STATEMENT

OF THE

NATIONAL CATTLEMEN'S BEEF ASSOCIATION

To The

SENATE FINANCE COMMITTEE

SMALL BUSINESS AND RURAL DEVELOPMENT

Presented by

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RANCHER, GLASGOW, MT

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Chairman Baucus, Ranking Member Grassley and distinguished members of the Committee, my name is Lynn Cornwell. My family owns and operates a diversified ranching and feeding operation Northwest of Glasgow, Montana. I am here today representing the National Cattlemen's Beef Association (NCBA) where I served most recently as President, and the hundreds of thousands of other ranchers just like myself nationwide.

NCBA applauds the Committee for holding this hearing. Agriculture, and the supporting industries, is the backbone of this nations rural community. The success or failure of many rural communities is directly tied to the growth, development and profitability of farms and ranches that surround those communities.

Mother Nature and current markets have placed the beef industry in the midst of some interesting times over the past several years. Cow-calf producers that should have experienced highly profitable seasons have seen income slashed by drought and wildfires and feeders have seen some of the most unprofitable margins in recent history. While other segments of agriculture may rely upon a safety net, we do not. The beef industry has rejected those efforts in the past and will likely continue to reject them in the future.

DEATH TAX REPEAL

Most ranchers' success is largely dependent on the investment into assets that build equity. The traditionally low rate of return on investment has meant that we look at this committee more often than others to address our long-term concerns. We continue to believe that long-term investments in our operations and sustainable investments in conservation and technology will allow us to keep our operations profitable, and in our family’s name, in the future. For those reasons, the elimination of the Death Tax is and remains a top priority of NCBA.

We continue to support all efforts to fully and finally repeal taxes upon a person's estate at the time of death. To quote another past president of NCBA "death is a lousy event to tax.” We appreciate the leadership and other members of this Committee for their efforts last year in taking a first and vital step toward the repeal of the Death Tax. I would encourage you to renew those efforts to make last year’s success permanent and finish the job of ending the Death Tax. Without a permanent repeal, farmers and ranchers like myself must continue to make investments in estate planning that serve no purpose other than to offset the losses my heirs will experience when the federal government takes away vital equity and cash from our farming and ranching operation upon my death.

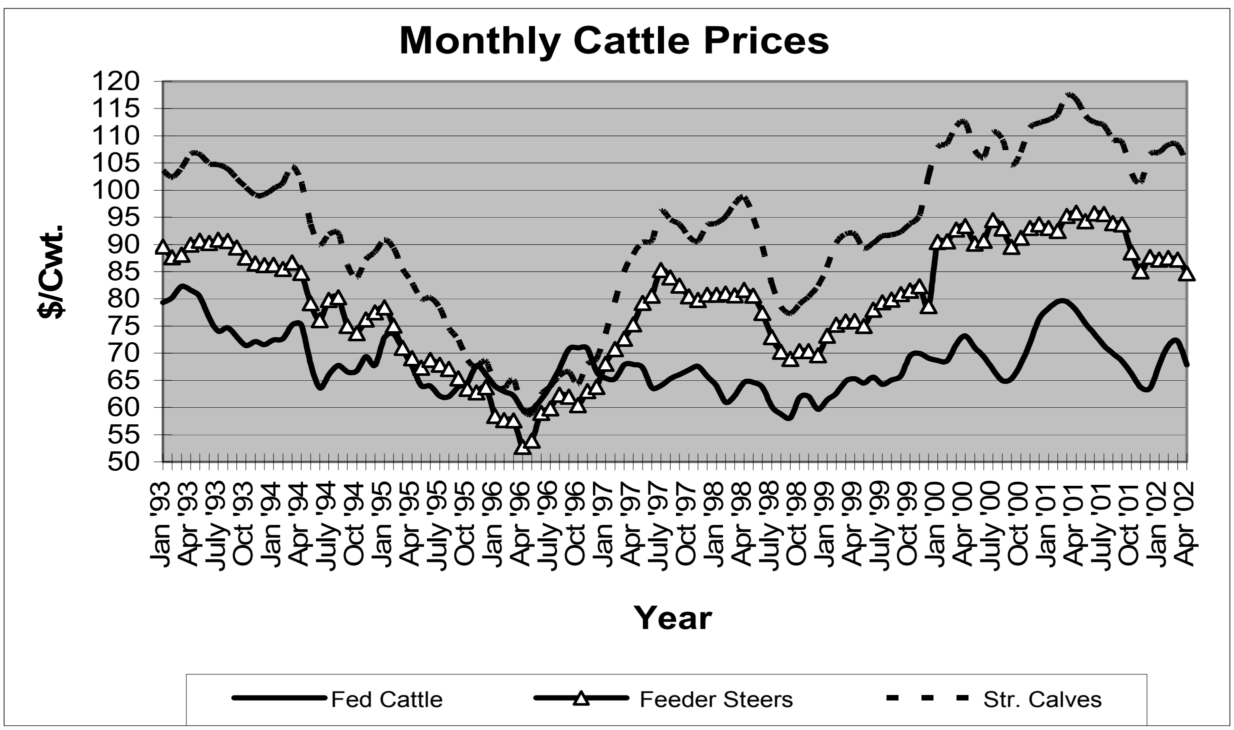
FARM, FISHING AND RANCH RISK MANAGEMENT ACCOUNTS (FFARRM)

An equally important step forward is to give producers the ability to manage their own resources through the typical highs and lows of the market. NCBA supports legislation that will empower producers to invest their own resources in a way that will benefit their family farming and ranching operations. That creates stronger rural community that can withstand some of the economic storms that have plagued rural America.

NCBA has long supported S.313 and the creation of Farm, Fishing and Ranch Risk Management Accounts (FFARRM) to help family farmers and ranchers manage risk through savings. Using FFARRM Accounts, ranchers would be able to save money in good economic times for use when times are less profitable without the penalties usually assigned to those savings. NCBA believes that the use of FFARRM Accounts would further limit the need for government intervention in agriculture by way of subsidies and safety nets.

Many of the increased pressures we face in balancing my ranch budget are the same as any small business. Livestock, fuel, equipment, repairs, building maintenance, insurance, utilities and payroll are all part of managing a ranch in today's environment--much the same as any business. In addition, seasonal expenses that range from seed, feed, animal health products and fertilizer to machinery are also part of every producers business plan.

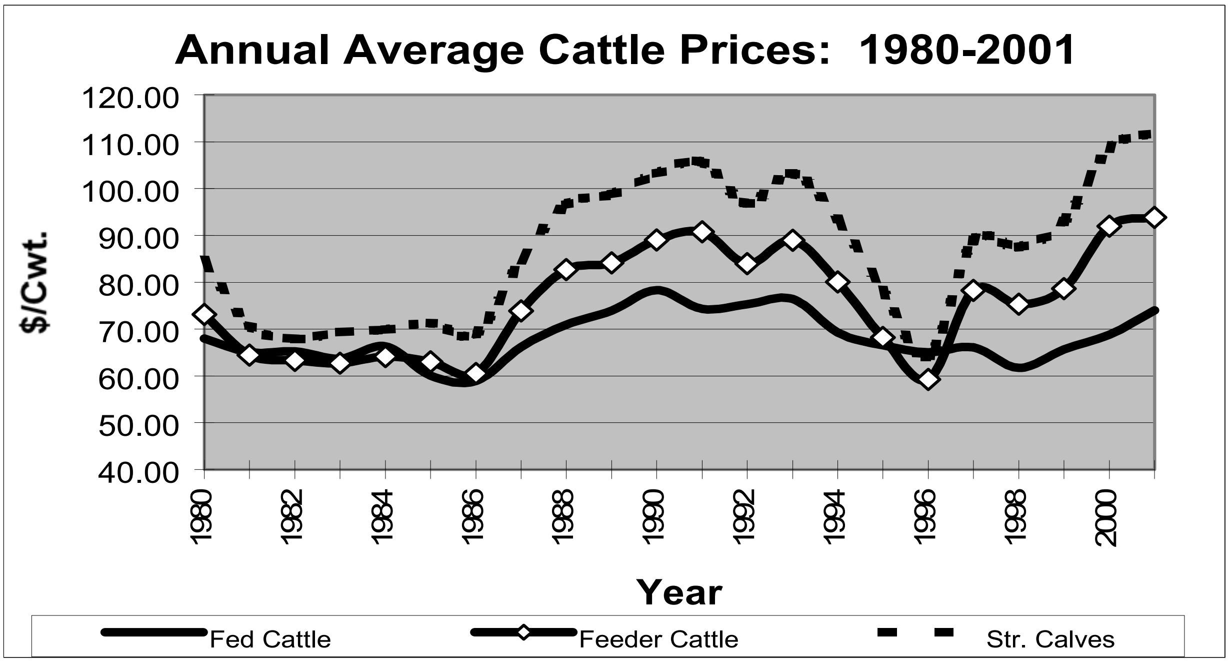
The key differences being that those of us in agriculture find ourselves at the mercy of weather and a fluctuating marketplace that is based more on supply and demand than the cost of production. As indicated by the chart [below] many cow-calf operators have experienced above average prices over the past two years. Those same high calf prices are a significant reason why the feeding segment is experiencing some of the most significant losses in equity in recent history. Furthermore, its important to point out that a number of producers have been significantly impacted by drought conditions, altering the normal cattle cycle. We cannot expect the laws of supply and demand to disappear, but with your help we can take steps to allow producers to better prepare for the lean times.



FFARM Accounts would allow producers to defer income during the profitable years and then draw on those funds, their own money, during times of need. FFARRM Accounts would allow producers to defer up to 20% of their income, allowing them more efficient management of their own resources.

Money could remain in the account for no more than five years and would be subject to income taxes at withdrawal while interest would be taxed as it is earned. Safeguards in the bill limit the use of FFARRM Accounts to bonafide farmers and ranchers and also require that FFARRM funds be held in interest-bearing accounts.

As a result, lendable funds will be more available to other individuals and businesses in rural communities. FFARRM Account deposits stored in local banks would be available for others in the community to utilize, resulting in additional capital investments elsewhere in the rural community. S.313 would be a great tool that allows producers to better manage a widely fluctuating income stream and provide much-needed capital for others in rural communities to utilize. Good for ranchers, good for rural communities-- truly a win-win situation for everyone in rural America.



INCOME AVERAGING AND THE ALTERNATIVE MINIMUM TAX (AMT)

Farm Income Averaging provides farmers and ranchers with a valuable tax management tool. However, the intended benefit of Income Averaging is being eroded by the Alternative Minimum Tax (AMT). Ranchers who take advantage of Income Averaging, those with wide swings in income, are hurt most by AMT imposed limits on farm and ranch Income Averaging.

The income for a typical ranch can vary by thousands of dollars per year and provides little reference of true profitability for the operation--high income is not the only indicator of profit. Income Averaging helps assure the long term viability of ranchers and ranch families because they are no longer overtaxed in profitable years leaving more funds to pay expenses and prepare for the downturn. Without Income Averaging, farmers and ranchers will pay more in taxes than people with steady incomes even though they both had the same final aggregate earnings over time.

In short, the AMT undoes the good of Income Averaging and should be eliminated. Producers nationwide, and many outside of agriculture, complain of the complexities in calculating AMT and many are surprised by AMT expense well after the initial planning for their production year has already begun--leaving the producer in position of taking away from planned expenses to pay an unfair and burdensome tax.

Capital Gains

Ranching and beef production is a capital-intensive business that requires a tremendous investment in land, buildings, and equipment. When farmers and ranchers sell most farm assets-- they are faced with capital gain taxes on the amount that asset has increased in value while they owned it. With a lifetime's earnings tied up in long term investments in livestock, land, buildings and other assets. Ranchers, processors and livestock markets all find this tax to be one of the most limiting factors in staying current with today's technology.

Capital gains taxes are a deterrent to producers' investments in new breeding stock, equipment and buildings. Those upgrades generally come at the expense of existing assets that when sold generate capital gains. Long-term holdings, or assets, are the most difficult to upgrade based on the penalties associated with their sale. Sales of land or like assets can be the realization of more than 30 years of equity that is also the base collateral for many of the ranch's other operating expenses.

Capital gains taxes threaten the transfer of ranches between generations. They artificially increase the price of land making it more difficult for the younger generation to take over farms while their parents are still alive. The tax makes it even more expensive for farmers to acquire land to expand so that an additional family member can enter the family business. While NCBA would prefer that capital gains be eliminated, we also understand that the complete elimination of capital gains at this time is unlikely.

NCBA does support a number of the efforts to provide relief from capital gains and we would encourage the Committee to continue to evaluate those options at every opportunity. NCBA supports measures that allow farmers and ranchers to enhance conservation on their land without suffering the effects of capital gains on the resulting income.

Other Issues

A number of issues of importance to rural America could be addressed through measures before this Committee. Improvements in Subchapter S laws will help community banks thereby helping producers in and around those communities.

Farmers and Ranchers that pay self-employment taxes are disturbed by court rulings in the past several years that changes the classification of rental income, specifically from programs like the Conservation Reserve Program (CRP). NCBA believes it's unfair to treat active farmers and ranchers differently from other taxpayers when imposing self-employment taxes on rental income.

Because of the Mizell (1996) and Wuebker (2000) cases, the IRS now singles out farmers and ranchers as landlords liable for the self-employment tax. For other taxpayers receiving CRP payments and cash rental payments, not materially participating in a farming operation, the payments are considered to be rental income not subject to self-employment tax.

Summary

In closing, I thank the Committee for this opportunity to testify and to express our support for S. 312, Tax Empowerment and Relief for Farmers and Fishermen (TERFF) Act and similar measures. In our statement we have outlined a number of important provisions that we hope the Committee will address, again I thank you and will be happy to answer any questions.