

# THE BURDEN OF THE ESTATE TAX ON FAMILY BUSINESSES AND FARMS

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## HEARING BEFORE THE SUBCOMMITTEE ON SELECT REVENUE MEASURES OF THE COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES ONE HUNDRED FOURTEENTH CONGRESS FIRST SESSION

MARCH 18, 2015

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## CONTENTS

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	Page
Advisory of March 18, 2015 announcing the hearing .....	2

### WITNESSES

Mr. Brandon Whitt, Batey Farms .....	6
Mr. Robert E. McKnight, McKnight Ranch Co. ....	12
Ms. Karen Madonia, Chief Financial Officer, Ilco, Inc. ....	18
Ms. Ray Madoff, Professor, Boston College Law School .....	24

### SUBMISSIONS FOR THE RECORD

Associated Builders and Contractors, Inc. ABC, statement .....	191
American Farm Bureau Federation, AFBF, statement .....	192
Independent Electrical Contractors, IEC, statement .....	198
National Grocers Association, NGA, statement .....	200
National Lumber and Building Material Dealers Association, NLBMDA, statement .....	202
Small Business Legislative Council, SBLC, statement .....	204
Tire Industry Association, TIA, statement .....	209





# **THE BURDEN OF THE ESTATE TAX ON FAMILY BUSINESSES AND FARMS**

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**WEDNESDAY, MARCH 18, 2015**

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON WAYS AND MEANS,  
SUBCOMMITTEE ON SELECT REVENUE MEASURES  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 10:11 a.m. in Room 1310 Longworth House Office Building, the Honorable David Reichert [Chairman of the Subcommittee] presiding.  
[The advisory of the hearing follows:]



### **Chairman Reichert Announces Hearing on the Burden of the Estate Tax on Family Businesses and Farms**

Congressman David Reichert (R-WA), Chairman of the Subcommittee on Select Revenue Measures, today announced that the Subcommittee will hold a hearing on the burdens family businesses and farms face planning for and paying the estate tax. **The hearing will take place immediately following a brief Subcommittee organizational meeting on Wednesday, March 18, 2015, in Room B-318 of the Rayburn House Office Building, beginning at 10:00 A.M.**

Oral testimony at this hearing will be from the invited witness only. However, any individual or organization may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

#### **Details for Submission of Written Comments:**

Please Note: Any person(s) and/or organization(s) wishing to submit written comments for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, <http://waysandmeans.house.gov>, select "Hearings." Select the hearing for which you would like to make a submission, and click on the link entitled, "Click here to provide a submission for the record." Once you have followed the online instructions, submit all requested information. ATTACH your submission as a Word document, in compliance with the formatting requirements listed below, **by the close of business on Wednesday, April 1, 2015**. For questions, or if you encounter technical problems, please call (202) 225-3625 or (202) 225-2610.

#### **Formatting Requirements:**

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be submitted in a single document via email, provided in Word format and must not exceed a total of 10 pages. Witnesses and submitters are advised that the Committee relies on electronic submissions for

printing the official hearing record.

2. All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. The name, company, address, telephone, and fax numbers of each witness must be included in the body of the email. Please exclude any personal identifiable information in the attached submission.

3. Failure to follow the formatting requirements may result in the exclusion of a submission. All submissions for the record are final.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

**Note:** All Committee advisories and news releases are available at <http://www.waysandmeans.house.gov/>.

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Chairman REICHERT. Good morning, and now we have entered into the subcommittee hearing on the burden of the estate tax on family business and farms.

Today, as we consider the burdens family businesses and farms face planning for and paying the estate tax, or, as it is more commonly known, the death tax, we will have the opportunity to hear from witnesses who have experienced this challenge first-hand.

Thank you to our guests and our witnesses for joining us today for this important hearing, and for sharing your stories.

The story is the same in all of our districts, I would imagine: family businesses, business owners, and farmers work hard their entire lives with the goal of passing on the fruits of their labor, but face the sometimes insurmountable burden and hurdle of the death tax. And, in addition to the actual tax liability the death tax imposes, merely planning for it, regardless of whether these businesspeople and farmers end up owing it, is yet another challenge that we will hear and discuss today.

In fact, as I am sure many of my colleagues have also heard, I consistently hear from local businesses about how this unnecessary tax threatens the livelihood of families. In my home state there are numerous examples of the harmful impact of the death tax.

In Seattle, permanent relief from the death tax is critical for family-owned businesses like the Seattle Times, which is a fourth and fifth-generation family business. And, in my own district, in Issaquah, Washington last year, a family had to make the difficult choice to sell their farm which had been in the family for over 120 years. This is a devastating decision to have to make, and they are not alone in making it.

I thank Congressman Kevin Brady for his work to provide much-needed permanent relief to families across the country, I'm proud to be a cosponsor of this legislation to repeal the death tax once and for all. I look forward to hearing from today's witnesses this important issue.

Chairman REICHERT. Mr. Neal, would you like to make an opening statement?

Mr. NEAL. Thank you very much, Mr. Chairman. And thank you for calling the topic today before us. I want to also congratulate you on becoming the chairman of the Subcommittee. As you know, being chairman of this Subcommittee leads to great thing. Former alumni include Chairman Camp, Chairman Rostenkowski, and Chairman Rangel. And former Chairman Tiberi isn't so bad, either.

[Laughter.]

Mr. NEAL. Speaking of which, I have enjoyed working with your predecessor, and I look forward to working with you.

We are here this morning to discuss the estate tax, which, for all the recent histrionics around the topic, has been, in one form or another, a part of the Tax Code since the days of our founding fathers. Whether used by John Adams to defend our democracy against a foreign threat, or by Lincoln to unite us, an inheritance tax has been recognized as a legitimate way to fund government operations and prevent concentrations of wealth.

While the estate tax, or the inheritance tax, is necessary to fund the government, perhaps more importantly, the estate tax is necessary to our democracy. As our founding fathers observed, you simply cannot have democracy in a nation with extreme economic inequality and wealth concentrated in the hands of the very few. Mr. Jefferson noted, citing Adam Smith, that "A power to dispose of the states forever is manifestly absurd; the earth and the fullness of it belongs to every generation, and the preceding one can have no right to bind it upon posterity."

Such extension of property is quite unnatural. There is no point more difficult to account for than the right we conceive men to have to dispose of their goods after death. This sentiment has been adopted in various forms throughout our history by different Americans.

One might remember that it was Theodore Roosevelt who was the first president to recommend a steep, graduated tax on inheritance. He, in fact, invited to the White House those to inform them that he was about to do it. More recently, Warren Buffett, George Soros, and Bill Gates, Sr. have all come out in strong support of maintaining a robust estate tax to prevent a concentration of wealth.

Today's hearing is an important one in this ongoing debate about the necessity of the estate tax. Today's panelists represent wide-ranging views on the topic, and each should have their views heard. Some of the small businesses, farms, and farmers represented here today have legitimate concerns about being able to make ends meet. And, as I understand it, many farmers and small businesses find themselves asset rich but cash poor. Combines, tractors, and plows are not cheap, and are big investments that farmers rely upon to grow their business.

So, I should point out that I think that there ought to be a way for this Subcommittee to recommend and for the full committee to embrace a notion providing some relief to farmers, if we can figure out how to do that specifically, so that the family maintains the interest. And I think that that is an opportunity that we perhaps could find common ground on.

I would remind my colleagues, as we proceed to the suggestion that we should repeal the estate tax in its entirety, we serve in the

House of Representatives, not the House of Lords. And I think that that is a noteworthy example of what happens over time, if we are not careful about the concentration of wealth for those who miss the opportunity to present Steve Jobs or Bill Gates, Jr., as well.

Congress has recognized the plight of these businesses, and we have enacted numerous provisions to help our nation's farmers and small businesses, whether through generous expensing rules or accelerated bonus depreciation, both of which I have supported. I think that this was in addition to raising the thresholds on the estate and the gift tax. We have gone from a \$1 million exemption with a top rate of 55 percent to a \$5 million exemption indexed for inflation, with a top rate of 40 percent. While our nation's farmers and small businesses have legitimate concerns about the estate tax, it is my hope that this argument this morning is not being used for the purpose of ending the estate tax for simply America's wealthiest people.

The facts seemingly bear this out. As the Tax Policy Center recently revealed, only 20 small businesses and farm estates nationwide owed any estate tax in 2013. Furthermore, they point out that that estimate of those 20 estates owed just 4.9 percent of their value in tax, on average. This trend to small business and former levels also corresponds for all taxpayers, as well. As Joint Tax has pointed out, in 2013 there were 2.6 million deaths in the United States, and 4,700 estate tax returns reporting some tax liability were filed. This means 99.85 percent of all estates owed no estate tax at all. By comparison, in the mid-1970s, taxable estate returns exceeded 6 percent of all deaths.

Mr. Chairman, I would like to thank you for calling this hearing. I look forward to the discussion and hearing from our witnesses, and to seek ways to improve our current estate tax.

Remember, the estate tax is not a tax on Conrad Hilton. The estate tax is a tax on Paris Hilton. And, incidentally, who could be against that?

[Laughter.]

Mr. NEAL. And I call that up because I think that is a noteworthy example of what would happen if we broadly repealed the entire estate tax. And thank you, Mr. Chairman.

Chairman REICHERT. Thank you, Mr. Neal. Before I introduce today's witnesses, I ask unanimous consent that all Members' written statements be included in the record.

[No response.]

Chairman REICHERT. Without objection, so ordered.

We will now turn to our panel of distinguished witnesses. And I would like to welcome, first, Mr. Brandon Whitt of Batey Farms in Murfreesboro, Tennessee; second, Mr. Bobby Knight, owner and operator of—I am sorry, McKnight—of McKnight Ranch Company in Fort Davis, Texas; and third, Ms. Karen—help me.

Ms. MADONIA. Madonia.

Chairman REICHERT. Madonia? A chief financial officer of Ilco Company, a family-owned Chicago-area distributor of heating, ventilation, air conditioning, and refrigeration equipment parts and supplies. And, fourth, Professor Ray Madoff of the Boston College Law School in Newton Center, Massachusetts.

Thank you all for joining us today. You will each have five minutes to present your oral testimony, and your full written testimony has been submitted for the record.

Mr. Whitt, we will start with you. You are recognized for five minutes.

#### **STATEMENT OF BRANDON WHITT, BATEY FARMS**

Mr. WHITT. Good morning. I certainly appreciate the opportunity to be here. And Chairman Reichert and Ranking Member Neal, and Members of the Subcommittee, my name is Brandon Whitt. I operate a seventh-generation farm in Murfreesboro, Tennessee, where I farm with my wife, Katherine, and my father-in-law, John.

In a suburbanized area just outside of Nashville, Batey Farms dates back to 1807. Beginning from a Revolutionary War land grant for military service, over its 208 years the farm has seen many faces, developments, victories, and certainly failures. But one thing remains constant: we have strived to uphold the principle of our family motto of preserving the past and embracing the future.

Batey Farms is a very diverse—and includes a market that sells fruits, vegetables, and pork we produce directly to consumers. In addition, we farm 1,800 acres of row crops, and 250 acres of hay on our own land, and land we rent from neighboring land owners. My wife and I manage the day-to-day operation of our farm business, while my father-in-law, who still works daily alongside me, owns the land that we farm. We employ one full-time employee, two part-time, and over a dozen seasonal workers. Over 65,000 customers pass through our farm gate annually, and we are currently investing to expand our agritourism attractions, so that our more—so that more of our urban neighbors will visit and make a connection to modern-day agriculture.

When my wife's grandmother passed away in 1998, my father-in-law, who had farmed the land for his entire life, was faced with a big—with a huge estate tax burden. The farm, at the time, was a little over 600 acres. Land values were booming, and the value of the farm had doubled over the previous 10 years. John ended up having to sell a large portion of the land to pay estate taxes. This may not sound like much of a sacrifice, giving up 120 acres, but it left him with 483 acres to farm, and it completely changed the farm business. The land was lost to development. And having houses so close to our fields and the remaining land, it made it impossible [sic] to continue raising cattle.

Fast-forward to today. We still farm that same land. Only now it is easily valued at more than \$25,000 per acre. Some might say that we should sell out, start over somewhere else. But this is not my family's plan. We believe that Batey Farms will be a viable farm business far into the future, and we hope that our children will be the eighth generation to farm our land. We believe that our farm adds value to our town, to our neighbors, and value to the open space that our customers have value—for a local food source, and that our farm market creates a sense of community. We intend to honor our motto, and continue our farming business as long as we are able to.

My father-in-law, John, is now 72 years old. As we look to the future, we can't help but worry about what will happen when he passes away. We have spent countless hours talking with financial advisors, accountants, and attorneys, trying to put together a plan that will allow Batey Farms to remain a viable business. We know that we will face an estate tax when my father-in-law dies, and we are planning now to try to avoid having to sell more acres to pay the tax. I can't help but think about what our farm might be if we could have invested all that time and energy into our own business.

My story is the story of young farmers all across the country. Agriculture certainly looks different on farms from state to state. But we all face the same reality that an uncertain tomorrow can bring. We face decisions about making long-term investments on our farms and ranches, without the benefit of knowing the price we will be paid for our products. We deal with unpredictable weather that can change a good year into a bad one with a single storm.

There isn't much we can do about these risks. They are a normal part of the uncertainty that goes along with farming. But why should uncertainties over estate taxes be added to these others? Our job is hard enough, as it is. I urge Congress to abolish the federal estate tax, so that farms like mine can better use their resources to build a stronger business, and a better community. I urge Congress to act quickly to end estate taxes, so that no further farmer or rancher has to sell part of their business to pay this misguided tax.

Thank you very much for the opportunity to be here.

[The prepared statement of Mr. Whitt follows:]



**Statement of the  
American Farm Bureau Federation**

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**STATEMENT OF BRANDON WHITT  
OF BATEY FARMS BEFORE THE  
SUBCOMMITTEE ON SELECT REVENUE MEASURES**

**COMMITTEE ON HOUSE WAYS AND MEANS**

**HEARING ON THE  
BURDEN OF THE ESTATE TAX ON FAMILY BUSINESSES AND FARMS**

**MARCH 18, 2015**

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Chairman Reichert, Ranking Member Neal and members of the Subcommittee. My name is Brandon Whitt. I am a 7th generation farmer from Murfreesboro, Tennessee, where I farm with my wife, Katherine, and father-in-law, John, in a suburbanized area just outside of Nashville. Batey Farms dates back to 1807, beginning from a revolutionary war land grant for military service. Over its 208 years, the farm has seen many faces, developments, victories and failures but one thing remains constant, we strive to uphold the principle of our family motto "preserving the past and embracing the future."

Batey Farms is very diverse and includes a market that sells the fruits, vegetables and pork we produce directly to consumers. In addition, we farm 1,800 acres of row crops and 250 acres of hay on our own land and land we rent from neighboring landowners. My wife and I manage the day-to-day operation of our farm business while my father-in-law, who still works daily alongside me, owns the land we farm. We employ one full time, two part time and a dozen seasonal workers. Over 65,000 customers pass through our farm gate annually and we are currently investing to expand our agri-tourism attractions so that more of our urban neighbors will visit and make a connection to modern day agriculture.

When my wife's grandmother passed in 1988, my father-in-law, who had farmed the land his entire life, was faced with a huge estate tax. The farm at the time was a little over 600 acres. Land values were booming and the value of the farm had doubled over the previous 10 years. John ended up having to sell 120 acres of land to pay estate taxes. This may not sound like much of a sacrifice since it left him with 483 acres to farm, but it completely changed the farm business. The land was lost to development and having houses so close to our fields made it impossible for us to continue raising cattle.

Fast forward to today: we still farm that same land, only now it is easily valued at \$25,000 per acre. Some might say that we should sell out and start over somewhere else, but this is not my family's plan. We believe that Batey Farms will be a viable farm business far into the future and we hope that our children will be the 8<sup>th</sup> generation to farm our land. We believe that our farm adds value to our town, that our neighbors value our open space, that our customers value having a local food source and that our farm market creates a sense of community. We intend to honor our motto and continue our farming business as long as we are able.

My father-in-law John is now 72 years old. As we look to the future, we can't help but worry about what will happen when he passes away. We have spent countless hours talking with financial advisors, accountants and attorneys trying to put together a plan that will allow Batey Farms to remain a viable business. We know that we will face an estate tax when my father-in-law dies and we are planning now to try to avoid having to sell more acres to pay the tax. I can't help but think about what our farm might be like if we could have invested all that time and energy into our business.

My story is the story of young farmers all over the country. Agriculture looks different on farms from state to state but we all face the same reality that an uncertain tomorrow can bring. We face decisions about making long-term investments in our farms and ranches without the benefit of knowing the price we will be paid for our products. We deal with unpredictable weather that can change a good year into a bad one with a single storm. There isn't much we can do about these risks. They are a normal part of the uncertainty that goes along with farming. But why should uncertainties over estate taxes be added to these others? Our job is hard enough as it is.

I urge Congress to abolish the federal estate tax so that farms like mine can better use their resources to build a stronger business and better their communities. I urge Congress to act quickly to end estate taxes so that no other farmer or rancher has to sell part of his or her business to pay this misguided tax.

**Committee on Ways and Means**  
**Witness Disclosure Requirement - "Truth in Testimony"**  
 Required by House Rule XI, Clause 2(g)

Your Name: BRANDON WHITT

1. Are you testifying on behalf of a Federal, State, or Local Government entity?  
 a. Name of entity(ies).

Yes ☒ No

b. Briefly describe the capacity in which you represent this entity.

2. Are you testifying on behalf of any non-governmental entity(ies)?  
 a. Name of entity(ies).

Yes ☒ No

American Farm Bureau

b. Briefly describe the capacity in which you represent this entity.

Farmer member

3. Please list any Federal grants or contracts (including subgrants or subcontracts) which you have received during the current fiscal year or either of the two previous fiscal years that are related to the subject matter of the hearing:

4. Please list any grants, contracts, or payments originating from foreign governments which you have received during the current calendar year or either of the two previous calendar years that are related to the subject matter of the hearing:

5. Please list any offices or elected positions you hold.

6. Does the entity(ies) you represent, other than yourself, have parent organizations, subsidiaries, or partnerships you are not representing?

Yes ☒ No

7. Please list any Federal grants or contracts (including subgrants or subcontracts) which were received by the entity(ies) you represent during the current fiscal year or either of the two previous fiscal years, which exceed 10 percent of entity(ies) revenues in the year received. Include the source and amount of each grant or contract. Attach a second page if necessary.

8. Please list any grants, contracts, or payments originating from foreign governments which were received by the entity(ies) you represent during the current fiscal year or either of the two previous fiscal years related to the subject matter of the hearing. Include the source and amount of each grant or contract. Attach a second page if necessary.

Page 2

Committee on Ways and Means  
 Witness Disclosure Requirement – "Truth in Testimony"  
 Required by House Rule XI, Clause 2(g)

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Brandon Whitt

Address:

137 Janison Downs Dr.Murfreesboro, TN 37129

Signature:

Brandon Whitt

Date:

3/14/15

Chairman REICHERT. Thank you, Mr. Whitt.  
 Mr. McKnight, you are recognized for five minutes.

**STATEMENT OF ROBERT E. MCKNIGHT,  
 MCKNIGHT RANCH COMPANY**

Mr. MCKNIGHT. Thank you, Chairman Reichert, Ranking Member Neal. I appreciate the opportunity to be here today. My name is Bob McKnight, a seventh-generation cattleman from Fort Davis, Texas, and certainly my privilege to appear before this Committee today to speak on behalf of the cattlemen and women across this country to discuss an uncomfortable issue that too many of us have had to deal with, that being the death tax.

I am here to share my story today, so hopefully we can leave with a better understanding of the personal impact this has on families like mine and many like mine. Having dealt with the death tax on multiple occasions, I can assure you it is not easy to settle the estate of a loved one while mourning the loss of that loved one. And then, to find out that estate is subject to the death tax is pretty tough. How will I pay the estate tax? We are going to have to sell off part of our business, take out a loan, layoffs. These are all tough questions I had to face when confronted with the death tax. And, unfortunately, this story is more common than it should be.

As a cattleman, the most important part of our family's livelihood is the health and safety of our livestock. Every day myself, our employees, we go out and put the needs of our livestock ahead of our own. Cattle don't take a day off; we can't, either. I am financially and emotionally invested in the success of this operation. And I have a responsibility which I take very seriously, and that is the care for the animals and the people that work for us.

Our ranch is a family-owned small business located in Southwest Texas. Like other small businesses, we have the worries of making payroll, complying with numerous federal/state regulations, bills, loans, taxes. I face the same stresses every business owner out there faces, plus we have to deal with Mother Nature. We never know what she has in store for us.

In recent years our ranch and others have been ravaged by wildfires while in the throes of a drought of historic proportion. Many in Texas have been forced to liquidate their herds—in some cases, their entire operation. The exodus of cattle out of Texas is unprecedented. We have had some rains. The country is going to take time to heal. To get back to our historic numbers is going to take some time. I think we are up to the task, but it is going to take a little time.

When times have been lean, we have had to make sacrifices to keep our business above water, keep our employees on the ranch. But sometimes you run out of places to cut, and you have to make real hard choices. And that means laying off season employees. This is exactly what happened to our family, precipitated by the death tax. I had to let go of season employees, and they had to seek work elsewhere.

The skill set that we need on our agriculture operations is very unique, and it takes years to develop. And when you lose that skill set, it is difficult, if not impossible, to replace it. I would give anything to have those guys back. But, unfortunately, I don't believe that is going to happen.

Many farmers and ranchers have had the same experience with the death tax. And, even with the current exemption levels, I believe there is a lot of angst out there with these rising land values: Is it going to trigger a death tax?

That is why many families, I think it is imperative they continue to invest in planning and complying with the estate tax. And, unfortunately, that money used to do that comes off the top. It is after-tax money spent on investing, rather than investing in your company. And, even with an estate plan, the best estate plans, it takes years to transfer. And, again, compliance is not free.

As someone who has been on the negative end of the death tax, I just have one question: What are the positive benefits of the death tax? When faced with a death tax, I am no longer thinking about how I am going to grow my business, hire more employees. I am focused on where I am going to have to cut. Are we going to have to liquidate? Are we going to have layoffs? How are we going to control this loss? I would rather focus on expanding our business, reinvesting in our community by creating more jobs.

The death tax impacts more than just my family. It affects our employees and the family businesses around us. In the small rural communities of Texas, these family ranches have support businesses all around them. And when you are feeling it, I can tell you it runs through the whole community, and it is pretty tough.

The death tax is a death warrant for far too many businesses. I feel the best solution, the fair solution, is a repeal of the death tax. Thank you.

[The prepared statement of Mr. McKnight follows:]



**NATIONAL CATTLEMEN'S BEEF ASSOCIATION**

1301 Pennsylvania Ave., NW, Suite #300 • Washington, DC 20004 • 202-347-0228 • Fax 202-638-0607

March 18, 2015

The Honorable Dave Reichert (R-WA, 8<sup>th</sup>)  
Chairman  
Committee on Ways and Means,  
Subcommittee on Select Revenue Measures  
U.S. House of Representatives  
1102 Longworth House Office Building  
Washington, DC 20515

The Honorable Richard E. Neal (D-MA, 1<sup>st</sup>)  
Ranking Member  
Committee on Ways and Means,  
Subcommittee on Select Revenue Measures  
U.S. House of Representatives  
1102 Longworth House Office Building  
Washington, DC 201515

Dear Chairman Reichert and Ranking Member Neal:

My name is Bobby McKnight and I am a seventh-generation cattleman from Fort Davis, Texas. It is my privilege to appear before this committee today and speak on behalf of cattlemen and women across America and discuss an uncomfortable issue that too many of us have faced—the death tax. I am here to share my story so that you can have a better understanding of the personal impact the death tax has on hard-working American families like mine. Having dealt with the death tax on multiple occasions, I can assure you that it's not easy to have the burden of settling the estate of a loved one while coping with the loss of that loved one. To add insult to injury, it is even more stressful when you discover that the estate you are trying to settle is subject to the federal death tax. How will I pay the estate tax? Will I have to sell off part of my business or take out a loan to pay this tax? Will I be forced to lay off employees? These are all questions that I have had to face on multiple occasions. My story, unfortunately, is not that uncommon among the cattle families of this great nation.

As a cattleman, the most important part of my family's livelihood is the health and safety of my cattle. Every day, I get up and work along-side my employees because every hand in the operation has the responsibility to look after the cattle and put the needs of the cattle above our own. I worry about if they are getting enough food and water. I look after them and fight off predators and keep disease away from the herd. Cattle don't take a day off, so neither can I. I am financially and emotionally invested in the success of the herd. It is my duty to take care of these animals and the people who work for me.

My ranch is a family-owned small business. Sometimes I need up to seven employees to help me run my operation efficiently. Over the years I have invested a lot of time, resources, and sweat equity in developing my employees. We work along-side each other taking care of the livestock and hoping for a good year where we will all reap the benefits of hard work. When times have been lean I have had to make sacrifices to keep my business above water and to keep my employees on the ranch. I make it a priority to put our people first because I don't want to let them go. But sometimes you run out of places to cut and you have to make the uncomfortable decision to cut seasoned employees. That is what happened to my family during hard times brought on by the estate tax. At one time I had to cut my staff by sixty-five percent. I had to let go of seasoned employees that had families of their own and they were forced to find work

elsewhere. The skill set needed to work cattle is a special skill set that takes years to learn, and I would give anything to have that skilled labor back working for me once more.

Like other small businesses I have to worry about making payroll, complying with numerous federal and state regulations, and paying bills, loans, and taxes in full and on time. I face the same stresses that other small business owner's face, all the while praying that the drought will end and I won't face another summer of devastating wildfires. My cattle need good pasture and plenty of water to thrive, but the wildfires and drought have been a heavy burden on ranchers like me all across the Southwestern United States. Many of my neighbors worry about whether they can make it through another dry year without being forced to sell their herds and their businesses. That is a lot of stress for any business owner to handle. Now add to that the onerous compliance of the death tax.

I am a member of the National Cattlemen's Beef Association (NCBA), the largest and oldest national association of cattle producers. NCBA has represented America's cattlemen and women since 1898, preserving the heritage and strength of the cattle industry through education and public policy. As the largest and oldest national association of cattle producers, NCBA represents a very diverse beef industry that strives to meet demand in emerging markets and increase demand for beef. Repealing the death tax is a top priority for NCBA, and without question, we offer our utmost support in repealing the death tax.

When most people think of the cattle industry, they think of my home state of Texas. While Texas is one of the largest beef-producing states, the U.S. beef industry is very diverse with production in all fifty states including Alaska and Hawaii. One common fear facing America's beef-producing families is the uncertainty of and compliance with the death tax. In fact, the death tax is considered one of the leading causes of the breakup of multi-generation family farms and ranches.

As you probably know, many farm and ranch families are asset-rich and cash-poor, with most of the value of their estate attributed to the value of the land they use to raise cattle and grow food and fiber for consumers around the world. The agriculture industry has enjoyed a successful run over the past few years with strong foreign demand for U.S. agricultural goods. Strong export demand has been one of the driving forces in the increase in value of crop land and pasture land in almost every state. Not to mention the pressure from commercial developers who also want to purchase the land. Combined together, the increase in value of farmland has many farm and ranch families concerned that they may trigger the estate tax simply through increasing land values.

Some people make the mistake in thinking that livestock operations that own a lot of land must be wealthy and can afford to pay more in taxes. Keep in mind that beef production in the United States varies from state to state. For instance, in the Southeastern United States most herds are smaller and need fewer acres to be successful because they have good pastures that receive a lot of rain. On the other hand, where I live the annual rainfall average is less than eighteen inches so we need more acres to support the same number of cattle. Likewise, some people make the mistake of equating large herds with large profits. Cows need plenty of food and water to grow to the desired adult weight. The more cows you have, the higher your input costs will be. And



given the market volatility in the price of cattle feed, hay, water and fuel, profit margins can be small for large herds and they face a greater risk of loss. Plus, not all animals will receive the same price when harvested. The price received for each cow depends on the quality of the product, not the quantity. When it comes down to it, the pain is felt by all operations no matter the herd size. Simply put, in an industry as diverse as ours it is easy to mistake size of the operation with the success of the operation.

The uncertainty of the tax code has made it difficult for many farmers and ranchers to establish long-term business plans. This is especially frustrating when your business already faces unpredictable factors like the price of inputs and the weather. The truth is it is very hard to predict whether or not an operation will be successful this year or the next. The market value of cattle fluctuates, as do the costs of inputs like feed, water, and fuel, plus the fact that the cattle industry is not subsidized by the federal government.

At the end of 2012, Congress passed the American Taxpayer Relief Act (ATRA) narrowly avoiding a return to a \$1 million estate tax exemption with a 55 percent tax rate by setting the estate tax exemption level at \$5 million per individual (\$10 million per couple) and the top tax rate to 40 percent. ATRA also maintained the spousal transfer, the step-up in basis and indexes the estate tax for inflation. While not perfect, ATRA provided relief for some producers but unfortunately the estate tax still impacts family farmers and ranchers across the United States and it must be repealed.

Even with ATRA, many farm and ranch families must still invest time and resources into planning and complying with the estate tax. For those of us who put together an estate plan, we must continue to spend money on lawyers and accountants to make sure that plan is compliant with the law. But what about those who do not have an estate plan? What if the death in the family was sudden and unexpected and they could not have planned for it? How much will they have to spend on lawyers and accountants? Unfortunately, all too often at the time of death, farming and ranching families are forced to lay off employees, sell off land, farm equipment, parts of the operation or the entire ranch to pay off tax liabilities. Even with an estate plan it can take years to transfer assets which will incur unanticipated costs to the family—implementing asset transfer it is not free. In most cases, these assets have already been taxed at the federal, state, and local levels many times over the course of a lifetime.

As someone who has been on the negative end of the death tax, I would like to know what, if any, are the positive benefits of the death tax? When faced with the death tax I am no longer thinking about how I can grow my business and hire more employees. No, I am focused on whether I need to liquidate assets to control loss. I would rather focus on expanding my herd and re-investing in my community by creating jobs. I would like to know if the Government of the United States is more interested in farmers and ranchers spending time and money on complying with the death tax or creating more jobs.

Some in Washington may see the death tax as a minor inconvenience for the wealthy, something that does not deserve attention. The truth is, when the death tax lands on your doorstep, it is a very big deal. The death tax impacts more than just the family, it affects the employees of the impacted business and the other local businesses who are losing customers. The death tax has a

ripple effect that impacts local economies for many years and many times the damage cannot be undone. This is not a tax on the wealthy elite in America. It's a death warrant for far too many family businesses.

For decades, NCBA has fought for full and permanent repeal of the estate tax and we will continue to do so until permanent repeal is achieved. NCBA strongly supports the *Death Tax Repeal Act of 2015* and we urge all Members of Congress to support the full and final repeal of the death tax. I thank you for this opportunity and hope my comments have shed light on the truth about the death tax.

Sincerely,

Robert E. McKnight  
Fort Davis, Texas

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Chairman REICHERT. Thank you, Mr. McKnight.  
Ms. Madonia, you are recognized for five minutes.

**STATEMENT OF KAREN MADONIA, CHIEF FINANCIAL  
OFFICER, ILLCO, INCORPORATED**

Ms. MADONIA. Chairman Reichert, Ranking Member Neal, and Members of the Subcommittee on Select Revenue Measures—my name is Karen Madonia, and I am the chief financial officer of Illco, a Chicago-area distributor of heating, ventilation, air conditioning, and refrigeration equipment parts and supplies. Thank you for giving me the opportunity to talk about the estate tax and its effect on family businesses.

As background, Illco was a very small company when my dad bought it in 1973. At that time he was 32 years old with a wife, 3 daughters, and a mortgage, but he knew he wanted more than just a job. He wanted to create something permanent, to be in control of his own destiny. With help from my grandfather, my dad took a risk and went into business for himself. In those early years he worked every job at the company, 7 days a week, 10 to 12 hours a day. But his passion for the industry, his commitment to his employees, and his drive to grow his company kept him pushing forward. And 40 years later, he has a business that employs 97 people in 3 states, and generates \$42 million in revenue.

My sisters and I grew up understanding that if we wanted to be successful at anything, we had to work hard and stay focused on our goals. We are proud to work alongside our dad now, and look forward to making our own mark on the family business in the coming years. There is also a generation behind us just beginning to consider career options. Perhaps some of them will join us; that is certainly my hope. But after years of listening to us struggle to figure out how to grow the business while navigating the estate tax waters, I imagine all of them will think twice before making that leap.

Proponents of the estate tax will tell you that it prevents the concentrated accumulation of wealth in our country. They will tell you that our nation needs to increase taxes on the wealthy, because they need to pay their fair share. On the surface, that is a pretty safe argument to make. It is easy to say the solution to our fiscal

issues is to increase the burden on those who can afford it the most. But what is fair about paying taxes your whole life, only to have to pay even more at death, simply because you are leaving a business behind?

What is always overlooked is the effect of the estate tax on the family business. In most cases, we are not talking about passing on bank accounts with multi-million-dollar balances. We are talking about businesses where most of the net worth is tied up in inventory, accounts receivable, equipment, and real estate.

At Ilco, for example, we carry an inventory valued at \$12 million and an accounts receivable of about 5 million. Our inventory has to be high. We provide vital heating, cooling, and refrigeration parts and supplies to hospitals, schools, nursing homes, and grocery stores. And when that equipment breaks down, it needs to be fixed immediately.

After paying our taxes and making our annual profit-sharing contribution, the income that is left is put back into the company so we can continue to carry an extensive inventory, extend payment terms to our customers, and maintain our fleet and our buildings. If something happened to my dad, and we were left with a large estate tax bill, we would have to choose between shutting down branches, laying off workers, or liquidating inventory, just to be able to pay a tax bill that only occurred because an owner died.

Over the last few years, my dad has spent countless hours and entirely too much money trying to figure out how his company can outlive him. Instead of focusing on growing his business, he has had to strategize about how to pass his company on to his kids without having to dismantle it. Most of our strategic management decisions, whether they are about day-to-day operations or opportunities to expand, involve consideration of the estate tax in one way or another.

We have opted to maintain a large cash reserve as a precaution. Other companies choose to protect themselves by purchasing insurance. Either way, money that could be used to grow and create jobs is sitting on the sidelines. The estate tax is a huge road block to successful family businesses undergoing generational transfers. Think about that: Perhaps the greatest challenge in transitioning a business from one generation to the next is our own Tax Code.

Small business owners take huge risks at great personal sacrifice, and they truly are the backbone of the American economy. No one is asking for it to be easy. In fact, my dad would probably be the first one to tell you that overcoming the challenges is probably the most rewarding part of owning your own business. But it shouldn't be the case that the thing that keeps you up at night is the worry that you may leave your kids with a huge tax burden when you die.

I believe that most people would be proponents of an overhaul to our Tax Code. There probably are too many exemptions and loopholes that only upper-income taxpayers can take advantage of, and those topics are worthy of a national conversation. But taxing the estates of successful entrepreneurs is punitive, and that is not the role our Tax Code should play.

Two years ago, when Congress last addressed the issue of the estate tax, you gave the small business community some certainty by

establishing an exemption and indexing it to inflation. While we still maintained that full repeal was the right answer, we appreciated that you understood that constantly changing the rules made it impossible for us to properly plan for the future of our businesses. I respectfully ask that you again carefully consider all the ramifications of estate tax policy, and then vote once and for all to permanently repeal the estate tax.

It is time to encourage families to create wealth by starting their own businesses, not threaten to take it away from them if the government thinks they have accumulated too much.

Thank you for the opportunity to share my family story with you.  
[The prepared statement of Ms. Madonia follows:]

Testimony of

Karen Madonia

Chief Financial Officer  
ILLCO, Inc. Aurora, IL

On Behalf of

Heating, Air-Conditioning and Refrigeration Distributors International  
(HARDI)



Submitted to the  
Subcommittee on Select Revenue Measures

Hearing on the  
Burden of the Estate Tax on Family Businesses and Farms

B-318 Rayburn House Office Building  
March 18, 2015

Chairman Reichert, Ranking Member Neal and Members of the Subcommittee on Select Revenue Measures, my name is Karen Madonia, and I am the Chief Financial Officer and next generation of Illco, Inc., a Chicago-area distributor of heating, ventilation, air-conditioning and refrigeration equipment, parts and supplies. Thank you for giving me the opportunity to talk about the estate tax and its effect on the many small family businesses that comprise the United States economy. This is an issue that is very close to my heart as my family is in the midst of our own generational transfer.

Let me provide you with some background: Illco was a very small company with only seven employees when my father purchased it back in 1973. At that time, my dad was only 32 years old, with a wife, three daughters and a mortgage, but he knew he wanted something more than just a job. He wanted to use his passion to create something permanent, to be in control of his own destiny. With help from my grandfather, my dad decided to take a risk and go into business for himself. A community bank took my grandfather's assets, my dad's assets and a guarantee from a vendor as collateral for a \$340,000 loan to purchase the company.

In those early years, my dad worked every job at Illco. During the day, he went to see customers and secure orders, then went back to the warehouse to pull and package them. The next day, he would make deliveries using my mom's station wagon before visiting more customers and taking more orders. Eventually, he was able to buy a truck and hire a driver, which left the station wagon free for my mom to pick up merchandise from Illco vendors while my sisters and I were at school. After the doors closed at 5:00, my dad would go to his office to perform both the accounts payable and accounts receivable functions. Every bit of profit he made got funneled back into the company so he could hire more people, buy more trucks and expand his inventory. My dad worked seven days a week, and most nights he did not get home until long after most people had finished their dinners. He had to give up any hobbies which took too much time away from his business, and our family vacations were mostly extended weekends because a week was simply too long for him to be away. Many weekends were spent entertaining customers, mostly over home-cooked meals, because that was the only way my parents could afford to wine and dine the people that were so necessary to the success of the business. But my dad's passion for the industry, his commitment to his employees, and his drive to grow his company empowered him to keep pushing even when interest rates hovered in the high teens during the late 1970's and early 1980's and things looked pretty ominous. Forty years later, he has a business with eight branches in three states, 97 employees and \$42,000,000 in revenue.

My sisters and I grew up understanding that if we wanted to be successful at anything, we had to work hard and stay focused on our goals. We are all proud to work alongside our dad now, and look forward to making our own mark on the family business in the coming years. There is also a generation behind us that is just beginning to consider career options. Perhaps some of them will join us...that is certainly my hope. But after years of listening to us struggle to figure out how to grow the business while navigating the estate tax waters, I imagine that all of them will think twice before making that leap.

For the last few years, I have come to Washington with our trade association, HARDI, to talk to Members of the House and Senate about the issues that are important to our companies and our industry. Every year, estate tax is on the top of my list of topics to discuss. I personally find it

fundamentally wrong to place a tax on death. If a person accumulates wealth through hard work, and if that person pays his fair share of taxes on income as it is earned, I do not understand how the government can justify taking a significant portion of what he has left simply because he opted to save and re-invest rather than consume. The United States has already benefited from that person's success because he has employed people who pay taxes, bought buildings on which he has paid property taxes and bought inventory and supplies from other companies, which can then afford to employ more people who pay taxes. He has created opportunity for the community as a whole while creating prosperity for himself. We all benefit when a small businessperson succeeds. To me, and probably to a large portion of the generation behind me, the estate tax serves as a tremendous entrepreneurial disincentive. Why work hard to build something substantial if it is likely to die when you do? Why not be just another worker, make enough money to live comfortably, and not worry about generating any more wealth than that? If even a small percentage of potential entrepreneurs decide not to turn their dreams into viable businesses because our tax policy discourages them from doing so, haven't we done a great disservice to our economy?

Proponents of the estate tax will tell you it prevents the concentrated accumulation of wealth in our country. They'll tell you that our nation needs to increase taxes on the "wealthy" because they need to pay their "fair share". On the surface, that's a pretty safe argument to make. It's easy to say the solution to our fiscal issues is to increase the burden on those who can afford it the most. But what's fair about paying taxes your whole life only to have to pay even more at death simply because you're leaving a business behind? What is always overlooked in these discussions is the effect of the estate tax on the small family business. In most cases, we're not talking about passing on bank accounts with multi-million dollar balances. We're talking about businesses where most of the net worth is tied up in inventory, accounts receivable, equipment and real estate. At Illco, for example, we carry an inventory valued at \$12,000,000 and accounts receivable of about \$5,000,000. Our inventory has to be high – we provide vital heating, air-conditioning and refrigeration parts and supplies to hospitals, schools, nursing homes and grocery stores. When the refrigeration system in a grocery store goes down, it needs to be repaired within hours or the food is lost. When the air conditioning system in a hospital doesn't work, patients cannot be appropriately cared for until air is circulating again. The parts and supplies that we sell must be on hand in order to facilitate quick repairs and replacements, which means that we must carry a heavy inventory. We also own five buildings and operate a fleet of twenty-four trucks, some of which cost upwards of \$250,000. After paying our taxes and making our annual profit sharing contribution to our employees, the income that's left is put right back into the company so we can continue to carry an extensive inventory, extend payment terms to our customers and maintain our fleet and our buildings. If something happened to my dad and we were left with a large estate tax bill, we would literally have to sell parts of the company in order to pay it. That would likely mean shutting down branches, laying off workers or liquidating inventory just to be able to pay a tax bill that only occurred because an owner died. Even worse, our company might have to be sold outright, which would likely mean that instead of our employees being part of our small business family, they would become part of a larger company that is beholden to Wall Street. That would not benefit them, and I would argue that it wouldn't benefit the economy as a whole either. Small businesses employ over half of the nation's private sector workforce and create the vast majority of new jobs. With our economy in a relatively slow recovery, government should be encouraging us to grow and prosper. Instead, worry over the estate tax

forces us to spend too much time and money focusing on things that have nothing to do with our businesses.

Over the last few years, my dad has spent countless hours and entirely too much money trying to figure out how his company can outlive him. Instead of focusing on growing his business so he can open more branches and employ more people, he has had to strategize about how to pass his company on to his kids without having to dismantle it. Most of our strategic management decisions, whether they are about day-to-day operations or opportunities to expand, involve consideration of the estate tax in one way or another. We have opted to maintain a large cash reserve as a precaution. Other companies choose to protect themselves by purchasing insurance. Either way, money that could be used to grow and create jobs is sitting on the sidelines. The estate tax is a huge roadblock to successful family businesses undergoing generational transfers. Think about that...perhaps the greatest challenge in transitioning a business from one generation to the next is our own tax code.

The United States has always been the land of opportunity. Small business owners take tremendous risk at great personal sacrifice, and they truly are the backbone of the American economy. No one is asking for it to be easy. In fact, my dad would probably be the first to tell you that working to overcome the challenges is the most rewarding part of owning your own business. But it shouldn't be the case that the thing that keeps you up at night is the worry that you may leave your kids with a huge tax burden when you die. I believe that most people would be proponents of an overhaul to our tax code. There probably are too many exemptions and loopholes that only upper income people can take advantage of, and those topics are worthy of a national conversation. But taxing the estates of successful entrepreneurs is punitive, and that is not the role that our tax code should play.

Two years ago, when Congress last addressed the issue of the estate tax, you gave the small business community some certainty by establishing an exemption and indexing it to inflation. While we still maintained that full repeal was the right answer, we appreciated that you understood that changing the rules on us every year made it impossible for us to properly plan for the future of our businesses. I respectfully ask that you again carefully consider all the ramifications of estate tax policy and then vote, once and for all, to permanently repeal the estate tax. Let's encourage families to create wealth by starting their own businesses, not threaten to take it away from them if the government thinks they have accumulated too much. Let's unleash the potential of those citizens willing to work hard and create something that will benefit all of us, not discourage their ambition through our tax code.

Thank you for the opportunity to share my family story with you. I would be happy to answer any questions that you may have.

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Chairman REICHERT. Thank you, Ms. Madonia.  
Ms. Madoff, you are recognized for five minutes.

**STATEMENT OF RAY MADOFF, PROFESSOR,  
BOSTON COLLEGE LAW SCHOOL**

Ms. MADOFF. Thank you. Chairman Reichert, Ranking Member Neal, Members of the Subcommittee, my name is Ray Madoff, and I am a professor at Boston College Law School, specializing in estate planning and tax policy. Thank you for inviting me to testify today, and for holding this hearing.

In my comments today, I would like to start by briefly addressing the family farm and business issue, and then take the bulk of my time to talk about the important role of the estate tax, and the serious costs of repeal.

As other witnesses have testified this morning, family farms and businesses are an important part of our society. And I believe that we should do what we can to protect them. We have some protec-



tions in place already. We have a large, \$10 million exemption and provisions allowing taxes to be paid over 15 years. But if these are not sufficient, Congress should address the situation with targeted solutions.

There are two possibilities that are pretty easy: one would be to lift the cap from Section 2032(a), allowing special valuation for land would help our farmers here; or, revive Section 2057, but instead, provide an unlimited exemption for family businesses and farms, insofar as they are operated by family members. We have the statutes in place; we can easily enact them.

However, over 90 percent of the assets subject to the estate tax are assets other than closely-held businesses. And the family farm and business issue should not serve as a decoy to hide the true beneficiaries of estate tax repeal, especially given the value of the estate tax and the cost of repeal.

The estate tax plays a critical role, in terms of promoting fairness in our tax system, because it provides a counter-weight to the extraordinary income tax benefits given to those with inherited wealth. Our income tax system favors taxpayers with inherited wealth in two important ways.

First, inherited income is entirely excluded from the income tax system. A person who inherits \$100,000 or \$100 million is treated the same for tax purposes as a person who inherits nothing. This failure to tax inherited income is particularly glaring, in comparison to the taxes imposed on workers, who are subject to income taxes of up to 39.6 percent, and payroll taxes of up to 15.3 percent. Because of this difference, a construction worker who earns \$60,000 after taxes gets less than \$44,000. But if another individual inherits \$60,000, she gets to enjoy that \$60,000 entirely undiminished by taxes.

Second, those who inherit wealth also get to avoid capital gains taxes due to the step-up in basis at death. Consider the case of a person who had invested \$20,000 in Apple stock in the 1980s. If that person died in 2015, the stock would be worth over \$4 million at the time of death. But, under our current income tax system, no one will ever pay taxes on that \$4 million of gain. This extraordinary benefit is only afforded those who obtain property by inheritance, not by any other way.

The estate tax also provides a valuable source of revenue for the government. While some say it isn't very much, there is still a lot that can be done with \$270 billion over 10 years, including things like fully funding school nutrition programs, which would provide nutritious meals to 31 million children a day, or funding the program for free community college tuition that would benefit more than 9 million students, which could be funded 5 times over with this money. Even if the goal is to reduce the size of government, surely there are other taxpayers more in need of a tax break than the heirs of fortunes of over \$10 million.

In addition to the cost of foregone revenue, the repeal of the estate tax would impose other burdens as well. Most importantly, it would increase wealth inequality, as the financial benefit of repeal would flow to America's wealthiest families.

Moreover, these families are likely to hold on to the wealth, as estate planners have perfected the art of protecting inherited wealth in perpetuity, through the creation of dynasty trusts.

Wealth inequality is not just a product of the market, but it is significantly affected by the government policies, especially tax policies, that allocate societal resources. Over the course of much of the 20th century, these policies resulted in a strengthening of the middle class. However, since the 1980s, wealth inequality has grown considerably, particularly among those who would most benefit from estate tax repeal: the wealthiest one-tenth of one percent of the population. In 2010—in 2012, that tiny sliver of Americans, those with \$20 million or more, owned the same amount of wealth as that which is owned by 90 percent of the population. Estate tax repeal would exacerbate this concentration of wealth.

Wealth inequality threatens democracy. Both Thomas Jefferson and John Adams expressed their concern about the risk to democracy that could result from extreme wealth inequality.

Wealth inequality also hurts the economy. Studies persistently show that high concentrations of wealth correlate with poor economic performance.

Finally, repeal of the estate tax could have a devastating impact on our charitable sector. We count on our charitable sector to finance education, health care, scientific research, art, the social safety net. And the estate tax charitable deduction encourages charitable giving. And though the result would not be intended, it is quite likely that repeal of the estate tax would reduce charitable giving. Though it is difficult to quantify this impact, even a small reduction in charitable giving could prove devastating to the sector, and to the individuals that it serves.

Thank you again for inviting me to testify today. I am happy to answer any questions that you might have. And I hope that my comments are helpful to the committee as it considers this very important issue.

Chairman REICHERT. Thank you, Professor, for your testimony. Thank you all for your testimony. And I am sure Members of the Subcommittee have a few questions for you. And I will begin with Ms. Madonia.

You have highlighted several elements of your business that make estate planning difficult, including inventories and the capital-intensive nature of your business. Is this typical for businesses in your industry?

Ms. MADONIA. Yes, very typical. I mentioned in my testimony that we—

Chairman REICHERT. Microphone.

Ms. MADONIA [continuing]. I am sorry. The parts that we sell—refrigeration, heating, air conditioning—if a refrigeration unit goes out in a grocery store, you have a limited amount of time before that food is lost. If the air conditioning system goes out in a hospital, you got to get that up and running pretty quick, so that patients can be taken care of.

So, we have to carry a pretty heavy inventory. When customers come in to buy something, we have to have it on the shelf, so they can walk out the door with it. And then there are trucks, buildings,

and warehouse equipment—there is a huge capital investment in our industry, yes.

Chairman REICHERT. Would you say that the death tax is a general concern for those businesses that do similar work that you do?

Ms. MADONIA. Absolutely. We—

Mr. THOMPSON. Estate tax. It's not the death tax. It's the estate tax.

Chairman REICHERT. Pardon me? Estate tax, yes, I am sorry.

Ms. MADONIA [continuing]. Yes. We come to Washington every year with our trade association, and this is always the first issue because it is an industry made up of a lot of small family businesses. And, yes, it is top on our list every year.

Chairman REICHERT. What is the membership of your association?

Ms. MADONIA. It is Heating, Air-Conditioning and Refrigeration Distributors, and there are between 450 and 500 members.

Chairman REICHERT. Okay, thank you. Mr. Whitt, it appears from your testimony that Batey Farms is facing several pressures that are changing how you farm, including increasing land values due to expansion of Nashville. Would you say that Batey Farms is typical, in having to struggle with increasing land values, and the changing nature of farming?

Mr. WHITT. Absolutely, Chairman Reichert. You know, we are, fortunately, on the outskirts of urban life, which provide many opportunities for our farm to connect consumers to agriculture today. Unfortunately, that comes with an extremely large increase in land value.

Sure, it would be great to sell out and move somewhere else, and go buy 10 times the land, but that was never our intent to do so. We want to have that connection in our own personal community to share our story, to provide agriculture to our community. I don't see—you know, estate tax in our case is going to be a huge problem for us, because of that increase in land value over the last several years.

Chairman REICHERT. You touched on this in your testimony, but again I will give you an opportunity to sort of amplify your answer a little bit. Is this driving an even greater concern about the death tax than in years past for American farmers?

Mr. WHITT. Absolutely.

Chairman REICHERT. And—

Mr. WHITT. As land value—not only our personal farm, but land values in general continue to increase. So our question is, you know, when and if things happen to that family member now, what is going to happen? Because that death, what kind of bill are we going to be facing because of the death? And are we going to be able to hold on to that business?

You know, unfortunately, the only value we have is in land. I can assure you that my investment into my community through my expenses far outweighs my accumulation of wealth that I accumulate on my farm.

Chairman REICHERT [continuing]. Okay, thank you.

Mr. McKnight, you said in your testimony that you are a seventh-generation rancher. Is that common among ranchers, to have that kind of a history?

Mr. McKNIGHT. In lots of Texas and across the country, yes. These are old ranches that have been put together through a lot of hard work, and it is generations just adding to it and adding to it. And you get to a point to where the death tax—estate tax, I am sorry—can be very tough. But, yes, these ranches weren't put together in a day. It is generations of hard work.

Chairman REICHERT. And you know a lot of these seventh-generation, fifth-generation—

Mr. McKNIGHT. Seven is a long time. I know multi-generational families, yes—

Chairman REICHERT [continuing]. Multi-generational families—

Mr. McKNIGHT [continuing]. Three, four, five, yes, absolutely.

Chairman REICHERT [continuing]. Would you say that the pressures you are facing are typical for ranchers across the United States?

Mr. McKNIGHT. Absolutely.

Chairman REICHERT. And is the death tax a constant source of concern?

Mr. McKNIGHT. Absolutely. Yes, sir.

Chairman REICHERT. Mr. Neal, you are recognized.

Mr. NEAL. Thank you, Mr. Chairman. Professor Madoff, some have argued that Congress should repeal the estate tax because it serves as a double tax on income. Could you shed some light on that argument?

Ms. MADOFF. Yes. I think the double tax argument is one of the real misunderstandings about how the tax system works.

There are three things that are important to recognize. First of all, the bulk of assets that pass at death have never been subject to tax, because they are appreciated capital assets. And, due to the step up in basis at death that I talked about earlier, that wealth has never been taxed.

In addition, double taxation doesn't really capture anything, because there is no principle that money that has been taxed to one person shouldn't be taxed to another person. If I earn money and I pay taxes on it, and then I pay money to my mechanic for fixing my car, my mechanic can't say, "Hey, that income has already been taxed when Madoff earned it." Each taxpayer has to pay taxes.

In addition, taxpayers often pay taxes, multiple types of taxes. You pay income taxes, payroll taxes, sales taxes, property taxes. There is no principle of double taxation, avoiding double taxation, in the tax system.

Mr. NEAL. Mr. Whitt, based on your testimony, if we were able to find a way to address the land issue that you have spoken to specifically, would that satisfy the notion that we could accommodate you without repealing the entire estate tax?

Mr. WHITT. Well, I believe, unfortunately, then, in some cases, yes, it could. But I think, when we look at the difference between farms and small businesses all across this country, where do we set that limit, there is always going to be winners and losers in that case. And, without full repeal, I don't see how we can be fair to

McKnight and unfair to me, just because of the differences in our businesses.

Mr. NEAL. I would say that that is the nature of the tax system, though. There are winners and losers in the tax system. I think we all subscribe to that basic premise, that, as you try to shift the Tax Code around, that it is like squeezing toothpaste with the cap on.

Mr. WHITT. Well, I don't understand why he should have to sell part of his business, just because he is over an exemption. Why should he have to sell his business? It is as detrimental to him to sell part of his business, just because he is over a limit and I am under.

Mr. NEAL. Okay. Now, just a reminder of what this Committee has done, the full Ways and Means Committee has done, now, just—and it is March. We have already proposed, over the objections of some of us, \$317 billion in tax cuts, unpaid for. And the proposal here, if this were to take place, would add \$270 more billion dollars to tax cuts, unpaid for. So, that means that this Committee, in full, well into early April, before tax-filing season, will have proposed \$587 billion worth of tax cuts that are unpaid for.

Now, let me tie that to this argument. That means that we will be proposing \$587 billion in tax cuts, and only \$567 billion of defense spending. So the same people that will argue here we should increase defense spending, including the President, will simultaneously argue that we should cut taxes by \$587 billion. And I would submit, as good as the arguments are that you have all made this morning, there isn't anybody here who could run a family farm or business based upon the premise that has been offered by this Committee.

So, part of this is messaging that you are hearing today, and I understand that. People make arguments, and you want to, obviously, get those arguments to conform to a policy at some position. But we should not miss the fundamental point that these tax cuts, if they were to be put in place, mean that somebody else has to pay. Because, as Mr. Whitt has correctly noted, as you move the items around in the Tax Code, then there are those that will pay, and there are those that will pay less.

The argument that most of us hold today is that we should not remove the estate tax for the wealthiest Americans, based upon this notion that, by proffering some relief to the small family farmer, who has a legitimate argument here today, that we should cut taxes for Paris Hilton.

Chairman REICHERT. Thank you, Mr. Neal. Mr. Tiberi, you are recognized.

Mr. TIBERI. Thank you, Mr. Chairman. Great testimony. Wow. Mr. Neal, I love you, because you——

Mr. NEAL. I will be able to put that on my campaign brochure. [Laughter.]

Mr. TIBERI [continuing]. Well, you might not want to. And the reason why is because he is trying to come to yes, in terms of trying to fix the problem, except for the end of your statement, with respect to tax cuts, in all due respect, from my perspective, because we can, in this place, not pay for a trillion-dollar spending bill, but then we have to pay for tax cuts.

My dad—you love it when I talk about my dad, don't you? My dad, when I was 16 years old, first job at McDonald's, said, "We have a crazy tax system." Sixth-grade education, immigrant to America. "You get taxed when you earn it, you get taxed when you save it, which is crazy"—this is my immigrant father—"because it discourages you from saving, and then you get taxed when you die, if you happen to save it, and try to invest it, and try to get a nest egg for your family."

Mr. NEAL. Would—

Mr. TIBERI. The debate that we have—

Mr. NEAL [continuing]. Would the gentleman yield?

Mr. TIBERI [continuing]. at the end of my statement, I would be happy to. But the debate that we just heard is fabulous, because it is like a debate that I have with my friends who run conservative or liberal think tanks. You have got reality, and you have got theory.

And what I loved about the three of your testimonies, who are living in the real world today, is that you are dealing with this today. It is not theory. And you are not living Warren Buffett's life. You are not living Bill Gates's life. You are living a life, and your statement about your father was awesome, awesome. Because what is so great about America is that my mom and dad taught me that with hard work and a little luck and a little bit of elbow grease, you can actually accomplish something in America.

The Tax Code often times makes really weird—or makes people make weird choices, and it does create winners and losers. But the reality is—I have talked to people in Central Ohio—because of this Tax Code, they spend so much time trying to think—and money.

I had a guy tell me, second-generation trying to become a third-generation family-owned car dealership, \$50 million in inventory on his lot. He doesn't have a private jet; he doesn't have Warren Buffett's issues. He is trying to run a business, trying to hire more employees, trying to pass a business on to his son, and he is spending more time and money—that he could otherwise use to hire more people—trying to make sure the business doesn't have to be sold if he dies, or when he dies, which is what you all said.

So, I appreciate the fact that we are trying to figure out the family farm. But with all due respect to the two of you, it is more than the family farm. It is that third-generation business.

I talked to a business guy who sold his business to his employees, which I think is great, by the way—ESOP, great in Ohio, great in Minnesota, you support it. But one of the reasons why he did it was because of the estate tax law. But this is before we passed the \$5 million exemption. And his son is still involved in the business, and so is his daughter, but they are no longer the owners. They are part of the ownership team. But that was a decision made, in part, because of our tax law.

So, I appreciate the fact that you three came here and testified today, and really, really applaud you. This is hard. And this place—it is hard to get things done. But you represent why I believe Mr. Brady's legislation is the right thing to do.

Ms. Madonia, can you just go into one other issue, or expand on it? In terms of the subject of the death tax, and the exemptions that you talked about, can you go into that a little bit further?

Ms. MADONIA. Yes. We spent a lot of time in our family talking about the estate tax, and we have got this generation of kids. There are eight—my dad has eight grandchildren, and several of them are in school or have graduated from school with business degrees with some hopes, I hope, of coming to work for us. But this is an issue that we have talked about around our family tables for years, trying to—where my dad has been trying to figure out the best way for him to continue to grow the company and still preserve it for us.

We watched him our whole lives, we watched my dad work, you know, 10 to 12 hours a day, literally. He would—when he first bought the business, he would make the deliveries, and he would work the counter. At 5:00 he would go into his office and do receivables and payables. He did all of it. And we watched him struggle through all that. And to watch him try and figure out how he can pass it on to us, and let us make our mark on it without having to dismantle part of it is, really, just heartbreaking.

Mr. TIBERI. Thank you.

Chairman REICHERT. Thank you, Mr. Tiberi. Ms. Sánchez, you get to follow Mr. Tiberi.

Ms. SANCHEZ. Thank you, Mr. Chairman, and thank you to all of our witnesses for joining us here today.

The estate tax was originally instituted to ensure that the very wealthiest families, those who have benefitted from the greatness of this country, and the opportunities available in the economy, could contribute back to that system, so that others would also have those opportunities and chances to succeed. And, over time, Congress has whittled away much of the fairness that was in that system. So much so that, now, 99.85 percent of estates—99.85 percent of estates—are now exempt from paying any estate tax, whatsoever.

If the existing exemptions and special provisions for family farms and true small businesses aren't enough right now, then let's specifically look at that. Because I am willing to work on that. I heard your testimony; I very much sympathize with your testimony. I understand the desire to keep things running in a family business. I get that, I get the hardships that you guys encounter. But let's not throw the entire baby out with the bath water and say we are going to eliminate the estate tax, all together.

This nation was founded on the principles that if you work hard and you put your sweat equity into something, everybody has an opportunity to earn their wealth, their status, and their privilege. We don't believe in an aristocracy, or that it is a good societal thing for dynasties to hoard their wealth and leave the rest to fight over the crumbs. That is just not how this country was founded.

But we have a paradox here in this country, where we think you should work hard to get where you are because work, by its very nature, and being productive, is very good. But, by the same token, everybody wants to make enough money to where they can retire and not have to work. And they want to preserve increasingly larger and larger chunks of their wealth. And that is why I am a little bit baffled why this Subcommittee is focusing on our time on how we can be doing more, quite frankly, for that last .15 percent of Americans.

But, you know, maybe I shouldn't be that surprised. After all, we have seen proposals in the federal budget that gut anti-poverty programs affecting the most vulnerable in our society, seniors, children, and people with disabilities.

And there has been a long debate—we have had several debates in the preceding two congresses—over means testing eligibility for a variety of programs that help poor and low-income families. We all agree that our federal dollars are valuable, they are scarce. And means testing can be a tool in helping to make sure that federal dollars are being spent in the most efficient way, and targeted to the populations that are truly deserving and most in need.

But one of the more recent Republican priorities has been a drug test as a precursor to some of these means-tested programs. Drug testing is an irrelevant requirement with respect to whether or not a person is poor enough to qualify for help in feeding her family, and yet they want to add those additional burdens on to folks that need help the most. And that is done under the guise of protecting the integrity of those programs, as a way to weed out those who are truly deserving from that benefit, and those who aren't. And, again, that is the issue of drug testing.

I find it interesting that some of those same rules don't apply to the scarce federal dollars that are being talked about today to be used for additional tax cuts, again, for people who are not just scraping to get by. And one current example is—you know, I am a working mom—a single mother who works to make ends meet. Why is it that she should be drug tested—which is an unrelated requirement—to receive assistance, food assistance, to make sure that her family has enough to eat, and people who are lucky enough to inherit millions of dollars are literally required to do nothing to get the federal tax benefit with their inheritance?

So, my first question is for Professor Madoff. You are an expert—I am sorry. You are an expert on estate tax law, and you write the legal practice guides that most estate planners use in order to do estate planning. What work requirements are there to inherit up to \$10 million tax-free?

Ms. MADOFF. There are no requirements to get that benefit under the law. We have a preference in our tax system for inherited wealth over wealth earned by wages, so that somebody who inherits 10 million pays no inheritance taxes, they pay no income taxes. They pay no payroll taxes.

And, moreover, they don't even have to tell the Federal Government that they have received \$10 million. The government seems not to be interested in those flows of wealth, even if that were to come from a distant relative, you know, money lands on your lap—lucky you, you get it. It is the only income that we don't subject to tax. It is, you know, very—we have a very broad definition of income, and it is very odd that we just give inherited wealth a free pass. And if we repeal the estate tax, then it is completely free—it makes no sense at all.

Ms. SANCHEZ. Professor Madoff, is there any really good—if I could just ask this question, and I will take the answer in writing—is there really any good policy reason for a bias that is in favor of inherited wealth, versus the wealth that an individual accumulates through their own hard work and sweat and tears?



Ms. MADOFF. I don't think so.

Ms. SANCHEZ. Thank you. I yield——

[The prepared statement of Ms. Madoff follows:]

**Written Testimony of Ray D. Madoff<sup>1</sup>**  
**Before the Select Revenue Measures Subcommittee**  
**Hearing on the Burden of the Estate Tax on Family Businesses and Farms**  
**March 18, 2015**

Chairman Reichert, Ranking Member Neal, Members of the Subcommittee, thank you for inviting me to testify today and for holding this hearing. My testimony today will focus on (1) the importance of the estate tax, particularly in supporting the fairness of our tax system and (2) the significant societal costs that would result from repeal of the estate tax.

As an introductory matter, it is important to keep in mind that, in one form or another, the estate tax has been with us since this country's earliest days. The first estate tax was enacted in 1797, long before the income tax. Our modern estate tax was enacted in 1916, a mere three years after the enactment of the income tax.<sup>2</sup> Any tax that has stood the test of time for so long should not be repealed without due attention to the role that it plays in our society, and the negative repercussions that could result from its repeal.

**The Importance of the Estate Tax**

The estate tax plays an essential role in our tax system because (1) it promotes fairness in the tax system; and (2) it provides an important source of revenue for the government.

**Promoting Fairness.** The estate tax promotes fairness by providing an essential counterweight to the extraordinary benefits conferred on inherited wealth under our income tax system. Our current income tax system favors inherited wealth in two significant ways:

First, inherited wealth is entirely excluded from income taxes. No matter how much wealth an individual inherits, whether it is \$100, \$100,000 or \$100 million, she is treated the same for income tax purposes as a person who inherits nothing.<sup>3</sup> The failure to tax inherited wealth is particularly glaring in comparison to the taxes imposed on wages of working Americans, who are subject to income taxes of up to 39.6% and payroll taxes of up to 15.3%.

For example, a self-employed construction worker earning \$60,000 a year building bridges, will owe federal income taxes of \$7,159 and self-employment taxes of \$8,468, resulting in a take home pay of only \$44,363 (and for many taxpayers this will be further reduced by several thousand dollars of state income taxes.) By contrast, a person who inherits \$60,000—even from a distant relative-- will enjoy the full \$60,000 undiminished by taxes.<sup>4</sup> This decision to exclude inheritance from the income tax base while subjecting wages to taxes imposed at the highest tax rates, effectively shifts the tax burden from heirs to wage earners.

Second, those with inherited wealth enjoy special benefits with respect to taxation from sales of property. Normally, when an individual sells property, she is subject to tax on the difference between the amount she receives from the sale and the purchase price (called "basis"). If the property is passed on by gift, the recipient has the same basis in the property that the donor had (thus passing on any built-in gains to the recipient.) However, there is a special basis rule that applies to property passed on at death: in that case, the heir receives the property with a basis equal to the fair market value of the property at the time of the decedent's death (called "stepped-up basis.") The effect of stepped-up basis is that an heir can sell inherited property and pay no capital gains taxes, even if the decedent had significant untaxed built-in gains at the time of death.

Thus, if a decedent had invested \$20,000 in Apple stock in the 1980's, and died in 2015 the stock would be worth well over \$4 million at the time of death. But neither the decedent nor the decedent's heir would ever pay tax on that \$4 million of gain since death is not a taxable event under the U.S. income tax law and the heir would receive the stock as if he had purchased it for its \$4 million fair market value. Since this amount is less than the unified credit exemption amount for estate tax purposes, it is quite likely that this transfer will avoid estate taxes as well. Thus, the heir receives over \$4 million tax-free and no one ever pays taxes on the \$4 million of inherent capital gain.

This rule not only unfairly benefits heirs, but also interferes with the efficiency of the market by creating a lock-in effect. Owners are reluctant to sell capital assets because to do so would be to incur capital gains taxes that could be avoided simply by holding on to the property until death. If the owner needs access to funds during life, she can obtain that access in a tax-free way by simply borrowing against the assets. This ability to avoid capital gains taxes through borrowing is so well known that the simple advice to "buy, borrow and die" is referred to by one tax scholar as "Tax Planning 101."<sup>5</sup>

The preferential treatment of inherited wealth under the income tax system is often justified under the theory that property passed on at death is subject to estate taxes. Indeed, the relationship between the income tax benefits and the estate tax are so intertwined that if Congress were to repeal the estate tax, fairness would dictate that it should only do so only in conjunction with significantly restricting the benefits for inherited wealth provided under the income tax system.

**Raising Revenue:** In addition to promoting fairness, estate taxes provide an important source of revenue for the federal government. This revenue pays for valuable programs and allows the government to reduce the tax burden on other taxpayers. According to the most recent estimates, the estate tax will generate about \$294 billion over the next 10 years. While this amount is small in relation to the amount raised by the income tax, it would still be enough to finance 100% of school nutrition programs which provide nutritious meals to 31 million children every day

for 10 years; or it could finance free community college tuition for more than 9 million students over 10 years, 5 times over. Alternatively, these funds could be used to reduce corporate tax rates, which some say have put U.S. companies at a competitive disadvantage and encouraged some companies to go abroad.

One reason for the relatively small amount of income generated by the estate tax is legislative policy changes over the last decade that have eroded the value of the estate tax. Policies could be adopted to turn that trend the other way. First, the estate tax could be easily fortified by closing existing loopholes, especially those allowing manipulation of valuation. The decision to leave those loopholes in place reduces revenue and encourages taxpayers to game the system. The integrity of the system could easily be improved by making some simple changes to the Code.<sup>6</sup> Second, in recent years, Congress has acted to weaken the estate tax by steadily increasing the exemption amount and decreasing maximum tax rates.<sup>7</sup> This has significantly reduced the number of individuals subject to the estate tax as well as the amount of revenue generated by the tax.

If the estate tax were to be repealed, then, in order for repeal to be revenue neutral, the government would need to replace this foregone revenue by imposing a higher tax burden on other taxpayers. It's worth asking the where the lost revenue would come from. Would that revenue come from corporate tax increases? From individual tax increases? From excise tax increases? Additionally, any of these options would have to be examined in terms of their levels of progressivity (or regressivity) to ensure that tax burdens remain fair. Given that the estate tax is imposed on the wealthiest taxpayers, the impact of repeal would most likely result in shifting the tax burden down to those with fewer resources. If Congress were to choose to not to replace the revenue lost through repeal, we must question whether it is appropriate for Congress to add to the deficit in order to finance a major tax cut for the wealthy.

#### **A Red Herring: Family Farms and Businesses**

The strongest rhetorical argument in favor of repealing the estate tax is its potential impact on family farms and businesses. As a society, we value the idea of businesses staying within families. If the estate tax were to significantly limit that ability, then that could be a strong argument in favor of a legislative fix.

However, despite the rhetorical appeal of the family farm and business argument, it ultimately does not support estate tax repeal because (1) given the large exemption amount currently in effect (combined with the ability of spouses to combine their unified credit exemptions), the vast majority of family farms and businesses will fall within the exemption amount and therefore not be subject to the estate tax at all; (2) to the extent that a family farm or business is not covered by the \$5/\$10 million exemption there are statutory provisions designed to mitigate the impact of the estate tax; and (3) if Congress is still concerned about the potential impact of the estate tax on a family's ability to pass a family business on to the next

generation, it need not repeal the estate tax, but rather could easily carve out a targeted exception that would exempt family farms and businesses from the estate tax.

**Large Exemption Amount.** Beginning in 2012 the estate tax exemption was increased to \$5 million per person, adjusted for inflation. In 2015 each taxpayer can pass up to \$5,430,000 free of estate taxes. Moreover, for married taxpayers the unified credits of both spouses can be combined, resulting in a married couple's ability to pass on well over \$10 million of assets free of estate taxes. The vast majority of family businesses will fall well within this exemption amount.

Moreover, for family businesses that are larger than \$10 million, the estate tax is only a problem if there are no other liquid assets with which to pay the tax. In many cases with estates of that size the beneficiaries will have enough other non-business assets with which to pay the estate tax liability.

**Statutory Relief.** For those businesses that are larger than \$10 million and where there are insufficient non-business assets with which to pay the estate tax, there is statutory relief in the form of Section 6166 which permits the executor of an estate with a closely held business to pay estate taxes over a 15 year period, including paying only interest on the deferred tax for the first 5 years. Moreover, interest on these payments is generally charged at a below market basis. This provision allows for estate taxes to be paid over time out of the business's operating income.

**A Targeted Benefit.** If Congress wants to provide greater protections to family farms and businesses, it can do so by providing an outright exemption. This provision would be easy to draft because the statutory language was already drafted in connection with Section 2057, which provided an exclusion for a portion of a family farm or business passed on to family members. Although this provision was repealed in 2013 in connection with the overall increase in the estate tax exemption amount, it could easily be used as a template on which to fashion an exemption from estate taxes for farms and businesses being passed on to family members.

#### **Another Red Herring: The Estate Tax Discourages Hard Work**

Proponents of repeal argue that estate taxes discourage hard work because it limits the ability of an individual to pass on property at death. However, this argument misconstrues the true beneficiaries of estate tax repeal. While repeal of the estate tax may provide some *emotional* benefit to those individuals who have earned wealth and want to pass it on to their heirs, the *financial* benefit of repeal flows entirely to the heirs of individuals passing on more than \$5 million (or \$10 million if married) of wealth. Rather than encouraging hard work, the failure to tax inherited wealth discourages hard work because it facilitates the creation of effortlessly wealthy heirs.

### The Cost of Estate Tax Repeal

Repealing the estate tax would impose considerable burdens on society that go well beyond the loss of revenue that the estate tax raises. In particular: (1) repeal of the estate tax would cause even greater concentration of wealth among the wealthiest Americans, resulting in an aristocracy of wealth that threatens our most cherished democratic ideals and harms our economy; and (2) repeal of the estate tax could result in a significant reduction in charitable giving which would in turn have a devastating effect on the charitable sector and the people it serves.

**Wealth Concentration.** One thing we know for certain is that the repeal of the estate tax would result in greater concentration of wealth among heirs of wealthy individuals who, as a result of repeal, would receive greater inheritances because they would be undiminished by taxes. Moreover, through the use of dynasty trusts, this inherited wealth will be able to be protected from creditors and taxes in perpetuity. The combined effect of this will be to create an aristocracy of wealth based on birth that was just the type of thing that our forefathers tried to get away from in establishing the rules governing these United States.

Thomas Jefferson was particularly concerned about the effect of this type of aristocracy on democracy. As Jefferson wrote to John Adams on October 28th, 1813:

For I agree with you that there is a natural aristocracy among men. The grounds of this are virtue and talents... There is also an artificial aristocracy founded on wealth and birth, without either virtue or talents; for with these it would belong to the first class. The natural aristocracy I consider as the most precious gift of nature for the instruction, the trusts, and government of society. And indeed it would have been inconsistent in creation to have formed man for the social state, and not to have provided virtue and wisdom enough to manage the concerns of the society. May we not even say that that form of government is the best which provides the most effectually for a pure selection of these natural aristoi into the offices of government? The artificial aristocracy [i.e. that founded on wealth and birth] is a mischievous ingredient in government, and provision should be made to prevent its ascendancy.<sup>8</sup>

John Adams expressed this same concern when he wrote: "When economic power became concentrated in a few hands, then political power flowed to those possessors and away from the citizens, ultimately resulting in an oligarchy or tyranny."<sup>9</sup>

This same idea was reflected in the 20<sup>th</sup> century by Supreme Court Justice Louis Brandeis when he said: "We can have concentrated wealth in the hands of a few or we can have democracy. But we can't have both."<sup>10</sup>

Wealth concentration is also a problem from the point of view of the economic health of the country. As Nobel-prize winning economist Joseph Stiglitz has written: "Widely unequal societies do not function efficiently, and their economies are neither stable nor sustainable in the long term."<sup>11</sup> It should not be surprising that every empirical study that has examined the impact of inequality on long-term growth has shown that high concentrations of wealth correlate with poor economic performance.<sup>12</sup>

Finally, greater inequality of wealth has also been shown to correlate with other social problems including life expectancy, social mobility, rates of imprisonment and mental health. This correlation between wealth inequality and social problems exists regardless of the overall level of wealth in the country (that is, richer countries do not achieve better results if they have greater inequality.)<sup>13</sup>

Wealth concentration is not simply a product of an unfettered market, but rather is the product of government policies, including taxation, that allocate society's resources. For example, wealth concentration was significantly reduced in this country from the 1930's to the 1980's as a result of progressive estate and income tax rates, along with other policies designed to build a strong middle class (such as the G.I. bill, federal mortgage assistance programs and loans to small businesses). However, beginning in the 1980s, and accelerating through the early part of this century, this trend reversed and wealth concentration again became a prominent feature of our economic landscape.<sup>14</sup>

A recent paper by Emmanuel Saez and Gabriel Zucman tracking wealth distribution from 1913-2012 quantifies this trend (graphs attached as Appendix A).<sup>15</sup> This paper shows how, over the past century the wealth of the wealthiest 0.1% of Americans has followed a U-shaped pattern: in the roaring 20's the wealthiest Americans controlled 25% of the country's wealth. By the mid-1970s (with the growth of the middle class), the wealthiest owned only 7% of the country's wealth. However, since then, the concentration of wealth among the wealthiest Americans has increased and today the wealthiest 0.1% of the population (those families with \$20 million or more) own 22% of the country's wealth.

During this same period, the wealth of the remaining 90% of the population has followed the opposite trend. From the mid-1920's to the mid-1980's there was a great democratization of wealth and the amount of wealth owned by 90% of the population went from 15% to 36%. However, since then the amount of wealth owned by 90% of the country has fallen dramatically to 23%.

We are now coming close to full circle in terms of wealth inequality. Today, the wealthiest 0.1% of Americans own roughly the same amount of wealth as that which is owned by 90% of the population. Repeal of the estate tax would further accelerate this alarming trend.

**Charitable Giving.** The charitable sector plays a central role in the United States. Unlike many other countries that finance education, health care, scientific research, arts, and social safety nets primarily through direct government expenditures, the United States supports these important activities largely through private donations subsidized indirectly by the government through tax deductions for charitable giving. As such, society is deeply dependent on charitable giving, even more so in a world where vital national interests are forced to compete for scarce government resources.

The estate tax charitable deduction plays an important role in encouraging charitable giving. Unlike the income tax deduction, which is limited to no more than 50% of a donor's income, the estate tax provides an unlimited charitable deduction that allows all individuals subject to the estate tax to essentially opt out of the tax by committing their resources to charitable ends. Many estates take advantage of this such that over 8% of all charitable giving is in the form of bequests at death. In addition, much lifetime giving is likely motivated by estate tax savings as well, as property transferred to a charity during life is also exempt under the gift and estate tax system.

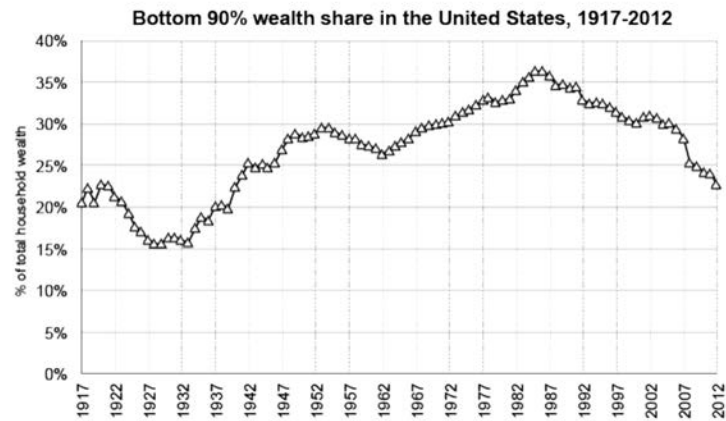
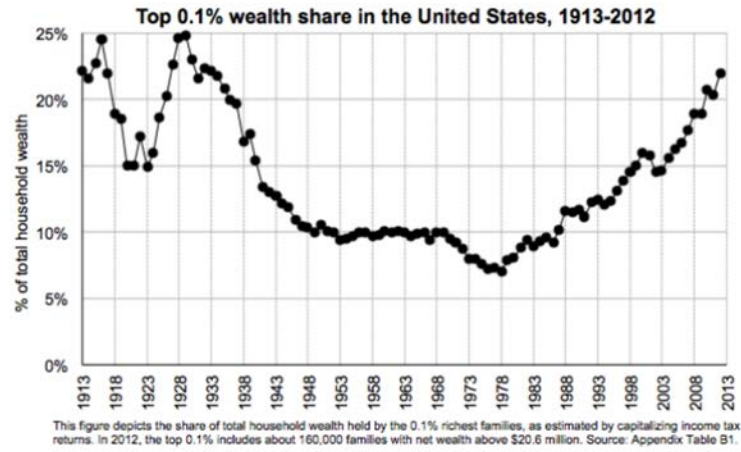
The estate tax charitable deduction has been with us since the inception of the estate tax almost 100 years ago. Therefore, it is very difficult to predict the effect of repeal on charitable giving. However, given our reliance on the charitable sector to provide our most essential services, even a small reduction in charitable giving arising from repeal could prove devastating for the sector and the individuals that it serves.

### **Conclusion**

Thank you again for inviting me to testify today. I hope that my perspective on these issues helps the Committee as it thinks about whether to repeal the estate tax.



## Appendix A



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<sup>1</sup> Professor of Law, Boston College Law School.

<sup>2</sup> The history of the wealth transfer tax system is described in: STAFF OF JOINT COMM. ON TAXATION, HISTORY, PRESENT LAW, AND ANALYSIS OF THE WEALTH TRANSFER TAX SYSTEM, JCX-108-07, at 1-10 (2007).

<sup>3</sup> I.R.C. § 102 (2015). This rule also applies to property received by gift and through life insurance.

<sup>4</sup> The argument that inherited wealth has already been subject to income taxes when earned by the decedent is in most cases false and in any event irrelevant. First, most inherited wealth is in the form of capital assets and, as explained in the text, capital gains evade taxation when passed on at death. Second, even if some income had been taxed when earned by the decedent, that does not mean that it should avoid taxation when received by the heir. Taxes are imposed on individuals, not on dollars. Therefore, the fact that money was taxed when acquired by one person has no bearing on whether it should be taxed when acquired by another. When a person uses post-tax income to hire a mechanic to fix his car, the mechanic cannot avoid taxation on that income on the grounds that the funds have already been subject to tax. Finally, even single individuals are commonly subject to multiple types of taxes on the same money. Wages are subject to income and payroll taxes and if those post-tax funds are used to purchase houses and cars, they are then subject to sales taxes and property taxes. There is no recognized tax policy against multiple types of taxes being imposed on the same funds.

<sup>5</sup> Edward J. McCaffery, *Distracted from Distraction by Distraction: Reimagining Estate Tax Reform*, 40 PEPPERDINE LAW REVIEW 1235, 1250 (2013).

<sup>6</sup> James R. Repetti, *Revitalizing the Estate Tax: Five Easy Pieces*, 142 TAX NOTES 1231 (2014).

<sup>7</sup> RAY D. MADOFF, CORNELIA R. TENNEY, MARTIN A. HALL & LISA N. MINGOLLA, PRACTICAL GUIDE TO ESTATE PLANNING §5.04 (2015).

<sup>8</sup> <http://press-pubs.uchicago.edu/founders/documents/v1ch15s61.html>

<sup>9</sup> WILLIAM H. GATES & CHUCK COLLINS, WEALTH AND OUR COMMONWEALTH: WHY AMERICA SHOULD TAX ACCUMULATED FORTUNES 29 (2004).

<sup>10</sup> *Ibid.*, p. 17.

<sup>11</sup> JOSEPH E. STIGLITZ, THE PRICE OF INEQUALITY: HOW TODAY'S DIVIDED SOCIETY ENDANGERS OUR FUTURE 83 (2013).

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<sup>12</sup> Paul Caron and James R. Repetti, *Occupy the Tax Code: Using the Estate Tax to Reduce Inequality and Spur Economic Growth*, 40 PEPPERDINE LAW REVIEW 1255 (2012)

<sup>13</sup> RICHARD WILKINSON AND KATE PICKET, *THE SPIRIT LEVEL: WHY GREATER EQUALITY MAKES SOCIETIES STRONGER* (2009).

<sup>14</sup> GATES & COLLINS, *supra* note 9, at 15; EDWARD B. WOLFF, *TOP HEAVY: A STUDY OF THE INCREASING INEQUALITY OF WEALTH IN AMERICA*, 8-13 (1995).

<sup>15</sup> Emmanuel Saez & Gabriel Zucman, *Wealth Inequality in the United States since 1913: Evidence from Capital Income Tax Data* (Nat'l Bureau of Econ. Research, Working Paper No. 20625, 2014), available at <http://gabriel-zucman.eu/files/SaezZucman2014.pdf>.

Chairman REICHERT. Well, that is quick and short, thank you. Mr. Paulsen, you are recognized.

Mr. PAULSEN. Thank you, Mr. Chairman. Boy, some really great testimony. I just really appreciate hearing your perspective, your story, your real-world experience of what you are having to live with, and the successes you have built.

You know, you hear a lot of statistics about how the estate tax might only affect large companies or businesses, and maybe just a few wealthy individuals. But I can certainly tell you that is not the case of the folks I have talked to, some family businesses in Minnesota similar to what you have expressed today. I have spoken to Minnesota farmers; I spoke to Minnesota family business owners who have had their family livelihoods threatened with the death tax right on the horizon.

I remember I met with an individual just two weeks ago, and he has got millions of dollars locked up that he would love to invest that capital to hiring more people, jobs, et cetera, expansion, but he has got to work with the Tax Code, he has got to plan for the future, all these accounts, all these lawyers, and then plan for all these contingency plans, and it is just sitting on the sidelines.

And, you know, there is one company, Ms. Madonia, it is a company that is just like yours. And it is Johnstone Supply. It is an HVAC company in Minnesota, equipment wholesaler in Bloomington. It is a prime example of how detrimental this tax can be for family business. And, unlike a lot of large corporations, it is these small businesses that have a high level of assets, but a very low level of liquidity. Right? Farming is the exact same situation. And Johnstone, for example, they own a few buildings, they carry that high level of inventory, but it has relatively little working capital.

But when the family started looking at transferring ownership to the next generation, they realized that they were going to have to pay—they were having huge liquidity problems when it came to paying these estate taxes. And they found that the only way that they were going to be able to afford the taxes was to sell off a portion of the business, or to purchase a substantial life insurance policy. And that, because of the uncertainty surrounding the estate tax—the company started about 30 years ago—they never knew how much life insurance was needed in order to help cover the cost of the tax.

So, when it became clear how big the burden was actually going to be, the cost of insurance at the age of the family members was substantial, it was huge. And, due to the circumstances, then, the next generation of the family was forced to purchase this Minnesota company, which, in turn, has caused them to become highly leveraged, put the company at risk, and they actually consider themselves very lucky to have found a bank that was willing to actually do the deal. But because his family still owns some companies in some other states, they have been forced to spend about 20 percent of their net income on life insurance to fund their future estate obligations.

Now, this is money that could otherwise be reinvested in the company, reinvested in the business in their community, and put towards growing the company. But the money is locked up. And this isn't a family that is trying to evade taxes. They are not trying to escape taxes. They simply want to keep the business afloat, and

in the family for other generations. And so, the Tax Code is literally forcing them, essentially, to consider breaking up the family business. And that is jobs lost. That is layoffs, and that is the wrong direction.

So, Ms. Madonia, I just want to follow up a little bit. It brings me to the question of how—what options do family businesses like yours or like Johnstone Supply really have when it comes to the estate tax today? And what does repeal mean for expanding operations, for increasing sales, for creating jobs? Would it make your business stronger?

Ms. MADONIA. Yes, absolutely. And, for the record, Johnstone Supply is also a HARDI member, so we know that—I know those folks well.

Yes, the statistic about the—only affecting a small fraction of estates, I think in large part that is probably because people spend a lot of money trying to figure out how to preserve their company without having to pay that tax. So, if you—I don't have a number. I wish I had a number. I wish there was some way to kind of capture that statistic on how much money is spent every year on hiring accountants and lawyers to try and figure out how you could—how you can, you know, pass your company on.

In our case, I know that we sit on a lot of cash, and we do that purposefully, because my dad is in his seventies. And, while it wouldn't be enough cash to pay the estate tax if we got hit with it, it would help us a little bit. And that money could very easily be used to hire more people, to start a new branch, to get into new equipment lines, or add another vendor to our list of preferred vendors. It could be used for a lot of things. Buy more trucks. And it is not being used for that, because it is sort of earmarked as “just in case” money.

Mr. PAULSEN. And what really comes out in your testimony? I think of your father sitting around the table, planning for the future. It is not about some aristocracy, or passing this on for family wealth. It is about keeping a company afloat, and living that American Dream for other generations and for other—having many more jobs, many more employees. That is a big part of our economy, that is the engine of our economy, is many small businesses, just like yours.

Ms. MADONIA. Yes.

Mr. PAULSEN. I yield back, Mr. Chairman.

Chairman REICHERT. Thank you. Mr. Kelly, you are recognized.

Mr. KELLY. Thank you, Mr. Chairman. I thank you all for testifying. I never sat in those seats, but I have sat in something similar to yours. First of all, Ms. Madonia, we are not talking about passing on your estate to Madonna, the singer. We are talking about Karen Madonia, who is in a business.

And, Mr. McKnight and Mr. Whitt, in addition to what you are doing on an everyday basis—I am an automobile dealer—you are also tax collectors, aren't you? You guys, when you pay people wages, whether it is the mechanic that worked on your car, or somebody that works in your fields, or somebody that works on your farm equipment, or somebody that does whatever they do for it, don't you pay wage taxes? Yes. So, we collect taxes. I just wish

it was only double taxation. I could live with being taxed twice. I can't live with being taxed to death, and then even—you can't even die without paying taxes, because of a government that can't stop spending your money.

And so, when we talk about this great loss of revenue, what we are talking about is leaving the money in the pockets of the people who earned it, not the people who burned it. And I am just—I am fascinated, as you go through this—how—look at 208 years your family has been in this business. The contributions to your community over the years? I don't think you could put it in dollars and cents, could you?

Just in some of the taxes, just talk about some of the taxes you pay.

Mr. WHITT. Well, of course, obviously, our business is small, we don't employ a whole lot, but we—give you an example—we sell over a quarter million dollars of pork products a year that we pay sales tax on. We pay sales tax for all the products that we sell out of our retail locations. We pay our employees' payroll taxes. So, you know, it is not like we are sitting back, raking in the money, and never paying any taxes out.

And it would be fascinating to go back and see the benefit that our family businesses had on Murfreesboro, the town of Murfreesboro, over the last 208 years.

Mr. KELLY. But just in—you don't really consider yourselves one of the privileged one percent, do you?

[Laughter.]

Mr. WHITT. Well—

Mr. KELLY. I mean I see—here every day I see divide, divide, divide, divide. It is always, "the wealthy, the wealthy, the wealthy." And I watch what you are doing. I got to tell you, this is incredible, the amount of income, the amount that you put back into your communities. I mean, what you have done, over 208 years—years, the Batey Farms have employed people, have paid federal withholding tax, have collected taxes, wage taxes that—by the way, Social Security, Medicare—all of those things are collected by you and then sent to the government for their distribution.

Mr. McKnight, same thing. You are seventh generation.

Mr. McKNIGHT. Yes. And just to tell you a little about our story, about the time I got out of college, certainly not familiar with the estate tax, but my grandfather and great-uncle were the principals in our family business. My father and aunt were—the uncle had no children, so basically it was like they had two fathers. About the time I got out of school, my grandfather passed away, followed by my great-uncle's dad, followed by my grandmother's death a little later. My dad contracted Parkinson's during this time, and we lost him in 2004.

So, basically, the first 24 years of my working career there was never a day I didn't have to deal with the estate tax, planning it. It was—basically, I was a government employee with no benefits, you know? And during those 24 years I watched two-and-a-half generations of hard work, sweat, and savings evaporate. And that wasn't enough. We had to go in and liquidate twice. And in a cattle operation, those liquidations are very risky. We were able to get through it, but we had good weather, and we made it through that.

But even at that point, there was still a liquidity problem, and that is when we had the layoffs.

And, unfortunately, I think a lot of these layoffs are the forgotten casualty of this punitive tax. And the biggest expense, though—again, I got out of school. I didn't come home to grow smaller. We came home to get bigger. We wanted to be part of the solution, not the problem. The loss of opportunities in those 24 years, I can't enumerate that. And the last six years is the first time I have had the freedom to go to work and just concentrate on our family business.

Again, I don't know what the positive aspects of this tax are.

Mr. KELLY. Well, it is becoming very unpatriotic to die.

[Laughter.]

Mr. KELLY. Because at that point you go off the tax rolls. We found a way to even get to you after you are laid to rest.

Ms. Madonia, I mean, tell me. I mean, your story is the story of so many people across America. And I am serious about this. We keep talking about the super-wealthy. Mr. Paulsen hit on it. You talk about assets that aren't liquid; I am an automobile dealer, too. So I get a little bit concerned about that. We have spent more time and more money trying to figure out how to maintain a family business that my dad started in 1953 after being a parts picker. This guy did not inherit great wealth. He worked to accumulate something, he passed it on. I had to buy it from him, it wasn't left to me in his will, by the way, so I have been paying taxes my whole life.

But—well, I know I am getting gaveled, but listen. Thank you for being here today. God bless you. Don't give up the fight, because we are not, either.

Chairman REICHERT. Thank you, Mr. Kelly.

Mr. Thompson, you are recognized.

Mr. THOMPSON. Thank you, Mr. Chairman. Thank you all very, very much for being here. And I really would like to dig in and try and solve this problem. I think we have a responsibility, and not to preserve millions of dollars in tax cuts for billionaires and the top one percent, or however it is being characterized here, but we have a responsibility to make sure the estate tax works in a way that protects the people who create jobs and the family farmers, and even the family business owners.

I have carried legislation in this Congress—matter of fact, the first bill I introduced when I was elected to Congress in 1998 was a bill to address this issue. And I am getting ready to reintroduce it again, the Family Farm Preservation and Conservation Tax Act, that would exempt family farms from paying estate tax if the farm continues in the family, and continues to be farmed.

You know, if you sell it or rent it out and go live on the beach in Hawaii, then, you know, we ought to tax you. But we do need to figure out a way to preserve valuable farm land. We are losing it by way too much every day. We are losing ag land while we are sitting here today.

And I was particularly impressed, Mr. Whitt, with your testimony. You brought up a lot of the issues that I bring up when I talk about my bill: the cost associated with protecting your family farm from being lost; the loss of ag land to development; the idea

that young farmers—we are losing young farmers. And if we don't do something about estate tax and how it impacts family farms, we are going to lose more. And I don't think we want to do that. So I am very encouraged by the committee having this hearing.

I hope we can get away from the rhetoric. It is not death tax, it is estate tax. And I think that was a very clever political strategy, but I think it has backfired, and it has hurt us in trying to resolve this very, very real problem.

Ms. Madoff, I have got some questions for you. You are a tax attorney, correct?

Ms. MADOFF. Mm-hmm.

Mr. THOMPSON. Is there anything in the Tax Code that is—refers to death tax? Is there a “death tax”?

Ms. MADOFF. No, there isn't.

Mr. THOMPSON. Does anybody pay taxes after they die?

Ms. MADOFF. No.

Mr. THOMPSON. Okay. So you don't get called for jury duty. You are dead, you are dead.

Ms. MADOFF. As they say in the Country-Western song, you know, “They don't have luggage racks on hearses.”

Mr. THOMPSON. Yes, exactly. I think it is important to establish that, and delve into the policy, rather than the politics.

Do you think that, short of repeal, that there is a way that we can target a solution to deal with this issue?

Ms. MADOFF. Absolutely. And the legislation is already there on our books. It has been—it is not currently active, but Sections [sic] 2057 could address all businesses, and Section 2032a could address farmers.

And I think it is really important for this body to be aware that every single one of these witnesses would be better off with a targeted exemption than with repeal of the estate tax, and here is why.

Mr. THOMPSON. Well—

Ms. MADOFF. It—oh, sorry.

Mr. THOMPSON [continuing]. We get it.

Ms. MADOFF. Okay, but—

Mr. THOMPSON. I would like to give you a copy of my legislation I am going to be introducing in the next week or so, and I would like to get your feedback on that.

Mr. Whitt and Mr. McKnight, I have a question for you, for both of you. If total repeal of the estate tax isn't politically feasible, are you supportive of finding a way to protect the capital assets of family farmers and ranchers so their family farms can continue? Are you willing to forgo those protections until, if ever, the estate tax is fully eliminated?

Mr. WHITT. That is a loaded question—

Mr. THOMPSON. It was pretty straightforward.

Mr. WHITT [continuing]. To be honest with you. And, you know, I really believe that targeted legislation, it sounds good on the forefront, and maybe we can help out, but there are a lot of rules that come along with that.

Mr. THOMPSON. This would be pretty straightforward. It would say that you—if your father-in-law passes away and leaves you and



your wife the farm, as long as you continue to farm it, you would be exempt from paying any taxes, any estate taxes.

Mr. WHITT. If it is that simple.

Mr. THOMPSON. Yes. So you would support something like that?

Mr. McKnight, would you?

Mr. McKNIGHT. Again, something to look at. I think the devil is in the details. How do you treat a rancher maybe that has gone out and invested in another business? Or maybe they are expanding through their——

Mr. THOMPSON. I am just talking about the family farms. Family farms.

Mr. McKNIGHT [continuing]. Again, if this were just—again, I think it is very complicated. The devil would be in the details——

Mr. THOMPSON. Pretty straightforward.

Mr. McKNIGHT. Okay.

Mr. THOMPSON. Let me——

Mr. McKNIGHT. If a guy has got multiple businesses—you are saying he would be exempt from the tax, or he would have to pay——

Mr. THOMPSON [continuing]. It would be your family farm that would be exempt from the tax. If you own a family farm, and you have a bucket of gold, you still pay the estate tax on the bucket of gold.

Mr. McKNIGHT [continuing]. Right.

Mr. THOMPSON. But the family farm would be protected, if you keep farming.

Mr. McKNIGHT. I think the devil would be in the details, how that was written.

Mr. THOMPSON. Let me ask you. On—the American Farm Bureau policy manual states on page 152, “If the”——

Chairman REICHERT. The gentleman’s time is expired.

Mr. THOMPSON [continuing]. Mr. Chairman, I would like to submit for the record the policy of the American Farm Bureau, and the policy of the NCBA, as it relates to this issue.

Chairman REICHERT. Without objection.

[The information follows:]



FARM BUREAU<sup>®</sup>  
**POLICIES**  
FOR  
**2015**

Resolutions on National Issues Adopted  
by Elected Voting Delegates of  
the Member State Farm Bureaus  
to the 96th Annual Meeting of the  
American Farm Bureau Federation®  
San Diego, Cal

January 2015

TAXES**435 / Federal Estate and Gift Taxes**

1. We support permanent repeal of federal estate taxes. Until permanent repeal is achieved, the exemption should be increased and indexed to inflation. If the exemption is lowered, agricultural land and capital assets should be excluded from estate taxes valuation, as long as they remain in production agriculture.
  2. We support:
    - 2.1. Full unlimited stepped-up basis at death must be included in any estate tax reform;
    - 2.2. The portability of the exemption between spouses;
    - 2.3. The annual federal gift tax exemption being increased and indexed for inflation;
    - 2.4. Farmland owners having the option of using market value or current use value to determine land value for tax estate purposes and there should be no limit to the amount that property value can be reduced to reflect its actual use; and
    - 2.5. The sale of agricultural land preservation, environmental easements on farm estates and timbering of farmland should not trigger a recapture tax during the 10-year agricultural use period.
  3. We oppose:
    - 3.1. Unreasonable and unfair IRS estate tax audits;
    - 3.2. Estate tax audits that rely solely on an IRS agent's opinion on the value of the agricultural estate but should rather be based on the opinions of licensed appraisers with agricultural experience; and
    - 3.3. IRS special consensual liens on property or a surety bond that are designed to protect the interest of the government installment payments as allowed by section 6166 of the Internal Revenue Code. These liens inhibit the ability of farmers or ranchers to continue to borrow capital to run their businesses.
-



# **2014 Policy Book**

**National Cattlemen's Beef Association**  
Updated: January, 2014

**NATIONAL CATTLEMEN’S BEEF ASSOCIATION**

**2014 Policy Book**

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**INDEX:**

<b><u>NCBA POLICY COMMITTEES</u></b>	<b><u>PAGE</u></b>
Agriculture & Food Policy Committee	3
Cattle Health and Well Being Committee	28
Federal Lands Committee	58
Cattle Marketing & International Trade Committee	85
Property Rights & Environmental Management	97
Tax & Credit Committee	126

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1		<b>GENERAL POLICY</b>	3.4	2012	Fence Replacement Cost Share Eligibility
1.1	2013	NCBA Agricultural Policy Statement			
1.2	2009	Foreign Aid			
1.3	2010	Firearms Regulations			
1.4	2010	Entry of Young People Into Cattle Business	4		<b>HAYING AND GRAZING</b>
			4.1	2011	CRP Policy
1.5	2013	Border Security: Theft and Health Emergency	4.2	2013	Conservation Reserve Program (CRP) Acreage Reduction
1.6	2013	Biosecurity	4.3	2012	Federal Reinsurance for Private
1.7	2013	Beef Checkoff			Sector Catastrophic Livestock Risk Insurance
1.8	2009	Beef Checkoff 2			
1.9	2009	Amendments to the Checkoff Act and Order	4.4	2010	Round-Up Ready Alfalfa
1.10	2009	Mexico Border Policy			
1.11	2013	Horse Harvesting and Processing	5		<b>LABOR ISSUES</b>
1.12	2011	Ethical and Humane Disposal of Horses	5.1	2009	Labor/Unionization
			5.2	2010	Labor—Orderly Marketing
1.13	2013	Transportation	5.3	2010	Davis-Bacon Act Exemption
1.14	2009	Renewable Fuels	5.4	2010	Workmen's Compensation
1.15	2009	Domestic Energy Policy	5.5	2010	Labor—Unemployment Compensation
1.16	2009	Hydropower Support	5.6	2010	Labor—Wage and Employee Standards
1.17	2009	Secure Fence Act			
1.18	2009	Rights of United State Beef Producers First	5.7	2010	Labor Relations Act
			5.8	2010	Labor—Right-To-Work and Secondary Boycotts
1.19	2013	National Beef Cattle Evaluation Consortium	5.9	2012	Immigration Reform
			5.10	2012	H-2A or Agricultural Worker Program Enhancements
2		<b>FEDERAL FARM PROGRAMS</b>	5.11	2011	Border Security Policy
2.1	2009	Gross Income Calculations			
2.2	2011	Federal Farm Programs			
2.3	2011	Crop Insurance			
2.4	2011	FSA/NRCS Consolidation	6		<b>BEEF SAFETY</b>
2.5	2012	Sod Buster	6.1	2013	Irradiation
2.6	2012	Farm Bill Policy – Sod Saver	6.2	2013	Food Safety Education
2.7	2012	Dairy Policy	6.3	2010	E. coli Research
2.8	2010	Mandate Compensation	6.4	2013	Cloning
2.9	2010	Agricultural Research Funding	6.5	2009	Food Safety Agency Structure
2.10	2012	Government Water Rights Purchase	6.6	2013	Labeling of Safe Product
			6.7	2010	Salmonella Research
2.11	2012	Forage Crop Storage Structures	6.8	2011	Beef Industry Commitment to Pre-Harvest Food Safety Intervention
2.12	2009	Support for USDA Rural Development	6.9	2013	Beef Industry Commitment to Reduce Pathogenic Shiga Toxin-Producing E. coli
3		<b>DISASTER RELIEF</b>			
3.1	2013	Disaster Relief			
3.2	2012	Federal and State Drought Designations	7		<b>INSPECTION</b>
			7.1	2012	Imported Meat Inspection Equivalency
3.3	2009	USDA Investigation of Livestock Disaster Payments	7.2	2010	Domestic Meat Inspection System

- 7.3 2010 FSIS National Residue Monitoring Program
- 7.4 2012 Foreign Inspection

## **8 NUTRITION & HEALTH**

- 8.1 2013 Nutrition & Health Statement of Principles
- 8.2 2010 Nutrient and Food Consumption Survey
- 8.3 2010 USDA National Nutrient Database for Standard Reference
- 8.4 2010 USDA Consumption Data
- 8.5 2010 Government Beef Purchases
- 8.6 2010 Imitation and Substitute Products
- 8.7 2011 Informative Nutrient Labeling
- 8.8 2011 Dietary Recommendation Issues
- 8.9 2010 Dietary Guidelines for Americans
- 8.10 2009 Vegetable Protein Enhanced Products

## 1. GENERAL POLICY

AFP 1.1

2013/Renewed

### NCBA Agricultural Policy Statement

This statement will guide NCBA's actions on behalf of the cattle industry in influencing the government relating to agriculture. Under this statement, NCBA's priorities are to:

1. Achieve a reduction in federal spending and the deficit;
2. Minimize direct federal involvement in agriculture;
3. Preserve the right of individual choice in the management of land, water and other resources. Livestock contracts should provide for the use of arbitration to settle any controversy only if, after the controversy arises, both parties consent in writing to use arbitration to settle the controversy;
4. Provide an opportunity to compete in foreign markets; and
5. Farm Policy which favors one producer or commodity over another will be opposed.

#### Natural Resource Policy

Government policy should enhance the individual's right of free choice in land use, soil conservation, water conservation, energy use and development as long as the individual minimizes accepted soil loss limits, that are based upon sound science. State laws and individual private rights should be preeminent in the use of water and other natural resources.

#### Marketing Policy

National agricultural policy should be oriented to a free, private enterprise competitive market system. Criteria: Farm policy should be discouraged which:

1. Guarantees profit, or
2. Restricts the operation of the competitive marketplace.

Private enterprise alternatives in marketing and risk management should be developed and encouraged as the preferred alternative to government programming.

#### Commodity Programs Policy

Government farm commodity programs influence, change and distort the price and supply of beef cattle. The impact can be indirect, as when grain prices are affected by a government program or direct, as when a dairy payment program results in dairy cattle

slaughter or retention.

Any government programs which would have a substantial negative effect on cattlemen need to be opposed and prevented.

Commodity programs need to be studied and supported in those areas where they work toward market orientation.

Any commodity program must include thorough consideration of the impact of subsidies and guarantees for given commodities on other commodity sectors and on domestic and foreign markets, before the program is adopted.

Recognizing the high degree of government intervention in agriculture and the potential economic disruption of an immediate end to commodity programs, NCBA supports a transition or phase-out period for programs that may be eliminated.

It is not in the national, farm, or individual producer interest to vest the government with authority to:

1. Set prices
2. Underwrite inefficient production
3. Manipulate domestic supply, demand, cost or price.

The principal focus of government farm policy should be to promote a free market, private enterprise farm economy. Every effort should be made to develop an integrated domestic-foreign trade policy which encourages:

1. Reciprocity,
2. Comparative advantage,
3. Elimination of unfair trade restrictions, and movement toward private enterprise and free markets.

NCBA strongly opposes direct cash payments to any segment of the livestock industry for the purpose of offsetting low market prices except for:

1. Payments made for natural disasters.
2. Efforts to establish commodity/revenue insurance programs in lieu of emergency disaster programs.



AFP 1.2  
2009/Renewed  
**Foreign Aid**

WHEREAS, foreign aid in cash form is difficult to control and account for after it leaves the U.S., and

WHEREAS, cash foreign aid could be used in ways that negatively affect U.S. agricultural producers,

THEREFORE BE IT RESOLVED, NCBA supports the concept of U.S. foreign aid being delivered in the form of U.S. agricultural commodities, especially meats, whenever possible, rather than cash.

AFP 1.3  
2010/Renewed  
**Firearms Regulations**

WHEREAS, certain organizations are continually petitioning Congress for legislation which will inhibit the constitutional rights of citizens to purchase firearms,

THEREFORE BE IT RESOLVED, NCBA opposes unreasonable restrictions on the sale and ownership of firearms and ammunition, and NCBA specifically opposes registration of ownership of firearms.

AFP 1.4  
2010/Renewed  
**Entry of Young People into Cattle Business**

WHEREAS, young men and women have difficulty entering the beef cattle industry, and

WHEREAS, the future of the industry depends upon the opportunities available to and the efforts expended by young producers, and

THEREFORE BE IT RESOLVED, NCBA continues to recognize this problem and actively provide assistance and information to young men and women seeking to enter the beef cattle industry.

AFP 1.5  
2013/Renewed  
*Cross-referenced to CH 8.11*  
**Border Security: Theft & Health Emergency**

WHEREAS, Border security is paramount, not only to the health and welfare of the American public, but to the livestock industry as well, and

WHEREAS, Prevention of livestock ingress and egress at the international border between Mexico and New Mexico, as well as the other border states of Arizona, California, and Texas, is imperative not only to protect animal and human health, but also the economic viability of the multi-billion dollar livestock industry, and

WHEREAS, Current U.S. Border Patrol barrier designs and plans will not prevent livestock ingress and egress across the international border with Mexico.

THEREFORE BE IT RESOLVED, NCBA take all steps necessary to insure that barriers and fencing along the international border between Mexico and the United States are adequate to prevent ingress and egress of livestock; these steps would include but not be limited to contact with the Congress, the U.S. Department of Agriculture, the U.S. Secretary of the Interior, the Department of Homeland Security, and the U.S. Border Patrol.

AFP 1.6  
2013/Renewed  
**Biosecurity**

WHEREAS, securing the health and safety of agriculture from terrorist groups and other negative influences is a serious concern, and

WHEREAS, protecting our agricultural industry for a stable, self-sufficient food source for the U.S. consumers is vital and should not be taken for granted,

THEREFORE BE IT RESOLVED, NCBA supports new initiatives concerning acts of terrorism against livestock to:

1. Strengthen the penalties for anyone involved in terrorist activities affecting the agricultural industry;
2. Provide increased coordination of local, state, and federal officials to more effectively monitor and respond to these threats, and
3. Give producers increased protections against

false and derogatory statements or ballot issues that would damage or endanger a producer's livelihood, product, property, or diminish livestock production practices.

AFP 1.7  
2013/Amended  
**Beef Checkoff**

WHEREAS, the Beef Checkoff has been instrumental in increasing the demand for beef by providing funding and structure for beef and food safety research, informing the public about beef's positive nutritional message and health attributes, organizing and coordinating the beef industry's issue management strategies, leveraging dollars for international and domestic marketing efforts, and working with retailers and food service outlets to promote beef, and

WHEREAS, challenges to the Beef Checkoff have harmed the beef industry by channeling industry resources to address internal industry dissension rather than consumer demand,

THEREFORE BE IT RESOLVED, NCBA seek beef industry input on making improvements to the *Beef Promotion Research Act and the Beef Promotion Research Order* (the "Beef Checkoff"), ensures that the Act and Order complies with any final court rulings, provides equal to or greater total collection revenues, and maintains state beef council funding at one-half of collections.

BE IT FURTHER RESOLVED, should the beef industry develop consensus on improvements to the Beef Checkoff, NCBA will work to initiate the legislative and/or regulatory actions to implement the changes.

BE IT FURTHER RESOLVED, any enhancements to the Beef Checkoff program must be guided by the Industry-Wide Long Range Plan and the following principles which:

- build beef demand efficiently and effectively
- enable a strong state and national partnership
- minimize government control
- assure accountability to the industry
- maintain state-based input, autonomy and ownership
- require everyone to invest
- maximize grassroots involvement

- provide equity to all investors
- restore the ability to promote, research, and educate consumers and producers about beef to a significant level

AFP 1.8  
2009/Amended  
**Beef Checkoff 2**

WHEREAS, the Beef Checkoff is a self-help program developed by producers and for their benefit, and

WHEREAS, producer investment in the Checkoff has helped improve beef demand through the program's first 20 years by funding important promotion, research and education projects, and

WHEREAS, two decades of inflation have cut into the amount of funding the Checkoff can provide for these essential programs, and

WHEREAS, a 2006 producer survey conducted by USDA confirmed 72% of producers approved of the Checkoff Program,

THEREFORE BE IT RESOLVED, NCBA and affiliated state cattlemen's organizations support the following modifications to the Beef Checkoff Program:

1. Revise the beef referendum process to provide producers the opportunity, at regular time intervals, to petition for a referendum on continuing the Beef Checkoff Program. Ten percent of producers nationwide signing the petition at USDA designated local sites will trigger the USDA to conduct a vote within a year.
2. Establish a similar process to provide beef producers the opportunity to petition for a referendum on increasing the Beef Checkoff. Ten percent of producers nationwide signing the petition at USDA designated local sites will trigger the USDA to conduct a vote to increase the Checkoff rate.
3. Any reference to the charter date of an established national non-profit industry governed organization should be eliminated.
4. Increase the Beef Checkoff assessment rate for the purpose of adequately funding an effective beef demand building program. Ensure a referendum is held so all producers have an opportunity to vote on the increase.

5. Amend the Beef Promotion and Research Act to state that the general promotion of U.S. beef be allowed under the Act and Order.

AFP 1.9  
2009/New

#### **Amendments to the Checkoff Act and Order**

WHEREAS, producer leaders of NCBA's predecessor organizations helped to create the 1985 Beef Promotion Act under these key tenets:

- All benefit, so all pay
- Producer control through State Beef Councils
- Efficient use of resources by not creating new bureaucracies and administrative functions, and

WHEREAS, NCBA conducted a comparable review of the checkoff three years ago and this task force's report was used to develop NCBA's policy on enhancements to the current Beef Promotion Act and Order, and

WHEREAS, the goal of the beef checkoff program is to build and protect beef demand and NCBA, as the Federation of State Beef Councils and a proud contractor to the beef checkoff, has delivered results, and

WHEREAS, some amendments could place the entire checkoff in jeopardy by making it less fair, less efficient and less effective,

THEREFORE BE IT RESOLVED, NCBA only support amendments to the checkoff Act and Order which insure the beef checkoff program:

- remains fair to all producers
- maintains cost efficiencies
- does not create new bureaucracies and administrative functions
- maintains the strength of the State Beef Councils and the focused, coordinated state-national plan through the Federation of State Beef Councils as the best way of achieving the goals of the long range plan.

AFP 1.10  
2009/Renewed

#### **Mexico Border Policy**

WHEREAS, the trespass of Mexican cattle and entry of illegal immigrants from Mexico poses very serious animal health problems for cattlemen along the US Mexico border, including the possible

outbreak of Foot and Mouth Disease, BSE, Brucellosis, Tuberculosis or other animal diseases, which could cause a widespread quarantine and possible destruction of cattle, and

WHEREAS, proper maintenance of the border fences would benefit cattlemen and help control animal health problems, and

WHEREAS, ranchers in border counties are experiencing serious damages,

THEREFORE BE IT RESOLVED, property owners be reimbursed for damages caused by illegal immigrant activities.

BE IT FURTHER RESOLVED, NCBA encourages the Department of Homeland Security to do whatever possible to help in getting these border situations under control.

AFP 1.11  
2013/Amended

#### **Horse Harvesting and Processing**

WHEREAS, the method of euthanasia employed by processing facilities that harvest horses is a humane end of life, and

WHEREAS, there is a continued need for the humane harvest of horses to prevent the inhumane treatment of horses that would suffer from neglect and abandonment, and

WHEREAS, there exists an extremely insufficient infrastructure and no funding mechanism to support the humane existence of unwanted horses, and

WHEREAS, unwanted horses are processed into products that are consumed by humans in overseas markets, and

WHEREAS, the value of unwanted horses as a food animal dictates they not be abused, lest this value be diminished, and

WHEREAS, the cattle industry depends upon an economically healthy horse industry and systems to offer a humane end of life for unwanted horses,

THEREFORE BE IT RESOLVED, NCBA opposes any horse harvesting and/or processing prevention act and any such legislation that would

prohibit the harvest of horses for human consumption.

BE IT FURTHER RESOLVED, NCBA supports federal inspection of horse processing facilities.

AFP 1.12  
2011/Renewed

**Ethical and Humane Disposal of Horses**

WHEREAS, it is important to have ethical and humane means to dispose of horses, and

WHEREAS, NCBA supports every effort to ensure horses are treated humanely throughout their lifetime, and

WHEREAS, without a means to dispose of horses there will ultimately be a detrimental effect to the welfare of horses,

THEREFORE BE IT RESOLVED, NCBA supports the right of horse owners to ethically and humanely dispose of horses.

BE IT FURTHER RESOLVED, NCBA shall oppose legislation that could potentially hinder future efforts to dispose of horses.

AFP 1.13  
2013/Amended

**Transportation**

WHEREAS, transportation issues continue to create challenges for producers across the nation when hauling cattle and equipment,

THEREFORE BE IT RESOLVED, NCBA support updating the *Commercial Motor Vehicle Safety Act* to facilitate producers' abilities to operate in today's environment as follows:

- Create uniformity and reciprocity of farm exemptions for Class C licenses across all states.
- Create a uniform mileage exemption for farm use of vehicles over 26,000 pounds Gross Vehicle Weight Rating (current Class A Non-Commercial).
- Eliminate Commercial Driver's License (CDL) and Department of Transportation (DOT) number requirements for vehicle combinations for farm use only exemption.
- Provide opportunity for the purchase of permits by commercially licensed

trucks hauling farm commodities up to 100,000 pounds or the maximum allowed by states that exceed 100,000 pounds.

AFP 1.14  
2009/Amended  
**Renewable Fuels**

WHEREAS, NCBA supports our nation's commitment to reduce dependence on foreign energy, and supports efforts to develop forms of renewable energy, and

WHEREAS, NCBA believes in a market-based economy and there is concern among cattlemen about the influence of renewable energy policy on the availability and price of feed grains and other feedstuffs,

THEREFORE BE IT RESOLVED, NCBA support transition to a market-based approach for the production and usage of renewable fuels.

BE IT FURTHER RESOLVED, NCBA oppose mandated production and/or usage of any renewable fuels and support immediate efforts to significantly reduce the Renewable Fuel Standard mandate.

BE IT FURTHER RESOLVED, NCBA support research and development of renewable fuels.

AFP 1.15  
2009/New  
**Domestic Energy Policy**

WHEREAS, the beef industry and the rest of agriculture are currently facing record high prices of all inputs that are direct or indirect derivatives of crude oil, and

WHEREAS, there is a need for credible energy policy, and

WHEREAS, domestic and international demands for crude oil and diesel fuel have created worldwide shortages, and

WHEREAS, the survival of the beef industry and agriculture depend upon positive changes occurring in both the exploration and refining capacities for crude oil here in the United States to increase both supply of fossil fuel based energy sources and the refining capacity for that oil,

THEREFORE BE IT RESOLVED, that NCBA support national policy that:

1. Is proactive and supports environmentally responsible domestic exploration and extraction of all fossil fuel based energy sources in any region of the United States that is found to hold reserves.
2. Brings immediate relief in the regulatory and permitting arena to expedite both new construction and renovation of existing refineries.
3. Leads to the United States' energy independence.
4. Reinforces the NCBA's position as a leader in the coordination and resolution of environmental and natural resource issues.

BE IT FURTHER RESOLVED, NCBA support the protection of private property, rights, including water and grazing of livestock in affected areas, including split estate lands;

BE IT FURTHER RESOLVED, NCBA support and encourage the application of multiple use on all federal lands.

AFP 1.16  
2009/New

#### **Hydropower Support**

WHEREAS, hydropower is clean and renewable, and

WHEREAS, hydropower has many extra benefits such as irrigation storage, flood control, transportation, recreation and wildlife habitat, and

WHEREAS, new hydropower possibilities exist to help meet our growing need for energy, and

WHEREAS, hydropower is as sustainable and renewable as wind and solar power,

THEREFORE BE IT RESOLVED, NCBA work to include hydropower as a renewable and sustainable energy source.

AFP 1.17  
2009/New

#### **The Secure Fence Act**

WHEREAS, the Secure Fence Act enacted by the U. S. Congress calls for the construction of double-sided primary fence and a virtual fence,

created by radar and camera-equipped towers and other technology, along certain sections of the USA-Mexico border, and

WHEREAS, these primary and virtual fences follow the Rio Grande River and other natural land formations and terrain, and

WHEREAS, the vast majority of the properties along the border are privately held, access to these properties should require permission from the landowners as well as fair compensation in order to construct and maintain a fence, and

WHEREAS, some of the proposed routes for fencing will separate lands and create a "no-man's land" between the fence and the border.

THEREFORE BE IT RESOLVED, NCBA encourage the Department of Homeland Security to construct a virtual fence, created by radar and camera-equipped towers and other technology, wherever a primary fence could dissect property; and where a primary fence is deemed necessary, construct as close to river banks and natural barriers as possible.

BE IT FURTHER RESOLVED, that property owners impacted by the fence be compensated and access to any lands severed by the fence be guaranteed; and that those lands not be abandoned and be provided security and protection.

BE IT FURTHER RESOLVED, that NCBA work with the Department of Homeland Security to develop additional practical and viable alternatives for the security of the Nation.

AFP 1.18  
2009/New

#### **Rights of United States Beef Producers First**

WHEREAS, the world community pressures the United States to change national environmental policies, and

WHEREAS, these policies do not always represent the best interest of the beef producers and their related businesses in the United States,

THEREFORE BE IT RESOLVED, NCBA encourage the Congress of the United States of America to consider and protect the rights and needs of United States beef producers prior to entering into any international agreement.

AFP 1.19  
2013/New

**National Beef Cattle Evaluation Consortium**

WHEREAS, Expected Progeny Differences (EPDs) have been the most important genetic selection tool available to seedstock and commercial producers of beef cattle, and

WHEREAS, the success of beef cattle genetic evaluation has also been greatly influenced by the existence of an established delivery system for making EPDs readily available to all producers, which includes breed associations, artificial insemination organizations, and individual seedstock producers through their dissemination of superior genetics based on EPDs, and

WHEREAS, under the umbrella of the National Beef Cattle Evaluation Consortium (NBCEC) many collaborators have combined efforts to reduce duplication in research and to expedite the transfer of genetic evaluation technology to the industry, and

WHEREAS, the infrastructure of the consortium has encouraged the sharing of resources and expertise and has allowed for the development of a nationally organized effort in beef cattle genetics research and implementation of that research, and

WHEREAS, the ability to influence the genetics of U.S. beef cattle has enhanced our competitiveness of beef production both domestically and globally, and

WHEREAS, the nature of the federal funding allocated to support the NBCEC requires annual renewal, which does not allow for the long range planning necessary to take research from development to implementation.

THEREFORE BE IT RESOLVED, NCBA shall seek a permanent commitment of annual federal funding to be allocated to the Agriculture Research Service (ARS), where research efforts will focus on such areas as:

- Managing the database and mining strategies for handling the increased data being generated and preserving this database resource
- Including DNA information into genetic evaluation programs
- Expanding multi-breed applications for genetic evaluation

- Enhancing the scope of international evaluations
- Developing new traits such as reproductive efficiency and carcass composition and quality
- Developing new methodologies to enhance the accuracy, reliability, and productivity of the systems
- Developing user-friendly decision making software

**2. FEDERAL FARM PROGRAMS**

AFP 2.1  
2009/Renewed

**Gross Income Calculations**

WHEREAS, the drought assistance program is limited to those producers with less than 2 million dollars gross income,

THEREFORE BE IT RESOLVED, feeder cattle purchases be deducted in determining the gross income for purpose of disaster assistance.

AFP 2.2  
2011/Renewed

**Federal Farm Programs**

WHEREAS, NCBA's policy supporting less government involvement may result in incentive payment programs being developed without NCBA's input,

THEREFORE BE IT RESOLVED, NCBA approves the following parameters that would allow us to be involved in the discussions surrounding any federal farm program being developed:

1. An economic review being conducted on the effect on all segments of the beef industry before implementation of a non-emergency program.
2. Evidence of a true need for the program.
3. That all programs must have an ending date, a full analysis of the results of the program, and whether there is a continuing need for the program.
4. That any program shall encourage private enterprise and minimize government involvement in agriculture.

BE IT FURTHER RESOLVED, NCBA pursues legislation and/or regulatory action in the

federal government within these parameters.

AFP 2.3  
2011/Renewed  
**Crop Insurance**

BE IT RESOLVED, NCBA supports the concept of Federal Crop Insurance nationwide for all forages with the ultimate goal of substituting disaster and drought relief programs with crop insurance.

BE IT FURTHER RESOLVED, this program should involve the private sector as well as federal resources, and would be a voluntary program.

AFP 2.4  
2011/Renewed  
**FSA/NRCS Consolidation**

WHEREAS, soil conservation is of continuing importance to the beef industry, and

WHEREAS, it is important that separation of regulatory and technical assistance in this area occurs,

THEREFORE BE IT RESOLVED, NCBA vigorously opposes any abolishment of the Natural Resources Conservation Service (NRCS) or combining NRCS under Farm Service Agency and supports adequate funding for NRCS technical assistance to meet science-based, ecologically, and economically sound conservation needs.

AFP 2.5  
2012/Renewed  
**Sod Buster**

WHEREAS, the including of alfalfa as a sod, after 5 years, can cause loss of farm program benefits to many farmers and livestock feeders,

THEREFORE BE IT RESOLVED, NCBA directs Congress to work to have alfalfa classified as a cultivated crop.

AFP 2.6  
2012/New  
**Farm Bill Policy – Sod Saver**

WHEREAS, current farm program policy has inadvertently created financial incentives to convert grazing land to crop land that creates an economic playing field that prevents young farmers and ranchers from entering or expanding their operations, and

WHEREAS, the loss of grazing land has resulted in loss of pasture and increased cost of livestock production,

THEREFORE BE IT RESOLVED, NCBA support the inclusion of a Sod Saver provision in the Farm Bill to reduce crop insurance benefits for four years on grassland with no previous cropping history that is converted to crop production.

AFP 2.7  
2012/Renewed  
**Dairy Policy**

WHEREAS, Congress has spent considerable time and resources in formulating dairy policy, and

WHEREAS, the solution may have significant economic impact on both the dairy and beef industry,

THEREFORE BE IT RESOLVED, NCBA will support dairy policy that moves the dairy industry toward greater freedom in and dependence on the market forces.

BE IT FURTHER RESOLVED, any transition policy must substantially minimize its impact on other elements of agriculture, such as the cattle industry.

AFP 2.8  
2010/Renewed  
**Mandate Compensation**

WHEREAS, unfunded federal mandates referring to livestock production may create a financial hardship on independent livestock producers,

THEREFORE BE IT RESOLVED, said mandates should make provisions for compensation to affected individual producers.

AFP 2.9  
2010/Amended  
**Agricultural Research Funding**

WHEREAS, NCBA has established policy goals in the areas of food safety, conservation, the environment, animal health, and other areas, and

WHEREAS, funding for agricultural research to support these policies has been significantly reduced over the past several years, and

WHEREAS, introduction of emerging exotic diseases pose a threat to the domestic beef industry, and

WHEREAS, research and funding to combat these emerging risks will continually reduce the research funding available to pursue NCBA policy goals, and

WHEREAS, an Economic Research Service comprehensive literature review indicated there have been 64 reviews of the return on investment in agriculture research and extension from 1915 through 1985 and these studies document a positive return of investment of 46.7 percent, and

WHEREAS, agricultural research and extension continues to be an excellent investment of public resources,

THEREFORE BE IT RESOLVED, NCBA supports adequate federal funding for agricultural research,

BE IT FURTHER RESOLVED, NCBA supports research which will protect the profitability, global competitiveness, and long-term viability of America's beef producers.

AFP 2.10  
2012/Renewed

#### **Government Water Rights Purchase**

WHEREAS, water is the lifeblood of the cattle industry and related industries, and

WHEREAS, there is an ever-increasing movement to decrease water use for production agriculture, and

WHEREAS, regulatory pressures have become a strong tool that creates "willing-sellers", and

WHEREAS, agriculture has an ever-shrinking base, and

WHEREAS, there is a proposal to use Commodity Credit Corporation funds to purchase water rights,

THEREFORE BE IT RESOLVED, NCBA vigorously opposes any legislation that attempts to

move water use away from the land or place water rights within federal government jurisdiction.

AFP 2.11  
2012/Renewed

#### **Forage Crop Storage Structures**

WHEREAS, forage crops (hay, haylage, etc.) are fundamental elements in the feeding of beef brood cows, production of feeder calves, and feeding of market cattle and effective, long-term storage of forage crops is a key element in the ability to produce and market feeder cattle, and

WHEREAS, USDA offers a low or interest free loan program for commodity (grain) storage facilities to support on farm storage of grains to optimize product marketing opportunities,

THEREFORE BE IT RESOLVED, USDA should extend the low or interest free loan program currently in place for commodity (grain) storage facilities to livestock forage crop storage structures.

AFP 2.12  
2009/New

#### **Support for USDA Rural Development**

BE IT RESOLVED NCBA support the important work of USDA Rural Development to improve the quality of life and increase economic opportunity in rural America.

BE IT FURTHER RESOLVED, NCBA encourage the long-term funding of the grant, loan, and loan guarantee programs administered by USDA Rural Development.

BE IT FURTHER RESOLVED, NCBA encourage the application process for these programs be streamlined and user friendly.

### **3. DISASTER RELIEF**

AFP 3.1  
2013/Renewed

#### **Disaster Relief**

WHEREAS, livestock producers are subject to losses caused by flooding, wildfire, blizzards and many other natural causes, and

WHEREAS, over the years livestock producers have suffered tremendous losses due to drought, floods and other natural disaster, and



WHEREAS, livestock producers have been unable to obtain federal grant assistance needed to help offset their losses,

THEREFORE BE IT RESOLVED, NCBA takes the necessary steps to assure that livestock producers are included in every federal disaster relief program and that the criteria for disaster declarations for livestock producers be formulated based on standards applicable to regional situations.

BE IT FURTHER RESOLVED, NCBA supports cattlemen and their local and state organizations in their efforts to receive timely and effective federal disaster assistance in these situations.

BE IT FURTHER RESOLVED, the Farm Services Agency (FSA) Livestock Assistance Program be continued but amended to allow greater flexibility by the state FSA committees to determine specific state eligibility criteria and implementation of the Livestock Assistance Programs. Assistance should be available to agricultural producers who suffered losses to fires when the starting of the fire was beyond the producer's control.

BE IT FURTHER RESOLVED, the Secretary of Agriculture be allowed the authority to quickly implement the Livestock Assistance Program and quickly obtain sufficient funding.

BE IT FURTHER RESOLVED, NCBA aggressively pursues adequate funding, including Federal Emergency Management Act funding, for livestock producers adversely impacted by disaster conditions.

BE IT FURTHER RESOLVED, NCBA monitors the distribution of any disaster assistance funding to ensure the funds are directed to those producers directly impacted by the disaster conditions.

BE IT FURTHER RESOLVED, NCBA works with USDA and Congress to ensure that eligibility criteria for all livestock assistance and compensation programs be based on livestock and/or forage production losses and funding distributed on actual county losses.

AFP 3.2

2012/Renewed

#### **Federal and State Drought Designations**

WHEREAS, the current system of analyzing certain geographic areas within the United States does not adequately measure the impact of drought, and

WHEREAS, the current use of the Palmer Drought Index is slow in completing the analysis and therefore makes response later than what is needed, and

WHEREAS, alternative methods for drought analysis only take temperature and precipitation into consideration, but ignore the effects of wind, precipitation timing, and soil moisture, and

WHEREAS, local entities of state and federal government are in a better position to gauge the respective effects of drought conditions, and

WHEREAS, there is no systematic, scientific method currently in use to quantify the loss of pasture and range due to drought conditions,

THEREFORE BE IT RESOLVED, NCBA shall propose to federal and state agencies that the current system for determining federal and state drought designation be revised, consolidated, and streamlined in the following manner:

- Clipping plots shall be established in each county and reservation to verify actual yearly production.
- Precipitation shall be gauged as "effective precipitation" as established in the Natural Resources Conservation Service Technical Guides.
- Weather stations shall have the capability to measure soil moisture, average wind speed, and duration of the wind.
- USDA county committees or Tribal councils shall have the authority to declare a drought once their county or reservation has reached the established drought criteria.

AFP 3.3  
2009/New  
**USDA Investigation of Livestock Disaster Payments**

WHEREAS, numerous cattlemen have experienced severe losses in their herds due to natural disasters, such as hurricanes Katrina, Rita, and Ike, and

WHEREAS, USDA is investigating the losses for which livestock disaster payments through Farm Service Agency (FSA) were made, and

WHEREAS, the investigation lacks common sense in its requirements and penalties,

THEREFORE BE IT RESOLVED, that USDA immediately cease the current investigations,

BE IT FURTHER RESOLVED, that any future investigations shall have criteria developed by people knowledgeable about the livestock community and allow FSA state and county committees more latitude in its investigations.

AFP 3.4  
2012/New  
**Fence Replacement Cost Share Eligibility**

WHEREAS, the United States Department of Agriculture's (USDA) rules arbitrarily limit fence replacement cost share eligibility to fences less than 20 years of age, and

WHEREAS, such a 20-year age limitation places an unnecessary and undue burden on ranchers who need to rebuild and restock their ranching operations due to natural disasters,

THEREFORE BE IT RESOLVED, NCBA support federal legislation and/or rulemaking which would remove the fence age requirement for fence replacement cost share eligibility after a natural disaster.

**4. HAYING AND GRAZING**

AFP 4.1  
2011/Amended  
**CRP Policy**

WHEREAS, the nation's cows and stocker cattle are competing for grazing lands with government programs, and

WHEREAS, economic pressures are accelerating the conversion of grazing lands for competing uses, and

WHEREAS, permanent grasslands help protect water quality and are important habitat for birds and animals, and

WHEREAS, the Conservation Reserve Program (CRP) is mandated to utilize a conservation cover crop, and

WHEREAS, CRP conservation cover crops can be utilized as valuable forage, and

WHEREAS, intentionally and actively using cattle to manage grasslands under the control of state and federal programs will benefit and enhance the grassland ecosystem,

THEREFORE BE IT RESOLVED, NCBA support rules to allow periodic non-emergency and emergency haying and grazing as approved by a NRCS Management Plan. All NRCS resource concerns shall be addressed by provisions on the Management Plan, and

BE IT FURTHER RESOLVED, in all instances of haying or grazing on lands enrolled in CRP, continuous sign-up CRP, or CREP, the payment should be reduced by the value of the forage removed, and

BE IT FURTHER RESOLVED, managed grazing on CRP lands should be permitted during the primary wildlife nesting and brood rearing season where allowed under an approved plan, and

BE IT FURTHER RESOLVED, should a producer extend a current contract for CRP and then decide to remove that land from the extended CRP contract, then any applicable penalty should be based upon the time from date of extension to date of withdrawal.

AFP 4.2  
2013/New  
**Conservation Reserve Program (CRP) Acreage Reduction**

WHEREAS, several years of expanding drought continues to impact the Corn Belt, and

WHEREAS, there are 33 million acres of CRP in the United States which were once tilled, and

WHEREAS, livestock and other users continue to compete for corn,

THEREFORE BE IT RESOLVED, NCBA support downsizing the number of CRP acres.

AFP 4.3  
2012/Renewed  
**Federal Reinsurance for Private Sector  
Catastrophic Livestock Risk Insurance**

WHEREAS, U.S. cattle are extremely susceptible to a host of diseases such as foot and mouth disease, bovine spongiform encephalopathy (BSE), foreign and emerging animal health diseases, and others that could be released inadvertently or as an act of terrorism, and

WHEREAS, adequate state and federal funding of existing indemnity programs, in the event of widespread catastrophic occurrences, is uncertain and unrealistic to depend on, and

WHEREAS, there is no readily available or affordable private sector or governmental financial capacity to fund catastrophic events, and

WHEREAS, in the absence of a comprehensive catastrophic livestock risk insurance program, significant market manipulation can occur through unsubstantiated rumors that cause widespread uncertainties with regard to the risk of such losses, and

WHEREAS, such uncertainty undermines the continued stability of commodity markets and prices for all U.S. producers, and

WHEREAS, continued unavailability of affordable comprehensive insurance for such catastrophic risks threatens the growth and stability of the United States economy, impedes the ability of financial service providers to dedicate capital, and limits the effectiveness of commodity exchanges, and

WHEREAS, such action is necessary as soon as possible to limit immediate market disruptions, encourage the continued financing of the cattle industry in general, re-instill public confidence in the efficient functioning of the agribusiness economy, and provide for worldwide agribusiness stabilization,

THEREFORE BE IT RESOLVED, NCBA strongly supports the development of a federal reinsurance program to establish risk sharing with the private sector and ensure the availability of

catastrophic risk insurance products.

AFP 4.4  
2010/New  
**Round-Up Ready Alfalfa**

WHEREAS, the utilization of cutting edge agricultural technology is of paramount importance, and

WHEREAS, the efficient production of feedstuffs, like alfalfa, is important to the viability and vitality of cattle production, and

WHEREAS, Round-Up Ready technology is already being used successfully in the production of human food,

THEREFORE BE IT RESOLVED, NCBA encourage governmental agencies to allow the resumption of the usage of Round-Up Ready alfalfa.

**5. LABOR ISSUES**

AFP 5.1  
2009/New  
**Labor / Unionization**

WHEREAS, labor unions consider the Employee Free Choice Act as their top legislative priority, and

WHEREAS, such legislation would enable labor unions to rapidly boost their membership numbers to the detriment of employee and employer rights, and

WHEREAS, such legislation would hinder future economic growth and job creation,

THEREFORE BE IT RESOLVED, NCBA opposes the Employee Free Choice Act and any other effort that would (a) take away an employee's right to privacy, by allowing a Card Check system instead of secret ballot voting to organize a union, (b) force collective bargaining upon businesses and their employees who neither need it nor want it, or (c) require forced arbitration to determine wages and benefits without a ratification vote by employees.

AFP 5.2  
2010/Renewed  
**Labor—Orderly Marketing**

WHEREAS, NCBA recognizes that various historic labor practices have had an adverse effect upon the orderly marketing and efficient production

of our product,

THEREFORE BE IT RESOLVED, NCBA will oppose any effort which would be restrictive in the efficient movement of agricultural products to domestic and foreign consumers, including:

1. Discrimination in the sale of red meats (i.e., sales hours restrictions and marketing of fabricated products), and
2. Labor union actions to control or restrain the movement of agricultural products; and, in such cases, unions should be held liable for damages.
3. Furthermore, efforts shall be made to inform consumers of labor or management practices which contribute to higher food costs.

BE IT FURTHER RESOLVED, NCBA opposes the restraint of the normal flow of our product as a result of indiscriminate labor action.

BE IT FURTHER RESOLVED, NCBA agrees with the concept that losses sustained by strikes, boycotts or other organized labor action should be reimbursable to the producers and processors suffering said losses.

BE IT FURTHER RESOLVED, NCBA opposes any and all actions that would result in reduced labor productivity or increased labor costs directly related to the production, transportation, processing or marketing of our product.

BE IT FURTHER RESOLVED, NCBA endorses the concept of fair and equitable salaries for value and production received.

AFP 5.3  
2010/Renewed  
**Davis-Bacon Act Exemption**

BE IT RESOLVED, NCBA supports an exemption of agricultural activities from the provisions of the Davis-Bacon Act.

AFP 5.4  
2010/Renewed  
**Worker's Compensation**

BE IT RESOLVED, NCBA believes each state should be allowed to exercise its own rights in enactment of State Worker's Compensation laws and NCBA is opposed to any Federal Worker's Compensation Legislation affecting agriculture.

AFP 5.5  
2010/Renewed  
**Labor—Unemployment Compensation**

WHEREAS, the agricultural employers of the United States do not have the opportunity of passing on the additional cost of mandatory unemployment compensation deductions, and

WHEREAS, agricultural employees are presently protected under the Special Unemployment Assistance Program, and

WHEREAS, Congressional action in this area would impose additional requirements on agricultural employers, thereby interfering with states' rights, and

WHEREAS, agricultural labor is generally excluded from various state and federal unemployment compensation programs, and

WHEREAS, mandated programs do not recognize the unique and often seasonal nature of agricultural labor,

THEREFORE BE IT RESOLVED, NCBA opposes federal legislation extending unemployment compensation to agriculture.

BE IT FURTHER RESOLVED, NCBA is opposed to unemployment deductions on family farm corporate members or other persons not eligible to receive unemployment compensation benefits.

AFP 5.6  
2010/Renewed- Amended  
**Labor—Wage and Employee Standards**

WHEREAS, the cattle industry provides unique employment opportunities to inexperienced individuals, in addition to skilled and para-professional livestock workers, and

WHEREAS, the cattle industry also provides employment and training opportunities for those individuals who can work on a temporary basis,

THEREFORE BE IT RESOLVED, NCBA believes in, and subscribes to, the principle of paying employees a reasonable, livable wage for services performed, therefore NCBA opposes arbitrary raises in the minimum wage.

BE IT FURTHER RESOLVED, the wages, benefits, and hours of employment should be by mutual agreement between the employer and employee.

AFP 5.7  
2010/Renewed  
**Labor Relations Act**

WHEREAS, NCBA recognizes that efforts may continue in some areas to organize agricultural workers into unions, nevertheless, NCBA does not believe the agricultural industry will be well-served by bringing agriculture under a National Labor Relations Act, and

WHEREAS, agriculture is now exempt from the existing National Labor Relations Act,

THEREFORE BE IT RESOLVED, NCBA works to protect that exemption and is opposed to any move that would bring agriculture under any federal labor relations act, either the present act, or a National Agricultural Labor Relations statute which might be devised.

AFP 5.8  
2010/Renewed  
**Labor—Right-To-Work and Secondary Boycotts**

WHEREAS, compulsory union membership is contrary to the basic principles of individual freedom upon which this nation was founded, and

WHEREAS, union organizational efforts have included such coercive tactics as secondary boycotts, strikes at harvest time, unreasonable picketing, threats, destruction of private property, and bodily injury, and

WHEREAS, unions are presently using union dues for political activities, and

WHEREAS, since conferring upon unions the authority to draw up and enforce closed shop rules is, in effect, giving non-governmental bodies compulsory licensing and taxing authority, and

WHEREAS, a closed shop contributes to the power of unions to tie up entire industries and/or segments of the economy which is a dangerous threat to the rights of all citizens and the nation itself,

THEREFORE BE IT RESOLVED, NCBA supports the passage of "Right-to-Work" laws in those states where they are not part of the statutes and

will support efforts to retain laws in states where they are a matter of record.

BE IT FURTHER RESOLVED, NCBA defends the provisions of the federal law which assures states the right to enact "Right-to-Work" laws, and insists the law be enforced against secondary boycotts.

BE IT FURTHER RESOLVED, Congress is urged to repeal those provisions of the National Labor Relations Act (NLRA) and the Railway Labor Act (RLA) which authorize and foster the practice of compulsory unions.

BE IT FURTHER RESOLVED, NCBA supports a position that would prohibit unions from using dues for any political activity, including "in kind" support.

BE IT FURTHER RESOLVED, NCBA urges Congress to pass laws increasing the authority of the President of the United States to prevent strikes and other work stoppages which cause serious harm to the general public and to agriculture.

BE IT FURTHER RESOLVED, NCBA opposes any legislation that would extend the federal authorization of compulsory union membership to agricultural employees or to any other employees not now covered by such provision.

AFP 5.9  
2012/Amended  
**Immigration Reform**

WHEREAS, the United States beef industry is challenged by a lack of interested and reliable U.S. workers and therefore must rely on immigrant workers for a significant portion of its labor force, and

WHEREAS, agricultural businesses desire to hire only documented, legal immigrants, and

WHEREAS, agricultural businesses are not equipped to verify the legitimacy of documents presented by potential employees,

THEREFORE BE IT RESOLVED, NCBA support meaningful legislative or regulatory immigration reform which:

1. strengthens border security, and
2. creates a non-seasonal, temporary worker program that ensures an adequate workforce,

- and
3. provides opportunities for current employees found to be in the U.S. illegally to apply for legal status, and
  4. instructs the Department of Homeland Security to work with cities, counties, and agriculture interests, including producer members of this association, in the implementation of any fences or other barriers between the United States and Mexico, and
  5. commits adequate time and appropriations by the United States Congress and the Department of Homeland Security to implement a workable, expeditious, and common sense approach to temporary visa applications, and
  6. denies access to citizenship or temporary visa to any alien who has committed a felony while in the United States, or violated a court order for deportation while legally in the United States, and
  7. allows any and all undocumented workers, regardless of their family status, (within a reasonable amount of time after the enactment of any reform legislation and the implementation of enforcement procedures and before applying for a guest worker visa) to conduct a "touchback" in this country, through a consulate of their home country and achieve temporary legal status whereby they can reside in the United States until they achieve full legal status or must return to their home country. But, any undocumented workers who do not "touchback" should be considered fugitives, and
  8. deny Social Security benefits for any fiscal quarter where those individuals holding any visa have falsified their identification, and
  9. institute a point system based on the background checks and merits of the applicant/migrant to allow applicants the opportunity to show that their presence in this country would be an asset, regardless of family ties, and
  10. processes first those applications for citizenship filed prior to the implementation of any immigration reform legislation, after which all other applicants should be processed in an orderly fashion, and
  11. supports English language education programs, and
  12. preempts states from adopting and prosecuting immigration laws to avoid regulatory duplication for employers.

BE IT FURTHER RESOLVED, NCBA support a safe harbor from prosecution for businesses unknowingly employing illegal workers until the federal government develops uniform, tamper-resistant documentation that will enable employers to easily verify the immigration status of prospective employees,

BE IT FURTHER RESOLVED, NCBA support legislation that reduces penalties for employers who have followed available guidelines for verifying legitimacy of documents presented by potential employees,

BE IT FURTHER RESOLVED, NCBA oppose a mandatory E-verify program until a non-seasonal, temporary agriculture worker program is enacted.

AFP 5.10  
2012/Amended  
**H-2A or Agricultural Worker Program  
Enhancements**

WHEREAS, agricultural employers in the United States face a shortage of available domestic workers and subsequently require a dependable source to obtain foreign workers, and

WHEREAS, the H-2A program has functionality implications that impact the usability of the program by all agriculture segments, and

WHEREAS, proposals to address these implications through "AgJobs" bills has created certain proposed inconsistencies between livestock industries,

THEREFORE BE IT RESOLVED, NCBA support the H-2A Program or similar agricultural worker programs, and the streamlining of these types of programs to better serve the agricultural industry by ensuring that any H-2A amendments or agricultural worker programs treat all segments of the livestock industry fairly, and retain all "special procedures" for occupations involved in livestock production necessary for individual segments of the livestock industries.

AFP 5.11  
2011/New  
**Border Security Policy**

WHEREAS, current security measures and law enforcement assets deployed on the United States – Mexico border are not sufficient to secure the border, and

WHEREAS, achieving immediate border security is the most important factor in protecting U.S. citizens from illegal activity associated with smuggling, and

WHEREAS, the Arizona Cattle Growers' Association has developed a "Restore Our Border" plan, which calls for:

1. Securing the border along the international boundary,
2. Adding sufficient personnel to secure the border,
3. Providing the personnel with all the modern technology and resources necessary to enforce security at the international boundary, and
4. Enhancing civil and governmental communications to provide full coverage throughout the border region,

THEREFORE BE IT RESOLVED, NCBA demand action on securing the border.

**6. BEEF SAFETY**

AFP 6.1  
2013/Amended  
**Irradiation**

WHEREAS, irradiation technology has been approved by the Food and Drug Administration for use in beef processing, and the United States Department of Agriculture (USDA) has issued guidelines that allow for the implementation of irradiation technology at the packer and processor level, and

WHEREAS, irradiation is another important tool that in combination with other intervention strategies, such as safe food handling techniques, will help our industry reach its goal of providing a safe product to the consumer, and

WHEREAS, USDA has developed regulations to allow the use of this technology for the beef industry, and

WHEREAS, NCBA supports the use of irradiation and other available interventions to enhance beef safety,

THEREFORE BE IT RESOLVED, NCBA shall work closely with the Beef Industry Food Safety Council and others to facilitate and encourage the implementation of irradiation technology where appropriate in the industry.

BE IT FURTHER RESOLVED, NCBA encourages government agencies to establish internationally recognized terminology that more accurately reflects new technology, such as electronic pasteurization or ionizing pasteurization.

AFP 6.2  
2013/Amended  
**Food Safety Education**

WHEREAS, everyone in the food production system has a responsibility to ensure the safety of our food, and

WHEREAS, regulations are in place from the farm and ranch to the point of purchase to assure the safety of our food, and

WHEREAS, the vital step in assuring food safety is in the handling, preparation, and cooking and if the system breaks down at that point, all the preventive efforts that have gone before become meaningless, and

WHEREAS, food safety education resource materials have been developed, proven effective, and are available,

THEREFORE BE IT RESOLVED, NCBA will work with members of the beef industry and the United States Department of Agriculture to disseminate food safety educational resource materials to consumers of beef products.

AFP 6.3  
2010/Amended  
***E. coli* Research**

WHEREAS, *E. coli* O157:H7 continues to be associated with serious public health problems in humans, especially in young children in the form of bloody diarrhea, and the hemolytic uremic syndrome (HUS), and with possible neurologic involvement in adults, and

WHEREAS, the prevalence, incidence and implications of the pathogen in the food chain (livestock, poultry and their products) needs to be continually monitored,

THEREFORE BE IT RESOLVED, NCBA strongly supports funding from the public and private sectors for research to establish prevalence and incidence of *E. coli* O157:H7 and other strains that produce similar toxins.

BE IT FURTHER RESOLVED, this research, in conjunction with risk assessment, be utilized to develop strategies for control measures to minimize risk of human exposure to *E. coli* O157:H7.

AFP 6.4  
2013/Renewed  
**Cloning**

WHEREAS, the U.S. Food and Drug Administration (FDA) has released a risk assessment on animal cloning that evaluated the health risks to animals involved in the process of cloning and evaluated the food consumption risks that may result from edible products derived from individual clones or their progeny, and

WHEREAS, the risk assessment found that meat and milk from clones and their progeny are safe for human consumption,

THEREFORE BE IT RESOLVED, NCBA accepts the scientific FDA findings and recognizes cloning technology as another assisted reproductive technology that can be used in the beef industry.

AFP 6.5  
2009/Amended  
**Food Safety Agency Structure**

WHEREAS, the U.S. Department of Agriculture Food Safety and Inspection Service

(FSIS) oversees the inspection of meat, poultry, and egg products while the U.S. Food and Drug Administration (FDA) oversees almost all other food products, and

WHEREAS, the safety of the U.S. beef supply continues to improve due to the commitment of the beef industry and FSIS to enhance the protection of public health, and

WHEREAS, there have been attempts to restructure the federal agencies that have responsibilities overseeing the safety of the U.S. food supply and

WHEREAS, efforts to restructure federal food safety agencies may create a burdensome process that could threaten the progress made on beef safety and future protection of public health, and

WHEREAS, the consolidation of federal agencies into the Department of Homeland Security has been complicated and not without problems, and

WHEREAS, a complicated restructuring of federal food safety agencies may create a disruption in effective monitoring and inspection of the food supply,

THEREFORE BE IT RESOLVED, NCBA opposes the creation of a single food safety agency.

BE IT FURTHER RESOLVED, NCBA only supports restructuring that will enhance the effectiveness of the federal food safety agencies.

BE IT FURTHER RESOLVED, NCBA urges continued cooperation between USDA and FDA to further protect public health.

AFP 6.6  
2013/Renewed  
**Labeling of Safe Product**

WHEREAS, the development of technology has the potential to bring positive change to our industry, and

WHEREAS, government and private institutions have evaluated technologies used in the production and the processing of livestock deemed as safe, based on sound science,

THEREFORE BE IT RESOLVED, NCBA opposes any government mandated attempt to label



livestock and animal products and their progeny in order to differentiate products because of use of technology that has been scientifically proven safe.

BE IT FURTHER RESOLVED, NCBA continues to support the use of research and sound science when making decisions regarding the development of technology that can be used in the livestock industry.

AFP 6.7

2010/New

***Salmonella* Research**

WHEREAS, *Salmonella* has been associated with serious public health problems in humans in the form of gastroenteritis, typhoid fever and bacteremia, and

WHEREAS, the prevalence, incidence, and implications of the pathogen in the food chain (livestock, poultry, and their products) needs to be continually monitored,

THEREFORE BE IT RESOLVED, NCBA strongly supports funding from the public and private sectors for research to establish prevalence, incidence, and control of *Salmonella*.

BE IT FURTHER RESOLVED, this research, in conjunction with risk assessment, should be utilized to develop strategies for control measures to minimize risk of human exposure to *Salmonella*.

AFP 6.8

2011/New

**Beef Industry Commitment to Pre-Harvest Food Safety Interventions**

WHEREAS, the reduction of all food safety pathogens continues to be a top priority for the beef industry, and

WHEREAS, NCBA members welcome the opportunity to work in collaboration with industry stakeholders, government, researchers, and international bodies, and

WHEREAS, NCBA continues to be a leader in proactively identifying the most pressing knowledge gaps, furthering scientific knowledge, and finding solutions in order to continually improve beef safety while also ensuring food security, and

WHEREAS, there is not a "silver-bullet" for a common intervention application for pre- or post-

harvest,

THEREFORE BE IT RESOLVED, NCBA support the multidisciplinary approach to identify and develop interventions along the entire food chain to address key knowledge hurdles and develop targeted solutions, and

BE IT FURTHER RESOLVED, NCBA support a collaborative approach to extensive research to ensure that intervention applications are science-proven and designed for industry application, and

BE IT FURTHER RESOLVED, NCBA support educational initiatives developed to assist the industry in making informed decisions when new intervention technologies become commercially available.

AFP 6.9

2013/Amended

**Beef Industry Commitment to Reduce Pathogenic Shiga Toxin-Producing *E. coli***

WHEREAS, O157:H7 and non-O157 shiga toxin-producing *E. coli* have been associated with serious public health problems in humans, and

WHEREAS, the beef industry is committed to prevent and eliminate the presence of all pathogenic shiga toxin-producing *E. coli* capable of increasing the burden on public health,

THEREFORE BE IT RESOLVED, NCBA reaffirms its commitment to further reduce the risks associated with pathogenic shiga toxin-producing *E. coli* utilizing scientifically proven production practices and technologies, and its goal to produce, deliver, and serve wholesome and safe beef for each and every family.

BE IT FURTHER RESOLVED, NCBA should continue to work with all segments of the beef industry and government to pursue interventions that will reduce the prevalence of pathogenic shiga toxin-producing *E. coli* throughout the beef industry and seek the necessary regulatory approvals and implementation across the industry.

BE IT FURTHER RESOLVED, NCBA support research, in conjunction with risk assessment, being utilized to develop strategies to minimize the risk of human exposure from all pathogenic shiga toxin-producing *E. coli* capable of increasing the burden on public health.

## 7. INSPECTION

AFP 7.1

2012/Amended

### Imported Meat Inspection Equivalency

WHEREAS, standards of meat inspection in foreign plants exporting meat to the United States are required by law to be equivalent to U.S. meat inspection standards,

THEREFORE BE IT RESOLVED, slaughter, processing, and transporting facilities that handle foreign meats for importation to the United States should be subject to equivalent inspection and sanitation requirements applicable to federally inspected plants in the United States.

BE IT FURTHER RESOLVED, imported meat should be subject to the same restrictions as domestically produced meat with respect to feed additives, antibiotics, pesticides, biological hazards, and other chemicals.

AFP 7.2

2010/Amended

### Domestic Meat Inspection System

WHEREAS, NCBA is committed to meeting consumer expectations in producing and delivering a safe and wholesome beef supply, and

WHEREAS, NCBA supports inspection to the extent necessary to assure that all meat entering commercial and government channels is wholesome and processed and distributed under sanitary conditions, and

WHEREAS, mandated federal programs should be all inclusive to maximize the interest of public protection by including all animal protein industries equally in the inspection process,

THEREFORE BE IT RESOLVED, NCBA supports an inspection system that:

- includes all animal protein industries to include meat, poultry and fish
- eliminates economic inequities between species in the inspection process
- uses a HACCP-based inspection program based on scientific principles that extends through the food distribution system
- remains under authority and jurisdiction of USDA with public funding

- maintains third party intervention to detect and remove individual diseased animals or parts from the food chain
- classifies all food-borne pathogens using a risk-assessment model
- adopts a single federal-state inspection stamp or legend for use on federally inspected meat and meat inspected under "equivalent to" state programs
- designates the meat inspected under state programs as being "equivalent to" federal standards and be accorded the same freedom of movement in interstate commerce as is accorded meat imported into the United States from foreign countries
- provides the Secretary of Agriculture the discretion to determine the appropriate level of inspection, including increasing inspection during an investigation and/or legal proceedings, in order to assure that meat produced is of wholesome quality, and
- affords due process to all parties involved in any investigation of improper meat production and all investigations be handled in a prompt and fair manner.

AFP 7.3

2010/Renewed

### FSIS National Residue Monitoring Program

WHEREAS, consumer confidence in beef is a critical issue for the cattle industry, and

WHEREAS, chemical residues are an important factor influencing consumer attitudes,

THEREFORE BE IT RESOLVED, NCBA strongly encourages Food Safety Inspection Service (FSIS) to maintain or improve the specificity and sensitivity of the present level of testing in the National Residue Monitoring Program, and to develop a risk-based chemical residue monitoring program.

BE IT FURTHER RESOLVED, NCBA encourages FSIS to make the results of the National Residue Monitoring Program available on a timely basis.

AFP 7.4  
2012/Renewed  
**Foreign Inspection**

WHEREAS, the effectiveness of inspection of foreign meat has come into question and the quality and safety of imported meat is imperative to the livestock industry and the consumer,

THEREFORE BE IT RESOLVED, NCBA shall periodically review the current USDA Food Safety and Inspection Service (FSIS) foreign meat inspection programs at ports of entry. This review should include an analysis of antibiotic/chemical residue testing protocols and evaluation of microbiological profiles of imported products.

BE IT FURTHER RESOLVED, FSIS shall provide an annual report to the public of efforts to ensure the equivalency of foreign meat inspection systems.

**8. NUTRITION & HEALTH**

AFP 8.1  
2013/Amended  
**Nutrition & Health Statement of Principles**

BE IT RESOLVED, NCBA adopt the following statement of principles for nutrition and health issues:

**Introduction:**

As producers, processors and marketers of the nation's beef supply, we are committed to providing a wholesome, nutritious food and to communicating accurate information about beef's nutritional qualities and the role of beef in a healthful diet. We pledge to use the following principles to guide our actions and communications about beef in regard to nutrition and health.

**Principles:**

1. We will provide factual, scientifically supported information about beef to help consumers make informed choices about what they eat.
2. We believe that overwhelming scientific evidence shows that dietary balance, variety and moderation coupled with appropriate physical activity provides the foundation for a healthful life and we support the

recommendations of the Dietary Guidelines for Americans and the USDA Food Guide in that regard.

3. We are committed to conducting and participating in programs to actively disseminate accurate information about the nutritional advantages of beef which support and extend the important consumer messages in the Dietary Guidelines for Americans.
4. We recognize the important role of health professionals and nutrition educators in providing nutrition information and are committed to working with them and their professional organizations to communicate accurate information about nutrition and health.
5. We believe that dietary balance, variety, moderation and physical activity are the keys to health, and we also encourage individuals with specific health concerns that require dietary modification to consult a physician followed by nutrition counseling from a Registered Dietitian.
6. We will support research on the nutritional qualities of beef and will accurately communicate research findings to help consumers make informed decision about their diet.
7. We recognize that consumers want foods that are good tasting and convenient as well as nutritious and will support research to provide beef products that meet these consumer demands.

AFP 8.2  
2010/Renewed  
**Nutrient and Food Consumption Survey**

WHEREAS, United States Department of Agriculture (USDA) has always had the primary responsibility for nutrient and food consumption data collection, and

WHEREAS, other government agencies and private sector groups are also doing nutrient and food consumption surveys, and

WHEREAS, nutrient and food consumption data influence the scientific and consumer perception of beef's role in the diet, and

WHEREAS, the Nutrition Monitoring Act of 1990 requires more harmony among government agencies in surveying food consumption and nutrient intake,

THEREFORE BE IT RESOLVED, NCBA advocates the primary responsibility of food consumption and nutrient intake data collection remain at the USDA.

AFP 8.3  
2010/Renewed

**USDA National Nutrient Database for Standard Reference**

WHEREAS, the beef checkoff has collaborated with United States Department of Agriculture (USDA) to update the database on the nutrient content of beef as compiled in the USDA National Nutrient Database for Standard Reference, and

WHEREAS, data in the USDA National Nutrient Database for Standard Reference reflects the current nutrient values of many popular retail beef cuts, and

WHEREAS, current values more accurately reflect today's leaner, trimmer beef, which is significantly lower in fat and cholesterol, and

WHEREAS, the current release also includes outdated information and nutrient values of many cuts no longer popular at retail and no longer reflective of consumer eating habits, and

WHEREAS, there remain some cuts of beef not reflected in the current data, and

WHEREAS, there is inconsistency of nutrient data representation across protein species,

THEREFORE BE IT RESOLVED, NCBA continues to collaborate with USDA to update the database with popular beef cut data reflecting consumer eating habits, and encourages the use of current data by other government agencies and other groups issuing dietary recommendations with regard to beef.

BE IT FURTHER RESOLVED, NCBA encourages USDA to represent data fairly and consistently across protein species in the database.

AFP 8.4  
2010/Renewed

**USDA Consumption Data**

WHEREAS, United States Department of Agriculture's (USDA) annual per capita data is based on the availability of meat in the food supply, including bone and fat which cannot be consumed, and

WHEREAS, USDA, provides quarterly data on beef supply utilization in terms of carcass weight and retail weight, and

WHEREAS, USDA now releases data on the beef supply in terms of edible weight on an annual basis only, and this more accurately reflects consumption of beef,

THEREFORE BE IT RESOLVED, NCBA continues to encourage USDA to use conversion factors for carcass- to-retail data to more accurately portray U.S. beef consumption.

AFP 8.5  
2010/Amended

**Government Beef Purchases**

WHEREAS, beef makes a valuable contribution to good nutrition because of its high quality protein, bioavailable iron, zinc, and B-vitamins, and

WHEREAS, there is a move to combine all federal food assistance programs into a block grant that would go to individual states for jurisdiction, and

WHEREAS, these food assistance programs are outlets for domestic beef, and

WHEREAS, government purchasing programs help stabilize the market when an oversupply situation occurs, and

WHEREAS, state cattlemen's associations and state beef councils can have a positive impact on state government purchases of domestic beef, and

WHEREAS, the government benefits by its volume purchasing power, and

WHEREAS, Commodity Letters of Credit (CLOC) cannot match the efficiency of the Commodity Distribution Program, nor can they verify that beef purchased with CLOC is of domestic origin,

THEREFORE BE IT RESOLVED, NCBA supports USDA's Commodity Distribution Program to:

- foster greater state involvement in food assistance programs.
- require all tax-supported bodies and government food assistance programs, including military commissaries, post exchanges (PX), the School Lunch Program, food stamp program, and other programs supported by tax dollars, to only purchase domestically produced beef.
- encourage individual members, affiliate member associations, and other parties interested in the cattle industry to monitor closely the use of beef in government programs locally, and to work for the passage of state laws which provide for tax dollars to be used for the purchase of domestically produced beef in government programs of their political subdivisions and agencies.
- include USDA inspected beef in foreign and domestic food assistance programs.
- require food stamp recipients use such support for the purchase of food only.
- help deplete the over-supply situation whenever it occurs.
- encourage the use of high quality beef in all food assistance programs.
- continue a commodity purchase group in USDA to assist states in increasing volume purchasing power.
- recommend third party verification of quality to assure contractual performance.

AFP 8.6  
2010/Renewed

#### **Imitation and Substitute Products**

BE IT RESOLVED, in the interest of not misleading consumers, NCBA takes the position that manufacturers and distributors of non-beef products or other products designed to imitate or substitute for beef and beef products should be prohibited in product promotion, advertising, or labeling from using pictures or pictorial facsimiles of beef and beef products, and from using names of natural beef and beef products or terms directly associated by the consumer with the natural products.

AFP 8.7  
2011/Amended

#### **Informative Nutrient Labeling**

WHEREAS, the federal government has passed regulations mandating nutrition labels on major cuts of single-ingredient, raw meat products, and ground or chopped meat products, and

WHEREAS, beef is a highly nutritious product and an important ingredient in modern diets, and

WHEREAS, nutrition labeling of beef products, as regulated by USDA, could benefit both consumers and the beef industry,

THEREFORE BE IT RESOLVED, NCBA continue to support nutrition labeling of meat products that will:

1. Inform consumers of the important nutritive qualities of beef.
2. Assist retailers in effectively communicating the nutritional benefits of beef as they implement labeling programs.
3. Distinguish between the various types and levels of fats and other nutritive properties of beef so consumers can make informed decisions.

AFP 8.8  
2011/Amended

#### **Dietary Recommendation Issues**

WHEREAS, government-funded agencies and health organizations continue to issue dietary guidelines to promote health and are influencing food choices, and

WHEREAS, beef—with its high nutrient density—makes an important nutrient contribution to restrictive as well as more conventional diets,

THEREFORE BE IT RESOLVED, NCBA:

1. Encourage the United States Department of Agriculture (USDA) to frequently update and disseminate factual information based on sound science on the nutrient composition of the various beef cuts, information which includes data on the actual content of fat, saturated fat, cholesterol, and other essential nutrients in cooked beef cuts,

2. Encourage government agencies and health organizations to disseminate information on the actual nutrient content of beef, showing that numerous cuts of beef can be part of recommended low-fat and other modified diets,
3. Encourage government agencies and health organizations to recognize and point out in their information programs the role of beef in sound nutrition education programs,
4. Work with other organizations to continue to effectively inform health professionals and other nutrition information sources, including the news media, and with members of the food industries, in order to gain wider awareness of beef's actual nutrient density and its important role in providing essential nutrients in diets,
5. Encourage continued research on beef's role in nutrition, diet, and health, and
6. Support legislation requiring government agencies to submit proposed diet guidance to USDA for review and approval prior to its release.

AFP 8.9  
2010/Amended

**Dietary Guidelines for Americans**

WHEREAS, the "Dietary Guidelines for Americans" is jointly issued from the United States Department of Agriculture and the Department of Health and Human Services, and

WHEREAS, this document is the recognized dietary advice for health promotion from the United States Government for the general population, and

WHEREAS, emphasis has been put on quality diets and nutrient-rich foods, and

WHEREAS, the evidence-based review process which is now being used in federal government scientific reviews requires a higher standard of research to be achieved to be considered in the review,

THEREFORE BE IT RESOLVED, NCBA continues to educate consumers, health professionals, government, and media about beef's nutrient attributes.

BE IT FURTHER RESOLVED, NCBA develops the research foundation to promote beef's benefits in future evidence-based reviews.

AFP 8.10  
2009/Renewed

**Vegetable Protein Enhanced Products**

WHEREAS, beef is a highly nutritious commodity distributed through the National Feeding Programs (NFP's), and

WHEREAS, USDA currently allows a maximum of 30% (by weight) "vegetable protein" in meat products in the NFP's, and

WHEREAS, processors manufacture beef products to comply with the requirements set forth by USDA for use in the NFP's, and

WHEREAS, foods served in the NFP's make a lifelong impression on consumers of those products, and

WHEREAS, the addition of "vegetable protein" to beef products may enable program directors and consumers to serve more beef while meeting economic and nutrition requirements, as presented in the Dietary Guidelines for Americans,

THEREFORE BE IT RESOLVED, NCBA does not approve of the addition of "vegetable protein" into beef products unless:

1. demand for beef products is increased,
2. "vegetable protein" does not account for greater than 30% (by weight) of meat products, and is not used as a substitute for meat/meat alternative products within the NFP's,
3. "vegetable protein" enhanced meat products are sold in commercially prepared forms that meet the standards-of-identity as developed by USDA in order to assure quality, safety, consistency, and consumer acceptability, and
4. Beef products containing "vegetable protein" are visibly labeled and presented to consumers in a non-misleading way.

## CATTLE HEALTH AND WELL BEING COMMITTEE

**Bill Nutt, GA - Chair**

**Dr. Bud Dinges, TX - Vice Chair**

**Dr. Kathy Simmons & Mallory Gaines, Staff**

		<b>ANIMAL CARE</b>	4.4	2013	Bont Tick—Heartwater
1.1	2009	Non-Ambulatory Livestock	4.5	2012	Bovine Spongiform Encephalopathy (BSE)
1.2	2010	Animal Production Practices			
1.3	2009	Animal Care	4.6	2010	Invasive Animal Pests
1.4	2011	Support of Rodeo Activities and Professional Rodeo Cowboy Association Humane Guidelines	4.7	2011	Tropical Bont-Tick: Risk of Acute Bovine Dermatophilosis and Heartwater Introduction to the U.S.
1.5	2013	Development of Protocols for Regionalization	4.8	2013	U.S. Screwworm Control Program Support
1.6	2012	Livestock Management & Animal Health and Well-Being Standards	4.9	2012	Protection of Integrity of Fetal Calf Serum Through International Biosecurity
<b>2</b>		<b>BRUCELLOSIS</b>			
2.1	2010	Brucellosis	<b>5</b>		<b>JOHNE'S DISEASE</b>
2.2	2010	Swine Brucellosis Infection in Cattle	5.1	2013	John's Disease Support After Termination of USDA-APHIS
2.3	2012	Brucellosis – Select Agent			John's Disease Program
<b>3</b>		<b>DRUGS AND BIOLOGICS</b>	5.2	2013	Integrated Disease Research
3.1	2009	Pests—Ticks			
3.2	2009	Regulation and Use of Biologicals	<b>6</b>		<b>TUBERCULOSIS</b>
3.3	2010	New Pesticides	6.1	2012	Tuberculosis
3.4	2011	Floroquinolone Use	6.2	2009	Tuberculosis Health Regulations for Sport Cattle or Timed Event Cattle
3.5	2011	Illegal Drug Use	6.3	2013	Bovine Tuberculosis Funding
3.6	2011	Harmonization of Biologic Manufacturing	6.4	2013	Change of Bovine Tuberculosis Status
3.7	2011	Drug Compounding Policy Statement	6.5	2009	Tuberculosis Eradication
3.8	2012	Animal Drugs, Biologic & Feed Additives	<b>7</b>		<b>USDA – APHIS</b>
3.9	2012	Residues in Imported Meat	7.1	2010	Permits on Imports of Animals to States
3.10	2013	Judicious Use of Antibiotics and Drugs	7.2	2010	Diseases—Inter-American Highway
3.11	2011	Pharmaceutical Labeling/Approval	7.3	2011	Foot and Mouth Eradication
3.12	2013	Reclassification of Polyether Ionophores	7.4	2012	Diseases—Emergency Management Planning
3.13	2012	Selenium Supplementation Needs for Healthy Cattle	7.5	2010	APHIS Authority
3.14	2010	Ensure Producer Access to Antibiotics for Cattle Health	7.6	2013	Wildlife and Exotic Game Animal Research
			7.7	2009	U.S. Canadian Anaplasmosis
			7.8	2012	Indemnity
<b>4</b>		<b>FOREIGN ANIMAL DISEASES</b>	<b>8</b>		<b>GENERAL</b>
4.1	2009	Prevention of Foreign Animal Diseases	8.1	2010	Stolen Cattle
4.2	2012	Screwworm Eradication	8.2	2010	Cooperation with Veterinary Groups
4.3	2011	Vesicular Stomatitis	8.3	2010	Veterinarian Training

8.4	2010	Animal Health—Federal Funding Priorities	<b>9</b>	<b>ANIMAL DISEASE RESEARCH</b>
8.5	2013	Disclosure of BVD PI Animals	9.1	2010 Cryptosporidiosis
8.6	2012	Identification of Imported Cattle	9.2	2009 Epizootic Hemorrhagic Disease (EHD)
8.7	2012	The Role of Individual Animal Identification to Enhance Genetic Improvement and Source Verification Programs	9.3	2009 Bovine Leukosis Virus (BLV)
8.8	2012	Animal Disease Traceability	9.4	2011 Use of Animals for Research Purposes
8.9	2012	Traceability	9.5	2009 USDA Research Funding for Neospora Caninum and Nematode Research
8.10	2013	Veterinary College Programs	9.6	2009 USDA Research Funding for EBA Research
8.11	2013	Border Security: Theft and Health Emergency	9.7	2009 National Animal Disease Center and National Veterinary Services Laboratory Funding
8.12	2009	Livestock Biosecurity Education	9.8	2011 Anti-Tick Vaccine Research
8.13	2013	Food Animal Veterinarian	9.9	2012 Chronic Wasting Disease Eradication
8.14	2013	Bovine Leukosis Vaccine	9.10	2013 Foot & Mouth Disease Control
8.15	2013	Arthropod Borne Animal Disease Research Unit (ABADRU) Support	9.11	2012 Trichomonosis Control
8.16	2009	Non-ambulatory Cattle Not To Be Used in the Commercial Food Supply	9.12	2011 Testing for Trichomoniasis
8.17	2012	Alternative Feedstuffs	9.13	2013 Support for Research on Controlling Foot & Mouth Disease Outbreaks by Methods other than Depopulation
8.18	2011	Support of Food Animal Residue Avoidance Database (FARAD)	9.14	2013 Support for the Midwest Insect Research Laboratory (Lincoln, NE)
8.19	2011	Veterinarians in Rural Communities	9.15	2013 Kerrville Research Lab Funding
8.20	2013	Large Animal Veterinarians	9.16	2012 Regional Diagnostic Laboratory Capacity
8.21	2013	Fly Impact	9.17	2009 Bovine Viral Diarrhea Virus Education and Research Support
8.22	2010	Biosecurity Education for High Risk Cattle	9.18	2009 Bovine Viral Diarrhea Virus International Biosecurity
8.23	2011	Support of Safety Standards for Feed Mills	9.19	2013 Animal Disease Research Funding
8.24	2012	Greater Yellowstone Area Bison Relocation		



## 1. ANIMAL CARE

### CH 1.1

2009/Renewed

#### Non-Ambulatory Livestock

WHEREAS, livestock producers are vitally interested in the well-being of the animals in their charge, and

WHEREAS, producers make every effort to obtain veterinary care for animals that are sick or injured, and

WHEREAS, despite all precautions, some animals may become non-ambulatory,

THEREFORE BE IT RESOLVED, NCBA shall work with USDA-APHIS and other appropriate partners, such as the rendering industry and livestock markets, to develop incentives to facilitate the surveillance of non-ambulatory animals for BSE and other important diseases.

BE IT FURTHER RESOLVED, NCBA will also work with these partners to ensure the financially and environmentally sound disposal of such animals.

### CH 1.2

2010/Amended

#### Animal Production Practices

WHEREAS, on occasion the industry is faced with issues where an individual has not conducted themselves or their businesses in keeping with industry standards for recognized business and livestock management practices, and

WHEREAS, all beef producers bear the brunt of regulatory action and public ill-will over the misguided and inappropriate action of some producers and the lack of effective oversight from agencies responsible for enforcing producer-supported humane handling regulations,

THEREFORE BE IT RESOLVED, NCBA will educate producers and calls upon all sectors of the beef industry to follow commonly accepted industry livestock and business management practices in animal health and care.

BE IT FURTHER RESOLVED, NCBA shall not be compelled to defend anyone in beef cattle production who has clearly acted to abuse livestock or has neglected clear animal health needs.

BE IT FURTHER RESOLVED, NCBA may determine that the best interest of cattle producers is served by supporting action from appropriate local, state, or federal agencies against those who abuse livestock or regulators who are negligent in enforcing laws regarding humane harvest.

### CH 1.3

2009/Renewed

#### Animal Care

WHEREAS, farmers and ranchers have long been concerned with the welfare of livestock, recognizing that good animal health, care, production and handling practices are essential to efficient and profitable production,

THEREFORE BE IT RESOLVED, for reasons of clarification, NCBA recognizes the following definitions:

- Animal Welfare: the reasonable care of all animals, i.e. good animal husbandry practices.
- Animal Rights: a position taken by those who believe that animals have legal and moral rights similar to humans.

BE IT FURTHER RESOLVED, NCBA monitors the animal rights issue if it develops in the courts and in Congress and takes appropriate action when necessary.

### CH 1.4

2011/Renewed

#### Support of Rodeo Activities and Professional Rodeo Cowboy Association Humane Guidelines

WHEREAS, the Professional Rodeo Cowboys Association (PRCA) has established guidelines on the care and handling of rodeo stock for competition as stated in the PRCA humane guideline, and

WHEREAS, PRCA has conducted scientific studies and compiled statistics on animal welfare to establish the humane guidelines for the handling and care of rodeo livestock,

THEREFORE BE IT RESOLVED, NCBA encourages all rodeo events to follow the PRCA Humane Guidelines, and NCBA supports rodeos conducted under the PRCA Humane Guidelines.

CH 1.5

2013/Renewed

**Development of Protocols for Regionalization**

WHEREAS, animal diseases occur periodically in some states and occur in wildlife in some states, and

WHEREAS, NCBA wholly supports open access to marketing and movement options while maintaining appropriate disease risk, and

WHEREAS, precise protocols should be in place to determine quarantines, regionalization, or other movement restrictions in a herd or area,

THEREFORE BE IT RESOLVED, NCBA supports research to develop protocols and determine the economic impact of an internal regionalization of states or area.

CH 1.6

2012/New

**Livestock Management & Animal Health and Well-Being Standards**

WHEREAS, NCBA believes it is the responsibility of each cattle producer to manage livestock in a humane manner, and

WHEREAS, NCBA also believes in the right of each individual cattle producer to identify and exercise the animal care practices that are most appropriate for his or her operation, and

WHEREAS, cattle production practices in use today are necessary to meet identification, beef quality, food safety, and animal health and well-being purposes for cattle producers,

THEREFORE BE IT RESOLVED, NCBA support additional research to identify and test alternative cattle production practices that maintain the highest standards for animal health and well-being without resulting in additional costs to producers, losses in production, or mandates of specific animal handling practices,

BE IT FURTHER RESOLVED, NCBA encourage other cattle industry groups to also support and help fund such projects to make additional options available to the nation's cattle producers.

**2. BRUCELLOSIS**

CH 2.1

2010/New

**Brucellosis**

WHEREAS, Brucellosis is a major concern to the U.S. cattle industry, and

WHEREAS, Animal and Plant Health Inspection Service Veterinary Services (APHIS VS) is reviewing the progress of the National Brucellosis Eradication Program and taking steps to make the program more efficient and to modernize the program's regulatory framework, and

WHEREAS, brucellosis prevalence in the Greater Yellowstone Area's bison and elk is considered to be the reservoir for brucellosis, putting the U.S. cattle herd at risk,

THEREFORE BE IT RESOLVED, NCBA will pursue priorities and strategies regarding both the modification of the National Brucellosis Eradication Program and the eradication of brucellosis from the Greater Yellowstone Area.

BE IT FURTHER RESOLVED, NCBA will pursue granting APHIS VS clear authority over federal efforts to control and eradicate brucellosis in all species in which the disease is found.

CH 2.2

2010/New

**Swine Brucellosis Infection in Cattle**

WHEREAS, swine brucellosis (*brucella suis*) is an infectious disease of swine that can also affect humans and cattle, and

WHEREAS, swine brucellosis is endemic in feral swine populations, and

WHEREAS, swine brucellosis infection in cattle causes economic losses to the beef industry, and

WHEREAS, swine brucellosis infection in cattle can interfere with the interpretation of serologic (blood) tests used to diagnose *brucella abortus* (cattle brucellosis) in the cattle population,

THEREFORE BE IT RESOLVED, NCBA supports increased research on the swine brucellosis infection in cattle, to develop differentiating serologic tests, develop effective vaccines for cattle, and better control mechanisms for the disease.

CH 2.3

2012/New

**Brucellosis – Select Agent**

WHEREAS, U.S. Homeland Security has designated *Brucella abortus* as a Select Agent that could be utilized as a weapon of bioterrorism, and

WHEREAS, this designation limits the ability to conduct challenge studies of potential brucellosis vaccines, and

WHEREAS, challenge studies are an essential step in the development of new or enhanced vaccines to control brucellosis in cattle and wildlife in the Greater Yellowstone Area, and

WHEREAS, the risk of *Brucella abortus* being used as an effective weapon of bioterrorism is extremely low, and

WHEREAS, *Brucella abortus* and other virulent *Brucella* species are readily available in nature,

THEREFORE BE IT RESOLVED, NCBA support removal of *Brucella abortus* from the Select Agent list,

BE IT FURTHER RESOLVED, NCBA continue to support and pursue funding for brucellosis research.

**3. DRUGS AND BIOLOGICS**

CH 3.1

2009/Amended

**Pests—Ticks****Part I—Coordination**

WHEREAS, ticks enter the United States periodically from other countries and cause a threat to cattle and wildlife by possible disease transmission, and

WHEREAS, these diseases could cause great economic hardships to agriculture and inhibit foreign trade,

THEREFORE BE IT RESOLVED, NCBA encourages USDA and all other agencies to work closely with foreign governments, with frequent interchanges of information and technicians between both countries, so that the prevention/eradication efforts and elimination from all animals being exported can be coordinated with the

prevention/eradication program in the United States.

**Part II—Research**

WHEREAS, acaricides have been used successfully to eradicate cattle fever ticks from the United States, and

WHEREAS, a limited number of acaricides are still in use in order to prevent reinvasion of Cattle Fever Ticks and are used to eliminate cattle ticks found on cattle in the United States, and

WHEREAS, there are reports that Cattle Fever Ticks in Mexico have become resistant to many commonly used acaricides and recently acaricide resistant Cattle Fever Ticks have been found in Southern Texas,

THEREFORE BE IT RESOLVED, NCBA urges that the Animal Plant Health Inspection Service (APHIS), and the Department of Interior U.S. Fish and Wildlife Service take all necessary measures to prevent the introduction of ticks into the United States and that USDA Agricultural Research Service undertake accelerated research to determine the exact nature of the resistance and develop alternate materials, methods, and techniques to control resistant strains of cattle ticks.

BE IT FURTHER RESOLVED, NCBA work in concert with the United States Animal Health Association and APHIS to enhance the surveillance program for the Cattle Fever Tick as well as an emergency response plan in the event ticks or tick borne disease is introduced into the U.S.

BE IT FURTHER RESOLVED, NCBA acknowledges the research initiatives of the Knippling-Bushland Livestock Insect Research Laboratory and supports continued research in pesticide resistance, development of technology to control populations of Cattle Fever Ticks maintained and distributed by ungulate wildlife and development of alternative methods to reduce reliance on coumaphos as the only form of chemical control of specific vectors.

BE IT FURTHER RESOLVED, NCBA strongly supports the relocation and construction of new laboratory facilities to replace the World War II era buildings currently used.

**Part III – Funding**

WHEREAS, the National Cattle Fever Tick Eradication program was initiated in 1906 and was initially funded by Congress in 1907 as a cooperative

federal/state/industry disease and pest eradication effort, and

WHEREAS, a permanent quarantine area was established along the Texas side of the Rio Grande River in 1938 to prevent re-establishment of fever ticks from Mexico in Texas, and

WHEREAS, Cattle Fever Ticks were eradicated from all 14 states that comprised the fever tick's historical range and were pushed across the Rio Grande River by 1943, and

WHEREAS, since 1943 the permanent Cattle Fever Tick Quarantine Area has been maintained by the cooperative efforts of the Texas Animal Health Commission and USDA, APHIS, Veterinary Services, and

WHEREAS, the Cattle Fever Tick Eradication Program has been habitually understaffed and under-funded, while the level of tick infestations is trending upward and tick incursions from Mexico are increasing, resulting in an historical high number of infested premises in 2005, 2006, 2007 and 2008, and

WHEREAS, the increasing level of acaricide resistant ticks in Mexico and the identification of some acaricide resistant ticks in Texas, and the increasing role of wildlife (especially white-tailed deer, elk, and nilgai) in the spread and maintenance of fever ticks in Texas are of great concern, and

WHEREAS, in 2005 and 2006, USDA, in consultation with stakeholders developed a National Strategic Plan for the Cattle Fever Tick Eradication Program for FY 2006-2011, which identifies goals and objectives for the program and budgetary needs for fulfillment of the strategic plan, and

WHEREAS, Cattle Fever Tick outbreaks occurred in the free area portion of several South Texas counties during 2007 and are expanding into additional areas in 2008 and have resulted in a significantly increased number of Cattle Fever Tick infested premises outside the Cattle Fever Tick Eradication Quarantine Area (permanent Cattle Fever Tick quarantine area), resulting in over a million acres of the formerly free areas of South Texas under Cattle Fever Tick quarantine and requiring many millions of dollars in resources to cover the costs of the increase in human and fiscal resources needed to contain and eliminate the Cattle Fever Tick outbreak, and

WHEREAS, if Cattle Fever Tick outbreaks are not contained and eliminated in South Texas, the entire historic range of the cattle fever tick is in jeopardy for the potential reintroduction of fever ticks, which in turn could cause outbreaks of Cattle Tick Fever, resulting in large numbers of cattle being lost to the disease and costing hundreds of millions of dollars in economic impact to affected areas,

THEREFORE BE IT RESOLVED, NCBA urges USDA, the Office of Management and Budget and Congress to immediately provide funding needed to cover the costs associated with elimination of Cattle Fever Ticks from the outbreak areas of South Texas,

BE IT FURTHER RESOLVED, NCBA urges Congress to appropriate additional funding for the Cattle Fever Tick Eradication Program (Year 1 - \$10, 700,000; Year 2 - \$8,300,000; Year 3 - \$8,200,000; Year 4 - \$8,100,000; and Year 5 - \$7, 100,000), and urges USDA to fully implement the provisions of the National Strategic Plan for the Cattle Fever Tick Eradication Program developed by USDA in 2006.

BE IT FURTHER RESOLVED, NCBA urges Congress to provide to the Agriculture Research Service funding for research and development of new acaricides for fever tick control on wildlife hosts and on livestock, to identify mitigation strategies that could aid in control of fever ticks, to develop advanced methods for prevention and eradication of Cattle Fever Ticks, and to improve management of diseases related to Cattle Fever Ticks that are associated with wildlife and livestock.

CH 3.2

2009/Renewed

#### **Regulation and Use of Biologicals**

WHEREAS, USDA regulates the manufacturing of animal biologics,

THEREFORE BE IT RESOLVED, NCBA works to maintain regulatory authority of animal biologis within the USDA.

BE IT FURTHER RESOLVED, NCBA urges USDA to negotiate agreements of understanding with states to continue state regulation of intrastate biological manufacturing.

BE IT FURTHER RESOLVED, NCBA opposes any changes of laws or regulations which would restrict the present access and/or availability of animal biologics, except when the changes are

supported by clear scientific evidence done on relevant species.

CH 3.3  
2010/Renewed  
**New Pesticides**

WHEREAS, the Agricultural Research Service (ARS) has the personnel, facilities, and expertise to develop alternative control technologies, and

WHEREAS, the control of ticks, flies and other pests is necessary to maintain animal health, and

WHEREAS, the future of dip vat use and pest resistance to pyrethroid and organophosphate insecticides is uncertain,

THEREFORE BE IT RESOLVED, NCBA recognizes the importance of adequate pest control technology and NCBA supports the need for USDA Agricultural Research Service (ARS) and the chemical industry to attach a high priority to research and develop new insecticides and alternative, tick eradicators to include the development of technology for the control of ticks on all animals including wildlife, reptiles, exotic and endangered species.

BE IT FURTHER RESOLVED, NCBA encourages research, extension education, and industry participation to implement the use of available control strategies designed to prolong the use of currently registered materials.

CH 3.4  
2011/Renewed  
**Floroquinolone Use**

WHEREAS, the Food and Drug Administration (FDA) has standards for the use of floroquinolone in beef cattle, and

WHEREAS, NCBA's Beef Quality Assurance programs encourage the cooperation of veterinarians, nutritionists, and the pharmaceutical industry,

THEREFORE BE IT RESOLVED, NCBA recognizes and endorses the FDA regulations for floroquinolone use which clearly prohibit the extra label use of this class of antibiotics.

CH 3.5  
2011/Renewed  
**Illegal Drug Use**

WHEREAS, NCBA has an active Beef Quality Assurance program, and

WHEREAS, NCBA has repeatedly opposed illegal or improper use of pharmaceuticals or biologicals in cattle, and

WHEREAS, there have been reported incidences of deliberate misuse of such products,

THEREFORE BE IT RESOLVED, NCBA supports aggressive control and prosecution of suppliers and/or users of illegal products.

CH 3.6  
2011/Renewed  
**Harmonization of Biologic Manufacturing**

WHEREAS, the World Trade Organization (WTO) calls for the harmonization of production, regulation, and policy of veterinary biologic manufacturing, and

WHEREAS, the USDA-Animal and Plant Health Inspection Service (APHIS) Code of Federal Regulations (CFR) has shown itself to be adequate and effective for the regulation of production of biologics within the United States, and

WHEREAS, adopting European Union (EU) style regulations would result in restricted availability and significant increases or in product cost for producers,

THEREFORE BE IT RESOLVED, NCBA supports the APHIS 9 CFR's as the regulatory mechanism controlling the production and marketing of Veterinary Biologics in the USA.

BE IT FURTHER RESOLVED, NCBA opposes adoption of the European system, and harmonization with the EU under the General Agreement on Tariffs and Trade (GATT) should be accomplished via mutual recognition basis equivalence as evaluated by scientific methods.

CH 3.7

2011/Renewed

**Drug Compounding Policy Statement**

WHEREAS, NCBA recognizes that in some situations veterinarians need to use their professional training to compound therapeutic products from bulk materials to provide adequate animal care for cattle producers,

THEREFORE BE IT RESOLVED, to maintain integrity of the cattle industry and the wholesome reputation for beef, drug compounding should be utilized only in situations not questioning beef safety or in cases involving the need for a product not otherwise available under National Animal Drug Applications (NADA) approval.

CH 3.8

2012/Renewed

**Animal Drugs, Biologic & Feed Additives****Part I**

WHEREAS, the use of chemicals is necessary for adequate and economical agricultural production, and

WHEREAS, feed additives, growth promotants, drugs, and pesticides are necessary tools for the efficient production of livestock, and

WHEREAS, unnecessary delays in approval of new products deprive the livestock industry and consumers of this increased efficiency of production, and

WHEREAS, the continued regulatory pressure upon proven products already in use threatens their future use and influences consumer perception of beef,

THEREFORE BE IT RESOLVED, NCBA supports a clear, logical, and scientifically sound procedure for clearance of new products.

BE IT FURTHER RESOLVED, NCBA shall take any responsible action necessary to prevent the restriction of proven available products until such time as scientific evidence and sound judgment proves the product unsafe for use in food animals.

BE IT FURTHER RESOLVED, NCBA insists that the Food and Drug Administration (FDA) follow proper rulemaking regulatory changes affecting the cattle industry.

**Part II**

WHEREAS, the determination of whether or not a given substance is allowed to be fed or otherwise administered to food-producing animals should be based on appropriate scientific investigation and tests, rather than on the degree of refinement of the detection devices and procedures utilized—which is the case under “zero tolerance” provisions, and

WHEREAS, NCBA supports the concept of setting safe and realistic residue tolerance levels determined by appropriate scientific investigation and tests, and

WHEREAS, NCBA believes that animal drugs and feed additives can be used by the beef industry in producing safe and wholesome meat products for the consuming public,

THEREFORE BE IT RESOLVED, NCBA shall aggressively work with Congress for proper food safety legislation which will require Food and Drug Administration tolerance levels which will more reasonably guide regulatory policy.

**Part III**

WHEREAS, NCBA has repeatedly recognized the responsibility of industry members for the proper use of all livestock chemicals, drugs, and feed additives,

THEREFORE BE IT RESOLVED, NCBA urges all livestock producers to closely follow instructions and withdrawal times to demonstrate conclusively to both government agencies and consumers that all drugs and feed additives administered or fed to meat animals have been used in conformity with dosage directions, requirements, and withdrawal periods.

**Part IV**

WHEREAS, FDA has proposed regulations affecting mixers of medicated feeds, and

WHEREAS, the basic concept for regulating medicated feed production is to prevent residues in animal products, and

WHEREAS, the livestock mixer-feeder has the responsibility to keep unsafe residues out of the animal products they produce, and

WHEREAS, FDA proposes to regulate mixer-feeders on the same basis as commercial feed mills selling feed into commerce,

THEREFORE BE IT RESOLVED, NCBA aggressively:

1. Insists that FDA recognize that livestock mixer-feeders are in the business of producing food animals, not selling feed for further distribution like commercial feed manufacturers,
2. Supports a simplified medicated feeds regulatory system for mixer-feeders which is separate and apart from the regulatory system governing commercial feed manufacturers,
3. Pursues food safety legislation which would eliminate FDA's double regulation which requires approval of the same conditions of the use twice, once by the drug manufacturer and again by the user of the drug in feed, and
4. Supports the National Mixer Feeder Association objective to represent mixer-feeders of all animal species in a united effort to aggressively pursue a simplified FDA regulatory system for mixer-feeders which treats all mixer-feeders equally and is separate and apart from the regulatory system governing commercial feed manufacturers.

CH 3.9  
2012/Renewed  
**Residues in Imported Meat**

WHEREAS, the marketing of red meat produced with the aid of unapproved products may create an unfair competitive advantage from imported meat and may cause increased concern on the part of the consumer about the wholesomeness and purity of all red meat products,

THEREFORE BE IT RESOLVED, NCBA seeks adequate regulatory changes to ensure the safety of U.S. beef and to protect U.S. consumers by denying the importation of live cattle and beef from any country which allow the use of pharmaceuticals, feed additives, herbicides, insecticides, or other products in the beef production system which have not been approved by the appropriate U.S. government agency that has jurisdiction.

CH 3.10  
2013/Amended  
**Judicious Use of Antibiotics and Drugs**

WHEREAS, the use of antimicrobial agents and other modern compounds is necessary at times to preserve life and prevent suffering in the face of disease in cattle, and

WHEREAS, indiscriminant use of antimicrobials may lead to the development of bacterial resistance, possibly impacting both animal and human health, and

WHEREAS, it is recognized that cattle producers have an obligation to protect animal health, and

WHEREAS, it is further recognized that there is an obligation to protect human health by promoting food safety,

THEREFORE BE IT RESOLVED, NCBA advocates the judicious use of antimicrobials, other compounds, and drugs. Issues involving the use of such products in animals and humans must be resolved using sound, peer-reviewed science without influence of emotion or political agendas, and

BE IT FURTHER RESOLVED, NCBA advocates the use of antimicrobials, other compounds, and drugs as outlined in the Quality Assurance Guidelines for both beef and dairy cattle, as appropriate.

CH 3.11  
2011/Renewed  
**Pharmaceutical Labeling/Approval**

WHEREAS, food safety and quality is the number one concern of the livestock industry and the expedient approval of new and efficacious products for use in cost-effective livestock production is lacking,

THEREFORE BE IT RESOLVED, NCBA shall work with Food and Drug Administration (FDA) and pharmaceutical companies to streamline the approval and labeling process of new and existing livestock products and to continue supporting vet/client relationships in cases where extra label use is the only effective means of treatment.

CH 3.12  
2013/Renewed  
**Reclassification of Polyether Ionophores**

WHEREAS, the feeding of polyether ionophores (monensin, lasalocid, laidlomycin, etc) to cattle decreases the feed needed for growth, and increases feed efficiency, and

WHEREAS, polyether ionophores do not function as therapeutic or sub-therapeutic antibiotics when fed to cattle, are not used as therapeutic agents in human medicine, and are not a concern for antibiotic resistance in cattle or humans, and

WHEREAS, polyether ionophores are categorized as coccidiostats when fed to poultry, and function to reduce methane production in cattle,

THEREFORE BE IT RESOLVED, NCBA strongly urges the Food and Drug Administration (FDA) and other appropriate agencies to re-classify polyether ionophores to reflect their true function as modifiers of rumen fermentation and coccidian prevention compound.

BE IT FURTHER RESOLVED, NCBA strongly urges FDA and other appropriate agencies to discontinue classification of polyether ionophores as antibiotics.

CH 3.13  
2012 /Renewed  
**Selenium Supplementation Needs for Healthy Cattle**

WHEREAS, selenium is a required nutrient for all animals, including cattle and wildlife, and

WHEREAS, selenium deficient cattle die, suffer muscular pain, grow slowly, and reproduce poorly without adequate selenium supplementation, and

WHEREAS, it is estimated that 25 percent of U.S. cattle are raised in selenium deficient areas, and

WHEREAS, in known selenium deficient areas, blood tests indicate as much as 40 percent of cattle suffer selenium deficiencies, and

WHEREAS, the present Food and Drug Administration (FDA) approved selenium supplementation levels of 120 ppm/3 mg/0.3 ppm are barely adequate, and

WHEREAS, there is research data to show that selenium supplemented cattle do not pose a selenium contamination risk to riparian areas,

THEREFORE BE IT RESOLVED, NCBA urges FDA to maintain the present approved levels of permitted selenium supplementation.

CH 3.14  
2010/New  
**Ensure Producer Access to Antibiotics for Cattle Health**

WHEREAS, antibiotics are important animal health tools for prevention, control, treatment, and feed efficiency in all segments of beef cattle production,

THEREFORE BE IT RESOLVED, NCBA should work with all appropriate entities, organizations, and elected and appointed government officials to ensure that cattle producers' access and ability to use these products in beef cattle production systems is retained.

**4. FOREIGN ANIMAL DISEASES**

CH 4.1  
2009/Amended  
**Prevention of Foreign Animal Diseases**

WHEREAS, NCBA places a very high priority on the importance of protecting the domestic livestock industry from the introduction of exotic and foreign animal diseases, and

WHEREAS, NCBA believes USDA-Animal and Plant Health Inspection Service (APHIS) must be responsible for programs and regulations governing the importation of animals from foreign countries,

THEREFORE BE IT RESOLVED, NCBA expects USDA-APHIS to take all reasonable and appropriate measures to protect the domestic livestock industry from the introduction of exotic or foreign animal diseases.

BE IT FURTHER RESOLVED, USDA/APHIS protocols be substantiated by sound, scientific evidence and that animal health related regulations not be used as non-tariff trade barriers.

BE IT FURTHER RESOLVED, Canadian, Mexican, and U.S. import protocols for live cattle, beef, and beef products should be equivalent.

BE IT FURTHER RESOLVED, appropriate tests be conducted on imported animals to assure they are free of any contagious exotic diseases or any vectors capable of transmitting such diseases.

BE IT FURTHER RESOLVED, NCBA recommends USDA and other government agencies include NCBA representatives in any discussions,



meetings or negotiations relating to efforts of the Codex Alimentarius and World Organization for Animal Health (OIE) or in development of trade agreements that effect or may affect the U.S. cattle industry's health status.

CH 4.2  
2012/Amended  
**Screwworm Eradication**

WHEREAS, the United States and Mexico today are free of the screwworm pest, and although Mexico no longer participates directly in eradication programs, the Mexico-U.S. Commission continues to supply sterile flies to screwworm eradication programs, and

WHEREAS, a new screwworm fly production plant was built in Panama and the screwworm fly production plant in the Republic of Mexico was subsequently closed, and

WHEREAS, the plant in Panama was inaugurated on July 12, 2006 while declaring Panama as free of screwworm flies,

THEREFORE BE IT RESOLVED, NCBA strongly supports the continued work of screwworm eradication and World Organization of Animal Health (OIE) recommendations for importation, quarantine, and transportation of cattle from countries considered infested with screwworm flies.

CH 4.3  
2011/Renewed  
**Vesicular Stomatitis**

WHEREAS, Vesicular Stomatitis is a reportable and quarantinable disease that effects horses, cattle, sheep, swine, and other animals, and

WHEREAS, little is known about the epidemiology, reservoirs and vectors of Vesicular Stomatitis, and

WHEREAS, Vesicular Stomatitis and Bluetongue are classified by the World Organization for Animal Health (OIE) the same as foot and mouth disease and some countries embargoed U.S. cattle based on this classification, and

WHEREAS, during previous Vesicular Stomatitis outbreaks there was confusion over quarantine procedures, and no vaccine policy was in place,

THEREFORE BE IT RESOLVED, NCBA requests the Agricultural Research Service (ARS), Animal and Plant Health Inspection Service (APHIS), and Cooperative State Research, Education, and Extension Service (CSREES) actively pursue epidemiological studies on the disease and ARS move quickly to study the serotypes of pathogenic Vesicular Stomatitis organisms, also vectors, reservoirs and mode of transmission and the blood testing of imported cattle and horses.

BE IT FURTHER RESOLVED, APHIS develop policy on a fully licensed Vesicular Stomatitis vaccine with adequate testing and a plan to quickly respond to an outbreak, with a properly priced vaccine.

BE IT FURTHER RESOLVED, APHIS work toward realistic classification of Vesicular Stomatitis and Bluetongue by OIE.

BE IT FURTHER RESOLVED, APHIS maintains adequate staff involvement and monetary support to find solutions and prevent recurrence of this disease.

BE IT FURTHER RESOLVED, quarantine responsibility be reserved by the states and that a uniform, workable quarantine policy be developed using the results of the requested research so that safe, realistic interstate movement of cattle can be accomplished.

BE IT FURTHER RESOLVED, APHIS update NCBA annually on Vesicular Stomatitis including research progress, vaccine status and worldwide Vesicular Stomatitis diagnosis.

CH 4.4  
2013/Amended  
**Bont Tick—Heartwater**

WHEREAS, the Tropical Bont Tick and its associated disease, Heartwater and acute bovine dermatophilosis, has not been found since 2010 on the United States Virgin Islands, there is a need to continue eradication and prevent reintroduction or further spread of the disease in and around the Caribbean, and

WHEREAS, this tick and these diseases pose a serious threat to the cattle industry and wildlife, especially deer, in the United States,

THEREFORE BE IT RESOLVED, NCBA should promote the continued work of the Caribbean Animal Health Network to eradicate the Bont Tick

from all Caribbean islands and work closely with the United States Animal Health Association and USDA to support initiatives such as the tick eradication program in St. Croix, surveillance programs, response plans, and the validation of approved tests.

CH 4.5

2012/Amended

**Bovine Spongiform Encephalopathy (BSE)**

WHEREAS, NCBA believes that protection of human health and the safety of the human food supply is of the highest priority; and consumers' perceptions regarding meat safety issues can have a devastating effect on the beef industry in the United States, and

WHEREAS, existing USDA and Food and Drug Administration (FDA) regulations designed to prevent both the introduction of BSE or the amplification and spread of the disease have dramatically reduced the risk of BSE in the U.S., and

WHEREAS, continued efforts to prevent the introduction of BSE coupled with enforcement of the FDA feed restrictions will continue to effectively prevent the emergence and potential spread of BSE,

THEREFORE BE IT RESOLVED, NCBA supports aggressive science-based actions on the part of USDA's Animal and Plant Health Inspection Service (APHIS) and the Department of Homeland Security in accordance with the World Organization for Animal Health (OIE) standards in controlling the importation of beef, beef products, animal feeds, and feed ingredients,

BE IT FURTHER RESOLVED, NCBA supports FDA fully enforcing the existing feed restrictions designed to prevent the potential amplification and spread of BSE,

BE IT FURTHER RESOLVED, NCBA recommends all beef and dairy producers request their feed suppliers provide them with a written statement stipulating that all feed ingredient deliveries will be in compliance with FDA specified risk materials (SRMs) feed restrictions designed to prevent BSE,

BE IT FURTHER RESOLVED, NCBA supports increased research funding from public and private sectors with the objective to continue to provide the American consumer with beef of the highest quality, consistency, safety, and wholesomeness.

CH 4.6

2010/Amended Renewed

**Invasive Animal Pests**

WHEREAS, animals are entering the United States bringing with them invasive animal pests foreign to the United States, and

WHEREAS, these pests are vectors or possible vectors of human and animal diseases, and

WHEREAS, one tick species, *A. sparsum*, has been found to have proteins present consistent with the Heartwater organism, and

WHEREAS, no federal agency currently regulates the importation of all animals that may be infested with parasites or other disease causing organisms posing health risks for humans and animals,

THEREFORE BE IT RESOLVED, NCBA strongly urges that United States Department of Agriculture, Animal and Plant Health Inspection Service (APHIS) be granted complete authority to act in assuring control of all animals, including reptiles, exotic species, and endangered species or any other hosts of pests at points of origin and entry points with both statutory and monetary assistance.

CH 4.7

2011/Renewed

**Tropical Bont-Tick: Risk of Acute Bovine Dermatophilosis and Heartwater Introduction to the U.S.**

WHEREAS, Tropical Bont Tick (TBT) populations in the English speaking Caribbean have been reduced to very low levels on 6 of 10 islands and probably eradicated on 3 islands, but funding levels for the completion of the program have been reduced significantly, and

WHEREAS, reduced TBT eradication funds will likely lead to TBT spread throughout the Caribbean and population increases on all affected islands, and

WHEREAS, TBT, acute Bovine Dermatophilosis, and Heartwater will therefore continue to pose a serious threat to the cattle industry and wildlife in the United States,

THEREFORE BE IT RESOLVED, NCBA requests USDA develop a strategic plan and acquire adequate funding to eradicate TBT from the

Caribbean, establish surveillance programs for TBT and associated disease conditions, emergency response plans, development and validation of approved tests for Heartwater within the United States.

BE IT FURTHER RESOLVED, NCBA works with scientists and other experts and organizations to identify the economic impact of TBT and Dermatophilosis introduction into the United States, and

BE IT FURTHER RESOLVED, NCBA encourages USDA to enter into negotiations with French authorities, European Union representatives and the World Organization for Animal Health (OIE) to acquire resources to work with French speaking islands of the Caribbean for TBT eradication.

CH 4.8

2013/Amended

**U.S. Screwworm Control Program Support**

WHEREAS, the very successful screwworm eradication program has rid the pest from the U.S., Mexico, and Central America, and

WHEREAS, Agricultural Research Service (ARS) needs to coordinate the various screwworm research programs to increase their efficiency and productivity,

THEREFORE BE IT RESOLVED, NCBA shall favor the ongoing research on cryopreservation, all male screwworm production, improved mass rearing techniques, and procedures to quickly manage outbreaks.

BE IT FURTHER RESOLVED, NCBA shall insist that negotiations with Panama shall ensure availability and access to requested screwworm flies as well as allow appropriate research programs without disruption.

CH 4.9

2012/New

**Protection of Integrity of Fetal Calf Serum through International Biosecurity**

WHEREAS, fetal calf serum is used to produce biologics for the cattle industry, and

WHEREAS, fetal calf serum is being marketed and supplied from numerous international sources, and

WHEREAS, fetal calf serum is a risk for and known at times to be contaminated with infectious agents posing health risks to United States cattle populations, and

WHEREAS, many of these infectious agents, such as HoBi virus and Schmallenberg virus, may not presently exist in United States cattle populations, thereby posing new health risks, and

WHEREAS, these infectious agents may be transmitted through infected animals and animal products, such as fetal calf serum,

THEREFORE BE IT RESOLVED, NCBA staff work with appropriate federal agencies to protect the integrity of processed fetal calf serum with regard to reagents utilized in the United States for strict international biosecurity measures and to identify country of source and production information.

**5. JOHNE'S DISEASE**

CH 5.1

2013/Amended

**Johne's Disease Support After Termination of USDA-APHIS Johne's Disease Program**

WHEREAS, USDA-APHIS-Veterinary Services (VS) terminated their Johne's disease program on October 1, 2012, and

WHEREAS, Johne's disease continues to result in clinical disease in cattle, and subsequent economic losses for the cattle industry, and

WHEREAS, Johne's disease may now be best addressed as a herd security issue at the producer level,

THEREFORE BE IT RESOLVED, NCBA encourages herd security measures to control Johne's disease and to continue efforts to certify laboratories to conduct serology and fecal culture analysis tests for Johne's disease in cattle.

CH 5.2

2013/Renewed

**Integrated Disease Research**

WHEREAS, application of the knowledge of the molecular and genetic base of infectious and non-infectious diseases of cattle to preclinical trials could expedite the solution discovery process, and

WHEREAS, the application of the existing knowledge base would require input from molecular biologists, geneticists, microbiologists, pathologists, nutritionists, epidemiologists and clinicians to bring the knowledge to bear on the disease problems, and

WHEREAS, disease problems that have resisted solution by traditional methods (e.g., preclinical diagnosis of Johne's disease or preharvest elimination organisms of public health importance). The integration of input by several disciplines has the potential to provide needed solutions,

THEREFORE BE IT RESOLVED, NCBA strongly supports multi-disciplinary, integrated disease research and recommends that USDA, universities, organized veterinary medicine, and other research agencies coordinate their allocation of funds and establish research priorities to implement interdisciplinary research projects that would bring expertise in at least, but not limited to, the following disciplines:

1. Immunology – develop and apply knowledge of immune response to subunit, vectored or DNA immunogens to provide enhanced protective immunity.
2. Nutrition – emphasis on relationship of cellular and micromineral metabolism to the disease process (e.g., the reduction of neonatal disease by micronutrient incorporation in maternal rations).
3. Crop and Forage Production – the effect of intensified production on the composition of feedstuffs and the tremendous current programs for genetic structuring of plants that may impact at the cellular level on occurrence of disease.
4. Infectious Diseases – bring to bear molecular biologic methods to define the interactions between infectious agents and cattle.
5. Diagnostic Veterinary Medicine – develop methodology and instrumentation applicable to evaluating the health status of cattle in the field.
6. Epidemiology – develop information on disease incidence and interactions in beef herds, through market channels and feedlots with feedback to producers, veterinarians and researchers.
7. Genetics – the basic mapping of the genome of cattle has been completed and the integrated approach would identify specific genes responsible for resistance in some cattle, and vector such genes into susceptible cattle with subsequent testing for acquired resistance.

## 6. TUBERCULOSIS

CH 6.1  
2012/Amended  
**Tuberculosis**

WHEREAS, the national tuberculosis eradication program has successfully reduced the incidence of the disease in U.S. cattle, but recently the number of newly identified infected herds has increased, and

WHEREAS, the final stages of an eradication program require a more concerted effort to achieve the end goal, and

WHEREAS, the current testing for importation has not been adequate to prevent tuberculosis infection from Mexican imports,

THEREFORE BE IT RESOLVED, NCBA urges USDA's Animal Plant Health Inspection Service (APHIS) to implement the following policy to enhance their existing program:

1. Assess and redefine, if appropriate, entry requirements to ensure the protection of U.S. livestock. Consider requiring post-entry retest when appropriate.
2. Ensure that adequate indemnity funding for herd owners be available so that mandatory depopulation of all U.S. tuberculosis infected herds is economically feasible.
3. Continue APHIS's evaluation of blood tests and explore other diagnostic technologies and innovative applications of epidemiology towards eradication of the disease.
4. Ensure the unique identification of Mexican cattle by "M" brand and Mexican ear tag is not tampered with, and improve the collection and recording of all identification at slaughter to enable proper traceback of infected animals.
5. Promote the development of new diagnostics within and outside of APHIS for tuberculosis infection in other species and include these other species under the current national eradication program.
6. Develop a regulation requiring annual testing of Mexico-origin rodeo cattle,

excluding cattle in feedyards intended for slaughter.

7. Streamline the processes that will expedite the surveillance of bovine TB.

CH 6.2

2009/New

**Tuberculosis Health Regulations for Sport Cattle or Timed Event Cattle**

WHEREAS, NCBA has worked diligently toward a bovine tuberculosis free nation and,

WHEREAS, timed event/sport cattle could transport bovine tuberculosis,

THEREFORE BE IT RESOLVED, that NCBA support regulations that would require timed event/sport cattle be tested for tuberculosis within 12 months prior to crossing state lines,

BE IT FURTHER RESOLVED, that U.S. born timed event/sport cattle, that have not been exposed to cattle from another origin, be exempt from TB testing when they move directly from the premises of birth to another premises.

CH 6.3

2013/Amended

**Bovine Tuberculosis Funding**

WHEREAS, bovine Tuberculosis (TB) is a regulatory disease with testing requirements that may take 72 hours or longer to conduct prior to interstate movements, and

WHEREAS, bovine TB program funding for states is limited if not non-existent,

THEREFORE BE IT RESOLVED, NCBA requests the United States Department of Agriculture ensure adequate funding of the bovine TB program to complete the long-standing eradication efforts, prior to, or in addition to, funding new voluntary programs.

CH 6.4

2013/Renewed

**Change of Bovine Tuberculosis Status**

WHEREAS, the U.S. Department of Agriculture (USDA) put in place a new rule governing bovine tuberculosis (TB) in the United States in 2000 to standardize domestic requirements with foreign requirements, and

WHEREAS, that rule was designed on the premise that the United States was largely free of

bovine TB, and

WHEREAS, since 2000 it has become clear that the United States is not free of TB because a number of states have identified new cases of the disease within their borders, and

WHEREAS, it has become painfully obvious that the federal TB rule is having and will have a tremendous negative impact on cow/calf producers,

THEREFORE BE IT RESOLVED, NCBA requests USDA reopen the TB rule for changes, including but not limited to the following:

1. The number of herds required to be found infected with TB to trigger a drop in status be based upon a prevalence of herds within a state, as opposed to the current two herds regardless of the number of cattle or herds within a state.
2. The type of cattle operation be considered in the review of the state prior to making a determination to adjust the state status, taking into consideration the impact of cattle confinement versus pasture on the rate and spread of infection.
3. The exemption that provides for eliminating the need for testing of feeder steers and feeder heifers should become a permanent part of the rule applying to all states.
4. Heifers under 6 months of age should not require testing.

CH 6.5

2009/New

**Tuberculosis Eradication**

WHEREAS, tuberculosis (TB) is a zoonotic disease that can affect cattle, humans and many other species, and

WHEREAS, control of TB is dependent upon adequate surveillance of appropriate populations of cattle and other species, and

WHEREAS, the diagnosis of TB affects many non-infected herds and producers and costs millions of dollars for testing and quarantine,

THEREFORE, BE IT RESOLVED, NCBA encourage the USDA and other necessary agencies to initiate:

- improved review of risk factors that contribute to the spread of the disease,

- enhanced epidemiological testing and surveillance methods,
- exploration of compartmentalization, zoning, and/or risk area,
- other TB control methods to protect against the disease, and
- a streamlined structure for determining TB status.

## 7. USDA-APHIS

### CH 7.1

2010/Renewed

#### Permits on Imports of Animals to States

WHEREAS, imported animals or birds may carry hidden or undisclosed disease or vectors that can transmit foreign animal diseases,

THEREFORE BE IT RESOLVED, NCBA requests that the United States Department of Agriculture (USDA) obtain a permit from states of destination for all livestock, poultry, exotic animal, or avian species prior to issuing an international permit to the country of origin for importation.

BE IT FURTHER RESOLVED, NCBA strongly urges USDA to direct their Inspector-In-Charge at all import or quarantine stations to notify the state veterinarian prior to the release of any such imports and supply that official with the name, address, and phone number of the recipient and a list of those animals or birds which are being released to go to the state.

### CH 7.2

2010/Renewed

#### Diseases—Inter-American Highway

WHEREAS, the only uncompleted section of the Inter-American Highway traverses the Darien area of southern Panama and northern Colombia, and

WHEREAS, completing the highway will open land travel between foot-and-mouth disease (FMD) infected areas of South America and FMD free countries to the north of the Darien gap,

THEREFORE BE IT RESOLVED, NCBA urges the United States Department of Agriculture to assure that:

1. No cattle exist in the cattle-free zone in Panama and Columbia.
2. Procedures for handling outbreaks in Columbia's eradication zone are in place.
3. Procedures for animal movements into the

eradication zone are established and in place.

4. Procedures for routine vaccination in Columbia's vaccination zone are operating.

5. Checkpoints along the Inter-American highway are properly established and staffed.

BE IT FURTHER RESOLVED, NCBA recommends against completion of the Darien section of the highway until USDA receives adequate assurance that these procedures have been met.

### CH 7.3

2011 /Renewed

#### Foot and Mouth Eradication

WHEREAS, Foot and Mouth Disease (FMD) continues to be a problem in various regions of the world, and

WHEREAS, some countries with recent FMD outbreaks have petitioned USDA to import fresh beef to this country, and

WHEREAS, Brazil is such a country with two states having confirmed outbreaks of FMD since October 2005, and

WHEREAS, USDA had performed risk analysis that included Brazilian document review and site visits in 2003 and developed a proposed rule that would allow fresh beef to be imported, under certain conditions and from a specified region within Brazil, to the United States, and

WHEREAS, NCBA is very concerned with an apparent lack of ability to eradicate FMD in Brazil and other countries as well as USDA's ability to accurately evaluate the risk of the disease in such a country, and

WHEREAS, the threat of FMD is the single largest animal health threat to the livelihood of U.S. beef producers,

THEREFORE BE IT RESOLVED, NCBA urges USDA to begin applying pressure on Brazil and other countries with FMD that wish to export fresh beef to the U.S. to commit to enhanced efforts to eradicate the disease.

BE IT FURTHER RESOLVED, NCBA urges USDA to provide the U.S. beef industry the opportunity to offer comment on new procedures for

developing risk analysis for any country with a history of FMD that submits a request to import beef into the United States.

BE IT FURTHER RESOLVED, NCBA urges USDA to cease any efforts to publish a proposed rule allowing imports of Brazilian fresh beef and not utilize the regionalization concept in consideration of any future request by a country with FMD to import fresh beef to the U.S.

CH 7.4

2012/Amended

**Diseases—Emergency Management Planning**

WHEREAS, the livestock and meat industry and the consuming public live under the continuous threat of catastrophic disease outbreaks, and

WHEREAS, rapid diagnosis of foreign animal diseases, prompt movement restrictions, implementation of federal, state, and local emergency management plans, and indemnity programs action can often forestall outbreaks of epidemic or quasi-epidemic proportions, and

WHEREAS, in the past, when special problems or outbreaks have occurred, the necessary action has been funded by “robbing” existing budgeted disease control and eradication projects, resulting in costly interruptions of these programs,

THEREFORE BE IT RESOLVED, NCBA urge:

1. USDA’s Animal and Plant Health Inspection Service (APHIS) to aggressively monitor foreign animal disease risk globally, focused by USDA and Department of Homeland Security, to prevent the introduction of foreign animal diseases into the U.S.
2. Development of rapid diagnostic tools coupled with adequate capacity for confirmation by virus isolation of suspect foreign animal disease such as foot and mouth disease.
3. Coordination of the development of comprehensive federal, state, and local emergency response plans, including the role of the Federal Emergency Management Agency and state counterparts.

CH 7.5

2010/Renewed

**APHIS Authority**

WHEREAS, disease causing organisms, such as *B. abortus* and *M. bovis*, and certain vectors transmit diseases to a number of animal species, and

WHEREAS, completion of current national livestock disease eradication programs are jeopardized by the presence of disease in wild and free ranging species not covered by the national programs, and

WHEREAS, Animal and Plant Health Inspection Service, Veterinary Services (APHIS VS) authority to control or eradicate disease in all species is not clearly defined,

THEREFORE BE IT RESOLVED, NCBA urges that APHIS VS be granted disease control and eradication authority to address disease causing agents regardless of the species in which the agent or organism is found.

BE IT FURTHER RESOLVED, NCBA urges APHIS VS to work with state animal health officials and industries to achieve disease control and eradication objectives.

CH 7.6

2013/Renewed

**Wildlife and Exotic Game Animal Research**

WHEREAS, NCBA is interested in maintaining the health and productivity of the U.S. cattle population, and

WHEREAS, the population of free roaming deer, elk, bison, feral hogs, et al. increase the potential of disease and pest exposure to cattle is significant due to cohabitation, and

WHEREAS, the private ownership of these game animals and exotic game animals has increased dramatically in recent years, and

WHEREAS, the risk of exposure to disease (both eradicated domestic and foreign animal disease) is high,

THEREFORE BE IT RESOLVED, NCBA encourages USDA Agriculture Research Service, Wildlife Service, University, and other researchers to do necessary disease surveillance and research on wildlife and exotic game animals to protect the cattle population.

CH 7.7  
2009/Amended  
**U.S. Canadian Anaplasmosis**

WHEREAS, the U.S. and Canadian beef industry and markets are interdependent and integrated, and

WHEREAS, it is in the best economic interests of both the U.S. and Canada to harmonize all animal health policies,

THEREFORE BE IT RESOLVED, NCBA shall make every effort to immediately facilitate negotiations with the Canadian and U.S. governments, state veterinarians, and appropriate elected officials to harmonize all animal health regulations to allow year-round trade in cattle and beef.

BE IT FURTHER RESOLVED, USDA and Canadian Food Inspection Agency (CFIA) regulatory requirements for U.S.-Canadian cattle trade be reviewed to identify ways to reduce trade costs for cattle producers by harmonizing animal health regulatory requirements.

BE IT FURTHER RESOLVED, NCBA shall continue to support vector borne research, including surveillance, on diseases of economic importance to U.S. beef producers.

CH 7.8  
2012/New  
**Indemnity**

WHEREAS, existing NCBA policy urges NCBA and USDA-APHIS Veterinary Services to work with state animal health officials and industries to achieve disease control and eradication objectives, and

WHEREAS, NCBA recognizes that the ability to rapidly depopulate infected and exposed animals is essential for eradication of bovine brucellosis, tuberculosis, foot and mouth disease, and emergency diseases, and

WHEREAS, indemnification funds and prompt determination of fair market replacement values and prompt payment are necessary to allow prompt removal of infected or exposed animals,

WHEREAS, recent increased concerns and discussions of valuation and payment for depopulated animals, economic impact of lost revenue while

operations are under quarantine, and producer concerns of liability if cattle from their operation become infected with a reportable disease after leaving the farm,

THEREFORE BE IT RESOLVED, NCBA urge USDA and Congress to provide full funding for purposes of indemnification for brucellosis, tuberculosis, foot and mouth disease, and emergency diseases.

BE IT FURTHER BE IT RESOLVED, NCBA continue cooperative efforts between government agencies and private entities to meet producer needs and USDA APHIS animal disease education, surveillance, and eradication goals that:

1. Provide more timely payments for the replacement value of animals that are directly affected by a destruction order issued by an appropriate animal health official.
2. Provide payments to producers to compensate for the time lost due to livestock production facilities being held out of production or prevented from operation and normal sales of their animals.
3. Protect producers with liability protection in the event of a trace back and claim for damages for bodily injury caused by food derived from cattle.

**8. GENERAL**

CH 8.1  
2010/Renewed  
**Stolen Cattle**

WHEREAS, a specified federal statute prohibits the interstate shipment of stolen cattle and prescribes a penalty for its violation without regard to the outcome of any local prosecution for the larceny of the cattle involved in the interstate shipment,

THEREFORE BE IT RESOLVED, NCBA urges and specifically requests the Justice Department to prosecute all known violators of federal law prohibiting the interstate shipment of stolen cattle, and further, to vigorously enforce such law without regard to the outcome of any local prosecution for the larceny of the cattle involved in interstate shipments of stolen cattle.



CH 8.2

2010/Renewed

**Cooperation with Veterinary Groups**

WHEREAS, the cattle producer and veterinarian must coordinate and cooperate in herd health and interstate movement matters, and

WHEREAS, NCBA, the American Veterinary Medical Association (AVMA), Academy of Veterinary Consultants (AVC) and the American Association of Bovine Practitioners (AABP) share many common issues and interests,

THEREFORE BE IT RESOLVED, NCBA will continue to build a spirit of cooperation and coordination where possible with the AVMA, AVC, and AABP.

CH 8.3

2010/Renewed

**Veterinarian Training**

WHEREAS, NCBA recognizes the economic importance of the cattle industry to the United States and the world, and

WHEREAS, veterinary medicine has a direct economic effect on the cattle industry, and

WHEREAS, at most veterinary colleges throughout the United States, the class size has increased at a much greater rate than the bovine case load for clinical training,

THEREFORE BE IT RESOLVED, NCBA recommends that existing veterinary colleges re-examine their bovine medicine program, placing greater emphasis on clinical experience for bovine medicine.

BE IT FURTHER RESOLVED, NCBA strongly encourages new endeavors into bovine veterinary training in regions where an ongoing program can be designed, assuring emphasis on training in beef cattle medicine as evidenced by industry support within the region, livestock availability for the program, and industry need.

CH 8.4

2010/Renewed

**Animal Health—Federal Funding Priorities**

WHEREAS, the federal budget for animal health programs will necessarily be reduced in many areas, and

WHEREAS, specific decisions must now be made with respect to funding levels of federal programs, federal personnel, and cooperative state programs,

THEREFORE BE IT RESOLVED, NCBA requests Animal and Plant Health Inspection Service (APHIS) and other agencies consult with the proper NCBA representatives in determining the priorities of the various programs and personnel requirements.

BE IT FURTHER RESOLVED, NCBA should inform the Appropriations Committees of the United States Congress of these needed funding priorities.

CH 8.5

2013/Renewed

**Disclosure of BVD Persistently Infected (PI) Animals**

WHEREAS, Bovine Viral Diarrhea (BVD) virus is likely the most costly viral disease of cattle in the United States, and

WHEREAS, existing measures addressing BVD losses are being implemented, and

WHEREAS, additional knowledge of epidemiology, validated surveillance strategies, and economic impacts of BVD are needed for more effective implementation of BVD control strategies, and

WHEREAS, the Academy of Veterinary Consultants (AVC) and the American Association of Bovine Practitioners (AABP) have approved statements regarding disclosure and disposition of BVD PI animals, which are defective individuals,

THEREFORE BE IT RESOLVED, NCBA adopt the AVC and AABP "Statement on Disclosure of BVD PI Animals" regarding responsible disclosure and disposition of BVD PI animals:

**Statement on Disclosure of BVD PI Animals**

The cattle industry has a moral, ethical, and potentially legal obligation not to sell known diseased or damaged animals to other parties without full disclosure. Responsible disposition of animals persistently infected (PI) with Bovine Viral Diarrhea Virus (BVDV) is an important component of BVD control.

The dilemma of how to deal with known PI cattle becomes more critical as BVD testing becomes more widespread. Appropriate disposition of known

PI cattle must take into account the adverse impact these cattle have on the health, welfare, and the economic return of other cattle and cattle operations they may expose to BVDV. It is widely recognized that a PI animal is defective and once confirmed, the PI status should be thereafter disclosed – as exposure to these cattle has health ramifications for all cattle, especially those intended for reproductive purposes.

Movement of known BVD PI animals in the marketing channels in any manner that potentially exposes at-risk cattle is strongly opposed.

BE IT FURTHER RESOLVED, NCBA encourages all possible efforts to develop economically efficient methods to control and/or eliminate BVD in beef cattle herds.

CH 8.6  
2012/Renewed  
**Identification of Imported Cattle**

WHEREAS, with increased globalization and cattle movements across national borders, and

WHEREAS, old and emerging diseases may be difficult to detect at times with current testing technologies, and

WHEREAS, the occurrence of these diseases would devastate the U.S. economy if they entered our U.S. cattle herd,

THEREFORE BE IT RESOLVED, NCBA requests live cattle imported into the U.S. from another country be identified with permanent, visible identification utilizing the USDA-APHIS code to identify the country of origin.

CH 8.7  
2012/Renewed  
**The Role of Individual Animal Identification to Enhance Genetic Improvement and Source Verification Programs**

WHEREAS, incentives to individually identify all beef cattle are emerging, such as current and future source verification programs, grid marketing programs, and other methods where individual animals are tracked through the production chain so as to enhance genetic improvement decision-making, and

WHEREAS, Beef Quality Assurance and other good management programs that utilize individual animal identification have become more widely adopted across the country,

THEREFORE BE IT RESOLVED, NCBA supports voluntary adoption of individual animal identification programs to support genetic improvement and source verification and the standardization of data collection with maintenance and distribution to producers maintained by private enterprise.

CH 8.8  
2012/Renewed  
**Animal Disease Traceability**

WHEREAS, NCBA continues to be an industry-leading organization on animal identification issues, and

WHEREAS, intrastate and interstate animal identification plans are being developed for the purpose of establishing a means to ensure animal disease traceability, and

WHEREAS, the goal should be to enable the cattle industry, state, and federal animal health officials to respond rapidly and effectively to animal health emergencies, and

WHEREAS, the industry is placing renewed emphasis on preventing the introduction of foreign animal diseases of concern, and

WHEREAS, U.S. beef exports to certain countries have suffered due to the absence of an animal disease traceability program, and

WHEREAS, the proposed USDA-APHIS Animal Disease Traceability Framework does not eliminate the need for continued brand inspection programs,

THEREFORE BE IT RESOLVED, NCBA be at the forefront of discussions on any animal disease traceability program(s) requiring animal identification, and maintain that any such regulations, imposed at the state and/or federal level, adhere to the following criteria:

1. Additional costs to the beef and dairy industry must be minimized allowing low cost visual or electronic official tagging devices paid for by federal or state funds, if possible.
2. Any information relative to cattle identification information should be under the control of state animal health officials and kept confidential and strongly protected from disclosure.

3. The system must operate at the speed of commerce.
4. The priority animal for participation in the framework is the individual identification of adult cattle. Cattle herd movement between adjoining states on pasture-to-pasture permits should be allowed to continue at the discretion of the state animal health officials involved.
5. Producers must be protected from liability for acts of others after cattle have left their control.
6. The purpose of the animal disease traceability system should be solely animal disease surveillance, control, and eradication. The only data required to be collected should be that necessary to accomplish this goal.
7. Support the flexibility of using currently established and evolving official identification methods for cattle moving across state lines only, with encouragement to producers that any official identification be applied at the herd of origin if destined for interstate movement.
8. The animal data management system does not replace or impede existing state brand inspection activities.

CH 8.9  
2012/New  
**Traceability**

WHEREAS, foreign governments and our customers overseas expect the USDA and the U.S. beef industry to be able to respond quickly and effectively to disease outbreaks and to provide them with assurances that the beef we export to them is safe, and

WHEREAS, most other major beef exporting countries have implemented animal ID and traceability systems and are using their systems to differentiate themselves from the U.S. with customers in foreign markets, and

WHEREAS, the World Organization for Animal Health (OIE) has adopted guidelines on animal ID and traceability that establish basic principles which any traceability system should satisfy, and

WHEREAS, USDA APHIS has developed a national animal disease traceability (ADT) program that establishes minimum disease traceability requirements, and

WHEREAS, a voluntary animal ID traceability program would complement and enhance the USDA APHIS ADT program;

THEREFORE BE IT RESOLVED, NCBA strongly supports the implementation of a voluntary national traceability system in the U.S. that:

1. Is built on private sector animal identification and verification programs backed by the USDA,
2. Is compatible with general traceability principles of the OIE,
3. Recognizes existing USDA programs for beef exports,
4. Can be used to achieve compliance under the requirements of the USDA APHIS ADT program.

CH 8.10  
2013/Amended  
**Veterinary College Programs**

WHEREAS, the country is experiencing an acute shortage of food supply veterinarians (food animal veterinarians, veterinary laboratory diagnosticians, veterinarians trained in agricultural bio-security, regulatory veterinarians, and food supply research veterinarians), and

WHEREAS, this shortage is felt on cattle farms and ranches across the nation causing increased costs in herd health, disease diagnostics and overall production costs, and

WHEREAS, this shortage reduces our first line of defense against bio-terrorism, disease identification, prevention, and control, and

WHEREAS, this shortage could affect food safety for our consumers,

THEREFORE BE IT RESOLVED, NCBA work to support the Veterinary Workforce Grant program, the Veterinary Loan Repayment program, and the Veterinary Public Health Workforce Expansion Act.

CH 8.11

2013/Renewed

Cross-referenced to AP 1.5

**Border Security: Theft & Health Emergency**

WHEREAS, Border security is paramount, not only to the health and welfare of the American public, but to the livestock industry as well, and

WHEREAS, Prevention of livestock ingress and egress at the international border between Mexico and New Mexico, as well as the other border states of Arizona, California, and Texas, is imperative not only to protect animal and human health, but also the economic viability of the multi-billion dollar livestock industry, and

WHEREAS, Current U.S. Border Patrol barrier designs and plans will not prevent livestock ingress and egress across the international border with Mexico.

THEREFORE BE IT RESOLVED, NCBA take all steps necessary to insure that barriers and fencing along the international border between Mexico and the United States are adequate to prevent ingress and egress of livestock; these steps would include but not be limited to contact with the Congress, the U.S. Department of Agriculture, the U.S. Secretary of the Interior, the Department of Homeland Security, and the U.S. Border Patrol.

CH 8.12

2009/NEW

**Livestock Biosecurity Education**

WHEREAS, U.S. livestock producers face continual threat from common livestock diseases, as well as new threats from exotic foreign animal diseases, and

WHEREAS, implementation of sound biosecurity measures on livestock operations can be an effective tool in preventing livestock diseases, and

WHEREAS, effective disease prevention reduces direct animal health care costs and increases animal performance while reducing animal treatment and handling,

THEREFORE BE IT RESOLVED, NCBA supports the concept of individual state biosecurity education and biosecurity planning on livestock operations, and

BE IT FURTHER RESOLVED, NCBA works to increase attention to national livestock

biosecurity outreach programs and seek support from appropriate federal agencies to promote community-based livestock biosecurity planning strategies.

CH 8.13

2013/Amended

**Food Animal Veterinarian**

WHEREAS, there is a shortfall in the number of food animal veterinarian graduates available to service the rural and livestock production areas of the United States, and

WHEREAS, livestock producers rely on their local veterinarian for guidance to ensure herd management, disease identification, and disease prevention and control, and

WHEREAS, the physical nature of the work as well as accrued indebtedness tends to divert many capable graduate veterinarians away from food animal practice, and

WHEREAS, the increased complexity of pharmaceutical and biological product use requires veterinarian supervision, and

WHEREAS, a veterinary practice can involve long travel distances and extended absence from their clinic in rural areas, creating a demand for multi-veterinarian staffed clinics,

THEREFORE BE IT RESOLVED, NCBA encourages the colleges of Veterinary Medicine to vigorously pursue the recruitment, selection, and training of students with the aptitude and desire to fill the need for food animal veterinarians.

BE IT FURTHER RESOLVED, NCBA recognizes the importance of scholastic excellence and recommends an attempt be made to identify a process of recruitment that selects individuals with food animal experience or related skills and the educational background to meet the requirements of a food animal veterinarian.

CH 8.14

2013/Amended

**Bovine Leukosis Vaccine**

WHEREAS, Bovine Leukosis Virus is a significant impediment for domestic and international cattle movements, and

WHEREAS, a successful control program of Bovine Leukosis in vector states requires an effective vaccine,

THEREFORE BE IT RESOLVED, NCBA strongly supports the development of a United States Department of Agriculture approved vaccine for Bovine Leukosis.

CH 8.15  
2013/Amended  
**Arthropod Borne Animal Disease Research Unit (ABADRU) Support**

WHEREAS, United States Department of Agriculture-Agriculture Research Service Arthropod Borne Animal Diseases Research Unit (ABADRU) in Manhattan, Kansas, plays a very critical role in conducting research on vector borne diseases, and

WHEREAS, research on Bluetongue virus (BTV), Epizootic Hemorrhagic disease (EHD), and Vesicular Stomatitis, (VS) is very important to the cattle industry,

THEREFORE BE IT RESOLVED, NCBA strongly supports the ABADRU research programs, and continues to support funding of research programs and personnel to address exotic and emerging arthropod vectors and disease, and

BE IT FURTHER RESOLVED, NCBA shall strongly support continued Congressional funding for ABADRU research facilities.

CH 8.16  
2009/Amended  
**Non-ambulatory Cattle not to be used In the Commercial Food Supply**

WHEREAS, cattle do at times become non-ambulatory; and

WHEREAS, cattle producers are committed to ensuring that all cattle are treated humanely;

THEREFORE BE IT RESOLVED, NCBA supports policies to prohibit the transport and harvest of non-ambulatory cattle for the commercial food supply.

CH 8.17  
2012/Amended  
**Alternative Feedstuffs**

WHEREAS, poultry litter is a by-product occasionally fed to cattle, and

WHEREAS, poultry litter contains feeds that may include ruminant derived feed products, and

WHEREAS, despite the scientific communities' assurances that feeding this by-product is safe, there are indications this practice is perceived negatively by consumers,

THEREFORE BE IT RESOLVED, NCBA urge industry educators to discourage the practice of feeding poultry litter and acknowledge its more beneficial use as a fertilizer in those regions of the country where the product use is concentrated,

BE IT FURTHER RESOLVED, NCBA work to discontinue the feeding of poultry litter to cattle.

CH 8.18  
2011/Renewed  
**Support of Food Animal Residue Avoidance Database (FARAD)**

WHEREAS, the support of FARAD is vital to the livestock industry and human health, and

WHEREAS, funding by USDA continues to be threatened,

THEREFORE BE IT RESOLVED, NCBA urges the Secretary of Agriculture to include funding in the USDA budget for FARAD sufficient to maintain and enhance a sustained permanent program of FARAD services.

CH 8.19  
2011/Amended  
**Veterinarians in Rural Communities**

WHEREAS, there is a chronic lack of veterinarians in rural areas of the United States, and the economics of viable practice have been inadequate to support rural veterinarians, and

WHEREAS, the interests of rural communities, cattle producers, and local governments would be better served if appropriately trained veterinarians were recruited and encouraged to consider food animal practice, and

WHEREAS, a combination of federal support programs, state and county programs, and strategic training of veterinarians could facilitate location of veterinarians in rural communities,

THEREFORE BE IT RESOLVED, NCBA encourage the Association of American Veterinary Medical Colleges, other appropriate groups, and Congress to develop, support, and aid in funding

programs that support placement of veterinarians in rural communities.

CH 8.20  
2013/Amended  
**Large Animal Veterinarians**

WHEREAS, having the necessary veterinary medical services and infrastructure is essential to assuring the beef industry continues to produce the safest, best beef in the world,

THEREFORE BE IT RESOLVED, NCBA support efforts to assure a sufficient supply of bovine practitioners and the veterinary support systems necessary to enable the industry to produce beef in a safe, efficient, and humane manner,

BE IT FURTHER RESOLVED, NCBA support the increased use of veterinarian assistants, veterinary technicians, and licensed veterinary paraprofessionals working for or under the direction of accredited licensed food animal veterinarians,

BE IT FURTHER RESOLVED, NCBA urge the United States Congress, state legislatures, state and national veterinary medical associations, and public universities to make a priority of addressing the growing shortage of food animal veterinary practitioners, especially in the more rural areas of the nation.

CH 8.21  
2013/Amended  
**Fly Impact**

WHEREAS, flies cause considerable irritation and blindness to cattle, resulting in much stress, and

WHEREAS, the deteriorating health and well-being of cattle as a result of flies causes considerable economic loss to the livestock industry, and

WHEREAS, the industry has been successful in the past garnering support from USDA Veterinary Services and pharmaceutical companies to bring about controls and/or eradication of other animal health pests,

THEREFORE BE IT RESOLVED, NCBA shall work with university researchers, pharmaceutical companies, and USDA staff to direct research efforts toward effective control and management of flies.

CH 8.22  
2010/New  
**Biosecurity Education for High Risk Cattle**

BE IT RESOLVED, NCBA will develop an educational program for all segments of the industry explaining the importance of implementing biosecurity practices to keep high risk cattle from infecting other cattle.

BE IT FURTHER RESOLVED, NCBA will establish a task force to determine appropriate biosecurity practices.

CH 8.23  
2011/New  
**Support of Safety Standards for Feed Mills**

WHEREAS, consumer interest in food, food safety, and the origins of food is at a high level, and

WHEREAS, consumer confidence in the safety of beef and in the integrity of the U.S. food supply is a critical issue for the cattle industry, and

WHEREAS, NCBA is committed to exceeding consumers' expectations in producing and delivering a safe, nutritious, and wholesome beef supply,

THEREFORE BE IT RESOLVED, NCBA strongly support efforts that foster the use of the highest safety standards by feed mills and other facilities involved in the manufacture of livestock feed, pet food, and related ingredients.

CH 8.24  
2012/New  
**Greater Yellowstone Area Bison Relocation**

WHEREAS, the Department of the Interior (DOI) has to date exhibited inadequate management of bison herd health and population, and

WHEREAS, the commingling of DOI bison, native wildlife, and privately-owned livestock is unpreventable under the current management practices of DOI, and

WHEREAS, livestock producers do not want the herd health liability associated with the relocation of Greater Yellowstone Area (GYA) or other federally-owned bison,

THEREFORE BE IT RESOLVED, NCBA oppose the relocation of bison to any area outside of

the current GYA management area, as well as any expansion of the management area,

BE IT FURTHER RESOLVED, NCBA oppose any increase in the currently-authorized GYA bison population.

## 9. ANIMAL DISEASE RESEARCH

CH 9.1

2010/Renewed

### **Cryptosporidiosis**

WHEREAS, Cryptosporidiosis is a disease that has been present in cattle, wildlife, humans, and other species for years, and

WHEREAS, our ability to control the disease needs to be improved,

THEREFORE BE IT RESOLVED, NCBA encourages and supports research to:

1. Help reduce infection in calves, both through therapeutic and prophylactic intervention
2. Study shedding of the organism by cattle
3. Determine the role of wildlife shedding by defining the contamination of streams in watersheds free of domestic livestock
4. Study the viability of the specific organism in grazing pastures and water
5. Develop species specific diagnostic tools
6. Study involvement of human waste, pets, and exotic animals, to include Cryptosporidiosis and Giardiasis.

BE IT FURTHER RESOLVED, NCBA requests the Environmental Protection Agency (EPA) recognize the established science that shows the known sources of Cryptosporidia and Giardia oocysts include human sewage effluent, pets, and exotic animals, wildlife, including mammals, reptiles, birds, fish, and amphibia that contribute to the presence of oocysts in surface waters.

CH 9.2

2009/Renewed

### **Epizootic Hemorrhagic Disease (EHD)**

WHEREAS, Epizootic Hemorrhagic Disease (EHD) has been diagnosed in whitetail and mule deer over a wide area of the United States, and

WHEREAS, the population of whitetail deer has exploded in most areas of the U.S., and

WHEREAS, cohabitation of pastures with cattle and whitetail deer are very common, and

WHEREAS, if exotic strains of EHD were to be introduced in the US by exotic game animals or other sources a potential for catastrophic disease outbreaks could occur in cattle, and

WHEREAS, clinical disease caused by EHD has been diagnosed in cattle in the US, and

WHEREAS, populations of the vector (culicoides) are widespread in the US to transmit EHD (and Bluetongue),

THEREFORE BE IT RESOLVED, NCBA supports expanded research on EHD at the Arthropod Borne Animal Disease Research Laboratory (ABADRL) at Laramie, WY and other appropriate research facilities.

CH 9.3

2009/Renewed

### **Bovine Leukosis Virus (BLV)**

WHEREAS, Bovine Leukosis Virus (BLV) is a retroviral disease of cattle that is showing increasing incidence in beef cattle, and

WHEREAS, BLV can result in cases of lymphosarcoma causing some death loss and aesthetic condemnation at slaughter, as prescribed by FSIS-HACCP rules, and

WHEREAS, BLV has been eliminated from some countries and this could result in foreign trade restrictions in the future and more domestic marketing limitations, and

WHEREAS, BLV is not transmissible to humans; however, the aesthetic problem could create negative perception of beef, and

WHEREAS, effective diagnostic blood and virus detection tests are available for cattle, and

WHEREAS, a national program for negative herd certification is available,

THEREFORE BE IT RESOLVED, research be conducted to:

1. Study the ability of specific insect vectors to transmit BLV.
2. Assess the cost associated with BLV infections in beef and dairy herds, and costs associated

with establishing and maintaining a BLV-free herd.

3. If feasible, develop an effective marker vaccine for BLV to aid in the reduction of carriers in very high incidence herds.

#### CH 9.4

2011/Renewed

##### **Use of Animals for Research Purposes**

WHEREAS, there are no viable substitutes for animal metabolic and physiological systems in the study of disease, immunology, physical, and reproductive functions, and

WHEREAS, the humane use of animals for research is essential to both animal and human disease control, prophylaxes, and therapy, and

WHEREAS, animal health research has been responsible for maintaining and improving the health and quality of life for humans and animals,

THEREFORE BE IT RESOLVED, NCBA opposes legislation that would prohibit the use of animals in research.

#### CH 9.5

2009/Renewed

##### **USDA Research Funding for *Neospora Caninum* and Nematode Research**

WHEREAS, *Neospora caninum* (NC) has been demonstrated to be a significant cause of abortion in cattle, and

WHEREAS, nematodes can negatively impact the immune system of cattle, and

WHEREAS, the effect of NC on other cattle production parameters is not known, and

WHEREAS, no measures currently exist to control Neosporosis, and

WHEREAS, significant expertise is present within the USDA-ARS Parasite Biology and Epidemiology Laboratory and Immunology and Disease Resistance Laboratory, and significant progress has been made at some land grant universities, and

WHEREAS, funding for nematode research has diminished dramatically,

THEREFORE BE IT RESOLVED, NCBA strongly encourages and supports adequate new

funding of ARS and the external funding of university partners for further research on the epidemiology, impact on human health, control, and treatment of *Neospora caninum* and nematode research.

BE IT FURTHER RESOLVED, this funding should not be at the expense of the other parasitology research programs.

#### CH 9.6

2009/Renewed

##### **USDA Research Funding for EBA Research**

WHEREAS, Epizootic Bovine Abortion (EBA; Foothill Abortion) is an economically devastating disease in affected cattle herds in affected locales, and

WHEREAS, EBA is known to be endemic in California and parts of Oregon and Nevada, and

WHEREAS, research funded by USDAARS and Cooperative State Research Extension and Education Service (CSREES) could contribute to EBA control,

THEREFORE BE IT RESOLVED, NCBA encourages USDA to actively support EBA research.

#### CH 9.7

2009/Renewed

##### **National Animal Disease Center and National Veterinary Services Laboratory Funding**

WHEREAS, the National Animal Disease Center (NADC) and the National Veterinary Services Laboratory (NVSL), located in Ames, Iowa, have a world-wide reputation for animal disease research, and

WHEREAS, the current NADC and NVSL facilities are aged to the point that future research possibilities and biosecurity measures will be limited, which will inhibit the safety and competitive position of the U.S. livestock industry, and

WHEREAS, the NADC, NVSL, and Center for Veterinary Biologics (CVB) are cooperatively developing a master plan utilizing joint facilities and departmental cooperation which will result in more efficient research at a reduced cost,

THEREFORE BE IT RESOLVED, NCBA strongly supports the funding request for the construction, remodeling, and equipment needed to implement this master plan for a facility to be located



in Ames, Iowa.

BE IT FURTHER RESOLVED, NCBA shall work with other livestock organizations and other agricultural groups to urge Congress to accelerate the funding for the master plan.

CH 9.8

2011/Renewed

**Anti-Tick Vaccine Research**

WHEREAS, there are no biological methods to control endemic tick-borne diseases in cattle, and

WHEREAS, there remains a threat of foreign tick-borne diseases being introduced into the United States, and

WHEREAS, low-level feeding of tetracyclines is the only current method of controlling these diseases, and

WHEREAS, ticks are becoming increasingly resistant to arachnide chemicals commonly used for their control,

THEREFORE BE IT RESOLVED, NCBA supports research on tick-vaccines and other novel methods to control tick-borne diseases of cattle.

CH 9.9

2012/Amended

**Chronic Wasting Disease Eradication**

WHEREAS, Chronic Wasting Disease (CWD) is one of several transmissible spongiform encephalopathies (prion diseases) and is increasing in frequency and distribution, and

WHEREAS, there is a marked increase in the population of white-tail deer over most of the United States, and

WHEREAS, CWD has become a very serious disease in farmed elk, mule deer, and white-tail deer,

THEREFORE BE IT RESOLVED, NCBA strongly supports USDA's Agricultural Research Service (ARS) and university research on CWD,

BE IT FURTHER RESOLVED, NCBA requests and supports research efforts to develop rapid antemortem and postmortem diagnostics, determine route(s) of transmission, including the role of environmental contamination, and methods to control CWD, such as genetic resistance,

BE IT FURTHER RESOLVED, NCBA requests expanded efforts to stop the spread of CWD in deer and elk by depopulation of free roaming and farmed deer and elk in areas with involved and threatened herds,

BE IT FURTHER RESOLVED, NCBA supports and encourages the control of the transport of live deer and elk or carcasses from areas having CWD,

BE IT FURTHER RESOLVED, NCBA supports uniform and effective monitoring of interstate and intrastate movement of wild and domesticated cervidae,

BE IT FURTHER RESOLVED, NCBA recommends intensive monitoring of all captive and wild cervidae herds in the CWD endemic areas as well as the monitoring of wild cervidae in areas adjacent to facilities of captive cervidae, which have a diagnosis of CWD,

BE IT FURTHER RESOLVED, NCBA requests USDA-ARS further develop and maintain a current fact sheet on scientific facts about CWD and that this information be widely disseminated to affected parties, i.e., all state veterinarians, U.S. Animal Health Association, NCBA, state cattle producer associations, state wildlife agencies and the Department of Interior.

CH 9.10

2013/Amended

**Foot & Mouth Disease Control**

WHEREAS, Foot and Mouth Disease (FMD) outbreaks would devastate the beef cattle industry in the United States, the largest agriculture segment, and

WHEREAS, the control and prevention of FMD will require a multi-faceted approach,

THEREFORE BE IT RESOLVED, NCBA request that USDA place a high priority on the development of improved and validated FMD vaccines, including funding for production of the vaccines.

CH 9.11

2012/Renewed

**Trichomonosis Control**

WHEREAS, trichomonosis is an economically devastating disease in beef herds, and

WHEREAS, there is currently no treatment for infected bulls, and there are currently no drugs or vaccines that will prevent infection of bulls or beef herds, and

WHEREAS, there are non-pathogenic trichomonads that can be isolated from bulls, particularly virgin bulls, thus, it is important to differentiate the pathogenic trichomonads from the non-pathogenic trichomonads,

THEREFORE BE IT RESOLVED, USDA should support research aimed at prevention and treatment of trichomonosis in cattle, especially the differentiation of non-pathogenic from pathogenic trichomonads.

BE IT FURTHER RESOLVED, USDA should make certain that veterinary diagnostic laboratories, veterinarians, and state trichomonosis control programs are aware of all scientific information on differentiating non-pathogenic trichomonads from pathogenic trichomonads, particularly the use of any rapid diagnostic tests.

CH 9.12  
2011/New  
**Testing for Trichomoniasis**

WHEREAS, Trichomoniasis is a devastating reproductive health disease in beef cattle, and

WHEREAS, the control, sampling, laboratory testing, and state import requirements of Trichomoniasis lack uniformity and consistency,

THEREFORE BE IT RESOLVED, NCBA work with veterinarians, state officials, the American Association of Veterinary Laboratory Diagnosticians (AAVLD), and researchers to continue to develop universal standards in the detection, testing, sampling, and control of Trichomoniasis.

BE IT FURTHER RESOLVED, NCBA recognize the role that pooled Polymerase Chain Reaction (PCR) testing plays in the control of Trichomoniasis, especially in the testing of Trichomoniasis free herds for trade purposes, and work to further the education and research of pooled PCR testing in the beef industry.

CH 9.13  
2013/Amended  
**Support for Research on Controlling Foot & Mouth Disease Outbreaks by Methods other than Depopulation**

WHEREAS, Foot and Mouth Disease (FMD) in the United States would be devastating to the beef cattle industry, and

WHEREAS, the principal plan for control is widespread depopulation, but includes the use of vaccination, containment, and biosecurity measures, and

WHEREAS, depopulation may not be allowed or feasible in certain states,

THEREFORE BE IT RESOLVED, NCBA shall request continued funding of research for alternative methods of FMD control to include new vaccine technologies by the Department of Homeland Security and the United States Department of Agriculture.

CH 9.14  
2013/Renewed  
**Support for the Midwest Insect Research Laboratory (Lincoln, NE)**

WHEREAS, USDA-Agricultural Research Service (ARS) Agroecosystem Management Research Unit (AMRU) at Lincoln, Nebraska, has performed critical research on screwworms and stable flies, and

WHEREAS, the cattle industry has a very serious problem with range and/or pasture-adapted stable flies, and no effective control methods are currently available, and

WHEREAS, an expert panel has completed a review of the AMRU program and has recommended the expansion of the stable fly research efforts,

THEREFORE BE IT RESOLVED, NCBA shall strongly support the expansion of the existing confined cattle stable fly research program at AMRU.

BE IT FURTHER RESOLVED, NCBA shall support additional research on appropriate fly pests and lice when personnel, funds, and time permit.

CH 9.15  
2013/Renewed  
**Kerrville Research Lab Funding**

WHEREAS, the Knipling-Bushland Insect Research Laboratory at Kerrville, Texas has historically been a critical research facility for a number of important pests, both insects and ticks, and

WHEREAS, the research program at Kerrville needs to be continued and expanded, and

WHEREAS, Kerrville is the victim of urban encroachment and the land value has increased significantly, and

WHEREAS, the old World War II Quonset facilities are antiquated, inefficient, and expensive to maintain, and

WHEREAS, the important research efforts on problems such as acaricide resistance and development of technology to control populations of cattle fever ticks maintained and distributed by ungulate wildlife by the fever tick must not be jeopardized,

THEREFORE BE IT RESOLVED, that the NCBA strongly support the planning, funding and construction of a new research facility to replace the existing Kerrville laboratory, and;

BE IT FURTHER RESOLVED, that the NCBA supports the existing collaborative efforts with the Agricultural Research Service Animal Disease Units at Pullman Washington and Kerrville.

CH 9.16  
2012/Renewed  
**Regional Diagnostic Laboratory Capacity**

WHEREAS, livestock diseases are extremely costly to producers and rural communities, and

WHEREAS, foreign animal diseases such as foot and mouth disease (FMD), Heartwater, and others could have devastating results to the entire livestock industry, and

WHEREAS, rapid local diagnostic capabilities will be critical in a foreign animal disease outbreak,

THEREFORE BE IT RESOLVED, NCBA actively encourages federal and state officials to expand and support the USDA approved regional

diagnostic laboratory network.

CH 9.17  
2009/New  
**Bovine Viral Diarrhea Virus Education and Research Support**

WHEREAS, bovine viral diarrhea virus (BVDV) is an important contagious pathogen of cattle, which causes a number of economically important disease syndromes in all stages of cattle production, and

WHEREAS, the components necessary to control this pathogen exist, including accurate diagnostic tests and an understanding of effective strategies to prevent transmission within and between cattle herds, and

WHEREAS, BVDV control or eradication occurs by the voluntary actions of individual cattle producers, so success requires producer "buy-in", or compliance. Compliance, in turn, is strongly associated with producer education, and

WHEREAS, the BVDV Working Group, a sub-committee of the NCBA Cattle Health and Well-Being Committee, has provided national leadership in creating awareness and providing knowledge about BVDV control to veterinarians and cattle producers through research, producer symposiums and publications,

THEREFORE BE IT RESOLVED, NCBA support state and federal programs which fund competitive proposals for research and outreach to deliver information and training directly to cattle producers and their veterinarians that will contribute to BVDV control.

CH 9.18  
2009/New  
**Bovine Viral Diarrhea Virus International Biosecurity**

WHEREAS, Bovine Viral Diarrhea (BVD) viruses, which comprise two species within the pestivirus genus, likely cause the most costly viral disease of cattle in the United States, and

WHEREAS, control measures addressing BVD virus losses are being implemented in the United States, and

WHEREAS, biosecurity is an important component of BVD control plans ranging from individual herds to international movement, and

WHEREAS, infection of cattle with “HoBi-like” viruses, a newly emerging species of pestivirus confirmed present in both South America and Southeast Asia, mimics the clinical presentations observed following infection with either BVDV1 or BVDV2, and

WHEREAS, introduction of the HoBi species into the U.S. poses significant biosecurity risk for animal populations and would have serious consequences for BVDV control programs, and

WHEREAS, these viruses may be transmitted through infected animals and animal products, such as fetal calf serum,

THEREFORE BE IT RESOLVED, NCBA staff should pursue further knowledge of the virus to determine if surveillance is needed in the U.S.

BE IT FURTHER RESOLVED, NCBA encourages Animal and Plant Health Inspection Service (APHIS) to adhere to and implement strict international biosecurity measures for pestiviruses, addressing shipment of animals and animal products, as well as other risks.

CH 9.19  
2013/New

**Animal Disease Research Funding**

WHEREAS, inadequate funding is available for animal disease research, and decreasing numbers of young scientists are pursuing careers in animal disease research, and

WHEREAS, many new faculty members hired by veterinary school basic science departments and colleges of agriculture focus largely (or entirely) on human disease research because of funding issues, and

WHEREAS, the decline in trained veterinary scientists entering the animal research field in the last decade and the predicted retirement losses of veterinary scientists suggests that the United States will be unable to meet critical research needs of animal health in the next decade,

THEREFORE BE IT RESOLVED, NCBA urge Congress and appropriate governmental agencies to increase funding for animal disease research, and seek adequate funding for bovine disease research.

## FEDERAL LANDS COMMITTEE

David Cook, AZ - Chair

Robbie LeValley, CO - Vice Chair

Dustin Van Liew, Staff

<b>1 ADMINISTRATIVE AND REGULATORY</b>					
1.1	2009	Federal Lands Management	1.34	2009	On-Refuge and Park Hunting
1.2	2010	Local Compliance with Executive Order #12630	1.35	2010	Endangered Species- Environmental Impact Statement
1.3	2011	Exhaustion of Administrative Appeals	1.36	2011	Legislative and Regulatory Revisions for Grazing Permit Administration
1.4	2011	Injunction Review			
1.5	2012	Payment in Lieu of Taxes Funds Continuance	1.37	2011	Opposition to Secretarial Order 3310
1.6	2012	Agency Range Budget	1.38	2012	Toxic Rotenone and/or Antimycin A
1.7	2012	Public Access	1.39	2013	State Entitlement
1.8	2011	Trespass			
1.9	2012	National Forests and Grasslands Management	<b>2 LEGISLATIVE</b>		
1.10	2012	Stewardship Program	2.1	2009	Federal Grazing Fee Formula
1.11	2012	Permit Renewals	2.2	2010	Removal of Grasslands from U.S. Forest Service Jurisdiction
1.12	2012	Direct Access to Federal Court	2.3	2011	Vested Grazing Rights
1.13	2009	Wilderness Areas	2.4	2011	Vandalism on Federal Lands
1.14	2013	Compensation for Cuts in Permitted Numbers	2.5	2011	Water Rights-of-Way
1.15	2009	Notice to Permittees	2.6	2012	Commensurability
1.16	2013	Legal Public Access	2.7	2012	Access to Forest Inholdings
1.17	2013	Federal Land Acquisition and Exchanges	2.8	2012	Davis—Bacon Act
1.18	2013	U.S. Forest Service and BLM Rangeland Management Positions	2.9	2012	Natural Resource Conservation Legislation
1.19	2013	Multiple Use	2.10	2012	Mining Laws
1.20	2009	Wildlife Service Program	2.11	2013	Fencing of Sensitive Areas
1.21	2009	Grazing Advisory Boards	2.12	2012	National Monument Designations
1.22	2012	Appeals of Forest Service Decisions	2.13	2010	Opposition to Grazing Permit Retirement Programs
1.23	2013	Appeal of BLM Decisions	2.14	2013	Recognition of R.S. 2477 on Public Lands
1.24	2013	Interested Public	2.15	2011	Support for the Secure Rural School and Communities Self Determination Act (PL 106-393)
1.25	2013	Permit Issuance and Transfer	2.16	2012	Species Recovery Easements
1.26	2012	Experimental Scientific Review of BLM and Forest Service Range Management Decisions	2.17	2013	Amendment to Federal Civil Rights Act
1.27	2013	Preference	2.18	2010	Equal Access to Justice Act (EAJA)
1.28	2009	Fence Height Requirements	2.19	2011	Federal Land Designations
1.29	2013	Open Range Fencing	2.20	2011	National Historic Preservation Act Amendment
1.30	2009	Wolf Predation Reporting			
1.31	2009	Wildlife Services Aviation Program			
1.32	2009	Permittee Input into Public Lands Management Decisions			
1.33	2009	Conservation Agreements and Interconnectivity of Land Management			

<b>3</b>		<b>WILDLIFE</b>			
3.1	2009	Wild Horses & Burros	6.7	2011	Livestock Grazing as a Primary Tool
3.2	2012	Animal Damage Control & Wildlife Services	6.8	2009	Shared Stewardship
3.3	2011	Prairie Dogs	6.9	2012	Recreation Campaign
3.4	2012	Desert Tortoises			
3.5	2012	Delisting of Wolves and Grizzly Bears			
3.6	2011	Landowner Action for Wolf Depredation on Private and Federal Lands			
3.7	2012	Sage Grouse Recovery			
3.8	2009	Mexican Gray Wolf			
3.9	2013	Livestock/Wildlife Interactions			
3.10	2009	CMR Federal Wildlife Refuge Bison Reintroduction			
3.11	2010	Wild Horses and Burros 2			
<b>4</b>		<b>RESOURCE ISSUES</b>			
4.1	2012	Fire Resistant Plant Species			
4.2	2013	Land Use Monitoring			
4.3	2012	Rangeland Improvement and Betterment Funds			
4.4	2010	Innovative Rangeland Monitoring			
4.5	2012	Control of Grasshoppers, Crickets and Other Damaging Insects on Federal Lands			
4.6	2010	Rehabilitation of Sage Brush Habitat from Fire and other Disturbances			
4.7	2010	Categorical Exclusions (CX)			
<b>5</b>		<b>PROPERTY RIGHTS</b>			
5.1	2009	U.S. FWS and National Marine Fisheries Service			
5.2	2009	Government Water Filings			
5.3	2012	Water Rights			
5.4	2013	Legislation Principles Regarding Federal Lands Grazing			
5.5	2009	Range Monitor Funding			
5.6	2013	Livestock Impoundment			
5.7	2012	Water Rights on Federal Lands			
<b>6</b>		<b>SPECIFIC INITIATIVES</b>			
6.1	2009	Wild and Scenic Rivers			
6.2	2013	National Park Service Resource Management Review			
6.3	2013	Recovery Credit Systems			
6.4	2009	Off-Road Vehicles			
6.5	2012	Catastrophic Wildfire			
6.6	2009	Consideration of Local Economy and Lifestyle in Public Land			

## 1. ADMINISTRATIVE AND REGULATORY

FL 1.1

2009/Renewed

### Federal Lands Management

BE IT RESOLVED, NCBA will continue to support sound, scientific stewardship on federal lands providing for a thriving livestock industry, sustainable rangelands resulting in quality watersheds, productive wildlife habitat, food and fiber, a viable economy and strong tax base. Federal lands policy should encourage sustainable range improvements, and must guarantee water rights in accordance with state law, private property rights, and due process of law.

BE IT FURTHER RESOLVED, federal lands grazing management shall meet the following principles:

1. Measurable and attainable, short-term and long term management objectives.
2. Continued responsible stewardship.
3. Sustainable commodity production.
4. Healthy communities and viable rural economies, tied to responsible resource production.
5. Protection of private property rights.
6. Recognition of economic and ecological values.
7. Recognition of the interdependence of private, state and federal lands.
8. Timely inclusion of permittees and local governments in all decision making processes.

BE IT FURTHER RESOLVED, NCBA should continue to strive for a reasonable federal grazing policy which recognizes the above principles.

FL 1.2

2010/Renewed

### Local Compliance with Executive Order #12630

WHEREAS, the ownership of private property and the right to be secure in the ownership of private property is the foundation of this free country, and

WHEREAS, the 5th and 14th Amendments to the United States Constitution and numerous Supreme Court decisions have recognized and upheld the right of private property ownership, and

WHEREAS, the Attorney General of each sovereign state has the legal responsibility to uphold

the Constitution, and therefore to protect private property rights, and

WHEREAS, Presidential Executive Order #12630 has strengthened the mechanism for protecting Constitutionally guaranteed private property ownership rights by requiring that all federal agencies file a Takings Implication Assessment (TIA) to determine the effect of their federal actions on private property rights, and

WHEREAS, the 5th and 14th Amendments to the U.S. Constitution require the payment of just compensation to a private property owner any time private property rights are diminished,

THEREFORE BE IT RESOLVED, NCBA urges the Attorney General of each state to direct all county commissioners to ensure compliance with the mechanism designed to protect each citizen's right to be secure in the right to own private property.

BE IT FURTHER RESOLVED, NCBA urges the Attorney General of each state strengthen the processes which will ensure due process for those private property owners.

BE IT FURTHER RESOLVED, NCBA urges county commissioners to support Executive Order 12630 requesting all federal agencies complete a TIA on all federal projects or regulations affecting private property rights, both on private and federal lands.

BE IT FURTHER RESOLVED, should a TIA show that private property rights will be diminished by a federal action or regulation, proper local authority must institute proceedings to ensure that just compensation is paid to the private property owner in the event of a taking.

FL 1.3

2011/Renewed

### Exhaustion of Administrative Appeals

WHEREAS, the U.S. Supreme Court stated in *Darby v. Cisneros*, 509 U.S. 137, 154 (1993), that "an appeal to 'superior agency authority' is a prerequisite to judicial review only when expressly required by statute or when an agency rule requires appeal before review and the administrative action is made inoperative pending that review", and

WHEREAS, the U.S. Department of Interior Bureau of Land Management does not have a statute which expressly requires exhaustion of administrative remedies in the U.S. Department of Interior, Office of

Hearings and Appeals, as a prerequisite to judicial review,

THEREFORE BE IT RESOLVED, NCBA requests members of Congress support/adopt legislation which would enact a statute requiring any appellant to exhaust their administrative remedies before seeking judicial review under the Administrative Procedure Act.

FL 1.4  
2011/Renewed  
**Injunction Review**

WHEREAS, court injunctions have been used to halt historic grazing rights until litigation and bureaucratic processes can be completed, and

WHEREAS, the sudden loss of these historic grazing rights creates undue economic hardships for grazing permittees that are affected by these injunctions,

THEREFORE BE IT RESOLVED, NCBA seeks legislation that prohibits court ordered injunctions preventing grazing, pending completion of agency processes.

FL 1.5  
2012/Amended  
**Payment-In-Lieu-Of-Taxes Funds Continuance**

WHEREAS, the federal government pays money in lieu of taxes to counties having federal lands within their borders, and

WHEREAS, this program may be eliminated, and

WHEREAS, counties with large federal acreage have become dependent on these funds,

THEREFORE BE IT RESOLVED, NCBA seeks congressional support for measures to increase and sustain livestock production on federal lands such that the associated counties and communities no longer require payments-in-lieu-of-taxes (PILT) funding,

BE IT FURTHER RESOLVED, that, until such solutions are found, NCBA seeks Congressional support for continuing PILT payments and increasing the level at which they are paid.

FL 1.6  
2012/Renewed  
**Agency Range Budget**

BE IT RESOLVED, NCBA supports adequate funding for U.S. Forest Service and Bureau of Land Management agency budgets and program emphasis to meet basic legislated range management functions and mandates in order to ensure sound and sustainable multiple use management.

BE IT FURTHER RESOLVED, NCBA supports matching range program emphasis and budget to corresponding range production outputs.

BE IT FURTHER RESOLVED, NCBA supports Congressional efforts to clarify that the cost of administering the whole of the federal range programs which is inclusive of users, mandates, and obligatory actions, many of which are not applicable to the costs of administering the livestock grazing portions of these programs.

FL 1.7  
2012/Renewed  
**Public Access**

BE IT RESOLVED, NCBA opposes any imposition of public access on unwilling landowners.

FL 1.8  
2011/Amended  
**Trespass**

WHEREAS, instances of historic unintentional agricultural trespass on federal lands continue to be uncovered, and

WHEREAS, existing processes for resolution of such trespasses are inefficient, excessively lengthy, and costly to both agricultural users and the federal agencies,

THEREFORE BE IT RESOLVED, NCBA requests that the Unintentional Agricultural Trespass section of the Federal Land Policy Management Act be reinstated to handle disposition of these lands.

BE IT FURTHER RESOLVED, non-willful trespass of livestock should not be subject to citation.



FL 1.9  
2012/Renewed  
**National Forests and Grasslands Management**

WHEREAS, numerous questions have arisen regarding the current status of the legal authority to manage the national grasslands and other lands within the National Forest System,

THEREFORE BE IT RESOLVED, NCBA supports all efforts to assure fair and legal management of all National Forest System lands.

FL 1.10  
2012/Renewed  
**Stewardship Program**

BE IT RESOLVED, NCBA supports the existing Experimental Stewardship Program in concept and principle, and NCBA supports the development of additional experimental stewardship programs.

FL 1.11  
2012/Renewed  
**Permit Renewals**

WHEREAS, legislation establishing a deadline for the *National Environmental Policy Act* (NEPA) compliance and/or permit renewal by the federal land management agencies, the Bureau of Land Management (BLM) and U.S. Forest Service (USFS), is at risk for not being met and a significant number of grazing allotments will not have NEPA decisions and/or permit renewals issued before the deadline, potentially closing livestock grazing after the deadline and subjecting the industry to potential litigation,

THEREFORE BE IT RESOLVED, the USFS and BLM allocate appropriate levels of funding to complete the grazing allotment NEPA documents and grazing permit renewals, internally communicate the priority of completing these actions for the affected allotments, and reassign specialists to complete the input required for the permits to ensure that grazing is allowed to continue.

BE IT FURTHER RESOLVED, if the legislative deadline cannot be met and allotments are subject to cancellation or litigation, NCBA will work with Congress to extend the legislative deadline.

FL 1.12  
2012/Renewed  
**Direct Access to Federal Court**

WHEREAS, administrative appeals procedures available within the U.S. Forest Service and Bureau of Land Management are a time-consuming and extremely expensive process, and

WHEREAS, the appeals process is a mandatory procedure that must be exhausted before receiving a hearing before a federal Court,

THEREFORE BE IT RESOLVED, NCBA supports legislation granting permittees direct access to federal court.

BE IT FURTHER RESOLVED, NCBA supports legislation granting federal lands grazing permittees the right to trial De Novo in the federal courts in any appeal of a final administrative decision involving the permittee.

FL 1.13  
2009/Renewed  
**Wilderness Areas**

WHEREAS, the United States has adequately addressed the issue of wilderness regarding BLM wilderness, Forest Service wilderness, wildlife refuges, primitive areas, and national conservation areas,

THEREFORE BE IT RESOLVED, NCBA strongly opposes further designation of wilderness areas, National Parks, Wild and Scenic Rivers, national conservation areas, primitive areas, wildlife refuges, or other special use areas which take away multiple-use of the land.

BE IT FURTHER RESOLVED, existing wilderness areas and wilderness study areas should be reexamined and only those areas that meet the criteria specified in the Wilderness Act of 1964 should remain wilderness or wilderness study areas and that all other areas should be released back to multiple-use management.

FL 1.14  
2013/Renewed  
**Compensation for Cuts in Permitted Numbers**

BE IT RESOLVED, NCBA recommends that in the case of permitted livestock numbers being reduced or taking of permits by a federal agency, that the permittee be allowed by the Internal Revenue Service to use the loss as a capital loss at the time the

cut is implemented, or that agencies pay fair market value for substantial cuts in animal unit months (AUM) not related to range conditions.

FL 1.15  
2009/Renewed  
**Notice to Permittees**

BE IT RESOLVED, NCBA recommends that public land agencies, from this point forward, begin notifying permittees prior to entering onto their public land permits.

BE IT FURTHER RESOLVED, all public land agencies notify affected permittees and the Public Lands Council (PLC) prior to entering into memoranda of understanding which affect grazing permits.

BE IT FURTHER RESOLVED, formal notice shall be sent to permittees and lessees in a timely manner to allow them to participate in any proposed agency action.

FL 1.16  
2013/Renewed  
**Legal Public Access**

WHEREAS, state and federal agencies publish maps for hunting interests and other multiple uses in certain states, and

WHEREAS, many roads on the published maps are private roads,

THEREFORE BE IT RESOLVED, NCBA recommends to all public land agencies, which participate in the publication of such maps, to designate all private roads as "PRIVATE" in their next printing.

FL 1.17  
2013/Amended  
**Federal Land Acquisition and Exchanges**

WHEREAS, all federal agencies from time to time propose acquisition or exchange of lands with state, county, private, and other landowners for the purpose of consolidating land ownership, and

WHEREAS, such land exchanges can result in improved resource management and other benefits for ranchers, communities, and the federal government, and

WHEREAS, certain land exchanges have the potential to cause great economic harm to

existing ranching operations, possibly resulting in the loss of private property rights, valid pre-existing rights, water rights, and improvements,

THEREFORE BE IT RESOLVED, NCBA encourages an accelerated process of exchange or direct sale of tracts of federal lands to adjacent landowners, while recognizing the historic use of the land for purposes of valuation to provide for more realistic and economic management of land resources for increasing revenues to the economic bases of the local areas.

BE IT FURTHER RESOLVED, public agencies should pay a fair share of the costs involved in an exchange or sale.

BE IT FURTHER RESOLVED, NCBA strongly opposes any land exchange that will have a negative impact on a permittee or local community.

BE IT FURTHER RESOLVED, federal, local, and state agencies hold public hearings in the communities affected by the proposed land exchanges in order to fully identify the expected economic impact to ranching operations and local communities.

BE IT FURTHER RESOLVED, NCBA opposes further acquisition of private property in the name of conservation or public use without just compensation.

BE IT FURTHER RESOLVED, NCBA requests the Administration adopt and support a "no net loss" policy for private property.

BE IT FURTHER RESOLVED, land acquired by the federal government along with preference rights should be adjudicated for grazing pursuant to the Taylor Grazing Act.

FL 1.18  
2013/Amended  
**U.S. Forest Service (USFS) and Bureau of Land Management (BLM) Rangeland Management Positions**

WHEREAS, rangeland management is an integral aspect of multiple resource management, and

WHEREAS, some federal rangeland management positions have been filled throughout the USFS and BLM with inadequately trained personnel,

THEREFORE BE IT RESOLVED, USFS and BLM funds be made available for rangeland management positions for purposes of hiring personnel trained in rangeland management or a closely related field so as to better support the national policy of multiple use management.

FL 1.19  
2013/Renewed  
**Multiple Use**

BE IT RESOLVED, NCBA supports the multiple use management concept on the federal lands.

BE IT FURTHER RESOLVED, NCBA generally opposes Congressional or administrative designations that de facto result in single use management or emphasis or single use allotments in derogation of the long-standing principle of multiple use.

FL 1.20  
2009/Renewed  
**Wildlife Service Program**

BE IT RESOLVED, NCBA supports the Wildlife Services program, and shall work to insure it is adequately funded.

FL 1.21  
2009/Amended  
**Grazing Advisory Boards**

WHEREAS grazing advisory boards were an important liaison between grazing permittees and federal land management agencies, and

WHEREAS these boards can serve an important function today in improving communication between permittees and land management agencies,

THEREFORE BE IT RESOLVED, NCBA requests that the U.S. Department of Interior and U. S. Department of Agriculture, Forest Service reinstate Grazing Advisory Boards under any county's cooperative agency status with federal agencies.

FL 1.22  
2012/Renewed  
**Appeals of Forest Service Decisions**

WHEREAS, the current U. S. Forest Service appeals process requires appeals to be made to the

next highest line officer, and

WHEREAS, this process results in a reversal of decisions unfavorable to grazing permit holders in less than five percent of appeals,

THEREFORE BE IT RESOLVED, NCBA seeks statutory or regulatory change to require, at the option of the permittee, required administrative appeals of Forest Service grazing permit decisions pursuant to 36 CFR Part 251, subpart B, to be held on the record before an independent hearing officer or administrative law judge, with the right to confront and cross examine agency employees in accordance with the requirements of the federal Administrative Procedures Act, 5 U.S.C. 551 *et. seq.*

FL 1.23  
2013/Amended  
**Appeal of Bureau of Land Management (BLM) Decisions**

WHEREAS, when a decision to renew, transfer, or modify a grazing permit is appealed by a permittee, that decision currently stands unless a petition to stay is granted, and such decisions can cause great economic and ecologic harm due to the length of time required to resolve appeals,

THEREFORE BE IT RESOLVED, BLM change its grazing regulations so that staying of an adverse decision, when appealed by a permittee, should be automatic and not require a petition for the granting of that stay.

BE IT FURTHER RESOLVED, the permittee or lessee should be allowed to continue ongoing use under the existing permit until the appeal is resolved, and the agency promulgating the adverse decision should bear the burden of proof to show that their decision is appropriate.

FL 1.24  
2013/Renewed  
**Interested Public**

WHEREAS, in the current grazing regulations, the term "interested public" has been interpreted to allow any individual, regardless of direct economic interest, the ability to affect and interrupt the day-to-day operations of the BLM and Forest Service,

THEREFORE BE IT RESOLVED, NCBA recommends the BLM and Forest Service incorporate regulation changes stating that interested public should only participate in allotment management at

the resource management planning level, unless the permittee seeks to participate in a collaborative management effort.

FL 1.25  
2013/Amended  
**Permit Issuance and Transfer**

WHEREAS, the Taylor Grazing Act gives the right of automatic renewal to permittees, and

WHEREAS, the National Environmental Policy Act (NEPA) only applies to major federal actions significantly impacting the human environment, and simple permit transfers and renewals do not qualify as major federal actions, and

WHEREAS the permit renewal and transfer process can be unnecessarily time-consuming and arduous,

THEREFORE BE IT RESOLVED, NCBA supports the following:

1. Renewal of a term grazing permit should not require NEPA compliance as such renewal is required pursuant to the Taylor Grazing Act and the Administrative Procedures Act.
2. Renewal of the terms and conditions in a term grazing permit, if there are no changes to those terms and conditions and if the allotment is meeting all Rangeland Health Standards, may be completed via a categorical exclusion.
3. NEPA analysis should not be required for activities that implement the goals of a Resource Management Plan that has met existing NEPA requirements, or for the renewal or transfer of grazing permits unless significant modification of the permit is occurring.
4. Bureau of Land Management (BLM) and U.S. Forest Service (USFS) should take actions to simplify and streamline the permit transfer process so that it is conducted in a timely manner in order to ensure the continued viability of the livestock permit.
5. Permits shall be transferred or renewed with the same terms and conditions of the existing permit where the BLM and USFS have determined that documentation with respect to expiring or transferring term permits is not complete.

BE IT FURTHER RESOLVED, NCBA work to find a long-term strategy in order to complete the environmental review process in a timely, thorough, and practical fashion.

BE IT FURTHER RESOLVED, NCBA work to ensure that no permittee will be deprived of the reissuance of a grazing permit or lease because the Secretary of Agriculture or Secretary of Interior failed to complete the NEPA review prior to expiration or transfer of any permit or lease.

BE IT FURTHER RESOLVED, NCBA work to ensure any permit application process is consistent with the Taylor Grazing Act, specifically with respect to its provision regarding the automatic renewal of permits, and with the Administrative Procedures Act.

FL 1.26  
2012/Renewed  
**Experimental Scientific Review of BLM and Forest Service Range Management Decisions**

WHEREAS, all resource users, regardless of specific interest, benefit from the best scientific information available being utilized in resource decisions, and

WHEREAS, agreement between the various natural resource interest groups as to a manner in which the best scientific information can be brought to decisions would help stabilize the direction of resource management and reduce related litigation,

THEREFORE BE IT RESOLVED, NCBA, in conjunction with state affiliates, will seek development of an experimental scientific review process that would include local range scientists, among other agency range scientists, to become an official and required part of the Bureau of Land Management (BLM) and U.S. Forest Service administrative appeals process for decisions affecting range management.

BE IT FURTHER RESOLVED, this review process should be developed to not only improve the scientific basis of decisions, but should also be designed to gain acceptance by all reasonable natural resource interests.

FL 1.27  
2013/Amended  
**Preference**

WHEREAS, the term "preference" has been redefined from its historic definition, and

WHEREAS, the intent of Congress in the Taylor Grazing Act has been changed from, "the total number of Animal Unit Months (AUMs) of livestock grazing on public lands apportioned and attached to base property owned or controlled by a permittee or lessee," to "a superior or priority position against others for the purpose of receiving a grazing permit or lease," and

WHEREAS, this change has the effect of removing any recognition by the Bureau of Land Management (BLM) that Congress, in the Taylor Grazing Act, intended for western family ranches holding BLM grazing permits, and

WHEREAS, by this Act, leases were given a priority position above all others for a legally adjudicated number of federal AUMs, called the "Preference right," and

WHEREAS, in the majority of situations where the number of federal livestock AUMs currently authorized by BLM Land Use Plans for active use by livestock in the ten-year permits, or leases held by these ranchers, is less than the "Preference right" of federal AUMs adjudicated to these ranches as a result of Land Use Plan Decisions to reserve federal forage for uses other than livestock, and

WHEREAS, a lack of recognition by the federal government of the "Preference right" of AUMs has a severe adverse impact on the economic value and stability of these ranches,

THEREFORE BE IT RESOLVED, NCBA supports the return of the definition of the term and concept of "Preference right" to that used prior to the BLM grazing regulations of 1995, so as to reflect the original and historic intent the Taylor Grazing Act by giving the appropriate ranches a priority position for a certain number of adjudicated "Preference right" AUMs.

FL 1.28  
2009/Renewed  
**Fence Height Requirements**

WHEREAS, fences are built to control livestock and to keep cattle away from highways and

roads, and

WHEREAS, the height of a fence determines the effectiveness of controlling and containing livestock, and

WHEREAS, the control of livestock is a public safety issue, and

WHEREAS, the control of livestock is for the good of maintaining personal property, and

WHEREAS, some agencies will not permit fences to be built in excess of forty inches high, and

WHEREAS, a fence with only a forty-inch height is in most cases not adequate for the control of livestock,

THEREFORE BE IT RESOLVED, NCBA works with agencies to amend their requirements for fences to allow for all livestock fences to be built up to a fifty-two inch height.

FL 1.29  
2013/Amended  
**Open Range Fencing**

BE IT RESOLVED, NCBA support regulations which make it incumbent on the owner of the private land to build and maintain a legal fence around the land if he wishes to keep cattle off his private property within U. S. Forest Service and Bureau of Land Management property boundaries not fenced prior to 1928.

BE IT FURTHER RESOLVED, NCBA ask that the federal agencies comply with the same fence laws and traditional fencing practices as private property owners, within each state.

FL 1.30  
2009/New  
**Wolf Predation Reporting**

WHEREAS, the number of livestock kills confirmed by USDA Wildlife Services is only a small fraction of actual livestock kills,

THEREFORE BE IT RESOLVED, NCBA encourage USDA Wildlife Services to develop scientifically acceptable total kill projections and to consistently report not only confirmed and probable livestock kill numbers, but also likely kill numbers,

BE IT FURTHER RESOLVED, NCBA encourage USDA Wildlife Services to develop cost analyses and proposed mitigation strategies for the indirect costs, and to report these indirect costs along with the kill statistics.

FL 1.31

2009/New

**Wildlife Services Aviation Program**

WHEREAS, the ability of United States Department of Agriculture Wildlife Services to control predators has been curtailed in some jurisdictions,

THEREFORE, BE IT RESOLVED, NCBA support the Wildlife Service aviation program and increased funding for the program.

FL 1.32

2009/New

**Permittee Input into Public Lands Management Decisions**

WHEREAS, Section 8 of PL-95-514 (Public Rangelands Improvement Act) specifically requires consultation, cooperation and coordination with lessees, permittees, landowners, District Grazing Advisory Boards, and state agencies involved in the development, revision or evaluation of allotment management plans,

THEREFORE BE IT RESOLVED, NCBA support formal Section 8 consultation policies with the Forest Service, Bureau of Land Management and the nation's governors to ensure permittee involvement.

FL 1.33

2009/New

**Conservation Agreements and Interconnectivity of Land Management**

WHEREAS, species and species' habitat occur on a landscape scale that includes public and private lands, and

WHEREAS, voluntary conservation efforts and management are occurring across public and private lands, and

WHEREAS, federal land permittees are dependent upon public lands grazing to provide economic stability, working landscapes and species habitat, and

WHEREAS, existing regulation allows federal land management agencies to enter into agreements that acknowledge species management across land ownership boundaries, e.g. candidate conservation and safe harbor type agreements, and

WHEREAS, federal land management agencies have been unwilling to enter into conservation agreements that include federal lands for species management,

THEREFORE BE IT RESOLVED, that NCBA request U.S. Fish and Wildlife Service (FWS), U.S. Forest Service (USFS), and the Bureau of Land Management (BLM) to acknowledge the interconnectivity of public and private lands and to recognize that the ability to maintain large open private lands is dependent on the long term sustainability and use of the public lands for grazing, and

BE IT FURTHER RESOLVED, that NCBA encourage federal lands management agencies to enter into conservation agreements with the FWS in consultation with federal land permittees that complement private landowner agreements and which allow for the management of species across landscape boundaries and ensures the economic stability of public land ranches.

FL 1.34

2009/New

**On-Refuge and Park Hunting**

WHEREAS, big game spend a significant percentage of the year on deeded land, and

WHEREAS, big game impact private pastureland, cropland, fences, and other privately owned improvements throughout the country, and

WHEREAS, big game numbers in certain regions of the country tend to be increasing, and

WHEREAS, the state game management agencies have been unsuccessful in these regions in reaching targeted population objectives, and

WHEREAS, a large number of big game seek a safe haven on wildlife refuges and parks before and during hunting seasons, that protects them from being harvested,

THEREFORE BE IT RESOLVED, NCBA requests that the U.S. Department of Interior authorize on-refuge and on-park hunting seasons of big game, as they currently do with water fowl, to

provide necessary herd management, dispersal, and maintenance of population objectives.

FL 1.35

2010/New

**Endangered Species-Environmental Impact Statement**

WHEREAS, the implementation of the Endangered Species Act has far reaching implications concerning agricultural practices in areas where endangered species exist,

THEREFORE BE IT RESOLVED, NCBA supports the completion of an economic analysis and an environmental impact statement by the proposing agency, including the impact of the acquisition or relocation on the local, county, state, and national economies before the taking of any land and/or water for the use of endangered species or before a threatened or endangered species may be moved, relocated or introduced.

FL 1.36

2011/New

**Legislative and Regulatory Revisions for Grazing Permit Administration**

WHEREAS, current federal laws and regulations, and the judiciary's interpretation thereof, regarding federal grazing permit administration have created a malfunctioning system whereby radical environmental groups are able to stymie on-the-ground management and use of Federal lands through an aggressive litigation strategy, and

WHEREAS, these issues of concern include:

1. Ease for activists to gain interested public status,
2. The burden of proof is borne by the grazing permittee in the administrative appeals process,
3. The Office of Hearing and Appeals does not follow the Administrative Procedures Act's (APA) standard of proof as it relates to resource decisions,
4. The elimination of an automatic stay of a BLM decision when it is appealed, and
5. The APA does not currently apply to Forest Service permittees.

THEREFORE BE IT RESOLVED, NCBA seek the following changes to federal laws and regulations:

1. The Federal Land Policy and Management Act and the National Forest Management Act (NFMA) should be amended to require that participants in the grazing permit decision making process have Constitutional standing.
2. The burden of proof should comply with the burden set by the APA in requiring that the federal agencies bear the burden of showing that their decisions are correct in law and in fact.
3. The standard of proof should be changed so that the BLM has to prove its case by a preponderance of the evidence.
4. The BLM's grazing regulations should be amended to return to pre-Rangeland Reform language so that decisions are automatically stayed if appealed, unless fact-specific circumstances support a decision in "full force and effect".
5. The NFMA should be amended so that Forest Service permittees can challenge agency decisions "on the record" under the APA.

FL 1.37

2011/New

**Opposition to Secretarial Order 3310**

WHEREAS, NCBA represents ranching and farming families across the United States, and

WHEREAS, Secretarial Order 3310, known as the Wild Lands Order, directs the Bureau of Land Management (BLM) to inventory, manage, and designate lands with perceived "Wilderness Characteristics" through departmental authority, creating *de facto* wilderness areas adverse to any other use and,

WHEREAS, Congress has the sole authority to designate Wilderness areas according to the Wilderness Act of 1964, and

WHEREAS, this action will restrict both renewable and nonrenewable natural resource uses on public lands in the west, further impeding the historic, cultural, and occupational uses of farming and ranching in this country, and

WHEREAS, the Federal Land Policy and Management Act (FLPMA) Sec. 1712- c (9) states, "Land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act,"

THEREFORE BE IT RESOLVED, NCBA request the Secretary of Interior to rescind Secretarial Order 3310, and

BE IT FURTHER RESOLVED, NCBA request the United States House of Representatives defund any attempt to implement the Wild Lands Order, and

BE IT FURTHER RESOLVED, NCBA request Congress to enact legislation clearly mandating the Secretary of the Interior to withdraw the Order.

FL 1.38  
2012/New

**Toxic Rotenone and/or Antimycin A**

WHEREAS, NCBA is concerned about potential human, livestock, wildlife, and environmental impacts of the use of Rotenone and/or Antimycin A on federally managed lands, and

WHEREAS, some federal agencies currently plan to use various formulations of Rotenone and/or Antimycin A to eliminate all native fish, non-native fish, and macro-invertebrates in streams scheduled for renovation on federally managed lands, and

WHEREAS, there are peer reviewed, published, scientific papers linking Rotenone and Parkinson's Disease,

THEREFORE BE IT RESOLVED, that NCBA oppose the use of Rotenone and/or Antimycin A for the killing of native, nonnative, and macro-invertebrate aquatic species on federally managed land unless a project-specific Environmental Impact Statement (EIS), prepared in accordance with stipulations of the National Environmental Protection Act, analyzes potential effects on humans, livestock, and wildlife in the affected watershed.

FL 1.39  
2013/New

**State Entitlement**

WHEREAS, the Federal Government owns and controls vast areas of land and mineral resources in many states, particularly in the West, and

WHEREAS, these states have minimal ability to control and manage the development and use of these resources, and

WHEREAS, the property tax base of these states is greatly diminished by this federal ownership of resources, and

WHEREAS, Congress has acted to reduce the inequities caused by this federal ownership by providing for certain payments to the states be derived from these resources,

THEREFORE BE IT RESOLVED, NCBA strongly oppose actions by the Federal government that have taken Abandoned Mine Land monies, Payments in Lieu of Taxes (PILT), impact aid, and other monies to which the states are entitled, that have withheld federal mineral royalty payments due the states and that further threaten to permanently confiscate these funds, and

BE IT FURTHER RESOLVED, NCBA support all efforts by the states to assure recapture and continued receipt of these funds.

**2. LEGISLATIVE**

FL 2.1  
2009/Amended

**Federal Grazing Fee Formula**

WHEREAS, NCBA supports the current grazing fee formula set forth in the Executive Order,

THEREFORE BE IT RESOLVED, NCBA supports a statutory Federal Grazing Fee formula is based on the current formula and meets all requirements of current law, permanently protects individual property rights and interests, preserves and protects strong stewardship, has a sound, rational, and defensible economic basis, maintain forage market forces that balance federal and private costs, and not disrupt or harm the livestock industry.

FL 2.2  
2010/Renewed

**Removal of Grasslands from U.S. Forest Service Jurisdiction**

BE IT RESOLVED, NCBA supports current efforts by the Association of National Grasslands to remove the National Grasslands from U.S. Forest Service jurisdiction.



FL 2.3  
2011/Renewed  
**Vested Grazing Rights**

WHEREAS, each county has the right to recognize by law that grazing on federal land is a vested, split estate private property right, and

WHEREAS, first use of water and grazing has been recorded or implied by preemption law, prescriptive right, commensurability, IRS rulings, and compensation by the military for lost animal unit months (AUM), and

WHEREAS, Congress created an incentive to settle the West by recognizing grazing and farming as one of the first beneficial uses for which the land could be utilized,

THEREFORE BE IT RESOLVED, vested grazing rights on split estate land be defined as tangible private property and that all owners of grazing rights be encouraged to record said property at the county courthouse.

FL 2.4  
2011/Amended  
**Vandalism on Federal Lands**

WHEREAS, stockmen must have more protection from eco-terrorists, environmental extremists, and other individuals who kill and harass livestock and destroy ranching facilities and equipment, and

WHEREAS, it is a basic right of citizens to protect their private property and to seek protection of private property,

THEREFORE BE IT RESOLVED, NCBA encourage Congress to amend the Federal Land Policy and Management Act of 1976 to make it unlawful to harass or obstruct the operation of any activity under a grazing permit, and to change the penalty for such activities to a felony with up to 5 years imprisonment and a \$250,000 fine.

BE IT FURTHER RESOLVED, NCBA urge the Bureau of Land Management (BLM) and U.S. Forest Service (USFS) to utilize education and enforcement efforts to discourage and curtail vandalism on federal lands.

BE IT FURTHER RESOLVED, the USFS and BLM should be responsible for repairing damage to improvements and vegetation on federal

rangelands caused by vandalism and carelessness on the part of other users.

FL 2.5  
2011/Renewed  
**Water Rights-of-Way**

WHEREAS, numerous water conveyance systems on federal lands were constructed and in operation prior to the passage of the Federal Land Policy and Management Act of 1976 (FLPMA), and

WHEREAS, the states have granted water rights to the holders of the rights-of-way for such systems,

THEREFORE BE IT RESOLVED, NCBA supports legislation to exempt from fees and conditions under FLPMA the rights-of-way for water conveyance systems on federal lands validly granted under statutes that antecede enactment of FLPMA.

FL 2.6  
2012/Renewed  
**Commensurability**

BE IT RESOLVED, the concepts of commensurability, base property, and livestock grazing shall be maintained and strengthened in all laws and regulations relating to federal lands grazing.

BE IT FURTHER RESOLVED, the land and/or water base property requirements for commensurability should be enforced.

FL 2.7  
2012/Renewed  
**Access to Forest Inholdings**

BE IT RESOLVED, NCBA supports the amendment of 16 United States Code 478 to clarify that the ingress and egress guaranteed by the statute apply not only to initial settlers residing within the boundaries of the National Forests, but to all patentees and their successors in interest.

BE IT FURTHER RESOLVED, NCBA supports clarifying legislation to guarantee unencumbered access to existing roads and rights-of-way for owners of patented property lying within the boundaries of national forests.

FL 2.8  
2012/Renewed  
**Davis—Bacon Act**

BE IT RESOLVED, NCBA supports exempting range improvement contracts of less than \$100,000 from the Davis-Bacon Act.

FL 2.9  
2012/Renewed  
**Natural Resource Conservation Legislation**

WHEREAS, current law requires that federal lands be managed on a multiple use, sustained yield basis for the health and prosperity of the nation, and

WHEREAS, standard language in new natural resource conservation legislation establishes dominant uses and single use goals impairing livestock grazing, water rights, and private property rights,

THEREFORE BE IT RESOLVED, NCBA works for all new natural resource conservation legislation to contain language that provides for continued use of the affected lands for domestic livestock grazing, including all related management activities or improvements necessary to carry out proper and practical grazing management programs.

BE IT FURTHER RESOLVED, such legislation also protects all valid and existing property rights and recognizes all applicable state laws.

FL 2.10  
2012/Renewed  
**Mining Laws**

BE IT RESOLVED, NCBA supports reasonable, diligent, and consistent enforcement of existing regulations and adequate agency monitoring in regards to locating, filing, and occupying mineral claims on federal lands.

BE IT FURTHER RESOLVED, NCBA strongly supports equally diligent and consistent attention to regulations, enforcement, and monitoring with regard to reclamation at the close of mineral exploration or development activities.

FL 2.11  
2013/Amended  
**Fencing of Sensitive Areas**

WHEREAS, the U.S. Forest Service (USFS) and Bureau of Land Management (BLM) frequently require fencing to exclude livestock from areas they deem as being "sensitive," such as riparian areas, and

WHEREAS, the expense of building and maintaining fences frequently is assigned to the permittee, and

WHEREAS, there is a conflict of scientific opinion on whether or not the complete exclusion of livestock from riparian areas by fencing is necessary to maintain those areas in a stable and/or improving condition,

THEREFORE BE IT RESOLVED, NCBA shall work to shift fence construction and maintenance burdens to the federal land management agency that mandates the exclusion of livestock use.

BE IT FURTHER RESOLVED, NCBA urge all federal agencies to follow state fence laws.

BE IT FURTHER RESOLVED, NCBA urge Congress to repeal the Unlawful Enclosures Act.

BE IT FURTHER RESOLVED, NCBA oppose proposals by the federal land management agencies for mandatory fencing of riparian areas along streams or springs on the federal lands except where:

1. Alternate sources of livestock water are identified, satisfactorily developed, and made available for livestock use,
2. Privately owned state water rights in federal riparian areas are fully recognized and protected, including the right of access across federal lands to those waters and the use thereof,
3. The proposed sites are studied in full cooperation, coordination, and consultation with the livestock operator and, where appropriate, the local advisory boards, and
4. A comprehensive cooperative agreement, including termination date, adequate monitoring provisions, and an assignment of all construction and maintenance responsibilities is voluntarily entered into between the agency and the livestock operator.

FL 2.12  
2012/Amended

**National Monument Designations**

WHEREAS, the United States Department of Interior has aggressively nominated millions of acres of land across the western United States to be designated by the President as national monuments through use of the Antiquities Act of 1906, and

WHEREAS, monument designations have restricted multiple uses to the point of elimination through restricted access and increased regulation, thus destroying the social and economic fabric of the local area, as well as the high level of ecological integrity which merited its designation, and

WHEREAS, Congress passed the National Environmental Policy Act (NEPA) so that all important federal land use planning processes and projects are subject to public scrutiny and local government cooperation and coordination, and

WHEREAS, the executive branch has gone beyond the original intent of the Antiquities Act of designating only the smallest portion of land needed to represent certain objects of historic and scientific interest,

THEREFORE BE IT RESOLVED, NCBA strongly supports modification of the Antiquities Act that every such proposed designation undergoes congressional approval based on a thorough social, economic, and environmental analysis, conducted under the scrutiny of NEPA.

BE IT FURTHER RESOLVED, NCBA encourage the administration to work toward the reversal or repeal of past unnecessary national monument designations.

BE IT FURTHER RESOLVED, NCBA will work with the locally affected members and the land management agencies to ensure that all national monument management plans safeguard livestock grazing and other multiple uses.

FL 2.13  
2010/Amended

**Opposition to Grazing Permit Retirement Programs**

WHEREAS, range scientists have determined that managed livestock grazing enhances rangeland vegetation by accelerating plant succession, increasing plant diversity, increasing plant productivity, and reducing plant mortality

during drought, and

WHEREAS, numerous studies show many desirable wildlife species benefit from livestock grazing, and moderately grazed mid-seral rangelands support a higher diversity of wildlife species than those areas that are not grazed, and

WHEREAS, there is a strong socio-economic basis to protecting viable livestock operations that include federal grazing permits, in sustaining valuable open space, county tax bases, and other important sources of rural income, tradition and culture, and

WHEREAS, the livestock grazing industry is opposed to any grazing programs that condone extended periods of non-use beyond that which is ecologically sustainable and in the best interest of individual permittees, and

WHEREAS, there is strong political and citizen opposition to the use of federal and or state tax dollars to terminate grazing on federal grazing permits owned by various entities and individual ranchers, and

WHEREAS, livestock producers and federal grazing permit holders are entitled to sell or purchase grazing permits and private property whenever they decide it is in their best interest,

THEREFORE BE IT RESOLVED, while NCBA recognizes the right of individual grazing permittees to sell or otherwise dispose of their federal grazing permits, NCBA supports the continuation of livestock grazing on federal lands, and opposes any programs that are intended to permanently retire or vacate federal grazing permits.

BE IT FURTHER RESOLVED, NCBA will defer to a state affiliate when the affiliate supports legislation to retire grazing permits on a site-specific area within that state.

FL 2.14  
2013/Amended  
**Recognition of Revised Statute (R.S.) 2477 on Public Lands**

WHEREAS, in 1866, the U.S. Congress passed R.S. 2477, an open ended grant of "the right-of-way for the construction of highways over public lands, not reserved for public uses", and

WHEREAS, although Congress repealed R.S. 2477, with the passage of the Federal Land Policy and Management Act of 1976, Congress purposely protected all rights-of-way established prior to October 21, 1976 in sections 509(a) and 701(a)(h), and

WHEREAS, unlike any other federal land statute, the establishment of R.S. 2477 rights-of-way required no administrative formalities: no entry, no application, no license, no patent, and no deed on the federal side; no formal act of public acceptance on the part of the states or localities in which the right was vested, and

WHEREAS, because R.S. 2477 rights-of-way were not formally recorded, they have become one of the more contentious land use issues in the West, resulting in on-the-ground conflicts and expensive litigation, and

WHEREAS, the 10<sup>th</sup> Circuit Court of Appeal's decision in *Southern Utah Wilderness Alliance (SUWA) v. Bureau of Land Management (BLM)* provides a thoughtful and reasonable way to resolve road disputes between the federal government and counties, and

WHEREAS, the cattle industry has established a historic use of the stock drive and machinery rights-of-way on public lands, and roads established under R.S. 2477 are important to access private ranch land, to the management of domestic livestock grazing on public lands, and to the economic stability of the rural west, and

WHEREAS, states provide the source of the law for determining the scope of rights-of-way and other property rights in this country,

THEREFORE BE IT RESOLVED, the federal government rely on state law for determining the existence and scope of R.S. 2477 rights-of-way on public lands.

BE IT FURTHER RESOLVED, NCBA supports recognition of historic livestock driveways and machinery rights-of-way on public lands.

BE IT FURTHER RESOLVED, NCBA supports the enactment of legislation that preserves the principles for the establishment of R.S. 2477 rights-of-way on public lands set forth in the 10<sup>th</sup> Circuit decision in *SUWA v. BLM*.

FL 2.15

2011 /Amended

**Support for the Secure Rural School and Communities Self Determination Act (PL 106-393)**

WHEREAS, the creation of the national forest system in 1905 encompassing 153 million acres of forest land diminished rural "forest counties'" tax bases, and

WHEREAS, rural "forest counties'" tax bases support essential community infrastructure, including schools and roads, and

WHEREAS, PL 106-393, a compact between the people of rural "forest counties" and the federal government, provides relief from the diminishing tax base through the development of forest health improvement projects and stimulation of job development and economic stability,

THEREFORE BE IT RESOLVED, NCBA support PL 106-393, and its renewal.

FL 2.16

2012/Renewed

**Species Recovery Easements**

WHEREAS, the U.S. government has a responsibility under the *Endangered Species Act* to recover Threatened and Endangered Species, and

WHEREAS, U.S. government policy should not serve as an incentive to take land out of agriculture production, and

WHEREAS, NCBA supports efforts to promote the recovery of Endangered species through the tool of landowner tax incentives, while we are also sensitive to the need to avoid unnecessarily burdening landowners' use of their land, and

WHEREAS, NCBA believes management plans and easements cannot be effectively imposed into perpetuity for the recovery of species,

THEREFORE BE IT RESOLVED, NCBA opposes perpetual land-use management plans and easements for the recovery of species.

BE IT FURTHER RESOLVED, NCBA supports legislation to use tax incentives for the recovery of a species provided the terms of any easement or management plan expire once a species is lost or recovered because any encumbrance beyond that point would serve some goal other than species

recovery.

FL 2.17

2013/Renewed

**Amendment to Federal Civil Rights Acts**

WHEREAS, the U.S. Supreme Court has significantly limited the use of a "Bivens" cause of action allowing private individuals to sue individual federal employees for violations of constitutionally guaranteed rights, and

WHEREAS, the *Federal Civil Rights Act, 42 USC 3 1983*, allows individuals to sue state and local officials for violation of constitutionally guaranteed rights,

THEREFORE BE IT RESOLVED, NCBA supports an amendment to the *Civil Rights Act, 42, USC 1983*, to include federal employees.

FL 2.18

2010/New

**Equal Access to Justice Act (EAJA)**

WHEREAS, the Equal Access to Justice Act (EAJA) and other fee-shifting statutes provide for the award of attorney fees and other expenses to parties in litigation against the government, and

WHEREAS, an eligible party may receive an award when it prevails over the government, and

WHEREAS, the Congressional intent of EAJA and other fee-shifting statutes was to overcome the inability of many Americans, to combat the vast resources of the federal government in administrative and federal court adjudications and to redress the imbalance between the government acting in its discretionary capacity and the individual, and

WHEREAS, in a 6-year period, non-profit environmental groups have filed more than 1500 lawsuits and in turn the federal government has paid out billions in taxpayer dollars in settlements and legal fees under EAJA and other fee-shifting statutes in cases against the U.S. government, and

WHEREAS, there is no significant accounting or oversight as to how the money is being allocated,

THEREFORE BE IT RESOLVED, NCBA supports more stringent oversight as to how awards made available through EAJA and other fee-shifting statutes are accounted.

BE IT FURTHER RESOLVED, NCBA supports specific Congressional initiatives to reform EAJA and other fee shifting statutes.

BE IT FURTHER RESOLVED, NCBA urges Congress to conduct hearings to ascertain the extent of the misuse of these fees and expense awards.

BE IT FURTHER RESOLVED, NCBA urges Congress to require an annual report of EAJA awards to the relevant committees in the House and Senate.

BE IT FURTHER RESOLVED, NCBA urges the federal government to limit the abuse of EAJA and other fee-shifting statutes by groups who seek only to profit from its purpose.

BE IT FURTHER RESOLVED, NCBA supports the efforts of the Western Legacy Alliance and others in their efforts to bring justice to EAJA.

FL 2.19

2011/New

**Federal Land Designations**

WHEREAS, federally-designated lands along the international border with Mexico have demonstrated unfettered illegal access to the United States of America by aliens from around the world, and

WHEREAS, this illegal ingress and egress is posing extreme danger not only to those living and working along the border but to the entire nation in terms of personal safety, health, economic welfare, and environmental safety and integrity, and

WHEREAS, these federally-designated lands include but are not limited to wilderness, wilderness study areas, wildlife refuges, national parks, monuments, and conservation areas, as well as Bureau of Land Management and U.S. Forest Service lands,

THEREFORE BE IT RESOLVED, NCBA supports all legislation and authority for the Department of Defense, the Immigration, Customs & Enforcement, the U. S. Border Patrol, as well as state and local authorities to secure the international border with Mexico,

BE IT FURTHER RESOLVED, NCBA requests that all legislation and funding that is pending for federal land designations along the international border be suspended.

FL 2.20  
2011/New

**National Historic Preservation Act Amendment**

WHEREAS, Memoranda of Understanding are being developed between National Forest Regional offices, individual National Forests' supervisors, and State Historic Preservation Officers which delays or prevents the maintenance or improvement of existing facilities on the National Forest lands,

THEREFORE BE IT RESOLVED, NCBA support legislation requiring that section 106 of the National Historic Preservation Act (NHPA) shall not delay or impede the authorization or reauthorization of any activity on federal lands where such activity has been previously authorized, and

BE IT FURTHER RESOLVED, NCBA support legislation containing provisions which does not delay or impede the authorization for the maintenance of existing facilities, nor the approval, construction, or maintenance of environmental mitigation measures.

**3. WILDLIFE**

FL 3.1

2009/Amended

**Wild Horses & Burros**

WHEREAS, excessive numbers of feral horses and burros continue to cause increasing deterioration of range conditions in many areas of the West, and

WHEREAS, NCBA is concerned with the escalation in costs of the Wild Horse and Burro Program, and

WHEREAS, the effective end of horse slaughter has exacerbated the problem of unwanted horses being abandoned on public lands,

THEREFORE BE IT RESOLVED, NCBA supports legislation that would provide for:

1. Immediate identification of proper population levels where not currently identified, enforcement of currently permitted numbers, and engagement in the management and removal of wild horses and burros, to levels that will allow the herd population not to exceed permitted numbers,

2. A re-opening of a period to allow ranchers to claim horses and burros not previously removed from federal and private lands,
3. Authorization for sale (and immediate title transfer), or disposal, of un-adopted horses and burros by the Bureau of Land Management/United States Forest Service with sales receipts to be used in the Wild Horse and Burro Program,
4. A finding that permittee owners of state water Rights and related facilities, are not responsible for providing water for wild horses and burros without prior agreement and unless permittees are compensated for expenses incurred, and
5. A restriction of wild horse and burro Populations to lands occupied in 1971 when the *Wild Horse and Burro Act* was enacted.

BE IT FURTHER RESOLVED, NCBA supports the recommendations of the Wild Horse and Burro Advisory Board and urges the Secretaries of Agriculture and Interior to immediately implement them.

BE IT FURTHER RESOLVED, NCBA supports the non-profit North American Wild Horse and Range System's program for wild horse sanctuaries, including the Sonoran Wild Horse Program, and other similar sanctuaries.

BE IT FURTHER RESOLVED, federal land management agencies should bear all costs of maintaining range improvements damaged by feral horses.

BE IT FURTHER RESOLVED, NCBA supports "getting the government out of the horse business" by converting the Wild Horse and Burro advisory board into a funded commission with the authority to privatize, allow sale authority, and to allow the implementation of an adoption program as suggested by the BLM action plan, and to allow for the reorganization of the herd management areas (HMA) which could eliminate inefficient and/or hard to manage HMAs.

FL 3.2

2012/Amended

**Animal Damage Control and Wildlife Services**

WHEREAS, wildlife causes more than \$12.8 billion in damage each year to natural resources, public infrastructures, private property, and agriculture, including more than \$126 million in death loss to livestock,

THEREFORE BE IT RESOLVED, NCBA supports effective predator and wildlife management efforts on federal and private lands, employing appropriate means, including mechanical means.

BE IT FURTHER RESOLVED, NCBA supports the USDA-APHIS Wildlife Services program, and shall work to ensure it is adequately funded.

BE IT FURTHER RESOLVED, NCBA supports the Wildlife Services aviation program and increased funding for the program.

FL 3.3  
2011/Amended  
**Prairie Dogs**

WHEREAS, any restrictions on management of grazing federal lands could have adverse effects on an agriculture-based economy, and

WHEREAS, the black-tailed prairie dog has not been officially listed under the Endangered Species Act, and there is conflicting data as to whether the species merits listing, and

WHEREAS, pressure imposed by environmental groups has apparently caused the Bureau of Land Management and U.S. Forest Service to make a decision prior to obtaining public input or conducting an appropriate environmental analysis,

THEREFORE BE IT RESOLVED, NCBA oppose the decision of the Bureau of Land Management and U.S. Forest Service to restrict poisoning or shooting of the black-tailed prairie dog on federal lands.

BE IT FURTHER RESOLVED, this restriction be removed from Bureau of Land Management and U.S. Forest Service policy based on the determination that the species listing is not warranted.

BE IT FURTHER RESOLVED, NCBA support integrated and coordinated prairie dog management programs which provide for private property and business interests and ecological and public health considerations.

FL 3.4  
2012/Renewed  
**Desert Tortoises**

BE IT RESOLVED, NCBA supports delisting of the desert tortoise.

BE IT FURTHER RESOLVED, NCBA recommends the Secretary of the Interior direct that, in desert tortoise habitat, traditional uses of the federal lands continue until adequate information on population status and the impacts of the multiple uses are characterized.

BE IT FURTHER RESOLVED, NCBA supports the inter-agency effort to develop a database on the desert tortoise, including its vegetative requirements.

FL 3.5  
2012/Amended  
**Delisting of Wolves and Grizzly Bears**

BE IT RESOLVED, NCBA supports petitioning U.S. Fish and Wildlife Service (FWS) to delist the grizzly and the wolf, across its entire range, and return the management of those two species to the states,

BE IT FURTHER RESOLVED, in the event delisting is not accomplished, NCBA remains strongly opposed to any expansion of existing parks or designations of "eco-systems" that give priority to grizzly bear and wolf recovery efforts over economic values.

FL 3.6  
2011/Amended  
**Landowner Action for Wolf Depredation on Private and Federal Lands**

BE IT RESOLVED, NCBA supports ranchers' efforts to obtain the authority to control wolf depredation on private and federal lands on which they have a grazing permit.

FL 3.7  
2012/Amended  
**Sage Grouse Recovery**

WHEREAS, sage grouse recovery is vital to the industry's interests in keeping the species from being listed as endangered,

THEREFORE BE IT RESOLVED, NCBA will monitor and engage in sage grouse-related activities on behalf of permittees and landowners throughout the range of Greater Sage Grouse and Gunnison Sage Grouse,

BE IT FURTHER RESOLVED, NCBA supports the development of grazing-friendly

programs for rangeland restoration and protection that also support the economic viability of the livestock industry,

BE IT FURTHER RESOLVED, NCBA will take an active role in the development of these programs to promote the industry's interests.

FL 3.8  
2009/Amended  
**Mexican Gray Wolf**

WHEREAS, NCBA has examined the reintroduction of the Mexican Gray Wolf in Arizona and New Mexico and has determined the following:

1. The genetic purity and health of the released wolves is suspect,
2. The preferred wild prey base is declining and has been for several years,
3. The program is socially and economically indefensible and unsustainable,

WHEREAS, Mexican Gray Wolves have necessitated the construction of cages for children at rural school bus stops to protect children from roaming dangerous wolves,

THEREFORE BE IT RESOLVED, NCBA insists the current recovery area not be expanded, and recommends the wolf re-introduction program be terminated and all released wolves and all of their pups be captured and removed.

FL 3.9  
2013/Renewed  
**Livestock/Wildlife Interactions:**

WHEREAS, federal agency wildlife management decisions involving bighorn sheep and elk, among other species not listed under the Endangered Species Act (ESA) adversely affect grazing decisions, and

WHEREAS, federal agencies claim authority over management of non-ESA wildlife under their statutes and regulations,

THEREFORE BE IT RESOLVED, NCBA support the enactment of legislation that minimizes the potential adverse impacts of federal wildlife management decisions on grazing operations that do not involve species listed under the ESA and also seeks to maintain a balance of multiple uses on federal lands.

FL 3.10  
2009/New  
**Charles M. Russell (CMR) Federal Wildlife Refuge Bison Reintroduction**

BE IT RESOLVED, NCBA opposes any bison, wild or domesticated, from any private entities, federal or state parks, to be imported and set free to graze within the boundaries of the CMR Federal Wildlife Refuge.

FL 3.11  
2010/New  
**Wild Horses and Burros 2**

WHEREAS, the population growth of wild horses and burros in the western United States continues to outpace natural death loss and adoption rates, and

WHEREAS, this overpopulation greatly contributes to range degradation, reducing the biodiversity and productivity for wildlife and livestock,

THEREFORE BE IT RESOLVED, NCBA favors a comprehensive program including fertility control, sex ratios, and other humane means of herd reduction in accordance with the management options authorized to be used by the Bureau of Land Management under the strictures of the *Free Roaming Wild Horse and Burro Act of 1971*, in lieu of acquisition of private land.

#### 4. RESOURCE ISSUES

FL 4.1  
2012/Renewed  
**Fire Resistant Plant Species**

BE IT RESOLVED, NCBA strongly urges the Bureau of Land Management and other land management agencies to seed more fire resistant plant species, including native and non-native edible browse and grasses, following a fire to reduce the spread of undesirable plants, future suppression costs, fire size, wildlife, and private property losses, when necessary.

FL 4.2  
2013/Amended  
**Land Use Monitoring**

WHEREAS, federal agencies are currently using highly subjective numeric grazing utilization



and stubble height standards as measures of rangeland health threshold triggers to justify reductions in animal unit months (AUMs), and

WHEREAS, in some instances the agencies are now instituting new numeric stream bank trampling standards for the same purposes, and

WHEREAS, other factors such as herbivory by non-domestic species, duration, intensity, season, and rest periods impact rangeland health and tend to be ignored in favor of utilization or stubble height, and

WHEREAS, one-time utilization level assessments do not accurately portray rangeland health, and cannot indicate trends,

THEREFORE BE IT RESOLVED, NCBA strongly urge the agencies, especially the U.S. Forest Service, to look beyond these numeric standards as their only monitoring tool, and consider the factors that are most important: primarily, measuring trend over the long-term, followed by timing of grazing and rest periods.

BE IT FURTHER RESOLVED, NCBA urge the agencies to use on-the-ground and site specific monitoring techniques which utilize science-based practices and principles that establish long-term trend condition.

BE IT FURTHER RESOLVED, NCBA actively oppose the implementation by agencies of new non-scientific numeric standards, such as stream bank trampling standards which have not been accepted by all the scientific community and do not measure trend and resource health.

FL 4.3

2012/Amended

#### **Rangeland Improvement and Betterment Funds**

WHEREAS, federal land ranchers believe rangeland improvements are long overdue and have a high priority for funding, and

WHEREAS, range betterment funds on U.S. Forest Service (USFS) lands and range improvement funds on Bureau of Land Management (BLM) lands are being allocated to non-rangeland improvement uses at an ever increasing rate, and

WHEREAS, proper expenditure of range betterment and improvement funds can greatly increase the productivity of the western rangelands, and

WHEREAS, renewal of grazing permits is directly dependent on properly functioning improvements,

WHEREAS, BLM Section 8100 and USFS range betterment funds should not be used for administrative purposes,

THEREFORE BE IT RESOLVED, NCBA pursue needed allocation of range improvement and betterment funds, prioritized by and for grazing permittees, by the land management agencies for critical improvements,

BE IT FURTHER RESOLVED, NCBA urge Congress to make funds available as authorized by the provisions of the Rangelands Improvement Act and urge the Administration to make every effort to expedite Congressional action,

BE IT FURTHER RESOLVED, NCBA urge land management agency acknowledgment of good faith permittee efforts to rebuild, construct, repair, and enhance allotment improvements by withholding punitive actions against permitted grazing users when deteriorated improvements are of concern,

BE IT FURTHER RESOLVED, NCBA call for continuous accounting of all BLM Section 8100 and USFS range betterment funds to determine whether said funds have been and continue to be spent for on-the-ground improvements.

FL 4.4

2010/Amended

#### **Innovative Rangeland Monitoring**

WHEREAS, there is a need for a monitoring system for rangelands across the United States that establishes condition and trend over time as an index of rangeland health and establishes a uniform set of standards by which monitoring can be carried out in a consistent and predictable manner, and

WHEREAS, pursuant to the direction of the Congress of the United States it is critical to monitor and document the current condition and over time determine the trend in condition as an indicator of the health of American rangelands, and

WHEREAS, such knowledge of the biological and physical processes on rangelands is vital for designing and evaluating the impacts of management alternatives on the environmental and economic efficacy of rangeland livestock production

operations and concurrent wildlife habitat, water, and riparian systems, and

WHEREAS, such knowledge will be gathered in a practical, economically feasible manner, and interpreted and stored in a functioning information system that serves the decision-making process, and

WHEREAS, due to the concerns of various interest groups and governmental agencies, livestock production operations are increasingly being held to varying and arbitrary standards of environmental stewardship, and uniform standards for assessing the health of rangelands do not exist. Ranchers are being held accountable without the means of accounting for the environmental consequences of their actions. A science-based information procedure for assessing and monitoring the health of rangelands is essential for the development of sustainable policies for the management of rangelands for all uses. If ranchers are to bear the responsibility for the environmental health of rangelands, they must be empowered with science-based and practical technology to assess and report the health of the rangelands used in their livestock production operations. The needs and knowledge base of the range livestock industry and wildlife interests must be incorporated in the development of such a monitoring system, and ranchers and wildlife interests must play an appropriate role in its development and application,

THEREFORE BE IT RESOLVED, NCBA works with the Congress of the United States to direct the U.S. Department of Agriculture, Agricultural Research Service (USDA ARS), in consultation with knowledgeable experts from the range livestock industry, including permittees, to undertake the development of innovative methods to assess the condition and trend of rangelands on an ecological site basis over time and space as an index of the processes that constitute rangeland health and to fully fund this effort through a budget line item on an annual and sustainable basis.

BE IT FURTHER RESOLVED, NCBA urges the Bureau of Land Management (BLM), United States Fish and Wildlife Service, National Park Service, and the United States Forest Service adopt this system.

BE IT FURTHER RESOLVED, NCBA urges Congress to direct USDA ARS, in consultation with knowledgeable experts from the range livestock industry, including permittees, to assess the validity of land management agency's scientific methods, standards, and monitoring

practices, undertake the development of innovative methods to assess the condition and trend of rangelands on an ecological site basis over time and space as an index of the processes that constitute rangeland condition, and fully fund this effort through a budget line item on an annual and sustainable basis.

BE IT FURTHER RESOLVED, NCBA urges the USFS and BLM to define a process which will allow for the acceptance of permittee monitoring data as recognized data.

FL 4.5

2012/Renewed

**Control of Grasshoppers, Crickets and Other Damaging Insects on Federal Lands**

WHEREAS, crickets, grasshoppers, and other damaging insects are not only a nuisance but pose a significant threat to rangeland health and wildlife habitat, and

WHEREAS, when not controlled, these insects migrate from federal lands to private lands and cause considerable damage to private croplands and rangelands,

THEREFORE BE IT RESOLVED, NCBA will work with federal agencies, including the Animal and Plant Health Inspection Service (APHIS), Bureau of Land Management (BLM), and U.S. Forest Service, to ensure that they are properly prepared to control crickets, grasshoppers, and other damaging insects on their lands in a timely manner and prior to the populations reaching epidemic proportions.

FL 4.6

2010/Renewed

**Rehabilitation of Sage Brush Habitat from Fire and other Disturbances**

WHEREAS, fire and other disturbed site rehabilitation are becoming extremely critical, and

WHEREAS, sage brush management for sage grouse conservation, as well as for the conservation of other sage brush dependent species, is of increasing concern, and

WHEREAS, budgets for post-fire rehabilitation are becoming increasingly stretched, and

WHEREAS, the seeding of native plant species tends to be more expensive than non-native

plant species, and

WHEREAS, the rate of failure of native plant seedings is higher than that of non-native plant species,

THEREFORE BE IT RESOLVED, when post-disturbance rehabilitation is deemed appropriate, NCBA encourages all agencies involved in post-fire rehabilitation to adopt a two-stage process for rehabilitation; initially, by utilizing quick establishing plant species such as crested wheatgrass (*Agropyron cristatum*) and forage kochia (*Kochia prostrata*) until such times that plant communities and watersheds have stabilized and, when necessary, followed by additional species.

FL 4.7

2010/New

#### **Categorical Exclusions (CX)**

WHEREAS, a Categorical Exclusion (CX) is a category of actions which do not individually or cumulatively have a significant effect on the environment and which have been found to have no such effect in procedures adopted by a federal agency in implementation of these regulations and for which, therefore, neither an environmental assessment nor an environmental impact statement is required, and

WHEREAS, federal land management agencies utilize CX's to more efficiently manage time and resources to issue grazing permits for public land users in an efficient, evidence-based manner,

THEREFORE BE IT RESOLVED, NCBA supports the continued use of CX's by federal land management agencies and shall seek legislation when appropriate.

#### **5. PROPERTY RIGHTS**

FL 5.1

2009/Renewed

#### **U.S. Fish and Wildlife Service and National Marine Fisheries Service**

WHEREAS, the Endangered Species Act gives absolute power to the federal government to reduce or eliminate the use and value of private property, state property and federally managed property to protect any one of over 600 listed endangered species, and

WHEREAS, the Fifth Amendment of the U.S. Constitution; numerous Supreme Court cases,

including *Nolan v. California Coastal Commission* and *First Evangelical Lutheran Church of Glendale v. County of Los Angeles*; Presidential Executive Order 12630 and its Department of the Interior implementing regulations entitled "Attorney General's Supplemental Guidelines to Evaluate Risk and Avoid Unanticipated Takings for the U.S. Department of the Interior" mandate that the diminution in value of private property, private property rights and investment backed expectations be evaluated to ascertain the economic impacts associated with the listing and protection of endangered species under the Endangered Species Act, and

WHEREAS, the above named laws also require just compensation be paid for those federal actions, rules and regulations that diminish the value of private property, private property rights and investment backed expectations, including actions taken under authority of the Endangered Species Act,

THEREFORE BE IT RESOLVED, NCBA requests that Congressional oversight hearings be held to ascertain that U.S. Fish and Wildlife Service and National Marine Fisheries Service are in compliance with the above named laws which protect private property, private property rights and investment backed expectations from being taken without just compensation.

FL 5.2

2009/Amended

#### **Government Water Filings**

WHEREAS, the McCarran Amendment created a limited waiver of federal sovereign immunity which allows the United States to be joined as a party in a state's stream adjudications and in a state's administration of established water rights,

THEREFORE BE IT RESOLVED, NCBA supports the doctrine that states control and administer the water within their borders and that all federal agencies shall comply with state water law.

FL 5.3

2012/Renewed

#### **Water Rights**

WHEREAS, NCBA permittees are being forced to transfer part of their assets (water) in order to obtain a permit from the U.S. Forest Service and permission from the Bureau of Land Management to make water improvements on public lands,

THEREFORE BE IT RESOLVED, NCBA is strongly opposed to the forced transfer of water rights in order to obtain permission for water developments on public land.

FL 5.4

2013/Amended

**Legislation Principles Regarding Federal Lands Grazing**

BE IT RESOLVED, NCBA insists that any potential federal legislation be extensively monitored to ensure the legislation does not jeopardize prior existing rights and property, beneficial legislation and court decisions, or the concepts of the Taylor Grazing Act.

FL 5.5

2009/Renewed

**Range Monitor Funding**

WHEREAS, all range management decisions are, or will soon be, based upon monitoring,

THEREFORE BE IT RESOLVED, Congress be requested to fund a line item to be used solely for monitoring.

BE IT FURTHER RESOLVED, monitoring of resource conditions and trends be performed only by qualified persons (i.e. federal, state and local government, grazing permittees and lessees, university personnel and trained general public).

BE IT FURTHER RESOLVED, such monitoring shall be conducted according to regional or state criteria and protocols selected by the secretary concerned.

BE IT FURTHER RESOLVED, monitoring protocols shall be site-specific, scientifically valid, and subject to peer review, and monitoring data shall be periodically verified.

FL 5.6

2013/Renewed

**Livestock Impoundment**

WHEREAS, NCBA opposes grazing practices that lead to rangeland degradation; and furthermore, does not support those few who refuse to pay their grazing fees, and

WHEREAS, the seizing and selling of a person's livestock against their will constitutes a taking of their livelihood, which violates the "takings

clause" of the 5th amendment to the U.S. Constitution, and

WHEREAS, the Bureau of Land Management (BLM) and U.S. Forest Service (USFS) are impounding and selling trespass livestock without any judicial review to determine whether the BLM or USFS is in compliance with state brand inspection laws,

THEREFORE BE IT RESOLVED, NCBA urges the BLM or USFS to seek a state district court order authorizing any livestock impoundment or seizure, prior to any such action.

FL 5.7

2012/New

**Water Rights on Federal Lands**

WHEREAS, Congress and case law have consistently reaffirmed the various states' primacy governing waters within their borders and the right to use those waters, and

WHEREAS, when a private or municipal water right is located on federal or state land, that right has been affirmed by the courts to include the owner's right of access to the source of the water and to any element of the distribution system necessary for delivery, including wells, springs, streams, rivers, stock ponds, agricultural ditches, U.S. canals, pipes, and other conveyance mechanisms for maintenance purposes, and

WHEREAS, denial of such access effectively constitutes an illegal, *de facto*, taking of the water right,

THEREFORE BE IT RESOLVED, NCBA opposes use of federal law or federal agency action to usurp, seize, restrict, impede or take state governed, regulated, granted, or assigned water rights, or treaty water rights owned by any person or governmental entity with the legal right to use such water, as granted by a state.

**6. SPECIFIC INITIATIVES**

FL 6.1

2009/Renewed

**Wild and Scenic Rivers**

BE IT RESOLVED, NCBA opposes any Wild & Scenic River designations that could jeopardize the use and enjoyment of one's land, infringe on a landowner's property or water rights, place any private property under bureaucratic

management, or take any action that would otherwise diminish existing water rights and land use practices historical to the involved areas.

BE IT FURTHER RESOLVED, NCBA supports livestock grazing as a necessary and viable use of Wild and Scenic River corridors.

FL 6.2

2013/Amended

**National Park Service Resource Management Review**

WHEREAS, the Department of the Interior clearly has established a double standard for resource conditions and management on federal lands, one for livestock grazing on multiple use lands, and one for wildlife grazing within Yellowstone National Park and other lands within the National Park System, and

WHEREAS, there is little difference in the impact on natural resources when comparing unmanaged livestock grazing and unmanaged wildlife grazing,

THEREFORE BE IT RESOLVED, NCBA works to establish a congressionally-funded independent scientific review and interpretation of the resource management policies and practices of the National Park Service within Yellowstone National Park, in particular, and on National Park System Lands in general, and the effect these policies and practices have on the ecological resources within Yellowstone National Park, the National Park System, and surrounding lands.

FL 6.3

2013/Renewed

**Recovery Credit System**

WHEREAS, NCBA supports increased incentives and streamlined procedures for federal, state, local, and private efforts to conserve endangered and threatened species, including voluntary management agreements, and

WHEREAS, NCBA supports non-regulatory solutions, based on proactive species conservation partnerships that ease the burden of the Endangered Species Act (ESA) on public and private land ranchers, and

WHEREAS, NCBA believes that recovery using voluntary incentives and, ultimately, delisting of species covered by the ESA should be the highest priority of the U.S. Fish and Wildlife Service, and

WHEREAS, Recovery Credit Systems have demonstrated substantial success in providing meaningful incentives to landowners and moving listed species toward recovery,

THEREFORE BE IT RESOLVED, NCBA endorses the Recovery Credit Systems, such as the system administered by Texas A&M University and Texas Watershed Management Foundation in partnership with Texas Department of Agriculture, Texas Parks and Wildlife Department, Texas Wildlife Association, Texas Farm Bureau, Environmental Defense, Texas Nature Conservancy, Leon River Restoration Project, Department of the Army/Fort Hood, Natural Resource Conservation Service, and others.

FL 6.4

2009/New

**Off-Road Vehicles**

WHEREAS, NCBA believes that the use of Off-Road Vehicles (ORVs) including motorcycles, 4-Wheelers and Multi-Purpose Vehicles (MPVs) in the daily operations of ranches, the maintenance of range improvements and the herding of livestock is appropriate and necessary for the federal land ranchers, and

WHEREAS, these are among the tools essential in modern day ranching to do the required maintenance and herding that is needed to accomplish multiple-use benefits while keeping the ranches economically competitive, and

WHEREAS, these tools enable ranchers to respond in a timely manner to the needs of both livestock and the rangeland resource,

THEREFORE BE IT RESOLVED, NCBA urge ranchers to adopt the following principles and practices in order to reduce the visibility from roads and the possibility of creating a road or trail:

- Varying the track or route when accessing a site on numerous occasions,
- Utilizing existing roads and trails when available,
- Limiting travel on soft or wet ground,
- Utilizing brush or shrubs to obscure tracks,
- Avoiding when practical travel on highly erosive soils and sites such as steep hillsides, and
- Controlling speeds or altering routes to minimize disturbance of big game animals.

BE IT FURTHER RESOLVED, NCBA must emphasize the fact that no one effort or practice will fit all situations and there will and should be exceptions to any of these practices.

BE IT FURTHER RESOLVED, NCBA recognizes that ranchers need to go off road in all kinds of conditions to check and treat sick livestock, tend to cows and sheep that are calving and lambing or to locate dead cattle and sheep to confirm predator losses.

FL 6.5  
2012/Amended  
**Catastrophic Wildfire**

WHEREAS, vegetation fuel loads, drought, poorly planned backfires, and inaccessible areas have led to catastrophic wildfires, creating an emergency situation, and

WHEREAS, catastrophic wildfire poses a constant threat to human life and property on federal lands and private lands, including those managed under the Conservation Reserve Program (CRP), and

WHEREAS, the risk of catastrophic wildfires is compounded by federal lands management policy, including the requirements imposed by the National Environmental Policy Act (NEPA), and by Endangered Species Act (ESA) restrictions, and

WHEREAS, private lands are similarly affected by ESA restrictions, and

WHEREAS, catastrophic wildfires cause significant damage to the natural resources, especially timber, forage availability, water quality, and wildlife habitat, and

WHEREAS, suppression and restoration costs to taxpayers can be in the billions of dollars annually, as can the value of timber lost,

THEREFORE BE IT RESOLVED, NCBA support efforts to reevaluate and improve land management to prevent similar catastrophic wildfires in years to come. This would include legislative and regulatory changes that require managers of all federal lands, lands managed under the CRP, and lands managed under ESA prescriptions to use multiple-use activities such as grazing, thinning, and timber harvesting so as to prevent the build-up of fuel loads that can lead to catastrophic fire,

BE IT FURTHER RESOLVED, NCBA support "categorical exclusions" for NEPA requirements and waivers for ESA management in cases of land management for catastrophic wildfire prevention,

BE IT FURTHER RESOLVED, NCBA support efforts to better coordinate fire suppression efforts between local, state, and federal officials along with private landowners, such as local wildfire support groups, that are trained and sanctioned by the federal agencies,

BE IT FURTHER RESOLVED, NCBA support full funding of user-friendly emergency relief and rehabilitation programs,

BE IT FURTHER RESOLVED, NCBA strongly urge immediate rehabilitation measures that are based on site-specific conditions and a multiple use philosophy,

BE IT FURTHER RESOLVED, NCBA continue efforts to publicize the important role that both forest thinning and livestock grazing can and do play in vegetation management to reduce fuel loads and to prevent the spread of uncontrolled wildfires,

BE IT FURTHER RESOLVED, NCBA continue to closely coordinate with affiliated states, affected members, elected officials, and any other potential ally on these important efforts.

FL 6.6  
2009/New  
**Consideration of Local Economy and Lifestyle in Public Land Management Decisions**

BE IT RESOLVED, NCBA draw the attention of public land administrators, congressional delegations, environmental organizations, and the general public to the importance of rural local economies and rural lifestyles and cattle grazing in all future public land management decisions.

FL 6.7  
2011/Amended  
**Livestock Grazing as a Primary Tool**

WHEREAS, livestock grazing has demonstrated effectiveness as a tool for managing rangeland vegetation, and

WHEREAS, livestock grazing is an integral part of the use of native range and improved pasture lands, and

WHEREAS, achieving desired plant communities on rangeland is important to all aspects of our environment, and

WHEREAS, the goals of quality habitat for wildlife, fish, and productive watersheds are shared by the livestock industry, and

WHEREAS, proper livestock grazing benefits rangelands by reducing fire hazards,

THEREFORE BE IT RESOLVED, NCBA publicly support and promote the continuing use of livestock grazing as a tool to manage rangeland vegetation and achieve a desired plant community on our federal lands.

BE IT FURTHER RESOLVED, NCBA encourage all local, state, and federal agencies to seriously consider utilizing livestock grazing as a first alternative for fuel load reduction, reducing wildfire potential, increasing water yield, increasing public safety, improving livestock and wildlife habitat, and increasing vegetative diversity.

FL 6.8  
2009/Renewed  
**Shared Stewardship**

WHEREAS, ranch operations in the West have been part of the economic and cultural fabric of the land for generations, and

WHEREAS, ranchers understand how a community works together to keep the land healthy and the operations profitable, and

WHEREAS, shared stewardship is a concept that is present in the agencies and can, if interpreted and implemented correctly, be beneficial to ranchers,

THEREFORE BE IT RESOLVED, NCBA supports a shared stewardship program in which:

1. Rancher participation in shared stewardship activities would be strictly voluntary,
2. Shared stewardship policies maintain existing or increase numbers of Animal Unit Months (AUMs),
3. Shared stewardship policies support retention of *preference* attached to base property,
4. Shared stewardship policies support retention of water rights for ranchers,
5. Implementation of shared stewardship policies must support private property rights of landowners, and
6. Land or property owned or controlled by a

federal grazing permittee may be included within the area of shared stewardship activities only with the written consent of the owner/permittee of the land or property.

BE IT FURTHER RESOLVED, NCBA seeks to include permittee/agency monitoring, and pooled forage arrangements for grazing that give priority to existing ranching operations, new ranchers or associations of ranchers, and

BE IT FURTHER RESOLVED, NCBA seeks to include stewardship contracts for grazing and collaborative stewardship of public lands.

FL 6.9  
2012/Renewed  
**Recreation Campaign**

WHEREAS, conflicts on federal land between motorized recreation and grazing are increasing across the West, and

WHEREAS, permittees are responsible for the conditions of their allotment, regardless of the cause of those conditions,

THEREFORE BE IT RESOLVED, NCBA supports the promotion of a campaign to decrease recreation conflicts on federal lands.

BE IT FURTHER RESOLVED, this campaign will partner with motorized recreation associations, other affected users' associations and interests, and the federal agencies to execute the following:

1. Education of permittees, recreation users, and law enforcement officials
  - a. Promote awareness of multiple uses, differing impacts by seasons of use, use of trails for recreation, and involvement in agency planning
  - b. Develop education materials
  - c. Develop sign system to post on federal lands
  - d. Contribute articles to livestock and recreation trade publications
  - e. Train spokespersons
2. Promotion of local law enforcement solutions to user conflicts
3. Involvement in recreation and travel planning

## CATTLE MARKETING & INTERNATIONAL TRADE COMMITTEE

Todd Schroeder, NE - Chair

Erik Jacobsen, FL - Vice Chair

Colin Woodall, Staff

<b>1</b>		<b>INDUSTRY STRUCTURE/PRICE</b>	6.8	2009	International Markets - 1999
		<b>DISCOVERY</b>	6.9	2009	Enforcement of Trade Laws
1.1	2009	Amendment of the Packers & Stockyard Act	6.10	2009	Definition of Beef Dumping
1.2	2010	P&SA User Fees	6.11	2011	Trade Quotas
1.3	2011	Value-Based Marketing	6.12	2013	Country of Origin Labeling Implementation
1.4	2012	Feedlot Registration	6.13	2012	Live Cattle Imports
1.5	2012	Law Enforcement	6.14	2009	Inclusion of Products in Trade Agreements
1.6	2010	Packer Ownership/Control	6.15	2011	BSE Trade Action
1.7	2009	Livestock Weights for Sale	6.16	2012	U.S. Processed Beef for U.S. Troops Serving Overseas
<b>2</b>		<b>FUTURES</b>	6.17	2010	Korea U.S. Free Trade Agreement
2.1	2013	Futures Trading			
2.2	2011	Cross Hedging			
2.3	2011	CME Feeder Cattle Index	<b>7</b>		<b>ACCESS AND CREDIT</b>
2.4	2012	Futures Commission Merchants Insurance	7.1	2013	Government Commodity Programs
<b>3</b>		<b>REPORTING</b>	7.2	2013	International Treaties
3.1	2011	Reauthorization of Mandatory Price Reporting	7.3	2009	Export of Hormone-Free Beef
3.2	2009	Mandatory Price Reporting	7.4	2012	Trade and Retaliatory Measures
3.3	2009	Mandatory Price Reporting (2)	7.5	2012	Support for Trade
<b>4</b>		<b>GRADING</b>	7.6	2013	Opening Japan and Korean Beef Markets
4.1	2011	Beef Grading	7.7	2009	International Beef Trade
<b>5</b>		<b>TRANSPORTATION</b>	7.8	2012	International Beef Trade – Trans-Pacific Partnership
5.1	2012	Agriculture Trucking and Hauling			
5.2	2011	Truck Weights			
5.3	2009	Transportation Standardization and Efficiency			
5.4	2009	Shipment of Cattle from Hawaii			
5.5	2009	Truck Weights			
<b>6</b>		<b>GENERAL TRADE</b>			
6.1	2009	Grading Reciprocity			
6.2	2009	USDA/FAS			
6.3	2009	MAP Funding			
6.4	2009	Department of Defense Commissary Purchases			
6.5	2011	North American Free Trade Agreement			
6.6	2011	U.S. Meat Export Federation			
6.7	2013	Support of U.S. Meat Export Federation			



## 1. INDUSTRY STRUCTURE/PRICE DISCOVERY

CMIT 1.1

2009/Amended

### Amendment of the Packers & Stockyard Act

WHEREAS, there is need for continuous review of the Packers & Stockyard Act (P&S Act) to assure the agency is in step with the regulatory needs of a rapidly changing cattle industry,

THEREFORE BE IT RESOLVED, NCBA believes that if the P&S Act is opened the following points should be implemented:

1. Provide for a statutory "Dealer Trust" similar to the existing "Packer Trust."
2. Deny registration to any applicant for registration under the P&S Act with a prior conviction of fraud, theft or embezzlement.
3. Seek alternative ways to enhance P&S Act authority to expeditiously obtain injunctions.
4. Eliminate reparation authority from the P&S Act.
5. Strike the Secretary's authority over rate reasonableness.
6. Enable the agency to file suit to enforce the Statutory Trust provisions of 7 USC 196.

BE IT FURTHER RESOLVED, NCBA protects prompt payment and packer trust provisions in the event that the P&S Act is amended.

BE IT FURTHER RESOLVED, NCBA opposes any federal legislative or regulatory attempt to deny the Secretary of Agriculture the authority to delegate brand inspection to qualified and duly-organized livestock associations of any state.

BE IT FURTHER RESOLVED, NCBA endorses and supports the inspection of brands, marks, and other identifying characteristics of livestock sold at all public markets, including satellite and video auctions.

CMIT 1.2

2010/Renewed

### P&S User Fees

BE IT RESOLVED, NCBA opposes user fees for Packers and Stockyard Administration activities and services.

CMIT 1.3

2011/Renewed

### Value-Based Marketing

WHEREAS, there has been substantial interest in moving towards a value-based marketing system and strategic alliances,

THEREFORE BE IT RESOLVED, NCBA opposes any regulations, legislation, or policies that limit methods of marketing cattle.

CMIT 1.4

2012/Renewed

### Feedlot Registration

WHEREAS, most custom feedlots are not dealers in the normal sense of the term and do not charge commissions for selling or showing their customers' cattle,

THEREFORE BE IT RESOLVED, NCBA staunchly opposes blanket Packers & Stockyard Administration registration of all custom feedlots.

CMIT 1.5

2012/Renewed

### Law Enforcement

BE IT RESOLVED, NCBA encourages the Justice Department to enforce antitrust laws and asks USDA to enforce current provisions of the *Packers and Stockyards Act of 1921* in order to maintain a free and open cattle market.

CMIT 1.6

2010/Renewed

### Packer Ownership/Control

WHEREAS, the beef industry has made progress in producing a more consistent product, and

WHEREAS, value based pricing procedures link flow of information between beef packers and processors to cattle producers regarding product quality, and

WHEREAS, the packer's ability to purchase or manage their supply more than 14 days prior to delivery sustains an adequate supply of a consistent, quality product, and

WHEREAS, it is important to have numerous risk management tools available to beef producers,

THEREFORE BE IT RESOLVED, NCBA opposes federal legislation which would eliminate

packer ownership and/or control of livestock because the legislation would eliminate value based pricing, reduces risk management options, and/or eliminates a significant number of buyers of cattle in the United States.

CMIT 1.7  
2009/New

#### **Livestock Weights for Sale**

WHEREAS, the availability of local scale facilities is essential for the orderly purchase and sale of livestock, and

WHEREAS, it is critical that certified scale facilities be inspected by an official licensing agency, and

WHEREAS, scale certification renewal is required on an annual cycle by most state licensing agencies, and

WHEREAS, the Packer & Stockyard Administration currently mandates that livestock weights for purchase and sale must be from a scale certified twice per calendar year,

THEREFORE BE IT RESOLVED, the Packer & Stockyard Administration be urged to modify their rules to allow all channels of trade by certified scales officially inspected in accordance with individual state statutes.

BE IT FURTHER RESOLVED, the Packer & Stockyard Administration be urged to allow the use of state certified scales whether or not it has a printer or stamped ticket capability as long as it is agreed upon by buyer and seller.

## **2. FUTURES**

CMIT 2.1  
2013/Amended  
**Futures Trading**

WHEREAS, NCBA supports viable futures exchanges to facilitate effective risk management opportunities for the livestock industry, and

WHEREAS, contract specifications should match industry needs and facilitate convergence of futures prices with the cash market to ensure a useful risk management function is provided, and

WHEREAS, NCBA will continue to monitor any pending rule or regulatory changes that

may impact the ability of the futures markets to provide a meaningful risk management function, and

WHEREAS, the trading of commodities on the futures markets has attained an influential position within the cattle industry,

WHEREAS, it is absolutely imperative that all markets operate in a responsible manner, free and clear of market abuse,

WHEREAS, contract specifications should match industry needs and facilitate convergence of futures prices with the cash market to ensure a useful risk management function is provided, and

THEREFORE BE IT RESOLVED, NCBA request that the CME Group make the following changes in Live Cattle contract specifications:

1. Increase the maximum live weight for cattle to be delivered to 1,650 pounds,
2. Include the delivery of fed heifers,
3. Add the months of January, March, May, July, September and November to the existing Live Cattle contract months.

BE IT FURTHER RESOLVED, NCBA shall continue to monitor closely any changes by the CME Group that would adversely affect cattle feeders' ability to deliver on Live Cattle contracts.

BE IT FURTHER RESOLVED, NCBA will work on the following:

1. Educational Activity: Coordinate various groups to develop and initiate comprehensive programs for the NCBA membership not only on the mechanics of the commodity futures and options markets, but also on the application of those risk management tools to individual operations and management objectives.
2. Law and Compliance: Seek enforcement of the law and compliance of the regulations of the Commodity Futures Trading Commission (CFTC), the National Futures Association, and the CME Group to protect the integrity of agricultural futures markets.
3. Market Research: Continue to encourage the cooperation of government and private agencies, along with universities, to allocate resources for basic

commodity market research and to explore the market potential for new risk management products, such as cash settled live cattle futures, wholesale boxed beef, retail boxed beef, finished heifers, and calves.

4. Margin Authority: Work for continued authority of commodity exchanges to have explicit frontline responsibility for setting futures contracts' and options' initial and maintenance margin requirements with improved CFTC oversight.

5. Exclusivity: Work for reauthorization to maintain the CFTC as the independent and autonomous regulatory agency of the commodity trading industry.

6. Protection of customer funds: Work to safeguard funds held on deposit at brokerage houses on behalf of customer segregated accounts.

CMIT 2.2

2011/Renewed

#### **Cross Hedging**

WHEREAS, granting cross hedge exemptions in excess of speculative limits in the spot month for the purpose of hedging feeder cattle with Chicago Mercantile Exchange (CME) Live Cattle contracts undermines the use of the CME Feeder Cattle contracts, and

WHEREAS, the CME Feeder Cattle contract is vital in allowing varied segments of the industry to integrate and coordinate marketing and pricing of cattle, and

WHEREAS, the perception that convergence has been influenced by cross hedge exemptions in the spot month may damage the integrity of the CME Live Cattle contract,

THEREFORE BE IT RESOLVED, no cross hedge exemptions be granted by the CME in excess of speculative limits for the purpose of hedging feeder cattle in the spot month CME Live Cattle contract.

CMIT 2.3

2011/New

#### **CME Feeder Cattle Index**

WHEREAS, the Chicago Mercantile Exchange (CME) Feeder Cattle contract's primary

purpose is to serve as a viable risk management mechanism for producers, and

WHEREAS, the contract is meant to represent steer cattle that are destined to be placed directly into feedyards to be finished to harvest weight, and

WHEREAS, the current environment of record grain prices will dictate that cattle remain on forage or roughage based diets for as long as possible before placement into feedyards to be fed to harvest weight, and

WHEREAS, the current cash index parameters for the CME Feeder Cattle contract tend to include many cattle that are destined to go back to grass or into backgrounding facilities while excluding many cattle that are being placed directly into feedyards,

THEREFORE BE IT RESOLVED, NCBA support the removal of 650-699# steer cattle from the calculation of the CME Feeder Cattle Index, and

BE IT FURTHER RESOLVED, NCBA support the inclusion of 850-899# steer cattle in the calculation of the CME Feeder Cattle Index,

BE IT FURTHER RESOLVED, NCBA support the industry's involvement in increasing the volume of direct trade reported to USDA Market News.

CMIT 2.4

2012/New

#### **Futures Commission Merchants Insurance**

WHEREAS, many cattle and beef producers and other agricultural entities endured negative financial impacts as a result of the bankruptcy of CME Group clearing member MF Global, and

WHEREAS, in the wake of the bankruptcy, it has become clear that customer "segregated funds" on deposit in futures margin accounts are not secured, and may be used by Futures Commission Merchants (FCMs),

THEREFORE BE IT RESOLVED, NCBA urge the development of an insurance program for FCMs (similar to FDIC and/or SIPC insurance) that would protect the value of excess customer funds on deposit in futures margin accounts.

### 3. REPORTING

CMIT 3.1

2011/Renewed

#### Reauthorization of Mandatory Price Reporting

WHEREAS, the Mandatory Price Reporting (MPR) Act has been successful in giving the beef industry reliable pricing information, and

WHEREAS, MPR is currently not funded or mandated,

THEREFORE BE IT RESOLVED, MPR be reauthorized with full funding incorporating recommendations from the 2005 General Accountability Office (GAO) report and recommend the Secretary of Agriculture to increase scrutiny of, and penalties for, perpetual and/or chronically late reports being filed, including both daily and weekly reports.

CMIT 3.2

2009/Amended

#### Mandatory Price Reporting

BE IT RESOLVED, NCBA shall take appropriate action with USDA and Congress to require that any U.S. packer controlling or slaughtering 125,000 head or more annually of federally inspected slaughter be required to report price and terms of purchase of all cattle purchased within 24 hours of purchase.

BE IT FURTHER RESOLVED, immediate mandatory volume and price reporting be achieved for boxed beef and beef exports.

BE IT FURTHER RESOLVED, NCBA supports reporting of both cattle and boxed beef by category of Mandatory Country-of-Origin Labeling.

CMIT 3.3

2009/New

#### Mandatory Price Reporting (2)

WHEREAS, Mandatory Price Reporting will expire on September 30, 2010, and

WHEREAS, industry practices have changed since enactment of the law, and

WHEREAS, reauthorization of the law is expected and new implementation rules will be necessary, and

WHEREAS, improvements are needed to ensure that cattle producers have access to timely, accurate, and useful pricing information,

THEREFORE BE IT DIRECTED, NCBA will work to implement the following changes to the Mandatory Price Reporting statute and rules:

1. Review existing reports and definitions and make necessary modifications.
2. Create a report that shows daily intentions of all non-cash traded cattle that are committed for slaughter for at least 7 days forward. The revised report would replace the existing *All Cattle Committed* and *All Cattle Delivered* reports that have never provided the degree of detail that was intended.
3. Provide Agricultural Marketing Service (AMS) with the flexibility to request additional information, as needed, to identify seasonal considerations and special circumstances. This change will allow AMS to develop more useful data for producers, like discounts on Mexican or Canadian cattle, discounts on identified characteristics and the discount on 30 month cattle.
4. Strip Economic Research Service of its responsibility to collect retail price scan data, transfer that responsibility to AMS, and provide them with adequate funding to collect, analyze, and report this information.
5. Remove the existing category in the Premiums and Discount schedule report, for carcasses weighing in excess of 1,000 pounds and add categories for carcasses weighing 1,000 to 1,050 pounds and carcasses over 1,050 pounds.
6. Develop a system through which USDA can collect, analyze and report market price data relevant to mandatory country-of-origin labeling for feeder cattle, live cattle, wholesale beef, and Hotel Restaurant and Institutional beef sales.
7. Include fed cow prices under the Mandatory Price Reporting umbrella.

#### 4. GRADING

CMIT 4.1  
2011 /Renewed  
**Beef Grading**

WHEREAS, consumers expect high quality and consistent beef products, and

WHEREAS, today's USDA grading system relies upon individual subjective evaluations, which in itself causes great inconsistency between regions, between packing plants, and between graders, and

WHEREAS, recent and future technological advancements make it possible to use instrument grading technologies that more accurately identify and quantify beef quality traits, and

WHEREAS, the "Marbling Standards Task Force" has been established to develop the standards for instrument grading,

THEREFORE BE IT RESOLVED, NCBA requests USDA adopt the use of instrument vision grading technologies, therefore assisting the industry towards an improved objective, consistent system for evaluating beef quality characteristics.

#### 5. TRANSPORTATION

CMIT 5.1  
2012/Renewed  
**Agriculture Trucking and Hauling**

WHEREAS, cattle producers often have to truck their livestock hundreds of miles to take them to pasture, feedyards, or market, which causes great financial hardships due to high fuel costs, and

WHEREAS, there is variance in state laws regulating the maximum weight and length limits on trucks, causing inconvenience, confusion, and economic loss to truckers, shippers, and cattle producers. This makes it impossible for livestock haulers to maximize their load capacity, which causes more trucks to be on the road,

THEREFORE BE IT RESOLVED, NCBA and the Livestock Marketing Council (LMC) support the American Trucking Association in their efforts to standardize truck length and weights for vehicles used on federal, state, and county public roads that are constructed with federal funds to allow gross weight over 80,000 lbs for livestock haulers and kingpin to rear axle lengths that allow standard

livestock semi-trailers to enter every state.

BE IT FURTHER RESOLVED, NCBA and the LMC support adding additional axles to livestock semi-trailers to increase the breaking power and put less total weight on each axle making transporting livestock safer and less stressful on the roadways.

CMIT 5.2  
2011/Amended  
**Truck Weights**

WHEREAS, with the extreme distances that have to be traveled by cattle to get to market, and

WHEREAS, with the current high cost of fuel and the desire to reduce fuel consumption, and

WHEREAS, having fewer trucks on the road will increase safety and reduce the environmental impact while spreading the freight cost among more cattle, and

WHEREAS, currently "Import" containers can haul a gross weight of 100,000 pounds from Port of Entry,

THEREFORE BE IT RESOLVED, NCBA shall work to standardize load weight limits and to take into consideration the equipment of the day to accommodate transportation of livestock intrastate, interstate, and internationally more efficiently and economically.

CMIT 5.3  
2009/New  
**Transportation Standardization and Efficiency**

WHEREAS, transportation of cattle affects the beef industry's ability to do day-to-day operations, and

WHEREAS, exorbitant transportation costs are detrimental to the profitability and the livelihood of cattle marketers and producers, and

WHEREAS, laws differing drastically from state to state on transportation of all types of cargo including cattle cause added difficulties and costs to the transportation of cattle,

THEREFORE BE IT RESOLVED, NCBA support state cattlemen's organizations in developing and executing policy that will help alleviate the added cost of transportation due to increased fuel prices and laws that allow for inefficient transportation of cattle and other cargo by providing

information to develop policy that helps all agricultural states adopt efficient and uniform transportation laws that increase allowable weight, length, and trailer requirements.

CMIT 5.4

2009/Renewed

**Shipment of Cattle from Hawaii**

WHEREAS, the Hawaii cattlemen ship 50,000 head of calves to the mainland annually, and

WHEREAS, the most efficient and practical method of humane livestock shipment is the use of livestock carriers and there are no such U.S. carriers, therefore foreign livestock carriers must be used, and

WHEREAS, the Jones Act prohibits the use of these foreign livestock carriers between Hawaii and the U.S. mainland,

THEREFORE BE IT RESOLVED, NCBA supports reform of the Jones Act to allow the use of foreign owned or built livestock carriers to ship cattle between Hawaii and the U.S. mainland.

CMIT 5.5

2009/New

**Truck Weights**

WHEREAS, NCBA is concerned about the increased costs of producing and transporting livestock, and

WHEREAS, the cost of transporting livestock has increased dramatically in the last two years, and

WHEREAS, the livestock industry involves the transportation of livestock across state lines, and

WHEREAS, the lack of uniformity of weight limits for vehicles hauling livestock between states causes confusion and added expense to producers,

THEREFORE BE IT RESOLVED, NCBA sponsor legislation that would standardize and increase weight limits for vehicles hauling livestock intrastate and interstate.

**6. GENERAL TRADE**

CMIT 6.1

2009/Renewed

**Grading Reciprocity**

WHEREAS, the USDA beef grading system and grade stamp is recognized worldwide as the symbol of the highest beef quality,

THEREFORE BE IT RESOLVED, NCBA opposes any reciprocity of standards and services of the USDA beef grade outside of the United States.

CMIT 6.2

2009/Renewed

**USDA-FAS**

WHEREAS, the USDA-Foreign Agriculture Service (FAS) works with NCBA and the U.S. Meat Export Federation to expand foreign market opportunities for U.S. beef, and

WHEREAS, this long term relationship has been extremely useful to the progress achieved in developing and growing foreign markets through such programs as the Meat Promotion Program and the Cooperative Program,

THEREFORE BE IT RESOLVED, NCBA opposes any attempt to reduce the effectiveness of the USDA-FAS through the transfer of any jurisdiction to other government agencies.

CMIT 6.3

2009/Renewed

**MAP Funding**

BE IT RESOLVED, NCBA is in favor of adequate funding of the Market Access Program, or any successor program, and is strongly in favor of making funds available for export promotions of beef and beef products.

CMIT 6.4

2009/Renewed

**Department of Defense Commissary Purchases**

BE IT RESOLVED, NCBA urges the U.S. Department of Defense to purchase U.S. beef for all of its commissary programs.

CMIT 6.5  
2011/Renewed  
**North American Free Trade Agreement**

WHEREAS, there is a North American Free Trade Agreement (NAFTA) between the United States, Mexico, and Canada,

THEREFORE BE IT RESOLVED, NCBA monitors and undertakes all means possible to enforce NAFTA provisions relating to strong regulatory enforcement for animal health, environment, and food safety standards.

BE IT FURTHER RESOLVED, NCBA monitors North American trade flows to assure that trade is fair and equitable in accordance with trade regulations and that economic analyses of trade impacts on the beef industry be continued in a timely and accurate manner, and consistent data be published.

BE IT FURTHER RESOLVED, NCBA obtains weekly reports on import and export market information for beef, pork, poultry, and feed grains from the appropriate government agencies.

BE IT FURTHER RESOLVED, NCBA be actively involved in monitoring NAFTA through member participation in private sector advisory committees including the Advisory Committee on Trade Policy and Negotiations (ACTPN), the Agricultural Policy Advisory Committee (APAC), the Agricultural Technical Advisory Committee (ATAC), and the NAFTA Beef Working Group.

CMIT 6.6  
2011/Renewed  
**U.S. Meat Export Federation**

WHEREAS, NCBA recognizes the necessity of increased beef and beef product exports to the well-being of the cattle industry, and

WHEREAS, NCBA is a charter member of the U.S. Meat Export Federation (USMEF) and strongly supports its efforts in overseas market development and product promotion,

THEREFORE BE IT RESOLVED, NCBA encourages increased financial support from the private sector, the state beef commissions, and from the Cattlemen's Beef Board for USMEF.

BE IT FURTHER RESOLVED, NCBA supports USDA-Foreign Agricultural Service foreign market programming on the basis of joint venture

matching fund participation with private sector cooperators.

CMIT 6.7  
2013/Amended  
**Support of U.S. Meat Export Federation**

WHEREAS, the U.S. Meat Export Federation (USMEF) has made an outstanding and long-term contribution to the development to beef export markets worldwide, and

WHEREAS, USMEF has the overwhelming support not only of the Foreign Agricultural Service (FAS), but also of the international business community, and

WHEREAS, beef export markets represent the greatest opportunity to meet the goal of increasing beef demand and thereby increasing producer profitability, and

WHEREAS, Market Access Programs (MAP) funds are based on performance and industry investment,

THEREFORE BE IT RESOLVED, high priority be given to funding of foreign marketing initiatives through USMEF, including redeveloping growth in markets.

BE IT FURTHER RESOLVED, NCBA supports and commends USMEF on outstanding results.

CMIT 6.8  
2009/Amended  
**International Markets-1999**

WHEREAS, over 95% of the world's consumers live outside the United States, and today, Mexico and Canada are the leading importers of U.S. beef, and

WHEREAS, NCBA supports free trade agreements that enhance trade to countries that have formerly restricted U.S. beef exports with trade sanctions and tariffs,

THEREFORE BE IT RESOLVED, NCBA shall continually monitor international trade issues to assure U.S. beef producers have fair and equal access to the markets of competing exporting countries.

BE IT FURTHER RESOLVED, NCBA urges that all imported meat be subject to an inspection standard that is equal to that prescribed for

domestically produced meat.

CMIT 6.9  
2009/Renewed  
**Enforcement of Trade Laws**

BE IT RESOLVED, NCBA actively pursues enforcement of U.S. trade laws.

CMIT 6.10  
2009/Renewed  
**Definition of Beef Dumping**

WHEREAS, the beef industry is market driven by supply and demand, and the market price is determined by these forces, and

WHEREAS, a supply and demand market traditionally runs in cycles, and

WHEREAS, most beef producers during low-price/high production periods of cycles sell below the cost of production (at a loss), and

WHEREAS, this cyclical low price and producer loss situation in the beef industry meets the definition of a dumping situation under World Trade Organization (WTO) rules even in the absence of evidence of predatory behavior, intention to monopolize, or any other intentional efforts to drive competitors out of business, and

WHEREAS, dumping cases filed using (below) cost of production criteria cause the beef industry in the exporting country to incur huge legal fees to defend themselves and violates the spirit of free trade,

THEREFORE BE IT RESOLVED, NCBA shall work to change WTO rules that define the definition of beef dumping as selling below the cost of production.

CMIT 6.11  
2011/Amended  
**Trade Quotas**

WHEREAS, there is an effort by various beef industry groups and importing countries to eliminate quotas, and

WHEREAS, there is a similar effort to weaken trade laws,

THEREFORE BE IT RESOLVED, NCBA actively support maintaining equitable import quotas on beef and maintaining trade laws.

CMIT 6.12  
2013/Amended  
**Country-of-Origin Labeling Implementation**

WHEREAS, there are serious concerns about mandatory Country-of-Origin Labeling, and

WHEREAS, there is increasing recognition about the many adverse aspects of Country-of-Origin Labeling including the costs, benefits, and impact of Country-of-Origin Labeling relative to tracking, auditing, verification, and compliance, and

WHEREAS, NCBA policy does not support mandatory labeling but remains in support of Country-of-Origin Labeling that is voluntary and industry-driven, and

WHEREAS, the implementation of the current federal Country-of-Origin Labeling statute has the potential to place a great burden on domestic producers and disrupt the beef market,

THEREFORE BE IT RESOLVED, NCBA shall work with Congress and USDA to ensure that Country-of-Origin Labeling allows maximum benefits and minimal market disruptions to the United States beef industry.

BE IT FURTHER RESOLVED, the issue of bringing the United States Country-of-Origin Labeling laws into compliance with the World Trade Organization ruling be a high priority for NCBA in 2013 or until the issue is resolved.

CMIT 6.13  
2012/Amended  
**Live Cattle Imports**

WHEREAS, the safety of the food supply for U.S. consumers is a top priority for the cattle industry, and

WHEREAS, keeping out foreign animal diseases that could seriously damage the cattle industry is of concern, and

WHEREAS, USDA has developed a list of science-based factors to be used to evaluate the Bovine Spongiform Encephalopathy (BSE) risk from a region or country and to classify a region or country as a minimal BSE risk area,

BE IT FURTHER RESOLVED, NCBA shall work to ensure USDA bases trade agreements with all beef trading partners on the World Organization for Animal Health (OIE) standards to



re-establish beef and beef by-product trade.

BE IT FURTHER RESOLVED, NCBA request USDA equalize its risk status with those set out by OIE based on sound scientific standards.

CMIT 6.14  
2009/New

**Inclusion of Products in Trade Agreements**

WHEREAS, the United States should not establish as precedent in trade agreements that certain sectors or products can be left out of the agreement, and

WHEREAS, such a precedent could be used against the U.S. in future agreements to the detriment of the U.S. beef and cattle industry,

THEREFORE BE IT RESOLVED, as the United States negotiates trade agreements, NCBA supports inclusion of all products in all sectors by all parties to the agreement.

BE IT FURTHER RESOLVED, NCBA will oppose negotiations or legislative proposals that will have the effect of excluding products or similarly limiting our negotiators' flexibility.

CMIT 6.15  
2011/Renewed

**BSE Trade Action**

WHEREAS, the United States has taken a leadership role in advocating sound science policies for the trade of beef products in global markets based on World Organization for Animal Health (OIE) guidelines, and

WHEREAS, several countries immediately closed their borders to the importation of U.S. beef and beef products with no valid scientific basis or consideration of OIE guidelines, as a result of recent Bovine Spongiform Encephalopathy (BSE) discoveries, and

WHEREAS, such action has resulted in major disruptions in global beef trade including billions of dollars in lost U.S. beef and beef products exports,

THEREFORE BE IT RESOLVED, NCBA request the Administration pursue all available options, including trade action at the World Trade Organization (WTO) or trade sanctions, to reestablish trade in beef and beef products with all countries based upon sound science and the OIE guidelines.

CMIT 6.16  
2012/Renewed

**U.S. Processed Beef for U.S. Troops Serving Overseas**

WHEREAS, United States troops are serving overseas to protect domestic and international interests of the United States, and

WHEREAS, contractors may not always use U.S. processed beef for supplying troops in Iraq and other U.S. bases overseas,

THEREFORE BE IT RESOLVED, NCBA will work to require suppliers for U.S. troops worldwide to provide beef that is product of the United States.

CMIT 6.17  
2010/New

**Korea U.S. Free Trade Agreement**

WHEREAS, South Korea has long been a critically important trading partner and ally to the United States (U.S.), and

WHEREAS, international beef trade is very important to long-term profitability for the U.S. beef industry, which positively impacts farm and ranch families and rural communities across the U.S., and

WHEREAS, the U.S.-South Korean Free Trade Agreement (KORUS FTA) is one of the most important bilateral trade agreements in the history of the U.S. beef industry as it will reduce South Korea's 40 percent tariff on all beef imports down to zero for the United States in equal increments over 15 years after its entry into force, and

WHEREAS, competitors such as Australia are rapidly working with South Korea to finalize their own bilateral free trade agreements, which if initiated before the KORUS FTA, would put United States beef exports to South Korea at a tariff disadvantage for many years to come,

THEREFORE BE IT RESOLVED, NCBA strongly insists Congress immediately ratify the KORUS FTA.

## 7. ACCESS AND CREDIT

CMIT 7.1

2013/Renewed

### Government Commodity Programs

WHEREAS, livestock producers sell their products on a free market with no subsidized price support, and

WHEREAS, excessive government price supports or supply control programs for other commodities often have an adverse impact on livestock markets,

THEREFORE BE IT RESOLVED, NCBA supports efforts in foreign trade negotiations to eliminate unfair farm subsidies in competing countries and believes USDA programs should move toward less government involvement.

CMIT 7.2

2013/Renewed

### International Treaties

WHEREAS, international treaties, such as but not limited to the proposed treaties dealing with global warming and natural resources, often tend to require developed countries to assume the greatest share of burden to accomplish arbitrary goals, and

WHEREAS, imposing greater burden on developed countries often drives certain enterprises that would incur these greater costs to lesser developed countries that have fewer and less burdensome regulations, and

WHEREAS, because these lesser developed countries with fewer environmental regulations would then contribute in an increased capacity to the global environmental problems that the treaties are attempting to control,

THEREFORE BE IT RESOLVED, NCBA works to ensure that all international treaties are equal and fair to all parties involved.

CMIT 7.3

2009/Renewed

### Export of Hormone-Free Beef

WHEREAS, an international market does exist for hormone-free beef, and our goal as beef producers is to meet consumer demand, and

WHEREAS, the current infrastructure for marketing hormone-free beef is inequitable and

challenging,

THEREFORE BE IT RESOLVED, NCBA shall assist U.S. beef producers in facilitating the marketing channels to encourage exports of source-verified, hormone-free beef by working to resolve international inspection inequities and other technical barriers as well as prevent additional barriers from developing.

CMIT 7.4

2012/Renewed

### Trade and Retaliatory Measures

WHEREAS, the U.S. trade deficit continues to grow, and

WHEREAS, the United States is now a net beef importer both in terms of tonnage and dollar value, and

WHEREAS, other countries have closed their borders to U.S. beef products due to either unscientific food safety concerns or incorrect paperwork, and

WHEREAS, a single U.S. shipment bound for export that fails to meet agreed upon requirements should not be grounds for excluding U.S. beef and beef products,

THEREFORE BE IT RESOLVED, NCBA shall use all necessary means to lobby the U.S. Congress and Administration to pursue swift and appropriate trade retaliatory measures against countries that implement such trade practices.

CMIT 7.5

2012/Renewed

### Support for Trade

WHEREAS, U.S. negotiators have proposed an aggressive World Trade Organization agenda for phasing out export subsidies and eliminating disparities in tariff levels and trade-distorting domestic supports,

THEREFORE BE IT RESOLVED, NCBA endorses the Administration's efforts to obtain a commercially meaningful trade package that creates a level playing field for agriculture.

BE IT FURTHER RESOLVED, NCBA calls on Congress to renew Trade Promotion Authority.

CMIT 7.6  
2013/Renewed  
**Opening Japan and Korean Beef Markets**

WHEREAS, fully reestablishing beef trade with Japan and South Korea is very important to long-term profitability for the U.S. beef industry; and

WHEREAS, the United States beef trade has been severely hindered since December 2003;

THEREFORE BE IT RESOLVED, NCBA shall work to ensure the U.S. government bases Japan and South Korean beef trade agreements on the World Organization for Animal Health (OIE) standards.

BE IT FURTHER RESOLVED, NCBA insists that Japan and South Korea immediately reestablish beef trade based upon these standards. If they do not, NCBA will request Congress to enact trade sanctions against Japan and South Korea.

CMIT 7.7  
2009/New  
**International Beef Trade**

WHEREAS, international beef trade is very important to long-term profitability for the U.S. beef industry, and

WHEREAS, United States beef trade has been severely hindered since December 2003, and

WHEREAS, consistently the vast majority of U.S. fed beef is under 30 months of age at harvest,

THEREFORE BE IT RESOLVED, NCBA supports the opening of international beef markets utilizing policy that allows bone-in beef product from cattle under 30 months of age as part of a stair-step effort to eventually reach full OIE compliance.

BE IT FURTHER RESOLVED, NCBA calls for the immediate adoption of this policy with all interested global trading partners.

CMIT 7.8  
2012/New  
**International Beef Trade - Trans-Pacific Partnership**

WHEREAS, the United States is actively engaged in establishing a Trans-Pacific Partnership (TPP) with the countries of Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, and Vietnam, and

WHEREAS, TPP will be a multilateral trade agreement that will enhance trade and investment among the TPP partner countries, promote innovation, economic growth and development, and support the creation and retention of jobs, and

WHEREAS, the United States and other TPP countries have agreed to seek to finalize an agreement in the near future,

THEREFORE BE IT RESOLVED, NCBA support the United States entering into a Trans-Pacific Partnership that removes tariff and non-tariff trade barriers to U.S. beef exports to participating countries,

BE IT FURTHER RESOLVED, NCBA insist that all countries that participate in TPP abide by full World Organization for Animal Health (OIE) guidelines,

BE IT FURTHER RESOLVED, NCBA insist that the United States require all participating TPP countries to lift tariff and non-tariff trade barriers on U.S. beef once the TPP agreement is enacted,

BE IT FURTHER RESOLVED, NCBA insist that the addition of any country (other than those previously listed) to the TPP be conditioned on that country agreeing to lift remaining restrictions on U.S. beef and abide by full OIE guidelines prior to joining TPP.

## PROPERTY RIGHTS & ENVIRONMENTAL MANAGEMENT

Chuck Folken, NE - Chair

Joe Leathers, TX - Vice Chair

Ashley McDonald, Staff

<b>1</b>		<b>GENERAL</b>			
1.1	2010	Livestock Production and Resource Stewardship	2.13	2009	Environmental Quality Incentives Program and Other Programs
1.2	2012	NCBA's Environmental Platform	2.14	2013	Latent Liability Protection
1.3	2012	General Policy for Private Lands and Water	2.15	2009	Livestock Manure
1.4	2012	Defining Regulatory Authority over Waters of the United States	2.16	2012	Air Quality Standards
1.5	2009	Public Interest Lawsuits	2.17	2013	Brush and Noxious Plant Management
1.6	2013	Unauthorized Land and Water Initiatives	2.18	2009	Climate Change
1.7	2009	Public Access to Private Land	2.19	2013	Noise and Air Quality
1.8	2010	Continued Funding for National Center	2.20	2009	Mississippi National River
1.9	2010	Conservation Stewardship Program			Recreational Area Plan (MNRRA)
1.10	2011	Grazing Land Conservation	2.21	2009	Animal Feeding Operation
1.11	2010	Environmental Quality Incentives Program (EQIP)	2.22	2009	Universal Soil Loss Equation (USLE)
1.12	2010	Environmental Quality Incentives (EQIP) Penalties	2.23	2011	Funding for Technical Assistance
1.13	2012	Support for the Environmental Quality Incentives Program	2.24	2011	Buffer Strips and Vegetative Treatment Areas
1.14	2012	Environmental and Economic Implications of Government Mandated Renewable Fuels Production	2.25	2011	Reinforcement of NRCS Technical Assistance
1.15	2009	Coalition Building	2.26	2012	Alternative Technologies for Feedlots
1.16	2010	Life Cycle Analysis	2.27	2013	NRCS Conservation Issues
1.17	2010	Equal Access to Justice Act (EAJA)	2.28	2013	Ecological Site Descriptions
1.18	2010	Public Access to Obtain Public Funding	2.29	2009	USDA Reorganization (#2)
1.19	2011	Permit Coordination	2.30	2010	Natural Resources Conservation Service (NRCS) Conservation Program Simplification
			2.31	2010	Support for Funding of Voluntary, Locally Led Conservation Efforts through Resource Conservation Districts and the USDA Natural Resources Conservation Services (NRCS)
<b>2</b>		<b>NATURAL RESOURCES</b>	2.32	2012	Carbon Sequestration on Grasslands
2.1	2009	Wild and Scenic Rivers and Scenic Highways and Byways Bills	2.33	2012	EQIP "Systems" Approach to Brush, Invasive, and Non-beneficial Species Control
2.2	2010	Wetlands: No Net Loss	2.34	2012	Waiver of Fees for Projects
2.3	2009	Bureau of Reclamation			
2.4	2010	USDA Reorganization (#1)			
2.5	2010	Re-Licensing of Hydroelectric Projects	<b>3</b>		<b>PROPERTY RIGHTS</b>
2.6	2010	Liability for Government Mandated Programs	3.1	2009	Emergency Replacement and Repair of Private Property
2.7	2011	Superfund Exemption for Livestock Manure	3.2	2010	Venue Legislation
2.8	2013	Groundwater Pollution	3.3	2010	Indirect Acquisition
2.9	2012	Fire Ant Control	3.4	2011	Reservation Relations
2.10	2012	Definition of Rangeland	3.5	2011	Environmental Agencies and Commissions
2.11	2009	Grazing Lands Conservation Initiative	3.6	2011	Eminent Domain
2.12	2012	Prescribed Burning	3.7	2011	Public Access

3.8	2012	Property-Abandoned
3.9	2012	Government Coercion
3.10	2012	No Net Loss of Private Property
3.11	2013	Government Agency Land Acquisitions and Management Plans
3.12	2009	Rails to Trails
3.13	2013	Voluntary Conservation Easements
3.14	2009	Open Range
3.15	2009	Federal Lands Acquisition
3.16	2010	Disclosure of Information by Government Agencies
3.17	2010	Military Aviation Training Missions
3.18	2011	Conservation of Private Lands Act
3.19	2011	Liability
3.20	2012	Private Land Condemnation
3.21	2012	Aerial Surveillance
<b>4</b>		<b>ENDANGERED SPECIES</b>
4.1	2009	Wildlife Services Program Philosophy
4.2	2010	Convention on Biological Diversity
4.3	2010	Animal Damage Control
4.4	2013	Endangered Species Act Reauthorization
4.5	2013	Special Status Species
4.6	2011	Reintroduction of Grizzly Bears into Montana/Idaho
4.7	2012	Wildlife-International Treaty
4.8	2012	Delisting Threatened and Endangered Species
4.9	2012	Biological Diversity
4.10	2009	Sage Grouse
4.11	2010	Wolf Recovery Delisting Goal
4.12	2010	Dam Breaching/Ecology and Land Planning
4.13	2011	Prairie Dogs
4.14	2009	Species Recovery and Introduction
4.15	2010	Black Vulture Control
4.16	2010	Amendment of Citizen Suits Provision in Endangered Species Act
4.17	2012	Voluntary Species Recovery Credit System

**1. GENERAL**

PR/EM 1.1  
2010/Renewed

**Livestock Production and Resource Stewardship**

WHEREAS, productive natural resources are vital for the well being not only of the individual farmer, rancher, or feeder, but also for the local, state, and national economy and society as a whole. Healthy natural resources provide a healthy watershed and a renewable source of feed for domestic animals and wildlife. Farming and ranching sustains open spaces and aesthetic features which contribute to recreational opportunities,

THEREFORE BE IT RESOLVED, NCBA promotes the prudent use of natural resources and offers the following Resource Stewardship recommendations. NCBA further recognizes the value and benefit of periodic input and revision to keep the commitment to resource stewardship alive.

BE IT FURTHER RESOLVED, NCBA shall not be compelled to defend anyone in the beef cattle industry who has clearly acted to abuse grazing, water or air resources. To achieve these goals, the following environmental stewardship code is recognized by the industry:

1. Recognize the environment for its varying and distinct properties.
2. Manage for the whole resource, including climate, soil, topography, plant and animal communities.
3. Realize that natural resources are ever-changing, and management must adapt.
4. Recognize and appreciate the interdependence of ecosystems.
5. Recognize that management practices should be site and situation-specific, and must be locally designed and applied.
6. Recognize that successful management is an ongoing, long term process and commit to sound stewardship, economic success and business continuity.
7. Strive to develop a management framework that involves family, employees and business associates so that the entire team is committed to common goals.
8. Monitor and document for effective practices.
9. Never knowingly cause or permit abuses that result in permanent damage on public or private land.
10. Develop ways to communicate and share the vast practical experience of other

resource stewards.

11. Become involved in organizations that provide an effective way to educate and support individuals.
12. Solicit input from a variety of sources on a regular basis as a means to improve the art and science of resource management.
13. Help develop public and private research projects to enhance the current body of knowledge.
14. Recognize that individual improvement is the basis for any change.
15. Communicate with diverse interests to resolve resource management issues.

PR/EM 1.2  
2012/Renewed

**NCBA's Environmental Platform**

Cattlemen will continue to exhibit a special appreciation of the natural world as individuals producing food and fiber from renewable natural resources, while conserving and improving these resources on an ecologically and economically sound, sustainable basis. Private property rights, property values, and management flexibility will be enhanced. Beef will be recognized as an environmentally friendly product and sound beef production as an integral component of environmental management.

To protect private property rights, enhance and preserve property values, maintain flexibility in the prudent management of natural resources, and improve and promote consumer demand for beef, cattlemen must implement a bold, creative strategy on environmental issues. Beef production should be represented and recognized as one of the most vital and environmentally sustainable components of American agriculture. Beef should be correctly perceived by consumers as an environmentally friendly product. Cattlemen should be more widely recognized as the expert, responsible stewards of our nation's natural resources, including those of soil, water, air, vegetation, and wildlife.

To pursue these goals:

NCBA will initiate and support a comprehensive research program to thoroughly assess the condition of the resources utilized in the production of beef. Producer education programs will be undertaken to disseminate both current and innovative technologies and management techniques as well as to encourage prudent use and management of natural resources.

NCBA will expand its informational,

political, and legal tools to protect cattlemen and the environment from ill-advised legislation and regulations which restrict management options, reduce land values, reduce economic incentives for prudent resource management, and increase government ownership or control of natural resources.

NCBA will support progressive and innovative environmental approaches that demonstrate to the public that privately owned and managed natural resources are more effectively conserved and protected than resources owned or controlled by government.

NCBA will form action-based alliances that promote the importance of private ownership of land, productive use of natural resources, and the environmental effectiveness of the private sector.

NCBA will initiate an informational and cooperative dialogue, and coordinate to the most practical and political extent, a consolidated effort between other segments of animal agriculture, and will strongly encourage reciprocal dialogue, assistance, and advisement between NCBA and affiliate organizations regarding local, state, and national initiatives affecting animal agriculture.

NCBA will strive to position beef in its true role as an environmentally friendly product with diverse audiences of opinion leaders, public influencers, and consumers.

PR/EM 1.3

2012/Renewed

#### **General Policy for Private Lands and Water**

NCBA holds that:

- I. The right of an individual to own property is protected by the federal and various state constitutions together with rights of life and liberty. Any abridgment of these rights shall be vigorously opposed.

Government policy should enhance the individual right of free choice in land, water, soil, and energy use, development, and conservation, and this policy should be carried out by all branches and levels of governments.

Any loss of private lands or water rights including

waters arising or claimed on federal lands without specific procedures of due process of law and just compensation (as provided in the V and XIV amendments of the U.S. Constitution) shall be opposed. Agreements involving individual private land and water rights shall be solely a decision of individual private property owners.

The laws and policy of state and local governments and private rights should be paramount in governing the use and ownership of water and natural resources.

The authority of each sovereign state to allocate quantities of water within its jurisdiction shall not be superseded, abrogated, or otherwise impaired by governmental action. Rights to use surface and ground water established under state law are private property rights, constitutionally recognized, and protected.

- II. NCBA statement of policy for the protection of vested water rights and water used in accordance with the federal constitution, various state constitutions, and state laws is as follows:

1. Federal Reserved Water Rights: The water rights claimed by the United States and the Indian Tribes under the Federal Reserved Water Rights Doctrine (Winters Doctrine) should be determined and administered under state procedures or by agreement with the several states. Such water rights should be restricted to the expressed purpose for which the reservation was originally set aside as of the date of creation and in the amounts then contemplated. The United States, the several Indian Tribes and the several states should take prompt action to quantify reserved water rights.
2. No Non-Reserved Water Rights: The concept of federal non-reserved rights shall not be recognized, but the United States may acquire new water rights pursuant to state law.
3. Indian Water Claims: In connection with federal encouragement and recognition, private water rights have been acquired in accordance with state laws to which Congress has invariably deferred. Substantial investments have been made in reliance on these water rights. Without prejudging the Indian water rights claims or without prejudice to their justice, the NCBA believes that the trust obligation of the United States to Indians

can be fairly and justly met by alternate means, without divesting the owners of their established water rights.

4. Groundwater: The goal of minimal-degradation of groundwater is supported by NCBA; but until adequate research is completed upon which to base decisions, we urge restraint in developing rules to achieve this goal.
5. Wilderness Legislation: NCBA opposes any wilderness legislation until such time as the question of reserved water rights on federal land is resolved in a manner insuring such additional designations to the National Wilderness Preservation System shall not, directly or indirectly, reserve or otherwise create a right to the appropriation, diversion, use, or flow of water to or by the United States.  
  
NCBA supports the following language: "No provisions of this Act or any other act of Congress designating areas as part of the National Wilderness Preservation System, nor any guidelines, rules, or regulations issued hereunder, shall constitute the establishment of an expressed or implied right to the acquisition, diversion, appropriation, use, or flow of water to the federal government because of the designation except in full compliance with states' water laws."
6. Wetlands: NCBA recognizes the importance of traditional wetlands in providing fish and wildlife habitat and insuring quality water. NCBA supports wetlands management in those traditional areas only when those activities do not infringe upon the rights of individual and the respective states to determine the uses of their land and water resources.
7. Federal Regulations and Restraints: No department or agency of the United States Government shall diminish the value of a water right by unreasonable restraint or regulation. No federal, regional, or multi-state water entity shall in any way diminish, alter, or in any manner affect private water rights or a state's legal right to allocate and administer water.
8. Riparian Areas: NCBA opposes regulations by federal or state agencies to fence riparian areas except when the proposed sites are studied in full cooperation with the private livestock operator and where a comprehensive cooperative agreement, with recognition of stock water rights, is voluntarily entered into between the

agency and livestock operator or permittee.

NCBA opposes:

1. Federal efforts to seek the establishment of instream flows on any river or stream in any state,
  2. Expansion of the Wild and Scenic River System,
  3. Inter-basin or interstate transfer of water except as freely agreed upon between the states or basins affected,
  4. Federal interferences with existing ditches and structures in connection with any water right on either private, state, or federal lands, and
  5. Federal preemption or interference with an individual filing on water rights under state law, except in full compliance with the law of the state.
- III. Cattle production is an efficient and environmentally sound use of renewable natural resources (air, water, soil, and vegetation).
1. Successful, sustainable cattle production depends on the prudent management of renewable natural resources with long term productive multiple use benefits.
  2. These resources such as air, water, soil, vegetation, forest, and fish are dynamic resilient renewable resources and respond positively to prudent management.
  3. Management practices which best sustain and enhance natural resources are site and situation specific.
  4. The most environmentally effective and productive management of natural resources occurs through private ownership and individual management which maximizes flexibility and choice.

PR/EM 1.4

2012/Amended

#### **Defining Regulatory Authority over Waters of the United States**

WHEREAS, wetlands and non-navigable waters are found on a large portion of agricultural lands, and we believe farmers and ranchers should be able to use their land for production to the greatest



extent,

THEREFORE BE IT RESOLVED, NCBA will seek regulations and/or legislation to prevent the expansion of federal jurisdiction over wetlands and non-navigable waters.

PR/EM 1.5  
2009/Renewed  
**Public Interest Lawsuits**

WHEREAS, the so-called "citizen suits" provisions in many federal environmental statutes have been abused so as to destroy traditional concepts of standing to sue, leading to unnecessary and expensive litigation, and

WHEREAS, this has led to courts establishing policy instead of the legislature,

THEREFORE BE IT RESOLVED, NCBA supports language that requires:

1. a pecuniary interest in an amount equal to or greater than the jurisdictional amount of the court,
2. residency within the jurisdiction of the court,
3. posting a bond adequate to meet preliminary injunction or temporary restraining order damages.

PR/EM 1.6  
2013/Amended  
**Unauthorized Land and Water Initiatives**

BE IT RESOLVED, NCBA opposes any federal land and/or water initiatives unauthorized by Congress and/or pursued without landowners' consent that could infringe upon the rights of private property owners. Such initiatives include the American Heritage Rivers Initiative and the National Blueways System.

PR/EM 1.7  
2009/Renewed  
**Public Access to Private Land**

BE IT RESOLVED, NCBA opposes including public access to private property as a condition of, or in the prioritization process for, receiving federal cost share funds for conservation and other farm programs.

PR/EM 1.8  
2010/New Policy Title  
**Continued Funding for National Center**

WHEREAS, the National Center for Manure and Animal Waste Management (National Center) was created in 1999 under a grant from the United States Department of Agriculture (USDA) Cooperative States Research, Education, and Extension Service (CSREES), and

WHEREAS, the National Center provides a coordinating role among land grant university scientists and engineers actively engaged in developing solutions to animal manure nutrient management, water and air quality protection, and by-product utilization among 14 major livestock feeding states, and actively engages scientists in several other states and agencies; and

WHEREAS, the National Center has:

- a) Produced a series of state-of-the-science white papers, which have been widely distributed through the Midwest Plan Service, and other electronic services;
- b) Provided science-based approaches, analyses, and briefings to USDA and U.S. Environmental Protection Agency (EPA) headquarters in development of national effluent limitations guidelines and new source performance standards for Concentrated Animal Feeding Operations (CAFO);
- c) Produced a series of fact sheets interpreting new EPA policies for producers and organizations;
- d) Provided seed money to qualified scientists for development of innovative manure management alternatives and solutions; and
- e) Conducted scientific conferences and furnished expert speakers to countless others,

THEREFORE BE IT RESOLVED, NCBA supports a continuation of funding from USDA or other federal agencies that will allow the National Center to continue in its valuable role of national scientific leadership and coordination.

PR/EM 1.9  
2010/New

**Conservation Stewardship Program**

BE IT RESOLVED, NCBA supports an increase in Conservation Stewardship Program funding so that all eligible producers who wish to participate in the Program will be able to, payment rates will be sufficient to encourage producer participation, and cost share will be made available for all practices listed in the Farm Bill statute.

BE IT FURTHER RESOLVED, NCBA supports a simplified Conservation Stewardship Program which shall be based on outcomes and adaptive management rather than a prescribed set of management practices.

BE IT FURTHER RESOLVED, NCBA prioritizes increased funding in the Environmental Quality Incentives Program and the Wildlife Habitat Incentives Program over increased funding in the Conservation Stewardship Program.

PR/EM 1.10  
2011/Renewed

**Grazing Land Conservation**

WHEREAS, rangelands include a rich and varied landscape of grasslands, oak woodlands, vernal pools, riparian areas, and wetlands which support numerous imperiled and native plant and animal species, and

WHEREAS, many rangelands are today at significant risk of conversion to development and other uses, and

WHEREAS, these rangelands and the species that rely on these habitats largely persist today due to grazing and other land stewardship practices of the ranchers that have owned and managed these lands and are committed to their health, and

WHEREAS, these rangelands are a critical foundation of the economic and social fabric of the U.S. ranching industry and rural communities and will only continue to provide these societal benefits if rangelands remain in ranching,

THEREFORE BE IT RESOLVED, NCBA shall work aggressively to accomplish the following:

- Educate the public regarding the environmental benefits associated with grazing and rangeland agriculture.
- Streamline processes regarding consultations and

other regulatory requirements to eliminate current disincentives to voluntary conservation efforts.

- Provide tax incentives and other benefits to those ranchers actively working to benefit the environment.
- To pursue the expansion of the use of safe harbor agreements, exclusion of critical habitat, and use of the 4(d) rule for the listing of habitat and species.

BE IT FURTHER RESOLVED, NCBA shall work on a national level to partner with state affiliates, conservation, and agricultural organizations to achieve these goals.

PR/EM 1.11  
2010/New

**Environmental Quality Incentives Program (EQIP)**

BE IT RESOLVED, custom operators should be permitted to participate in the EQIP to the same degree as direct operators.

PR/EM 1.12  
2010/New

**Environmental Quality Incentives Program (EQIP) Penalties**

BE IT RESOLVED, NCBA opposes unreasonable penalties associated with cancellation of an EQIP contract.

BE IT FURTHER RESOLVED, NCBA holds that Natural Resources Conservation Service (NRCS) shall not require an applicant to sign a contract until the final cost of the contract is known to, and approved by, the applicant.

BE IT FURTHER RESOLVED, NCBA supports allowing producers who enter into an EQIP contract with NRCS the ability to periodically revise the terms of a multiple-year contract to adjust for rising costs over time. Such revision shall include raising the contract cost share by an amount equal to an increase in the inflation rate.

BE IT FURTHER RESOLVED, any penalty for cancellation shall be disclosed to the applicant prior to signing the contract.

BE IT FURTHER RESOLVED, NRCS shall provide least-cost alternatives to applicants when engineering projects for cost share.

PR/EM 1.13  
2012 /Amended  
**Support for the Environmental Quality Incentives Program**

WHEREAS, the Environmental Quality Incentives Program (EQIP) has proven to be an effective tool for ranchers implementing sound conservation practices on rangeland,

THEREFORE BE IT RESOLVED, NCBA support efforts to maintain and enhance EQIP at sixty percent or greater allocation for livestock related applications for all sizes of ranching and feeding operations.

PR/EM 1.14  
2012/Renewed  
**Environmental and Economic Implications of Government Mandated Renewable Fuels Production**

BE IT RESOLVED, NCBA supports:

1. A federally funded research program to evaluate the potential economic implications on the cost of food production, as well as the environmental implications, both on air and water quality, of feeding distillers' grain co-products to beef cattle, and
2. Legislative and regulatory environmental relief for cattle operations that are appropriately utilizing and feeding the co-product of the renewable energy industry.

PR/EM 1.15  
2009/New  
**Coalition Building**

BE IT RECOMMENDED, the leadership of NCBA should carefully consider forming coalitions with other groups with similar interests in an effort to strengthen our voice politically and enhance NCBA's position on issues of importance to our members.

BE IT FURTHER RECOMMENDED, NCBA leadership work to enter into an agreement creating the Coalition for Conservation through Ranching and give leadership flexibility to sign that agreement as they deem appropriate.

BE IT FURTHER RECOMMENDED, NCBA shall withdraw from such coalitions if deemed necessary or if any group has an anti-grazing mission.

PR/EM 1.16  
2010/New  
**Life Cycle Analysis**

WHEREAS, claims about the environmental impacts of beef production are prominent in both public and policy discussions, and

WHEREAS, these claims have the potential to negatively affect consumer demand for beef and foster burdensome regulation that negatively affects the profitability of beef production, and

WHEREAS, claims that the United States beef industry is environmentally harmful are based on misinformation and unsupported activist rhetoric, instead of scientific analysis,

THEREFORE BE IT DIRECTED, NCBA shall commission research to develop a comprehensive life cycle analysis of U.S. beef production.

PR/EM 1.17  
2010/New  
**Equal Access to Justice Act (EAJA)**

WHEREAS, the Equal Access to Justice Act (EAJA) and other fee-shifting statutes provide for the award of attorney fees and other expenses to parties in litigation against the government, and

WHEREAS, an eligible party may receive an award when it prevails over the government, and

WHEREAS, the Congressional intent of EAJA and other fee-shifting statutes was to overcome the inability of many Americans, to combat the vast resources of the federal government in administrative and federal court adjudications and to redress the imbalance between the government acting in its discretionary capacity and the individual, and

WHEREAS, in a 6-year period, non-profit environmental groups have filed more than 1500 lawsuits and in turn the federal government has paid out billions in taxpayer dollars in settlements and legal fees under EAJA and other fee-shifting statutes in cases against the U.S. government, and

WHEREAS, there is no significant accounting or oversight as to how the money is being allocated,

THEREFORE BE IT RESOLVED, NCBA supports more stringent oversight as to how awards

made available through EAJA and other fee-shifting statutes are accounted.

BE IT FURTHER RESOLVED, NCBA supports specific Congressional initiatives to reform EAJA and other fee shifting statutes.

BE IT FURTHER RESOLVED, NCBA urges Congress to conduct hearings to ascertain the extent of the misuse of these fees and expense awards.

BE IT FURTHER RESOLVED, NCBA urges Congress to require an annual report of EAJA awards to the relevant committees in the House and Senate.

BE IT FURTHER RESOLVED, NCBA urges the federal government to limit the abuse of EAJA and other fee-shifting statutes by groups who seek only to profit from its purpose.

BE IT FURTHER RESOLVED, NCBA supports the efforts of the Western Legacy Alliance and others in their efforts to bring justice to EAJA.

PR/EM 1.18  
2010/New

#### **Public Access to Obtain Public Funding**

WHEREAS, the public has the sentiment that public dollars used for conservation easements requires tangible public benefits, such as access,

THEREFORE BE IT RESOLVED, NCBA opposes any requirement for public access to obtain public funding or qualification for conservation benefit,

BE IT FURTHER RESOLVED, the definition of a tangible benefit should only include preservation of agricultural activities and preservation of open space.

PR/EM 1.19  
2011/New

#### **Permit Coordination**

BE IT RESOLVED, NCBA continue to work on legislation and regulations so as to provide permit and regulation coordination and streamlining.

## **2. NATURAL RESOURCES**

PR/EM 2.1  
2009/Amended

#### **Wild and Scenic Rivers and Scenic Highways and Byways Bills**

WHEREAS, National Wild and Scenic Rivers, and scenic highways and byways; bills, or state water

designations, are being proposed in several states that will include private as well as federal lands within their areas, and

WHEREAS, livestock producers rely in some degree on federal, as well as private, lands for grazing and water for livestock, and

WHEREAS, the bills will contain condemnation provisions for the private lands as well as condemnation of scenic, access and other easements which provisions may be used to jeopardize previously vested water rights and require management of adjacent lands, and

WHEREAS, the bills have the potential of requiring new water pollution controls throughout the watershed including prohibition of the use of pesticide within the national Wild and Scenic River System and scenic highways and byways, and

WHEREAS, the bills historically contain no specific language to assure that grazing and agricultural practices may continue unregulated under these types of bills,

THEREFORE BE IT RESOLVED, because such bills carry with them the potential of fatal disruption of ranching units, that NCBA will strongly oppose them.

PR/EM 2.2  
2010/Amended

#### **Wetlands: No Net Loss**

WHEREAS, the federal government's current policy of "no net loss" of wetlands affects the use, value, and private property rights on millions of acres of privately owned agricultural land, and

WHEREAS, the cattle industry is directly affected when pasture land, rangeland, and cropland are designated wetlands, and

WHEREAS, the "Federal Manual on Identifying and Delineating Jurisdictional Wetlands" as the federal government's official method of delineating wetlands is gravely flawed and leads to wetlands delineation of millions of acres of ranch and farm land which should not realistically be considered wetlands, and

WHEREAS, the major instruments of this federal policy are not authorized by federal law and have not been subject to public review through the formal rulemaking process required by the Administrative Procedures Act (APA), and

WHEREAS, the U.S. Fish and Wildlife Service seeks to acquire thousands of acres of wetlands, many of which are on ranch and farm land, and

WHEREAS, cattle grazing is a beneficial, maintenance use of wet areas and thereby protects natural wetland values,

THEREFORE BE IT RESOLVED, NCBA works to accomplish a change in the current federal wetlands policy by a statutorily codified definition of wetlands that stipulates the simultaneous actual presence of three criteria: hydric soils, hydrophytic vegetation, and surface inundation for a significant portion of the growing season of every year under normal precipitation and that excludes all man-made wet areas from any governmental authority.

BE IT FURTHER RESOLVED, revisions in the Federal Manual that reflect this definition be subject to the full rulemaking procedures of the Administrative Procedures Act with hearings and a public comment period.

BE IT FURTHER RESOLVED, NCBA urges the Environmental Protection Agency (EPA) and the Corps of Engineers to issue in writing a formal specification of the "normal agricultural activity exemption" from Section 404 of the Clean Water Act as it pertains to pasture, range, and improved and native hay lands so that it clearly exempts all normal, usual, and established maintenance practices.

BE IT FURTHER RESOLVED, NCBA urges that all jurisdictional wetlands delineated include scientific documentation of the exact environmental function and value of each wetland with a ranking of the relative importance, to include a minimal value category which is fully exempt from all governmental jurisdiction.

BE IT FURTHER RESOLVED, legislation or regulations that ensure approval from one federal agency regarding wetlands should not be overruled or changed by other federal agencies.

BE IT FURTHER RESOLVED, federal agencies should fully comply with Executive Order 12630 on Takings in all wetland policy, programs, and action by government.

BE IT FURTHER RESOLVED, all federal policies, actions, and laws on wetlands should be subject to state water laws and private water rights and all private property rights.

BE IT FURTHER RESOLVED, NCBA supports the recognition in the permitting process of benefits created by agricultural and recreational activities which impact wetlands.

BE IT FURTHER RESOLVED, NCBA supports the consolidation of local, state, and federal permit processes into one comprehensive and affordable permit issued in a prompt manner.

PR/EM 2.3  
2009/Renewed

#### **Bureau of Reclamation**

WHEREAS, the Bureau of Reclamation has built and continues to operate many water resource projects, and

WHEREAS, many communities rely on tax bases, custom, and culture, developed as a result of the government's building these projects, and

WHEREAS, the Bureau continues to change its mission and responsibility, and

WHEREAS, Bureau water rights are held in private ownership and subject to state law,

THEREFORE BE IT RESOLVED, Congress be asked to require that these waters be administered according to the various state water laws and/or court decrees, before the sale, transfer, or new uses of any bureau projects or water stored within, are considered.

BE IT FURTHER RESOLVED, NCBA supports the elimination of all provisions of the reclamation act which unilaterally change provisions of existing federal contracts.

PR/EM 2.4  
2010/Amended

#### **USDA Reorganization #1**

BE IT RESOLVED, NCBA seeks assurance from Congress that Natural Resources Conservation Service (NRCS), working through local conservation districts, has sole USDA responsibility for all natural resource conservation programs and activities on privately owned lands.

PR/EM 2.5  
2010/Amended

#### **Re-Licensing of Hydroelectric Projects**

WHEREAS, the owners and operators of existing hydroelectric projects have utilized the

nation's natural resources in order to generate low-cost electric energy for millions of Americans, and

WHEREAS, substantial numbers of U.S. agricultural and industrial producers rely on that electricity for their social and economic well-being,

THEREFORE BE IT RESOLVED, NCBA supports modification of the municipal preference clause of the Federal Power Act to provide that any existing licensee shall receive a new license for its hydroelectric projects unless it is shown that the relicensing of the project would not be in the public interest.

PR/EM 2.6  
2010/Amended

**Liability for Government Mandated Programs**

BE IT RESOLVED, NCBA works to require that the federal government release present and past landowners and operators from liability and cost of cleanup or damages resulting from, and in compliance with, federal or state mandated programs, such as the dipping vat program.

PR/EM 2.7  
2011/Renewed

**Superfund Exemption for Livestock Manure**

WHEREAS, livestock manure is a naturally occurring substance that is used very effectively as a fertilizer for pasture and cropland, and

WHEREAS, classification of livestock manure as a hazardous substance or pollutant under the Superfund law would cause significant harm to all segments of the beef industry,

THEREFORE BE IT RESOLVED, NCBA will work diligently to clarify that Congress never intended to regulate livestock manure under the Superfund laws.

PR/EM 2.8  
2013/Amended

**Groundwater Pollution**

WHEREAS, there is much public concern about groundwater pollution, but little scientific information as to groundwater pollution sources or effects on livestock or human health,

THEREFORE BE IT RESOLVED, NCBA support scientific research efforts to ascertain the effect of surface activities on groundwater pollution.

BE IT FURTHER RESOLVED, NCBA support accurate scientific assessments of ground water pollution prior to development of any new restrictions or regulations.

PR/EM 2.9  
2012/Renewed  
**Fire Ant Control**

WHEREAS, imported Fire Ants are serious pests in the southern states and are spreading, hindering livestock, ranching, and farming operations, jeopardizing the health of rural and urban residents alike, lowering land values, and impairing the use and enjoyment of more than 120 million acres, and

WHEREAS, this pest has been eradicated in several large-scale test operations, with no adverse effect on wildlife,

THEREFORE BE IT RESOLVED, a coordinated nationwide Fire Ant eradication program is deemed a practical and highly desirable means of ending the economic loss and human suffering caused by this vicious pest.

BE IT FURTHER RESOLVED, NCBA urges the federal government to pursue, without delay, eradication of these ants by using the best methods available, assisting the states through technical planning and coordination, and a two-thirds minimum cost-sharing program properly funded through the USDA.

PR/EM 2.10  
2012/Renewed  
**Definition of Rangeland**

BE IT RESOLVED, the definition of rangeland should be land on which the vegetation (climax or natural potential) is predominantly grasses, grass-like plants, and forage or shrubs suitable for grazing or browsing use. Rangelands include grassland, savannas, moist deserts, tundra, alpine plant communities, coastal marshes, wet meadows, and introduced plant communities managed like rangeland.

BE IT FURTHER RESOLVED, NCBA urges all USDA agencies to comply with this definition of rangeland.

PR/EM 2.11  
2009/Amended  
**Grazing Lands Conservation Initiative**

WHEREAS, the Federal Agricultural Improvement and Reform Act (FAIRA) was signed into law in 1996, and

WHEREAS, Title III, Section 386 of the Conservation of Private Grazing Lands is designed to provide a voluntary technical assistance program through the Natural Resources Conservation Service (NRCS), and

WHEREAS, this assistance is used by livestock producers to enhance their conservation efforts and promote environmental stewardship on private property and support the individual's right of self-determination on his or her own property,

THEREFORE BE IT RESOLVED, NCBA encourages every state beef cattle association to maintain an active position on their state's Grazing Lands Conservation Initiative (GLCI) coalition steering committee.

BE IT FURTHER RESOLVED, NCBA and every state beef cattle association endeavor to provide direction to the conservation partners involved in the formulation and implementation of environmental conservation policies that will affect the ranching and livestock industry in the United States to insure that private property rights and the individual's right of self-determination on his or her own property be preserved.

BE IT FURTHER RESOLVED, NCBA endorses the proposed GLCI policy for research and education.

BE IT FURTHER RESOLVED, work to ensure that the primary focus is that GLCI should be providing high quality technical assistance to private landowners.

PR/EM 2.12  
2012/Renewed  
**Prescribed Burning**

WHEREAS, members of NCBA use prescribed burning as a tool to manage their resources,

THEREFORE BE IT RESOLVED, NCBA adopts the following position statement on prescribed burning:

Fire is an integral part of many natural ecosystems and other forage management programs.

Prescribed/controlled burning is an economically and environmentally sound tool for the management of many forage resources. Prescribed/controlled burning may be used to reduce wildfire fuel load, aid in wildfire management, control noxious vegetation, release minerals, stimulate desirable foliar growth, improve forage quality and livestock distribution, enhance secondary plant succession, and improve wildlife habitat. Benefits of prescribed/controlled burning may also include enhanced watershed function and aesthetic values and carbon sequestration. The prescribed use of fire entails developing management strategies and objectives for burning. NCBA endorses prescribed burning as a management tool.

PR/EM 2.13  
2009/Amended  
**Environmental Quality Incentives Program and Other Programs**

WHEREAS, the Environmental Quality Incentives Program (EQIP) within the Farm Bill is designed to offer federal support for technical and financial assistance to the agricultural community for environmental conservation, and

WHEREAS, EQIP was designed to incorporate local control and stakeholder participation, and

WHEREAS, the Federal Office of Management and Budget maintains the ability to restrict the amount of Commodity Credit Funds that can be used by the Natural Resources Conservation Service (NRCS) for technical assistance for EQIP which will limit producers' access to NRCS technical field representatives, and

WHEREAS, the NRCS has the duty of assisting livestock operations when applying for EQIP funding for upgrading of livestock facilities to comply with the Environmental Protection Agency (EPA) feedlot rules, and

WHEREAS, some NRCS offices, the EPA, and its affiliates are not consistent or in agreement on rulings,

THEREFORE BE IT RESOLVED, NCBA work with Congress and agencies to prevent erosion of federal financial support for locally driven conservation efforts on private lands.

BE IT FURTHER RESOLVED, NCBA encourages every state beef cattle association to maintain a position on their State Technical Committee.

BE IT FURTHER RESOLVED, NCBA and every state beef cattle association endeavor to provide direction to these committees in the formulation and implementation of environmental conservation policies that will affect the livestock industry in the United States to insure that private property rights and the individual's right of self-determination on his or her own property is preserved.

BE IT FURTHER RESOLVED, NCBA will work toward the use of EQIP money for all sizes of operations for the best use of the funds available and/or the development of new cost sharing and technical assistance programs that would allow for the participation of all sizes of livestock operations.

PR/EM 2.14  
2013/Renewed  
**Latent Liability Protection**

WHEREAS, even though the Environmental Protection Agency has canceled and/or suspended use or uses of specific agri-chemicals pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act as amended, and

WHEREAS, the residues of such canceled and/or suspended agri-chemical used prior to suspension and/or cancellation may be detected sometime after official State or Federal cancellation and/or suspension in agricultural products,

THEREFORE BE IT RESOLVED, NCBA supports that when such chemicals are/were applied or disposed of in accordance with label instructions in effect at the time of their use, the Federal Government be encouraged to take action to exempt from legal action private citizens who properly followed the label for use and/or disposal.

PR/EM 2.15  
2009/Amended  
**Livestock Manure**

WHEREAS, livestock manure, has many beneficial uses, such as being a natural, organic nutrient which improves soil fertility and condition, and as an alternative energy source, and, when applied to lands at accurate agronomic rates, will not degrade surface or ground water supplies, and

WHEREAS, the U.S. Court of Appeals for the Second Circuit (New York) recently ruled in *Concerned Area Residents for the Environment (CARE) v. Southview Farm* that runoff from animal waste applied through a center-pivot irrigation system, manure-spreader truck, or front-end loader is a point source of pollution, and

WHEREAS, federal and state regulatory agencies have proposed that individuals applying organic nutrients to land not owned or controlled by a livestock production facility must obtain permits and keep extensive records, and that such regulations will put it at a competitive disadvantage to commercial fertilizer, reduce demand and increase liability for livestock production facilities,

THEREFORE BE IT RESOLVED, NCBA seeks to remove any disincentives and create new incentives in federal programs to increase the utilization of manure for soil fertilization, conservation, and greenhouse gas reduction.

BE IT FURTHER RESOLVED, NCBA supports actions to continue the definition of animal manure applied to the land through accepted agricultural practices as a nonpoint source.

BE IT FURTHER RESOLVED, NCBA oppose any and all efforts to regulate natural, organic nutrients as a toxic or hazardous waste.

PR/EM 2.16  
2013/Amended  
**Air Quality Standards**

WHEREAS, emissions from feedyard pens and retention ponds are not regulated under Title V of the *Clean Air Act*, *Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)*, or the *Emergency Planning and Community Right to Know Act (EPCRA)*,

THEREFORE BE IT RESOLVED, NCBA recognize the potential significant impacts National Ambient Air Quality Standards (NAAQS) have on livestock operations and that any additional legislative, legal, regulatory, and research resources may need to be expended to protect the interests of NCBA members.



PR/EM 2.17  
2013/Amended

**Brush and Noxious Plant Management**

WHEREAS, the management of brush and noxious weeds is essential to food and fiber and wildlife production,

THEREFORE BE IT RESOLVED, NCBA opposes unreasonable restrictions upon herbicide use and prescribed burning by federal government which prohibit the use of brush and noxious plant control and management as viable production tools for animal agriculture.

BE IT FURTHER RESOLVED, NCBA supports and recommends funding to research "biological control" and the use of prescribed burning of brush and noxious plants and that funding be secured from multiple sources, including state and federal sources.

BE IT FURTHER RESOLVED, NCBA, for public benefit, requests that local, state and federal governments control noxious weeds on Federal lands, highways and public rights-of-way as mandated by public law(s) and that all government agencies use only seed that has been certified as noxious weed free.

BE IT FURTHER RESOLVED, NCBA encourages and assists all levels of government to develop programs for control procedures of noxious plants through research, education and eradication, where necessary.

PR/EM 2.18  
2009/New  
**Climate Change**

WHEREAS, in recent national and international publications on modern livestock production, environmental activists and animal rights activists have accused animal agriculture of being a primary contributor of greenhouse gas emissions, and

WHEREAS, some states have promulgated regulations to mandate reductions of greenhouse gas emissions, and

WHEREAS, efforts are underway by the federal government to develop a climate change policy to reduce U.S. greenhouse gas emissions; and

WHEREAS, the United States Supreme Court held that EPA must conduct an evaluation to determine if carbon dioxide endangers human health and welfare and EPA has published an Advanced Notice of

Proposed Rulemaking in response to the court's decision; and

WHEREAS, recent EPA greenhouse gas emission inventories have shown that agriculture is a minor source of U.S. greenhouse gas emissions, and

WHEREAS, agriculture offers a readily available, low-cost source of offsets that reduces greenhouse gas emissions and provides cost containment in a cap-and-trade system, in addition to other environmental and societal benefits that improve air and water quality and enhance wildlife habitat.

THEREFORE BE IT RESOLVED, NCBA support the development of accurate greenhouse gas emissions data for domestic cattle production systems based on sound science, and

BE IT FURTHER RESOLVED, NCBA develop a communication strategy that addresses inaccuracies regarding greenhouse gas emissions from cattle and accurately states the greenhouse gas emissions of domestic cattle production systems, and

BE IT FURTHER RESOLVED, NCBA shall pursue immediate passage of federal legislation that defines the framework for an agricultural offset program in anticipation of future climate change legislation ensuring that cattle producers would be able to voluntarily participate in an equitable market-based system for greenhouse gas offsets, and

BE IT FURTHER RESOLVED, NCBA support unlimited offsets for agriculture that require recognition and inclusion of practices implemented by early adopters, and

BE IT FURTHER RESOLVED, NCBA work to eliminate or minimize the effects of legislation or regulation that regulates or requires reporting of agricultural greenhouse gas emissions, including international treaties or agreements negotiated by the Executive Branch, and

BE IT FURTHER RESOLVED, NCBA oppose efforts to regulate greenhouse gases under the Clean Air Act, and

BE IT FURTHER RESOLVED, NCBA oppose the listing of species or habitat under the Endangered Species Act based on climate change, and

BE IT FURTHER RESOLVED, NCBA oppose efforts by environmental and animal rights

activists to decrease consumer demand for animal protein and agricultural products based on an alleged and unsubstantiated amount of greenhouse gas emissions emitted from the domestic livestock industry.

PR/EM 2.19  
2013/Amended

#### **Noise and Air Quality**

WHEREAS, air quality, noise, dust, and odor are issues of concern to the public,

THEREFORE BE IT RESOLVED, any move on the part of the state or federal government to regulate odors, noise, gaseous emissions, and dust from livestock facilities must be based on sound science and the best available technology.

BE IT FURTHER RESOLVED, owners' rights of pre-existing facilities be given due and fair consideration when surrounding land is developed for use other than agricultural production.

BE IT FURTHER RESOLVED, NCBA opposes any new regulations that pertain to agricultural odors, noise, or air that will unreasonably hinder the production, preparation, and harvesting of crops and the production of livestock.

BE IT FURTHER RESOLVED, NCBA opposes any new regulations that pertain to changing the class and quality of air on pastures, grasslands, and desert ranges that inhibit current practices of beef production on these lands.

PR/EM 2.20  
2009/Amended

#### **Mississippi National River Recreational Area Plan (MNRRA)**

WHEREAS, the current MNRRA draft plan is too vague to adequately guide proper planning on part of businesses, cities, and homeowners, and

WHEREAS, there must be a thorough economic analysis of the impact of the plan before it is adopted, and

WHEREAS, the plan must recognize the complex inter-modal transportation infrastructure existing and depending upon the Mississippi River, and

WHEREAS, the draft plan adds another layer of bureaucracy, and

WHEREAS, the draft plan does not specify a variance policy, specifically with regard to review and appeals processes, and

WHEREAS, the plan should meet the original intent to the law, and

WHEREAS, in addition to adding detail to the preferred plan, all alternatives must contain sufficient detail so that an informed choice on a plan can be made,

THEREFORE BE IT RESOLVED, NCBA supports the MNRRA Stakeholders Coalition efforts to modify the draft plan.

PR/EM 2.21  
2009/Amended

#### **Animal Feeding Operation**

WHEREAS, NCBA should be proactive in addressing animal feeding operation issues,

THEREFORE BE IT RESOLVED, NCBA supports local administration of rules, regulations, research, and the development of local standards on a state basis and that NCBA encourages producers to be active in the development of state and national rules and strategies pertaining to animal feeding operations.

PR/EM 2.22  
2009/Amended

#### **Universal Soil Loss Equation (USLE)**

WHEREAS, the USLE is a model developed for USDA in 1954 by Purdue University for the purpose of measuring sheet and rill erosion from cultivated fields in the United States east of the Rocky Mountains based upon reference comparisons to a plot 72.6 feet long with a 9% slope, and

WHEREAS, the Society of Range Management (SRM) and Natural Resource Conservation Service (NRCS) oppose use of the USLE models as a determinant of rangeland resource condition, treatment needs, treatment effectiveness, program funding, stocking rates, or any other management or regulatory decisions, and

WHEREAS, SRM and NRCS find the refinement of data inadequate, thus use of the model is inappropriate to detect the subtle changes in the resource that indicate a need for management changes, and

WHEREAS, SRM and NRCS determine that plant composition should be used to indicate early changes in resource condition in these rangeland ecosystems,

THEREFORE BE IT RESOLVED, NCBA opposes the application of USLE and Revised Universal Soil Loss Equation (RUSLE, RUSLE 2) when considering rangeland conditions.

PR/EM 2.23  
2011/Renewed

#### **Funding for Technical Assistance**

WHEREAS, funding and technical services to bring animal feeding operations and concentrated animal feeding operations into compliance with state Departments of Environment and Natural Resources and Environmental Protection Agency regulations are limited for operations smaller than 1000 animal units and non-existent for operations over 1000 animal units.

THEREFORE BE IT RESOLVED, NCBA works to establish federal funding sources and technical services to assist all animal feeding operations and concentrated animal feeding operations to comply with state and federal regulations.

PR/EM 2.24  
2011/Renewed

#### **Buffer Strips and Vegetative Treatment Areas**

WHEREAS, buffer strips and vegetative treatment areas are a proven cost-effective means for management of manure and storm water runoff,

THEREFORE BE IT RESOLVED, NCBA work with Natural Resources Conservation Service (NRCS) to develop guidelines allowing buffer strips and vegetative treatment areas to be utilized as manure and storm water runoff control measures.

BE IT FURTHER RESOLVED, NCBA work with U.S. Environmental Protection Agency (EPA) to develop policy to accept buffer strips and vegetative treatment areas as an option for manure and storm water control measures in the general animal feeding operation permitting process.

PR/EM 2.25  
2011/Renewed

#### **Reinforcement of NRCS Technical Assistance**

WHEREAS, landowner governed soil and water conservation districts with technical assistance provided by Natural Resources Conservation Service (NRCS) on a voluntary basis have been the foundation

of progress in conservation of private lands, and

WHEREAS, there is an ever increasing need for technical assistance for conservation planning, program implementation, and regulatory compliance while funds and personnel for conservation technical assistance already are inadequate to meet present needs, and

WHEREAS, the Farm Service Agency (FSA) has no technical assistance capability among its personnel,

THEREFORE BE IT RESOLVED, NCBA vigorously opposes any abolishment of NRCS or combining NRCS under FSA and supports adequate funding for NRCS technical assistance to meet science-based, ecologically, and economically sound conservation needs.

PR/EM 2.26  
2012/Amended

#### **Alternative Technologies for Feedlots**

WHEREAS, climate and feedlot size differences across the country make "a one-size fits all" approach in EPA's prescribed technology economically unachievable for many feedlots,

THEREFORE BE IT RESOLVED, NCBA encourage federal officials to allow producers to employ best available technologies that are economically achievable and that enforcement action will not be taken during the implementation and testing period for those technologies.

BE IT FURTHER RESOLVED, NCBA shall intensify its dialogue with federal officials and agency personnel to provide science based research on alternative technologies so that the use of those technologies can be accepted within the scope of National Pollution Discharge Elimination System permits for feedlots.

PR/EM 2.27  
2013/Amended

#### **NRCS Conservation Issues**

WHEREAS, NCBA members depend on technical help with conservation issues from the NRCS,

THEREFORE BE IT RESOLVED, NCBA strongly requests that the U.S. Congress use all available means, including appropriations and appropriations language, to insure that the intent of Congress is to maintain conservation help at the local

“grassroots” level.

PR/EM 2.28  
2013/Renewed  
**Ecological Site Descriptions**

WHEREAS, an ecological site is a distinctive kind of land with specific physical characteristics that differ from other kinds of land in its ability to produce a distinctive kind and amount of vegetation, and

WHEREAS, it is the product of all the environmental factors responsible for its development, and has a set of key characteristics that are included in the ecological site description, and

WHEREAS, soils with like properties that produce and support a characteristic plant community are grouped in the same ecological site, and

WHEREAS, the ecological site concept developed by the Natural Resources Conservation Service has not replaced, but has built upon, the former Soil Conservation Service’s existing range site concept for rangelands and woodland suitability for forestland, and

WHEREAS, the existing range site descriptions and woodland suitability group descriptions may be utilized as a base to develop ecological site descriptions that will be located in the local field office technical guides to assist ranchers in the development of ranch management plans, and

WHEREAS, the ecological site descriptions will contain information critical to the development of management alternatives to achieve the land manager’s desired objectives in an ecologically and economically sound manner,

THEREFORE BE IT RESOLVED, NCBA supports the development and use of ecological site descriptions for inventory, evaluation and management of rangelands and forests.

BE IT FURTHER RESOLVED, NCBA encourages the uniform use of these ecological site descriptions as the foundation for the inventory, evaluation and management of all public and private rangelands and forestlands.

PR/EM 2.29  
2009/Amended  
**USDA Reorganization (#2)**

WHEREAS, new Administrations often attempt to reorganize important agencies within the USDA such as the Farm Service Agency, the Natural

Resources Conservation Service, and the Rural Development Agency, and

WHEREAS, such reorganizations are often detrimental to cattle producers,

THEREFORE BE IT RESOLVED, NCBA strongly opposes closing USDA field offices, which will adversely impact the ability of our members to have access to USDA programs.

BE IT FURTHER RESOLVED, NCBA very strongly opposes the co-joining of computer technology functions, which can compromise confidentiality of private information.

PR/EM 2.30  
2010/Renewed  
**Natural Resources Conservation Service (NRCS) Conservation Program Simplification**

BE IT RESOLVED, NCBA shall work to eliminate as many requirements for participation in all Farm Bill programs as possible and remain consistent with the goal of achieving the statutory purposes of the programs.

PR/EM 2.31  
2010/Renewed  
**Support for Funding of Voluntary, Locally Led Conservation Efforts through Resource Conservation Districts and the USDA Natural Resources Conservation Service (NRCS)**

WHEREAS, demands on the ranching community to meet stringent water quality and environmental quality regulations on rangelands have increased, and

WHEREAS, funding for, and availability of, technical assistance to support voluntary, locally led conservation efforts has seriously declined,

THEREFORE BE IT RESOLVED, NCBA supports the National Association of Conservation Districts initiative to increase the annual national technical assistance funding to the USDA NRCS.

PR/EM 2.32  
2012/Renewed  
**Carbon Sequestration on Grasslands**

BE IT RESOLVED, NCBA encourages the Natural Resources Conservation Service to investigate current research and models used to calculate carbon sequestration on rangeland and pastureland and, if no acceptable model can be found,

then pursue the development or modification of an existing model to provide a factual and reliable estimation of carbon sequestration on range and pastureland at various management levels to facilitate the free exchange of environmental carbon credits.

PR/EM 2.33

2012/Renewed

**EQIP "Systems" Approach to Brush, Invasive, and Non-beneficial Species Control**

WHEREAS, most species of brush, invasive, and non-beneficial plants cannot be treated one time without re-infestation occurring before a contract under the Environmental Quality Incentives Program (EQIP) has expired, and

WHEREAS, a series of planned control treatments, called a system, has proven to be much more satisfactory, and

WHEREAS, changes in the EQIP structure must occur before this systems control program for brush, invasive, and non-beneficial plants can be implemented, and

WHEREAS, mechanical, chemical, and prescribed burning are viable control treatments that, when used in a well-planned system, become much more effective than any of the three methods used as a stand-alone practice,

THEREFORE BE IT RESOLVED, NCBA requests the Natural Resources Conservation Service to change the EQIP structure to allow cost-share payment for second and third treatments, which are part of a systems approach to control.

BE IT FURTHER RESOLVED, technical standards be updated to reflect the more successful system type treatments being used by ranchers.

PR/EM 2.34

2012/Renewed

**Waiver of Fees for Projects**

WHEREAS, NCBA supports landowners' efforts in restoration projects on private property, and

WHEREAS, a completed restoration project adds to the value of the property and promotes a healthy environment,

THEREFORE BE IT RESOLVED, NCBA supports landowners who engage in restoration projects that benefit water quality, wildlife, or the public.

BE IT FURTHER RESOLVED, landowners undertaking restoration projects should be eligible for a waiver of any and all fees from federal, state, or any other governmental organization that has oversight on the restoration project.

**3. PROPERTY RIGHTS**

PR/EM 3.1

2009/Renewed

**Emergency Replacement and Repair of Private Property**

WHEREAS, current state and federal permitting processes do not allow for timely reaction to resource management in emergency situations, and

WHEREAS, resources and private property rights are being destroyed because of this elongated permitting process, and

WHEREAS, permit streamlining and protection of private property rights are recognized as being important for economic recovery in all states of the United States of America,

THEREFORE BE IT RESOLVED, NCBA works to pass legislation at the State and National levels that will:

1. Allow landowners to take immediate action to replace and repair any land lost by catastrophic events such as floods, hurricanes, fires, earthquakes, or other natural disasters;
2. Allow that the private property owner will have the authority in each case to return the lands lost to the pre-event topography within 9 months of the event, or as soon as natural conditions allow;
3. Provide that the private property owner will be able to use and/or move materials within the area or import clean upland materials to replace the land lost during the event;
4. Require that all permitting requirements will be waived with regards to replacing property lost and that notification to one lead agency will serve as proper notification to allow the land owner to proceed with the project;
5. Require the lead agency to respond within ten calendar days upon notification from the landowner regarding guidelines, if any, for the protection of endangered species, as long as those guidelines place no additional encumbrance or duty of care on the landowner;
6. Eliminate mitigation for action necessary to

- replace land lost during such catastrophic events;
7. Exempt temporary access roads, culverted crossings, diversion of flows, or other to facilitate reconstruction as needed;
  8. Determine the pre-event topography through use of acreage of field maps, prior surveys, photos, aerials and/or existing topography; and
  9. Eliminate any delays in the emergency replacement and repair of private property created by federal agency permitting requirements.

PR/EM 3.2  
2010/Amended  
**Venue Legislation**

WHEREAS, many federal court actions involving environmental issues and natural resource matters have been tried in judicial districts removed from the location of the actual conflict,

BE IT RESOLVED, NCBA supports legislation which requires legal cases be tried in the federal judicial district involved.

PR/EM 3.3  
2010/Renewed  
**Indirect Acquisition**

WHEREAS, governmental interference with the right and ability of private landowners to manage, preserve, conserve, and enjoy their land has long been opposed by NCBA, which believes that the best steward of our nation's most basic productive resources is the person with a vested interest in its future, and

WHEREAS, governmental intervention in the natural functioning of rural America continues to take new forms, all of which distort the values of the land and its economic productivity, and

WHEREAS, federal and state governmental entities have increasingly resorted to indirect means of acquisition, interference, and intervention,

THEREFORE BE IT RESOLVED, NCBA vigorously opposes the use of government agencies or private organizations as conduits for increased acquisition of land and private property rights by federal and state governments.

PR/EM 3.4  
2011/Renewed  
**Reservation Relations**

WHEREAS, there is a long standing problem of unresolved jurisdiction issues on United States

Reservations, and

WHEREAS, non-Indians residing on or near and owning property within or adjacent to and traveling through an Indian Reservation have experienced problems in, but not limited to, the following areas:

- Law Enforcement and Jurisdiction
- Taxation, Economic, and Financial Impacts
- Property rights (including water rights)
- Employment or Civil Rights

THEREFORE BE IT RESOLVED, NCBA urges the U.S. Congress to clarify the law to protect non-Indians and their U.S. constitutional rights from Tribal jurisdictions.

BE IT FURTHER RESOLVED, NCBA supports a Congressional attempt to clarify these issues with the release of a draft for future legislation that would give a state civil jurisdiction over non-tribal members on matters arising on private or fee land.

PR/EM 3.5  
2011/Renewed  
**Environmental Agencies and Commissions**

WHEREAS, the federal government and many states have organized or are re-organizing environmental control agencies and/or commissions,

THEREFORE BE IT RESOLVED, NCBA and its affiliated state organizations ensure that agricultural people are adequately represented on these agencies and commissions so that geography should balance demography, and personal experience balance academic theory.

PR/EM 3.6  
2011/Renewed  
**Eminent Domain**

WHEREAS, in recent times, municipalities have used the "eminent domain" process to condemn and seize private property for the purpose of private economic development and re-sale to the private sector, and

WHEREAS, a recent U.S. Supreme Court ruling upheld the ability of government entities to forcibly take private property from a citizen and then convey that seized property to other citizens or private corporations in the name of economic development,

THEREFORE BE IT RESOLVED, NCBA supports federal and state legislation that prevents government entities from taking private property through the eminent domain process for the purpose of conveying that property to other private individuals or entities.

BE IT FURTHER RESOLVED, NCBA supports legislation to change the appraisal standards for federal and state appraisals to include fair market value based on highest economic value for the compensation for the taking of private property.

BE IT FURTHER RESOLVED, NCBA vigorously opposes the use of eminent domain for private use.

PR/EM 3.7  
2011/Renewed  
**Public Access**

WHEREAS, private land and water rights should be defended by the federal government, and

WHEREAS, NCBA strongly supports private land ownership and private property rights,

THEREFORE BE IT RESOLVED, NCBA holds that:

1. Land patents issued by the federal government and states shall be recognized and defended.
2. Access to private lands including streams and banks be by consent of the landowner only.
3. The federal government shall not interfere with administration or control of private water rights, and established ditches across federal lands.

PR/EM 3.8  
2012/Renewed  
**Property-Abandoned**

WHEREAS, trespass and environmental problems are caused by public agencies using abandoned utility rights-of-way, such as but not limited to railroad easements, for public recreation areas,

THEREFORE BE IT RESOLVED, NCBA opposes such use and supports the right of first refusal to the adjacent landowner.

PR/EM 3.9  
2012/Renewed  
**Government Coercion**

WHEREAS, government entities may attempt to impose certain land use or management restrictions on private property owners as a condition of the

issuance of any legitimate and appropriate permit, and

WHEREAS, such restrictions result in an effective "taking" of private property and resulting decrease in property value,

THEREFORE BE IT RESOLVED, NCBA opposes any attempts by government entities to impose restrictions on private property or require conveyance of property rights as a condition of the issuance of a legitimate and appropriate permit.

PR/EM 3.10  
2012/Renewed  
**No Net Loss of Private Property**

WHEREAS, the membership of NCBA is drawn from men and women dependent upon and committed to the wise stewardship of natural resources, and

WHEREAS, the economy and the way of life of local communities, states, and the United States are dependent upon private sector ownership and management of these natural resources, and

WHEREAS, misguided environmental activism continues to pressure government to purchase and remove lands from productive use, and

WHEREAS, policy for setting priorities is critical to minimize fiscal pressures at all levels of government created by these acquisitions,

THEREFORE BE IT RESOLVED, NCBA supports the concept of "no net loss of privately owned lands" coupled with the concept that the acquisition of any land by state and federal government shall be offset by lands of equal dollar value sold back to the private sector by the government with "no net loss of revenue" to the local government affected by the transactions.

BE IT FURTHER RESOLVED, members of Congress be approached with the request that legislation to this effect be introduced in Congress.

PR/EM 3.11  
2013/Renewed  
**Government Agency Land Acquisitions and Management Plans**

WHEREAS, land, wildlife, and other resource agencies of state and federal government continue to acquire vast acreage of land for single purpose uses, and

WHEREAS, these acquisitions are often approved without regard to the economic and environmental consequences for the affected community and neighboring landowners, and

WHEREAS, the lack of a management plan before acquisitions are approved has resulted in serious problems for affected landowners including predator damage, noxious weeds, trespass, excessive fuel load, beneficial water use and attempts to eliminate livestock grazing in the affected areas, and

WHEREAS, while NCBA recognizes the right of a landowner to sell his or her property to the highest bidder, we are concerned over the ability of government agencies to manage any acquired property, and

WHEREAS, acquisition of private lands or impairment of property rights by local, state and federal governmental agencies or entities is having serious detrimental effects on local governments, local economies, adjacent landowners and livestock producers generally,

THEREFORE BE IT RESOLVED, NCBA opposes any further acquisitions and/or interagency transfers of property by government agencies or other actions that may impair property rights and any acquisition or transfer be subject to and not exempt from environmental review and documentation under state and federal environmental laws.

BE IT FURTHER RESOLVED, NCBA pursues efforts which will require all land and other resource management agencies of state and federal government to provide for landowners and affected public to participate in the development of any studies required to determine eligibility for legislated acquisition or regulated restriction of private land.

BE IT FURTHER RESOLVED, NCBA pursues efforts which will require all land and other resource management agencies of state and federal government to develop a management plan prior to approval of any future land acquisitions.

BE IT FURTHER RESOLVED, development of a management plan include local public hearings to allow affected landowners to comment and that a plan for mitigation of any adverse economic, social or environmental effects, whether upon an individual, business or unit of government be required prior to any acquisitions of land.

BE IT FURTHER RESOLVED, NCBA supports legislation requiring government property, on

being transferred to another government body, shall be required to be put to use of a public nature, which may not be in competition with private enterprise.

BE IT FURTHER RESOLVED, NCBA opposes efforts of state and federal governments becoming additionally involved in the purchase and management of agricultural lands, by unfriendly condemnation (e.g. further establishment or extension of the National Trails System and Prairie Parks) other than in established parks, monuments or wilderness areas and the expansion of military installations.

BE IT FURTHER RESOLVED, NCBA opposes all private land acquisition by federal and state governments unless land of equal value be transferred into private ownership within the same taxable jurisdiction.

PR/EM 3.12  
2009/Renewed  
**Rails to Trails**

WHEREAS, in 1922, Congress passed legislation designating landowners adjacent to railroad corridors hold reversion rights to railroad right-of-way land, and

WHEREAS, in 1983 Congress amended the National Trails System Act and established procedures for state/local government and private groups to intervene in a railroad abandonment and convert the right-of-way to a recreational trail (railbanking) without approval of adjacent landowners, and

WHEREAS, over 600 "rails to trails" have been established in the United States and approximately 600 more proposals are pending.

THEREFORE BE IT RESOLVED, NCBA believes the federal railbanking laws constitute a taking of private property without compensation.

BE IT FURTHER RESOLVED, NCBA supports federal legislation strengthening reversionary property rights for landowners adjacent to abandoned railroad corridors.

BE IT FURTHER RESOLVED, NCBA vigorously opposes any legislation that will circumvent current laws as such a change would result in the diminution of the rights of property owners along abandoned railroad easements and put them at increased risk.



BE IT FURTHER RESOLVED, NCBA supports litigation on behalf of owners of land along railroad rights-of-way that have been converted to trails for public use.

PR/EM 3.13  
2013/Renewed

#### **Voluntary Conservation Easements**

WHEREAS, our nation is losing productive farm and ranch land to non-agricultural uses (including residential development and government acquisition), and

WHEREAS, the voluntary sale or donation of conservation easements is consistent with private property rights and can protect that availability of land for agricultural uses for the production of food and fiber, thereby supporting those landowners' efforts to continuation of agricultural communities, and

WHEREAS, conservation easements can be a valuable tool in many property owners' financial plans which can significantly affect income taxes, property taxes and income flow, thereby easing the task of transferring land to younger generations,

THEREFORE BE IT RESOLVED, NCBA supports voluntary conservation easements (permanent and term) that protect agricultural land.

BE IT FURTHER RESOLVED, NCBA opposes federal laws and policies which stipulate conservation easements as the only or preferred method of protecting natural resources.

BE IT FURTHER RESOLVED, NCBA opposes federal laws and policies which impose conservation easements on land owners or utilize conservation easements in a way that causes economic harm to rural communities.

PR/EM 3.14  
2009/Renewed  
**Open Range**

WHEREAS, federal agencies have often failed to follow state law, including fencing,

THEREFORE BE IT RESOLVED, NCBA asks that government owned lands comply with the same fence laws and traditional fencing practices as private property owners.

PR/EM 3.15  
2009/Renewed

#### **Federal Lands Acquisition**

WHEREAS, the United States Constitution (Article 1, Section 8, clause 17) directs Congress to require the agencies of the federal government to obtain consent of the state legislature prior to purchasing property within their respective state, if the federal government wishes to have exclusive legislative authority (which means they would not have to adhere to state laws) over such property,

THEREFORE BE IT RESOLVED, that NCBA will support and encourage state affiliates to require enforcement of the aforementioned section of the U. S. Constitution, which would allow cattle producers to work with their state legislators to voice their concerns about additional properties being purchased by the federal government.

BE IT FURTHER RESOLVED, that NCBA make Congress aware that federal agencies must adhere to the U. S. Constitution and the rights of the states prior to purchase of property within any particular state.

PR/EM 3.16  
2010/Renewed

#### **Disclosure of Information by Government Agencies**

BE IT RESOLVED, NCBA opposes the disclosure of personal, proprietary, financial, and other information obtained by local, state, or federal agencies.

PR/EM 3.17  
2010/Amended

#### **Military Aviation Training Missions**

WHEREAS, there needs to be adequate safeguards established to prevent the valid needs of national defense from unnecessarily impacting the safety, health, and environmental quality of private land, their owners, their employees, their stock, and native wildlife, and

WHEREAS, the military already controls extensive air space,

THEREFORE BE IT RESOLVED, NCBA asks the following principles be observed in planning and scheduling military aviation training missions:

1. Low-level operations should be scheduled over existing military training areas rather

than private property.

2. All military aircraft operating over private lands should comply with Federal Aviation Administration (FAA) regulations for commercial aircraft.

PR/EM 3.18

2011/Amended

#### **Conservation of Private Lands Act**

WHEREAS, conservation and environmental issues have received favorable attention and major funding from the U.S. Congress when separated from other issues, and

WHEREAS, both political parties and all agricultural organizations need a strong environmental record in real action,

THEREFORE BE IT RESOLVED, NCBA shall work to encourage practices that strengthen stewardship of private property. Provisions should:

1. Increase Natural Resources Conservation Service (NRCS) staffing for technical assistance on the ground.
2. Increase research in soil, water, plant, and wildlife science, (accurate data for Total Maximum Daily Loads as an example.)
3. Establish short courses for both producers and agency personnel in soil, water, plant, livestock, and wildlife management.
4. Provide practice-based incentive payments for conservation based on developing, implementing, and maintaining a comprehensive conservation plan over a ten year contract period.
5. Ensure confidentiality of private and confidential business information between land owner and the state and federal government, not subject to open records access.

PR/EM 3.19

2011/Renewed

#### **Liability**

WHEREAS, there is growing risk of lawsuits to landowners who allow people on their property, and

WHEREAS, lawsuits are even occurring with uninvited guests, and

WHEREAS, more people are using private lands for recreation and other uses, and in many cases there is no way to stop them (even fences designed to protect livestock can be a source of a lawsuit),

THEREFORE BE IT RESOLVED, NCBA supports legislation to protect private landowners from both invited and uninvited guests, through "hold harmless" and trespass laws.

PR/EM 3.20

2012/Renewed

#### **Private Land Condemnation**

BE IT RESOLVED, NCBA opposes the condemnation of private lands or water rights by a public entity to mitigate adverse environmental impacts caused by that entity.

PR/EM 3.21

2012/New

#### **Aerial Surveillance**

WHEREAS, the Environmental Protection Agency (EPA) has delegated to most states the authority to enforce the Clean Water Act, and

WHEREAS, states routinely conduct inspections and have current working relationships with regulated facilities, and

WHEREAS, aerial surveillance only allows assumptions to be made and accurate information can only be obtained by conducting on-site inspections, and

WHEREAS, aerial surveillance by EPA is unwarranted because there are other means to collect information that would be a more efficient use of taxpayer dollars,

THEREFORE BE IT RESOLVED, NCBA ask for the immediate cessation of aerial surveillance being conducted by the EPA due to the blatant violation of private property rights of businesses, residents, and adjoining businesses and residents,

BE IT FURTHER RESOLVED, NCBA support on-site inspections as the sole means of inspection when required under the Clean Water Act.

#### **4. ENDANGERED SPECIES**

PR/EM 4.1

2009/Amended

#### **Wildlife Services Program Philosophy**

WHEREAS, NCBA supports a strong Wildlife Services program administered by the USDA Animal-Plant Health Inspection Service, and

WHEREAS, the current Wildlife Services program would be substantially strengthened if a well-defined statement of philosophical direction were adopted, and

THEREFORE BE IT RESOLVED, NCBA support full funding for Wildlife Services to control all predators and other harmful species detrimental to our industry.

PR/EM 4.2  
2010/Amended

**Convention on Biological Diversity**

BE IT RESOLVED, NCBA opposes the Convention on Biological Diversity.

PR/EM 4.3  
2010/Amended

**Animal Damage Control**

BE IT RESOLVED, NCBA supports the federal - state cooperative funding of animal damage control programs to protect economic loss and to ensure public health and safety.

BE IT FURTHER RESOLVED, NCBA supports effective animal damage control efforts on private and public lands while employing appropriate lethal and non-lethal means, including aerial control.

BE IT FURTHER RESOLVED, NCBA seeks national legislation to create a program to compensate livestock operators for predation by protected species.

BE IT FURTHER RESOLVED, NCBA seeks national legislation to create a program to compensate livestock operators for damages caused by wildlife species that are known to carry a reportable animal disease.

PR/EM 4.4  
2013/Amended

**Endangered Species Act Reauthorization**

WHEREAS, NCBA supports the continued existence of viable populations of plants and animals but finds the current Endangered Species Act (ESA) to be ineffective at achieving this goal, and

WHEREAS, cattlemen own and manage most of the lands impacted by the ESA, and the ESA has more potential authority to restrict or eliminate cattle production than any other federal environmental law, and

WHEREAS, the federal agencies responsible for implementing the ESA are unable to perform ESA-mandated tasks due to the overwhelming demands brought by constant ESA-related litigation, Freedom of Information Act requests, court rulings, increasing demands for regulatory oversight, and other pressures.

THEREFORE BE IT RESOLVED, NCBA urges Congress to amend and revise the Endangered Species Act in a manner so as to provide balance, recognizing the need for economic benefit and the importance of private property rights, and to provide a mechanism to ensure that these balanced considerations are maintained.

BE IT FURTHER RESOLVED, NCBA seeks immediate change to the current ESA which incorporates the following principles:

1. Require preparation of an economic impact analysis and an environmental impact statement that considers impacts from the time the species was listed before land uses are regulated due to the presence, movement, or relocation of a threatened or endangered species. Such analysis should include an assessment of the impacts these regulations or relocations will have on local, county, state and national economies, custom and culture.
2. Require that any ESA regulation affecting the water resource protect and recognize both the states' right to allocate quantities of water and individuals' rights acquired under state law.
3. Strengthen the scientific requirement for listing species and designating critical habitat in compliance with but not limited to the Federal Data Quality Act, including blind peer review of proposed decisions and field testing whereby mechanisms are created to avoid unfounded listings.
4. Strengthen the recovery planning process to provide specific guidance for species conservation, economic impacts, likelihood of recovery, biological significance, options for recovery goals, and clear delisting criteria.
5. Increase incentives and streamline procedures for federal, state, local, and private efforts to conserve species

- including voluntary management agreements.
6. Conduct a peer review of biological data.
  7. Allow additional time between petitioning and listing.
  8. Ensure the jeopardy standard in the Section 7 consultation process is measured by the death of a threatened or endangered species, not simply the modification of critical habitat.
  9. Eliminate the current inequity which imposes more burdensome standards and procedures on private landowners than on government agencies.
  10. Recognize ESA's impacts on private property rights and provide compensation for "takings."
  11. Clarify the prohibition against "take" of a listed species to provide legal immunity to a landowner complying with a recovery plan and to better distinguish between threatened and endangered species.
  12. Ensure that releases or introductions of experimental populations lead to the conservation of the species and do not result in adverse impacts on established land uses and public welfare.
  13. Provide for cooperative efforts managed at the state and local level as an alternative to listing.
  14. Expand status review committee to include representatives from impacted natural resource user groups, state and local government, and land grant colleges.
  15. Require specific original achievable recovery goals and automatic delisting when these goals have been met.
  16. Strengthen the requirement that the ESA is implemented in coordination with the organic act requirements of the other federal agencies.
  17. Streamline implementation of the delisting process.
  18. Include a federal budget line-item appropriation for the funding of recovery and delisting species.
  19. Remove the Citizens Suits Provision reflecting the requirements of the Equal Access to Justice Act (EAJA), thereby removing the incentive for frivolous suits, amend the EAJA to be consistent with the Citizens Suits Provision in the Endangered Species Act.
  20. Require distinct species population segments to be characterized both by geographic separation and the inability to interbreed.
  21. Require that information or references to the presence of plant or animal species on private property without the written consent of the landowner or his duly authorized agent be excluded from consideration by the United States Fish and Wildlife Service (FWS) in connection with listings or determinations of threatened or endangered species.
  22. Require that scientific data be presented and/or studies be conducted that conclusively demonstrate what the species' historic range was, how the range has changed, and if that range is still suitable habitat for the species in question.
  23. Require that all new species introductions and reintroductions be done under the ESA classification of "Experimental but Non-Essential."
  24. Require the federal agencies to work as partners with the states in developing measurable recovery goals for every listed species in order to ensure a higher likelihood of program success, and urge federal agencies to develop and extend partnerships with the states and state agencies regarding the recovery of species.

PR/EM 4.5  
2013/Amended

#### **Special Status Species**

WHEREAS, arbitrary special status designation continues to decrease the ability of this nation to utilize its resources for production of goods and services,

THEREFORE BE IT RESOLVED, NCBA opposes the designation of special status for species by an agency of the federal government without first being recognized under the Endangered Species Act and the National Environmental Policy Act.

PR/EM 4.6  
2011/Renewed

#### **Reintroduction of Grizzly Bears into Montana/Idaho**

WHEREAS, opposition to the reintroduction efforts of the U.S. Fish and Wildlife Service of the grizzly bear into the Selway/Bitterroot area of Western Montana and Northern Idaho is widespread among citizens of the area, and

WHEREAS, any such reintroduction has potential adverse ramifications for livestock producers, private property owners, recreationalists, and federal land users in any areas where grizzly bear reintroduction is contemplated by the U.S. Fish and Wildlife Service,

THEREFORE BE IT RESOLVED, NCBA opposes the continued reintroduction efforts by the U.S. Fish and Wildlife Service of the grizzly bear to the Selway/Bitterroot area of Montana and Idaho, and other affected grizzly habitat areas.

BE IT FURTHER RESOLVED, NCBA opposes the continued management of the grizzly bear by the U.S. Fish and Wildlife Service, and that NCBA assist state affiliates in efforts to have the grizzly bear removed from the Endangered Species List and seek management of the grizzly bear by the appropriate state wildlife management agency.

PR/EM 4.7  
2012/Amended

**Wildlife-International Treaty**

BE IT RESOLVED, NCBA oppose any international treaty which impacts any private, reservation, or state lands or waters without full disclosure by, and just compensation to such private citizens, Indian nations, or states, for any property rights thereby diminished.

PR/EM 4.8  
2012/Renewed

**Delisting Threatened and Endangered Species**

WHEREAS, wherever a listed species has reached established recovery levels through management and regulation, multiplied to the point of no longer needing the protection of the *Endangered Species Act* within the preferred habitat, and

WHEREAS, the mechanism for delisting a recovered species is cumbersome,

THEREFORE BE IT RESOLVED, NCBA encourages streamlining and implementing the delisting process.

BE IT FURTHER RESOLVED, NCBA recommends that the federal budget include a line-item appropriation for the funding of delisting species.

PR/EM 4.9  
2012/Renewed  
**Biological Diversity**

WHEREAS, the phrase "biological diversity" has been advanced in federal legislation of major concern to NCBA members but this phrase has not been clearly defined,

THEREFORE BE IT RESOLVED, NCBA opposes legislation that establishes a national policy and authorizes government action on biological diversity until there is a clearer, accepted scientific definition of "biological diversity" and until the environmental, social, and human values of preserving "biological diversity" are more concretely specified.

PR/EM 4.10  
2009/Amended  
**Sage Grouse**

WHEREAS, the sage grouse is being reviewed as a candidate for listing as a threatened or endangered species, and

WHEREAS, there are working groups across the states meeting to address the dwindling numbers of sage grouse as a measure to prevent listing,

THEREFORE BE IT RESOLVED, NCBA encourages the U.S. Fish and Wildlife Service (FWS) and state wildlife agencies to work with all agriculture and sportsmen's groups and politicians to avoid the listing of the sage grouse as an endangered species.

BE IT FURTHER RESOLVED, NCBA shall continue to focus on this issue on its Endangered Species Act (ESA) agenda because this is a western states priority.

BE IT FURTHER RESOLVED, NCBA shall seek the creation of a National Sage Grouse Scientific Review Team which shall provide information to the FWS to aid the service in its review of the petitions to list the greater sage grouse. The Review Team shall also clarify and prioritize the potential threats to the greater sage grouse and shall seek to organize future decisions regarding sage grouse on the basis of state conservation plans for greater sage grouse and the regulatory mechanism that those plans represent. The National Sage Grouse Scientific Review Team may consist of representatives from Western Association of Fish and Wildlife Agencies, NCBA/Public Lands Council

(PLC), other industries, and environmental interests.

BE IT FURTHER RESOLVED, NCBA shall encourage western states, in conjunction with local working groups, to develop greater sage grouse conservation plans, which shall provide primary guidance and the regulatory mechanism for federal and state agencies, as well as industry and individuals, for greater sage grouse conservation within the respective states.

BE IT FURTHER RESOLVED, NCBA shall seek active participation and assistance of the FWS in the creation of western state greater sage grouse conservation plans.

PR/EM 4.11

2010/Amended

**Wolf Recovery Delisting Goal**

BE IT RESOLVED, NCBA insists that upon the completion of management plans and attainment of population goals, wolves shall be delisted from protection under the Endangered Species Act.

BE IT FURTHER RESOLVED, NCBA seeks legislation requiring the federal government to provide full funding for all wolf management costs including monitoring, depredation, and all other related costs.

PR/EM 4.12

2010/Renewed

**Dam Breaching/Ecology and Land Planning**

BE IT RESOLVED, NCBA opposes the removal or breaching of dams on the Snake, Columbia, or other river systems due to the adverse economic and ecological impacts to our communities and the economy.

BE IT FURTHER RESOLVED, NCBA opposes any "draw downs" on the Snake, Columbia, or other river systems to levels below the minimum pool necessary to support current economic and recreational uses.

PR/EM 4.13

2011/Renewed

**Prairie Dogs**

WHEREAS, NCBA recognizes the concern with the current status of the black-tailed prairie dog species and the ongoing development of individual state black-tailed prairie dog Conservation Plans, and

WHEREAS, prairie dogs are known hosts to vectors that carry the bubonic plague that is life

threatening to humans, and

WHEREAS, NCBA rejects the Candidate Conservation Agreement with Assurances (CCAA) approach to the black-tailed prairie dog issue as unnecessary for a candidate species that is currently precluded from listing as a threatened species under the Endangered Species Act, and

WHEREAS, the CCAA approach to this issue would result in a move to federalize a planning process that is best left to state and local control,

THEREFORE BE IT RESOLVED, NCBA strongly encourages those state affiliates involved in individual state conservation planning processes to adamantly oppose individual states from agreeing to enter into a Candidate Conservation Agreement with Assurances or any other formalized agreement with the US Fish and Wildlife Service.

PR/EM 4.14

2009/New

**Species Recovery and Introduction**

WHEREAS, the Endangered Species Act (ESA) does not provide proper incentives for species recovery and, in many instances, limits and/or intrudes on the property rights of private landowners for the purpose of species habitat preservation, and

WHEREAS, these limitations and intrusions on the free use of private property often restrict economic use of land and, in some cases, actually diminish property value, and

WHEREAS, non-regulatory solutions, based on a proactive species conservation partnership, should be found to ease the burden of the ESA on public and private land ranchers, and

WHEREAS, NCBA believes that recovery using voluntary incentives and, ultimately, delisting of species covered by the ESA should be the highest priority of the ESA,

THEREFORE BE IT RESOLVED, NCBA promotes *recovery* as an avenue of reform to the ESA, and that federal funding for the ESA should be prioritized to reflect this priority.

BE IT FURTHER RESOLVED, NCBA insists that scientific data be presented and/or studies be conducted that conclusively demonstrate what the species historic range was and how the demographic of that present day historic range has changed and if it is still suitable habitat for the species in question.

BE IT FURTHER RESOLVED, NCBA strongly insists that all new introductions and reintroductions be done in the first instance under the ESA classification of "Experimental but Non-Essential."

BE IT FURTHER RESOLVED, NCBA urges federal agencies to work as partners with the states in developing measurable recovery goals for every listed species in order to ensure a higher likelihood of program success, and urges federal agencies to develop and extend partnerships with the states and state agencies regarding the recovery of species.

PR/EM 4.15

2010/Renewed

**Black Vulture Control**

WHEREAS, cattle producers are faced with many predators that prey on cattle and inflict a severe economic impact on production costs, and

WHEREAS, cattle producers are faced with a major black vulture predator problem, and

WHEREAS, black vultures are federally protected,

THEREFORE BE IT RESOLVED, NCBA supports legislation to "fast track" permits and to give the Natural Resource Conservation Service (NRCS), or other appropriate entities, the authority to issue black vulture nuisance permits.

PR/EM 4.16

2010/New

**Amendment of Citizen Suits Provision in Endangered Species Act**

WHEREAS, the federal agencies who deal with the Endangered Species Act (ESA) continually report to Congress and the Administration that they are unable to complete the tasks required by the laws and regulations, and

WHEREAS, the reasons consistently given for the lack of ability to complete the tasks are the overwhelming demands on their time and resources to respond to constant litigation, Freedom of Information Act requests, and the rulings of the courts under the Endangered Species Act,

THEREFORE BE IT RESOLVED, NCBA works with the Administration, agencies, and Congress to either;

1. Amend the Endangered Species Act to remove the Citizens Suits provision where it reflects the requirements of the Equal Access to Justice Act (EAJA) thereby removing the incentive for frivolous suits, OR

2. Amend the EAJA to be consistent with the Citizens Suits provision in the Endangered Species Act.

PR/EM 4.17

2012/New

**Voluntary Species Recovery Credit System**

WHEREAS, NCBA supports increased incentives and streamlined procedures for federal, state, local, and private efforts to conserve species, including voluntary management agreements, and

WHEREAS, non-regulatory solutions, based on proactive species conservation partnerships, should be found to ease the burden of the Endangered Species Act (ESA) on public and private lands, and

WHEREAS, NCBA believes that recovery using voluntary incentives and, ultimately, delisting of species covered by the ESA should be a high priority of the U.S. Fish and Wildlife Service,

THEREFORE BE IT RESOLVED, NCBA support policy changes that include:

1. Implementation of a species recovery credit system that provides assurances to the seller and buyer of credits.
2. The credit system will have applicability on both private and federal lands.
3. The credit system will allow for transfer of excess credits beyond those needed by the buyer.
4. The credit system will allow the use of governmental and private funding sources for credit generation and purchase.
5. The credit system should embrace the concept that a temporary taking can be offset with term agreements.

## TAX AND CREDIT COMMITTEE

Kevin Kester, CA - Chair

Bill Slovek, SD - Vice Chair

Kent Bacus, Staff

<b>1</b>		<b>GENERAL</b>		<b>4</b>		<b>INCOME TAXES AND SOCIAL SECURITY</b>
1.1	2012	1031 Exchange		4.1	2009	Cash Accounting
1.2	2013	Conservation Easements		4.2	2010	Taxes—Social Security
1.3	2013	Health Care Reform		4.3	2010	Unemployment Taxes
1.4	2010	Tax Credits for Animal Identification		4.4	2010	Income Tax and Social Security Withholding
1.5	2010	Valid IRS Conservation Purposes		4.5	2012	Social Security Tax on Farmland Rent
1.6	2011	Natural Resources Use In Conjunction With Conservation Easements		4.6	2010	Alternative Minimum Tax and Income Averaging
1.7	2012	Tax Deductibility of Fence Replacement Costs		4.7	2011	Social Security Exemption on Conservation Reserve Program (CRP) Payments and Co-op Distributions
<b>2</b>		<b>ESTATE TAXES</b>		4.8	2010	Income Tax Accounting Identification
2.1	2009	Taxes—Sub-Chapter "S" Corporations		<b>5</b>		<b>BUSINESS TAXES</b>
2.2	2013	Death Tax		5.1	2010	Corporate Structure For Agriculture
2.3	2013	Special Use Valuations-Estate Taxes		5.2	2010	Taxes—Limitation On Certain Business Deductions
2.4	2013	Gift Exemption		5.3	2010	Conservation Tax Credit
2.5	2009	Death Tax Ag Production Exemption		5.4	2010	Taxes—Double Taxation
2.6	2009	Reunification of Gift and Estate Taxation		5.5	2009	General Permit Process
<b>3</b>		<b>CAPITAL GAINS AND ALTERNATIVE MINIMUM TAXES</b>		<b>6</b>		<b>FEDERAL BUDGET</b>
3.1	2010	Taxes—Alternative Minimum Tax		6.1	2010	Federal Budget
3.2	2011	Capital Gains Rollover		<b>7</b>		<b>BANKING AND CREDIT</b>
3.3	2013	Capital Expensing		7.1	2010	Taxes—Modification Of "At Risk" Rule
3.4	2009	Capital Gains: Conservation Easements		7.2	2010	Credit—Government Subsidies
				7.3	2010	Credit—Farm Credit System
				7.4	2010	Agricultural Credit



**1. GENERAL**

T 1.1  
2012/Renewed  
**1031 Exchange**

WHEREAS, NCBA recognizes the increased demand and activity in the agricultural and production real estate markets and the increased demand this places on title companies, surveyors, appraisers, etc., and

WHEREAS, NCBA recognizes the constraints that the current Internal Revenue Service (IRS) Code section 1031 g(1) places upon individuals and companies that are utilizing this law for tax deferment when selling family ranches and businesses,

THEREFORE BE IT RESOLVED, NCBA support change of the current IRS Code section 1031 g (1) to generally provide:

A taxpayer selling farm, ranch, or other agricultural production property shall have 180 days (rather than the current 45 day limit) to identify a maximum of six replacement properties (rather than the current number of three) regardless of value to be received in exchange as "like kind" after the date on which the taxpayer transfers the relinquished property in the exchange, and such property is received not more than 365 days (rather than the current 180 day limit) after the date on which the taxpayer transfers the property relinquished in the exchange, regardless of the taxable year in which the transfer of the relinquished property occurs.

T 1.2  
2013/Renewed  
**Conservation Easements**

WHEREAS, conservation easements are a valuable tool for estate planning and allow tax benefits to the donor of the easement, and

WHEREAS, currently the tax code does not allow tax benefits over a long enough period to allow the average farmer or rancher to use the benefit,

THEREFORE BE IT RESOLVED, NCBA supports legislation to give the donor of a conservation easement substantially more time to use the tax deduction and to give agricultural producers a larger percentage income tax deduction.

T 1.3  
2013/Amended  
**Health Care Reform**

BE IT RESOLVED, in order to maintain the best medical care available throughout the world, NCBA encourages the following principles be retained in any health care reform legislation:

1. Adequate Medicare reimbursement to rural providers to assure their viability.
2. Insurance offered in a more traditional manner.
3. One hundred percent deductibility of health insurance costs for self-employed persons.
4. Efforts to make rural areas more competitive in attracting health professionals and freedom for these professionals to use their expertise in health care decisions.
5. Patient choice of caregivers and the ability to cross state lines for health care.

T 1.4  
2010/Renewed  
**Tax Credits for Animal Identification**

WHEREAS, the National Animal Identification System is beneficial for the public good, and

WHEREAS, producers already bear a significant financial burden in animal health surveillance,

THEREFORE BE IT RESOLVED, NCBA shall work towards the establishment of a tax credit for all industry segments participating in the National Animal Identification System.

T 1.5  
2010/New  
**Valid IRS Conservation Purposes**

WHEREAS, the Internal Revenue Service (IRS) Code, relative to conservation easements, does not list agriculture as a valid, stand-alone, conservation purpose,

BE IT RESOLVED, NCBA pursues an addition to the IRS Code, relative to Conservation Easements, naming modern agriculture as a valid, stand-alone conservation practice for conservation easement purposes.

BE IT FURTHER RESOLVED, the extinguishment of any part or portion of non-agricultural commercial development be recognized as a conservation benefit.

T 1.6  
2011/New

**Natural Resources Use In Conjunction With Conservation Easements**

WHEREAS, the current IRS Code conflicts on its interpretation of extraction of surface natural resources allowances in conjunction with conservation easements, and

WHEREAS, this conflict could actually impair the ability for establishment of conservation easements,

THEREFORE BE IT RESOLVED, NCBA support the inclusion of limited surface extraction, in conjunction with conservation easements, as long as there is no long term damage to conservation resources or it is beneficial to conservation resources.

T 1.7  
2012/New

**Tax Deductibility of Fence Replacement Costs**

WHEREAS, natural disasters can destroy livestock, productive grazing lands, and ranch facilities, including fences, and

WHEREAS, current Internal Revenue Service (IRS) rules do not allow fence replacement costs to be fully expensed and deducted in the year of replacement, except on a restricted basis, and

WHEREAS, this limitation places an unnecessary and undue burden on ranchers who have been devastated by natural disasters and who need to rebuild and restock their ranching operations,

THEREFORE BE IT RESOLVED, NCBA support federal legislation and/or rulemaking which would allow the costs of replacing fences, which have been destroyed by natural disasters, to be fully tax deductible in the year such costs are incurred.

**2. ESTATE TAXES**

T 2.1  
2009/Renewed

**Taxes—Sub-Chapter “S” Corporations**

BE IT RESOLVED, NCBA continues to support amendments to the laws and regulations of Sub-

Chapter “S” Corporations which would increase their usefulness to farms and ranches in estate planning and operation of family-type farms and ranches.

T 2.2  
2013/Amended  
**Death Tax**

WHEREAS, federal estate and gift taxes continue to be a major burden on family farms, ranches, and small businesses, and

WHEREAS, the American Taxpayer Relief Act permanently extended estate tax relief with an exemption level at \$5 million per individual (\$10 million per couple) indexed for inflation with a top tax rate of 40% and permanently extends the stepped-up basis and the spousal transfer;

THEREFORE BE IT RESOLVED, NCBA:

- Support, first and foremost, full and permanent repeal of the Death Tax,
- Oppose any proposal to increase the gift or estate tax liability of farmers and ranchers,
- Oppose any proposal to repeal the stepped-up basis provisions not tied to repeal of the estate tax, and
- Support passage of estate and gift tax legislation which will eliminate or significantly reduce the burden of estate and gift taxes on family farms, ranches, and small businesses.

T 2.3  
2013/Renewed

**Special Use Valuations-Estate Taxes**

BE IT RESOLVED, NCBA seeks the removal of any limitation on special use valuation for federal estate valuation purposes.

T 2.4  
2013/Renewed  
**Gift Exemption**

WHEREAS, it has become increasingly difficult to own and operate a small business or family farm in this country, and

WHEREAS, the transfer of ownership of these vital businesses has been restricted for years,

THEREFORE BE IT RESOLVED, NCBA supports raising the annual gift exemption, and that it

be indexed to inflation for the future.

T 2.5  
2009/New

**Death Tax Ag Production Exemption**

BE IT RESOLVED, NCBA urge Congress that a new section of the Internal Revenue Code on inheritance taxes be adopted to include the elective option of passing on a productive ranch or farm enterprise to succeeding generations' tax free as long as the entity remains in agricultural production.

T 2.6  
2009/New

**Reunification of Gift and Estate Taxation**

BE IT RESOLVED, NCBA work toward the reunification of gift and estate taxes lifetime exemption and tax rates.

**3. CAPITAL GAINS AND ALTERNATIVE MINIMUM TAXES**

T 3.1  
2010/Renewed

**Taxes—Alternative Minimum Tax**

WHEREAS, the Alternative Minimum Tax has resulted in an increased income tax burden on farmers, ranchers, and owners of other closely held businesses who have long-term capital gains on the sale of lands and other business assets,

THEREFORE BE IT RESOLVED, NCBA supports the abolition of the Alternative Minimum Tax.

T 3.2  
2011/Renewed

**Capital Gains Rollover**

WHEREAS, many farmers and ranchers are dependent on their land to fund their retirement, and

WHEREAS, the accumulated estate is significantly reduced by income taxes upon liquidation,

THEREFORE BE IT RESOLVED, NCBA supports tax law changes to allow agricultural operators a one-time tax free capital gains rollover from the sale of agricultural land and/or rights into an Individual Retirement Account (IRA), Keogh Plan, or similar retirement account to be taxed at time of withdrawal or allow a one-time exemption from tax on the sale of certain agricultural land and/or rights.

T 3.3  
2013/Renewed  
**Capital Expensing**

BE IT RESOLVED, NCBA supports increasing the amount eligible to be expensed and increasing the annual limitation amount on capital purchases.

T 3.4  
2009/New

**Capital Gains: Conservation Easements**

BE IT RESOLVED, NCBA support the premise that sales of conservation easements and conservation easement credits be considered capital gains sales for tax purposes.

**4. INCOME TAXES AND SOCIAL SECURITY**

T 4.1  
2009/Renewed  
**Cash Accounting**

WHEREAS, Cash Basis accounting is utilized by many farmers and ranchers, as a simple, effective, cost-efficient method of record keeping, and

WHEREAS, due to the volatility of market prices, weather and levels of farm income in addition to the cyclical nature of agricultural financing, cash accounting is a vital and necessary management tool for farmers and ranchers,

THEREFORE BE IT RESOLVED, NCBA opposes any legislation, ruling, regulation, or proposal that restricts the availability of cash accounting based on the type of business structure or any type of arbitrary cap based on gross receipts.

T 4.2  
2010/Renewed  
**Taxes—Social Security**

WHEREAS, current Social Security laws impose increasing and burdensome taxes on farmers, ranchers, and other taxpayers, and

WHEREAS, such laws require the payment of Social Security Tax on wages of part-time agricultural employees, and

WHEREAS, Social Security regulations discriminate against retired farmers and ranchers who lease all or part of their operation by classifying such

rental income as self-employment earnings and thus reducing or eliminating Social Security benefits, if the farmer or rancher assists in the management and inspection of the property being rented,

THEREFORE BE IT RESOLVED, NCBA supports legislation to decrease the current high rate of Social Security Tax or, in the alternative, explore acceptable alternatives to the Social Security Tax which will not discriminate against agriculture.

BE IT FURTHER RESOLVED, NCBA supports changes in existing law to raise the amount an agricultural employee may earn before the wage is subject to Social Security Tax.

BE IT FURTHER RESOLVED, NCBA supports efforts to amend the Social Security laws to allow farmers and ranchers to participate in the management and inspection of their rented property without having the rental income earned from the property being subject to the self-employment earnings tax and without having Social Security benefits reduced or eliminated.

T 4.3  
2010/Renewed  
**Unemployment Taxes**

WHEREAS, the Federal Unemployment Tax Act has imposed a substantial financial burden on family farms,

THEREFORE BE IT RESOLVED, NCBA seeks federal legislation that exempts officers of family farm corporations and all other forms of farm and ranch ownership, such as partnerships and so forth, from the requirements of the Federal Unemployment Tax laws and Occupational Safety and Hazard Administration (OSHA) requirements.

T 4.4  
2010/Renewed  
**Income Tax and Social Security Withholding**

WHEREAS, requiring withholding of Social Security taxes and federal income taxes for employees earning \$150 or more per year is a serious burden to ranchers employing occasional day labor and results in employers often absorbing the employee's share of the tax, and

WHEREAS, withholding on such small sums cannot return any significant extra revenue to the government,

THEREFORE BE IT RESOLVED, NCBA urges Congress to raise the withholding threshold to at least the amount allowed for household labor.

T 4.5  
2012/Renewed  
**Social Security Tax on Farmland Rent**

WHEREAS, the Internal Revenue Service (IRS) is attempting to place Social Security tax rules on agriculture which are different from those faced by any other segment of the economy,

THEREFORE BE IT RESOLVED, income received as rent on agricultural property shall not be subject to Social Security taxation.

T 4.6  
2010/Renewed  
**Alternative Minimum Tax and Income Averaging**

WHEREAS, the purpose of income averaging was to even out the effect of high and low years of agriculture income, and

WHEREAS, there have been instances where its use has triggered the Alternative Minimum Tax,

THEREFORE BE IT RESOLVED, the use of income averaging should not trigger the Alternative Minimum Tax.

T 4.7  
2011/Renewed  
**Social Security Exemption on Conservation Reserve Program (CRP) Payments and Co-op Distributions**

WHEREAS, corporate entities and inactive farmers are not subject to a social security tax on income received from participation in CRP, but individual active farmers may be subject to the tax, and

WHEREAS, corporate entities which are members of cooperatives are not subject to social security tax on income they receive from earnings distributed to them by a cooperative, but individual farmer-members are subject to the tax, and

WHEREAS, longstanding federal policy encourages farmers to participate in CRP and to band together in cooperatives, particularly now in "value-added" cooperatives,

THEREFORE BE IT RESOLVED, as a matter of fairness to active farmers and to non-corporate farmers and as a method of increasing effectiveness in achieving widely supported federal farm policy goals, NCBA requests Congress to grant a complete exemption from social security taxes on income received by farmers from participation in CRP and on income received from earnings distributed to them by cooperatives.

BE IT FURTHER RESOLVED, NCBA works for an equitable solution to the social security tax on earnings distributed by cooperatives.

T 4.8  
2010/New

#### **Income Tax Accounting Policies**

WHEREAS, ranchers and farmers historically have had the option to choose whatever method of accounting that best suits their operation, and

WHEREAS, ranchers may have widely fluctuating income from year to year,

THEREFORE BE IT RESOLVED, NCBA takes whatever action necessary to ensure ranchers a free choice with respect to using the cash, accrual, or hybrid methods of accounting.

BE IT FURTHER RESOLVED, NCBA supports income tax averaging for ranchers on federal and state tax returns.

### **5. BUSINESS TAXES**

T 5.1  
2010/Renewed

#### **Corporate Structure for Agriculture**

WHEREAS, the corporate structure provides a useful tool for farmers as well as other businesses,

THEREFORE BE IT RESOLVED, NCBA strongly opposes any special limitations which would restrict farmers' access to the use of the corporation form of business.

T 5.2  
2010/Renewed

#### **Taxes—Limitation on Certain Business Deductions**

WHEREAS, the 1978 Tax Act included a provision denying the deduction for entertainment facilities, including hunting lodges, and such denial may limit the deduction of rental paid to lease farm and

ranch land for hunting or other sporting purposes, and

WHEREAS, proposals have, from time to time, been introduced in Congress to eliminate or significantly reduce the deduction for meals for business purposes,

THEREFORE BE IT RESOLVED, NCBA encourages the immediate reinstatement of the deduction of business meals as a fully deductible business expense.

T 5.3  
2010/Renewed

#### **Conservation Tax Credit**

WHEREAS, the high cost of implementing conservation programs is a burden on the landowner, and

WHEREAS, the national benefits of these programs are equal to or exceed those received by the landowner,

THEREFORE BE IT RESOLVED, NCBA seeks federal legislation that would provide a tax credit as an incentive for private landowners to implement conservation and erosion control programs.

T 5.4  
2010/Amended

#### **Taxes—Double Taxation**

WHEREAS, a double tax burden is imposed on income generated by a family farm, ranch, or other closely held business corporations where such income is distributed in the form of dividends to shareholders, and

WHEREAS, such double taxation has created inequities and burdens on family owned businesses operating in corporate form, which cannot or may not be able to elect to be taxed as a Sub-Chapter "S" corporation,

THEREFORE BE IT RESOLVED, NCBA supports proposals to eliminate the double income tax burden on corporate earnings generated by a family farm, ranch, or other closely held business corporation where such income is distributed in the form of dividends to shareholders.

T 5.5  
2009/Amended  
**General Permit Process**

WHEREAS, tax code modifications were put in place to help corporations pay for equipment, plant modifications, employee education, and other related costs when pollution control measures were mandated, and

WHEREAS, these tax code modifications greatly helped corporations to accomplish the mandated pollution control measures in a timely manner without severely affecting the bottom line of the affected corporations, and

WHEREAS, these tax code changes were targeted for corporations only,

THEREFORE BE IT RESOLVED, NCBA supports efforts to allow accelerated depreciation schedules and tax credits for private individuals and other non-corporate business entities, as well as corporations, that are mandated to install pollution control measures (such as those mandated by the General Permit process) to help offset the costs associated with the installation of some of these mandated facilities and equipment.

**6. FEDERAL BUDGET**

T 6.1  
2010/Renewed  
**Federal Budget**

BE IT RESOLVED, NCBA urges Congress and the Administration to continue a realistic examination of spending priorities in order to make real and significant budget and tax cuts and to further develop a balanced budget.

**7. BANKING AND CREDIT**

T 7.1  
2010/Renewed  
**Taxes—Modification of “At Risk” Rule**

WHEREAS, the future of many young farmers is dependent upon extension of credit from family members or the guarantee of financial institution debt by a family member,

THEREFORE BE IT RESOLVED, NCBA seeks to exempt loans from family members or guarantees by family members from the provisions of

the At-Risk Law (Code Section 465) as long as such loans are used for agricultural purposes.

T 7.2  
2010/Renewed  
**Credit—Government Subsidies**

WHEREAS, NCBA has policy against involving livestock and/or meat directly in government subsidies,

THEREFORE BE IT RESOLVED, NCBA affirms this position with respect to credit and similar areas, except for emergency loans and companion measures in connection with losses due to natural disasters.

T 7.3  
2010/Renewed  
**Credit—Farm Credit System**

WHEREAS, credit is a critical input for our nation’s agricultural sector and assists farmers in the production of abundant food and fiber, and

WHEREAS, the Cooperative Farm Credit System is a proven and dependable source for agricultural credit at competitive rates and has demonstrated its ability to serve as a prime vehicle for moving investor capital into rural America,

THEREFORE BE IT RESOLVED, NCBA opposes actions that would in any way impede the farm credit system access to the nation’s money markets and encourages cooperation of all suppliers of agricultural credit to enhance the availability of credit at competitive rates.

T 7.4  
2010/Renewed  
**Agricultural Credit**

WHEREAS, the current financial situation for agriculture is critical, and

WHEREAS, many proposals to resolve the agricultural credit problem will be forthcoming,

THEREFORE BE IT RESOLVED, NCBA supports the concept that government agricultural credit programs should not compete with conventional private sources of credit

BE IT FURTHER RESOLVED, where governmental intervention in the credit markets is justified, such programs should primarily underwrite or guarantee the credit made available through the

private sector.

Mr. THOMPSON. Okay, thank you.

Chairman REICHERT. Mr. Renacci, you are recognized.

Mr. RENACCI. Thank you, Mr. Chairman. I want to thank the witnesses for being here. It is interesting, because, as I sat here and listened, there were times my blood pressure went up and times my blood pressure came down. I am a—was a small business owner, so I appreciate what you all have done. I also am a CPA, and I also have done estate tax planning. So I have seen it from all avenues, and I understand the issues that you are facing.

And this, really, this hearing is about two things, in my opinion. It is about the orderly transfer of business interests upon death, and it is also about double taxation. I think those are the keys we should be zeroing in on.

It is interesting, some of the issues that were brought up. You know, there was talk that inheritance isn't taxed. I heard one of the witnesses say that. Those are the exemptions of the inheritance. That is part of the exemption of the amount. But, you know, that is the rhetoric that we continue to hear, because there is also income that is not taxed, and that is because of the exemptions that you have on income tax. So there are pieces of taxable income that are not taxed. So, I just use that as we got to watch what we say when we say inheritance isn't taxed, because there is income tax. There is income that is not taxed. There is all kind of ways we can talk about this and look at this.

But—and this hearing really isn't about Soros, Gates, Buffett, or Hilton, because, quite frankly, Soros, Gates, Buffett, and Hilton probably will not pay very much estate tax, because they have probably done enough things, whether it is through dynasty trusts, foundations, family partnerships, all those other things that they were able to do because of their liquid assets, they are able to, in most cases, get around much of the estate tax that you all have to pay.

The question here is how do we make sure, especially when it comes to small businesses and family businesses, how do we make sure that there isn't a burden placed on you upon the—and, again, when we talk about words, I mean, we say that there is no death tax. No, there is—upon death there is an estate, and upon the estate there is a tax. So the question is how you want to talk about it.

We can get rid of all this rhetoric, and just really get down to the basics. How do we make sure that, in the long run, a business can survive and sustain itself and move forward? And I think if we do that—and I am glad to hear many of my colleagues on the other side are talking about ways of doing that. How can we get that accomplished? Because it is too many times where I have seen, back in my district, back in Ohio, where people with a small farm or with a small business, upon the death of someone, and the estate, and the estate tax, are not able to continue the business, because the business has to go up for sale because of the fixed assets, because of the buildings, because of the assets that are there, because of the farm land being valued at a certain level, all of those things.

So, I think it is important that we look at this issue. But, at the same time, I also believe there is a double taxation, because I have seen too many times where businesses have come up, their busi-



ness sells, they pay their tax, that individual now has liquid assets, and then, upon his death, those liquid assets go into an estate, and then those estate assets are then taxed at almost a 50 percent rate, and they are double-taxed.

Now, the question is, should the Federal Government be able to take those dollars? And should the Federal Government be able to be part of that double taxation?

Or, the better question is, should value continue to be passed on from family to family to family at a—I mean the—again, now I will go back to Soros, Gates, Buffett, and Hilton. I guarantee you those individuals, if you know—

Mr. NEAL. Will the gentleman yield?

Mr. RENACCI [continuing]. I will, but not right now. But if you take Paris Hilton, the daughter, quite frankly, she is getting a lot of money somehow from her family. So—

Mr. NEAL. Thank you very much.

Mr. RENACCI [continuing]. But I will yield.

[Laughter.]

Mr. RENACCI. But, anyway, so, again, this continues to be a discussion about how we fix the problem, and how we take care to fix that.

And, again, I could ask every one of the three of you—I mean I am sure you have all purchased fixed assets in the farm. I was the CPA for three farms. I understand the business. You probably have—I mean what is the cost of—what is—give me a cost of one of your pieces of equipment in your farm. A big one, a big one. A big—

Mr. WHITT. The last combine price, \$340,000.

Mr. RENACCI [continuing]. Absolutely. So you got 340,000 tied up in this. You got this large amount tied up in your land. All the sudden there is a death, then there is an estate, and there is taxation. How do you come up with those dollars? How are you planning on coming up with those dollars?

Mr. WHITT. By growing the business. How does a small farm continue to be a small farm, with the increased values that we are having to pay for the equipment, the expenses that we incur on that farm? The only choice we have is to grow, to have more growth sales to compensate. We don't really make much money off of the products that we sell. The margins are very low. So how do we increase that? We sell more. We have to grow more to be able to purchase these things, just to run the business. It takes a combine—I don't think any of us want to go back out to the field and start hand-picking our crops. We will become very inefficient at that point.

Mr. RENACCI. Thank you. My time is—I yield back.

Chairman REICHERT. The gentleman's time is expired. Mr. Brady is recognized.

Mr. BRADY. Thank you, Chairman Reichert, for permitting me to participate in today's important hearing. I want to thank the witnesses, as well. Very helpful, including my fellow Texan, Bobby McKnight. Like many of you, I have been fighting to permanently repeal the death tax since my constituents first sent me here to Congress.

And I would like to echo a very important point made this morning. This tax is not about reducing income inequality. The super-rich have a legion of lawyers and all the resources in the world. It is not the super-rich that pay this tax; it is the people who are at the table today who pay this tax. This is the number-one reason—death tax is the number-one reason family-owned farms and businesses aren't passed down to the next generation. The number-one barrier. It is the farmer, the rancher, the courageous entrepreneur, family-owned business, whose assets are tied up in buildings and machines and property tax that pay the death tax. It is their spouse and children that have to sell the business, or parts of it, just to pay Uncle Sam.

One Texas rancher I have known for a long time has paid the death tax three times. Her grandfather started their Texas cattle ranch in 1970, just a year after this tax was created. In 2011, her husband passed away suddenly in a tractor accident. The price of hay was outrageous because of the drought. Diesel costs were way up. She had no idea how she was going to continue the ranch. And the IRS swooped in, and forced her to sell huge chunks of cattle stock, just to pay the death tax, all the while she and her children are mourning the loss of their husband and father. Try telling that family they are like Paris Hilton, exactly.

A former staffer, a young woman staffer of mine returned to her family ranch in Texas recently after her aunt passed away to help sell her estate. This was a ranch that her great-great grandfather had settled in the 1800s. She and her brother were able to keep that ranch. Guess how? They merely had to sell two-thirds of the ranch to keep it. So tell this young woman she is exactly like the robber barons of the Teddy Roosevelt-years.

The death tax is an immoral tax. And it is an attack on the American Dream. It disproportionately hurts small businesses and start-ups. They have already paid, as Mr. Renacci and others have pointed out, very high rates on it to begin with, and Uncle Sam swoops in and takes 40 percent of the nest egg they have built a lifetime trying to put together.

And what is worse is that this tax is especially destructive to women and minority-owned businesses, the fastest-growing sector of our economy today. Harry Alfred, the president and CEO of the National Black Chamber of Commerce, goes as far as calling this tax, in his words, "a black tax," because of its destructive effect on black-owned small businesses.

A study by two Boston College professors, Professor Madoff, several years ago estimated that between 2001 and 2055, the first half of this century, the death tax will wipe out between 11 and 15 percent of all African American wealth, 11 and 15 percent of all African American wealth wiped out by this tax. This one tax alone these Boston College experts said would cost African American households between \$192 billion and \$257 billion. This is not a decoy for the wealthy. These are real people.

And imagine what that money could do if it was invested in education and businesses and jobs.

So, as Members of Congress, I think we are tasked with making our great country better, with ensuring that we leave our children a better nation than the one we received. The death tax, I think,

Mr. Chairman, betrays that oath. And so I urge my colleagues to work with me in eradicating this immoral tax once and for all.

I know you have been given some bits and pieces. "What if we do this to satisfy you?" And, "What if we just sort of buy you out of this thing?" But the point is that Washington will pick winners and losers among people who have built wealth, and that is wrong.

And, by the way, after the agreement was reached on the current estate tax levels, the President immediately turned around and began lowering those exemptions and raising those rates. And so, whatever you are promised today I guarantee you won't be there tomorrow.

So, Mr. Chairman, thank you very much for having me here today.

Chairman REICHERT. Thank you, Mr. Brady, and thank you for your hard work on this issue, and thank you for the work you put in to your piece of legislation. Thanks for being patient and staying with us today, and offering your comments.

And just before we end the hearing—

Mr. NEAL. Give me one—

Chairman REICHERT [continuing]. Oh, I am sorry. We have one more for Mr. Neal.

Mr. NEAL [continuing]. Thank you. Just—and thank you, Mr. Chairman, very helpful—

Chairman REICHERT. Quick question from Mr. Neal.

Mr. NEAL [continuing]. Yes. Ms. Madoff, just to follow up on what Mr. Thompson said, is there a good way to exempt family farms and small businesses from the estate tax? And would you develop and offer a better approach? And why?

Ms. MADOFF. Absolutely. And it would be much better for all of these witnesses. So let me explain what it is.

Section 2057 was a short-lived provision that provides—that was designed to provide benefits, but could be made into a complete exemption for family businesses and farms. Section 2032A would be for land. And the reason that this would be more valuable for all of these witnesses is because this body only controls the federal tax system. But, increasingly, states are turning to their own state estate tax systems, and they model them on the federal definition of the gross estate.

And so, these organizations, if you repeal the federal estate tax, they would continue to be vulnerable to possibly being taxed under the state estate tax systems, which are in more than half the states. But if you provide an exemption for the definition, an exclusion from the gross estate, they would be protected from their states. And so it is very important. An exemption would be much more valuable for every single one of these witnesses. And I agree that they should all be protected. And they can easily be protected by Section 2057.

And you have to remember this only applies to eight percent of the assets. Studies—numbers just came out. Eight percent of the assets are small business assets, ninety-two percent are other assets. So the numbers—we should not throw out the whole system because of eight percent. This eight percent is an important part of our economy, and should be addressed, and can be, easily and fairly.

Chairman REICHERT. Thank you for your——

Mr. NEAL. Thank you, Mr. Chairman.

Chairman REICHERT [continuing]. Thank you, Mr. Neal. Thank you, Ms. Madoff.

Mr. Reed, you are recognized.

Mr. REED. Thank you, Mr. Chairman. And, as with Mr. Renacci, my blood pressure has gone up and down during the testimony here today.

But I will start with this. I am getting sick and tired of folks down here blasting the American charitable spirit. You know, as I am sitting, listening to the testimony, I just Googled Warren Buffett. Do you know how much money he has estimated to be giving away? \$37.4 billion. See?

And so, Ms. Madoff, I appreciate your Utopian commitment to the government bureaucracy of D.C. to be able to magically acquire all this money that people have earned over a lifetime, and will go to Washington, D.C. to then have D.C. ferret out where it is going to go amongst the masses of the 300 million Americans that we call our fellow citizens.

I believe Mr. Whitt and his family, they worked hard. Who owns your property?

Mr. WHITT. My father-in-law.

Mr. REED. Your father-in-law. You, right? Not the government. When you are done with your use of that land, that is a fundamental principle that we hold in America. You own that property. You earned that property.

And if you choose to do what I think the American spirit and our fellow Americans do on a regular basis, it is amazing to me how much our fellow citizens are charitable. You look at Bill Gates. Look at Andrew Carnegie, one of the robber barons that was potentially referenced to previously in some of the testimony. What did Carnegie do? Carnegie invested tremendous amounts of money into our society, into our American society, and did some very positive things.

Now, I am not going to defend every single American who may have ulterior motives and has an evil heart. But I will tell you the vast majority of Americans I know, they are good people. They are charitable people. And it frustrates me that we have a tax system that is essentially going to say, "When you die, yes, we taxed your entire lifetime, but you are going to pay one more." How is that fair?

The question you keep raising, Ms. Madoff, in your testimony, or your written—is a question of fairness. I would throw that back at you and say, "How is it fair that Washington, D.C. takes your property and makes you pay a tax on it at your death?" You have earned that property.

So, as we have this conversation——

Mr. NEAL. Mr.——

Mr. REED [continuing]. I just——

Mr. NEAL [continuing]. Will the gentleman yield?

Mr. REED [continuing]. Sure, I will yield a minute.

Mr. NEAL. If you—to throw it back at her, would you let her answer?

Mr. REED. Well, I have listened to hours, and read her testimony. And I understand where she is going to come from on her testimony. And, Ms. Madoff, it is no personal disrespect to you, but you represent a philosophy that is very frustrating to me, a philosophy that your testimony speaks loud and clear to, ma'am. And it is a philosophy that I came to Washington in 2010 to fight, is that I trust the individuals more to do with their property what is right.

And when they work their entire lifetime, when I talk to my family farmers back in Western New York, and they are there on the eighth, seventh, sixth generation, and they are telling me, "You know what? When my father dies, I am going to have to carve up my farm to pay the tax bill"—because land isn't cash. That \$340,000 combine that you paid—that is not cash. And if you have a bill that goes to the government, they want cash. Uncle Sam doesn't take a combine and say, "Call it even." He wants cash. And so that is the problem.

And then, you know what also happens? I have seen it in the eyes of my constituents. I have seen it in their eyes, when they say, "You know what? I have to carve up my property in order to pay for this tax bill." And you know what happens? Farming. Do you do farming because you want to be a multi-millionaire, Mr. Whitt? You are going to be a robber baron of the 21st century of making that big mega-farm across America? Why do you do farming?

Mr. WHITT. Because it is an action of servitude to my fellow man.

Mr. REED. Amen. It is a way of life. It is a way of life. And when I see the tears in the eyes of my constituents who say, "All I want to do is just go out and work my land"—"All I want to do is build my inventories in my HVAC company that"—I believe you have an HVAC company, right? That is all they want to do.

But, no. What we are going to say is we in Washington know what is best to do with that money that you have earned over your lifetime. Send it to Washington, and then we will sprinkle it among the masses. I would trust Ms. Madonia, I would trust Mr. McKnight, and I would trust Mr. Whitt to take care of his fellow man in his community, in his back yard, rather than have this taxation system that you are talking about, Ms. Madoff.

Ms. MADOFF. I am sorry; I guess I didn't make my testimony clear, because I agreed with you, that none of these people should have to pay an estate tax for their family businesses, so I entirely agree with you.

Mr. REED. But you are going to—reclaiming my time—you are going to draw the line, and somebody is going to pay for it.

And even the people that are the robber barons, like the Andrew Carnegies, just like Warren Buffett, \$37.4 billion of his money going to better our fellow American citizens. And that is the American spirit that I love and I am committed to. And with that, I yield back.

Chairman REICHERT. The gentleman's time is expired.

While I was the chairman of the Human Resources Subcommittee prior to coming to the Tax Committee subcommittee, this is almost more emotional and compassionate than the human resources. I didn't think taxes were going to get this exciting, but

you can tell that there is—there are strong feelings on both sides of the aisle.

I think that you also sensed, as witnesses today, that both sides really understand the issue that you are dealing with, the taxes, the decisions that you have to make, and I think there was some agreement here that we need to do something.

Now, there is disagreement as to how and what, and I noticed that, you know, as Mr. Thompson talked about his bill, he asked—his piece of legislation—Mr. Whitt and Mr. McKnight how they felt about it, but he didn't ask Ms. Madonia. And I would imagine that her answer would be a little bit different, since that bill only addresses family-owned farms. There are other businesses out there that, frankly, as we have heard today from Ms. Madonia, that are affected by the estate tax, or death tax, however you want to refer to it.

So, I am going to come away with—this first experience as the chairman of this Subcommittee—with a positive feeling that most of us on the committee feel like we need to do something. And we are going to continue to work on this. And, again, I congratulate Mr. Brady on his bill.

And so, today, that concludes our hearing. And I must advise that Members may submit written questions to the witnesses. Those questions and the witnesses' answers will be made a part of the record.

Again, I would like to thank all the witnesses for being here today. Thank you for taking time out of your busy schedules, away from your families and your businesses, and thank you all for your testimony. The committee stands adjourned.

[Whereupon, at 11:35 a.m., the Subcommittee was adjourned.]

[Submissions for the Record follow:]



December 20, 2016

The Honorable Dave Reichert  
Chairman  
Subcommittee on Select Revenue Measures  
House Committee on Ways and Means  
1102 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Richard E. Neal  
Ranking Member  
Subcommittee on Select Revenue Measures  
House Committee on Ways and Means  
1106 Longworth House Office Building  
Washington, D.C. 20515

Dear Chairman Reichert and Ranking Member Neal:

On behalf of Associated Builders and Contractors (ABC), a national construction industry trade association with 70 chapters representing nearly 21,000 chapter members, I am writing in regard to the Select Revenue Measures Subcommittee hearing on the burden of the estate tax on family businesses and farms.

Construction companies are overwhelmingly small, family-owned and closely held businesses, and thus are particularly susceptible to the estate tax burden given the capital-intensive, illiquid nature of the industry. Due in a large part to the estate tax, more than 70 percent of family businesses do not survive to the second generation. According to the Small Business Administration, 77 percent of failed family businesses enter into bankruptcy following the death of the founder. The estate tax not only jeopardizes the survival of family-owned construction companies, but it also siphons off critical funds that could be invested back into the business.

With the return of the estate tax after its one-year repeal in 2010, the immediate concern was the looming threat of a punitive 55 percent rate paired with a diminished \$1 million exemption, and the sustainability of temporary deals to keep this underlying policy at bay. Congress ultimately compromised with a permanent 40 percent rate paired with a portable \$5 million exemption, leaving a relatively high levy on a comparatively narrow base of inheritors. While this deal lent business owners the statutory certainty required to make appropriate plans for family succession, no sooner had this legislation been passed than the Obama administration began looking to squeeze more money out of the deal. Most recently, in the FY2016 White House budget, the President proposed the repeal of so-called "stepped-up basis," subjecting growth occurring under the decedent to a second level of tax at the ultimate time of sale. This policy would take the 40 percent estate tax rate, already 4<sup>th</sup> highest in the OECD, and effectively compound it into a 60 percent tax on inherited capital gains.

Family-owned businesses are the backbone of the U.S. economy and give Americans a sense of pride and accomplishment. In the construction industry, they provide valuable jobs and play an integral role in building communities. We believe these businesses are worth preserving for the next generation, a prospect that is directly imperiled by one of the highest estate taxes in the world. We appreciate your attention to this important matter, and look forward to working with the committee toward full repeal.

Sincerely,

Liam Donovan  
Director, Legislative & Political Affairs



**Statement of the  
American Farm Bureau Federation**

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**STATEMENT OF BRANDON WHITT  
OF BATEY FARMS BEFORE THE  
SUBCOMMITTEE ON SELECT REVENUE MEASURES**

**COMMITTEE ON HOUSE WAYS AND MEANS**

**HEARING ON THE  
BURDEN OF THE ESTATE TAX ON FAMILY BUSINESSES AND FARMS**

**MARCH 18, 2015**

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Chairman Reichert, Ranking Member Neal and members of the Subcommittee. My name is Brandon Whitt. I am a 7th generation farmer from Murfreesboro, Tennessee, where I farm with my wife, Katherine, and father-in-law, John, in a suburbanized area just outside of Nashville. Batey Farms dates back to 1807, beginning from a revolutionary war land grant for military service. Over its 208 years, the farm has seen many faces, developments, victories and failures but one thing remains constant, we strive to uphold the principle of our family motto "preserving the past and embracing the future."

Batey Farms is very diverse and includes a market that sells the fruits, vegetables and pork we produce directly to consumers. In addition, we farm 1,800 acres of row crops and 250 acres of hay on our own land and land we rent from neighboring landowners. My wife and I manage the day-to-day operation of our farm business while my father-in-law, who still works daily alongside me, owns the land we farm. We employ one full time, two part time and a dozen seasonal workers. Over 65,000 customers pass through our farm gate annually and we are currently investing to expand our agri-tourism attractions so that more of our urban neighbors will visit and make a connection to modern day agriculture.

When my wife's grandmother passed in 1988, my father-in-law, who had farmed the land his entire life, was faced with a huge estate tax. The farm at the time was a little over 600 acres. Land values were booming and the value of the farm had doubled over the previous 10 years. John ended up having to sell 120 acres of land to pay estate taxes. This may not sound like much of a sacrifice since it left him with 483 acres to farm, but it completely changed the farm business. The land was lost to development and having houses so close to our fields made it impossible for us to continue raising cattle.

Fast forward to today: we still farm that same land, only now it is easily valued at \$25,000 per acre. Some might say that we should sell out and start over somewhere else, but this is not my family's plan. We believe that Batey Farms will be a viable farm business far into the future and we hope that our children will be the 8<sup>th</sup> generation to farm our land. We believe that our farm adds value to our town, that our neighbors value our open space, that our customers value having a local food source and that our farm market creates a sense of community. We intend to honor our motto and continue our farming business as long as we are able.

My father-in-law John is now 72 years old. As we look to the future, we can't help but worry about what will happen when he passes away. We have spent countless hours talking with financial advisors, accountants and attorneys trying to put together a plan that will allow Batey Farms to remain a viable business. We know that we will face an estate tax when my father-in-law dies and we are planning now to try to avoid having to sell more acres to pay the tax. I can't help but think about what our farm might be like if we could have invested all that time and energy into our business.

My story is the story of young farmers all over the country. Agriculture looks different on farms from state to state but we all face the same reality that an uncertain tomorrow can bring. We face decisions about making long-term investments in our farms and ranches without the benefit of knowing the price we will be paid for our products. We deal with unpredictable weather that can change a good year into a bad one with a single storm. There isn't much we can do about these risks. They are a normal part of the uncertainty that goes along with farming. But why should uncertainties over estate taxes be added to these others? Our job is hard enough as it is.

I urge Congress to abolish the federal estate tax so that farms like mine can better use their resources to build a stronger business and better their communities. I urge Congress to act quickly to end estate taxes so that no other farmer or rancher has to sell part of his or her business to pay this misguided tax.

Committee on Ways and Means  
Witness Disclosure Requirement - "Truth in Testimony"  
Required by House Rule XI, Clause 2(g)

Your Name: BRANDON WHITT

1. Are you testifying on behalf of a Federal, State, or Local Government entity?  
a. Name of entity(ies).

Yes ☒ No

b. Briefly describe the capacity in which you represent this entity.

2. Are you testifying on behalf of any non-governmental entity(ies)?  
a. Name of entity(ies).

Yes ☒ No

AMERICAN FARM BUREAU

b. Briefly describe the capacity in which you represent this entity.

Farmer member

3. Please list any Federal grants or contracts (including subgrants or subcontracts) which you have received during the current fiscal year or either of the two previous fiscal years that are related to the subject matter of the hearing:

4. Please list any grants, contracts, or payments originating from foreign governments which you have received during the current calendar year or either of the two previous calendar years that are related to the subject matter of the hearing:

5. Please list any offices or elected positions you hold.

6. Does the entity(ies) you represent, other than yourself, have parent organizations, subsidiaries, or partnerships you are not representing?

Yes ☒ No

7. Please list any Federal grants or contracts (including subgrants or subcontracts) which were received by the entity(ies) you represent during the current fiscal year or either of the two previous fiscal years, which exceed 10 percent of entity(ies) revenues in the year received. Include the source and amount of each grant or contract. Attach a second page if necessary.

8. Please list any grants, contracts, or payments originating from foreign governments which were received by the entity(ies) you represent during the current fiscal year or either of the two previous fiscal years related to the subject matter of the hearing. Include the source and amount of each grant or contract. Attach a second page if necessary.

Page 2

Committee on Ways and Means  
Witness Disclosure Requirement - "Truth in Testimony"  
Required by House Rule XI, Clause 2(g)

Name:

Brandon Whitt

Address:

137 Jamison Downs DrMcFreesboro, TN 37129

Signature:




Date:

3/14/15

For submission for inclusion in the record:

As a small business man I have worked all these 56 years in the hope I would have an intact business to turn over to my child. A heavy burden of estate taxes will destroy my dream. Please consider this idea. An exemption from estate tax for family farms and businesses that are valued at \$ 10 million or less. For family farms or businesses valued above \$ 10 million, estate taxes payable on the remaining value above \$ 10 million would be deferred until the farm or business is sold outside the family. On the date the ownership of the farm or business is sold outside the family, the deferred estate taxes are to be paid by seller over a 10 year period. This 10 year period is for the purpose of allowing the family seller a period of time to re-enter the farming or business world without an enormous debt payable all at one time. Thank you for your kind consideration of this simple idea.





Written Statement of the  
Independent Electrical Contractors  
Supporting  
“The Death Tax Repeal Act of 2015”

Before the  
Subcommittee on Select Revenue Measures  
of the Committee on Ways & Means

United States House of Representatives

Washington, DC

April 2, 2015

The Independent Electrical Contractors (IEC), a national trade association for merit-shop electrical and systems contractors composed of 53 chapters and more than 3,000 members, is writing to inform the Committee of its support for H.R. 1105, the *Death Tax Repeal Act of 2015*.

Many of IEC's member companies are small businesses, a majority of which are family owned and operated. These businesses are unfairly punished by the estate tax – also known as the “Death Tax” – which is levied on the transfer of a business within a family once the primary owner has passed away. This often forces families to sell off some or all of the business in order to pay the government.

Much of the construction industry still remains in the process of recovering from the 2008 recession and tax relief is essential for small employers looking to grow and hire new staff which will help reinvigorate a still struggling sector. The burdensome estate tax, which only accounts for less than one percent of annual federal revenue, stymies this growth and acts as a painful hurdle in passing down family owned businesses to future generations.

Once again, IEC urges the Committee to pass H.R. 1105, the *Death Tax Repeal Act of 2015*.

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## National Grocers Association

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March 18, 2015

The Honorable David Reichert  
 Chairman, House Subcommittee on Select Revenue Measures  
 1102 Longworth House Office Building  
 Washington, D.C. 20515

Chairman Reichert:

On behalf of the National Grocers Association (NGA) I am writing today to commend the subcommittee for holding a hearing on this important issue and to highlight the burden the estate tax places on the independent channel of the supermarket industry.

NGA is the national trade association representing the retail and wholesale grocers that comprise the independent channel of the food distribution industry. An independent retailer is a privately owned or controlled food retail company operating a variety of formats. Most independent operators are serviced by wholesale distributors, while others may be partially or fully self-distributing. Some independents are publicly traded, but with controlling shares held by the family and others are employee owned. Independents are the true “entrepreneurs” of the grocery industry and dedicated to their customers, associates, and communities. The independent supermarket channel is accountable for close to 1% of the nation's overall economy and is responsible for generating \$131 billion in sales, 944,000 jobs, \$30 billion in wages, and \$27 billion in taxes.

While NGA continues to support full repeal we have seen limited relief from this tax based on the estate tax change signed into law in early 2013, which set the exemption at \$5 million per person, indexed for inflation, and set the top rate at 40%. Indexed to inflation, this sets the 2015 exemption at \$5.43 million. While this change from Congress has provided some relief to our family-owned businesses, recent proposals from the Administration to eliminate stepped-up basis while levying capital gains taxes on those appreciated assets are of major concern to our industry.

Well over half of the assets of a typical supermarket—the highest of any other industry sector—are not liquid, so the death of an owner creates a serious obstacle to continuation of the business. Families in the independent supermarket industry are often forced to borrow funds to pay the tax, which could hamper the growth of a business. Estate taxes put family-owned businesses at a severe disadvantage when they compete with corporations that will never face the prospect of being forced to borrow funds or liquidate an ongoing enterprise in order to pay an enormous tax, undermining the important American values of hard work, entrepreneurship, thrift, and intergenerational savings.



I thank you again for holding this hearing on an issue of such importance to our industry. If NGA can be of assistance to you or the committee in any way, please have your staff contact Maggie Lyons at [mlyons@nationalgrocers.org](mailto:mlyons@nationalgrocers.org) or 703-516-0700.

Thank you,

A handwritten signature in cursive script, reading "Peter J. Larkin".

Peter J. Larkin  
President and CEO  
National Grocers Association



Statement of the  
National Lumber and Building Material Dealers Association

Ways and Means Select Revenue Measures Subcommittee  
United States House of Representatives

on

Burden of the Estate Tax on Family Businesses and Farms

March 31, 2015

**Repeal of the Estate Tax**

On behalf of over 6,000 building material retailers nationwide, the National Lumber and Building Material Dealers Association (NLBMDA) appreciate your leadership on the estate tax and support its full and permanent repeal. The current estate tax does not adequately recognize the high asset base of lumber and building material dealers' businesses or set the exemption level high enough to adequately cover the value of non-cash assets such as land, inventory, and equipment. Congress must take additional steps to ensure that family-owned businesses, such as lumber yards, are able to be passed on to the next generation.

The estate tax punishes people for a lifetime of hard-work. After spending decades building a business it is unfair to then force the inheritors of the business to pay a tax on the business. This tax is frequently paid by selling family assets, including business assets or even the business itself. Other times, employees of the family-owned business must be laid off and payrolls slashed. No one should be punished for building a business and a legacy that they wish to pass on to the next generation.

The tax contributes a very small portion of federal revenues. In 2014, the estate tax accounted for 0.6 percent of federal revenue. Not collecting the tax would create more economic growth and lead to an increase in federal revenue from other taxes. A 2014 Tax Foundation analysis found repeal of the estate tax would increase federal revenues by \$3.3 billion per year using a more realistic, "dynamic" economic analysis.

Repealing the estate tax would also spur job creation and grow the economy. Many studies have quantified the job losses associated with the estate tax. A 2012 study by the House Joint Economic Committee found that the estate tax has destroyed over \$1.1 trillion of capital in the nation's economy. Family-owned businesses must spend money every year on expensive insurance policies and estate planning that could be better spent by being reinvested in their businesses.

We support the Death Tax Repeal Act (H.R. 1105) and appreciate Congressman Kevin Brady's leadership on the issue. The negative effects of the estate tax make permanent repeal the only solution for family-owned businesses such as lumber yards. The legislation will help America's family-owned businesses create jobs, expand operations, and grow the economy. We thank the subcommittee for its continued leadership and attention to this important issue.

**For More Information Contact**

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Small Business Legislative Council  
4800 Hampden Lane, 6<sup>th</sup> Floor  
Bethesda, Maryland 20814

**SMALL BUSINESS LEGISLATIVE COUNCIL STATEMENT FOR THE RECORD  
U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON WAYS AND MEANS  
SUBCOMMITTEE ON SELECT REVENUE MEASURES HEARING  
“THE BURDEN OF THE ESTATE TAX ON FAMILY BUSINESSES AND FARMS”  
MARCH 18, 2015**

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The Small Business Legislative Council (SBLC) appreciates the opportunity to submit this statement.

The SBLC is a 35 year old permanent, independent coalition of over 50 trade and professional associations that share a common commitment to the future of small business. SBLC members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, and agriculture. SBLC policies are developed by consensus among its membership.

**INTRODUCTION:**

A repeal of the federal estate tax, an increase in the federal estate tax exemption or a reduction in the estate tax rate could prove very beneficial to those family-owned small and mid-sized businesses which are very capital intensive, land rich or successful. However, it would be extraordinarily detrimental to *almost all* small businesses if the cost of such change is an elimination, or scale back, of the “step-up in basis” at death. Any attempt to eliminate or scale back the step-up in basis must be vigorously opposed if we are to keep our nation’s small businesses strong.

The step-up in basis is generally under-addressed in the debate over the estate tax, yet it is sometimes erroneously categorized as a “tax loophole” and looked to as a proposed revenue raiser. The damage that would be caused to almost all small businesses by eliminating the step-up in basis, due to the creation of a new capital gains tax on small businesses at the passing of an owner, would be staggering. While the media attention has focused on proposals to either repeal the estate tax, increase the exemption limit or reduce tax rates, which would certainly be beneficial to some small businesses, there has been very little publicity or awareness of proposals to eliminate the step-up, which is very concerning given the impact that such a change would have on a much broader swath of small businesses.

The most recent proposal to eliminate the step-up in basis came in February in President Obama's 2016 Budget Proposal.<sup>1</sup> In the context of small business, and the small business growth which, as we are all aware, is critical to the American economy, maintenance of the step-up in basis is imperative. The SBLC believes that under no circumstances should the elimination or restriction of the step-up in basis be used as a bargaining chip to achieve reform or repeal of the estate tax. **The SBLC urges the Committee on Ways and Means to strongly oppose any proposals, related to the estate tax or otherwise, which would reduce or eliminate the step-up in basis. Such a course of action would prove extremely harmful to small businesses across the country and impede the ability of small businesses to grow, create jobs and contribute to the economy.**

#### CONSEQUENCES OF LIMITING OR ELIMINATING THE STEP-UP IN BASIS AT DEATH:

The President's plan, as set forth in his 2016 Budget Proposal, would be to repeal the "step-up in basis" in property that occurs when someone passes away. The step-up in basis provides that property transferred at an individual's death will not be subject to capital gains tax on the appreciation that occurred during the individual's lifetime. The President's proposal refers to the step-up as a "loophole" for high income taxpayers. However, the truth is that this proposal has the ability to force new taxes on many small businesses and their middle class owners.

Under the President's proposal, each individual would be able to exempt up to \$100,000 of any type of capital gain, plus an additional \$250,000 of capital gains on a residence, from being taxed at death. The proposal would also exclude from taxation any capital gains on tangible personal property other than "expensive art and similar collectibles" as well as any capital gains on property that is bequeathed to a charity.

On the business side, the President's proposal would provide that "inherited small, family-owned and operated businesses" would not be subject to the payment of the capital gains taxes until the business is sold and would permit closely held businesses to pay the capital gains taxes due upon death over a period of 15 years. In the past, Congress has struggled with provisions aimed at defining "small, family-owned and operated businesses" and, if this provision were to be enacted, as discussed further below, we would expect to see hundreds of pages of new regulations defining what businesses would be covered by this definition.

A simple example demonstrates just how harmful the elimination of the step-up in basis could be for a family-owned small business. Suppose a small business that is owned by a husband and wife whose basis in the business was \$100,000 and, due to many years of hard work by the owners, is worth \$12 million at the time of their passing. To simplify the example to its barebones, assume that the husband and wife have no other valuable assets, no deductions and that they pass away simultaneously.

- *Under current law*, there would be no tax on the couple's \$11.9 million capital gains in the business and \$10.86 million of the two estates would be tax exempt

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<sup>1</sup> The fact that the President's Budget calls for a reduction in the federal estate tax exemption would make the repeal of the step-up in basis even more damaging.

pursuant to the federal estate tax exemption. Thus, \$1.14 million of the joint estate would be taxable, which, at a 40% tax rate, would mean that the husband and wife's estates would pay a total of approximately \$450,000 in federal estate tax.

- *If the step-up in basis were eliminated*, assuming no change to the current estate tax exemption, if the family decided to sell the business immediately after the death of the parents, the family would be required to pay capital gains tax on the parents' gains in the business. Under the President's proposal, each individual would be able to exempt up to \$100,000 in capital gains (or \$200,000 for a couple). Thus, the family would be subject to capital gains tax on \$11.7 million of capital gains in the business, which, at the current top rate of 20%, would mean \$2,340,000 of new capital gains tax.<sup>2</sup> This would be in addition to the \$456,000 that the family would owe in estate taxes, meaning that the total tax bill for the family would be \$2,696,000. If, however the President's proposal to reduce the federal estate tax exemption down to \$3.5 million a person and to increase the capital gains tax rate up to 28% were adopted, then again using this simplified example, the family would now owe the government \$2 million in federal estate tax and \$3,276,000 in the new capital gains tax. **The tax cost to the family due to the proposed increase in the federal estate tax and the new capital gains tax is unconscionable.**

If the hypothetical business was a closely held business, rather than a family-owned and operated business, it would still face a similar result. The business would be required to pay the \$2,340,000 (as calculated above) over 15 years, commencing immediately after the parents' deaths. In other words, the business would be required to pay \$156,000 annually in taxes, every year for fifteen years. For most small businesses, \$156,000 annually is a relatively large sum of money and the equivalent of annual pay for up to four employees.

A further concern with the repeal of the step-up as structured in the President's proposal is that it would place regulators in the position of trying to establish what constitutes a family-owned and operated business and distinguishing between family-owned businesses and closely held businesses. If this rulemaking were to take the course we've seen all too frequently, the regulators would spend pages and pages setting forth rules that would attempt to eliminate any possible abuse of the main rule and leave us without any bright line or common sense tests. This process would likely end up following the same course as the old QFOBI (Qualified Family-Owned Business Interest) provisions that were added to the tax code in an attempt to save family-owned businesses from being sold just to pay estate taxes. This provision suffered from one major drawback - the family would not be able to tell if the business qualified for the QFOBI exemption until the owner had passed away. In other words, it gave little, if any, comfort to the family when trying to plan for estate taxes. In addition, the QFOBI suffered from complexity and definitely required specialized lawyers hired to try to wend their way through the maze of regulations in order to assist family-owned businesses to deal with it. It appears that this is the type of exception the President's proposal is trying to resurrect. There is no reason to expect it

<sup>2</sup> It is important to note that the President's Budget proposes not only to eliminate the step-up in basis, but also to increase the top capital gains tax rate to 28% (from the current top rate of 20%).

will work any better the second time around.

**PROPOSALS TO REDUCE THE ESTATE TAX BURDEN ON SMALL BUSINESSES:**

As can be seen from the above example, the elimination of the step-up in basis could be far more costly for most small businesses than the estate tax currently is (in the example \$2,340,000 in new capital gains tax v. \$456,000 in current estate tax). Thus, SBLC's top priority in this area is to ensure the continued existence of the step-up in basis. There is, however, no question that a reduction of the estate tax, without any change to the step-up in basis, would benefit many small businesses and encourage greater growth. In no event should the federal estate tax exemption be reduced as called for in the President's budget proposals.

Recently, there have been some serious discussions about creating an estate tax exemption for small businesses and farmers. If drafted carefully to avoid the regulatory issues that arose with respect to the QFOBI definition, as discussed above, the SBLC would strongly support legislation to exempt small businesses from the estate tax or otherwise reduce the estate tax burden on small businesses. It is clear that there is bi-partisan concern about the impact that estate taxes have on small businesses, farms and ranches. As such, proposals specifically targeting these areas of the estate tax system for reform, as opposed to the entire system, may garner greater bi-partisan support and prove easier to negotiate.

In the event that reform of the estate tax system is under consideration, the SBLC urges the Committee on Ways and Means and its members to focus, not necessarily on the biggest changes to the estate tax, but the changes most likely to become law and provide meaningful relief to small businesses. Proposals to repeal the estate tax have been widely discussed. However, there is also another option that should be considered which would reduce the estate tax burden for many small businesses and individuals but would be more likely to gain bi-partisan support. Specifically, this would be to create a two tier rate system for the application of estate taxes over the exemption limit. In other words, maintain the current estate tax exemption (which today is \$5.43 million per individual), then tax the first \$5 –10 million over the estate tax exemption at a lower rate of say, 20%, and anything beyond the first \$5 million (or perhaps \$10 million) over and above the federal estate tax exemption level would then be taxed at the current estate tax rate of 40%.

Applying this proposal to an example, suppose that the business described in the earlier example had a value of \$25 million rather than \$12 million.

- *Under the current estate tax system*, the first \$10.86 million (\$5.43 million per parent) would be exempt from estate tax and the remaining \$14.14 million would be taxed at a rate of 40%. Under the current system, the total estate tax bill would be \$5.656 million.
- *Under the tiered estate tax proposal*, the first \$10.86 million (\$5.43 million per parent) would be exempt from estate tax, the next \$10 million (\$5 million per parent) would be taxed at a rate of 20% (\$2 million), and the remaining \$4.14 million would be taxed at a rate of 40% (\$1.656 million). Under the tiered estate tax proposal, the total estate tax bill would be \$3.656 million or \$2 million less than the bill under the current system. This would significantly assist those small businesses who have higher values due to being

land rich, capital intensive or just simply very successful. Of course if the 20% rate extended to an estate valued at \$15.43 million per individual that would be even more helpful for these types of family-owned businesses.

Even though the value of many small businesses does not exceed the federal estate tax exemption there are still many small and family-owned businesses that have a fair market value that does exceed that level. As we have identified above, those most likely to exceed the exemption level (even the joint exemption level of a couple – and of course, many small business owners are not married) are those businesses that are capital intensive, land rich (but often income poor), or are just plain successful, which means they are generating jobs – mostly jobs for Americans. It is interesting to note that under the U.S. Small Business Association (SBA) standards, a service business with annual receipts of up to \$21.5 million (depending on the type of service) may be classified as a small business and a retail business with annual receipts of up to \$21 million (depending on the product) may be classified as a small business. Of course, one cannot determine the fair market value of a business based solely on annual receipts, but it is very probable that a business generating annual receipts in this amount would have a value in excess of the federal estate tax exemption.

The introduction of a tiered estate tax system, as outlined above, however, would reduce the estate tax burden on small family-owned businesses that, as illustrated through the many examples provided during the March 18 Hearing, has proven very harmful to the growth and success of many of these businesses. On the other hand, the tiered proposal would require far less offset than a proposal to eliminate the estate tax all together and would still subject the largest estates to the highest tax rates.

#### CONCLUSION:

First and foremost, the step-up in basis should not be used to pay for a reduction or elimination of the federal estate tax. The loss of the step-up in basis would be devastating for many small family-owned or closely held businesses. **The SBLC strongly opposes any proposals to eliminate the step-up in basis.**

The SBLC urges the Committee on Ways and Means to consider the tiered estate tax proposal set forth above, as well as an exemption for small and family-owned businesses which is easy to understand and apply. Ensuring that small family-owned businesses can grow and succeed over multiple generations should be a bi-partisan issue and these proposals would help do just that.



March 18, 2015

Subcommittee on Select Revenue Measures

ATTN: Chairman Reichert

B-318 Rayburn House Office Building

10:00 AM Hearing on the Burden of the Estate Tax on Family Businesses and Farms

### **The Tire Industry Association Supports the Death Tax Repeal Act of 2015**

TIA is an international association representing all segments of the tire industry, including those that manufacture, repair, recycle, sell, service or use new or retreaded tires and also those suppliers who furnish equipment, material or services to the industry. TIA has a combined history that spans more than 90 years and has almost 7,500 members that operate more than 30,000 locations.

TIA believes the estate tax is hurting family-owned businesses because the cost of the estate tax comes not only from paying the tax, but also from estate planning. The estate tax applies to property transferred at death when the value of the property exceeds the estate tax exemption. Much of the value of family-owned business is tied to illiquid assets such as land, buildings, and equipment. This can force the new owner to sell the businesses' assets to pay the tax.

We support the Death Tax Repeal Act of 2015 (H.R. 1105). Our association supports full and permanent repeal of the federal estate tax for the following reasons:

#### Repealing the death tax would spur job creation and grow the economy.

Many studies have quantified the job losses caused by the death tax. Last year the Tax Foundation and Heritage Foundation both found that the US could create over 100,000 jobs by repealing the death tax. A 2012 study by the House Joint Economic Committee found that the death tax has destroyed over \$1.1 trillion of capital in the US economy -- loss of small business capital means fewer jobs and lower wages. Lawrence Summers, former Secretary of the Treasury under President Clinton; Alicia Munell, member of President Clinton's Council of Economic Advisors; Joseph Stiglitz, a Nobel laureate for economics; and Douglas Holtz-Eakin, former CBO Director have all published work on the death tax's stifling effect on job growth and the economy as a whole.



The death tax contributes a very small portion of federal revenues.

The death tax currently accounts for less than half of one percent of federal revenue. There is a good argument that not collecting the death tax would create more economic growth and lead to an increase in federal revenue from other taxes. A 2014 Tax Foundation analysis found repeal of the death tax would increase federal revenues by \$3.3 billion per year using a more realistic, "dynamic" economic analysis. In addition, the death tax forces family businesses to waste money on expensive insurance policies and estate planning. These burdensome compliance costs make it even harder for business owners to expand their businesses and create more jobs.

A super-majority of likely voters support eliminating the death tax.

Poll after poll has indicated that a super-majority of likely voters support repealing the death tax. Typically, two thirds of likely voters support full and permanent repeal of the death tax. People instinctively feel that the death tax is not fair.

The death tax is unfair.

It makes no sense to require grieving families to pay a confiscatory tax on their loved one's nest egg. Often this tax is paid by selling family assets like farms and businesses. Other times, employees of the family business must be laid off and payrolls slashed. No one should be punished for fulfilling the American dream. The negative effects of the death tax make permanent repeal the only solution for family businesses and farms.

For many family-owned businesses to keep operation after the death of the owner, they must plan for the estate tax. Planning costs associated with the estate tax are a drain on business resources, taking money away from the day to day operations and business investment. These additional costs make it more difficult for the business owner to expand and create new jobs. Protecting family business from the estate tax is important in order to keep these businesses operating for future generations.

We believe the Death Tax Repeal Act of 2015 will help America's family businesses, create jobs, expand operations, and grow the economy. Thank you for allowing us the opportunity to comment on this important legislation.

Sincerely,

Roy Littlefield IV  
Government Affairs Manager  
Tire Industry Association

