

1999 SENATE AGRICULTURE

SCR 4021

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4021

Senate Agriculture Committee

Conference Committee

Hearing Date 2/4/99

Tape Number	Side A	Side B	Meter #
1		X	2300-2283
Committee Clerk Signature <i>Miccia Jorgensen</i>			

Minutes:

Senator Klein called the meeting to order, roll call was taken, 1 member was absent.

Senator Klein opened the hearing on SCR 4021.

Senator Krauter introduced the bill. Relating to North American Free Trade Agreement. Seeing large amounts of grain come down. We have some problems and we need to renegotiate. Need to resolve disputes.

Senator Kinnoin: I would hope if/when we get to negotiations we don't get out negotiated again.

Mark Sitz from the ND Farmers Union spoke in support of the bill. Testimony enclosed.

Patrice Eblen handed out testimony for Roger Johnson. Testimony enclosed.

John Risch from the United Transportation Union spoke in favor of the bill. NAFTA was supposed to have created 200,000 American jobs, main reasons it passed. 204,451 Americans

Page 2

Senate Agriculture Committee

Bill/Resolution Number Scr 4021

Hearing Date 2/4/99

certified as losing their jobs because of the free trade agreement. Passed out some handouts which are enclosed.

Jim Moench from COFA spoke in support of the bill.

Beth Baumstark from the Attorney General Office spoke in support of the bill.

Senator Wanzek closed the hearing on SCR 4021.

Senator Sand made the motion for a Do Pass.

Senator Mathern seconded.

ROLL CALL: 6 yes, 0 no, 1 absent

CARRIER: Senator Kinnoin

Held open for absent member.

ROLL CALL: 7 yes, 0 no.

Date: 2/4
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4021

Senate Agriculture Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sand Seconded By Mathern

Senators	Yes	No	Senators	Yes	No
Senator Wanzek	✓				
Senator Klein	✓				
Senator Sand	✓				
Senator Urlacher	✓				
Senator Kinnoin	✓				
Senator Kroeplin	✓				
Senator Mathern	✓				

Total (Yes) ~~7~~ 7 No 0

Absent X

Floor Assignment Senator Kinnoin

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

REPORT OF STANDING COMMITTEE (410)
February 4, 1999 4:56 p.m.

Module No: SR-23-1966
Carrier: Kinnoin
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SCR 4021: Agriculture Committee (Sen. Wanzek, Chairman) recommends **DO PASS**
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4021 was placed on the
Eleventh order on the calendar.

1999 HOUSE AGRICULTURE

SCR 4021

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4021

House Agriculture Committee

Conference Committee

Hearing Date 3-11-99

Tape Number	Side A	Side B	Meter #
Three SCR 4021	x		16.2 to 25.0
Committee Clerk Signature <i>Arline Hanson</i>			

Minutes:

Summary of Resolution: Urges congress to renegotiate NAFTA and address tariff equalization, increased market access, sanitary and phytosanitary disputes, shorten dispute procedure.

Sen Krauter: This is relating to NAFTA, North American Free Trade Agreement, I think everyone understands that there are a lot of concerns out there. When NAFTA was first put in place I think farmers thought there would be some opportunities there for them to sell there product in some new markets. Now we think we need to re-negotiate the agreement and make some changes particularly in the world grain trade . Need to see if we can't get trade sanctions lifted.

Carol Dx. Two Eagle Walker: (Testimony attached) Has an amendment to be included in resolution. Large work force being wasted on the Indian Reservation and they need work. I have the amendment in my office and I can get it to you tomorrow. OK

Page 2

House Agriculture Committee

Bill/Resolution Number SCR 4021-d

Hearing Date 3-11-99

Beth Baumsarth: The Atty General office. Support of resolution.

Hold bill till morning.

3-12-99.. Committee work. Carol Two Eagles Walker came with amendment.

Explained the amendment and what it could do for some of the Reservations as they are trying to find jobs for their people it will carry over around outside the Reservations too.

Rep Rennerfeldt: In our part of the State a lot of the fertilizer used on the farms comes out of Canada. Will this resolution effect that any?

Carol Two Eagles Walker: Some companies maintain there headquarters in the US in order to access lower import tariffs and yet they are producing their products in Mexico and places like that.

Rep Berg: I think I understand the intent of your amendments is to encourage production facilities that are going to be environmentally friendly and locate them near the Reservation. I always have a concern with putting on import tariffs on products because the next step is for those countries to put import tariffs on our ND products. We ship most of our goods out of state and out of country so every thing we produce comes under scrutiny. We need free trade in order to get rid of our products.

Carol Two Eagles Walker: Talking about a business she had and had to import iron for her products because a lot of the Iron Ore in US sent out of Country.

Rep Nowatzki: Moved the amendments as presented second by Rep Herbel. Unanimous vote.

Rep Warner moved a DO PASS on SCR 4021 as amended second by Rep Stefonowicz

Unanimous vote and be placed on the consent calendar.

VR
3/18/99

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4021

Page 1, line 3, remove the first "and" and after "procedures" insert ", methods to encourage American businesses to keep their production operations in the United States, and methods to encourage the location of low-environmental impact and local, culturally friendly production facilities on or near American Indian reservations to access and develop tribal work forces and increase employment opportunities for tribal members"

Page 1, line 21, after "procedures" insert ", methods to encourage American businesses to keep their production operations in the United States, and methods to encourage the location of low-environmental impact and local, culturally friendly production facilities on or near American Indian reservations to access and develop tribal work forces and increase employment opportunities for tribal members"

Renumber accordingly

Date: 3-11-99
Roll Call Vote #:

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4021

House AGRICULTURE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken NO PASS AS Amended

Motion Made By Muller Second By Stefonowicz

Representatives	Yes	No	Representatives	Yes	No
Eugene Nicholas, Chaiman			Bob Stefonowicz		
Dennis E. Johnson, Vice Chm					
Thomas T. Brusegaard					
Earl Rennerfeldt					
Chet Pollert					
Dennis J. Renner					
Michael D. Brandenburg					
Gil Herbel					
Rick Berg					
Myron Koppang					
John M. Warner					
Rod Froelich					
Robert E. Nowatzki					
Phillip Mueller					

Total (Yes) Unanimous No _____

Absent _____

Floor Assignment _____

REPORT OF STANDING COMMITTEE

SCR 4021: Agriculture Committee (Rep. Nicholas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4021 was placed on the Sixth order on the calendar.

Page 1, line 3, remove the first "and" and after "procedures" insert ", methods to encourage American businesses to keep their production operations in the United States, and methods to encourage the location of low-environmental impact and local, culturally friendly production facilities on or near American Indian reservations to access and develop tribal work forces and increase employment opportunities for tribal members"

Page 1, line 21, after "procedures" insert ", methods to encourage American businesses to keep their production operations in the United States, and methods to encourage the location of low-environmental impact and local, culturally friendly production facilities on or near American Indian reservations to access and develop tribal work forces and increase employment opportunities for tribal members"

Renumber accordingly

1999 SENATE AGRICULTURE

SCR 4021

CONFERENCE COMMITTEE

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4021

Senate Agriculture Committee

Conference Committee

Hearing Date 4/6/99

Tape Number	Side A	Side B	Meter #
1	X		0-1870
Committee Clerk Signature <i>Tricia Jorgensen</i>			

Minutes:

Senator Klein called the committee to order, roll call was taken, all members of the conference committee were present.

Senator Klein opened the meeting on SCR 4021.

Representative Stefonowicz explained the amendments that were put on by the House Ag.

Committee. Carol Two Eagle Walker came in asking us to add the amendments mainly because it did address the concerns of the Native Americans and I think that was why we added the amendment at the time.

Senator Urlacher: I can understand their concern but I think that it might be better served if this comes in the bill form rather than an amendment in this resolution. I think it clutters the resolution.

Senator Klein: I agree. I talked with the sponsor of the bill Senator Krauter and his concern is that we are going to muddy this thing up, the whole issue he was trying to push forward is the NAFTA treaty and the tariff equalizations and the phytosanitary issues and only wondering if this even fit into this bill. He isn't real enthusiastic about leaving that amendment on. He too feels it would be better to have a particular resolution dealing with this issue.

Senator Urlacher: I think it endangers the study.

Representative Renner: I don't have a problem taking those amendments off.

Senator Mathern: When you look at the flavor of it, primarily dealing with NAFTA and all of a sudden we are studying the location of low environmental impact. Would not think it is germane with the resolution even.

Representative Stefonwicz: I think it does have a certain amount of germanus or not but in as much as one of the concerns other than that was the loss of jobs to the other countries and this does somewhat address that concern. I am reluctant to remove it. Is there any possibility we could get a delayed resolution through at this time?

Senator Urlacher: Considering the number of resolutions that are in and the timing of it I think it would be very difficult to get a resolution considered. If we can keep this at a point where it will be recognized and studied the parties involved will have adequate opportunity to present their case during that study period and I think that is when you will see the mix of the concerns.

Representative Pollert: If it is studied I would conclude that the American Indians would be studied in it anyway, to a certain extent right? If NAFTA was ever to come up for discussion on a federal level I would have a hard time believing it wouldn't be discussed.

Representative Renner: If that's true and this amendment is removed and this is selected for a study what you are saying is that they be invited to give their side of the story.

Senator Klein: This isn't a study resolution.

Senator Urlacher: But in that process it will be brought forward in that point and time.

Representative Stefonowicz: In as much as it urging Congress to renegotiate this and address these concerns, I don't see that with or without the amendment that Congress is going to renegotiate the NAFTA treaty.

Senator Klein: The sponsor of the bill was going to be here to urge us to remove that amendment because of his concern that we would lose the focus.

Senator Mathern: I don't believe that if NAFTA is addressed that this issue will be addressed without being in there, I understand their concern.

Representative Stefonowicz: That was the thinking of the House committee.

Senator Mathern: I think that this could be an issue on it's own.

Senator Klein: It should have been a whole resolution rather than something we tack on to the bottom.

Representative Renner made the motion to recede from the amendments.

Senator Urlacher seconded.

Discussion was held.

ROLL CALL: 5 Yes, 1 No

Senator Mathern: Without that on there we are back to it's original form, I think that's what the prime sponsors were looking at, I would like to see something like that saved. Would like to see something like that filed for the next session.

Representative Renner: Maybe we should have tried to put in a resolution for her a couple weeks ago, we don't want to detract from this resolution.

Senator Urlacher: I'm just trying to come up with some solution to recognize their concerns. I guess the tribes could go direct with a message with their concerns as well.

Senator Klein: Would be interesting to note if the tribes on the federal level are passing this message along to Congress through whatever methods they have.

Representative Stefonowicz: Would you be open to another amendment?

Representative Pollert: I think if we try and rewrite the lines it will belittle what she is trying to do.

Senator Urlacher: I would hope the tribes would come forth in a unified effort to address their concerns, they will have as much impact as we have.

Representative Stefonowicz: I think the impact that they would have by their own resolution would be greater had.

Senator Klein: I think that's what the sponsor of the bill relayed to her. He just doesn't feel comfortable with it on there.

Senator Klein closed the meeting on SCR 4021.

Date 4/6/99

Roll call vote # 1

Please type or use black pen to complete

1997 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SCR 4021

Senate Agriculture Committee

Subcommittee on _____ (Identify or

Conference Committee (check where appropriate)

Legislative Council Amendment Number _____

Action Taken Remove amendment Recede

Motion Made By Renner Seconded By Urlacher

Senators	Yes	No	Representatives	Yes	No
<u>Klein</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Renner</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Urlacher</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Pollert</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Mathern</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Stefonowicz</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

Total 5 1
(Yes) (No)

Absent _____

Floor Assignment _____

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

DO NOT USE HIGHLIGHTER ON ANY FORMS

Insert LC: .

REPORT OF CONFERENCE COMMITTEE

SCR 4021: Your conference committee (Sens. Klein, Urlacher, D. Mathern and Reps. Renner, Pollert, Stefonowicz) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 877 and place SCR 4021 on the Seventh order.

SCR 4021 was placed on the Seventh order of business on the calendar.

1999 TESTIMONY

SCR 4021

Testimony of Mark Sitz North Dakota Farmers Union
To the Senate Ag. Committee SCR4021
February 4, 1999

Mr. Chairman and members of the committee, my name is Mark Sitz. I'm a farmer and lobbyist for the North Dakota Farmers Union. We stand in support of SCR4021. North Dakota Farmers Union has been opposed to the North American Free Trade Agreement and the resulting flood of Canadian grain and livestock into the United States since the beginning.

In 1993 we initiated a countervailing duty case against Canadian durum imports. We urged our congressional delegation to get the Clinton Administration to impose tight restrictions on Canadian wheat imports through use of Section 22 of the permanent farm law that calls for import restrictions if the imports cause an increase in federal farm support payments under the farm program. After section 22 was enacted an ITC investigation was undertaken that ultimately lead to a tariff rate quota on Canadian wheat and durum in the fall of 1994.

The TRQ solution was short-lived because of the GATT (General Agreement on Tariffs and Trades) implementation that repealed section 22 and lifted the TRQ. As we all know, there are a whole host of other problems ranging from livestock market damage to farm chemical issues.

We support this resolution calling on congress to renegotiate NAFTA, and in addition, urge U.S. negotiators to include farmers in there representation of U.S. agriculture.

Thank-you.

Testimony of Roger Johnson
Commissioner of Agriculture
Senate Concurrent Resolution 4021
February 4, 1999
Senate Agriculture Committee
Roosevelt Park Room

Chairman Wanzek and members of the Senate Agriculture Committee, I am Commissioner of Agriculture Roger Johnson.

I am here to today in support of SCR 4021, which urges Congress to renegotiate the North American Free Trade Agreement (NAFTA) and address tariff equalization, increased market access, sanitary and phytosanitary disputes, methods to facilitate and shorten dispute resolution procedures.

Farmers are operating in a turbulent, volatile global economy due, in part, to trade agreements entered into by the United States, including NAFTA and others. The current economic conditions in farm country are pointing to the real results of this new trading environment. It is quite obvious that our farmers will need the support of the federal government and the USTR to implement policies and enter into agreements that champion fair trade and result in profitable and sustainable family farms.

Agriculture has not always been a top priority of our trade negotiators. That must not continue. The United States must be unwavering in protecting the interests of American farmers and agriculture **must** be the top priority during the upcoming rounds of trade negotiations.

Congress must also address the problems with current trade agreements. Producers continue to share their frustration regarding a number of issues including unfair price differences in chemicals, currency exchange rates, the lack of price transparency, growing economic concentration in agricultural industries, and the lack of chemical and drug harmonization.

We must do all we can to ensure that farmers and ranchers have the ability to operate in a fair trading environment. Chairman Wanzek and committee members, I urge a do pass on SCR 4021. I will be happy to answer any questions you may have.

NAFTA delivers little promised, plenty unforeseen

By Lori Wallach
and Michelle Sforza
Special to The Bee

TODAY MARKS THE FIFTH anniversary of the North American Free Trade Agreement. It's obvious that the glowing promises used to push the deal through Congress in 1993 — prosperity, environmental cleanup and better relations for the United States, Canada and Mexico — will never materialize. But beyond that, NAFTA's real-life outcomes fail our do-no-harm test as documented in our new study, "NAFTA at 5: A Citizens Report Card."

■ **Jobs and wages:** NAFTA promised to create 200,000 new U.S. jobs annually. But if the actual trade data are plugged into the formula that generated that prediction, hundreds of thousands of U.S. job losses show up. Why? Before NAFTA, the United States sent more goods to Mexico than Mexico sent here. Under NAFTA, the United States has a new \$11.5 billion trade deficit with Mexico and about the same with Canada. Worse, 40 percent of U.S. "exports" to Mexico never reach Mexican markets, but are parts for assembly at low-wage, U.S.-owned plants, which quickly return the finished products to the United States for sale.

Here at home, more than 204,451 U.S. workers are certified to have lost jobs

because of NAFTA, according to the U.S. Labor Department's NAFTA Trade Adjustment Assistance Program. Yet NAFTA's boosters cannot produce a similar list of 200,000 people with new NAFTA jobs. In fact, the treaty has cost many good manufacturing jobs — when we surveyed 87 companies that promised to create NAFTA jobs, 60 had failed to do so, and many had actually relocated jobs to Mexico. The U.S. economy created jobs in the 1990s, but government data show the workers in the new jobs took big pay cuts.

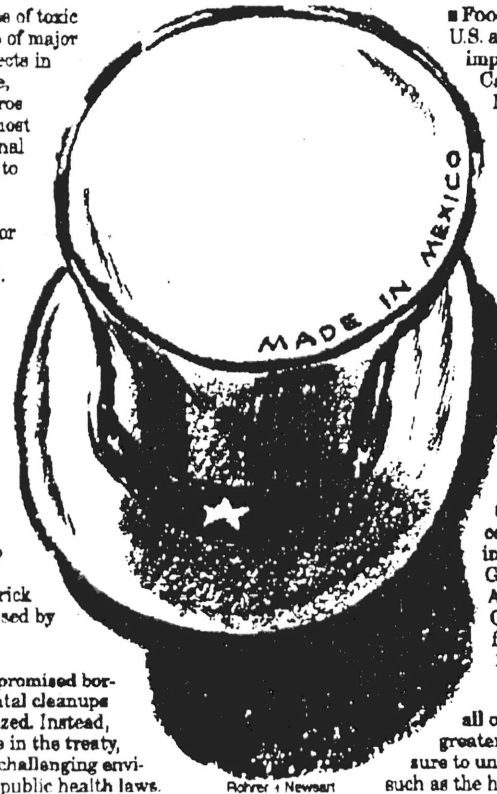
In Mexico, worker productivity increased 86.4 percent under NAFTA, yet wages dropped by 29 percent. Skilled, educated Mexican workers in new high-tech plants earn an average \$55.77 per week, which is not a living wage. For the decade before NAFTA — and through major peso devaluations — the Mexican poverty rate remained at 34 percent. Now 60 percent of the Mexican labor force lives below the poverty line.

■ **Environment:** According to the U.S.-Mexico Chamber of Commerce, there has been a 37 percent jump in the number of Mexican border factories. The wages there are 16 percent lower than at other Mexican factories, says the U.S. Bureau of Labor Statistics. With 1,947 border plants now operating, *maquiladora* employment skyrocketed 92 percent in Tijuana alone. Few of these factories

properly dispose of toxic waste. The rate of major brain birth defects in the Brownsville, Texas-Matamoros area is now almost twice the national rate, according to a Texas Department of Health report for the first 11 months of 1998.

The Texas Department of Health reports that since NAFTA went into effect, the Hepatitis A rate for Cameron County, where Brownsville is located, shot up almost 400 percent, and Maverick County's increased by 122 percent.

Meanwhile, promised border environmental cleanups never materialized. Instead, due to language in the treaty, businesses are challenging environmental and public health laws.



Robert Newhart

■ **Food safety:** U.S. agriculture imports from Canada and Mexico are up 57 percent under NAFTA, with half of U.S. imported produce coming from Mexico. At the same time, imported food inspections declined from 8 percent to less than 2 percent, according to a General Accounting Office study from May 1998.

That means all of us face a greater risk of exposure to unsafe food such as the hundred

Michigan schoolchildren sickened with hepatitis from strawberries imported from Mexico in 1997.

■ **Agriculture and food prices:** Food trade is up, but farmers in Canada, Mexico and the United States have not reaped the benefits and consumer food prices have not dropped. For instance, a stampede of imported Canadian hogs has slashed U.S. farmers' price per pig by 62 percent, yet U.S. consumers pay more per pound of pork than five years ago, even after adjusting for inflation. Given this dismal five-year performance, it is not surprising that recent polling data show Americans' growing opposition to NAFTA's "race-to-the-bottom" model. President Clinton should repeal the treaty.

Lori Wallach directs Public Citizen's Global Trade Watch; Michele Sforza is the group's research director. Global Trade Watch is a nonprofit, nonpartisan citizen group. Public Citizen was founded by Ralph Nader in 1972. The group's entire report is posted on Public Citizen's Web site at www.tradewatch.org. The group can be reached by letter at 215 Pennsylvania Ave. SE, Washington, D.C. 20003; or by phone at (202) 546-4996.

Miami Herald
25 November 1998

NAFTA Suit Could Cost U.S. Taxpayers

By JANE BUSSEY Herald Business Writer

It was the kind of southern trial that could have been out of a John Grisham novel: a Canadian funeral conglomerate was fined \$150 million for gross business misconduct in Mississippi.

But the latest twist in the case comes more from "Annals of International Trade": Canada's Loewen Group has filed a suit under a little known provision of the North American Free Trade Agreement, charging that the justice meted out by the Mississippi jury discriminated against a foreign company. It is claiming hundreds of millions of dollars in compensation from U.S. taxpayers.

The unprecedented lawsuit, coming on the five-year anniversary of Congress' approval of NAFTA, has sparked outcries from critics of the agreement as well as the Mississippi citizens involved in the trial.

But the lawsuit has raised greater implications, because some trade specialists fear that the Loewen case could open the floodgates for Mexican and Canadian companies to sue the United States for setbacks in their business dealings.

Joan Claybrook, president of Public Citizen, an advocacy group started by Ralph Nader, called the Loewen suit "a serious assault on our legal system and democratic process," that could be used by other companies to try "to escape liability for their wrongful acts."

The Loewen Group is a funeral home conglomerate, headquartered in British Columbia, that owns more than 1,100 funeral homes in the United States and Canada, including Levitt-Weinstein, Bess-Kolski-Combs, Graceland and Rubin & Zilbert in South Florida.

In 1995, Jeremiah O'Keefe, a funeral home owner in Biloxi, Miss., sued Loewen for having breached an agreement to purchase several of O'Keefe's funeral homes. He accused Loewen of making an under-the-table agreement with another firm to renege on the deal. The suit also alleged that Loewen was trying to set up a monopoly, said Mike Allred, attorney for O'Keefe.

A jury found the company liable for the fraudulent practices and awarded O'Keefe \$160 million, an amount later raised to \$500 million. Loewen settled O'Keefe for \$150 million.

"We decided that they were a bunch of crooks," Glenn Millan, jury foreman, said in a telephone interview.

On Oct. 30, Loewen fought back, filing a complaint with the International Centre for the Settlement of Investment Disputes, a unit of the World Bank. A panel of three international trade lawyers will be chosen to settle the dispute in proceedings that are not open to the public nor review.

A NAFTA provision, which was little discussed in the 1993 debate on the agreement, allows a corporation to sue one of the three NAFTA governments for cash damages to compensate for a government's failure to deliver to private investors all of the benefits promised to foreign investors under the trade accord.

The Loewen lawsuit, which was outlined in the company's quarterly financial statement filed with the Securities and Exchange Commission and first reported last week by The Wall Street Journal, alleges that the company was "subjected to discrimination, denial of the minimum standard of treatment guaranteed by NAFTA and uncompensated expropriation, all in violation of NAFTA."

A company spokesman declined Tuesday to elaborate on the suit.

Lori Wallach, director of Public Citizen's Global Trade Watch, said the Loewen case underscored the critics' insistence "that NAFTA was not so much about trade as about creating powerful new rights for corporations and investors at the expense of the public interest and democratic governance."

Allred said he could not understand how Loewen could claim the case "somehow has something to do with international trade."

"What we're talking about is burying people," said the attorney.

Allred also questioned the use of confidential international panels making binding decisions on U.S. law that are not subject to public scrutiny or appeal.

Jay Ziegler, a spokesman for the U.S. Trade Representative, said U.S. authorities were still studying the case, but he insisted that the use of international dispute settlement panels is a step forward for U.S. participation in international trade.

"We are bringing greater transparency to judicial policies and practices," Ziegler said. "We are moving the international community in our direction."

Los Angeles Times

Trade Deal 'Remedies' Are Toothless

Wednesday

August 11

1993



Establishing powerless 'commissions' will only paper over the damage to environmental laws, U.S. jobs and more.

By LORI WALLACH

During his campaign, President Clinton said the North American Free Trade Agreement was unacceptable unless certain changes and additions were made. To that end, Clinton called for "supplemental negotiations" with Mexico and Canada.

The Clinton Administration is about to announce the conclusion of these talks, and will certainly declare that NAFTA has been "fixed."

Unfortunately, the majority of Clinton's NAFTA concerns, such as ensuring Americans good jobs and safe food, never even made it onto the negotiating table. The so-called supplemental agreements will consist of nothing but the establishment of commissions on labor and the environment, with very limited jurisdiction and powers. Their roles will merely be to study and to cooperate on enforcement of existing laws in the NAFTA countries. They do not remedy the deal's many fundamental flaws.

We have no gripe with the concept of a North American trade agreement. We agree, however, with citizens groups in Mexico and Canada: This NAFTA is not good for most people or the environment of North America, and the side deals do not change this.

After analyzing NAFTA for months, in October, 1992, presidential candidate Clinton listed, among others, these problems needing "fixing": safeguarding U.S. wage levels and manufacturing jobs, shielding U.S. environmental and consumer laws from challenge and elimination as illegal trade barriers, ensuring the safety of imported foods, defending U.S. family farmers, opening NAFTA to "democratic accountability" and "public participation", generating new funds for environmental cleanup as well as assistance and retraining for U.S. workers who would lose jobs to NAFTA and enforcing North American environmental and labor standards.

Many of these are fundamental flaws that no commission could fix: for instance, the terms in NAFTA that undermine federal, state and local environmental, health and safety laws by exposing them to challenge as illegal

trade barriers. Mexico has already successfully challenged one longstanding environmental law, the Marine Mammal Protection Act, before another trade body, the General Agreement on Tariffs and Trade. The law, which forbids the sale of tuna caught with methods that kill dolphins, was declared an illegal barrier to trade by a GATT tribunal, meaning the United States must eliminate the law or face trade sanctions.

Luckily for Flipper, GATT contains certain procedural emergency brakes that stalled the dolphin case. NAFTA, however, allows the same challenges, contains the same rules and has no "emergency brakes."

No commission could correct NAFTA's investment rules promoting unsustainable development. A NAFTA goal is to increase trade and exploitation of water, fossil fuels, forests and other natural resources. Meanwhile, NAFTA would declare raw log export bans, renewable energy programs, recycling requirements and other conservation policies illegal trade practices.

NAFTA would provide U.S. companies new means to relocate. U.S. companies in Mexico could ignore labor and environmental laws of both nations, pay high-skilled workers \$5 per day and sell their goods in the United States as if the companies were still located here.

The cost of such permissiveness can be seen in the free-trade zone along the U.S.-Mexico border. The Sierra Club estimates that it would cost \$20 billion to clean up this polluted manufacturing strip, labeled an environmental "cesspool" by the American Medical Assn. The so-called supplemental agreements do not generate a steady stream of "new" money for this, much less the \$5 billion per year that organized labor estimates it would cost to help the hundreds of thousands of workers that would be hurt, at least in the short term.

The idea underlying the commission was to impose sanctions on countries that used lax environmental and labor-

law enforcement to lure investment. Sadly, the actual commissions' roles will be merely to study, without particular timetables, "unjustifiable and repeated" patterns of non-enforcement of domestic labor and environmental laws. If, after months or years of study, a commission finds an egregious pattern of abuse, formal review can be initiated only if two of the three NAFTA countries approve it. Formal reviews would lack public access or participation.

Clinton and his trade representative, Mickey Kantor, repeatedly promised that this review process would have "teeth" in the form of trade sanctions. It is already clear that such "teeth" will be inaccessible, at the end of a long and tortuous procedural path.

The Clinton Administration may expect the supplemental agreements to serve Congress as a political fig leaf that allows members to support NAFTA. However, voters across the country know that this agreement is about their environment, their food and their jobs and that these side deals do not fix NAFTA's real problems.

Lori Wallach is trade-issues director for Public Citizen, a consumer and environmental action group founded by Ralph Nader.

March 11, 1999

TO: House Agriculture Committee, Rep. E. Nicholas, Chair

FROM: Carol Dx. Two Eagle Walker; P.O. Box 293; Mandan, ND 58554

Hau, mitakuwase! Hello, my relatives! Caze mitawaki Wanbli Nunpa. My name is Two Eagle. Mitakuye oiasin. All are my relatives. In reality, we are all related, regardless of what language we speak, because we all stand on our Mother, the Earth, *together*, and we all breathe her air and we eat from her bounty. That is why I spoke first to you in my language.

I'm speaking to you today in support of SCR 4021, but this resolution doesn't go far enough as it is written, because it fails to address or include a much-overlooked source of labor – American Indians and American Indian Reservations. This is a common failing of your people, so I'm brining it to your attention, so you can fix it.

NAFTA encourages U.S. businesses to send manufacturing and jobs outside the U.S., to places like Mexico, when there are foreign countries within the boundaries of the United States with large numbers of unemployed people who want jobs. These places have existed on this continent for thousands of years, before there was a United States of America. They are sovereign governments, that the U.S. government has made all manner of treaties with. Yet, the people in these countries are constantly under spiritual, political, and economic attack; and they constantly are overlooked as sources of labor and places to put good businesses, for all kinds of excuses, and no real reasons. Sins of omission are just as damaging as sins of commission.

I'm talking to you about this because recently, I was on the Reservation & my Ate' – my Father – came in the house and took off his hat, and looked at it with a disgusted look on his face. He said, "This hat was made in Mexico. Look out the window. What do you see?" I said, "Unemployed, sad people who often feel they are often under attack from their non-Native neighbors. We've had this conversation before, Ate'." He smiled a little at me and said, "That's why I want you to go to Bismarck and talk to the legislators there about this NAFTA thing. They want the U.S. government to renegotiate it, I hear. Remind them about US." So that's why I'm speaking to you today. My father is an amazing man, and he pays attention to the most amazing things. Like NAFTA, and how it could improve our Peoples' economic situation. And he is right.

My father is a working Indian, as am I. He speaks 3 languages. He has been an officer of the law, a commercial fisherman, a cowboy. He is a very spiritual person. He is well-regarded in the American Indian community. People listen to him. You would do well to, too.

If you want to cut the welfare budget, remember American Indians when you urge Congress to renegotiate NAFTA and GATT. Urge Congress to talk with *our* sovereign nations about putting some of those businesses on our Reservations, instead of in Mexico. Good businesses, not nuclear waste dumps you don't want in your back yards. We don't want those, either. There are many good businesses currently going outside the US, and American workers are going begging as a result. Or, they are going onto welfare. If America truly is "the richest nation in the world", it *and it's businesses* should be treating its people better, because whether you call your job "labor" or "management", the fact is, *we all work*. And we all buy things. And American businesses should keep their production operations here at home if they want to sell here, and if they want to be "American businesses".

Our People are very proud people, and we prefer to work, within our cultures. That is our *right*, because we are citizens of 2 nations; our own and the United States. We didn't ask for welfare; that was a grand social experiment pushed on us back in 1930, when we got the Wheeler-Howard Act and Indian Reorganization. It is an experiment that has, for the most part, failed, as your own social agencies' data clearly show.

If you want to decrease the welfare budget and the accompanying social costs in domestic abuse, alcoholism, suicide, etc., urge Congress to keep Indigenous American People in mind when they do any work with NAFTA and GATT. *Working people pay taxes, not eat them*. Working people who make enough to live on without

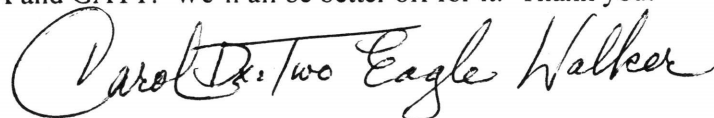
constant flirting with poverty just for their basic needs have lower rates of alcoholism, domestic abuse, and suicide. The current farm crisis statistics show that; in ample data from your social agencies.

Any business that puts its manufacturing operations outside the U.S. simply to pay lower wages or avoid environmental safeguards is abusive in its structure. It does not care about the people who work within it, and it does not care about the people it wants to buy its products. We should give major consideration to boycotting the goods of such companies, while using actions such as NAFTA and GATT to persuade them to bring their jobs back home, where their headquarters are. Businesses that make their products outside the U.S. and then sell them here are "American businesses" in name only; and we American people should put a stop to this. Legislators, whether in state legislatures or in Congress, are supposed to represent the will of the People *as a group*. And that includes Indigenous Americans, or what you call American Indians.

In reality, companies that make their products elsewhere and only keep their headquarters in America for the purposes of lower import taxes are shams. Have you ever noticed that 80% of the word "shame" is "sham"?

We American Indian People aren't going to "go away". We are already "home". Welfare is said to be on the way out. We'd be happy to go back to hunting for a living, but your culture slaughtered our buffalo 'way back when, and your people own most of them now. Welfare isn't going to go away so long as we Indigenous American People have no jobs to go to, and discrimination is encouraged, such as by not having strong human rights commissions throughout the country, including in North Dakota; and NAFTA and GATT are set up to encourage *so-called* American businesses to make their products outside the U.S. and then sell them here. Such attitudes are short-sighted and provincial, not to mention very expensive in terms of honor and true quality of life and simple getting along with our relatives. Which is in reality, *all of us*. We are *all related*, because we all live on this earth *together*; and if we don't work together to improve the quality of life for all of us, sooner or later, our entire ship will sink and we will go down with it. Truly, you might run, but there is no place to hide.

There is a large work force being wasted, and it is on American Indian Reservations. Please remember *US, TOO*, when you urge Congress to rework NAFTA and GATT. We'll all be better off for it. Thank you.

Carol DeTwo Eagle Walker

93072.0100

Fifty-sixth
Legislative Assembly
Of North Dakota

SENATE CONCURRENT RESOLUTION NO. 4021

Introduced by

Senators Krauter, Bercier, Kelsh, Kinnoin, T. Mathern

Representative Fairfield

1 A concurrent resolution urging congress to renegotiate the North American Free Trade
2 Agreement and address tariff equalization; increased market access; sanitary and phytosanitary
3 Disputes; methods to facilitate and shorten dispute resolution procedures; **methods of strongly
encouraging American businesses to keep their production operation in the U.S., instead of in
foreign countries, such as charging higher import duties on goods produced outside the U.S.,
regardless of company headquarters location; and encouraging location of low-environmental-
impact and local-culturally-friendly production facilities on or at the edge of American Indian
Reservations, in order to access and develop the work force there and so decrease the misery
of welfare in the live of American Indian People and restore some of their original pride; and**

4 **WHEREAS,**

***** (keep the same as original)*****

16 **NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE**
17 **HOUSE OF REPRESENTATIVES CONCURRING THEREIN:**

18 That the Fifty-sixth Legislative Assembly urges the Congress of the United States to
19 renegotiate the North American Free Trade Agreement and address tariff equalization;
19 increased market access; sanitary and phytosanitary disputes; methods to facilitate and shorten
20 dispute resolution procedures; **methods of strongly encouraging American businesses to keep
21 their production operation in the U.S., instead of in foreign countries, such as charging higher
22 import duties on goods produced outside the U.S. regardless of company headquarters
23 location; and encouraging location of low-environmental-impact and local-culturally-friendly
24 production facilities on or at the edge of American Indian Reservations, in order to access and
25 develop the work force there and so decrease the misery of welfare in the lives of American
26 Indian People and restore some of their original pride; and**

27 (old 22) **BE IT FURTHER RESOLVED, THAT THE Secretary of State forward copies of this (etc)**