenting from the cooperative position.

With regard to representative voting, if a cooperative in accordance with the majority acts against the beliefs of a particular individual, the solution does not speak to the need for Federal Government intervention but to the reevaluation of the relationship between the producer and the cooperative. The Constitution guarantees the right to participate in a political process. It does not guarantee success.

Congress' legislative history on cooperatives is clear. Congress encourages producers to form large economic cooperative units to foster more stable and effective markets. Federal and State court decisions repeatedly support the sound and reasoned benefits of representative voting and that the concept of representative voting is consistent with the fundamental goals of Congress for agricultural cooperatives.

The Federation has long supported the concept of representative voting by our member cooperatives as the key element in the successful Federal order program, and most recently, our industry promotion program. For these reasons, we oppose legislative proposals to eliminate representative voting.

Mr. Chairman, I am aware that the subcommittee is addressing other issues that pertain to two bills. I have addressed these issues in my written testimony. As a farmer and leader in the dairy industry for many years I will close with the firm belief that the National Dairy Research and Promotion Program is vital to the dairy industry. The program is run by farmers for farmers. Individuals continue to participate in the voting process and their concerns have been heard. The industry's efforts are directed toward making the promotion program more effective, not terminating it. We welcome congressional efforts to strengthen our program and make it the best it can be.

Finally, I would like to request on behalf of the Council of Farmer Cooperatives and Mid-American Dairymen Inc. that their respec-

tive statements be submitted for the record. Thank you for your interest on the dairy-related issues and I will be delighted to answer any questions at the proper time.

Senator BOREN. Thank you very much. We appreciate your statement.

Mr. Giessel, we will recognize you at this time.

#### STATEMENT OF TOM GIESEL, VICE PRESIDENT, KANSAS FARMERS UNION, LARNED, KS

Mr. GIESEL. Thank you, Mr. Chairman. My name is Tom Giessel from western Kansas. I am a full-time farmer and also serve as vice president of our Kansas Farmers Union. I will make my comments brief also. I have my written statement which I would like entered in the record.

With regard to Senate bill 1557 and 1564, a few brief remarks. To start with, I guess we support having the imported dairy products assessed the same as domestic. I think that is one of the provisions that you are talking about. Along with that, we believe in representation with taxation, if that is what it is. So we would support the idea of having two representatives of importers on that board.

We also agree on the idea of the referendum in general on all commodity checkoffs. We believe since the producer is the one that pours the money into it and supports it that the referendum is an essential part of checks and balances within that system. I think a lot of that issue came up in the dairy issue with the BGH event of a while back, and I think it shows the importance of that provision, and also ensures accountability. And I think accountability is very important to credibility.

As far as termination of the Dairy Board, we always have a real spirited discussion at our convention over dairy and checkoffs and all. But we have nothing in our policy and do not support termination of the dairy promotion. We believe that there is a certain place and time and it is necessary for promotion and research, as long as producers have an important role within that.

On the issue of bloc voting, we would prefer and support to have individuals vote. We are opposed to bloc voting. Our membership, we feel we have a bunch of sharp operators and I have always enjoyed visiting with all the dairymen in our organization. We feel they have the ability and the knowledge to do their own voting and to cast their own vote.

I guess I would just wrap up by saying, and the panel before talked about other checkoff programs. I think it is extremely important to remember that they have got to be producer-driver, well-represented by producers, and controlled by producers to maintain that confidence in these programs. With that, Mr. Chairman, I will stop. Thank you.

Senator BOREN. Thank you very much.

Mr. Giacomini, we welcome your thoughts.

**STATEMENT OF ROBERT GIACOMINI, CHAIRMAN, NATIONAL DAIRY PROMOTION AND RESEARCH BOARD, ARLINGTON, VA; ACCOMPANIED BY CYNTHIA CARSON, CEO, NATIONAL DAIRY BOARD**

Mr. GIACOMINI. Good morning. Thank you for the invite. Appreciate it very much. I am a dairy farmer from California, about 100 miles north of San Francisco, right on the Pacific Ocean, so I am a little bit away from home and hope to be getting home sometime this afternoon. But certainly do appreciate having the opportunity to come and talk about our program, and you people showing your interest in helping us to improve what we have got. We are always interested in improving what we have got.

I operate a dairy farm in Point Reyes, California as I mentioned, and I have the honor as serving as the chairman of the National Dairy Promotion and Research Board, having been elected by my fellow board members in May of this year.

During our discussions with some of the subcommittee staff regarding the hearing we were informed that some of the issues which would be discussed here today would involve the representative voting provisions of the legislation, whether imports should be assessed under legislation, and the provision in the legislation for the selection of Dairy Board members. Following discussions with the U.S. Department of Agriculture and our review of the Act, we believe that it would be inappropriate for the Dairy Board to comment on these matters since these are issues which relate to the legislation under which the National Dairy Board operates. Other members of this distinguished panel will no doubt comment on these issues and would be more appropriate to.

I would like, however, to comment on some of the issues which affect the manner in which the Dairy Board and the industry operate both in the 1990's and beyond. The National Dairy Promotion and Research Board, which was established by Congress in the Dairy and Tobacco Act of 1983, to carry out a coordinated program of promotion designed to strengthen the dairy industry's position in the marketplace, and to maintain and expand domestic and foreign markets and uses for fluid milk and dairy products produced in the United States.

Thirty-six dairy farmers just like myself, with all sizes and operations, devote their time and effort without pay to build markets for the dairy industry. Although we come from different parts of the Nation, belong to different organizations, and milk different breeds of cows, all of the members who are appointed to the National Dairy Board by the Secretary of Agriculture are unified in their intent and desire to serve the dairy farmers of this Nation and to increase dairy product sales. The current board members are listed in Attachment 1.

The total investment by dairy farmers to all of the dairy promotion organizations, including the National Dairy Board, exceeds \$225-million-per-year. Of the total moneys collected during 1993 fiscal year, 70 percent supported advertising promotion and 16.9 percent supported nutrition education, public and industry communications.

The dairy farmers who serve on the National Dairy Board recognize their tremendous responsibility regarding the future of our in-

dustry. For the dairy industry to prosper we must complete the transformation which is currently taking place. We must become market-driven. We must become more competitive when comparing both to nondairy products such as Coke and Pepsi, and to dairy products produced in foreign countries.

I am proud to say that a transformation is taking place and the industry is moving more toward a market-driven, consumer-oriented mindset. As part of this transformation, the dairy promotion organizations which spend the \$225-million-per-year that dairy farmers invest in their future must take the lead in this transformation toward a market-driven industry. As chairman of the National Dairy Board it has been my goal to ensure that the investment by dairy farmers in the Dairy Promotion Program is spent in the most efficient and effective manner possible. This means coordinating the spending of several groups to ensure a maximum return on investment.

The philosophy is one of the driving forces of Dairy Management Inc. Dairy Management Inc. is a partnership between United Dairy Industries Association which represents several State and regional dairy promotion and research programs, and the National Dairy Board to more effectively coordinate funding on behalf of dairy farmers' investments into dairy promotion programs. The concept involves establishing the resources through which a unified, coordinated dairy promotion and research program can be implemented on behalf of the people who are investing their 15 cents in the future. For the first time, the dairy industry has a unified structure to implement a coordinated, national program which can be extended to the local level by participating State and regional programs.

We have all seen the positive results of the efforts of the National Dairy Board, United Dairy Industries Association, State and regional dairy promotion groups. Recently, USDA released its annual report to Congress effective of the 15-cent Dairy Promotion Program, which I have right here and if you do not have it, I would be more than happy passing it up to you.

Senator BOREN. We would be happy to enter it into the record, too.

Mr. GIACOMINI. Thank you. The highlights of USDA's report, "advertised and conducted under the 1983 Dairy, Tobacco Adjustment Act, increased fluid milk sales by 3.8 percent over a 9-year period ending September 1993. For the most recent year, advertising increased fluid milk sales by 3.5 percent. Activities under the Act increased national retail sales of natural and processed cheese for in-home use by an average of 2 percent over expected sales."

I see a note here that my time is up. Needless to say, you have a printed report of my statement here. I guess in closing, Mr. Chairman, I would just like to say, and Senator Feingold, that needless to say, I strongly, strongly believe in promoting and researching my product. I do not think there is any industry in this country that can do without that and be successful. We can always do better than we are doing. We know that we have come a long way. We have been an organization for 10 years now and we are doing things differently than we did 10 years ago. Ten years from now we are going to be doing things differently than we are now.

We need the input like yourself, like USDA, to help us stretch our dollars further and bring us input into a program that we look forward to making changes and doing better for the industry in the future. Thank you very much.

Senator BOREN. Thank you very much. Mr. Call, we will let you conclude the panel's testimony.

#### STATEMENT OF DAVID CALL, FAMILY FARM DEFENDERS, BARDSTOWN, KY

Mr. CALL. Thank you, Mr. Chairman. My name is David Call. I am a dairy farmer from Bardstown, Kentucky. I have been a farmer since 1972 with my parents, and I am speaking on behalf of the Family Farm Defenders, sponsors of Delta National Dairy Board Campaign. We speak in favor of the bill 1564, which prohibits bloc voting.

As dairy farmers and U.S. citizens we are appalled at the corrupt voting by the 1993 referendum. In 1991, a group of Wisconsin dairy farmers and myself began a petition drive to force a referendum. The reasons behind the referendum, excessive salaries, National Dairy Board no longer represents dairy farmers, promotion of BST, corporate interests instead of dairy producers interests. Since the creation of the National Dairy Board, thousands of family farms have left their land.

The petition drive began in October 1991 through December 1992. At that time, 16,000 signatures were gathered from 47 States. Campaign representatives met with Secretary Espy on May 11 to discuss the upcoming referendum. We asked him to prohibit bloc voting, which we was unsuccessful.

In August 1993, a lawsuit was filed to stop the referendum. Results of the referendum in the bloc voting, 13 of 63 co-ops bloc voted without informing their producers. 80 percent of bloc votes in favor of the National Dairy Board received money. Eighty-six percent of yes votes were cast by bloc votes. Seventy-six percent of individual farmers voted, 'No', which I feel that was very important. Not all farmers received ballots. Farmers were concerned about signing the ballots and giving out additional information. And also, something that was very important to them, they was faced with fines if these ballots was not properly handled.

No. 8, the AMS, the dairy division offered no list on dairy producers. AMS dairy division refused to allow farmers to oversee the voting process. AMS consumed the authority to adjust bloc votes.

Based on the above information, plus a belief that every dairy farmer has a right to cast his own vote, members of this campaign filed a petition with the USDA to dispute the referendum results. The following information was exposed: The ballots was confusing and intimidating. The voting procedure called for in the Dairy Promotion and Research Act treats dairy farmers different and unequal. Individual ballots were strictly scrutinized. There is no list of USDA dairy producers, which I feel that is disgusting. No one knew who was eligible to vote.

While the referendum agent audited individual ballots, he did not oversee the bloc voting cooperative audit. Bloc voting through cooperatives were not penalized. The referendum agent was not al-



lowed to disclose how co-ops voted. At a number of producers they voted for.

These lax standards allowed Wisconsin dairies to file a ballot with inflated numbers. There was cooperative favoritism, how to explain a dairy unit. Cooperatives who received money from the National Dairy Board through qualified State programs or grants had a tremendous influence on the referendum.

And in conclusion, our campaign asks Congress to make the following changes: require the Agriculture Marketing Service to mail out a ballot to each individual dairy producer. This can be arrived from the market order reports. Federal inspections through each State agricultural agents and the ASC offices, which this is one that Senator Lugar should check into.

Make sure the ballot questions is understandable and explains the assessments. Just a simple yes or no what the 15 cents does. There are farmers throughout the country that does not even understand the 15 cents.

Make sure the ballot is secret and confidential. Most important, ban bloc voting, one producer one vote.

And finally, the campaign asks Congress to act and stop bloc voting and allow democracy to work and let each individual producer throughout the country have a vote for himself. Again, thank you.

Senator BOREN. Thank you very much, Mr. Call. I am told we are going to have a vote on the floor again fairly soon, so I will try to be rapid. Let me just ask a couple of questions, and then I will to Senator Feingold.

If a member of a cooperative wants to cast an individual vote, as opposed to voting through the cooperative, what process is followed and how difficult is that process? I invite any of you to comment on that.

Mr. BRUBAKER. The provisions under the 1983 Tobacco and Dairy Act provides—and maybe I will get into some technical things that some people from USDA can help me out with—are this, the cooperative through its system—and you have to remember, a cooperative is a voluntary organization and it has a contractual agreement with each member.

Basically what that agreement says is that the member of the cooperative will rely on the cooperative to market their products in the most efficient and effective way. But in this cooperative, any cooperative, you have a system that provides information through delegate systems and boards of directors of the information concerning any issue.

The person who is a member of a cooperative grants the board of directors the authority to vote on their behalf what they feel is best for the cooperative and by that the cooperative feels is best for the members. Upon making that vote, either pro or con, the members have to be in a certain number of days notified of how that cooperative voted in representing voting. A letter mailed to them notifying how they voted, a ballot mailed to them, a self-addressed envelope stamped mail to them. And if they do not concur with what the board of directors of the cooperative has done, they feel free to change that vote and mail it directly in to USDA.

Senator BOREN. Let me ask the USDA, is that an appropriate description of the process?

Mr. CAPPONI. Basically, that is an appropriate description. I might add one point further, that the USDA also requires a resolution signed by the board of directors of the co-op as to how they are voting and also a certification as to the number of producers for which they are entitled to cast a vote.

Senator BOREN. So then, let us say that that cooperative has 1,000 members and there are 50 of their members that dissent, or 100 of their members that dissent by sending in individual ballots. Say there are 100. Then that bloc vote is 900 and then the individual ballots are counted of the 100 individual farmers who send in their ballots? Is that the way it works?

Mr. CAPPONI. That is correct. The co-op vote would be reduced by the number of individual votes received.

Senator BOREN. As a practical matter, what percentage of co-op members that engage in bloc voting cast individual ballots? Do you have any idea?

Mr. CAPPONI. I cannot recall that immediately. We can, though, and I would suggest that we submit for the record the referendum agent's report on the 1993 referendum.

Senator BOREN. Right. That would be helpful to us and it would give us some benchmark indication of how many selected to vote individually, as opposed to bloc. Do some cooperatives allow for individual voting as opposed to bloc voting, and some conduct bloc voting?

Mr. CAPPONI. This was an option of the cooperative. If the cooperative elected to bloc vote, and there were roughly 73 in this 1993 referendum that did, then they had to follow this bloc voting procedure.

Senator BOREN. How many cooperatives opted not to bloc vote?

Mr. CAPPONI. Again, the report would have that. I do not have that number.

Senator BOREN. Just off the top of your head, are there more or less?

Mr. CAPPONI. There are roughly 200 co-ops in this country, so the portion that bloc voted was under half.

Senator BOREN. So it is about half and half, or so, in the bloc voting?

Mr. CAPPONI. With respect to the number of co-ops. I should say that the larger co-ops, some of the larger co-ops, did bloc vote. So proportionately, they represented a higher percent of the producers.

Senator BOREN. Let me ask Mr. Giessel and Mr. Call, since you have both spoken in favor of individual voting as opposed to bloc voting, what comments would you make in terms of the clarity and ease of individual voting under the current system? Is it adequate, or do you think it is inadequate and therefore we need to go to individual voting? How would you weigh that?

Mr. GIESSEL. Sir, I am not familiar with the procedure on that bloc voting. I am not a dairyman, I am a vice president of an organization, so I cannot give you an answer on that, Sir.

Senator BOREN. Are you a member of a cooperative that bloc votes or not?

Mr. GIESSEL. No, Sir.

Senator BOREN. You are not?

Mr. GIESSEL. No, Sir. I do not milk cows.

Senator BOREN. Oh, I see. I understand. Yes, Mr. Call?

Mr. CALL. The voting procedure needs to be not as complicated. And for an example, you know, there is no reason it cannot be a simple yes or no and explaining what the referendum was. Just like my own milk processing co-op, Southern, they told us at an annual meeting—and I am on the ADA board for Southern. They told us at an annual meeting they would not bloc vote. When the time came, they bloc voted and they did not notify anybody.

Once you sign a contract with a co-op to ship your milk, you have to go through a certain lengthy period to break that contract, also, so it is not as simple as Mr. Brubaker said, either.

Senator BOREN. Let me ask, on the question of the contractual relationship, we heard this discussion during the earlier panel on the beef industry wide proposal. The Dairy Board is allowed to contract with cooperatives. Do these contracts reduce the overhead costs or give any particular advantage to the cooperatives that receive these contracts, versus those that do not? In the opinion, I guess, Mr. Giacomini, or Mr. Brubaker, either one might want to comment on that?

Mr. GIACOMINI. I am not sure I understood the question.

Senator BOREN. There are some cooperatives that receive contracts from the board to carry out promotional or research—at least that was my understanding, that the Dairy Board is allowed to contract with cooperatives to carry out certain activities. I am just wondering if those contracts, since they do reimburse certain expenses, do they give those cooperatives an advantage in reducing their overhead costs, as opposed to those cooperatives that do not receive contracts from the board?

Ms. CARSON. Mr. Chairman, I am Cynthia Carson, CEO of the National Dairy Board. We do not contract with any co-ops to carry out business.

Senator BOREN. You do not. I thought there was a reference in some of the testimony that there were certain activities carried out and there was a reimbursement of the contractors. Is that incorrect? Let me ask USDA to comment.

Mr. CAPPONI. Maybe I can just comment here. There have been a few instances where the board has contracted with a cooperative. For example, in the area of product research, to take advantage of some technical processing expertise that the co-op may have. Also, I can think of one or two cases where the board, in an effort to promote a new product, sometimes to get a new product on the market and to give it a boost, they have entered into short-term contracts with some of the processors that are cooperatives.

Senator BOREN. Let me ask a question. If we went to a direct election of the board, could we assure that there is appropriate geographical distribution of the membership of the board? Those that have advocated direct election, as opposed to appointments. Does anyone want to comment on that?

Mr. CALL. I do not see a problem with—for instance, the south-east, it is made up of nine regions or nine States. You know, break it up on large regions. That would not be a problem at all.

Senator BOREN. I am going to turn now to Senator Feingold. I know he has several questions, and I am going to let him conclude the hearing. Maybe we can conclude before the vote, we will hope.

But if not, I want him to feel free to return and finish his line of questions. And again, I thank all members of the panel and let me thank again those that are here representing the department for the contribution and technical advice to us.

Senator FEINGOLD. Thank you, Mr. Chairman. As you leave, I just want to again thank you for your tremendous patience and willingness to let us take up both of these issues. It means a lot to the farmers back home.

Senator BOREN. They are important and I think it is very important that everyone concerned feels that they have had a fair hearing and a fair opportunity to present their points of view to this committee, and they will be seriously considered.

Senator FEINGOLD. I do have some questions. I would first ask consent that my previous questions that I did not have time to ask on the Beef Board merger, and the ones I am going to omit on this issue, be asked in writing; in particular, some questions to our technical witnesses from USDA.

Senator BOREN. Without objection, we will extend those questions and have the answers in the record.

Senator FEINGOLD. Thank you, Mr. Chairman. The vote is at 1:15, and I assure you I will conclude long before that. This has been a long hearing, and I will try to get to some of the most important items today.

Mr. Giessel, I appreciate your members support of the provision in my bill which bans bloc voting. Could you say a little bit more about why the National Farmers Union opposes bloc voting?

Mr. GIESSEL. Well, we have always believed in the democratic process, one man one vote. We do it in our organization, we do it everywhere else. We have a lot of confidence in our producers and their abilities. We think the producers that are still in the business are very intelligent, very sharp operators and can make that decision. I think some of our membership felt there was, maybe to a certain degree, some abuse of the bloc voting and were disenchanted with that system and felt that they could better represent themselves in that particular issue by doing their own voting.

Senator FEINGOLD. To follow up on that, I would note that the conditions you set for NFU's approval of commodity promotion programs, could you tell me why the NFU would support an increase in percentage of producers required to approve an order up from a majority in a referendum to two-thirds?

Mr. GIESSEL. Why we would support a majority?

Senator FEINGOLD. Why you would want two-thirds rather than a majority, according to NFU.

Mr. GIESSEL. Our policy, our delegates decided that any major change such as that should have that standard of a vote?

Senator FEINGOLD. A higher, super majority?

Mr. GIESSEL. Yes.

Senator FEINGOLD. Thank you. Mr. Call, would increasing the approval rate from a majority of producers to two-thirds of producers address some of the concerns raised by the Family Farm Defenders?

Mr. CALL. Yes.

Senator FEINGOLD. Mr. Brubaker, in your statement, you make a very strong case for representative or bloc voting. It is clear the cooperatives have a right and responsibility to represent their members on matters which farmers entrust to them, such as marketing their milk, investing profits and making marketing order decisions. We do not dispute that.

That, of course, assumes that the farmer has turned over those responsibilities to the cooperative though. However, a cooperative which has a Political Action Committee and publicly supports and contributes to particular candidates for election for President or Governor cannot cast votes for their members en bloc for that candidate. They are not entrusted by their members with that responsibility.

What has happened in recent years, is that some farmers are now saying that they do not believe that the cooperative should have the responsibility to cast their votes for their members in National Dairy Board referenda. They want to withdraw that responsibility from their cooperative for this policy issue.

How would you respond to a member of your cooperative who supported MMI on every issue except on the bloc voting concern and asked that the right to bloc vote on Dairy Board referenda be withdrawn?

Mr. BRUBAKER. As I answered the question before, the cooperative makes the decision as to what we feel is the best for the majority of the members. Under the current law and the way it is structured, the person that does not feel that they want to either—whatever side of the issue is the opposite of what the cooperative has taken and relating to promotion, they have the opportunity to do this because of the structure that was explained here just a few minutes ago. They have the opportunity to receive a ballot, to oppose the cooperative board of director's decision with a self-addressed envelope and they can send it in.

They have every opportunity.

Senator FEINGOLD. [presiding]. Then if they do not like that, they can just go to a different co-op?

Mr. BRUBAKER. No, generally the results of an opposition, especially a promotion program, you have to remember that the people in the cooperatives were very, very supportive of this program before it became a mandatory program in 1983. So the philosophy there is that is an important aspect, very vital to dairy producers in our cooperative. They feel it is very beneficial to have these programs and they support these programs.

Senator FEINGOLD. Let me turn to Mr. Call. One of the options that is frequently cited, at least by some, for those producers who do not agree with the policy of bloc voting is that they should simply leave the cooperative and join another one. Is that realistic, that they can do that?

Mr. CALL. It is realistic to a point. On the other hand, as I mentioned a while ago, it takes—it is either 30 or 60 days. Like when I entered Southern, I had 60 days to get out at a certain time. You know, it is hard to go out here and find a cooperative that is going to agree with you in the first place. And it was mentioned a while ago that you need to be involved in those cooperatives. That is the reason I got involved with Southern. There is things that I do not

agree with them, but I have thought about going independent myself to another producer, to another co-op or process or whatever.

But just for example, there was a group of small farmers in my county that had 2-weeks notice to find them a milk company. The backbone of the dairy industry in the past has been cooperatives. I have had courses when I was at the University of Kentucky. But it seems like to me that once you become a member of a cooperative that the board of directors, they listen to management. They will not listen to the producers and the grass roots people that make up that cooperative.

That is what has been a major problem throughout the country.

Senator FEINGOLD. Thank you, Mr. Call.

Back to Mr. Brubaker. I know that as a board member of a cooperative and a member of the National Dairy Board, you must get frustrated with what seems to be a growing sentiment among farmers that cooperatives do not always represent the producers and the matter of bloc voting somehow seems to enhance that perception, at least for some.

Do you believe that the concerns about bloc voting have, in any way, harmed the image of marketing milk cooperatively? Have they done some damage to that image?

Mr. BRUBAKER. No, I personally do not believe that that has harmed the image at all. I think it is a very vital concept that has to be maintained as far as the cooperatives are concerned. Again, you have to remember that these cooperatives are voluntary organizations with a contractual agreement with the dairy producers. And the dairy producers have to realize when they sign a contract with a cooperative they have to want to, because it is a voluntary situation.

They entrust, through the systems that we have, to the delegates and the boards of directors on promotion what we call abbreviated representative voting, that they have every opportunity clear through that whole system to vote their choice if it does not coincide with the choice of the board of directors of that cooperative.

Senator FEINGOLD. I appreciate your strong statement of that view. All I can tell you is, for the record, that when the self-help proposals started coming out and we started talking to farmers about what it meant, the flash point right away before you even got into details was the bloc voting. So you obviously have enormous experience in this but I can tell you, without any mention of it, that is what got the biggest negative reaction.

Mr. Brubaker, several years ago Congress gave cooperatives the right to cast votes en bloc for their member in the Dairy Board referenda and that is a right that was established only recently and was not established for any other promotion program. If this is such a basic right for cooperatives, why has it not been established for the other 15 commodity promotion programs?

Mr. BRUBAKER. I really, in all honesty, as you well know the Dairy Promotion Program was one of the first promotion programs to be legislated in 1983. We felt, at that point in time, that it was imperative that we follow the cooperative principles as far as concerning the promotion program, and that was included in there.

Again, as far as policy is concerned, I am a very, very strong believer in the cooperative principle and the representative voting principle.

Senator FEINGOLD. Just a quick factual thing, if you know, in your statement you comment that the Supreme Court has upheld representative voting as the cooperative as the marketing agency of those for whom it votes. Has the Supreme Court ever heard a case on bloc voting as it relates to the National Dairy Board referendum that we are discussing here today?

Mr. BRUBAKER. I would have to rely on some legal people.

Senator FEINGOLD. Not as far as you know? Let me know if you discover such a thing.

I see that Senator Craig is here, so let me just ask one more question and I would like each of you to respond. That sort of goes to the heart of the type of questions that the Chairman was asking. Do producers care enough about this program to come out and affirmatively support it in the absence of bloc voting? Will people vote? Mr. Brubaker?

Mr. BRUBAKER. You are asking me a personal question now, rather than a cooperative—

Senator FEINGOLD. What is your view of what farmers will do?

Mr. BRUBAKER. My view, OK. Their voting record, I would say, would be the same as the general public voting record in an election.

Senator FEINGOLD. Hopefully with good results. How about Mr. Giacomini?

Mr. GIACOMINI. I am not supposed to be talking about any of these three issues, believe me, and I appreciate that. I do not know. I look at our whole situation of our country and the kinds of people that vote. Forget about the dairy industry for a second, let us just look at what is happening around the country. We are getting less and less people voting. Why? I do not know.

Needless to say, it is happening in the dairy industry, too. I do not know what the answer to that is. We are not as patriotic as we were 50 years ago, or whatever it was, or nobody gives a darn. I mean, we can go on to a whole different subject here. I think that is an issue that is a lot bigger than the dairy industry.

Senator FEINGOLD. Let me turn to Mr. Giessel then. Do you have a view on that? Do you think farmers will come out and go through the process of voting individually if we eliminate bloc voting in this regard?

Mr. GIESSEL. That is a different question. If they would go through the process?

Senator FEINGOLD. Will they vote individually if there is not a bloc voting process?

Mr. GIESSEL. Yes, I think they will. I think right now, and I am talking about all commodity checkoff programs in general, I think if people have an opportunity they would come out and vote. I think there is some disgust, and I am not saying that anybody is doing any job wrong, but people are out there trying to make a living and it is not coming back in their pockets the way they think it should and I think you would really be surprised at the turnout you might have.

Senator FEINGOLD. Is it possible that knowing how substantial the bloc votes are that right now they feel like it would not make a difference, and that could change?

Mr. GIESSEL. I think it would make a difference. I think they would make a tremendous difference.

Senator FEINGOLD. Mr. Call.

Mr. CALL. Bloc voting has had an astounding feeling pertaining to dairy farmers on how the vote would be. But I feel that dairy farmers need to be properly educated. They need to know more about the programs. Why not let each co-op send one out with the milk check? What would be a problem there?

Dairy farmers, and I condemn the National Dairy Board for this, they have not kept the dairy farmers interests at heart and they have not kept the dairy farmers educated on these issues. It takes education. I have talked about this before in the past.

Senator FEINGOLD. Thank you, Mr. Call. Senator Craig.

Senator CRAIG. Mr. Chairman, I do not have any questions on this issue. I must say in my State of Idaho, where a fair amount of our milk is marketed through co-ops it is not an issue. We have not heard it spoken to. Our farmers and producers do not appear to be alarmed over it, or we would have heard something by now from it.

I also know that individuals can cast their ballots under the current mechanism directly through to USDA. So it just has not appeared on the horizon out there. I think our co-ops, in all fairness to them, have done an excellent job of keeping their members involved. I used to be a member of a co-op, Mr. Chairman, not a marketing co-op of the kind that we are talking about here. I will tell you there were times when I got outvoted because my point of view was not upheld, but I did recognize the tremendous advantage that was given to me by the tool of the co-op itself.

So while I am certainly curious to the concern, I must say that it is only at a level of curiosity because in my State it does not appear to be an issue.

Senator FEINGOLD. Thank you, Senator Craig. We have very different experiences from our States. Let me just make a few closing remarks before concluding the hearing about the purpose of this portion of the hearing.

One of our witnesses today talked about the appropriateness of bloc voting, since the cooperative is the marketing agency of those for whom it votes. That is fundamental to this debate. The key word here is marketing agency.

Farmers join cooperatives to gain bargaining leverage in the marketplace. For the producer, the cooperative acts as his marketing agent ensuring a constant market for his milk. That is why cooperatives are able to bloc vote in referendum on amendments to the marketing order. Those decisions do affect the day-to-day marketing activities of the cooperative and can have a dramatic effect on a farmer's short and long term bottom line.

My bill does not eliminate bloc voting for marketing order referendum nor have I ever suggested that that practice is inappropriate for marketing orders. However, unlike Senator Craig's experience, I have been told by many producers that a decision on the National Dairy Board is very different from a decision on market-



ing orders in two ways. First, the National Dairy Board is a generic promotion program designed to enhance the long-term image of the dairy industry, conduct nutrition research and education. Generic promotion may be a wise long-term strategy for dairy cooperatives. But it is far from being a marketing decision integral to the day-to-day marketing of the cooperative.

Second, a National Dairy Board effectively mandates a tax on individual producers, unlike marketing orders. It mandates a tax in the amount of \$225 million annually. I think producers deserve a fair vote on that amount of money. Cooperatives cannot vote en bloc for their members in State referendum on property taxes, even if the proposed changes affect the way in which that cooperative conducts its business for its members. That is because it is an inappropriate use of representative voting.

Attempts to depict the elimination of bloc voting for National Dairy Board referendum as a death knell for a cooperative's ability to represent their membership is, in effect, a misrepresentation of the issue. Bloc voting in referendum for the National Dairy Board is a quite new and unique feature for dairy cooperatives relative to the age of some of our very traditional co-ops. It is not a fundamental right or responsibility of cooperatives.

I want to comment briefly on one other statement made today which I found very interesting. Mr. Brubaker made the statement that the Constitution guarantees the right to participate in the political process, it does not guarantee success. That, of course, is absolutely correct. But when the process is designed to interfere with the expression of views, as is bloc voting in the Dairy Board referendum, then it has to be reevaluated and reformed by Congress.

Bloc voting, in my view, interferes with the political process. It makes it far more difficult for an individual producer to be heard because it plays on the inertia of the individual. Every indifferent producer and every ambivalent producer is cast as a yes vote, drowning out the dissenting voices.

My bill, S. 1564, would correct the process which currently stacks the deck against those seeking a voice. It is time to reform the process and let the promotion program stand the test of an individual producer vote, just as every other promotion program must do. If it is truly supported by the producers who pay the bills, it will not only survive but it will be stronger.

Also, in the interest of equity and representation, I am going to work with Senator Kohl to improve the accountability of the National Dairy Board. My bill, S. 1564, would assess importers along with our domestic producers for our promotion programs so that all are treated fairly.

In addition, contrary to the testimony of some of our witnesses, my bill simply would not eliminate the Dairy Board, but would put it on the same reauthorization schedule as the Dairy Price Support Program itself, so that both programs would be reauthorized at the same time, and it would ensure a regular Congressional review of the program.

Then Senator Kohl's bill, S. 1557, would create greater accountability in the form of having direct election of the members of the board.

So to conclude, I want to thank our witnesses for their willingness to spend all this time to come before us. I am honored to have heard the testimony on dairy policy from a panel made up entirely of producers who must live by and under their own recommendations, and I want to thank you gentlemen.

Senator Craig, do you want to make a statement?

Senator CRAIG. I apologize that I was not able to be here for all of the hearing, but I do strange things like read the testimony, so I will get through it all before we get this issue fully considered. I know I will be visiting with all of you about the issue as it develops. Thank you for your time.

Senator FEINGOLD. Thank you, Senator Craig, and thank all of you. The hearing is adjourned.

[Whereupon, at 12:57 p.m., the subcommittee was adjourned.]

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## APPENDIX

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### PREPARED STATEMENTS

#### Herman M. Brubaker

Mr. Chairman, my name is Herman Brubaker and I appreciate the opportunity to appear before the Senate subcommittee on behalf of dairy cooperatives. I have been an active dairy farmer for more than 38 years and operate a family partnership with my wife and two of our sons. I am chair and president of the board of directors for Milk Marketing Inc., a dairy cooperative based in Strongsville, Ohio. I represent MMI nationally as a vice president of the National Milk Producers Federation. For 6 years, I was a member of the National Dairy Board. I am currently chairman of United Dairy Industry Association and the newly formed Dairy Management, Inc. I testify today on behalf of the National Milk Producers Federation.

The National Milk Producers Federation represents this Nation's dairy cooperatives and their dairy farmer members who are located in each of the lower 48 States. Since 1916, the Federation has been dedicated to protecting, promoting and supporting the economic well-being of dairy farmers and their milk marketing cooperatives.

Because of the Federation's long-standing support for cooperatives, I am here today to express the Federation's opposition to certain provisions in the proposed National Dairy Board Promotion Reform Act of 1993 and Dairy Promotion Program Improvement Act of 1993. Specific provisions of the bills effectively would eliminate representative voting, one of the cornerstones of cooperatives, and would terminate the National Dairy Promotion Program, a program dairy farmers across the county supported in a recent referendum by over 71 percent.

The two bills under consideration, S. 1557 and S. 1564 would alter the cooperative voting provisions of the Dairy Production Stabilization Act of 1983. In the proposed legislation, the process is called "bloc voting." This terminology frequently is used to misstate a representative process that is fundamental to cooperatives and is arguably more democratic than the voting process of our Nation's representative government.

The Federation strongly opposes legislative proposals designed to eliminate representative voting for agricultural cooperatives. For many decades, Congress has sought to maintain and expand strong markets for dairy products, encouraging collective action by dairy farmers. To achieve this goal, Congress passed legislation allowing cooperative associations to act collectively in promotion and marketing order referenda. The statutory provision which allows representative voting by a cooperative empowers producers to act together in their own economic interest to ensure stable and profitable agricultural markets.

In judicial challenges contending that too much voting power is vested in cooperatives, the Supreme Court specifically has upheld representative voting. The Supreme Court said, "This is not an unreasonable provision, as the cooperative is the marketing agency of those for whom it votes." In case after case, lower courts have concluded that representative voting by cooperatives as it applies to market order and promotional referenda, is sound public policy and good law, that it is consistent with congressional intent and that it is constitutional.

The relationship between a cooperative and a producer is one of a contractual nature. Among many components, the contract specifically addresses the cooperative's procedure for defining its policy and position on market order and promotion issues as well as the parameters for which a cooperative will represent the producer in representative voting. To eliminate representative voting from the contracts existing between producer and cooperative would serve only to diminish the cooperative's ability to speak on behalf of its majority membership, thus handicapping efforts to market product effectively for the entire cooperative membership.

The balloting procedures under Federal statute and regulations provide one and only one vote to each producer. Since one dissenting vote in promotion referenda nullifies one cooperative representative vote, the result is precisely the same as if each producer voted independently. Cooperatives do not vote on their own behalf; Federal statute simply allows them to cast votes for their members and in the best interests of the majority of their members. It is this collective interest in stable markets which is advanced by allowing cooperatives to act and vote collectively.

For producers in every State, membership in an agricultural cooperative is wholly voluntary. No one is required to belong to a cooperative and no cooperative is required to utilize the concept of representative voting. While the vast majority of producers concur with the decisions of their respective cooperative, a producer who does not concur with their cooperative's position can:

- persuade the cooperative to change its position;
- withdraw as a member of the cooperative;
- vote for cooperative leaders who adequately reflect your views;
- run for a leadership position in the cooperative;
- join a cooperative that agrees with their views;
- join a cooperative that is committed to not exercising representative voting;  
or
- most importantly for promotion referenda, cast their individual vote dissenting from the cooperative position.

With regard to representative voting, if a cooperative, in accordance with a majority, acts against the beliefs of a particular individual, the solution does not speak to the need for Federal Government intervention but to the reevaluation of the relationship between producer and cooperative. The Constitution guarantees the right to participate in the political process; it does not guarantee success.

Congress' legislative history on cooperatives is clear. Congress encourages producers to form larger economic cooperative units to foster more stable and efficient markets. Repeated Federal and State adjudication supports the sound and reasoned benefits of representative voting and that the concepts of representative voting is consistent with fundamental goals of Congress for agricultural cooperatives. The Federation has long supported the concept of representative voting by our member cooperatives as a key element in the successful Federal order program and most recently our industry's promotion program. For these reasons, we oppose legislative proposals to eliminate representative voting.

To address briefly other issues before the subcommittee today, S. 1564 arbitrarily would terminate the National Dairy Research and Promotion Program on December 30, 1996. The Dairy Research and Promotion Program was established under The Dairy and Tobacco Adjustment Act of 1983 to increase consumption of U.S. milk and other dairy products in domestic and foreign markets, to reduce milk surpluses and to provide nutrition education.

The National Milk Producers Federation and others in the dairy industry worked for many years to establish a national promotion program. The National Dairy Research and Promotion Program was intended to coordinate the State and Federal promotion programs. New and recent steps are being taken to combine the administrative functions of the State and national programs to increase the programs' effectiveness and save the farmers money.

While it is difficult to measure the effectiveness of the National Dairy Research and Promotion Program, most dairy farmers agree that advertising, research and promotion of milk and other dairy products is critical in today's competitive food market.

During the referendum conducted last fall, continuation of the National Dairy Promotion Program was approved by 71.4 percent of the 78,083 votes received from milk producers. Of the total eligible votes, 63.9 percent were cast for the program by cooperatives using the representative voting provisions. Individual producers cast 36.1 percent of the vote.

Finally, the Federation has no policy with the provisions to elect members of the promotion board or to subject imported products to promotion tariffs. Before making

these changes, the Federation would ask the subcommittee to consider the ramifications of an import tariff on the operations of the board. Would an importer become a member of the board? Would the board be compelled to promote imported products because of the additional funds?

As a farmer and leader in dairy industry for many years, I will close with the firm belief that the National Dairy Research and Promotion Program is vital to the dairy industry. The program is run by farmers for farmers. Individuals continue to participate in the voting process and their concerns have been heard. The industry's efforts are directed toward making the promotion program more effective, not terminating it. We welcome congressional efforts to strengthen our program and to make it the best it can be.

Thank you for your interest in these dairy-related issues and I will be delighted to answer any questions at this time.

# **FAMILY FARM DEFENDERS**

## **SPONSORS OF DUMP THE NATIONAL DAIRY BOARD CAMPAIGN**

**TESTIMONY OF DAVID CALL, KENTUCKY DAIRY FARMER  
BEFORE THE SENATE AGRICULTURE, NUTRITION & FORESTRY  
SUBCOMMITTEE ON DOMESTIC AND FOREIGN MARKETING &  
PRODUCT PROMOTION  
SENATOR DAVID BOREN, CHAIR**

My name is David Call. I am a dairy farmer from Bardstown, Kentucky. I began dairy farming with my parents in 1972. I am a member of Southern Coop and serve on the SUDIA Board in the Southeast. I am speaking on behalf of the Family Farm Defenders sponsors of the "Dump the National Dairy Board Campaign." (Herein after referred to as the "Campaign".) We speak in favor of S. 1564 which seeks to prohibit bloc voting by cooperative associations of milk producers in National Dairy Promotion and Research Board (NDB) referendums.

As dairy farmers and U.S. citizens we are appalled at the corrupt voting procedure in the August 1993 NDB referendum. It was an insult to democracy and a slap in the face to the thousands of dairy producers who fund the program.

In 1991, a group of Wisconsin dairy farmers decided they could no longer condone the dubious and questionable activities of the NDB and began a petition drive to force a referendum on the continuation on the NDB, as set forth by 7 U.S.C. § 4507. Low milk prices and promotion of the controversial hormone bovine growth hormone (rbGH) fueled the the petition drive. The campaign gained national attention and I then became involved.

The reasons behind the petition drive were:

- 1) **The NDB no longer represents dairy farmer interests, despite contributing over \$780 million;**
- 2) **The two biggest NDB expenditures have been in fluid milk promotion and product research development; since 1983 fluid milk consumption has decreased and no new products have been developed.**
- 3) **The NDB has squandered money on excessive salaries;**
- 4) **The NDB has promoted Bovine Growth Hormone (BGH);**
- 5) **The NDB panders to corporate interests rather than listening to dairy producers;**
- 6) **Since the creation of the NDB dairy prices have plummeted and fluctuated greatly, forcing thousands of farm families from the land.**

Testimony of David Call  
August 5, 1994  
page 2

Dairy farmers are tired of having money taken from their milk checks without seeing any return on their investment. Since the inception of the NDB in 1984, farmers have had \$2.25 billion dollars deducted from their milk checks over the last 10 years, yet milk prices are lower today than when the program started and it is estimated that over 200,000 dairy farmers are no longer in business. The NDB, which generally received \$75 to \$80 million dollars a year, has received between \$750 to \$800 million dollars. (In Wisconsin, this transfer of wealth amounts to over \$12 million a year, or \$120 million in the last 10 years.)

The petition drive formally began in October 1991 and continued until December 1992. During that time over 16,000 dairy farmers signed the petition. Signatures came from 47 states. This effort was supported by dairy farmers' work, money and sweat. We wanted a fair, meaningful election.

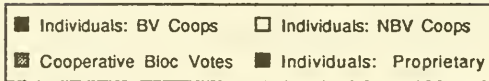
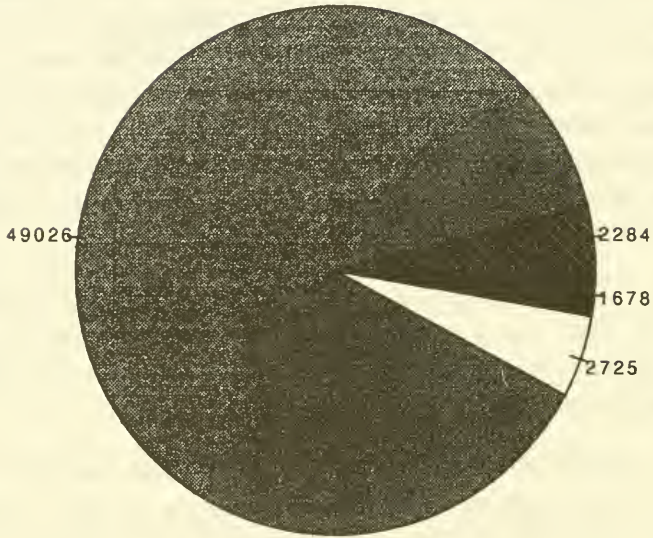
On February 25, 1993 representatives of the Campaign delivered the petitions to Secretary of Agriculture Mike Espy in Minneapolis, Minnesota. After eleven weeks, the Secretary Espy announced he was calling the referendum for August, 1993. Campaign representatives met with Secretary Espy on May 11 to discuss the upcoming referendum. We asked the Secretary to disallow "bloc voting," make changes in the proposed ballot question and complained that the NDB was spending money to defeat the petition drive. Our voices went unheeded and the referendum proceeded.

Dairy farmers attempted to stop the bloc voting process with a lawsuit, but were unsuccessful. The referendum was held during August of 1993 and it was a fiasco. Bloc voting cooperatives steamrolled the individual producers. The results make it impossible for any fair minded person to recognize this referendum as legitimate:

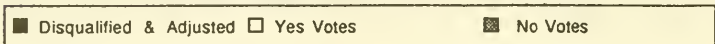
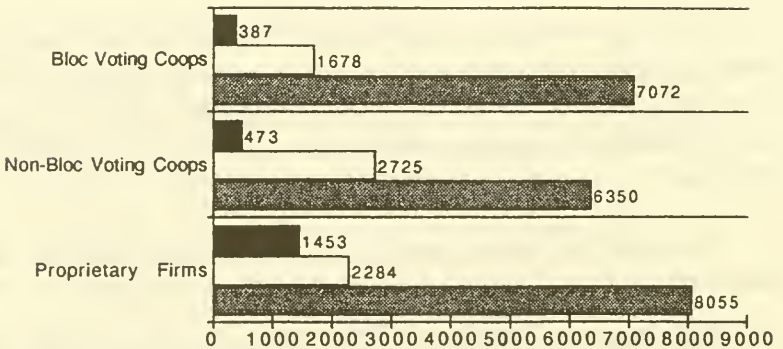
- **Over 80% of the bloc votes in favor of the NDB were from coops that were recipients of national mandatory checkoff money.**

- **Over 86% of the "Yes" votes were cast by bloc voting coops. (See chart below)**

1993 Referendum: Yes Votes



Individual Votes





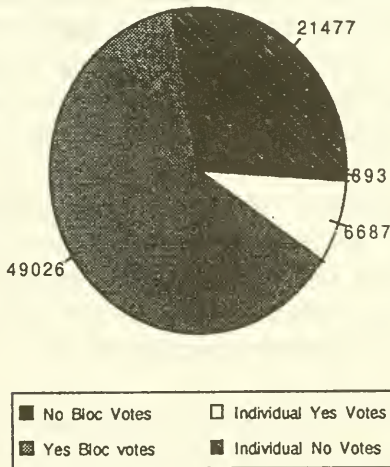
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- 76% of Individual farmers voted "No."

• Some farmers received ballots directly from their coops and milk plants, others did not. Some received too many ballots, which varied in color, which confused the already too confusing individual voting instructions.

• Individual ballots required farmers to print and sign their names, list their addresses, and list their coop affiliations. This violates the right to vote without fear of harassment by coops.

Qualified Vote Totals



• Farmers were intimidated by threat of fines and imprisonment if they made a mistake in completing their ballots, while bloc voting cooperatives willfully violated voting procedures without penalty.

• AMS Dairy Division refused to allow farmers to oversee the voting process. Instead in-house AMS/USDA personnel discarded, adjusted and counted ballots behind closed doors for a period of 10 weeks.

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- AMS Dairy Division does not maintain a its own list of dairy farmers, making verification of the ballots impossible.

- Thirteen of the 63 cooperatives bloc voting did not inform their members of their bloc voting and/or provide them with individual ballots as required by law.

- AMS Dairy Division arbitrarily assumed the authority to "adjust bloc votes" when bloc voting coops were discovered voting for more members than the law allowed. The NDB rules only allows for the referendum agent to adjust bloc votes to reflect the individual producer members voting differently than the cooperative association. By extending this authority to coops which cast incorrect ballots, the dairy division was able to exonerate bloc voting coops in violation of the statute, bringing their votes into compliance with the law and retain the majority of bloc votes in favor of the NDB.

- In one documented case, Wisconsin Dairies, a Baraboo, Wisconsin coop, voted for dairy producers based on their membership totals. The cooperative explained it had received this "interpretation" from the Dairy Division's referendum agent. This contrary to the rules, which require one vote per dairy business unit.

Based on the above information, plus a belief that every dairy farmers ought to be able to vote individually without bloc voting, members of the Campaign filed a petition with the USDA to dispute the election results. In mid-July a two and one-half day hearing was held in Madison, Wisconsin, which I attended. Over 20 dairy farmers from 6 states testified against the referendum results. I enclose a copy of a recently released press release regarding the hearing.

The hearing validated our greatest fears. The election was a fraud. The process was arbitrary and irrational and denied dairy farmers a fair election. At every turn the USDA tilted the referendum to favor the bloc voting coops at the expense of the individual farmers. The following information was exposed:

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- The ballot was confusing and intimidating. The USDA received over 673 phone calls regarding the referendum. Of the docketed calls, many questions revolved around the confusing ballot, "How to complete the ballot?" - 93 calls; "Who can vote?" - 12 calls; "What is a farm entity?" - 7 calls; "Do I get one vote per milk check or per farm?" - 18 calls; "I received more than one ballot, can I vote more than one?" - 14 calls; "People against bloc voting!" - 34 calls.

- The voting procedures called for in the Dairy Promotion and Research Act treat dairy farmers differently and unequally. The three voting procedures are:

- 1) Bloc Voting Coops. If coops bloc vote they must then send an individual ballot to each member 30 days prior to the election. A farmer who wants to vote differently, mails the ballot to the referendum agent by the last day of the election and the cooperative vote is "adjusted."

- 2) Non-bloc Voting Coops. AMS encouraged coops to send ballots, but they were not required to do so. Otherwise farmers must go to the local ASCS office or call the USDA at their 1-800 number to obtain their ballots.

- 3) Proprietary Plants. Some plants mailed ballots, but they were not required to do so. Otherwise farmers must go to the local ASCS office or call the USDA at their 1-800 number to obtain their ballots.

Why are the dairy farmers treated differently? It shouldn't be harder for one farmer to vote versus another. Yet, if I belong to a bloc voting coop, I need do nothing and my vote is cast. If I belong to a non-bloc voting coop, I must obtain a ballot, then I must correctly fill it out and mail it to the USDA. All farmers are not on a level playing field.

- Individual ballots were strictly scrutinized. Over 2313 individual ballots, 8% of the individual votes received, were disqualified because the coops' name was missing or a signature was missing. Dairy producers from proprietary firms had 12% of their ballots thrown out for these reasons. The referendum agent testified he reviewed each questionable individual ballot and decided whether to accept or reject the ballots. But, because the vote was not close, he chose not to verify any of the individual ballots. For those individual ballots the producers address and coop name was superfluous. But they still didn't count.

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- There is no list of dairy producers at USDA so no one knew who was eligible to vote or the number of eligible voters. The USDA printed 300,000 ballots, and it mailed out over 250,000 ballots to coops, private processors and ASCS offices. Yet, no one could testify whether the ballots were mailed. The referendum agent was asked, "Suppose a coop had 7,000 members and suppose the coop chose to send out 3,000 ballots to its members instead of 7,000, does your office or does anyone within the USDA in connection with the audit of this coop have any way of determining whether, in fact, the 7,000 ballots were sent out or whether a lower number such as 3,000 or 3,500 were sent out?" The referendum agent answered, "There's no way to check what happens once it gets inside the cooperative mail room."

- While the referendum agent audited the individual ballots, he did not oversee the bloc voting cooperative audit. That audit was conducted by the marketing order administrators. The administrators were told to determine proper number of "dairy business units" each bloc voting cooperative was eligible to vote for in the referendum. The audited number was given to the referendum agent. The referendum agent then compared the marketing order number with the one the coop submitted by ballot. He then choose to use the lower of the two numbers. If the cooperative had voted for more individuals than determined by the marketing order administrator, the bloc vote was "adjusted." Bloc voting cooperatives were not penalized as individual producers were for an incorrect ballot. This clearly is not within the purview of the NDB rules. The only adjusted votes allowed are those where a producer votes differently than his or her bloc voting cooperative.

- The referendum agent was not allowed to disclose how each cooperative voted and the number of producers they voted for. The NDB rules make a cooperative vote confidential. This means there can be no outside oversight of the election. Oversight is strictly an inside operation. The Dairy division wrote the referendum question and composed the ballot. It then collected the completed ballots and validated the results. In the meantime, AMS employees were overseeing the NDB, which provided them with gainful employment. This was not an impartial election.

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- **The Wisconsin Dairies Saga.** These lax standards led Wisconsin Dairies to file a ballot with an inflated number of members. On August 24, Wisconsin Dairies sent a letter to USDA changing its vote total. Those votes were still counted, even though this letter was sent after the August 16 referendum deadline.

A former Wisconsin Dairies member testified that when the cooperative board met to decide whether to bloc vote, the coop manager had already notified USDA that it would bloc vote. When the board of directors voted at the meeting, they did not favor bloc voting. At that point, the coop manager added in the votes of a smaller group of board directors which had privately met the week before and low and behold, bloc voting was approved.

- **Cooperative Favoritism.** The AMS immediately notified cooperatives of the upcoming referendum by mail, however individual producers were not accorded the privilege. The AMS also requested coops to decide whether they were going to bloc vote by May 17, 1993. The reason given for this rushed decision was so the AMS would know how many ballots to produce (and the right color of course). However, the NDB regulations indicate the cooperatives don't have to notify the referendum agent until 30 days prior to the referendum voting period.

- **What is a "dairy business unit?"** Who was eligible to vote in the referendum was greatly misunderstood, since the definition of a "dairy business unit" was not easily understood. The whole question of who can vote is not easily decipherable. The statutes define producer as, "any person engaged in the production of milk for commercial use." 7 USDA § 4502(h). (Also found in 7 CFR §1150.110.) Yet, the NDB bloc voting regulations define producer to mean "any person engaged in the production of milk for commercial use and whose milk is subject to an assessment. In the case of a producer who is other than an individual, the business unit shall be regarded as the producer." 7 CFR § 1150.201(i). (Emphasis added). The bloc voting rule, 7 CFR § 1150.201 (h), defines "person" to mean "any individual, group of individuals, partnership, corporation, association, cooperative or other entity, and, for the purposes of this subpart, shall include only one member of a family that owns or operates a dairy farm business unit." (Emphasis added). This is a more restrictive definition that provided in the statute.

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• Cooperatives who receive money from the NDB, either running qualified programs or receiving research grants, had a tremendous influence on the referendum. The Dairy Promotion and Research Act prohibits "funds ... from influencing governmental policy or action." 7 U.S.C. § 4504 (j). The USDA sent a letter to all "qualified programs" (those programs receiving 10 of the 15 cent checkoff) indicating they could not take a proactive position on the upcoming referendum vote.

However, several cooperatives who bloc voted receive money from the NDB to run "qualified programs." They include:

Associated Milk Producers, Inc. -- Southern Region -- which received over \$8 million a year for running a qualified program. Former NDB chair James Loper addressed the AMPI convention in 1993 urging them to bloc vote in the upcoming referendum.

Mid - American Dairymen -- Dairy Promotion, Inc. -- whose program takes in over \$4 million a year. Mid-Am then sent a letter to all their members encouraging them not to vote in the upcoming referendum.

Land O'Lakes has received over \$275,000 from the NDB for research studies.

• The NDB Board improperly tainted the petition and referendum process. NDB Board members were provided with a document entitled, "How to defeat the petition drive." One of the early Campaign leaders was visited on his farm by then NDB President, Lester Evans and NDB CEO Cynthia Carson. He stated, "They did a little arm twisting and tried to convince me to call off this petition drive."

## CONCLUSION

The Campaign asks Congress to make the following changes:

- 1) **Require the Agricultural Marketing Service to mail out a ballot to each individual dairy producer.**

During the course of the administrative hearing, the biggest complaint by farmers was the lack of a list of actual dairy producers. The lack of a list affects every aspect of the referendum. Who is eligible to vote? How can referendum results be accurately verified?

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It is incredible that a list of dairy producers cannot be developed. After all numerous resources are at USDA's disposal. First, we have the marketing orders. Reports list the number of producers subject to the order. Second, federal inspections. Dairy producers must be inspected by federal dairy inspectors. Producers are often required to have health ID numbers. Third, state agricultural agencies. Various states have lists of dairy producers. In the state of Wisconsin one dairy producer testified he obtained a computer list of all the dairy producers doing business in the state. Dairy producers are also subject to state dairy inspections. Fourth, the ASCS office. Each county has an office, which keeps track of farmer and farm programs. I recently received a publication from SUDIA, which listed the number of dairy farmers in each county in Kentucky.

Last July, the NDB was nice enough to send me a colored calendar. Where did they get the list to mail the calendar to each dairy producer?

**2) Make sure the ballot question is understandable and includes something on the cost of assessment.**

Why can't we ask a simple question. "Do you want to continue paying 15 cents a hundredweight to fund the National Dairy Board (NDB)?" Yes or No. That's it. Why do we have a ballot which looks like you need a PhD to answer it?

**3) Make sure the ballot can be cast in secret and is confidential.**

When I go and vote for the President of the United States, no one knows how I vote. Yet, when I voted in this past dairy referendum I had to sign my name and list the cooperative I belong to on the very face of ballot. That's not a secret ballot. Why can't we use a voting method similar to the way ASCS elections are conducted where a farmer is sent a ballot with an envelopes, which is signed the he or she is mailed, but the ballot merely states the question I'm voting on. That is fair.

**4) Ban bloc voting. Voting ought to be based on "one producer -- one vote."**

Dairy is the only commodity program which allows bloc voting. Other marketing programs allow individual producers to decide the fate the program, we

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ask for the same consideration. It is only fair and just. It is the individual farmer who has the 15 cents assessment deducted from his or her milk check. The money does not come from the operating funds of the cooperative. Bloc voting takes away the individuals' right to decide for themselves and their families. Coops, which are marketing agencies, should not be allowed to influence the voting process of an **assessment which only directly affects the pocketbooks of individual farmers.**

As pointed out by Farmers Union Milk Marketing Cooperative, *"It is critical that dairy farmers have a direct voice in any decision on the future of this producer-funded promotion and research program and how their checkoff dollars are spent. Bloc voting interferes with that right."*

The Campaign asks Congress to act -- Stop Bloc Voting. Allow democracy to work, let each individual farmer decide the fate of the National Dairy Promotion and Research Program.



For Immediate Release...

From The Family Farm Defenders  
PO Box 581, Hillsboro, WI 54634

Sponsors of the Dump the National Dairy Board Campaign

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**Hearing Held on 1993 NDB Referendum  
(Madison, Wisconsin, July 12-14)**

USDA Administrative Judge Edwin Bernstein listened to three days of testimony regarding the August 1993 referendum on the National Dairy Board (NDB) and the mandatory milk tax that funds it. (The NDB checkoff collects \$.15 for every hundred pounds of farm milk--about \$225 million/year--of which NDB receives about \$78 million; the remainder is distributed among regional programs.)

Alexander J. Pires, Jr., representing farmers contesting the 1993 referendum, introduced over twenty witnesses who argued that USDA did not conduct an unbiased referendum. Dairy farmers from six states testified to the fact that USDA failed to provide adequate safeguards to assure the voting rights of individual dairy farmers against the interests of large processing co-ops that favored continuation of the mandatory farm checkoff.

"There was nothing complicated about our case," said Walt Kessler, dairy farmer from Galt, California. "At every turn USDA tilted the referendum to favor co-ops bloc voting for their members in favor of NDB, at the expense of individual farmers. It was unfair and we weren't afraid to say so."

**No USDA List of Dairy Farmers**

The centerpiece of the government's defense--and its justification for many decisions made in the referendum--was USDA's contention that it did not know how many dairy farmers there were in 1993, or who they were. This was hotly contested by nearly every farmer that testified.

"If the government doesn't know who is dairy farming, how can they collect the \$.15 checkoff?" asked Wisconsin dairyman John Kinsman. "How can they collect milk assessments for the federal deficit reduction program?"

"Government inspectors visit my farm on a regular basis," said Terry Hall, dairyman from Maryland. "Don't tell me they don't know who we are."

"Every time the government wants to collect money from dairy farmers it knows exactly who we are," said Lee Light, dairy farmer from Vermont.

"If the National Dairy Board--which is run through USDA--can mail a glossy calendar to every dairy farmer, how can USDA say it is unable to get a list?" asked Kentucky dairyman David Call.

"This is a joke," said Lisa Elsner, dairy farmer from Wisconsin. "I don't believe the government could not come up with a list of dairy farmers."

"You have to be registered to sell milk," said Ron Morrissette, dairy farmer from Vermont.

"How can a government that keeps track of 250 million taxpayers claim to be unable to compile a list of 140,000 dairy farmers?" asked David Rhodes, a writer from Wisconsin.

"The USDA knows the exact number of cows in the United States, why not the dairy farms that own them?" asked Wisconsin dairyman Francis Goodman

"If you don't know who is eligible to vote, or how many eligible voters there are, how can you possibly have a fair election or have accountability?" asked Mr. Pires, counsel for the farmers. "The local VFW would never have an election and not know how many ballots to hand out. Doing so just invites cheating and lying."

Because of (allegedly) not having an independent list of farmers, USDA relied on penalty warnings at the bottom of ballots to keep voters honest (\$10,000 and/or 5 years in prison for falsifying information). Individual ballots required names, addresses and signatures, along with the names of co-ops or milk plants to which farmers sold their milk.

Farmers charged that the ballots were confusing, intimidating and discouraged individual voting. (Over 2,000 individual ballots were disqualified because the co-ops were not listed or the signatures were missing, while no ballots received from bloc voting co-ops were disqualified due to omissions/errors.) Some farmers also feared retaliation by their co-ops for voting against their bloc votes.

"There are many ways a co-op can get back at someone," one farmer testified.

"How can you have a secret ballot that requires a name, address and signature?" asked Minnesota dairyman Wayne Kelley. "We knew USDA could design a simple, secret ballot, because they did it for other commodity referendums. But they refused."

As for the penalty, when farmers discovered that some co-ops were voting for more members than they had, and reported this to the USDA, the USDA "adjusted" the bloc votes to the correct number and still counted them!

**Government witnesses:**

The government lawyer, Mr. Gregory Cooper, introduced two USDA employees as witnesses to defend the referendum, NDB, bloc voting co-ops and the USDA: Bret Rigbey and Eugene Krueger.

Mr. Rigbey, whose job included overseeing NDB programs and meeting with NDB at least six times a year, explained how he had helped design, distribute and collect the ballots used in the 1993 referendum. Though his job would have been terminated if NDB lost the referendum, Mr. Rigbey said USDA had "assured" him of reassignment if that happened.

When questioning Mr. Rigbey for the petitioning farmers, counsel Pires asked: "Why did you rely on the co-ops to distribute ballots to individual farmers? Why didn't you just require all co-ops to send you the names of their dairy farmers and mail ballots directly to them?"

Mr. Rigbey answered that this would have been too expensive. Then Mr. Pires pointed out that according to Mr. Rigbey's earlier testimony USDA ended up printing and sending over 300,000 ballots to co-ops, proprietary plants, ASCS offices and individuals, so the process chosen by USDA not only failed to assure that the ballots reached the farmers, but also cost more. Mr. Rigbey had no comment.

"How do you know that the farmers received the ballots the co-ops were required to give them?" asked Mr. Pires.

"You'll have to ask the referendum agent," said Mr. Rigbey.

**Who Was In Charge?**

One the last day of the hearing (July 14), Eugene Krueger explained that he had been named "referendum agent" to oversee the referendum--a four-month assignment, after which he returned to computer program management.

During cross-examination, counsel Pires established that although Mr. Krueger had full authority over individual balloting, he was not personally able to determine if the bloc votes received from co-ops accurately reflected their memberships. He also had not taken part in the audit of bloc voting co-ops--called after farmers had complained to Secretary Espy that co-ops were bloc voting for more members than they had. Neither had Mr. Krueger been shown the complete audit.

"Who audited the co-op bloc votes?" asked Mr. Pires.

"The marketing order administrators."

Mr. Pires then referred to the "Referendum Agent's Report," a 50-page report prepared by the Dairy Division, including a description of the marketing order that created NDB, a sample ballot, press notices, a discussion of voting results, procedural explanations and other documents relevant to the referendum.

"There seems to be two different sets of guidelines here," said Mr. Pires, "one for you and one for the marketing administrators. Is that true?"

Mr. Krueger said the documents referred to by Mr. Pires were not really guidelines ... or instructions ... or rules ... but were an informal and incomplete "plan of attack" for the referendum.

Mr. Pires then asked Mr. Krueger how he knew if co-ops sent out all the ballots they were required to send out. Mr. Krueger answered that the Dairy Division received at least "some" individual ballots from each bloc voting co-op, so he knew "some" ballots had been sent out.

Then Judge Bernstein interrupted and asked Mr. Krueger, directly, how he would have known if a co-op with 8,000 eligible dairy farmers had sent out only 3,000 ballots. Mr. Krueger said he had no way of knowing that.

At the conclusion of the hearing, Judge Bernstein explained he would rule on the petition two or three months after receiving written arguments from the participating attorneys, which were due Aug. 29, 1994 (including the attorney intervening on the side of the government for a number of large co-ops).

In conclusion: The dairy farmers attending the hearing, along with their supporters, were encouraged that the 1993 referendum would be thrown out and a new referendum called.

"We played by the rules, presented our case, and believe we will win," said John Kinsman. "Voting rights are sacred in this country, and ours were violated. We think the judge understands that; if he doesn't, a federal judge no doubt will. Just to make sure, we are actively collecting signatures in a new petition drive, and all the reasons for dumping NDB in 1993 are still valid in 1994, along with some brand new ones."

END

**Bob Drake**

Good morning Mr. Chairman. My name is Bob Drake. I am a cattle producer from Davis, Oklahoma. I am here today representing the National Cattlemen's Association (NCA) as the president-elect. I am also a member of the Beef Board and the beef industry's Long-Range Plan Oversight Committee.

I'm pleased to represent the National Cattlemen's Association at this hearing because NCA has played a major role in the development and implementation of the Beef Checkoff Program. And, we are proud to be involved in the industry's Long-Range Plan to make the industry more efficient.

NCA is the primary, grassroots organization representing the U.S. cattle industry. Our organization represents, and is accountable to, beef producers at the grassroots level. We feel a strong accountability to our constituency, indeed, to all beef producers who pay the checkoff dollar, to make sure the program operates properly and to the producer's benefit.

NCA members hold the majority stake in the Beef Checkoff Program. NCA, its affiliates and the 230,000 producers they represent account for about 67 percent of the total U.S. cattle herd.

NCA has been a long-time supporter of the need for a national checkoff program to strengthen the competitiveness of beef in the marketplace and improve the long-term profitability of beef producers.

Although many individual States had voluntary beef checkoff programs for a number of years, the benefits of a coordinated national beef checkoff have long been recognized. There were a couple of unsuccessful attempts to create a national checkoff before the current program was passed by Congress in 1985.

I think it's important to understand why those earlier efforts failed and why the 1985 initiative was successful. The lessons we learned at that time have had a lot of impact on where the industry organizations are going today, and how we can best represent that grassroots cattleman.

One important reason the current beef checkoff program exists is because NCA served as the primary architect, on the industry side, for developing it.

We served as the focal point for establishing agreement among the various industry groups and stakeholders on the common need for a checkoff. We undertook the task of working with producers and industry organizations to design an acceptable mechanism to satisfy that need. We brought the checkoff initiative to Washington and we worked with Congress to craft enabling legislation to ensure this would be a program run *for* producers by producers.

The fact that NCA helped give birth to the beef checkoff makes our accountability for its continued success even stronger, and our commitment to the Long-Range Plan critical.

The major reason for the success of the 1985 initiative was that those who drafted it listened more closely to what producers wanted. The earlier attempts for a checkoff failed because industry leaders didn't listen carefully enough to producers at the grassroots level and how they wanted a checkoff to operate. In 1985, we designed a program based on what producers wanted. We talked to producers. We surveyed them on their needs and wants. We talked to State, national and general agricultural organizations.

The vast majority of producers still approve of the checkoff. Results of an independent survey released this summer show 75 percent of all those paying the dollar approve of the beef checkoff, with 68 percent of dairymen approving of the beef checkoff.

The passage of the checkoff was a major turning point in our industry. The programs conducted under the checkoff have improved and matured since the passage of the producer referendum in 1988. But we need to do better. Take a look at the state of our industry, and it is easy to see the need for a unified plan. During the past decade, average annual per capita consumption of all types of meat rose by more than 20 pounds, and total expenditures for meat were up by 29 percent. That is good news, but unfortunately the opposite is true for beef. During the same time-frame, average per capita consumption of beef dropped 10 pounds, and average per capita expenditures for beef climbed by only 3 percent—not even matching inflation.

Currently, there are four beef industry organizations; all funded primarily by producers through dues dollars and/or checkoff contributions. Those organizations are the NCA, the Beef Industry Council of the National Livestock & Meat Board, the U.S. Meat Export Federation and the Beef Board. Each organization also has separate long-range plans and annual strategic plans. In 1992, recognizing that our industry is not as successful as it could be, some producers started wondering why we didn't have one long-range plan for the beef industry. The officers of the four organizations saw the need for a change. They saw the need for a single, unified

plan versus four individual plans. This is how the beef industry's Long-Range Plan, released last December, came about. Our membership endorsed the plan at our convention in January and approved of the establishment of the Oversight Committee to develop a road map to implement the plan.

The Taskforce, comprised of leaders from all four organizations, recommended a single, grassroots-based, national organization that would improve coordination and cooperation, focus efforts on the most important market factors, and help the industry stop the loss in beef's market share. While increasing resources may be an option, the industry deserves assurances that its present contributions from all sources are being used in the most effective and efficient manner to achieve the outcomes called for in the industry-wide plan.

The desired outcomes include:

- Stop the decline in beef's market share by the year 1997
- Increase U.S. beef's share of the international market from 9 percent to 18 percent by 1997
- Identify and effectively manage potentially disruptive issues before they adversely affect consumer's purchases of beef
- Present a strong, positive image of the beef industry and its products
- Make beef more price-competitive by reducing production costs by 10 percent
- Enhance product value and profit opportunities through better communication and cooperation with the packer segment
- Develop programs that focus on the consumer at every stage of the beef production cycle.

Many, including Members of this subcommittee, have asked, "Where does NCA fit into a unified structure?" Specifically, "How will NCA separate its lobbying activities from those activities conducted on behalf of the Beef Board?"

The Beef Promotion and Research Act of 1985 is very clear about contractors and accounting and we don't anticipate any change in procedures. NCA is now, and has been since 1988, a contractor to the Beef Board to conduct programs under the industry information section. We instituted strict accounting procedures which trace staff time and overhead costs back to checkoff projects or lobbying efforts as appropriate. These procedures have been scrutinized by both the USDA and the Beef Board. Over the years they have been improved to the point that we are confident of our ability to ensure this separation.

As a contractor with the Beef Board, NCA's goal has been to enhance the marketing environment for beef. For instance we have helped move the industry to respond to consumer demand for less fat in beef. We have instituted a voluntary beef quality assurance program that is now in 41 States. We have increased education and public information regarding concerns about animal care, the environment and food safety. And we are making sure that the true facts, not fiction, about cattle production are in the public debate. Recent research indicates that we are "moving the needle" on opinion leaders and consumers views on cattle production issues to the more positive side.

These are the types of NCA programs that are paid for by checkoff dollars. Checkoff dollars are in no way used to subsidize lobbying activities or other programs. Overall, the NCA Government Affairs lobbying budget has remained relatively constant as a percent of total expenditures since the checkoff passed.

I should mention that our checkoff funded activities also benefit veal and dairy producers. Many of our programs have been developed with representatives from the dairy industry organizations. In areas such as food safety, environment, animal care and nutrition, dairy representatives are always at the table. For instance, we have helped the veal industry build strong public relations, issue management and quality assurance programs. And both dairy and veal producers are actively involved in our grassroots spokesperson program designed to give producers the tools they need to correct misinformation about beef production.

The Beef Board has offered to fund a dairy quality assurance program contingent on partnership dollars from the dairy industry. Unfortunately, dairy dollars were not allocated, so the joint project did not proceed. However, NCA does participate in the dairy safety assurance board to share the lessons we have learned with our program.

When dairy producers sell their product as beef, checkoff funded programs conducted by NCA benefit the dairy producer. The most recent example is the work being done to push the surplus of beef on the market through the marketing chain. Information efforts geared toward our marketing partners to inform them of the good value on beef, as well as media relations work to let the consumer know of the current market situation, all have benefited both dairy and beef producers.

Even in noncheckoff funded areas, NCA and the dairy organizations work together on more issues than we oppose each other. In environmental, trade, nutrition, meat inspection, and animal care policy issues, dairy and beef producers work together. As with all agricultural groups, there will be times when our policies don't agree. That is just a fact of life.

It is important to remember that currently, it is the individual NCA member, via a majority, who sets the policy and priorities. That grassroots, bottomup involvement is what has made the beef industry as strong as it is today. And it is the process that was responsible for establishing the beef checkoff. Our members are adamant that some kind of grassroots policy process and involvement of the grassroots producers be in place in any unified structure.

It will be the grassroots beef producer who determines where this industry will be in the year 2000, what kind of industry structure we'll have, and how large a market share we will hold.

At this time, it is the hope of the NCA membership that the Long-Range Plan will be implemented. We feel it is imperative for us to remain competitive. A final vote on the proposed structure will take place at our annual meeting in January. Until then, we will continue to listen to our constituents on this and all issues, because, as in the past, that is the only way the beef industry will prevail.

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### David Fugate

Mr. Chairman, and Members of the subcommittee, my name is David Fugate. I own and operate a beef cattle and hog farm and raise tobacco with my father and sons—three generations of farmers.

I serve as Chairman of the Tennessee Beef Industry Council (TBIC) representing 66,000 beef and dairy farmers in Tennessee. In addition I am a long standing member of the Tennessee Farm Bureau and a director on the Beef Promotion and Research Board. The Tennessee Beef Industry Council is *the* promotion and marketing arm of the Tennessee beef industry. TBIC represents all segments of the beef industry through its Board of Directors which are elected by the following industry organizations:

- Tennessee Farm Bureau
- Tennessee Livestock Marketing Association
- Tennessee Cattlemen's Association
- American Dairy Association of Tennessee
- Tennessee Beef Cattle Improvement Association
- Central States Meat Association
- Tennessee Department of Agriculture
- Tennessee Agriculture Extension Service

First of all, let me say that the Tennessee beef producers we represent continue to support the Beef Checkoff Program. A recent study done in Tennessee (20/20 Research, Inc. April 4, 1994) showed 87 percent support for the program. Tennessee has the third largest number of beef and dairy producers in the Nation, behind Texas & Missouri. These 66,000 producers raise approximately 2.44 million head of beef and dairy cattle.

There are approximately 1.1 million beef and dairy cattle producers who contribute to the checkoff. According to the National Cattlemen's Association, 92 percent of cattle operators have herds of less than 100 head, while 81 percent have less than 50 head. In Tennessee 79 percent of cattle operators have less than 50 head of cattle.

The Tennessee Beef Industry Council serves an important role in communicating to those 66,000 beef and dairy producers, collecting the \$1.00 checkoff, promoting beef consumption in our State and supporting the Beef Promotion and Research Board (Beef Board), the Beef Industry Council of the National Live Stock and Meat Board (BIC) and U.S. Meat Export Federation (USMEF). The Tennessee Beef Industry Council Board of Directors is responsible for allocation of the \$.50 that remains in Tennessee for programs which meet the objectives of Act and Order.

Issues brought forth by the TBIC are done so only for the benefit of the beef industry. Raising questions and voicing concerns should not be construed as opposition. We are concerned that the steps taken by our industry have a positive outcome on our ability to effectively and efficiently provide a quality product to our customer and profitable market for the producer.

The TBIC Board first reviewed the Long-Range Plan proposal on February 11, 1994. We support most of the eight named leverage points designed for industry progress. Whether this progress can be better achieved through one structure is the point in question. The following issues were raised which we believe need be addressed:

(1) Merging organizations may eliminate the producer/grassroots representation which is present under the current separate Board of Directors. Producer input and control at the state level was paramount in the minds of the producers in 1988 when they approved the self-imposed "tax" now labeled the checkoff.

(2) The legality of joining all four organizations is also at issue. The Act and Order specifically states:

"The order shall provide that, to ensure coordination and efficient use of funds, the (Operating) committee shall enter into contracts or agreements for implementing and carrying out the activities authorized by this Act with established national nonprofit industry-governed organizations, including the federation referred to in paragraph (4), to implement programs of promotion, research, consumer information and industry information."

This Federally mandated organizational structure could be compromised by combining the four entities in question.

(3) There is concern over how a single unified organization structure will positively affect the industry. Each organization has a unique function within the beef industry; each has an important role:

*Beef Promotion & Research Board*—Created by the Beef Promotion Research Act, the Beef Board consists of producers nominated by State producer organizations and importers, all of whom are then appointed by the Secretary of Agriculture. Duties include election of 10 members to the Operating Committee, certification of State beef councils, annual budget approval and overseeing collection and allocation of checkoff dollars.

*Beef Industry Council*—The Beef Industry Council (BIC), created in 1963, is the federation of State Beef Councils and a division of the National Live Stock & Meat Board. Funded by State beef councils and as a contractor to the Operating Committee, the BIC develops national programs that are coordinated with the QSBCs. The BIC elects 2 members to the Operating Committee.

*Qualified State Beef Councils*—Qualified State Beef Councils (QSBCs) collect checkoff dollars and retain 50 cents of every dollar to conduct and implement programs in each State that are consistent with the BPRA. The QSBCs may invest a portion of their fifty cents in national and international programs which also fit the guidelines set forth by the BPRA. They also keep producers informed about how checkoff dollars are invested. QSBCs elect 8 members to the Operating Committee who are also QSBC directors.

*Operating Committee*—Also created by the BPRA, the 20-member committee develops plans and budgets, contracts with national industry-governed, nonprofit organizations to implement programs, and evaluates each program's effectiveness. With representation from the Beef Board, the QSBCs and the BIC, the entire dollar funds a coordinated State/national program.

*U.S. Meat Export Federation*—The USMEF promotes positive consumer perceptions of beef to enhance sales of U.S. beef in foreign markets.

*National Cattlemen's Foundation*—NCA Provides lobbying support in local and national legislatures and provides production oriented programs for dues paying members. The NCA oversees industry information programs that shape attitudes of thought-leaders and reinforces the positive image of the cattle industry.

By merging the existing organizations into one, the beef industry could diminish each organization's ability to carry out its stated purpose.

Each of the mentioned organizations have the end goal of positively influencing market factors for the health and viability of the beef industry. If each organization focuses on its stated purpose, there will be no duplication of effort or lack of unified message. We do not need a structure that adversely effects one or more segments of the industry.

(4) The feasibility of keeping checkoff dollars separate from dues dollars is also a point of concern. Operating funds provided by the checkoff program have strict guidelines set forth by the Act and Order and should not have even the appearance of misuse.

(5) The structure currently under consideration incorporates the legislative acts of one industry group with industry groups which are prohibited, by law, from legis-



lative activities. There must be a separation to effectively represent the industry with regard to legislative policy.

(6) The proposed time for evaluating and voting on a unified structure does not take into consideration a realistic timetable for gaining producer input. State beef councils will need adequate time to effectively communicate with their grassroots producers for their reactions and input.

(7) The costs involved in merging these organizations is also at issue. What are the costs to operate the current program? What transition costs will be incurred during the proposed consolidation? What will the cost be to operate a single unified organization? The transition costs and loss of skilled personnel must be evaluated against any proposed advantages. Once the costs have been identified, a legal issue must be evaluated as to whether checkoff funds can be used for such activities.

(8) The impact on the current relationship between the QSBCs and other industry organizations must be considered. The QSBCs will need to be assured that programs developed nationally can be effectively rolled out to consumers in State.

(9) The future of the multi species organizations (USMEF and NLSMB) must be clarified. Each competing meat product will need their own producer representation.

The TBIC has no hidden agenda. TBIC's mission is to effectively maintain and build demand for beef within Tennessee, nationally and internationally through support and extension of national and State market development programs (promotion, information, education, and research), thereby increasing the opportunity for all segments of the beef industry to earn an adequate return on investment. The industry structure that best serves our producers and our industry as a whole is our end goal. When the structural plan is presented, it may answer in full all of these concerns. If so, the TBIC will support any changes that improves the beef industry without compromising the checkoff's effectiveness or our producer's best interests.

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### Bob Giacomini

Good morning, Mr. Chairman and Members of the subcommittee. My name is Bob Giacomini. I operate a dairy farm in Point Reyes Station, California. I have the honor of serving as chairman of the National Dairy Promotion and Research Board, having been elected by my fellow board members in May of this year.

During our discussions with some of the subcommittee staff regarding this hearing, we were informed that some of the issues which would be discussed here today would involve the representative voting provisions of the legislation, whether imports should be assessed under the legislation, and the provisions in the legislation for the selection of National Dairy Board members. Following discussions with the United States Department of Agriculture and our review of the Act, we believe it would be inappropriate for the National Dairy Board to comment on these matters, since these are issues which relate to the legislation under which the National Dairy Board operates. Other members of this distinguished panel will no doubt comment on those issues, as would be more appropriate. I would like, however, to comment on some issues which affect the manner in which the National Dairy Board and the industry operate both in the 1990's and beyond.

As I stated earlier, I do consider it an honor to serve as chairman of the National Dairy Board. The National Dairy Promotion and Research Board was established by Congress in the Dairy and Tobacco Adjustment Act of 1983 to "[carry] out a coordinated program of promotion designed to strengthen the dairy industry's position in the marketplace and to maintain and expand domestic and foreign markets and uses for fluid milk and dairy products produced in the United States." Thirty-six dairy farmers, just like myself, with all sizes of operations, devote their time and effort without pay to build markets for the dairy industry. Although we hail from different parts of the Nation, belong to different organizations, and milk different breeds of cows, all of the members who are appointed to the National Dairy Board by the Secretary of Agriculture are unified in their intent and desire to serve the dairy farmers of this Nation and to increase dairy product sales. The current members of the Board are listed in Attachment 1 of my prepared statement.

Since its inception in 1984, the National Dairy Board has spent approximately \$76-million-per-year to expand markets on behalf of dairy farmers. Money for board-supported programs has come from the 5 cents designated for NDB out of the mandatory 15-cents-per-hundredweight assessment on all milk produced in the contiguous 48 States and marketed commercially by dairy farmers. Each dairy farmer contributes to this program so that we may all receive the benefits of this investment. The Dairy and Tobacco Adjustment Act provides that dairy farmers can direct up

to 10 cents of the 15-cents-per-hundredweight assessment to ongoing qualified State or regional dairy product promotion or nutrition education programs.

As of July 1, 1994, 66 active and 2 inactive State and regional organizations have been certified by the Secretary of Agriculture as having qualified programs. In 1993, the National Dairy Board received about 5.2 cents of the 15-cent assessment.

The total investment by dairy farmers to all dairy promotion organizations, including the National Dairy Board, exceeds \$225-million-per-year. Of the total moneys collected during the 1993 fiscal year, 70.5 percent supported advertising and promotion and 16.9 percent supported nutrition education and public and industry communications. The remaining 12.6 percent of the Board's funds supported other activities, including market research, nutrition research, product research, export studies, and administrative expenses.

The dairy farmers who serve on the National Dairy Board recognize their tremendous responsibility regarding the future of our industry. For the dairy industry to prosper, we must complete a transformation which is currently taking place. We must become market-driven. We must become more competitive when compared both to nondairy products such as Coke and Pepsi and to dairy products produced in foreign countries. However, moving an industry which produces a commodity from a commodity mindset to one of being market-driven can be a long and difficult process. It requires focusing on the needs of the consumer, and creating a different mindset and orientation for our industry members. I am proud to say that that transformation is taking place and this industry is moving toward a more market-driven, consumer-oriented mindset.

As part of this transformation, the dairy promotion organizations, which spend the \$225-million-per-year that dairy farmers invest in their future, must take the lead in this transformation toward a market-driven industry.

As chairman of the National Dairy Board, it has been my goal to ensure that the investment by dairy farmers in the Dairy Promotion Program is spent in the most efficient and effective manner possible. This means coordinating the spending of several groups to ensure a maximum return on investment. A dairyman's 15-cent contribution may go to two different organizations, but it is still 15 cents out of the same pocket. That is the philosophy that we, as the trustee of those funds, must never forget.

That philosophy is one of the driving forces of Dairy Management, Inc. Dairy Management, Inc. is a partnership between United Dairy Industry Association, which represents several State and regional dairy promotion and research programs, and the National Dairy Board to more effectively coordinate funding on behalf of dairy farmer investments into the Dairy Promotion Program. The concept involves establishing the resources through which a unified, coordinated dairy promotion and research program can be implemented on behalf of those people who are investing their 15 cents in the future. By utilizing the dairy farmer representation on the Board of the United Dairy Industry Association and the National Dairy Board, the planning process will develop a unified program on behalf of dairy farmers. Upon approval of that plan by the United Dairy Industry Association, the National Dairy Board, and USDA, that plan will be implemented in a coordinated fashion by a single staff on a national basis with State and regional programs able to expand that program into local markets. For the first time, the dairy industry has a unified structure to implement a coordinated, national program which can be extended to the local level by participating State and regional programs. Every State and regional program will be able to participate in the planning and the implementation of this program, thereby increasing the opportunity to return dollars to the dairy farmers providing the investment.

Through the development of a unified, coordinated plan, the dairy industry will be in a position to focus its resources on the marketing opportunities facing the dairy industry and to complete its transformation into an industry that provides products which are market-driven and consumer friendly.

We have all seen the positive results of the efforts of the National Dairy Board, the United Dairy Industry Association, and the State and regional dairy promotion groups. Recently, the United States Department of Agriculture released its annual report on the effectiveness of the 15-cent Dairy Promotion Program. The highlights of USDA's report indicate, and I quote, "Advertising conducted under the 1983 Dairy Tobacco Adjustment Act increased fluid milk sales by 3.8 percent over the 9-year period ending in September 1993. For the most recent year, advertising increased fluid milk sales by 3.5 percent. Activities under the Act increased national retail sales of natural and processed cheese for in-home use by an average of 2 percent over expected sales without the program. For the July 1992 to June 1993 period, advertising increased cheese sales by 2.5 percent."

These highlights only show part of the story. By investing in new programs, dairy farmers are helping to give people a greater selection of dairy products from which to choose. In 1993 alone, there were 1,099 new dairy products put on the shelves in grocery stores throughout the United States. Dairy foods research funded by the National Dairy Board has nurtured many of these products.

Investments on behalf of dairy farmers have also been made in scientific as well as marketing research areas. For example, through competitive grants, we have supported nutrition research in the areas of dairy nutrient utilization in the elderly, vitamin D, cancer, bone health, cardiovascular health, lactose intolerance, and other health-related issues. In addition, six Dairy Foods Research Centers, cooperatively funded by the National Dairy Board, 12 universities, and local industries, are currently engaged in 152 dairy-related product research initiatives. Dairy farmers have also funded research projects designed to address specific problems or topics that are of immediate value to the marketing of dairy products. Such projects currently include studies of iron-fortified cheese, cancer prevention by conjugated linoleic acids that are contained in dairy products, and the conversion of dairy components into hair conditioning agents. All of these research projects are designed to expand our knowledge and to educate consumers about the benefits of dairy products.

In August of 1993, a referendum was conducted to determine whether dairy farmers supported continuance of the Dairy Promotion Program. Over 71 percent of the dairy farmers who voted in the referendum favored continuing the program. However, as a result of the referendum and other activities such as the "Dump the Dairy Board" campaign, the Dairy Board has taken steps to listen more carefully and be more responsive to those who invest their funds in the future of this industry. The Dairy Management, Inc. concept was born from demands by dairy farmers that this industry become more market-driven and more coordinated.

Mr. Chairman, in closing, let me say that the National Dairy Board is constantly striving for more effective, better-coordinated programs and to increase the return on investment made by America's dairy farmers. We are listening more carefully and have a greater understanding of our commitment to those dairy farmers investing in the research and promotion programs. Thank you for this opportunity to talk to you about the National Dairy Promotion and Research Board.

## MEMBERS OF THE NATIONAL DAIRY BOARD

August 5, 1994

Region	States	Names
1	Oregon and Washington .....	Alvin J. Sherman
2	California .....	Mary E. Cameron, Robert W. Giacomini, Mary B. Parente, Ronald B. Quinn, and Tony M. Souza, Jr.
3	Arizona, Colorado, Idaho, Montana, Nevada, Utah, and Wyoming.	Jack S. Davis and Francis D. Gregerson
4	Arkansas, Kansas, New Mexico, Oklahoma, and Texas.	Jimmie L. Davis, Myron D. Schmidt, and a vacancy
5	Minnesota, North Dakota, and South Dakota.	Robert J. Gaebe, Ronnie Hornstra, and Lyle Tjosaas
6	Wisconsin .....	Sylvia J. Hemauer, David Krug, John A. Malcheski, Allard L. Peck, Roger Rebut, and a vacancy
7	Illinois, Iowa, Missouri, and Nebraska .....	Myron E. Erdman, Maynard J. Lang, and John L. Sullivan
8	Alabama, Kentucky, Louisiana, Mississippi, and Tennessee.	Joseph J. Bavido, Jr.
9	Indiana, Michigan, Ohio, and West Virginia	Roger Crossgrove, Elwood C. Kirkpatrick, and Alice S. Moore
10	Florida, Georgia, North Carolina, South Carolina, and Virginia.	H. Todd Arant and William Higginbotham
11	Delaware, Maryland, New Jersey, and Pennsylvania.	H. Wallace Cook, Jr., Harold L. Lenhart, Sr., and David N. Noss
12	New York .....	Paul R. Kirsch, Shirley A. Mower, and P. Kay Zeosky
13	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.	Harold J. Howrigan

## Tom Giessel

Mr. Chairman, and Members of the committee, thank you for the opportunity to appear before you today. My name is Tom Giessel and I am here today representing the 253,000 members of the National Farmers Union (NFU).

Mr. Chairman, I am here to tell you that the members of National Farmers Union strongly oppose the proposed merger of the Beef Industry Council, the Cattlemen's Beef Board, the U.S. Meat Export Federation, and the National Cattlemen's Association into one omnibus beef organization. NFU policy is very clear on the issue of commodity checkoff programs. The following points are lifted directly from the 1994 *Policy Manual of the National Farmers Union*:

Our attitude toward producer-financed commodity research and promotion programs is determined by the extent to which producers control the programs.

The Farmers Union will support research and promotion programs financed by mandatory deductions from the proceeds of sales by producers of agricultural commodities, only if the following criteria are met:

a. that disbursement of funds collected is controlled by the boards of producers elected by the producers assessed, and the operations of the program are controlled by those producer boards;

b. that approval is by two-thirds of the producers voting in a referendum by mail prior to implementation of the order, with spouses allowed to vote individually and with no block voting allowed;

c. that the outcome of producer referenda be determined solely on the basis of one-person, one vote;

d. that criminal penalties are provided for using funds for personal, political, or lobbying activities, and that no funds should be donated or contracts provided to organizations which carry out political or lobbying activities;

e. that changes in existing checkoff programs, including changes in checkoff levies and/or administrative and operational changes, are submitted to producers affected and subject to approval by a two-thirds vote;

f. that after a Federal checkoff program is in effect, all periodic review referenda are financed and conducted by the Federal Government;

g. that whenever a commodity checkoff is assessed against American producers, a comparable nonrefundable fee is assessed on foreign imports of that commodity in either the raw or manufactured form;

h. that all general farm organizations are allowed to appoint a producer voting representative to each promotion board;

i. that periodic independent, outside audits be conducted to ensure that the benefits of the program outweigh the costs to producers, with copies of the audits available to all who pay assessments; and

j. that procedures be provided to enable producers to obtain annual refunds of the checkoff funds they were assessed. Such refunds should be processed without delay and made available at the point of sale.

Because the checkoff programs authorized in the FACT Act meet nearly all of these criteria, we urge Congress to amend these programs. The new programs lack producer control, and allow the confiscation of assessment funds by nongovernmental entities without due process of law. If Congress fails to act, we urge producers to defeat these programs at their earliest referendum opportunity.

We oppose any effort to combine research and promotion boards, funded by producer checkoffs and assessment programs, with private, membership-based political lobbying organizations.

Voluntary commodity checkoff programs, which allow producers to refuse to pay assessments, should be considered on their merits. Whenever producers reject a mandatory assessment, they should be entitled to full refunds at the point of collection.

We call on the Secretary of Agriculture to utilize oversight authority to completely review the operations of Federally sanctioned commodity checkoff programs and issue an independent public report on their effectiveness, including a complete accounting of all funds collected and disbursed. As part of this study, we request the Secretary to hold public field hearings to allow producers to participate.

Mr. Chairman, that is the NFU policy on commodity checkoff programs.

I now turn to the *Beef Industry Long-Range Plan Task Force Report of December 1993*.

Page 1 of the report reads as follows:

**VISION STATEMENT:** "A dynamic and profitable beef industry, which concentrates resources around a unified plan, consistently meets consumer needs and increases market share."

You will notice that there is no mention made of "beef producers," the people who deliver the calves from birth and sell them into the marketplace—the people who are responsible for the animals for the longest period of time, and who collectively have the largest capital investment in the beef production chain.

That omission glares in the face of NFU policy. *NFU represents commodity producers.* (This omission is obvious throughout the document).

Here are a few points contained in the report:

On page 3: *PRODUCTION EFFICIENCY*: Make beef more price-competitive by reducing production costs by 10 percent by 1997.

My question is, "Whose production costs?" (My assumption is that we are talking about the producers).

The only way to do this is through contract production and further concentration in the beef industry. This leaves family farmers out of "the profit loop."

On page 4: The entire beef industry focuses on the same objectives.

Since when? The goal of feedlots, processors, wholesalers and retailers has ALWAYS been to obtain cattle from the producers at the lowest possible price. How will consolidation of entities representing all groups enhance the position of farmer/producers?

On page 10—2 points:

1. The beef industry will speak with a single voice.
2. Expand the network of trained industry spokespersons and mobilize grassroots efforts to promote industry messages, e.g., "Myth Busters."

I suggest that the only myth to be busted is this: "That anyone who can speak for feeders, packers, wholesalers and retailers can also speak for cow/calf producers."

On page 13: The entire page begs for a response.

The only way to accomplish the goals listed here is through beef production contracts which will effectively eliminate certain species of beef cattle from the marketplace. This will eliminate farmers who cannot readily adapt from a free market system because no free market will exist. Family farmers will become residual suppliers, relegated to the status of "second class citizens" in the beef market.

On page 15: *PRODUCER/PACKER ALLIANCE*. (Refer to my comments to statements on page 4.)

Mr. Chairman, I am a family farmer who raises several commodities; many of which are subject to checkoff programs. I have seen little if any increase in the prices paid to me as a result of any checkoff program. In reality, I view most of these programs as a mechanism by which I am forced to subsidize the advertising budgets of those higher on the food production ladder.

Oftentimes those who use my checkoff dollars do so in a manner in which I do not approve. Refunds to me as a producer are at best cumbersome, and at worst impossible.

I sometimes feel like I am in the position of an iron miner who has a deduction from my weekly paycheck which goes to subsidize the advertising budget of the automobile manufacturing industry. The cars sure are pretty, but I don't have any more money to use for buying one.

Nothing in this proposed merger improves that situation.

Mr. Chairman, It is widely known that you have a reputation for supporting political reform and good government. To me, many of the items in this proposal run contrary to that honorable long-term goal. Nothing in this proposal improves the clarification of the fine line between the membership dues of organizations which can be used for lobbying efforts and the potential abuses which could occur if the line between those funds and moneys obtained through commodity checkoff programs becomes more blurred.

As I contemplated the opportunity to testify before this committee regarding our concerns with the proposed merger, I tried to think of comparisons that I could use to help explain our opposition. I couldn't think of any. I suspect there aren't any.

On its most basic terms the merger proposes to bring together what should always remain separate and distinct activities. By this I mean public policy advocacy and governmental assessed funds.

I am not trying to add a new argument to our organization's attitude toward beef checkoff dollars, but the fact of the matter is that the checkoff is very similar to a tax. The fee is authorized by an act of Congress. It is assessed on every head of cattle sold in this country. While a means exists for a refund, it nonetheless represents a governmental assessed fee.

At the same time an advocacy group, with an affiliated PAC, is potential participant in the merger with the public body. Cattle producers in our country have every right and reason to form organizations to represent their interests and concerns. That is not the issue here.

The question is whether these activities should be part of a single entity that also has public dollars under its control. The result of the merger would be a single entity that administers funds raised under an act of Congress, membership dues and PAC funds. This is not good public policy.

Thank you, and I will answer questions.

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### Francis Goodman

The dairy industry in the United States is on the verge of collapse.

The price we, the producers of milk, receive is too low. Compared to the price index, the cost of living, your salaries, our cost of doing business, or the amount of money in Jim Barr's or Linwood Tipton's bank account the farm gate milk price is at an all time low. At the same time the price consumers pay for milk and dairy products is at an all time high. Much of the blame for this rests with the co-ops we, (at least in theory) own and control. These co-ops, for the most part are inefficient and so top heavy with excess management many co-op managers have taken to calling themselves president. It is evident many co-ops are working to lower the price paid to farmers while effectively raising the price consumers are asked to pay.

Co-ops virtually have a monopoly on milk procurement in this country, controlling over 85 percent of the supply of milk leaving farms. It is important for you to realize all farmers belonging to co-ops seek the same thing, a better return for their product. Common sense and your past experience should tell you that if Co-ops were working in the interest of farmers, and controlling 85 percent of the supply, the farm gate milk price would be much higher. Co-ops are used for their monopolistic position to enrich a few fat cats in the shelter of the Capper Volsted act at the expense of farmers and consumers. Co-ops often use their protected position to eliminate competition for farmers milk. In certain areas of the country the only alternative farmers have to market their milk is one co-op. In the news here in the mid-west is probable merger of Mid-Am and Dairymen Inc. This will exacerbate the situation for many farmers who formerly had many competitive markets for their milk.

Co-ops have the potential to be operated as democratic institutions unfortunately few are. Certainly, co-op directors are elected by the farmer-owners, however, the decision making process for most co-ops is far removed from the farmer-owners and from their elected representatives.

Bloc voting by cooperatives to regulate Federal milk marketing orders is allowed by the Agricultural Marketing Agreement of 1937 which set up the Federal Order System. Jim Barr, CEO, of The National Milk Producers Federation and himself a beneficiary of the huge disparity that exists between the farmers price for milk and the consumers cost, says bloc voting to regulate *The Federal Orders* is necessary, because it's the life blood of the Federal Order System and the people who vote on these issues (co-op managers) are used to making marketing decisions every day and those decisions are not the kind you would readily like to see farmers make. If farmers had a direct voice in regulating the Federal Order System, the farm gate milk price would be higher.

Bloc voting is legislated for the Federal Order System, an unusual practice in a democracy. The use of bloc voting in the referendum held in the Summer of '93 on the National Dairy Promotion and Research Board is nothing more than a corrupt practice amended to the law which created the NDB, (The Dairy and Tobacco Adjustment Act of 1983) because the drafters of the Act knew the NDB would never withstand a one farmer one vote referendum. A cursory examination of the vote totals from either of the two referendums held on the NDB will show farmers voting independently voted against the NDB by two to one, yet these farmers interests are identical to those who belong to co-ops. The reasons you should support legislation to eliminate bloc voting in producer funded promotion referendums are as follows:

1. Bloc voting dilutes the value of a producers vote. Bloc voting casts all the ballots for one side whether all the co-op members agree or not and regardless of whether they would have voted or not.
2. It is impossible to conduct a fair referendum if bloc voting is allowed. Testimony given in the recent hearing on the 93 referendum on the National Dairy Board (NDPRB Docket No. 93-1) demonstrates the 93 referendum with the modified bloc voting allowed was not a fair referendum.

3. Bloc voting tends to corrupt management of co-ops by vesting in them the power to vote for farmers in a referendum. In the best cases, where co-op directors are consulted by hired co-op managers on how the members want the bloc-vote to be cast, it is important to remember the selection and election process for co-op directors is not conducted with the same stringent standards applied to the selection and election process for State and Federal office holders. It is also important to note that there are no set procedures for co-op directors to determine how the farmers they represent want the vote to be cast and no set procedures to ensure the manager of a co-op acts according to the wishes of a majority of the farmers in that co-op. In the 93 NDB referendum, often the co-op manager decided how the vote should be cast and then began to justify his position to the general membership. Examples of this are the Ivan Strickler letter sent to Mid-Am patrons prior to the 93 referendum, the charade Wisconsin Dairies ceo/president Don Storhoff conducted to deny his patrons input in Wisconsin Dairies decision to bloc-vote.

4. Bloc voting tends to corrupt departments in the USDA involved with the conduct of referendums because USDA personnel are required to regulate a referendum, the outcome of which determines whether those USDA employees continue to have a job.

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### Stewart G. Huber

Mr. Chairman, and Members of the subcommittee, my name is Stewart Huber. I own and operate a Wisconsin dairy farm along with other members of my family and serve as president of Farmers Union Milk Marketing Cooperative (FUMMC). On behalf of our more than 10,500 members in eight Midwest States, we thank you for holding this hearing and allowing us to testify here today. Although I am a member of the Beef Board, I am appearing here today only on behalf of the aforementioned dairy producer group.

At the outset, let me say that the dairy farmers we represent tend to measure the success or failure of the Dairy and Beef Promotion Programs they fund by the economic health of their farming operations. By that measure, these programs could be doing better—much better. We reject the contention of some in the industry who contend that these producer-financed programs should not be expected to improve farm income. We believe this is their only purpose and justification. Conditions on Midwest dairy farms have continued their dramatic decline since 1993, when the House Agriculture Committee held its public hearing to review producer-funded commodity promotion programs. With profit margins for producers of milk and beef in a state of free-fall, our members want to be sure that their checkoff dollars are being wisely and properly used.

We also want to state our strong support up front for the Feingold and Kohl bills, S. 1564 and S. 1557, respectively, which would make several needed reforms in the National Dairy Board, as we explain below. We will address our members' concerns about the Beef Promotion Program first, followed by the Dairy Promotion Program.

At first blush, the special Task Force recommendation to combine the functions of the U.S. Meat Export Federation, the Beef Industry Council, the National Cattleman's Association (NCA) and the Beef Board into one super corporation might seem to make sense. Were this not a unique situation, it might make sense to get rid of the duplications and turf wars over where checkoff dollars are spent, "sharpen the focus and speak with a single unified voice," as the proponents espouse.

So why do dairy producers who contribute about one-fourth of the checkoff dollars have such strong reservations about the proposal? First of all, the enabling act is very clear in prohibiting any lobbying or other activities which would influence government activities or policies, directly or indirectly, with checkoff dollars. We suggest the creation of such a super corporation whose stated objective is to "speak with a single unified voice" would clearly be in conflict with the intent of the act, especially since the NCA, a lobbying group, would become one of the four principle stakeholders. Instead of having an arm's length contracting relationship with the Board, it would become a key player.

It is no secret the NCA and dairy organizations have been at loggerheads over dairy supply management proposals in the recent past, which probably accounts for the fact that poll after poll indicates that dairymen have the most negative attitudes toward the Beef Checkoff Program of any of the producer groups. We suspect that creation of this super board would only exacerbate those negative suspicions that checkoff dollars may be ending up for political activity adversely affecting those who pay the bill.

Even with the current arm's length contracting relationship, separation of informational and political activities gets fuzzy. I hold in my hand a sophisticated bi-

monthly "issues management" publication produced by the NCA with checkoff dollars for the beef industry. While the publication deals with some very positive nutrition and marketing information, it may have crossed the line on prohibited activities when it has taken firm positions on controversial and politically charged issues such as NAFTA, GATT, and recombinant Bovine Growth Hormone, for example.

Congressman Dan Glickman's remarks regarding separation of lobbying organizational activities mirror ours, exactly. (See attachment.)

Our second major concern with the concept is the fact that the current Beef Board's major contracting organizations who benefit financially from checkoff dollars would under this proposal now become three-quarters of the stakeholders of the new corporation. We see a clear accountability problem here. The Meat Export Federation is accountable to many segments of the industry beyond the producers who fund the checkoff program. The NCA is accountable only to its dues-paying members, which in the case in Wisconsin was only 170 of my State's 40,600 cattle producers in 1993.

And the bylaws of the Wisconsin Beef Industry Council, which spends half of every beef checkoff dollar raised in my State, guarantees effective control to this group by giving eight seats to the State NCA chapter. Yet ironically, the Wisconsin Farmers Union, which represent several thousand beef producers, was denied a single seat on the State Beef Industry Council. This led one cynical Farmers Union member to remark, "Here we've got a case of taxation without representation, a battle we thought we'd fought in 1776."

We believe it was never the intent of the Congress when it passed the enabling legislation to grant to organizations that are accountable only to some producers the right to speak for and decide the policy for an entire industry that is very diverse and competitive, while at the same time profiting handsomely from it.

And finally we believe the timetable for the implementation does not allow enough time for public scrutiny. The final draft is to be made public in October and the final Beef Board vote taken at the NCA convention, of all places, in January 1995. We believe such narrow window of review to be totally inadequate.

We have serious concerns about the National Dairy Board as well, including the controversy surrounding the bloc voting procedures used in the recent recall referendum.

The Farmers Union Milk Marketing Cooperative Board of Directors pledged in December 1992 that it would not bloc vote in the review referendum. Our Board also challenged all other dairy cooperatives to take the pledge against bloc voting in this referendum. We believe that producers should be actively encouraged to vote on the fundamental question of the future of the National Dairy Board. Bloc voting interferes with that right. That's why we support S. 1557 and S. 1564 for their prohibition of cooperative bloc voting in such commodity promotion referenda. S. 1557, sponsored by Sen. Kohn, would also provide for direct producer election of National Dairy Board members. We support these measures and urge their passage.

S. 1564, the Feingold bill, would also amend the Dairy Production Stabilization Act of 1983 to require that all dairy imports, pay, on a milk equivalent basis, the same 15 cents/cwt. mandatory assessment which applies to all domestic milk marketings. This is one important step that must be taken to level the very uneven playing field with dairy imports as we enter an increasingly global market under NAFTA and the new GATT.

The Feingold bill is consistent with our long-standing position that dairy imports should be subject to the same rules which apply to domestic dairy products, including the promotion checkoff, for the sake of equity. Imports benefit from producer-funded advertising, research and promotion to the same extent as our domestic dairy products, and shouldn't be getting a free ride at our expense.

We note that 9 of 17 existing commodity checkoff programs currently assess imports, including beef, pork, cotton, honey, pecans and potatoes. The bill would grant importers two seats on the National Dairy Board, just as beef importers are represented on the Beef Board.

One of the principal reasons dairy product demand has been relatively flat is because our product's image has been tarnished. We've allowed dairy products to be pictured as an excessively expensive, subsidized commodity that is dangerous to health. It's ad because the truth about the price, quality, nutritional value, even the Government program cost, could be our best public relations. Some well-financed groups with their own secret agendas have done us in. We need to stop being in a defensive mode and be proactive. We've got a great story to tell the Nation. We hope the National Dairy Board will pursue this issue aggressively.

Jointly funded brand advertising should be explored since genetic advertising has clear limitations. Again, this would require amending the 1983 Act, but we strongly



believe authorization of some forms of branded advertising tie-ins would improve the program's effectiveness on behalf of dairy producers.

Research and marketing must also be geared to appeal to the tastes and desires of our increasingly diverse ethnic populations with new life styles. Our Asian and Hispanic communities are just two rapidly growing, new markets which must be better targeted by dairy advertising and promotion.

The National Dairy Board should be much more aggressive in telling the producers' side of the story. The National Dairy Board must do a much better job of anticipating and preempting anti-dairy, anti-animal agriculture propaganda from radical animal rights activists, their allies in the medical community, the vegetable oil lobby and others with hidden agendas. We must be proactive rather than reactive. We simply cannot allow fringe groups like the Physicians Committee for Responsible Medicine, which is a front for PETA—People for the Ethnical Treatment of Animals—and well-funded crusaders like Phil Sokolof to mislead the public with their harmful dietary propaganda.

Thank you for this opportunity to testify here today.

#### *Checkoff Programs Due for More Oversight*

At a hearing on allegations of financial conflicts in the soybean promotion program, Chairman Dan Glickman, D-Kan., yesterday said his House Agriculture subcommittee should extend the same oversight review to all commodity promotion programs. While saying such reviews were "not meant to impugn anyone's integrity," Glickman said the checkoff dollars paid by farmers were substantially equivalent to taxes and the programs they fund should be operated "as clean as a hound's tooth." Every year, nearly \$500 million is collected from farmers and administered by 13 national checkoff programs ranging from milk to cotton; State and regional programs collect and spend millions more.

Glickman voiced concerns about keeping the arm's-length relationship between promotion groups and lobbying organizations that he said Congress had intended when checkoff programs were enacted. Pork, beef and soybean boards have some contractual relationships with lobby groups. Congress should not enact programs, Glickman said, which result in collection of funds from all farmers for the benefit of lobby groups, which may represent the views of just some of them. Although not technically tax funds, Glickman noted, the money is collected and spent "pursuant to Federal legislation."

Questions were raised yesterday by Glickman and others about what they said may be too close between the soybean promotion program enacted in 1990 and the American Soybean Association, Glickman said the committee "went to great pains" to make sure the new United Soybean Board would become an independent body, making independent decisions "as soybean farmers, not as members of a private membership organization" which has lobbying as one of its primary purposes. Although Glickman said it was logical for the checkoff board to establish close working relationships with private organizations, it is ultimately in the best interests of the board, farmers and ASA that the checkoff program be "independent and accountable to all soybean farmers, not just a few."

Glickman said the new program has been run for the most part by a "free-thinking, independent" United Soybean Board which he noted has not hesitated to question, investigate and ultimately audit its ASA contracts. At the same time, however, Glickman said the committee wanted to determine from a continuing Pest Marwick audit and through other actions taken by the board that soybean farmers' checkoff dollars are spent wisely and properly. Of the 13 Federal checkoff programs, the soybean promotion is the third largest with annual contributions expected to reach about \$50 million.

The promotion board does have an arm's-length relationship with ASA and other contractors, USB chairman Sander Luderman told the committee. He said the board's agreements with all its contractors, including ASA, require documentation to show a project's "actual costs" and are reviewed to establish if they are reasonable, necessary, authorized and justifiable to soybean farmers. According to USB Executive Director David Thomas, Paul Marwick found "certain areas of concern" relating to allocation of "certain expenses" during a January "walk through" of ASA. A report by an independent financial consultant presented 11 issues to USB "which needed to be addressed" by ASA.

Although Thomas testified he could not give the committee a detailed report until the audit is completed later this month, his testimony sketched out a broad outline relating to such items as ASA allocation of workhours, employment compensation, overhead costs, building operation expenses, administrative costs and staff travel. For one issue, Thomas testified that "certain activities" by ASA were to be monitored "to assure that association activities were not being subsidized." On another

issue, Thomas said ASA had billed the boards for legal work not associated with any USB activity, ASA, he said, has cooperated with the board on the audit and has agreed to "comply with the new allocations as presented." Thomas said USB's activities show its resolve to ensure that all checkoff dollars are spent in accordance with the 1990 law for an effective, coordinated promotion program.

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### Jim Newsome

My name is Jim Newsome. I serve as executive director of both the Mississippi Cattlemen's Association and the Mississippi Cattle Industry Board (Mississippi's Qualified State Beef Council).

I appreciate the opportunity to testify before you about concerns over our industry structure. However, at the same time, I apologize for you having to spend time on an issue that should be resolved internally when you have issues to consider that are of greater importance to this country.

The Mississippi Cattlemen's Association was responsible for establishing a State checkoff program 30 years ago; long before a national program became a reality. Mississippi's promotion and research program and policies are the result of cooperative efforts among our State's beef, dairy and veal producers, as well as packers, processors, general farm groups and others. We have their support.

In Mississippi, as in 17 other States, the beef program and cattle industry organizations share staff, management, offices and equipment. This combined effort, at the state level, has provided numerous efficiencies for the checkoff dollars. There is more cooperation and less duplication of programs. In addition, there is less conflict, fewer turf battles, fewer overall differences among the Mississippi Cattle Industry Board, the Mississippi Cattlemen's Association, and other groups.

Recognizing the need for a unified effort to overcome both internal and external industry problems, the elected leaders of the four national organizations last year formed the Long-Range Planning Task Force. The Task Force's charter was to develop a long-range strategic plan focusing on domestic marketing, international marketing, issues management, efficient and effective use of industry resources, and industry structure.

The Task Force concluded that the current organizational structure presents numerous impediments to overall success of the industry: (1) The industry does not have a single, unified plan with measurable objectives and results; (2) Multiple organizations and boards result in inefficient utilization of time and resources; (3) There is confusion over who is the primary spokesman for the industry on various issues; and (4) Coordination and cooperation among State and national organizations are lacking.

The Task Force analyzed the current industry organizations and found that, as an industry, the structural criteria of focus, coordination, control, and cost effectiveness could not be met.

The Long-Range Plan calls for uniting organizational resources in order to help achieve desired outcomes. Our goal is to take out waste and duplication, cut down on bureaucracy, reduce overhead, and improve efficiency and effectiveness. The industry should speak with one voice. It should have one clearly defined plan of action with measurable objectives and accountable results.

I am not implying that the national organizations separately are inefficient. Nor, am I implying that they perform inadequately. We have a good working relationship with each. However, when you consider that each has separate offices, boards, administrators, and staff, and that they are competing for the same producer investment, one can easily understand producer concerns about inefficiencies.

Mississippi's cattle industry supports the industry wide Long-Range Plan. We support the Oversight Committee's efforts to come up with a proposal for implementation of the plan. When a final plan is presented, we will carefully evaluate it and then, at that time we will pass judgment as to whether to support it.

Mississippi cattle producers expect the highest return for their investment; whether they are checkoff dollars, dues dollars, or from other sources. We believe the direction of the Long-Range Plan is correct. Thank you.

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### SENATOR COCHRAN'S QUESTIONS PRESENTED TO HERMAN BRUBAKER WITH RESPONSES THERETO

**Question 1.** It is my understanding that under current law that members of farmer cooperatives have the right to vote on dairy promotion referendums individually. Specifically, current law requires that a cooperative must inform its members

how it intends to vote 30 days prior to the vote and include in that notice a ballot. Farmers wishing to vote differently can cast his or her vote by mailing the ballot to USDA. This vote is then deducted from that of the cooperative. This suggests to me that farmer cooperatives do not currently have the authority to bloc vote.

Is that true?

**Response.** That is correct. It is inaccurate to refer to cooperative voting provisions contained in current law as "bloc voting."

While a cooperative may vote on behalf of its membership under the Dairy Production Stabilization Act of 1983, producers may elect to cast individual ballots in promotion programs. Thus, under current law, every member of a co-operative has the opportunity to vote individually in the Dairy Promotion Program referendum. The fact that most members choose not to vote individually indicates satisfaction with the position taken by their cooperative's democratically elected board of directors.

**Question 2.** I understand that when a farmer joins a cooperative, that the membership agreement specifies that a farmer assigns his or her right to vote on issues relating to marketing the product, in this case—dairy, to the farmer elected board of directors. This appears to me to be the same process that exists when a stockholder assigns his or her proxy to the board of the corporation. It is a standard tool used throughout business in America whether it is a cooperative or a corporation.

Does the Feingold bill (S. 1564) eliminate a fundamental business tool a cooperative uses to facilitate orderly marketing?

**Response.** It appears to. Under the Feingold bill a cooperative could not vote on behalf of its members in matters involving the Dairy Promotion Program even if the member wishes the cooperative to do so. Thus, under the Feingold bill, even if a cooperative member requests its cooperative to vote on its behalf in matters relating to the Dairy Promotion Program, the cooperative could not.

Proxy voting is a common and useful tool used in most shareholder-owned corporations. The Feingold bill would deny this tool to farmer cooperatives in matters relating to the Dairy Promotion Program.

**Question 3.** Since one of the terms of membership in a marketing cooperative is authorizing the cooperative to vote on issues relating to marketing the product, doesn't this legislation interfere with the internal operation of a farmer cooperative?

**Response.** It surely does. A cooperative is a voluntary, contractual organization. The contractual agreement between cooperatives and their farmer members is established by the membership agreement, cooperative bylaws, and articles of incorporation. In these governing documents, specific provisions often define the circumstances under which a cooperative may represent its membership in votes on marketing order and promotion issues. How the cooperative will vote on these matters is determined by the board of directors which is democratically elected by the membership.

As the written submission of the National Council of Farmer Cooperatives stated:

"Denying cooperatives the ability to vote on behalf of their members is an intrusion into the contractual relationship between a cooperative and its members. It disrupts a cooperative's democratic decision-making process, weakens the ability of a cooperative to effectively market its members' products in the best interest of the membership as a whole and eliminates the ability of a cooperative to cast votes for the majority of the membership that wishes it to do so."

## SENATOR FEINGOLD'S QUESTIONS PRESENTED TO BOB DRAKE WITH RESPONSES THERETO

**Question 1.** How many NCA staff persons or staff hours are funded by checkoff dollars annually?

**Response.** The latest audited financial records for the year ending October 31, 1993 reflect that NCA staff worked a total of 172,395 hours. The time charged against checkoff funded projects totaled 43,702 hours. Slightly over 25 percent of the time being charged goes against checkoff-supported activities.

**Question 2.** Has the size of NCA staff grown since the creation of the Beef Board and NCA activity as a contractor?

**Response.** The Act instructed the Beef Board to contract with existing organization to the fullest extent possible. NCA staff has grown from approximately 45 peo-

ple in 1985-87 to approximately 80 people at present. Some staff members work less than full-time, some are temporary or seasonal, thus the approximations. While some of this growth resulted from checkoff funded projects, there has been good noncheckoff growth in other areas as well. Dues revenue, income from operations, State affiliate supported programs, and corporate support, are examples. The allocation of time spent on checkoff-funded activities and association activities is not predetermined. As the staff work is performed it is charged to the respective projects, both checkoff and noncheckoff. The 25 percent of time charged to contracts noted for fiscal year 1993 is representative of other years as well.

**Question 3.** Does the Government Affairs staff bill hours to checkoff-funded contracts? What is the average number of hours?

**Response.** It is important to distinguish between government affairs staff and lobbying activities. Some staff in the Government Affairs Department work on checkoff-funded contracts when their expertise is appropriate to the project objectives. In fiscal year 1993 which is a typical year, from a checkoff-funded perspective, the Government Affairs staff billed 9,687 hours. Other NCA staff hours billed to checkoff for the same year totaled 34,015. Staff in the Government Affairs Department therefore represented 22 percent of the hours billed.

**Question 4.** What percentage of NCA's revenue budget come from checkoff funds?

**Response.** In the 1993 fiscal year, checkoff revenue was \$5,422,031 of a total \$12,320,860. This is 44-percent checkoff and 56-percent noncheckoff. A good portion of the checkoff funds managed by NCA are passed through to other contractors including research firms, universities, advertising and public relation firms, and other organizations. In those instances staff time is very minimal.

**Question 5.** What amount of checkoff dollars have been used for public/consumer education on matters of the environment and stewardship of the land?

**Response.** One of our most successful initiatives, The Environmental Stewardship Program, has been funded by a corporate sponsor since it's inception 3 years ago. Some public relations functions to educate the public about the good stewardship practices of cattlemen are funded with checkoff dollars.

In the fiscal year 1993, NCA's industry public relations program included \$300,000 for materials production and distribution, \$553,000 for news media programs and \$500,000 for influencer audience tours, events and programs all of which involved a variety of public issues relative to the cattle industry, including environmental, food safety, animal care, economic and lean-beef product issues.

**Question 6.** In your opening statement you said that NCA represented about 230,000 of the over 1 million cattle producers in the United States. I assume that would include the membership of NCA's State and breed affiliates as well. How many direct dues paying members does NCA have?

**Response.** 40,000.

**Question 7.** Are there any cases in which the results checkoff funded activities are used to support a political position as well as to support consumer education and other promotion activities?

**Response.** No.

**Question 8.** When conducting industry information activities relating to informing the public about the stewardship activities of cattlemen, how does NCA determine in which papers and what dates advertisements might be placed?

**Response.** NCA uses the expertise of professionals in the advertising and public relations fields to help identify publications to target to reach the intended audience. Research indicates that limited beef industry resources would be better spent on taking advantage of the high regard opinion leaders have for cattlemen. These include professionals with public interest groups and media who are interested in food safety and environmental issues.

Influential publications, as identified by independent researchers are targeted. NCA depends on recommendations from experts in advertising to determine time frames for the ad. The day and position of advertising placements are determined by the publication and availability of advertising space.

**Question 9.** To what extent are some of your services funded out of both checkoff and dues dollars and the results used for both checkoff and lobbying activities?

**Response.** None. NCA lobbying activities are exclusively funded with noncheckoff dollars. NCA accounting procedures for both time and money clearly separate lobbying activities from checkoff activities. NCA publications to members, such as the

weekly *Beef Business Bulletin* and the monthly magazine, *National Cattlemen*, are funded through dues and advertising dollars.

**Question 10.** Something that has raised the eyebrows of a few producers in my region is a component of NCA's strategic plan for 1993-1994. It has been brought to my attention that one of the objectives outlined in NCA's plan read: "Unify the Beef Industry into One entity Directed by Dues Paying Cattlemen."

In the context of the Long-Range Plan and this unification process, some producers are even more leery of NCA's involvement in the organization, if their intention is ultimately to direct the unified organization.

How would you respond to that concern related to NCA's strategic plan?

**Response.** The Oversight Committee, the group that is in the process of developing a plan for implementation of the Long-Range Plan, is taking all concerns raised into consideration. As I stated at the August 5th hearing, a proposal had not yet been presented to the public for consideration. However, I did state that members of the Oversight Committee have reached out to numerous groups to share the Long-Range Plan with them, and to seek their input. This includes cattle producers in your region.

With a new unified structure, there will be a new strategic plan replacing previous plans.

**Question 11.** Another concern that was raised in some of the testimony today has to do with why NCA is an appropriate member of a unified organization given that they represent only one segment of the industry. They suggest that other trade associations and general farm organizations also represent cattle producers in this country.

Why is NCA a more appropriate member than other lobbying organizations that represent cattle producers to be a member of this unified organization?

**Response.** NCA is the only national trade association that exclusively represents the interests of cattle producers in the production of beef. It represents all producer segments of the beef industry. Which includes the cow/calf producer, the seedstock producer, the backgrounder, and the feeder. NCA works with general farm organizations on issues that deal with the beef business. However, the general farm organizations represent producers of other commodities as well. In fact, many NCA members belong to general farm organizations, they do so because they may have other interests or seek services that NCA does not provide.

To my knowledge, no other trade association or general farm organization has expressed any interest in being a member of the unified effort.

Again, the final unified organization has not yet been determined. When it is determined, all cattle producers will have representation as stakeholders in the organization.

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## SENATOR BOREN'S QUESTIONS PRESENTED TO THE CATTLEMEN'S BEEF BOARD WITH RESPONSES THERETO

**Question 1.** Will the proposed merger lessen the representation of the State councils on the Operating Committee?

**Response.** No. The Act and Order, which specified representation on the Operating Committee, will not be changed under the proposed merger of beef industry organizations.

**Question 2.** To what extent would the proposed unification plan prevent other nonprofit industry governed organizations that represent segments of the cattle industry from receiving funding from the Beef Board? Would such contracts with nonmember organizations be less likely after the unification?

**Response.** The Act and Order, which specifies the conditions under which nonprofit beef industry governed organizations may apply for funding to the Operating Committee, will not be changed under the proposed merger of beef industry organizations. National, nonprofit industry governed organizations that are currently qualified to contract for Beef Board funding would continue to be qualified under the proposed unified structure. In addition to the Beef Industry Council of the National Live Stock and Meat Board, the U.S. Meat Export Federation, and the National Cattlemen's Association, the Beef Board is currently funding projects under contracts with the American National CattleWomen, the American Meat Institute, and the American Veal Association. In the past, projects have also been funded with Meat Importers Council of America and the National Renderers Association. As long as these or other organizations demonstrate the ability to conduct worthwhile pro-

grams that, in the judgment of the Operating Committee, merit funding, they will remain eligible.

The Operating Committee is a sovereign committee under the Act and Order. Projects of merit, regardless of source, have always been considered by the Operating Committee in the past. Please bear in mind that in the time I have been on the Operating Committee, there have been many more requests by many organizations than there has been money available to spend. The Operating Committee, in my opinion, funds proposals that make the best use of checkoff dollars and that will have the greatest positive impact on demand for beef. The Industry-Wide Long-Range Plan should help the process by providing focus and coordination on priority projects which will optimize the benefits to the beef industry with the limited funds available. The beef checkoff program operates on a tight budget. We do not spend money based on anticipated future revenues. Funding decisions recommended by the Cattlemen's Beef Board to the Operating Committee and funded by the Operating Committee are based on the merits of the project and the demonstrated ability of the contracting organization to accomplish the objectives in each proposal.

**Question 3.** If one of the four proposed member organizations does not approve their involvement in the merger, will that organization still be able to obtain contracts with the Beef Board or would they be excluded?

**Response.** Yes. The proposed merger of beef industry organizations does not require any change to the Act and Order. The organizations that currently have projects funded by the Operating Committee are eligible organizations under the Act and Order.

**Question 4.** Why are dairy producers and their organizations not more directly included as stakeholders in the Long-Range Plan? (It seems there is a role in this for national dairy organizations in the final structure of the unified organization.)

**Response.** Dairy producers are included as stakeholders. Dairy producers serve on both the Beef Board and qualified State Beef Councils and have participated in the various leverage point teams and other meetings which have led to the development of the unified structure proposal. For example, Bob Foster is a dairyman from Vermont who served on the original Beef Industry Long-Range Planning Task Force. He was elected by the Task Force to serve on the Oversight Committee. He has served in leadership positions with several major national dairy groups.

In addition, representatives of the Oversight Committee have met with the National Milk Producers Federation Board of Directors as the Beef Industry Long-Range Plan and proposed unified structure were being developed.

**Question 5.** How will you be sure that dairy interests are represented in this structure?

**Response.** If dairy interests are proactive in their involvement in the beef industry versus the milk industry, they will be represented in the proposed merger of beef industry organizations. Dairy groups can be certified in their individual States to nominate candidates for the Beef Board and many of those nominees are ultimately selected to serve on the Board. Currently, 20 of the Board's 100 producer members are dairy producers. In addition, dairy producers have the opportunity to serve on the Board of Directors of State beef councils and a number of those dairy producers have been elevated to positions on the boards of directors of the National Live Stock and Meat Board. Additionally, a number of individual dairy producers have chosen in the past to become dues-paying members of NCA. In short, there are several avenues of representation for dairy producers that will remain intact in the unified structure. The proposed unified structure model unveiled by the Oversight Committee includes on the Executive Committee a seat for dairy and a seat for veal interests. If the industry approves this version, specific representation is assured at the Executive Committee level.

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## SENATORS' QUESTIONS/ISSUES FOR THE USDA/AMS REGARDING THE NATIONAL DAIRY PROMOTION AND RESEARCH BOARD AND THE CATTLEMEN'S PROMOTION AND RESEARCH BOARD SUBMITTED FOR THE RECORD WITH RESPONSES THERETO

RE: DISCUSSION OF THE STATUTORY RESTRICTION OF CHECKOFF FUNDS FOR THE PURPOSE OF INFLUENCING PUBLIC POLICY AND AUDIT PROCEDURES

**Question 1.** How does USDA determine whether checkoff dollars are used directly or indirectly for the purpose of influencing public policy?

**Response.** USDA approves all budgets, contracts, and projects. Each of these documents must be consistent with legislative authority to receive USDA approval. We require negative assurance statements in annual CPA audits in which the auditors state that nothing came to their attention which would lead them to believe that the Board was not in compliance with the provision in the Act prohibiting the influence of governmental action or policy. Also, OIG or GAO audits can help to ensure proper expenditure of funds.

**Question 2.** How does USDA define "influencing government action or policy" for the purposes of administering promotion programs that are prohibited from funding those activities?

**Response.** USDA defines "influencing Government action or policy" as: "Any action that has as its principal purpose bringing about a change in existing policy or regulation or affecting the outcome of a proposed policy or regulation, except those actions that are specifically provided for in the Act, Order and the rules and regulations."

**Question 3.** How does USDA determine whether State and regional affiliates are not using checkoff dollars for the purpose of influencing policy?

**Response.** USDA provides oversight of State and Regional programs to the extent authorized by the law by conducting or requiring annual reviews of such activities including CPA audits to ensure that checkoff dollars are expended in accordance with the authorizing legislation.

**Question 4.** What specifically are the safeguards and procedures used to determine whether or not funds provided to contracting organizations who are trade or producer organizations are properly used and not indirectly subsidizing the trade association?

**Response.** Independent annual audits are conducted on the commodity research and promotion programs to ensure full accountability and integrity of the use of checkoff dollars and that the expenditure of such checkoff dollars is in accordance with the authorizing legislation. Additionally, trade or producer organizations receiving checkoff funding are required to maintain separate accounting of checkoff and noncheckoff funds.

**Question 5.** Would the department consider conducting annual reviews of the program activities of promotion boards that contract with organizations who lobby Congress, State governments or Government agencies in order to determine whether checkoff dollars are subsidizing the underlying association activities?

**Response.** USDA believes that the independent annual audits of the various commodity research and promotion programs currently address the separability of checkoff dollars and association activities that are not directly related to promotion research programs. However, USDA would consider other reviews if the situation warrants.

**Question 6.** What type of evaluations are conducted for checkoff funded projects for "industry information" or "consumer/public education" to ensure that the end purpose of such projects is not to influence government action or policy?

**Response.** We review project proposals to determine consistency with the legislative authority. Projects or portions of projects not consistent with the legislation are not approved. The annual independent financial audits as well as OIG or GAO audits help to ensure proper expenditure of funds.

**Question 7.** What limitations does the department place on overhead charges by contractors who use existing staff to conduct promotion activities?

**Response.** Currently, there are no commodity research and promotion programs which specifically limit overhead charges by contractors who use existing staff to conduct promotion activities. However, numerous Boards require that all direct and indirect costs be specified in the contract. Although, USDA does not limit overhead costs specifically, it considers the reasonableness of the costs when approving contracts.

**Question 8.** Does USDA allow checkoff dollars to fund publications and other activities that are primarily lobbying but which also involve checkoff activities on a pro-rated basis? For example if 25 percent of a publication relates to promotion activities and 75 percent relates to lobbying activities, does USDA then allow a reimbursement for 25 percent of the total expenses of the publication? Would the department allow the same type of prorated expense reimbursement for a lobbyist that makes a Congressional visit and spends 50 percent of his time on checkoff informa-

tional activities and 50 percent on issues lobbying? If not, what would be the distinction between expense reimbursement for these two activities?

**Response.** USDA would not allow the use of checkoff dollars to fund prorata portions of publications that are primarily lobbying but which also include checkoff activities. However, Boards are permitted to purchase an equivalent amount of advertising space at the current industry rate for advertising to inform producers on checkoff activities. Likewise, USDA would not directly approve funding of a prorata share of lobbyist activities. However, the department recognizes that an employee of a contracting organization could engage in lobbying activities when not performing duties or functions financed with checkoff funds.

**Question 9.** In current promotion programs, are there any provisions requiring a competitive bidding process to determine which organizations would receive a contract?

**Response.** There are currently no provisions of the various commodity research and promotion programs that require a competitive bidding process. However, some Boards do have competitive bidding. As a matter of long standing policy, USDA strongly encourages the use of competitive bidding to determine contract awards.

#### QUESTIONS CONCERNING THE LONG-RANGE PLAN TO UNIFY THE BEEF INDUSTRY

**Question 1.** The text of the Long-Range Plan Task Force Report issued last December contains some strategies and expected outcomes of the merger with which the Beef Board is involved that seem clearly designed to influence government action or policy. I have attached copies of the text I am concerned about. You stated earlier that as long as these matters were not implemented using checkoff dollars that is an allowable activity. However, you also stated that the Beef Board's involvement in molding these strategies may push the boundaries of compliance with the law.

How does the department plan to deal with this problem that may ultimately violate the law?

**Response.** Those strategies of the Long-Range Plan which are clearly designed to influence Government action or policy will not be approved for funding with checkoff dollars. USDA will continue to (1) closely monitor activities of the Beef Board under any unified organizational structure, (2) review all plans, projects, and budgets, and conduct or cause to be conducted such audits as necessary to ensure that checkoff dollars are used solely for programs permitted under the Beef Promotion and Research Act of 1985 (Act).

**Question 2.** Will the department make a determination as to whether USDA's restriction should simply be limited to implementation of a lobbying activity or whether it should be more broadly applied such as a prohibition on any supporting material related to lobbying, or any involvement in determining issue priorities?

**Response.** We believe that our current policy adequately addresses this issue.

USDA would not approve any Board expenditure of checkoff funds for a project or activity designed to collect information for the sole purpose of lobbying activities or authorize the use of checkoff funds to implement activities whose specific purpose would be to lobby.

**Question 3.** Will the unified organization if passed by the organizations involved be prohibited from engaging in any of these activities?

**Response.** The unified organization would not be subject to the same prohibitions concerning influencing governmental actions as the Beef Board and thus would be entitled to engage in such activities. However, checkoff funds could not be used to finance such activities.

**Question 4.** Will these particular items be prohibited from being part of the strategy of any unified organization and the Long-Range Plan?

**Response.** Activities designed to influence governmental action which are part of the strategy or Long-Range Plan would not be subject to the restrictions of the Beef Promotion and Research Act and thus would not be prohibited. However, USDA will not approve the use of checkoff funds to finance such activities.

**Question 5.** Will the Beef Board be disallowed from participating in any discussion relating to these matters on the attached pages if these strategies are allowed?

**Response.** USDA will not approve the Beef Board's use of checkoff funds to finance participation in any discussions relating to activities specifically designed to influence governmental actions or policies.



**Question 6.** How does the proposal impact the statutory requirement that the Beef Promotion Operating Committee be composed of ten members of the Beef Board and ten members of the federation that includes the Qualified State Beef Councils?

**Response.** The Beef Promotion Operating Committee (BPOC) established by the Act and Order must continue to exist and function with the same member composition as prescribed by the Act and Order.

**Question 7.** How will USDA change their accounting/audit procedures to address the further complexities created by a larger more diverse organization within the beef industry?

**Response.** The accounting/audit procedures authorized by the Act and Order and successfully utilized by the Board will continue. USDA will review the Board's accounting/audit procedures periodically to ensure that they are adequate to address any complexities of the unified structure. At the same time, USDA will initiate any audits it deems necessary to fully ensure compliance with the Act and the Order and to safeguard checkoff funds.

**Question 8.** Will this change to the structure of the Beef Promotion and Research Board require a producer referendum? Would a referendum have to be requested by 10 percent of eligible producers?

**Response.** We do not believe that any changes in the Order will be required as a result of the proposed unified industry organization. In any event, the Beef Board's structure must be maintained as established and authorized by the Act. Amendments to the Order that are authorized by the Act can be made by following notice and comment rulemaking procedures. A referendum is not required. Of course, a referendum may be conducted at any time upon the request of a representative group comprising 10 percent or more of eligible producers.

**Question 9.** The Long-Range Task Force concluded that the current structure of the four industry organizations was incapable of meeting the goals of the Long-Range Plan. Eight months ago they recommended a structure with one CEO, one board and joint staff but that is not final.

The structure for implementation of the Long-Range Plan has not been determined. There is a difference between a unified organization and an unified structure, which is conceivably a looser association. The former implies a single organization. Last December the Long-Range Task Force recommended that the structure of the plan include "one unified organization."

Can you tell us what limitation the current statute may place on the structure of the Long-Range Plan?

**Response.** Regardless of the final structure of the planned industry organization, the Beef Board must maintain its autonomy and continue to exist as a separate and distinct entity and function in the manner prescribed by the Act. The industry is well aware of USDA's position in this regard. The most recent proposal suggests that it is the industry's intent to propose a unified structure in which the Beef Board will remain and continue to operate as a separate entity.

#### QUESTIONS CONCERNING THE NATIONAL DAIRY PROMOTION AND RESEARCH BOARD

**Question 1.** Does USDA have a position on the appropriateness of assessing imports for generic promotion programs?

**Response.** USDA has traditionally been supportive of assessing imports for promotion programs as long as equitable treatment is given to domestic and imported commodities, there is provision for importer representation on the boards and in referenda, and they are in compliance with international trade agreements.

**Question 2.** Would new authority provided to existing promotion orders to assess imports be considered a violation of GATT?

**Response.** If imported product is treated in a comparable manner to domestic product, it would not be in violation of GATT.

**Question 3.** How are importers represented on promotion boards that currently assess imports?

**Response.** In general importer representation is based either on the volume of imports or on assessments. Most recent legislation provides for proportional representation based on assessments.

**Question 4.** Does the department have any evidence that the presence of importers has created undue influence of those importers on the Board's activities?

**Response.** USDA has no evidence that importers have exerted undue influence on Board's activities. Importers generally account for a small share of Board membership. Importers are good Board members, typically providing valuable input to Board deliberations as a result of their unique knowledge and expertise.

**Question 5.** What is the Secretary's position with respect to cooperative bloc voting in producer referenda?

**Response.** It is USDA's view that the authorizing statute allows cooperatives to bloc vote. USDA must provide cooperatives with the opportunity to exercise this right, although a cooperative is not bound to do so.

**Question 6.** Does the department agree or disagree with the concerns of some producers that Bloc Voting unfairly weights the position of the cooperatives with respect to continuation of or reform of promotion boards?

**Response.** The authorizing statute and the Dairy Promotion and Research Order states that the Secretary shall consider the approval or disapproval by any cooperative association engaged in a bona fide manner in marketing milk or the products thereof as the approval or disapproval of the producers who are members of or under contract with such cooperative association of producers.

Members of bloc voting cooperatives are nonetheless entitled to vote individually. In such cases, the individual's vote is subtracted from the cooperative's bloc vote. Therefore, individual producers who disagree with the position of their cooperative have the potential to affect the outcome of the continuance referendum.

**Question 7.** Does USDA have a position as to whether Dairy Board member selection should be by direct producer election versus appointment by the Secretary?

**Response.** The position of USDA is that members to the Boards should be appointed by the Secretary.

**Question 8.** If the appointment process is the preferred process, why is that the case?

**Response.** The Department of Justice has consistently asserted that requiring that a Board be elected rather than appointed would violate the U.S. Constitution. The Appointments Clause of the Constitution (Art. II, sec. 2, cl.2) requires that "officers of the United States," *i.e.*, those persons who exercise "significant authority pursuant to the laws of the United States," be appointed by one of two methods. An officer of the United States may be appointed by the President subject to the advice and consent of the Senate, or the appointment of "inferior" officers in the executive branch may be vested by Congress in the President alone or the heads of the executive branch departments. *Buckley v. Valeo*, 424 U.S. 1, (1976). Since the Board exercises significant authority under the laws of the United States, its members must be appointed in conformity with the Appointments Clause.

Furthermore, USDA favors the appointment of members to the Board by the Secretary to insure diversity of industry representation. Procedures are already in place to allow diversity of Board representation. The regional layout of the Board seats provides that 36 Board members will represent 13 different regions. Each Board member represents an equivalent amount of milk marketed in the continental United States. Also, since all nominations are accepted, many different types of producers can be nominated by, and appointed from, many different types of organizations. The nomination rules also limit organizations to nominating producers in regions in which they operate.

## CBB Administration Subcommittee Recommendations Concerning Unification

At its April 12-13 meeting, the CBB Administration Subcommittee spent considerable time discussing the Beef Board's role in a unified structure and the legal requirements of the Beef Promotion and Research Act and Order. This paper is intended to summarize the Administration Subcommittee's deliberations and is presented to the Executive Committee as recommended Beef Board ~~position~~ on the unified structure envisioned by the Industry Wide Long Range Plan. ~~guidelines~~

### Overview

The Beef Board can and should participate in a unified structure which will improve the beef industry's ability to accomplish its goals more efficiently and effectively. However, the Beef Board must retain the capability, identity, and authority to meet separately in order to discharge the specific functions it is required to perform under the Beef Promotion and Research Act and Order. Attached as Exhibit I is a summary of those specific functions prepared by Beef Board Legal Counsel, Wayne Watkinson.

### General Guidelines

The Beef Board recommends that the following general guidelines be kept in mind during all discussions of a potential unified structure:

- Although the roles of certain organizations (CBB, QSBC's, Federation, etc.) are defined in the Act and the Order, those organizations are not precluded from being part of a unified structure. Organizational leaders must guard against inventing restrictions that do not really exist concerning the appropriateness and legality of participation by those organizations in the unified structure.
- The successful experience of BIC and MEF in domestic and international marketing activities must be preserved and incorporated into any unified plan and structure.
- Similarly, NCA's successful experience as the industry's grassroots membership organization must be retained with due consideration given to NCA's long-standing tradition, the importance of maintaining strong membership dues support, the need for NCA to continue to play a vital role in the legislative arena, and the need to design a structure that maintains ample grassroots input.
- Due consideration must be given to the role of QSBCs in developing the unified structure. QSBCs must still have the opportunity to send a portion of their revenue to national organizations. This could be a combination of funds earmarked for specific programs and funds left open for allocation by the unified organization process.
- Certain Beef Board functions must be kept separate from the unified organization. Beef Board leadership should define what the Board must do independently, by law, as well as what the Board might like to keep doing independently.

- The unification should be accomplished without incurring the risk of opening the Act or the Order.
- Organizational leadership is expected to achieve the “vision” outlined in the Industry Wide Long Range Plan and achieve it in a timely manner.
- Although there may be some short-term costs in reorganizing, industry leadership needs to recognize the potential long-term gains in efficiency, cost effectiveness, focus, coordination, and control.
- Industry leadership should recognize that prolonged discussion of potential structural change creates increased staff turbulence. This argues that the period of uncertainty over future structure should not be prolonged any more than is necessary.
- Organizational leadership should work to assure industry harmony and improve support from all checkoff-paying segments, particularly dairy producers.
- Industry leadership has received a clear signal on what needs to be done. Leaders should look for reasons to do what needs doing, not for reasons to avoid change.

#### **Compliance With Legal Requirements of The Act and The Order**

- Attachment 1 discusses the requirements imposed by the Beef Promotion and Research Act and Order on any CBB participation in a unified structure. These requirements are summarized in two broad statements:
  - \* The CBB must continue to exist with members appointed by the Secretary of Agriculture to carry out specific functions.
  - \* Similarly, an Operating Committee has to exist in order to perform certain functions established by the Act and the Order.

#### **Segregation of Checkoff Funds from Membership Dues and Other Non-checkoff Revenue**

- In its contractual relationship with contractors (including NCA, which conducts lobbying activities), the Beef Board has established a cost-recovery concept. In other words, the contractor is entitled to recover all the costs it incurs on behalf of the Board but the contractor must not be allowed to profit from its relationship with the Board. The accounting procedures followed in establishing this concept will also help to ensure segregation of checkoff funds from other revenue sources.
- The unified organizational structure must provide sufficient controls and oversight to assure such segregation. Due consideration must be given to a system of checks and balances and an internal audit function that ensures separation of checkoff and non-checkoff financial resources and the activities funded by each.

- The unified structure must lead to a decision-making process that addresses industry plans and priorities but ensures that checkoff dollars are only used for eligible purposes.
- Contracts should continue to exist between the Beef Board/Operating Committee and other elements of the unified structure.
- The unified structure should maintain contract scrutiny, auditing, and evaluation procedures similar to those presently in use by the Beef Board.
- It is extremely important that the separation of checkoff funds from other sources of revenues be communicated and well understood by producers paying into the unified organization.

#### **Ensuring that Checkoff Dollars cannot be used to Subsidize Lobbying Efforts**

- The cost recovery concept, accounting procedures, and controls referenced previously will ensure that checkoff dollars and lobbying efforts are not mixed. It should also ensure that checkoff dollars cannot be used – even indirectly – to subsidize lobbying activity.
- All checkoff dollars must be used as intended by the Beef Promotion and Research Act and Order and the Beef Board’s Guidelines.

#### **Oversight of and Accountability for Checkoff Expenditures and Contract Compliance**

- The new organizational structure and procedures must include a reporting mechanism that discloses how all national funding is used.
- In particular, the new organization must provide a high level of accountability for the receipt and disbursement of all checkoff funds.

#### **Oversight of and Accountability for Checkoff Collections**

- While the Beef Board is accountable for compliance with checkoff collection and remittance requirements, the Beef Board clearly can delegate that function to other entities (e.g., QSBCs).
- In establishing the unified structure, industry leaders must remember that CBB administrative costs (including collection costs) are subject to a 5% cap. QSBCs are not subject to this limitation.

#### **Certification of QSBCs**

- The issue of organizational structures within states should be addressed individually by the states involved.

- Certification of QSBCs will remain the responsibility of the CBB. The Administration Subcommittee believes the following issues should be referred to the QSBC Coordination Subcommittee for consideration and recommendation to the Executive Committee:
  - Should there be a checkoff revenue threshold for QSBC certification?
  - Should the Operating Committee consider providing a certain minimal level of funding to "small" QSBCs so they can conduct approved programs in their state upon approval of an in-state marketing plan?
  - Is there a need to periodically recertify QSBCs?

#### **Budget, Evaluation, and Project Approval Mechanisms**

- One of the CBB's legal obligations is to approve or disapprove a budget.
- The CBB's program budget must come through the Operating Committee.
- Final approval authority for the Beef Board's budget rests with USDA.
- Evaluation must continue to help drive the annual plan and budget.
- The Administration Subcommittee believes the CBB's prioritization process should be maintained.

#### **Other Issues**

- The unified structure needs to include a unified planning process.
- The unified structure could include committees organized around the eight leverage points.
- The CBB will continue to need an Executive Committee with the authority to act on behalf of the entire Board between CBB meetings.
- The unified organizational structure must maintain a high level of grassroots input and control, yet it must be efficient.
- The CBB must represent <sup>all checkoff-</sup> ~~non-~~ paying constituents in the new organizational structure.

MCLEOD, WATKINSON &amp; MILLER

MEMORANDUM

April 20, 1994

TO: Monte Reese

FROM: Wayne Watkinson

RE: Requirements of the Cattlemen's Beef Board Pursuant to the Act and Order

Pursuant to the Beef Promotion and Research Act of 1985, 7 U.S.C. §§ 2901-2911, sets out certain parameters within which the Beef Promotion and Research Order (7 C.F.R. § 1260.101 et seq.) When determining the parameters which any new structure organized within the beef industry must meet, we need to look closely at the Act to ensure that its provisions (and the provisions of the Order issued pursuant to the Act) are maintained within the structure. The following is a synopsis of those parameters which I believe are clearly established pursuant to the Act:

1. The Act provides that the order will establish a Cattlemen's Beef Promotion and Research Board comprised of representatives nominated and appointed from regions set out in the Act. This is not discretionary. There must be a Cattlemen's Beef Board. (See, 7 U.S.C. § 2904(1)).

2. The Act provides that the Order will establish a Beef Promotion Operating Committee ("Operating Committee") comprised of ten representatives from the Cattlemen's Beef Promotion and Research Board, and ten representatives from the federation which has as its members the Qualified State Beef Councils. (See, 7 U.S.C. § 2904(4)(A)).

3. The Act also requires that the Order issued by the Secretary will provide that the Board shall carry out certain responsibilities; including:

- a. To meet at least annually (7 U.S.C. §2904(2))
- b. To approve or disapprove budgets from the Operating Committee (7 U.S.C. § 2904(4)(c))
- c. To propose rules and regulations under which the program should operate (7 U.S.C. § 2904(2)(B))
- d. to elect ten (10) members to the Operating Committee (7 U.S.C. §

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- 2904(2)(C)
- e. Investigate complaints of non-compliance (7 U.S.C. § 2904(2)(E))
  - f. Submit budgets to the Secretary (7 U.S.C. § 2904(4)(C))
  - g. Collect assessments (7 U.S.C. § 2904(4)(D))
  - h. Utilize staffs of existing organizations to the extent possible (7 U.S.C. § 2904(4)(D))
  - i. To maintain books and records and account for funds (7 U.S.C. § 2904(7)(A) and (C))
  - i. To report to the Secretary (7 U.S.C. § 2904(7)(B))

The Act also requires the Operating Committee to carry out certain functions:

- a. Develop plans and projects (7 U.S.C. § 2904(4)(B))
- b. Develop and propose a budget for plans and projects for submission to the Board for its approval or disapproval (7 U.S.C. § 2904(4)(C))
- c. To contract with national non-profit, producer-governed organizations to carry out programs (7 U.S.C. § 2904(6))
- d. To maintain books and records and to account for funds which it expends (7 U.S.C. § 2904(7)(A) and (C))
- e. To prepare reports to the Secretary (7 U.S.C. § 2904(7)(B))

Clearly, several functions of the Cattleman's Beef Promotion and Research Board and the Operating Committee may be delegated. Activities such as collection of funds, have to an extent, already been delegated by the Board to the QSSBs, which collect funds in those states in which they operate. There are certain functions which I believe the Board cannot delegate to another organization. These functions include:

1. The approval or disapproval of a budget submitted by the Operating Committee
2. Submission of a budget to the Secretary of Agriculture, including all costs anticipated by the Board including the cost of plans and projects to be conducted by the Operating Committee
3. To account for funds - (By this I mean at least an annual accounting of funds received and expended by the Board.)
4. Promulgation of rules and regulations under which the program will operate
5. Certifying Qualified State Beef Councils (7 C.F.R. § 1260.150(n)).

The Operating Committee may also delegate some of its responsibilities. However, there are certain responsibilities which I believe the Operating Committee must perform, including:



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1. Approval of plans and projects
2. Submitting those plans and projects for approval to the Secretary
3. Submitting a budget to the Cattlemen's Beef Board for approval or disapproval.

It is important to note that the Act requires the establishment of a Cattlemen's Beef Board and a Beef Promotion Operating Committee in any order issued by the Secretary. That means that those entities must be established if the Order is to be implemented. While responsibilities may be delegated to other organizations, it is these entities that remain responsible for carrying out their functions under the Act and Order. During the discussion, it was discussed that the Task Force's intent was to develop a unified structure. This is different than the development of a unified organization. A unified structure may include several separate organizations which are unified through a planning and implementation process, or other process which brings together the decision-making and implementation abilities of several organizations. A unified organization implies that there will be one single organization.

Several issues arose during the meeting relating to the Federation as it appears in the Act and Order. It is important to note that the only function of the Federation in the Act and Order is to elect ten representatives to the Operating Committee. There are no other requirements of the Federation in the Act and Order. There is a provision in the Order which would prevent any producer or importer serving on the Federation Board of Directors from being eligible to serve on the Cattlemen's Beef Board for a current term (7 U.S.C. § 1260.145(b)).

WRW/jak

**Beef Promotion and Research Board**  
 Summary of Program Expenses by Budget Component and Contractor  
 Inception (October 1, 1986) through September 30, 1993

Budget Component	Actual Expenses Paid During Fiscal Years Ended September 30:					Totals Inception- to-date	% of Total	
	1987	1988	1989	1990	1993			
Promotion	\$20,773,685	\$28,092,336	\$29,749,053	\$30,272,317	\$29,086,859	\$24,776,330	\$186,344,351	64.24%
Research	499,796	715,282	2,754,983	2,614,747	4,692,140	4,462,483	20,011,777	6.90%
Consumer Information	1,506,845	1,870,591	4,880,126	4,088,801	6,351,241	5,343,776	27,871,622	9.61%
Industry Information	183,428	515,813	1,654,818	3,354,224	4,346,956	4,630,958	19,264,766	6.64%
Foreign Marketing	0	0	0	3,201,790	1,150,401	6,616,310	3,273,988	4.91%
Producer Communications	504,496	3,374,863	1,052,215	1,394,584	1,096,185	1,052,277	490,532	3.09%
Program Evaluation	0	0	0	0	70,570	32,859	24,564	0.04%
Program Development	0	0	0	336,243	339,184	410,182	525,506	1.61%
USDA Oversight & Administration	1,108,821	1,726,935	1,743,435	1,832,048	1,664,887	1,780,911	1,781,330	0.56%
Totals	\$24,577,071	\$36,295,820	\$41,834,630	\$47,094,754	\$48,798,423	\$47,871,138	\$43,605,796	100.00%

Contractor	Actual Expenses Paid During Fiscal Years Ended September 30:					Totals Inception- to-date	% of Total	
	1987	1988	1989	1990	1993			
Beef Industry Council	\$23,242,032	\$30,456,078	\$36,221,721	\$37,055,040	\$37,888,650	\$33,360,929	\$32,467,938	79.53%
National Cattlemen's Association	201,243	3,383,319	2,294,107	4,123,982	4,880,111	4,883,530	5,087,992	8.57%
U.S. Meat Export Federation	0	600,000	1,247,025	3,131,230	3,417,899	6,317,086	3,057,946	6.13%
Cattlemen's Beef Board	1,133,796	1,856,423	1,908,931	2,426,745	2,146,259	2,278,844	2,085,426	4.77%
American National Cattle Women	0	0	127,620	187,500	208,343	409,213	256,737	0.41%
National Renderers Association	0	0	0	111,542	254,371	481,536	288,584	0.39%
American Meat Institute	0	0	0	0	0	140,000	361,173	0.17%
Meat Importers Council	0	0	35,226	58,715	2,790	0	96,731	0.03%
Totals	\$24,577,071	\$36,295,820	\$41,834,630	\$47,094,754	\$48,798,423	\$47,871,138	\$43,605,796	100.00%

## POSITION STATEMENTS

## Tom Giessel

Thank you for holding this hearing to examine the changes to the National Dairy Promotion and Research Board, contained in S. 1564, and S. 1557. I am Tom Giessel. I am a farmer in partnership with my brother in Larned, Kansas. I also serve as Vice President of the Kansas Farmers Union, and I am testifying on behalf of the over 250,000 members of the National Farmers Union.

My testimony today will provide an explanation of the requirements National Farmers Union believes any producer financed promotion board needs to meet. The second portion will address the board nomination process, bloc voting, and the representation of importers on the board, as proposed in S. 1557 and S. 1564.

## NATIONAL FARMERS UNION POLICY

National Farmers Union supports producer-financed commodity research and promotion programs to the extent that producers control the program. We believe that deductions should be mandatory only if certain conditions are met:

- disbursement of funds collected is controlled by producer elected boards;
- approval of the assessment is by two-thirds of those voting in a referendum conducted by mail, with spouses allowed to vote individually, and with no bloc voting;
- referenda outcome be determined on the basis of one person, one vote;
- no funds should be donated to organizations which carry out political or lobbying activities;
- changes in levies are submitted to producers for approval and subject to a two-thirds vote;
- periodic review referenda are financed and conducted by the Federal Government;
- commodity checkoffs assessed against American producers should also be assessed against foreign imports of the commodity, in either raw or manufactured form;
- general farm organizations are allowed to appoint a producer voting representative to each promotion board;
- periodic independent, outside audits are conducted to ensure that the benefits of the program outweigh the costs to producers, with copies of the audits available to all participants;
- procedures should be available to allow producers to obtain annual refunds and to also have the right of refund at the initial point of collection.

National Farmers Union opposes efforts to combine research and promotion boards, funded by producer checkoffs and assessment programs, with private, membership-based political lobbying organizations.

We urge the Secretary of Agriculture to utilize oversight authority to completely review the operation of Federally sanctioned commodity checkoff programs and issue an independent public report on their effectiveness.

## PROVISIONS OF S. 1564 AND S. 1557

Enactment of S. 1564 and S. 1557 would result in several major changes to the dairy promotion board. Provisions would:

- (1) assess imported dairy products at the same rate as domestic products;
- (2) add two representatives of importers to the 36 member promotion board;
- (3) require a referendum;
- (4) terminate the dairy promotion board;
- (5) prohibit bloc voting.

## IMPORT ASSESSMENTS

National Farmers Union policy clearly calls for assessing imports on a milk equivalent basis at the same rate as domestically produced dairy products. In fact, we support applying all the assessments paid on domestic product to imports, including those for promotion, budget reconciliation, inspections, and CCC cost.

We also support the definition of "imported dairy product" in the bill, which includes casein and mixtures.

## IMPORT REPRESENTATIVES

National Farmers Union does not have specific policy on how importers should be represented on the board. However, we oppose assessments without representation, so it would appear reasonable to include some import representation.

## REFERENDUM

National Farmers Union supports the use of referendums, to ensure board accountability to producers. We would recommend additional language calling for the referendum to be held by mail, and conducted by the Federal Government.

## TERMINATION OF THE DAILY PROMOTION AND RESEARCH BOARD

National Farmers Union does not have policy calling for the termination of the dairy promotion and research board. The greater concern is that the board is accountable to the producers it was designed to represent. This can be ensured in several ways. Checkoff assessments should be voluntary and refundable at the initial point of collection. Audits should be conducted by accredited independent accounting firms. All information should be made available to those producers who are paying the assessment to the board.

## BLOC VOTING PROHIBITION

National Farmers Union strongly supports the prohibition of bloc voting. We prefer one producer, one vote, with each producer casting his or her own ballot.

## Conclusion

Members of the National Farmers Union have differing views on the need and effectiveness of having a producer-financed promotion and research board. However, if the board is to be designed to work for producers, it must be controlled by producers, and accountable to producers. We appreciate the opportunity to testify today, and urge the committee to also hold field hearings to allow producers the maximum opportunity to participate in this important dialogue.

## James M. Webb

Mr. Chairman, my name is Jim Webb. I am a cattleman from Phoenix, Arizona. I am chairman of the Cattlemen's Beef Promotion and Research Board. I also chair the Beef Industry Long-Range Plan Oversight Committee.

My purpose in appearing before you today is 4-fold. You have requested that I discuss: (1) the Beef Industry Long-Range Plan and recommended unified structure explaining how various organizations, producer-members, and checkoff contributors will be represented under the plan; (2) how we will ensure separation of industry promotion funds from lobbying and governmental activity funds in the proposed unified structure; (3) how the unified structure concept will affect state-level groups; (4) and how the Cattlemen's Beef Board oversees the current Beef Checkoff Program.

## BEEF INDUSTRY LONG-RANGE PLAN

Although the Beef Checkoff Program is showing strong, positive results and is working in accordance with the Beef Promotion and Research Act and Order, there is always room for improvement.

That is the primary reason for the Beef Industry Long-Range Plan and recommended unified structure. It is critical that the various organizations, producer-members, and checkoff contributors are properly represented under the plan and that we ensure separation of industry promotion funds from lobbying and governmental activity funds.

It has been over 6 months since the Beef Industry Long-Range Plan was unveiled and subsequently endorsed by the four beef industry organizations responsible for its development—the Beef Industry Council of the National Livestock and Meat Board, the National Cattlemen's Association, the United States Meat Export Federation, and the Cattlemen's Beef Board.

The plan was developed by a task force charged with the mission of increasing the overall effectiveness, efficiency, and marketing capabilities of beef producers' collective contributions to those four industry organizations. Included with this testimony is a copy of the Beef Industry Long-Range Plan.

The Task Force was made up of one elected officer from each of the four organizations and 10 at-large beef producers. The goal was to develop a single, unified plan to better position beef in the consumer marketplace. We wanted one long-range strategic plan for the entire beef industry that would move us from where we are to where we want to be.

It took almost one full year to put the Beef Industry Long-Range Plan together. Task Force members not only drew from their own experiences, but also called in over 70 other business people, both in and out of the beef industry. Their message was clear: *the U.S. Beef Industry has for too long—been production driven, rather than consumer driven. The industry has been more sensitive to its own concerns, rather than the needs and preferences of consumers.*

Beef's market share is declining. During the past decade, average per capita meat consumption rose, but at the same time, beef consumption dropped 10 pounds. Beef's share of consumer expenditures for red meat and poultry has dropped from almost 60 percent in 1980 to less than 50 percent in 1992, and is projected to continue dropping through the year 2000. Unless something is done, the trend will continue.

One reason is that beef has a major problem with quality and consistency.

Unfortunately, mixed messages coming from the industry have sent confusing signals to the marketplace. Having four separate industry organizations may not help us improve our current situation, because it means having four plans, and four ways of managing issues. That creates industry confusion, lack of cooperation, and sometimes conflict. The bottom line is that the four separate organizations might be less effective than they could be.

There's also the problem of island mentality. Many subgroups, such as cow/calf producers, stocker operators, feeders, and packers, aggressively compete against each other with little regard for the end product or the consumer. The industry must begin thinking interdependently, just like a chain . . . with each link counting on the strength and support of the other links in the chain.

Strained relationships or elements of distrust, such as those between producers and packers, prevent the flow of information that would improve profit opportunities for both segments.

We also face production cost challenges from poultry and pork. To compete successfully, beef producers must find better and more efficient ways to use their resources, their capital, and their land. Improving management techniques and using new technology will help produce a more consistent, high quality, and competitively priced food product.

Consumers have told us what they want from the beef industry . . . and yet, the industry has not met consumer demands. The industry must make beef more consumer friendly, include a greater variety of choices, cooking ideas and handling instructions, improve safety, and lengthen shelf life.

The fundamental rules of marketing remind us that consumers repeatedly choose products that offer the best value for the price—if they get what they pay for. Consumers *will* choose beef over poultry or pork if they feel they're getting a real value.

The beef industry must also address key social and political issues that generate consumer concern, and often, dissatisfaction with the industry. The beef industry must take a more pro-active stance about such issues as diet and health, environment and safety, and government regulations, rather than reacting when it may be too late.

The Task Force described the industry's potential in this vision statement—"a dynamic and profitable beef industry, that concentrates resources around a unified plan, consistently meets consumer needs, and increases market share."

The key part of the Long-Range strategic plan was the identification of eight key issues, called leverage points—strategic points of impact that can help us make that vision a reality.

1. *Quality and Consistency*—The most critical leverage point is quality and consistency. The plan calls for reducing consumer dissatisfaction with beef quality by 50 percent by 1997. The other significant objective is to reduce carcass defects also by 50 percent before 1997, including increasing shelf-life and establishing standard carcass size requiring minimum trim.

2. *Domestic Marketing*—The second leverage point is domestic marketing. The primary goal is to stop the market share decline by 1997. To do this will take more than just promotion. The industry must develop standard product specifications, measure improvements in key acceptance points, and enhance price/value perceptions.

3. *International Marketing*—The leverage point of international marketing calls for the industry to increase foreign demand for U.S. beef, cattle and products. By

1997, the industry hopes to increase the value of total U.S. beef exports to \$4 billion and double its world market share.

4. *Public Relations*—Improving the industry's image through pro-active public relations is the fourth leverage point. The industry must reach influencers and thought leaders in media, government, education, health, and public interest groups. It is important that these groups, as well as consumers, have a positive opinion of beef and beef production. One of the best ways to be perceived as a source of credible and factual information is to collectively speak with one voice.

5. *Issues Management*—Identifying and effectively managing potentially disruptive issues before they adversely affect consumer intent to purchase beef is the fifth leverage point. Issues management can also lead to positive actions. This process needs to be centrally coordinated at every level, including State and national levels, and conveyed in one, positive message.

6. *Production Efficiency*—The goals of the production efficiency leverage point are to reduce average production costs by 10 percent, achieve improvements identified by the Beef Quality Audit, and implement useful economic and production evaluation systems.

7. *Strategic Alliances*—Strategic alliances calls for the development of partnership programs that focus on the consumer at every stage of the beef production cycle.

8. *Producer/Packer Alliances*—The final leverage point, producer/packer alliances, stresses the vital link between more than 900,000 producers and 240 million domestic consumers that flows through a relatively small number of packers. By creating these alliances, product values and profit opportunities can be improved for all participants.

Programs are already underway to begin making a difference in each of the eight leverage points this year with efforts concentrated on priorities established by teams of industry leaders who examined each leverage point. Quality and consistency has been identified as our number one priority.

#### UNIFIED STRUCTURE

The Task Force felt that to fully realize the opportunities inherent in each leverage point, the four beef industry organizations need to establish one unified structure. The Task Force stressed that a successful organization must meet four very critical criteria. It must *focus* on the key outcomes in the leverage points. It must provide coordination and cooperation among all participants. It must provide control which enables the organization to correct its course as the environment dictates. And, it must be cost-effective . . . making the most efficient use of financial and human resources.

The Task Force did not develop a detailed organizational structure, but felt it should be comprised of and serve all stakeholders, which include State cattle associations, breed associations, qualified State Beef Councils that represent dairy, veal, and livestock marketers, American National CattleWomen, dues-paying cattlemen and women, packers, processors, purveyors, and allied industry groups, in essence—anyone who invests in the beef industry.

The Board would be made up of representatives from the stakeholder group. Its primary function would be to set policy and establish Executive Committee membership.

The Executive Committee would be a small, working-size group of talented people determined by the Board. They will ensure that the strategic plan is achieved, and will allocate resources, as well as hire and fire the CEO.

The Chief Executive Officer will be responsible for implementing the strategic plan and making sure the key objectives are achieved. The CEO will also select the staff, and serve as organization manager.

An Oversight Committee has been formed to implement the Long-Range Plan and develop a unified structure proposal. The Oversight Committee includes the 1994 chairman or president, two additional officers or designees and the CEO from each of the four organizations. The committee also includes 4 at-large members from the Long-Range Planning Task Force for a total of 20 members—plus a project leader and a facilitator.

The Committee is responsible for establishing a work timetable to keep the project moving, selecting transition teams, securing funding, and setting direction for the interim work for each organization. It is also in charge of keeping the industry focused on the long-range plan.

We are seeking input from everyone who has an interest in or concern about the structure. Transition teams of industry leaders have already been working to implement leverage point programs, set priorities and recommend structural options. All

eight leverage point teams have met. Each one concluded that success can best be achieved through a unified structure. More transition teams will likely be needed to make that unified structure a reality.

A baseline data team has also begun gathering information about the current costs of doing business in each of the four organizations.

The Beef Board Administration Subcommittee has dealt with a number of issues and questions concerning the feasibility and legality of consolidation and has made recommendations to the Beef Board Executive Committee. We do not believe the Beef Promotion and Research Act and Order prohibits the Beef Board from participating with other industry organizations in a unified effort. However, we believe the Beef Board must retain the capability, identity, and authority to meet separately in order to discharge the specific functions it is required to perform under the Act and Order. Particularly, the Beef Board must continue to exist with members appointed by the Secretary of Agriculture to carry out specific functions, including budget approval, just as the Beef Promotion Operating Committee must exist to perform certain functions, including specific project approval.

The Beef Board Executive Committee adopted a set of general guidelines, developed by its Administration Subcommittee, to be kept in mind during all discussions of a potential unified structure. The guidelines were designed to ensure compliance with the Act and Order and to guarantee representation of all segments of the beef industry. A copy of the guidelines are included with this testimony as Exhibit 1, but they are summarized as follows:

Although the roles of certain organizations, such as the Beef Board, the QSBCs, and the Federation of QSBCs, and the Operating Committee, are defined in the Act and Order, those organizations are not specifically prohibited from participating in a unified structure. The unified structure should be designed so that it fits within the present enabling legislation and changes in the Act or the Order are not required.

In order to achieve this, the Beef Board believes it is critical to ensure the segregation of checkoff funds from membership dues and other revenue. In its contractual relationship with the National Cattlemen's Association, the U.S. Meat Export Federation, the Beef Industry Council and other organizations which manage check-off-funded programs, the Beef Board has established a cost-recovery concept. This means that contractors may only be reimbursed for costs incurred on behalf of the Board and may not profit from their relationship with the Board. The accounting procedures followed in establishing this concept can be retained to ensure segregation of checkoff funds from other revenue sources in a unified structure.

Due consideration must be given to a system of checks and balances and an internal audit function that ensures separation of checkoff and non-checkoff financial resources and the activities funded by each including lobbying, which cannot be funded—even indirectly with checkoff dollars. This segregation of funds should be communicated to investing producers.

Contracts should continue to exist between the Beef Board and Operating Committee and other elements of the unified structure. The structure should maintain adequate contract scrutiny, auditing and evaluation procedures.

The new organization must provide a high level of accountability for all checkoff funds. All checkoff dollars must be used as intended by the Beef Promotion and Research Act and Order and the Beef Board's Guidelines.

Although the Board is accountable for checkoff collection and remittance, we can and do delegate that function to other entities, such as QSBCs.

The Beef Industry Council's and the Meat Export Federation's successful experiences in the international and domestic marketing arena must be incorporated into any unified plan or structure.

Similarly, the National Cattlemen's Association's successes as a grassroots membership organization must be retained with due consideration given to the importance of maintaining strong membership dues support and the need for the National Cattlemen's Association to continue to play a vital role in the legislative arena.

Due consideration must be given to the role of QSBCs in developing the unified structure. They must still have the opportunity to send a portion of their revenue to national organizations. This could be a combination of funds—some earmarked for specific programs and some funds left open for allocation by the unified organization.

Certain Beef Board functions must be kept separate from the unified organization. Beef Board leadership should define what the Board *must* do independently, by law, as well as what the Board might *like* to keep doing independently.

Organizational leadership is expected to achieve the "vision" outlined in the Beef Industry Long-Range Plan and achieve it in a timely manner.

Although there may be some short-term costs in reorganizing, industry leadership needs to recognize the potential long-term gains in efficiency, cost effectiveness, focus, coordination and control.

Leadership should recognize that prolonged discussion of potential structural change creates increased staff turbulence. This argues that the period of uncertainty over future structure should not be prolonged any more than necessary.

Leadership should work to assure industry harmony and improve support from all checkoff-paying segments, particularly dairy producers.

The structure must lead to a decisionmaking process that addresses industry plans and priorities.

And finally, clear signals have been sent on what needs to be done. Leaders should look for reasons to do what needs doing, *not* for reasons to avoid change.

And last, but not least—certification of QSBCs will remain the responsibility of the Beef Board, but the issue of internal State organizational structure should be addressed individually by the States involved.

At this point, we are in the information-gathering stage. No specific structure proposal has been approved. Several concepts and criteria are being reviewed by the Oversight Committee. Oversight Committee members have met with the grassroots membership of each of the four organizations as well as the leadership of such related national organizations as the National Farmers Union, American Farmers Bureau Federation, Livestock Marketing Association, National Milk Producers Federation, and others. Next week, we meet again with the Federation of State Beef Councils. We want to be sure we design the structure proposal correctly, so we have allowed substantial time and opportunity for input.

The implementation timetable calls for a joint meeting of the Executive Committees of the four organizations in early September, another month for additional comments, and a unified structure proposal completed in October. The proposal will be announced by early November, the four organizations could vote on it by January 30, 1995, and the organization could be operational by July 1995. Obviously, the Beef Board's participation would be subject to approval by USDA.

Let me now address how the Cattlemen's Beef Board oversees the current Beef Checkoff Program. The systems the Board currently has in place to ensure compliance with the Beef Promotion and Research Act and Order will need to continue under the unified structure proposed by the Beef Industry Long-Range Plan.

#### ACCOUNTABILITY

Perhaps the most important function of the Beef Board is to serve as a mechanism to ensure accountability throughout the entire Beef Checkoff Program—accountability not only to Congress through the U.S. Department of Agriculture and your subcommittee, Mr. Chairman, but ultimately to the cattle producer who invests in this program through his checkoff dollars.

We take that responsibility very seriously.

To help assure accountability to Congress through USDA, all budgets of the Beef Board are submitted to USDA for approval. In addition, each individual project is approved by USDA. Further, the contract with the industry organization carrying out that project must be approved by USDA before work begins or expenses are incurred on that particular project.

The Board has conducted periodic contract compliance audits and established precise cost recovery procedures with each contractor. The net effect is that contractors are only reimbursed for costs actually incurred on behalf of the Board and may not profit from their relationship with the Board. The accounting procedures followed to establish this concept can also ensure segregation of checkoff funds from other revenue sources in a unified structure.

The Beef Board's own administrative costs are limited to no more than 5 percent of projected revenues, and we keep those costs well below that ceiling.

#### BEEF BOARD STRUCTURE AND PROCESS

At present, the Cattlemen's Beef Promotion and Research Board consists of 107 members. Of that number, 101 represent cattle producers and 6 represent importers. Each member is appointed by the Secretary of Agriculture after consideration of nominees from certified membership organizations.

The order provides for geographic distribution of board members according to cattle numbers in their respective States and regions. The board also includes representation from all different types of producers, including cow-calf, feedlot, stocker cattle, dairy, and veal producers as well as importers.

Our Board takes very seriously its obligations to ensure that the desires of the producers who invest in the beef checkoff are carried out consistent with the provi-



sions of the Beef Promotion and Research Act and Order. The Board meets two times annually as a full board and conducts the balance of its business through a system of committees.

The Beef Board recognizes that it has several key responsibilities in implementing the Beef Promotion and Research Act and Order.

First, it must ensure that systems are in place to collect the \$1-per-head beef checkoff whenever cattle are sold. It also is the Board's responsibility to certify qualified State Beef Councils (QSBs) in individual States as the entity responsible for overseeing the collection function within each State. Once certified by the Board, these State Beef Councils are eligible to retain one-half of the checkoff collection for beef promotion and research activities to be determined by their own producer-controlled State board. We now have qualified State Beef Councils in 44 of the 50 States.

It also is a Beef Board responsibility to ensure that each State beef council complies with all aspects of the Act and the Order. To assist in that process, the Board has established a set of guidelines to help State beef councils determine the appropriateness of proposed expenditures. In addition, we require each State beef council to furnish to the Board annually a marketing plan which outlines expenditures, an audited financial statement which has been examined by an independent certified public accountant, and a certification statement signed by both the qualified State Beef Council chairman and chief staff executive assuring that all expenditures were consistent with the Act, the Order and the Board's guidelines.

The Board has also established a procedure for conducting periodic financial and procedural reviews of State beef councils as an additional measure to ensure compliance with the Act, the Order, and the Beef Board's guidelines.

#### IMPLEMENTATION

The Beef Board establishes and approves its budget on an annual basis. Within that budget, individual projects are considered by an Operating Committee which meets quarterly. For funding, a project must be approved by both the Operating Committee and USDA. The Operating Committee contracts with various industry organizations to conduct programs in four areas defined by the Order as eligible for beef checkoff funding: promotion, consumer information, industry information and research.

The Act and the Order direct that we use existing industry expertise and organizations to the maximum extent possible in order to avoid building any unnecessary bureaucracies and to assure peak efficiency. Accordingly, all beef promotion and research projects are carried out through nonprofit, producer-governed beef industry organizations. Those organizations are, in turn, held accountable to the Beef Board and, ultimately, to the United States Department of Agriculture.

Although there are several eligible industry organizations who are invited to submit proposals, the major participants are the Beef Industry Council of the National Live Stock and Meat Board (BIC), the National Cattlemen's Association (NCA), and the United States Meat Export Federation (MEF).

The Beef Industry Council is the largest of the three in terms of the scope of the programs it coordinates. The BIC is our primary contractor for promotion and advertising, consumer information and research. The Beef Industry Council fulfills a dual role: both as (1) the major contractor for Beef Board funded programs, and (2) the Federation of State Beef Councils. As a federation of State beef councils, the BIC helps coordinate State and national checkoff dollars and programs. Most State beef councils contribute a significant portion of their 50 cents of the checkoff dollar to the BIC to supplement national programs funded by the Beef Board. The federation of State beef councils also elects half of the members of the Beef Promotion Operating Committee which makes funding decisions.

Beef-checkoff funded foreign market development activities are coordinated primarily through the U.S. Meat Export Federation. This organization is in the unique position of being able to combine USDA Market Promotion Program funds with beef checkoff dollars to multiply the effectiveness of both programs.

Programs in industry information—designed to create a positive marketing climate for beef by enhancing the image of the cattle industry—are coordinated primarily through the National Cattlemen's Association.

Other contracting organizations also have conducted programs, but these three (BIC, MEF, and NCA) have been the major participants thus far. The Act defines the program areas in which Beef Checkoff funds may be used. Since the inception of our program through fiscal year 1993, we have spent \$186,344,351 on Promotion, \$20,011,777 on Research, \$27,871,622 on Consumer Information, \$19,264,766 on Industry Information, \$14,242,489 on Foreign Marketing, and \$8,965,152 on Producer

Communications programs. Attached as Exhibit 2 are comparisons of Beef Board expenditures by budget component and by contractor since the inception of the Beef Checkoff Program.

Lobbying with checkoff dollars is specifically prohibited, and we have controls in place to see that those contracting organizations which also engage in lobbying activities are not permitted to use checkoff dollars for that purpose.

Contracting organizations are reimbursed on a cost-recovery basis for the expenses they incur on behalf of the Beef Board while carrying out these programs. In other words, they are entitled to recover all costs incurred on behalf of the Beef Board and as part of approved Beef Board projects, but they are not permitted to profit from their relationships with the Board. We conduct periodic contract compliance audits with each national contracting organization to ensure that this standard is met.

#### EVALUATION

We have always been willing to submit our program to independent study in order to measure its effectiveness. One such effort, conducted by economist Dr. Ronald Ward at the University of Florida, measures the overall impact of the checkoff program. Dr. Ward has concluded that beef checkoff programs have significantly improved beef demand. In fact, his studies concluded that prices received by beef producers are about 2 percent higher than they would have been without the checkoff. Further, he estimates that producers have received a return of \$5.40 for every dollar invested since our program began in October 1987.

We are pleased with such an excellent overall result. However, we see the need to evaluate individual projects within the total checkoff program to determine where we can improve effectiveness even more. During the past 2 years, the Beef Board has placed additional emphasis on evaluating the impact of individual checkoff-funded programs to include specific project audits in addition to the contract compliance audits referenced earlier.

#### PRODUCER PERCEPTIONS

We have established a producer communications program, as envisioned in the Act and Order, to inform producers about how their investment is being spent. But beyond that, and perhaps even more important, we have structured our producer communications program to also seek and receive feedback from producers on what they think about the checkoff and the programs it provides, as well as their suggestions for improvement.

We are pleased to report that our latest producer attitude survey, conducted by an independent firm, indicates that 75 percent of the producers across the country are well pleased with their checkoff program. Producers seem to feel their program is working as intended.

#### SUMMARY

Included with this testimony are two publications which provide considerably more detail about checkoff expenditures: (1) an evaluation report covering each individual project funded by beef checkoff dollars during fiscal year 1993 (Exhibit 3), and (2) a copy of the Beef Board's 1993 annual report (Exhibit 4).

We believe the Beef Checkoff Program is functioning as Congress intended. We believe the program is working well, and we have established a comprehensive evaluation system to cause it to function even better in the future. We have controls in place to ensure that no checkoff dollars are spent to influence legislation or government policy or for any other purpose not consistent with the Act and the Order. And we believe every evaluation of our program thus far indicates that it has been effective in improving demand for beef, and ultimately, enhancing profitability for those who invest in the program.

However, we also believe we can accomplish a great deal more by concentrating resources around a unified plan through a unified structure with broad-based industry input and support. With such a unified effort, we can improve focus, coordination, control and cost effectiveness. The Oversight Committee pledges its continued effort to achieve that end.

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#### Cattlemen's Beef Promotion & Research Board

A number of groups have expressed concern about whether the Beef Board, with its legal responsibility for administering the checkoff, could become part of a single organization or a unified structure. There is concern that the other organizations,

such as the National Cattlemen's Association, who are supported by voluntary dues and engage in activities such as lobbying, for which checkoff funding cannot be used, could not exist in the same organization with the Beef Board. I was pleased to see the Beef Board Executive Committee adopt guidelines that say the Beef Board can and should participate in such a unification effort.

The Board's Administrative Subcommittee developed a set of guidelines describing parameters under which the Beef Board could participate in a unified organization while still remaining in compliance with the legal requirements of the Beef Promotion and Research Act and Order. The guidelines discuss such issues as segregation of checkoff funds from membership dues and other checkoff revenue. The guidelines were recommended to the Board's Executive Committee and adopted as guidance for the Board's officers in discussions with the Oversight Committee.

Previously, the full Beef Board had adopted the following motion:

"That the Board commend the participants on the Industry-Wide Long-Range Planning Task Force for their efforts. Further, that the Board direct the officers and Executive Committee to take such actions as are necessary to facilitate the appointment of the Oversight Committee, whose membership is specified in the Task Force's recommendations and to assist this Oversight Committee to move our industry toward the single-entity concept as recommended by the Task Force in order to achieve the outcomes presented in the plan."

We did not hear a single dissenting voice when the vote was taken.

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### Dairymen, Inc.

Dairymen, Inc., a milk marketing cooperative representing 3,100 dairy farmers located in 16 States—primarily in the Southeast, markets 3.8 billion pounds of milk produced by its farmer members. Thirty percent of the cooperative's volume is marketed through the cooperative's processing division, while the balance moves to proprietary processors and integrated processing-retailing food companies.

This submission is to express our cooperative's strong opposition to provisions in the National Dairy Promotion Reform Act of 1993 (S. 1557), introduced by Senator Kohl, and to the Dairy Promotion Program Improvement Act of 1993 (S. 1564), introduced by Senator Feingold. These bills propose to abolish the ability of farmers to permit their cooperative to vote on their behalf in matters concerning the marketing and promotion of their products even though a cooperative's membership voluntarily elects to join together to more effectively and efficiently market their products.

While the bills under consideration at the hearing are limited to the Dairy Promotion Program, the impact of eliminating the ability of farmer cooperatives to vote on behalf of their members in matters that affect the marketing and promotion of their product will have significant ramifications for all cooperatives. Agricultural producers voluntarily join cooperatives to improve their farm earnings. Their cooperative serves as an extension of the farmer's operation by providing the tools needed to mass market their products. Collectively farmers benefit from the efficiencies of size.

In organizing and joining cooperatives, farmers come together and direct their cooperative to represent them in the market. The direct their democratically elected boards of directors and through them the cooperative's management to represent their interest on matters regarding the marketing of their product, including voting on their behalf on marketing order and related issues. When a voting issue comes up it is discussed at cooperative meetings and in publications. Directors listen to the concerns of the farmers they represent before votes are cast, and they are held accountable by the members that elect them.

Members of cooperatives direct in the contract entered into with their cooperative that the cooperative act in the best interest of the membership as a whole, and not to satisfy individual members. Producers not interested in abiding by the governing documents of a cooperative may market their products independently through an investor-owned proprietary company, another cooperative, or through a cooperative on a nonmember basis.

Proponents of changes in the voting provisions contained in the Dairy Production Stabilization Act of 1983 are in a minority, and have mislabeled the provisions. While a cooperative may vote on behalf of its membership under the Act, the act provides that producers may cast individual ballots and that cooperatives whose membership wishes may cast their ballots individually. Members wishing to cast

their votes are not disenfranchised. Producers not sharing the position taken by their cooperative may cast individual ballots. Section 117 (7 U.S.C. 4509) states:

If a cooperative association of producers elects to vote on behalf of its members, such cooperative association shall provide each producer, on whose behalf the cooperative association is expressing approval or disapproval, a description of the question presented in the referendum together with a statement of the manner in which the cooperative association intends to cast its vote on behalf of the membership. Such information shall inform the producer of procedures to follow to cast an individual ballot should the producer choose within the period of time established by the Secretary for casting ballots. Such notification shall be made at least 30 days prior to the referendum and shall include an official ballot. The ballots shall be tabulated by the Secretary and the vote of the cooperative association shall be adjusted to reflect such individual votes.

Every member of a cooperative is, therefore, informed under the program of the issues, of the position its elected representatives have taken on the issues, and of their opportunity to cast their personal vote. The method of voting is not unlike proxy voting by shareholders of corporations.

Changes proposed in S. 1564 and S. 1557 would eliminate the ability of farmers to authorize their cooperative to cast their vote on issues affecting their products. Eliminating the cooperative voting would be an intrusion into the contractual relationship between a cooperative and its members. It would be disruptive to a cooperative's democratic decisionmaking process, weaken the ability of cooperatives to effectively market their products in the interest of the membership as a whole, and eliminate one of the major services a cooperative provides to its members.

Congress has long supported the ability of agricultural producers to join together to improve their economic position in the marketplace, and the Congress has recognized that strong cooperatives are beneficial to farmers, who individually can exercise little control over their products in the marketplace. To eliminate the ability of farmer cooperatives to vote on behalf of their membership would weaken cooperatives to the detriment of their members.

Elimination of cooperative voting in response to a small but vocal minority of farmers will be poorly received by the majority of cooperative members. The majority of cooperative members will view support of S. 1564 and S. 1557 as a failure to support farmer cooperatives.

Dairymen, Inc. urges the subcommittee to reject the provisions of S. 1557 and S. 1564 eliminating the ability of cooperatives to vote on behalf of their members.

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### National Cattlemen's Association

RE: POLICY OF THE NATIONAL CATTLEMEN'S ASSOCIATION ON THE  
INDUSTRY-WIDE LONG-RANGE PLAN

The following motion was approved by the NCA membership at the 1994 NCA Convention in Reno.

"NCA accepts the Industry Wide Long-Range Plan as developed by the Task Force and, further, supports efforts of the Oversight Committee as they investigate and formulate industry organization changes that will facilitate the implementation of the Long-Range Plan, and asks the Oversight Committee and NCA leadership to report back to the membership at appropriate intervals."

NCA's officers and chief executive officer use this policy as the basis for their participation in the Oversight Committee. NCA is committed to the implementation of the Industry Wide Long-Range Plan and to any changes in the industry organizational structure that will make the industry more effective and efficient, especially in the economic climate of expanding beef supplies and increasing competitive meat supplies.

NCA is using the mid-year meeting to report the activities of the Oversight Committee to the membership and receive input from the membership.

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### The National Council of Farmer Cooperatives

#### INTRODUCTION

The National Council of Farmer Cooperatives is a nationwide association of cooperative businesses owned and controlled by farmers. Its membership includes nearly

100 major farmer marketing and supply cooperatives, the banks of the Farm Credit System, plus 31 State councils of cooperatives.

NCFC members handle almost every type of agricultural commodity produced in the U.S., market these commodities domestically and abroad, and furnish production supplies and credit to their farmer members and patrons. The Council's members, in turn, represent nearly 4,300 local cooperatives in the Nation, with a combined membership of nearly two million farmers.

The purpose of this written submission is to express NCFC's opposition to provisions in the National Dairy Promotion Reform Act of 1993 (S. 1557), introduced by Senator Kohl, and the Dairy Promotion Program Improvement Act of 1993 (S. 1564), introduced by Senator Feingold, which deny farmers the ability to vote on matters concerning the Dairy Promotion Program through their cooperatives.

While the bills being considered during this hearing are limited to the Dairy Promotion Program, the impact of eliminating the ability of farmer cooperatives to vote on behalf of their members in this context will have significant ramifications for all cooperatives. The current ability of farmer cooperatives to vote on behalf of their members in matters relating to the Dairy Promotion Program and marketing orders is a recognition of the unique relationship between farmers and their cooperatives. Eliminating the cooperative voting provisions undermines the longstanding support Congress has had for cooperatives and interferes with the contractual relationship between cooperatives and members.

#### FARMER COOPERATIVES CANNOT "BLOC" VOTE UNDER CURRENT LAW

S. 1557 and S. 1564 prohibit "bloc" voting by cooperatives. These bills mischaracterize the cooperative voting provisions contained in the Dairy Production Stabilization Act of 1983.

While a cooperative may vote on behalf of its membership under the Act, producers may cast individual ballots in promotion programs if they so choose. Section 117 (7 U.S.C. 4508) states:

If a cooperative association of producers elects to vote on behalf of its members, such cooperative association shall provide each producer, on whose behalf the cooperative association is expressing approval or disapproval, a description of the question presented in the referendum together with a statement of the manner in which the cooperative association intends to cast its vote on behalf of the membership. Such information shall inform the producer of procedures to follow to cast an individual ballot should the producer so choose within the period of time established by the Secretary for casting ballots. Such notification shall be made at least 30 days prior to the referendum and shall include an official ballot. The ballots shall be tabulated by the Secretary and the vote of the cooperative association shall be adjusted to reflect such individual votes.

Thus, under current law, every member of a cooperative has the opportunity to vote individually in the Dairy Promotion Program referendum. The fact that most members choose not to vote individually indicates they agree with the position taken by their cooperative's democratically elected Board of Directors.

The voting provided for under the Dairy Production Stabilization Act of 1983 is not unlike proxy voting by shareholders of corporations. However, S. 1564 and S. 1557 would deny farmer members the ability to authorize their cooperatives to cast votes on issues affecting the supply and demand for their products.

#### ELIMINATING THE ABILITY OF FARMER COOPERATIVES TO VOTE ON BEHALF OF MEMBERS IN THE DAIRY PROMOTION PROGRAM IS AN INTRUSION INTO THE VOLUNTARY CONTRACTUAL RELATIONSHIP BETWEEN COOPERATIVES AND THEIR MEMBERS

Agricultural producers voluntarily join cooperatives because they believe cooperatives can improve their farm earnings. The cooperative serves as an extension of the farmer's operation by providing the tools needed to mass market products. The collective action of individual farmers working together through their cooperatives permits them to benefit from the efficiencies of size.

When organizing or joining a cooperative, farmers come together and direct their cooperative to represent them in the market. They direct their cooperative to represent their interest on matters regarding marketing their product, including voting on their behalf.

The agreement between cooperatives and their farmer members is *contractual*. It is established by the membership agreement, 3 cooperative bylaws, and articles of incorporation. In these governing documents, specific provisions define the circumstances under which a cooperative may represent its membership in votes on

marketing order and promotion issues, as well as the process for establishing the cooperative's position.

This contractual relationship assures that, in marketing the producers' product, the cooperative will act in the best interest of the membership as a whole, and not to satisfy individual members. Producers not interested in abiding by the governing documents of a cooperative may market their products independently, as well as through an investor-owned proprietary company, or through a cooperative on a nonmember basis.

The decision on how to vote is determined by the Board of Directors which is *democratically elected by the membership*. In electing the Board of Directors of a cooperative, members select individuals to represent their interests, and those of the cooperative on many issues, including the marketing of products. They recognize there will be opportunity, during their cooperative's internal debate, to voice their opinion as positions are being formed. In choosing to associate with a cooperative, members recognize that the cooperative, in representing the majority viewpoint of its membership, may not adopt their individual views on all marketing related issues.

In some respects, the cooperative voting provision reflects our representative form of government in which elected representatives cast votes on various issues on behalf of their constituents. However, under the Dairy Promotion Program, flexibility has been provided to producers that disagree with their representatives by providing them the opportunity to cast a dissenting vote.

Denying cooperatives the ability to vote on behalf of their members is an intrusion into the contractual relationship between a cooperative and its members. It disrupts a cooperative's democratic decisionmaking process, weakens the ability of a cooperative to effectively market its members' products in the best interest of the membership as a whole, and eliminates the ability of a cooperative to cast votes for the majority of the membership that wishes it to do so.

*Congress has long supported and encouraged farmers to organize and participate in cooperative*

Congressional policy has long supported the ability of agricultural producers to join together to improve their economic power in the marketplace. In *National Broiler Marketing Association v. United States*, 426 U.S. 816 (1978), the Supreme Court expounded on the factors that have caused Congress to treat farmers differently than other participants in the marketplace:

Farmers were perceived to be in a particularly harsh economic position. They were subject to the vagaries of market conditions that plague agriculture generally, and they had no means individually of responding to those conditions. Often the farmer had little choice about who his buyer would be and when he would sell. A large portion of an entire year's labor devoted to the production of a crop could be lost if the farmer were forced to bring his harvest to market at an unfavorable time. Few farmers, however, so long as they could act only individually, had sufficient economic power to wait out an unfavorable situation. Farmers were seen as being caught in the hands of processors and distributors who, because of their position in the market and their relative economic strength, were able to take from the farmer a good share of whatever profits might be available from agricultural production. By allowing farmers to join together in cooperatives, Congress hoped to bolster their market strength and to improve their ability to weather adverse economic periods and to deal with processors and distributors.

Federal statutes covering antitrust and trade, tax, agriculture, finance and transportation specifically accommodate the unique aspects of producer cooperatives.<sup>1</sup> The United States Second Circuit Court of Appeals discussed Congress's commitment to encouraging the successful formation and operation of cooperatives in *Fairdale Farms, Inc. v. Yankee Milk, Inc.*, 635 F.2d 1037 (2d Cir. in 1980), cert. denied, 454 U.S. 818 (1981).

The consistent tenor of the enactments shows that Congress wanted and expected farmers to be represented by strong and effective cooperatives, so extensively orga-

<sup>1</sup> See, e.g., Antitrust and Trade Laws: Capper-Volstead Act, 7 U.S.C. Sections 451-455; Agricultural Fair Practices Act of 1967, 7 U.S.C. Sections 2301-05. Taxation: Subchapter T, 26 U.S.C. Sections 1381-88. Agriculture: Agricultural Marketing Agreement Act of 1937, 7 U.S.C. Section 608b-608c; Agricultural Marketing Act 12 U.S.C. Section 1141. Finance Farmer Credit Act of 1971, 12 U.S.C. Section 2001 et seq.; Securities Act of 1933, 15 U.S.C. Section 77c; Securities and Exchange Act of 1934, 15 U.S.C. Section 781. Transportation: Interstate Commerce Act, 49 U.S.C. Section 10526, 10529.

nized as to be representative of individual commodities. Unity of effort was encouraged in order to give farmers the same 'unified competitive advantage' available to businessmen acting through corporations.

Congress has recognized that strong cooperatives are beneficial to farmers. Denying the ability of farmers to vote through their cooperatives only serves to weaken cooperatives to the ultimate detriment of their members.

### Conclusion

The cooperative voting provisions of S. 1564 and S. 1557 fail to recognize the unique relationship between cooperatives and their members. Such provisions have at their heart the intent of weakening cooperatives as effective marketing tools for farmers. This would indeed be unfortunate at a time when farmers are looking more and more to their cooperative as a means to help offset cuts in government support programs.

Elimination of cooperative voting to please a small but vocal minority of farmers will be poorly received by the many satisfied cooperative members.

NCFC urges the subcommittee to oppose the provisions of S. 1557 and S. 1564 that deny cooperatives the ability to vote on behalf of their members.

### SD Livestock Auction Markets Association

The South Dakota Livestock Auction Markets Association appreciates all the work that has gone into the formation of the Beef Industry Long-Range Plan Task Force Report dated December 1993. We understand the next step is for the industry to develop a program to strengthen the cattle industry.

We hope our organization and the national Livestock Marketing Association can be an integral partner in the development of all leverage point implementation plans and the adoption of the final Long-Range Plan by the Oversight Committee.

We have worked very closely with the trade associations in South Dakota and with the promotion program in the State. According to the SD Beef Industry Council, of the \$3,323,820 of calendar year 1993 checkoff funds collected for the cattle industry in South Dakota, 74.6 percent of those funds were collected by livestock auction markets. We also seat three Board of Directors on the board of the South Dakota Beef Industry Council.

SDLAMA supports action that will strengthen the beef business for our customers. We are cautious about supporting the Long-Range Plan because we remember all to well when the packer, custom feedlot operator and National Cattlemen's Association tried to use checkoff dollars (in the name of Strategic Alliances) to vertically integrate the industry. This proposal was soundly rejected by the Beef Board's Operating Committee. We continue to oppose efforts to turn producers into ranch hands for custom feedlots and the packing industry.

One area of the Long-Range Plan that we are concerned about is that the plan implies that the reason beef is losing market share is that the ranchers are raising an inferior product. Perhaps the real problem stems from countless news stories that reveal how packers process the beef. The Long-Range Plan does not address this problem and instead lays the blame on the producer. We suggest that before the packers criticize the producers, they first take care of their problems that are hurting the producer.

The second area of the Long-Range Plan that we are concerned about is the cleverly veiled promotion of direct marketing. This Long-Range Plan promotes the direct marketing of livestock between the cow-calf producer, the feedlot and the packer. This direct marketing approach will encourage the disappearance of market price discovery. This plan endorses the concept that the packer is or should be the producer's friend. Please remember that the packer's motivation is to turn a profit. Providing them the opportunity to eliminate competition through promoting direct selling of cattle will increase the packers profitability at the producers expense.

This Long-Range Plan will allow the rancher to personally fund an effort that appears to be intended to benefit the custom feedlot operator and the packer-retailer who have yet to say . . . and never will . . . what they will pay for a premium product. That's how they stay competitive. The packers believe that the best way to stay competitive is to eliminate competition.

Keep in mind the history and reason auction markets were created. Auction markets were created to provide a competitive market for the producers' livestock. The question we have is why has competition in the beef cash market become an evil thing? Please note there are several thousand lamb, pork and poultry producers who will testify at length that the lack of competition is truly an evil thing.

Third, we do not support forming one consolidated national organization for the industry. We think one organization in no way assures our customers that the needs of the industry will be solved. There is entirely too much focus on the organizational structure of the industry and not enough on the promotion program. We think it is important for the industry to speak with one message, but with many voices.

Each organization in the industry is unique with a special roll to fill for the industry. We believe the multiple organizations provide a method for checks and balances in the program and involve many more producers in the decision making process of the industry. A good example of an organization that would limit grassroots input is the National Cattlemen's Association. In a recent letter the organization responded to a question about who would be the likely gainers and losers as follows:

"The people who produce/process the beef and those who consume it will be the gainers. The losers should be our competitive protein sources.

Some individuals who cannot or will not support the new concepts of a consumer oriented, market driven industry could be the losers. *But people are an expendable/renewable resource* and should not be allowed to divert the industry away from the goals simply because of personal or selfish reasons."

We are very concerned with the comingling of funds of checkoff and dues money. This will jeopardize the credibility of both the promotion program and the lobbying and policy efforts of the beef industry. This will be the ultimate "conflict of interest" for the beef industry.

Fourth, we are concerned this new plan will be perceived by trade association bureaucrats and philosophical college advisors as a vehicle to use checkoff dollars to fund programs and projects not intended by the Beef Promotion and Research Act and Order. We do not support using checkoff funds for production and market alliances that do not appear to be the intent of the beef promotion act and order, particularly at the expense of the advertising program.

We would like to remind you that section III of the *Guidelines for the Approval of Programs under the Beef Promotion and Research Act* states: "The focus of this program is not activities relating to the production or marketing of cattle. The intent of this legislation is to increase the demand for beef and beef products for the benefit of the cattle industry." Further, the guidelines state in section IV, item 4, "There is no authority in the Act and Order which authorizes the expenditures of funds to be used to promote or research programs, methods, or technologies which primarily relate to live-cattle production or marketing."

The Long-Range Plan's timetable is way too fast for full input from the country. There should be ample time to get input from the grass roots and from other organizations like American Farm Bureau and the National Farmers Union. According to recent information put out by NCA, 92 percent of cattle operations have herds of less than 100 head. Eighty-one percent of cattle operations have herds of less than 50 head. This program needs to look carefully at the reality of developing something for the big guys and in the process forgetting the backbone of the industry.

SDLAMA also has a definite concern for the legality of using check off promotion funds for the development of this organization. We question the legality of the Beef Board being part of one organization and turning over their powers and responsibility for representing the national cattle industry to a small group of people who may not represent all segments of the production industry—that is—the dairy industry, the veal industry and the cattleman with less than 100 head of cattle. Another disturbing aspect is that while provisions are made for packer involvement, the competitive livestock auction markets seem to have been omitted.

The plan refers to a consumer driven industry, and yet as one reads the Long-Range Plan, there is much more concern with the image of the cattle producer than there is with selling beef to the consumer—there seems to be much more concern with producing the perfect critter than there is with whether the consumer understands how to prepare the product to get the desired result—there seems to be much more concern about whether cattle producers are thought to be good guys and very little concern about diet/health and vegetarianism. These are very much concerns of our organization and our customers.

As you move forward, keep in mind a quote I came across from Pat Goggins, a well respected producer and marketer. As you read this some will view this as "island mentality." However, no matter how much paper, and how many pens or how many computer discs the organizational bureaucrats and philosophical college professors go through, they will not change "financial reality."

"I think many livestock people, livestock organizations and philosophical college advisors are forgetting what's caused the cattle rancher to get superb prices. Number 1—it was many of his neighbors who went broke some



years ago. This has created a smaller supply, hence those that are left are able to reap the benefits of those terrible, terrible years of the 1980's. Then also competition enters in. Your local livestock auction has created a higher market. Your bonded livestock order buyers in the country have created a higher market. Your video livestock sales have created, through competition, a higher market. In other words, it's competition at the marketplace that has created a higher selling price for the rancher. Remember that a rancher and a stock operator is a seller of grass; a feeder is a seller of grain; and a packer-retailer is a seller of meat. They are not all related, they are not all riding in the same buggy and what helps one segment, does not necessarily help the other.

The producer pays the checkoff dollar (not the packer or the custom feedlot who both stand to gain tremendously from vertical integration). The custom feed lot operator makes a profit because he is paid for services regardless of the cattle market. The packer makes a profit because he determines price. The producer is the one with risk and the one that pays the checkoff dollar. Beef checkoff dollars should be used to promote beef for the benefit of the producer.

We support the goal of the Task Force to improve the industry. We want to be part of the process and have our concerns and ideas given full consideration. Please provide a detailed written response to this letter at your earliest convenience.

Sincerely,

HERMAN SCHUMACHER,  
President, SD Livestock Auction Markets Association.

### **Texas Cattle Feeders Association**

Texas Cattle Feeders Association supports the Beef Industry Long-Range Plan Task Force Report recommending the need for a single consolidated national beef organization and supports the Oversight Committee's efforts for an orderly transaction and implementation of a single organization.



### **USMEF RESOLUTION: BEEF INDUSTRY REORGANIZATION**

Be it resolved that USMEF support the implementation of the Industry-Wide Long-Range Plan and that USMEF, acting through the Oversight Committee, investigate a unified structure which will maintain and enhance the export of beef and beef products, utilizing multi-segment and multi-species strategic alliances.

*Adopted by the Board of Directors of the United States Meat Export Federation on June 3, 1994.*



BEEF INDUSTRY COUNCIL • A Division of the National Live Stock & Meat Board

## Statement Concerning Industry Long Range Plan And The Concept Of A Unified Structure

By Ralph "Buck" Bell, Jr., Chairman, Beef Industry Council of the Meat Board  
July 19, 1994

In March, the Beef Industry Council board of directors voted to participate in and to fund the further development of the Industry Long Range Plan, including an effort to move toward a unified structure. We at the Beef Industry Council always have believed that the only way for us to be successful at demand building is to be consumer-driven. We passed our resolution of support for the Long Range Plan process because we believed this process would help us to accomplish our goal of building demand for beef by helping the industry focus on the consumer, improve organizational cooperation and coordination, lead us toward greater efficiency, and improve our effectiveness.

In the opening paragraph of the Beef Industry Long Range Plan Task Force Report, members noted: "The U.S. beef industry has, for too long, been focused inwardly — production-driven, not consumer driven. We have demonstrated neither the ability nor the inclination to respond adequately to consumer signals in the market place." There are many reasons for this, some of which cannot and will not be changed through industry organizational change alone. But we concur with the conclusion of the Task Force that we, as an industry, will be better able to reach our marketing objectives if the organizations which represent us: share the same focus; work in cooperation and harmony; function under the control of flexible and appropriate mechanisms that enable results to be achieved in a rapidly changing and highly competitive environment; and are cost effective.

As we move toward accomplishing our joint goal of developing a unified industry structure capable of protecting and growing our market share, some beef producers may question some aspects of the plans put forward. But this is the nature of this industry and the people who make it up. All of us want to be sure we do everything we can to make this effort useful, meaningful and lasting. Every beef producer, we believe, should expect nothing less than our best efforts. Actions such as questioning provisions, understanding motivations, offering alternative solutions and arguing in support of or in opposition to a proposal are part of the process of finding new solutions to the problems identified in the Long Range Plan. We are confident that the Oversight Committee process which we continue to support will help the industry accomplish the Long Range Plan vision of "a dynamic and profitable beef industry, which concentrates resources around a unified plan, consistently meets consumer needs and increases market share."

## Wisconsin Beef Council, Inc.

### LONG-RANGE PLAN

The Wisconsin Beef Council Board of Directors voted to support the concept of the Long-Range Plan. The vote was not unanimous. The Board is interested in seeing what the Oversight committee develops in the future.

### Wisconsin Federation of Cooperatives

The Wisconsin Federation of Cooperatives (WFC) is a statewide membership and trade association involved in legislation, education, public relations and technical services for a wide variety of co-ops, including dairy marketing.

WFC member cooperatives recognize the importance of strong dairy marketing and promotion entities, particularly as the dairy industry faces major challenges and competition in the domestic and international marketplace.

The purpose of this written submission is to express WFC's opposition to provisions in the National Dairy Promotion Reform Act of 1993 (S. 1557) and the Dairy Promotion Program Improvement Act of 1993 (S. 1564), which would eliminate the ability of farmers to permit their cooperative to vote on their behalf in matters concerning the Dairy Promotion Program.

While it is acknowledged that the bills under consideration during this hearing are limited to the Dairy Promotion Program, WFC member cooperatives believe that eliminating the ability of farmer cooperatives to vote on behalf of their members in this circumstance will seriously jeopardize the long-standing support Congress has had for cooperatives and carry with it significant ramifications for all co-ops. Further, it is believed that eliminating these voting provisions interferes with the contractual relationship between cooperatives and their member-owners.

In opposing the proposed National Dairy Promotion and Research Board bills, WFC member cooperatives note the following:

- *Congress has historically supported and encouraged agricultural producers to organize and participate in cooperatives in order to improve their economic power in the marketplace.* Federal statutes acknowledge the unique aspects of producer-owned cooperatives regarding antitrust and trade, tax, agriculture, finance and transportation. WFC believes that farmer cooperatives will be weakened by any means that would seek to lessen the ability of co-ops to represent their members.
- *Current law allows every member of a cooperative the opportunity to vote individually in matters related to the Dairy Promotion Program.* The Dairy Production Stabilization Act of 1983 allows that a cooperative may vote on behalf of its membership. However, producers may cast individual ballots in promotion programs if they so desire. This voting provision is very much like that allowing proxy voting by shareholders of corporations. However, the proposed legislation would eliminate the ability of co-op member-owners to authorize their cooperatives to cast votes on issues affecting their product markets.
- *Legislation which would eliminate the ability of farmer-owned cooperatives to vote on behalf of their members violates the contractual relationship between co-ops and their member-owners, jeopardizing a co-op's ability to act in the best interest of the membership as a whole in marketing the producers' product.* Agricultural producers voluntarily join cooperatives in order to derive benefit from the collective action of individual farmers working together through their co-op. In doing so, they direct their cooperative to represent their interest on matters regarding marketing of their product. This includes voting on their behalf. This relationship is established by a membership agreement or contract, bylaws and articles of incorporation. Taken together, these documents establish the rules by which a cooperative may represent its membership in votes on marketing order and promotion issues, as well as the process by which the cooperative position shall be established. Producers who do not wish to abide by such rules have the ability to market their products independently, through an investor-owned proprietary or through a cooperative under non-member status.
- *Cooperative position for voting is democratically established.* The decision on how to vote is determined by a board of directors which is democratically elected by the membership. Members also have the ability to voice their personal opinion during the development of official cooperative po-

sition. The proposed legislation would disrupt the cooperative democratic decisionmaking process.

- The Cooperative Voting Provision mirrors our representative form of government. While this process is not unlike the ability elected representatives have in casting votes on numerous issues on behalf of their constituents, cooperative voting under the Dairy Promotion Program also allows individuals an opportunity to cast a vote in opposition to their cooperative's position.

In conclusion, the member organizations of the Wisconsin Federation of Cooperatives strongly urge your opposition to the cooperative voting provisions of S. 1564 and S. 1557, noting that the weakening of cooperatives in an effort to satisfy a small but vocal minority of agricultural producers would be in direct opposition to the best interests and desires of a larger group of satisfied cooperative producer-owners.

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## LETTERS OF SUPPORT

AUGUST 30, 1994.

Hon. DAVID L. BOREN,

*Chairman, Agriculture Subcommittee on Domestic and Foreign Marketing and Product Promotion, U.S. Senate, Washington, DC.*

DEAR SENATOR BOREN: As chairman of the Beef Industry Oversight Committee, I am enclosing several additional items of information we wish to enter into the record of the Agriculture Subcommittee on Domestic and Foreign Marketing and Product Promotion hearing held in Washington on August 5, 1994.

First, we are enclosing several letters of support for the Beef Industry Long-Range Plan and its recommendation for a unified structure. The four letters from State groups presented at the hearing by Senator Feingold expressed concern about the plan and situation. We believe the enclosed letters of support will enable the record to reflect a more accurate, better balanced picture of industry viewpoints.

Finally, I believe it would be of interest to the subcommittee to learn that the idea of delaying the approved process for the unified structure was discussed thoroughly on Saturday, August 13, at a meeting of the Board of Directors of the Beef Industry Council in Chicago. This group includes delegates from the State Beef Councils. A motion to delay the process by about 6 months was defeated.

If I can be of any additional help to you concerning these matters, please contact me.

Sincerely,

JAMES M. WEBB,  
*Chairman.*

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AUGUST 30, 1994.

Mr. Marshall Collins,

*Chairman, Colorado Beef Council Authority, P.O. Box 2049, Montrose, CO.*

DEAR CHAIRMAN COLLINS: The Oversight Committee acknowledges receipt of the Colorado Beef Council's resolution regarding industry structure. My office received a copy by fax August 3, 1994. I picked it up on my way to Washington, DC to appear before the Senate Agricultural Subcommittee on Domestic and Foreign Marketing and Product Promotion on August 5, 1994. At that hearing, the Colorado Beef Council's resolution was read into the record by Senator Feingold of Wisconsin. Subsequently, I have received a letter from two members of the Colorado Beef Council who say the resolution was not unanimously supported as you say in your cover letter and as Senator Feingold said as he read it into the record.

It appears that in the haste to have a resolution in the hands of Senator Feingold on Friday, the Colorado Beef Council acted without facts and on misinformation. The Industry Wide Long-Range Plan, accepted by the National Cattlemen's Association, the Beef Industry Council, the U.S. Meat Export Federation, and the Cattleman's Beef Board, sets forth the eight leverage points and recommended that,

"to ensure that the leverage points and desired results are attained as quickly, effectively, and efficiently as possible . . . a single consolidated national organization . . . based on the structural criteria of focus, coordination, control and cost effectiveness . . . be formed and an oversight committee be established to ensure that the transition from decentralized to centralized management goes smoothly."

The Oversight Committee established a process for developing the implementation plan. The first phase was the meeting of the leverage point teams. The next phase will be the presentation of a structural model to the industry. That begins September 1 & 2 with a joint gathering of the executive committees of the four organizations. Following that meeting, your Beef Council will receive the model as developed by the Oversight Committee and the executive committees and have the opportunity to discuss and respond to the structure.

Those comments will be received by the Oversight Committee and revisions of the model, if necessary, will occur at another meeting in October. By October 15, we hope you will have a final version of the structure, which will be the one voted upon by the four organizations by January 31, 1995. If approved, the next phase is the transition from four organizations to the new structure.

The work since the inception of the Industry Wide Task Force has been specific in addressing the target:

“a dynamic and profitable beef industry.”

The Oversight Committee has remained committed to creating a unified structure that is focused, coordinated, efficient and cost effective. If successful, the new structure will put tremendous resources of people and money concentrating on the beef industry issues of declining market share and having a product that is consumer driven. It will eliminate the many things replicated by each organization's structure. It will create a magnified focus on those things each organization was originally created to do.

This effort has been ongoing over 2 years with repeated reports to the grassroots. I am personally excited that soon the Colorado Beef Council will have another opportunity for discussion of a specific structure, which will fully implement the plan and bring us closer to that “dynamic and profitable beef industry” which is currently eluding us.

Sincerely,

JAMES M. WEBB,  
*Chairman.*

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APRIL 15, 1994.

Mr. J. BURTON ELLER,  
*Executive Vice President, National Cattlemen's Association, 1301 Pennsylvania Ave., NW., Ste. 300, Washington, DC.*

DEAR BURT: Enclosed is a policy resolution adopted by the Texas and Southwestern Cattle Raisers Association at its annual convention March 27-30, 1994, in Fort Worth.

It addresses the issue of a unified beef industry.

Sincerely,

TOM BEARD,  
*President.*

#### RESOLUTION

WHEREAS, the Cattlemen's Beef Promotion and Research Board, National Cattlemen's Association, U.S. Meat Export Federation, and Beef Industry Council of the National Live Stock and Meat Board have voted to support development of a plan to consolidate into a unified national organization to create efficiencies in operation and avoid costly duplications of effort, and is designed to be consumer preference driven;

NOW, THEREFORE, BE IT RESOLVED that Texas and Southwestern Cattle Raisers Association, meeting in Fort Worth, Texas, March 30, 1994, supports the continued efforts to devise such a unified national organization, provided such plan does not propose any change in the Beef Promotion and Research Act.

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MARCH 29, 1994.

Mr. DAN KOONS,  
*President, National Cattlemen's Association, Funk Farms Trust, R.R. 1, Shirley, IL.*

Dear Mr. MR. KOONS: Mardie Hansen and Earl Peterson attended the American Veal Association's 1994 Annual Meeting and Leaders Conference, and provided an excellent presentation of the findings and recommendations of the Industry-Wide Long-Range Plan for Beef.

Subsequently, the plan was discussed by the AVA Policy and Resolutions Committee who then recommended its approval and AVA participation to the Voting Delegate Body. It was interesting to note that other AVA committees felt strongly enough about the proposal to add this discussion to their individual agendas and also make recommendations for approval.

The plan was unanimously approved by the Voting Delegate Body with instructions to the AVA Board and Management Team to communicate this action to the Cattlemen's Beef Board and other industry leaders. Beef Board staff has been so advised during a recent telephone conversation. Other leaders have also been informed in conversations at other industry meetings, as well as similar letters.

The American Veal Association offers its support in the work ahead and seek participation, where appropriate, with the oversight committee with the transition and implementation phases.

Sincerely,

E. JANE ALLEMAN,  
AVA President.

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J.D. HUDGINS, INC.,  
Hungerford, Texas, FEBRUARY 1, 1994.

Dr. CHUCK LAMBERT, NCA,  
5420 South Quebec Street, Englewood, CO.

Dear CHUCK: Below is the motion that Burke Healey made relative to the support of the Seedstock Council for the Industry-wide Long-Range Plan. I didn't think that you had a chance to get it down on paper. In the meeting I know I indicated that I would send it to you through the resolution process. But it seemed that most of the other committees were showing support only in the form of supportive motions, and I thought that would be adequate for our Seedstock Council.

Moved and seconded that: "The Seedstock Council, whose producer members represent the fountainhead of all genetic improvement in the beef industry, wholeheartedly (and unanimously) accepts the Industry-wide Long-Range Plan and recommends and urges its approval by the membership of the NCA in its annual membership meeting on Jan. 29, 1994. The Council furthermore urges that NCA give its wholehearted support to the efforts of the Oversight Committee as they facilitate the implementation of the Long-Range Plan."

Passed unanimously.

Enjoyed working with you during the past 3 years and appreciated your staff support. I know that I gained a lot more from my association with NCA than what I was able to give.

If you need anything else concerning our Seedstock Council meeting minutes, let me know.

Thanks for all of your help.

Personal regards,

RICHARD L. FORGASON.

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## IDAHO BEEF COUNCIL

### MEMO

Date: March 16, 1994.  
To: Don Ricketts (IBC)  
From: Leah M. Clark  
Re: IBC Board meeting results.

For your information the following motion was passed by the Idaho Beef Council earlier today concerning the Industry Wide Long-Range Plan.

"The Idaho Beef Council supports a move toward achieving the vision of a dynamic and profitable beef industry, which concentrates resources around a unified plan, consistently meets consumer needs and increases market share; and to this end, the IBC supports funding of the Oversight Committee . . ." (to define an industry structure which will lead to attainment of this goal).

Call if you have questions, or talk to Inez, Bill or Tom who will represent Idaho at the Federation meeting.

Enclosure

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## INDUSTRY RESTRUCTURING

PA-1—1994

WHEREAS, A 14-member Task Force comprised of the presidents of the four beef organizations and industry leaders have developed a strategy which was presented to us at this convention.

BE IT RESOLVED, that the Iowa Cattlemen's Association adopt the concept as set forth in the vision statement of the Task Force to develop "a dynamic and profitable beef industry, which concentrates resources around a unified plan, consistency meets consumer needs and increases market share."

## INCOME AVERAGING

TF-18—1994

WHEREAS, income averaging has been beneficial to agriculture for many years; and

WHEREAS, BE IT RESOLVED, that the Iowa Cattlemen's Association support the reinstatement of income averaging for agriculture.

N.C. CATTLEMEN'S ASSOCIATION,  
*Fuquay-Varina, NC, March 21, 1994.*

N.C. CATTLEMEN'S ASSOCIATION

## MEMORANDUM

To: Monte Reese, Cattlemen's Beef Promotion and Research Board

From: Bryan Blinson, Executive Director

Re: Industry Wide Long-Range Task Force Report

The Industry Wide Long-Range Task Force Report was given at the North Carolina Cattlemen's Conference held February 18-19, in Raleigh, NC. The Legislative Committee drew up the enclosed resolution, which clearly states the position of the North Carolina Cattlemen's Association regarding the Long-Range Plan and was approved by the NCCA's Board of Directors and the North Carolina Cattlemen's Association.

BRYAN BLINSON.

**Resolution Passed By the North Carolina Cattlemen's Association  
and Beef Council Board of Directors**

The Legislative Committee moves to recommend a resolution by the North Carolina Cattlemen's Association to the effect:

**WHEREAS**, the North Carolina Cattlemen's Association commends the participants of the Industry Wide Long Range Task Force (IWLRTF) committee members on their efforts; and

**WHEREAS**, the N. C. Cattlemen's Association endorses the concept as presented by the IWLRTF; and

**WHEREAS**, the N. C. Cattlemen's Association directs the officers and executive committee as necessary to facilitate the appointment of an Oversight Committee, whose membership is specified in the task force recommendations;

**THEREFORE, BE IT RESOLVED**, that the N. C. Cattlemen's Association supports this Oversight Committee to move our industry toward the single entity concept as recommended by the task force in order to achieve the outcome presented in the plan.



KANSAS LIVESTOCK ASSOCIATION,  
Topeka, KS, January 20, 1994.

J. BURTON ELLER, JR.,  
*Executive Vice President, National Cattlemen's Association, 5420 S. Quebec Street,  
Englewood, CO.*

Dear BURTON: The Kansas Livestock Association and the Kansas Beef Council enthusiastically support the concept and consolidation recommended by the Beef Industry Long-Range Plan Task Force Report.

If the beef industry is to remain viable into the 21st Century, we believe the identified leverage points and recommended structure should be implemented to enable the beef industry to make more effective and efficient use of its human and financial resources. It is our hope the new organization will be operational by July 1, 1995.

Sincerely,

DEE LIKES,  
*Executive Vice President, Kansas Livestock Association.*

JOE LINOT, JR.,  
*Executive Director, Kansas Beef Council.*

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NEBRASKA BEEF COUNCIL,  
Kearney, NE, January 25, 1994.

EARL PETERSON,  
*National Cattlemen's Association, 5420 South Quebec, Englewood, CO.*

Dear EARL: At the past Nebraska Beef Council Board of Director's meeting, January 19-20, 1994 the Board approved a statement of support for the Long-Range Plan. The statement follows:

The Nebraska Beef Council supports the concept of the Beef Industry Long-Range Plan. The Nebraska Beef Council has cautious concern about creating a "new" organization without true coordination of the existing four that will result in benefits to the beef industry.

The Nebraska Beef Council will continue to follow the progress in the Long-Range Plan concept. Please keep us informed as the development continues and changes are made in the organization's creation.

Sincerely,

TOM SCOTT,  
*Executive Director.*

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KANSAS LIVESTOCK ASSOCIATION,  
August 5, 1994.

MONTE REESE,  
*Chief Executive Officer, Cattlemen's Beef Board, P.O. Box 3316, Englewood, CO.*

Dear MONTE: The Kansas Livestock Association and the Kansas Beef Council support and appreciate the continued work of the Oversight Committee. We believe combining the four industry organizations into one unified organization will be of great benefit to the beef industry and cattlemen across the country.

The topic of consolidation has been discussed numerous times in the Kansas Beef Council and the Kansas Livestock Association Executive Committees and board meetings. We feel strongly that the timing is right for the National Live Stock and Meat Board, National Cattlemen's Association, United States Meat Export Federation and the Cattlemen's Beef Board to merge into one organization in order to gain the focus and efficiency intended by the Long-Range Planning Task Force. All four organizations can be proud of their past tradition and accomplishments. We in Kansas believe we can value the past with great pride while moving the beef industry forward with a new and better organizational structure.

Kansas is committed to targeting our volunteer and financial resources in support of the new beef organization when operational. We respectfully urge you to give your full organizational support to a complete merger that we believe will assist in keeping beef competitive in the consumer marketplace.

Please share this correspondence with your executive committee. If you have questions, please give us a call.

Sincerely,

JAN LYONS,  
*President, Kansas Livestock Association.*

TIM MEYER,  
*Chairman, Kansas Beef Council.*

# Land O'Lakes, Inc.

4001 LEXINGTON AVE. N., ARDEN HILLS, MINNESOTA

Mailing address: PO Box 116, Minneapolis, MN 55440-0116  
Telephone (612) 481-2222

August 5, 1994

Sen. David Boren, Chairman  
Subcommittee on Domestic & Foreign Marketing  
and Product Promotion  
Committee on Agriculture, Nutrition & Forestry  
U.S. Senate  
Washington, DC 20510

Dear Sen. Boren:

On August 5, 1994, the Subcommittee held hearings on legislation to alter the National Dairy Promotion & Research Board. One of the issues in conjunction with that hearing is the ability of cooperatives to vote on behalf of their members in matters relating to the dairy promotion program. This letter is to advise you of Land O'Lakes position on this issue. We request that our letter be entered into the record for the hearing.

On February 24, 1994, farmer delegates to Land O'Lakes annual meeting voted on a series of Policies & Resolutions. We are attaching the relative statements with the section pertaining to cooperative voting indicated in bold face. In two separate statements, Land O'Lakes explicitly supports the right of cooperatives to vote on behalf of members. Both statements were approved by the cooperative delegates on a voice vote without dissent expressed during the debate.

We are convinced that this issue is being stirred up by a disgruntled minority of farmers. They're mad about a number of issues, and cooperative voting seems to be a convenient scapegoat for their concerns. The cooperative voting provision panders to a vocal group that is out of the mainstream of most farmers who believe in the cooperative system. We recognize that there are other provisions in the bills under consideration, and we agree with some of the other goals of the bills. For example, we endorse extending the promotion assessment to dairy imports. But so long as the legislation attacks cooperative voting rights, we view them to be anti-cooperative and we will continue to oppose them.

Thank you for considering our views.

Sincerely,

Land O'Lakes Directors (signatures attached)

Signature	Name (Print)	City, State
<i>Harvey S. Hilly</i>	Harvey S. Hilly	New Hampton, Iowa
<i>Rich Eltgroth</i>	RICH ELTGROTH	SAUK CENTRE, MN
<i>Ernest Salvoog</i>	ERNEST SALVOOG	MILTONA, MN
<i>John R Long</i>	John R Long	GACKLE, N. D.
<i>Jim D. Fife</i>	Jim D Fife	WENATCHEE, Wk.
<i>Robert Ode</i>	Robert Ode	Buandin S. Dak
<i>Gene Hagar</i>	GENE HAGAR	ST PETER MN.
<i>James L Miller</i>	JAMES L. Miller	HARDY, Wk
<i>Leslie A Deckert</i>	Leslie A Deckert	HENNING MIN.
<i>Mae Nord</i>	Mae Nord	Beaconsfield, MA
<i>Stan Zylstra</i>	Stan Zylstra	Hull, Iowa
<i>Ronald Hillmann</i>	Ronald Hillmann	Hilbert, WI
<i>Everette Herness</i>	Everette Herness	Whitehall, WI.
<i>Larry Wojcik</i>	Larry Wojcik	Clear Lake, WI
<i>Robert Gair</i>	ROBERT GAIR	New Salem, MD
<i>Norman R. Havel</i>	Norman R. Havel	Attoona, Iowa
<i>Paul Kent Sr.</i>	Paul Kent Sr.	Mora, Minnesota
<i>Phyllis Kirby</i>	PHYLLIS KIRBY	COLUMBIUS, MI.
<i>Duane Selous</i>	Duane Selous	Dear Park Mo.
<i>Thomas Rysavy</i>	Thomas Rysavy	Random Lake, WI
<i>Flora J. Timm</i>	FLORA J. TIMM	W. T. S. S. P.
<i>Jim Summers</i>	Jim Summers	Buffale, N.D.
<i>Al Steinhilber</i>	Al Steinhilber	Haystack, Idaho
<i>Bob Cropp</i>	Bob Cropp	Oregon, WI
<i>George Beck</i>	GEORGE BECK	Pugonky, Mo
<i>Stan Kucenich</i>	Stan Kucenich	Green Bay, WI

28.2048

Signature	Name (Print)	City, State
Wesley Prochnig	WESLEY PROCHNIG 2351 210th ST	LAKE CITY Min. MINNISON, Ia. 50563
Jim Lenz		
Kevin Kessler	Kevin Kessler	Hillsboro, WI 54634

## Land O'Lakes Resolution #6.

### National Dairy Board & Dairy Promotion

Land O'Lakes continues to support the National Dairy Research & Promotion Board's generic promotion and research programs as a valuable support strategy to Land O'Lakes own advertising, research, and promotion. We also urge maximum coordination and eventual consolidation of promotion efforts between the National Dairy Board, the United Dairy Industry Association, and other regional promotion agencies. **We support the principle of block voting by cooperatives on promotion and market order issues.**

## Land O'Lakes Policy #9.

### Cooperative Policy

Land O'Lakes supports the strengthening of producer cooperatives as a way to improve returns for farmers, enhance control over input purchases, and expand markets for farm products. We support a larger role for the cooperative system in production and marketing as a way to stabilize and improve the rural economy.

...

We believe cooperatives should continue to be exempt from antitrust laws to the extent provided in the Capper-Volstead Act. **We also support the authorization of block voting by cooperatives in promotion and market orders.**

## LETTERS IN OPPOSITION

JERRY AND LINDA JENNISSON,  
31535 463rd Avenue, Broolen, MN.

Subcommittee on Agriculture, Nutrition, and Forestry for the U.S. Senate,  
Russell Office Building, Room 328-A, Washington, DC.

RE: PURSUANT TO HEARING ON DOMESTIC AND FOREIGN MARKETING  
AND PRODUCT PROMOTION

TO WHOM IT MAY CONCERN: The Beef Checkoff became Federal law on October 1, 1986. It has been an excellent program for all beef producers. Although beef prices are lower today because of increased supply, the research and promotion programs implemented with funds collected through the beef checkoff have helped to create one of the longest periods of economic stability in the history of the industry.

The beef checkoff has maintained a high level of approval from the producers who pay the mandatory assessment. One of the reasons for this excellent support is that Federal statutes require that research and promotion boards funded by checkoff dollars do not directly or indirectly fund lobbying activities of membership organizations.

The Cattlemen's Beef Board has a fiduciary responsibility to make certain that all funds are invested in programs that Congress intended when checkoff programs were enacted. There is a tremendous danger in mixing mandatory checkoff assessments collected from all producers with membership dollars collected from special interest groups.

The Beef Industry Long-Range Plan now under consideration recommends a "single consolidated national organization." This proposed national organization will include State cattlemen's associations; State beef councils; beef breed associations; Cattlemen's Beef Board; American National CattleWomen; packers, processors, and purveyors; and individual dues-paying men and women. It is proposed that this new "single" organization would replace four existing organizations—the National Cattlemen's Association, Beef Board, Beef Industry Council/Meat Board, and the U.S. Meat Export Federation.

As a dairy producer I am especially concerned about this consolidation:

The consolidation of industry organizations (the Beef Board and it's three major contracting organizations) will limit grassroots input and create an organization designed for self-dealing. The current structure allows for an arms-length separation and a system of checks and balances. This autonomy provides the checkoff investor with a maximum degree of assurance that the dollars will be used *only* for the marketing and research purposes originally intended by Congress.

I agree with Representative Dan Glickman of Kansas who at a hearing of the House Agriculture Committee on August 6, 1992 voiced concerns about keeping the arms-length relationship between promotion groups and lobbying organizations. Glickman said "Congress should not enact programs which result in collection of funds from all farmers for the benefit of lobby groups which may represent the views of just some of them."

Recent history shows that the National Cattleman's Association (NCA) has taken policy positions contrary to the dairy industry. Dairymen especially remember the bitter experience they had when NCA opposed "the Dairy Herd Buy-Out" and neighbors became adversaries as NCA pitted beef producer against dairymen. All cattle producers pay the Checkoff for marketing purposes. But what makes us think that there won't be a major difference regarding government policy in the future? The Beef Industry Long-Range Plan includes an Action Point that calls for a strong, effective legislative, regulatory, and judicial affairs effort.

Currently NCA annually receives nearly \$5 million in Checkoff revenues. With nearly half of NCA's total revenue coming from Beef Checkoff sources, are they not in a stronger position to lobby against the dairy industry and other checkoff investor groups than they would be relying strictly on their approximately \$3 million of membership dues?

I hope that Congress will take the necessary steps to protect my interests and maintain the credibility of the Beef Checkoff by not allowing the National Cattlemen's Association to be included in any beef industry consolidation.

Sincerely,

JERRY AND LINDA JENNISSON.

MINNESOTA CATTLEWOMEN,  
2950 Metro Drive, Minneapolis MN.

Committee on Agriculture, Nutrition, and Forestry for U.S. Senate,  
Senate Office Building, Washington, DC.

PURSUANT TO HEARING ON DOMESTIC AND FOREIGN MARKETING AND PRODUCT  
PROMOTION

Beef Industry Consolidation—Why fix something that isn't broken?

The Beef Industry Long Range Plan Task Force and the Oversight Committee that succeeded it, have been meeting behind closed doors since December 1992. Nearly \$1.4 million of Beef Checkoff funds have been spent on this project.

The Task Force recommends a "single consolidated national organization." This proposed national organization will include state cattlemen's associations; state beef councils; beef breed associations; Cattlemen's Beef Board; American National CattleWomen; packers, processors, and purveyors; and individual dues-paying men and women. It is proposed that this new "single" organization would replace four existing organizations—the National Cattlemen's Association, Beef Board, Beef Industry Council/Meat Board, and the U.S. Meat Export Federation.

The Long Range Plan calls on the beef industry to structure itself to provide focus around specific objectives, a mechanism to assure results, coordination among all industry participants, and cost-effectiveness. All of these goals are essential to the competitiveness of the beef industry. But are we being asked to buy a new truck to fix a low tire?

The Beef Board and the industry, didn't need another strategic marketing plan. They already had one! Less than 2 years ago, the Beef Board (with Checkoff dollars) paid Booz-Allen and Hamilton, a consulting firm, \$800,000 to develop a very comprehensive beef marketing plan. Most of these recommendations were already being implemented when the new study was approved.

American National CattleWomen, Inc., the women's voice in the beef industry, embodies the unique personality needed to reach consumers and young people with grassroots volunteers, who are trained and willing to perform the promotion and education functions for our industry. ANCW is the only entity in the beef industry that has these attributes. We have a plan in place which is working well. We have not had adequate input into the proposed Industry Long Range Plan, and are perplexed with the shroud of secrecy in the process.

The proposed timetable for implementation of the plan calls for a meeting of the full boards of the 4 organizations in mid-October to develop "consensus" for the new structure. Some exists. Questions remain ignored as to whether the USDA attorneys will have sufficient time to determine the legality of the proposal. The Meat Export Federation will be expected to vote on the plan the first week of November, less than 3 weeks after the final draft becomes available. Does this frantic schedule allow sufficient input from grassroots beef producers to judge the merits of the plan?

Is this call for drastic change coming from the producers or is it being generated from the top down? The Oversight Committee seems to have the plan on a "Fast Track." Beef producers have been kept "in the dark" over the proposed structure, yet the four organizations are being pressured to vote on it within days after the final structure is proposed, without allowing time for the majority of the producers to know what the plan is. If industry consolidation is such a great idea, the plan will look just as good 6 months or a year from now after the producers have had a chance to look at it. Why the rush? Why the shroud of secrecy?

It's time to slow the process down. There needs to be honest, open discussion and debate. The Beef Checkoff is already providing a return of \$5.40 to the producer for each \$1 invested. There appears to be a plan in place that is working well. Is a new plan needed? Will it help family farmers and ranchers? Or will this new plan, especially the "consolidated structure," move the beef industry closer toward vertical integration and backwards—not forward?

Sincerely,

GLORIA SCHMIDT,  
President.



From: Delano Calton  
 Rt. 1 Box 138  
 Conway, Mo. 65632  
 (417) 589-2962

To: Senator Jim Feingold  
 Fax # 202-224-2725


Re: BLOCK VOTING FOR DAIRYMEN

In 1937 block voting was a great thing. Most of the dairy farmers in Missouri did not have adequate transportation to attend meetings. Today it is different. Every dairy farmer has transportation and good roads to get to a voting place.

In 1981 the Gannett News reported that "dairymen have no voice in Washington, D. C. ". Little did I realize at the time that the Gannett News was correct. Dairymen have no voice but large Co-ops do. Dairymen pay for the voice but are not represented. In 1993 I personally contacted over 20 dairymen and asked if any board member (from their Co-op) had polled or asked them how they felt about block voting. Not one of these dairymen had ever been contacted. I could not even find one dairyman who had been asked their feeling or opinion on block voting or other matters.

Representative voting does not give us a voice. Please give us a voice and bring us up with the 20th century.

  
 Delano Calton

Notary Public: 

GLENN G VESTAL  
 NOTARY PUBLIC STATE OF MISSOURI  
 LACLEDE COUNTY  
 MY COMMISSION EXP FEB. 12, 1996



**Cooperative Voting Resolution**

*Whereas*, farmer members of cooperatives rely on cooperatives to market their products in the most effective and efficient manner, and

*Whereas*, well-run marketing order and promotion programs are vital to the effective and efficient marketing of producers' products, and

*Whereas*, under current law cooperatives may vote on behalf of their members on matters relating to marketing orders and the dairy promotion program, and

*Whereas*, current law recognizes the unique relationship between cooperatives and their members, which is voluntary and contractual in nature, and

*Whereas*, decisions regarding how a cooperative may vote on matters relating to marketing orders and the dairy promotion program involve the consideration of the best interest of the membership of the cooperative as a whole, and

*Whereas*, that determination is made by a democratically elected board of directors comprised of farmer members of the cooperative, and

*Whereas*, a majority of cooperative members support the ability of their cooperative to vote on their behalf in matters related to marketing orders and dairy promotion programs.

*Therefore Be it Resolved* that the undersigned organization opposes any legislation which would eliminate the ability of cooperatives to vote on behalf of their members in matters relating to marketing orders and the dairy promotion program.

Adopted By The Board of Directors of Mid-America Dairyman, Inc.

Date: August 4, 1994

Signatures of Directors:

City and State:

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*Ray Veldhuis*

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*Gerald Sipple*

Gerald Sipple  
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Menomonie, WI 54751  
(715) 235-5908

MINNESOTA BEEF COUNCIL,  
 Minneapolis, MN, February 1, 1994.

To: State Beef Council Chairmen and Executives  
 From: Gary Purath, Chairman, Ron Eustice, Executive Director  
 Re: Long Range Merger Plan

At the Minnesota Beef Council Board meeting on January 21, 1994 the following position statement was passed unanimously:

The Minnesota Beef Council does not support the long range plan to merge existing beef organizations, but applauds the "focus" of the major players. MBC believes more grassroots input and a slower schedule are needed before any major structural changes are proposed. We support the leverage points and encourage further industry focus among the four current industry players.

Discussion focused on the following concerns:

The current structure provides greater grassroots involvement than does a one-organization concept which would concentrate power in fewer cattlemen's hands.

The cattle industry is very diversified. We must be sensitive to checkoff paying producers who do not agree with certain legislative policies.

The National Cattlemen's Association will be more effective lobbying as a separate organization.

The Beef Industry Council is vital to state council programs. Our directors are concerned that services now received from BIC will be lessened in one combined organization.

The proposed timetable for implementation is much too aggressive—slow the process down.

Concerns were raised about the increasing "political aspect" of the Beef Board director selection process. Our directors feel that the Beef Industry Council and the Federation of State Beef Councils as true "grassroots" organizations, need to continue their strong role in the administration of the Checkoff as specified in the Act and the Order.

Please phone if you have questions or need further clarification.

---

DAIRY FEDERATION,  
 Olympia, WA, August 3, 1994.

Committee on Agriculture, Nutrition and Forestry for U.S. Senate,  
 Senate Russell Office Building, Room 328-A, Washington, DC.

Thank you for the opportunity to submit comments regarding the Beef Promotion Program and the proposed merger being called for in the Beef Long Range Plan Task Force.

The Washington State Dairy Federation represents 75 percent of the state's 1,034 dairy farmers. We are a voluntary membership organization funded by dues income received from dairy producers of all sizes and locations in the state. Our mission as an association is to represent the interests of the dairy farmers and be the spokesperson for the industry.

The Dairy Federation has been an active participant in beef industry promotion discussions and promoted the Beef Promotion Check-off program to our members in 1988 during the referendum. We encouraged our association to support the program in Washington. This was due to the fact we contribute approximately 30 percent of the beef sold in the state and because promotion of beef can affect prices received by producers. Our support resulted in a favorable vote by Washington producers to contribute the \$1 per head to the beef promotion program.

The Washington State Dairy Federation has been and currently is a certified nomination organization for recommending members to the Cattlemen's Beef Promotion and Research Board. As a certified nomination organization we feel strong consideration should be given to our comments and concerns when referring to beef promotion and associated programs. There are several issues of concern as it pertains to our association's effort in representing dairy producers in this state.

This region includes beef producers in Washington State and Hawaii. There are currently six certified nomination organizations representing this area. Five are located in Washington and one in Hawaii. The Washington State Dairy Federation has attempted, since 1987, to acquire the beef industry's support in establishing a fair and equitable rotation in the nomination process to the Cattlemen's Beef Promotion and Research Board. This would allow each organization to have a representative serve a term on the board ensuring that each contributing sector would have a voice. The dairy industry in Washington State has been consistently denied this opportunity. We don't believe that, in light of the fact that the dairy industry

contributes 30 percent to the program, we should continually be refused access to a position on the board.

The long-range plan being proposed by associations representing segments of the beef industry is of great concern to the dairy industry in Washington State. There are several issues associated with this proposed merger that we take issue with. A more significant concern lies with the inclusion of the National Cattlemen's Association (NCA) in this merger. The NCA has been active in opposing dairy industry proposals to Congress. The NCA continues to push counterproductive attacks on potential dairy initiatives that would benefit the industry. The proposed merger could potentially give NCA access to additional dollars (including those check-off dollars provided by the dairy industry) to actively oppose and lobby against the dairy industry's attempt to reach possible solutions to the economic difficulties faced by the industry.

There has been no structure developed for the proposed merger outlining the transfer of funds. Grass-roots contributors have been denied participation in this process due to the fast-track consideration of the proposal and we strongly believe that this plan should be delayed until all questions and relationships can be defined.

Finally, the program, although supported by the dairy industry across the country, is referred to as the "Cattlemen's Beef Promotion and Research Board." Though this may seem a small matter, the dairy industry feels that when reviewed in the overall program, it lacks the inclusion of all beef producers—including dairy farmers. This has raised some concerns about the dairy industry's ability to be recognized and accepted as a significant contributor to the success of the program when discussions occur. We feel the name should reflect all contributors, which we hope would ensure that the dairy industry's position on issues would no longer be overlooked.

In these tough economic times, dairy farmers are looking at all expenditures made through their operation to determine the value of the expense. The longterm prognosis for the dairy industry is bleak. Because of the issues the Dairy Federation has addressed, there is a growing concern that maybe another referendum should be held to determine the support for the Cattlemen's Beef Promotion and Research Program that includes the requirement for the dairy industry to contribute the \$1 per animal sold to the check-off program.

Thank you for the opportunity to present these issues of concern from the dairy industry in Washington State. If you have any follow-up questions or concerns, please give us a call at (206) 754-4025.

Sincerely,

DEBBIE BECKER,  
*Executive Director.*

GILBERT HUIZENGA,  
*President and Dairy Farmer.*



**EASTERN**  
**MILK PRODUCERS**  
COOPERATIVE ASSOCIATION, INC.

President: Lewis Gardner  
General Manager: Michael H. Donovan

August 31, 1994

The Honorable David L. Boren  
United States Senate  
453 Senate Russell Office Building  
Washington, D.C. 20510-3601

Re. S. 1557 and S. 1564

Dear Senator Boren:

As noted in my letter to you, dated August 9, 1994, Eastern's Board of Directors today unanimously approved a resolution in opposition to the above referenced legislation.

This reaffirms the position expressed to you previously.

Your kind consideration of this important matter will be greatly appreciated.

Sincerely yours,

Joseph C. Mathis  
Assistant General Manager

cc: Senator Patrick Leahy



RESOLUTION IN OPPOSITION TO  
S.1557 AND S.1564

**Whereas**, the authority of cooperatives to vote collectively on behalf of member farmers is vital to their ability to effectively represent their members on matters relating to private business decisions, public policy initiatives, marketing order issues, and the National Dairy Promotion and Research Program, and

**Whereas**, Federal and State laws currently recognize and authorize this fundamental principal of cooperation, and

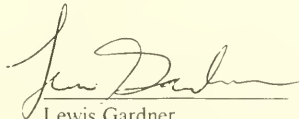
**Whereas**, the vast majority of cooperative members support the authority of their cooperative to vote on their behalf in accordance with its by-laws and membership contracts, and

**Whereas**, collective (bloc) voting determinations are made by a democratically elected Board of Directors comprised of farmer members of the cooperative, and

**Whereas**, well-run, effective marketing orders and promotion programs are vital to efficient marketing of agricultural products, now

**Therefore Be It Resolved**, that the Board of Directors of Eastern Milk Producers Cooperative Association, Inc. strenuously opposes the above cited legislation, which, if enacted, would deny cooperatives the authority to vote on behalf of their members in matters relating to the National Dairy Promotion and Research Program.

Adopted unanimously this 31st day of August, nineteen hundred and ninety four.



Lewis Gardner  
President



ISBN 0-16-052156-4



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