March 18, 2010

The Honorable Tom Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Ave., SW.
Washington, DC 20250

Dear Secretary Vilsack:

We are all strong supporters of the beef check-off program to help expand total demand for beef products. However, our organizations have grave concerns that the ongoing governance changes being considered by the National Cattlemen's Beef Association (NCBA) will further erode the separation between the check-off side (the Federation of State Beef Councils) and the policy side (NCBA) of the organization. We also believe the new governance structure will move the check-off towards more exclusivity rather than inclusivity.

Background:

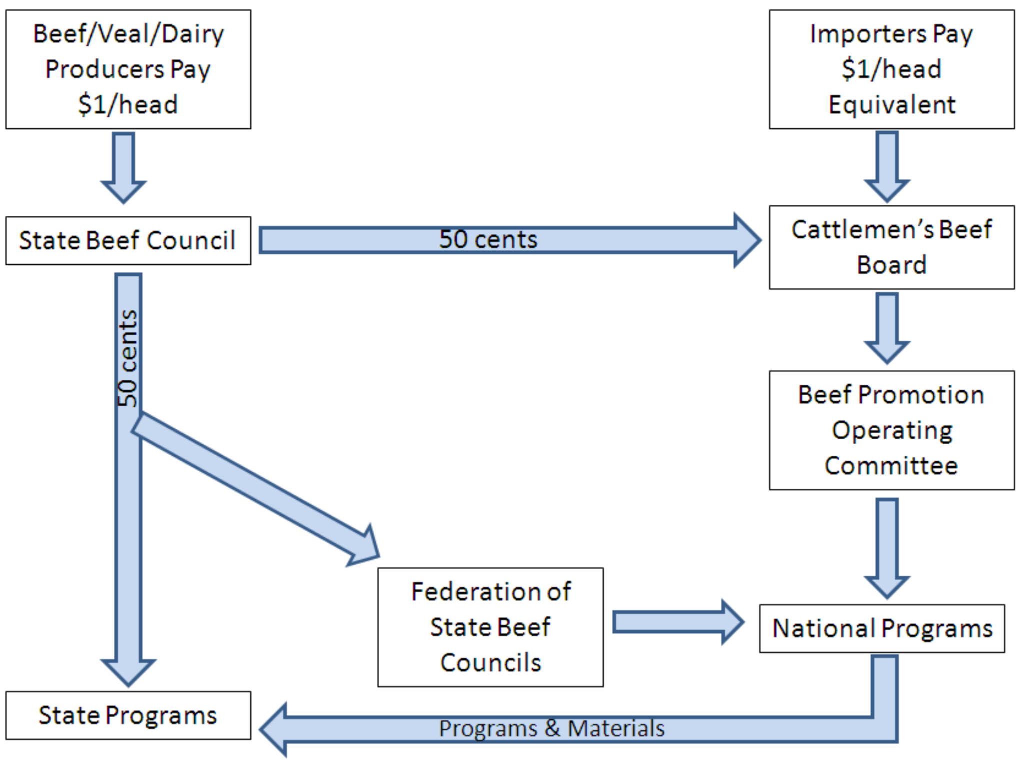
The Beef Promotion and Research Act was authorized in the 1985 Farm Bill and became effective in 1986. The goal of the program is to strengthen the position of beef in the marketplace and to maintain and expand domestic and foreign markets and uses for beef. The program is funded by a mandatory assessment of $1 per head collected each time cattle are sold. All producers must pay the assessment and a comparable assessment is collected on all imported cattle or beef products. Assessments are used to fund promotional campaigns and to conduct research studies. Of the approximate $76 million collected annually, state beef councils expend approximately $35 million.

The check-off program is administered by the 106-member Cattlemen's Beef Promotion and Research Board (Beef Board). The Beef Board members are nominated by a diverse group of membership organizations who represent various segments and political viewpoints within the cattle and beef industry such as cattle producers (cow-calf, stockers, farmer-feeders, feeders), dairy farmers, importers and veal producers. In fact, beef check-off assessments collected from dairy breeds are approximately 20 percent of total domestic assessments. Importer assessments represent approximately 9 percent of total assessments.

The Beef Board administers the Order, approves budgets and elects 10 members to a Beef Promotion Operating Committee. The other 10 members are elected by the state beef councils. This committee of 20 members is responsible for developing budgets, awarding contracts and approving projects for beef promotion and research activities that are funded by the Beef Board.

The Federation of State Beef Councils (Federation) board members are comprised largely of beef producers who represent the 45 state beef councils (Councils). The Councils collect the $1 beef check-off and send 50 cents of each dollar to the Beef Board. In turn, the Councils invest in national check-off programs by purchasing seats on the Federation board. The Federation uses those investments to fund additional programs at the national level.

While the law prohibits the use of funds for any type of activity to influence government policies or actions, the new governance structure allows for some overlap in the firewall between advertising and advocacy. This firewall is already mistrusted by many producers because check-off programs are often managed by NCBA staff, in the same offices as, staff who manage a major beef policy's trade association. In fact, of the 45 state beef councils, 18 share some level of staff with the NCBA affiliate.



<u>Current Status</u>:

At NCBA's annual meeting a few weeks ago, the board of directors approved a new governance structure and NCBA is now working on the final details of that structure for presentation to their board of directors in July. The following issues concern us:

--<u>NCBA's House of Delegates will be comprised of representatives from both the policy/membership organizations and the Federation.</u> The Federation members will have about 42 percent of the votes in the House of Delegates (106 of the 250 total votes) compared to about 58 percent of the votes being controlled by policy and allied industry members. Federation members will be allowed to participate fully in discussing and voting on policy issues. <u>In addition, policy members will be able to vote on Federation budget recommendations. This means policy members will determine where Federation funds will be spent and appears to undermine any firewall between policy and check-off finances. While some argue that the new</u>

governance will continue to provide an "accounting firewall", we believe the firewall should also include a separation of the decision-making between policy and check-off.

This voting structure will result in a loss of identity for Federation members since their only true responsibility will be voting on two Federation officers plus eight additional members to serve on the Beef Promotion Operating Committee.

NCBA members, rather than Federation representatives, will have the majority of the votes needed to determine the Federation's budget. Therefore the House of Delegates could recommend a Federation budget which is not supported by the Federation since the Federation representatives will only have 42 percent of the votes.

Federation members, whose travel expenses are paid for with check-off funds, will be involved in developing policies for NCBA. This appears to violate the Beef Promotion and Research Act and Order since check-off dollars will be used to develop policy positions of one industry association and many of those policies will then be used for lobbying purposes.

NCBA is not the only organization representing beef producers in this country. While NCBA claims about 30,000 members, there are about 750,000 producers in the United States that pay into the check-off. It seems quite unfair that beef producers who are not NCBA members, but still pay into the beef check-off, will have their monies expended to develop regulatory or membership policies at NCBA. In addition, it is important to remember that 20 percent of the funding comes from dairy producers.

State Beef Councils will be less inclined to continue their current levels of investment in the Federation if they don't see a strong role for the Federation. Given the diminished role of a Federation in NCBA's new structure, state beef council funding of critical national checkoff programs is likely to decline.

--Under the new structure, the House of Delegates is responsible for recommending a budget for the Federation. This recommendation is provided to a 29-member NCBA Board of Directors who are elected by the House of Delegates, a body controlled by policy members of NCBA. The Board of Directors is responsible for approving the Federation budget recommended to them by the House of Delegates. However, the Delegates only recommend the budget and the NCBA Board has clear authority to edit or reject the Delegate's recommendations.

The NCBA Board of Directors' expenses are paid by NCBA membership funds. There is no requirement for adequate Federation representation on the board. State law requires NCBA's Board of Directors to ensure the financial stability of NCBA. However, the directors will not be required to ensure the Federation budget provides funding for programs which will help the entire beef industry and the producers who pay the check-off. This will result in a significant conflict of interest since the Federation is required to fund programs which benefit all producers, but the NCBA Board is only required to ensure the financial well-being of NCBA. This built-in conflict of interest causes trepidation among producers who pay the check-off, but choose not to belong to NCBA. This will likely result in producer dissatisfaction with the beef check-off.

NCBA's nominating committee will be comprised of members who will be selected by groups within NCBA that are dominated by policy members. As a result, the nine-member Nominating Committee will be comprised of at least five members who are current or former policy representatives on NCBA's Board of Directors or House of Delegates. The Nominating Committee will be responsible for nominating NCBA's officers, the NCBA Board and the Federation members of the Beef Promotion Operating Committee, including the Federation Chairman and Vice Chairman. As a result, the policy members of NCBA will dictate who is nominated to serve on the Beef Promotion Operating Committee. NCBA's control of this important nomination process will result in a significant conflict of interest given the Operating Committee's important role in determining which contractors receive Beef Board program funding.

The proposal calls for members of the newly created House of Delegates and the Board of Directors to be dues-paying members of NCBA. Under this plan, even a person that is duly selected to serve on their state beef council and then duly selected by their state beef council to serve as its representative on the Federation would have to join or already be a member of NCBA. The same would be true if such person were to be duly selected to serve on the Board of Directors.

The current beef check-off requires a formal relationship between the Beef Board and the state beef councils. State Beef Councils are accountable to the Beef Board for the expenditure of their half of the one dollar assessment. This accountability is overseen by an annual marketing plan which is submitted to the Beef Board at the beginning of each fiscal year, along with an actual expenditure report and annual financial audit at the end of each year. Furthermore, state beef councils are periodically subjected to a compliance audit by the Beef Board to account for the "appropriateness" of a state's expenditures. In essence, the $1.00 check-off is a federal assessment in which the law allows the state to keep 50 cents for in-state purposes rather than a $1.00 state check-off in which the state decides to give the Beef Board 50 cents. It appears the law only allows for the allocation of check-off funds to the Beef Board and to the Federation of State Beef Councils. The proposed structure of allowing NCBA to play a role in the distribution seems beyond the spirit of the Act and Order.

We must ensure an adequate accounting and decision-making firewall between funding and policy for the beef check-off. We are also concerned a change to the beef check-off governance could be precedent setting for other check-off programs.

There are currently 18 active research and promotion programs for agricultural products. These programs are overseen by the Agricultural Marketing Service of USDA, but are run by producers for the benefit of all producers who invest in the programs. In every program except the beef check-off, the check-off boards USDA appoints have complete control over the expenditure of the funds. In the case of the beef check-off, NCBA currently controls the budgeting and spending of a large portion of check-off funds. That control will become stronger if USDA allows NCBA's new governance structure to be implemented. We are also concerned a change to the beef check-off governance could be precedent-setting for other check-off programs. We urge you to look into NCBA's new governance structure and work with us to ensure the beef check-off program is accountable to the all producers who invest in it.

Sincerely,

American Farm Bureau Federation
Livestock Marketing Association
National Farmers Union
National Livestock Producers Association
National Milk Producers Federation
US Cattleman’s Association