A REVIEW OF ANIMAL AGRICULTURE STAKEHOLDER PRIORITIES

HEARING

BEFORE THE

SUBCOMMITTEE ON LIVESTOCK, DAIRY, AND POULTRY

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A REVIEW OF ANIMAL AGRICULTURE STAKEHOLDER PRIORITIES

WEDNESDAY, MAY 17, 2023

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON LIVESTOCK, DAIRY, AND POULTRY,
COMMITTEE ON AGRICULTURE,
Washington, D.C.

The Subcommittee met, pursuant to call, at 10:03 a.m., in Room 1300 of the Longworth House Office Building, Hon. Tracey Mann [Chairman of the Subcommittee] presiding.

Members present: Representatives Mann, DesJarlais, Kelly, Bacon, Feenstra, Moore, Jackson of Texas, Molinaro, Alford, Van Orden, Thompson (*ex officio*), Duarte, Johnson, Miller of Ohio, Costa, Hayes, Caraveo, Tokuda, Soto, and Davis of North Carolina.

Staff present: Caleb Crosswhite, Justina Graff, Patricia Straughn, Erin Wilson, John Konya, Daniel Feingold, Emily Pliscott, and Dana Sandman.

OPENING STATEMENT OF HON. TRACEY MANN, A REPRESENTATIVE IN CONGRESS FROM KANSAS

The CHAIRMAN. The Committee will come to order. Welcome, and thank you for joining today's hearing entitled, *A Review of Animal Agriculture Stakeholder Priorities.* After brief opening remarks, Members will receive testimony from our witnesses today, and then the hearing will be open to questions. In consultation with the Ranking Member, and pursuant to Rule XI(e), I want to make Members of the Subcommittee aware that other Members of the full Committee may join us today.

Now for a quick opening statement, last month we hosted the first hearing of the House Agriculture Committee's Subcommittee on Livestock, Dairy, and Poultry in this 118th Congress. As a fifth generation Kansan, having grown up on my family farm, and having spent thousands of hours on the tractor, combine, and riding fence, doctoring sick cattle, I understand the grit, tenacity, and courage that it takes to make a living in agriculture. I represent the Big First District of Kansas where ag producers sell about $10 billion worth of livestock, dairy, poultry, and products like beef, milk, and eggs every year.

At our previous hearing we heard from USDA officials about their work to protect the health of livestock in America. It is important that this Subcommittee engage with USDA on that vital work. Equally important, however, is that we hear from those directly involved in the day-to-day business of feeding the world. From commodity growers to livestock producers, everyone represents a piece of the American agriculture picture. We are all in this together. We must remember that, for example, our commodity producers greatly benefit from a strong livestock sector, as livestock consumes grain. The livestock industry benefits from the biofuels industry, as that industry relies on them as an important feed source. Agriculture is interdependent, and interconnected, and that is important for this Subcommittee and the full Committee to understand.

A few weeks ago Chairman Thompson and I hosted a Food and Agriculture Listening Session in a wheat field near Gypsum, Kansas, which is almost exactly the center part of the State of Kansas. More than 150 farmers, ranchers, and ag producers came together to talk about the next farm bill. There is a good chance that today's witnesses will highlight many of the same priorities raised by livestock producers with Chairman Thompson and I while we were in Kansas: Disaster programs and risk management tools, research, trade promotion, and animal health research like what we will see at the National Bio and Agro-Defense Facility opening in Manhattan, Kansas later this month. I am eager to continue learning about whether existing programs need to be tweaked or enhanced to ensure producer success. I am also interested in hearing more about what producers do not want in this next farm bill, as time has taught us, even if well intended, more legislation and regulation often is not the answer.

Unfortunately, producers know well what can happen to the farm when the government gets in the way. I am especially concerned with the Biden Administration's false narrative about the protein sector's contribution to the skyrocketing cost of food in America, the Administration's continued push for a set of controversial Packers and Stockyards rules, and more recently, the disappointing Supreme Court decision to uphold Proposition 12, which opens the door to unthinkable, unscientific regulatory overreach against all producers. I am looking forward to a productive conversation on these issues and a variety of others highlighted in your testimony, and I am excited to work together on solutions that benefit the whole industry.

[The prepared statement of Mr. Mann follows:]

PREPARED STATEMENT OF HON. TRACEY MANN, A REPRESENTATIVE IN CONGRESS FROM KANSAS

Last month, we hosted the first hearing of the House Agriculture Committee's Subcommittee on Livestock, Dairy, and Poultry in the 118th Congress. As a fifth generation Kansan having grown up on my family farm, I understand the grit, tenacity, and courage that it takes to make a living in agriculture. I represent the Big First district of Kansas where agricultural producers sell $10 billion worth of livestock, dairy, poultry, and products like beef, milk, and eggs every year.

At that hearing, we heard from USDA officials about their work to protect the health of livestock in America. It is important that this Subcommittee engages with USDA on that vital work. Equally important, however, is that we hear from those directly involved in the day-to-day business of feeding the world. From commodity growers to livestock producers—everyone represents a piece of the American agriculture picture. We are all in this together. We must remember that, for example, our commodity producers greatly benefit from a strong livestock sector as livestock consumes grain. The livestock industry benefits from the biofuels industry as the industry relies on them as an important feed source.

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I am eager to continue learning about whether existing programs need to be tweaked or enhanced to ensure producer success. I am also interested in hearing more about what producers do not want in the next farm bill, as time has taught us, even if well intended, more legislation and regulation is often not the answer.

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I am looking forward to a productive conversation on these issues and a variety of others highlighted in your testimony, and I am excited to work together on solutions that benefit the whole of industry.

The CHAIRMAN. With that, I now would like to welcome the distinguished Ranking Member, my good friend, the gentleman from California, Mr. Costa, for any opening remarks that he would like to make.

OPENING STATEMENT OF HON. JIM COSTA, A REPRESENTATIVE IN CONGRESS FROM CALIFORNIA

Mr. COSTA. Thank you. Thank you, Mr. Chairman. Good morning to each and every one of you, and it is nice to have the Chairman of the full House Agriculture Committee here as well, and other Members, as we set the table, so to speak, literally and figuratively, for the reauthorization of the farm bill this year. As we all know, the incredible productivity that American agriculture does every day, day in and day out, is the envy of the world. No one produces more cost-effective food that ends up on America's dinner table than American farmers, ranchers, dairymen and -women, with farmworkers, who are a critical part of that partnership. And, therefore, it is important that this Subcommittee, Mr. Chairman, as you have stated in your own comments, focus on the issues that are key to the Subcommittee. And while livestock may not have its own title, we know it is critical in providing protein for America. As I like to say, food is a national security issue. And the witnesses that we have here at our table this morning reflect a diverse set of constituencies that understand that food is a national security issue.

So, we have had a lot of challenges in recent years, with the pandemic. We have had disruptions in our supply chain that have led to incredibly difficult circumstances. I, for one, did not understand, when we saw the impacts of, as an example, America's pork industry, that 70 percent of Americans—or seven—let me rephrase this. 70 percent of the bacon and pork bellies for Americans are consumed in restaurants. I never thought about that. So, all of a sudden you close the restaurants, and, my gosh, you have a real disruption.

While we have recently seen a gradual increase in cattle prices for small producers, I think it is critical that we take lessons learned from the pandemic and ensure that livestock operations can continue to remain viable during economic downturns. I think that is critical, and we ensure that there is security and stability.

I am happy to work with Members, as I always have, on a bipartisan effort through the number of farm bills that we are working on. This is my fourth farm bill reauthorization. And the stakeholders, obviously, are key, as the Chairman noted, that we listen. That we listen to what has worked, and, just as importantly, what hasn't worked, as we contemplate the next 5 years to set American farm policy in place.

As a third generation farmer, I know the effectiveness of many of the programs in the 12 titles, and the importance that we maintain that bipartisanship. In California, as we all like to boast about our own states—but California is, obviously, the leading the agricultural state of the nation, we do a great deal in producing agricultural products. At the farm gate last year, over $51 billion: $3 billion of that was in products that deal with cattle and calves; $7.4 billion was in the dairy industry, which we produced 20 percent of all the milk products in America.

So programs such as the Livestock Indemnity Program, otherwise known as LIP, the Livestock Forage Program, otherwise known as LFP, don't get as much attention as others, but they are essential tools for our producers, especially as we see impacts from climate change that lead to more and more extreme weather. I think many of you know that we have had extreme droughts in the West, and California. It was dry, dry, dry. We prayed, we prayed, we prayed for rain. I guess we prayed really good, because the last 4 months it has been biblical. It has been biblical, in the amount of rain and snow that we have had in California, and now we have floods. So, it is one extreme or another. That is part of the—roots causes of climate change. So we need to support our producers to navigate the fallout from weather patterns that will continue to change, whether you are in the West, Midwest, or the South, or the Northeast.

We heard last month from Under Secretary Moffitt on animal health programs, which are critical tools to maintaining the safe and secure food supply. It is real important that we reauthorize those tools for stakeholders, such as the witnesses here who will testify today. We want to hear from you, and from the comments and the experiences your constituency have. So thank you, Mr. Chairman. I am looking forward to the testimony, as an essential part of us are putting together through the authorization of this year's farm bill. I yield back.

The CHAIRMAN. Thank you. I now recognize Chairman Thompson for any opening comments that he would like to make.

OPENING STATEMENT OF HON. GLENN THOMPSON, A REPRESENTATIVE IN CONGRESS FROM PENNSYLVANIA

Mr. THOMPSON. Well, thank you very much. Good morning everyone, and thank you to Chairman Mann, Ranking Member Costa, for your great leadership, and, quite frankly, for convening today's hearing. And more importantly, thank you to our witnesses who have taken time out of your busy schedules, your families, your business, your farms to appear before us today, and I look forward to hearing from each of you. As a fellow Pennsylvanian, I am especially proud to have Ms. Laurie Hubbard representing not only the sheep industry, but the Keystone State on today's panel. Laurie, thank you for doing that.

As Chairman Mann, noted in his statement, my colleagues and I have had the opportunity to hear from a wide variety of livestock stakeholders in our travels all across this country. But given the size and diversity of the livestock industry, I am glad that we are making time for a deeper dive into the issues facing the industry's various segments. Especially as we head into a farm bill, we need a full picture of on-the-ground, or quite frankly, in-the-pasture conditions, and an honest assessment of what is and isn't working to ensure that we appropriately arm producers with the tools they need for success in the coming years.

And with the impending expiration of the Livestock Mandatory Reporting Program, or LMR, I also look forward to your thoughts on any necessary programmatic changes, and the possibility of a multiyear reauthorization to provide longer-term certainty. And just as much as I want to hear your priorities for inclusion in the upcoming legislation, sometimes I know it is even more important that Congress understand what you want kept out and why. So I also welcome your expertise and wisdom on avoiding legislative pitfalls as we navigate this process.

Speaking of pitfalls, the livestock and protein processing sectors are no strangers to unwarranted regulatory assault, and I would like to insert for the record, and request unanimous consent to insert, a recent WALL STREET JOURNAL op-ed entitled, *Big Meat Conspiracy Theory Unravels.*

[The article referred to is located on p. 6.]

The CHAIRMAN. So approved.

Mr. THOMPSON. This article articulates how the Biden Administration simply got it wrong when pointing the finger at the packing industry for food inflation. In addition to the Administration's continued blame game with industry, I remain concerned with the Administration's insistence on contentious Packers and Stockyards regulations, and a lack of certainty regarding our pork and poultry processors' ability to efficiently operate at speeds proven safe and reliable for decades. I know there has been some recent—at least in the poultry area, some recent support from USDA, and I believe in giving credit where credit is due. I just hope for more of that as we look at the state of processing.

I appreciate your partnership as we continue to explore potential solutions to these and a variety of other issues that will surely be highlighted in today's discussion. Thank you, and with that, I yield back.

[The prepared statement of Mr. Thompson follows:]

PREPARED STATEMENT OF HON. GLENN THOMPSON, A REPRESENTATIVE IN CONGRESS FROM PENNSYLVANIA

Good morning and thank you to Chairman Mann and Ranking Member Costa for convening today's hearing.

And more importantly, thank you to our witnesses who have taken time out of your busy schedules to appear before us today—I look forward to hearing from each of you.

And as a fellow Pennsylvanian, I am especially proud to have Ms. Laurie Hubbard representing not only the sheep industry, but the Keystone State on today's panel.

As Mr. Mann noted in his statement, my colleagues and I have had the opportunity to hear from a variety of livestock stakeholders on our travels across the country.

But given the size and diversity of the livestock industry, I am glad we are making time for a deeper dive into the issues facing the industry's various segments.

Especially as we head into a farm bill, we need a full picture of on-the-ground conditions and an honest assessment of what is and isn't working to ensure we appropriately arm producers with the tools they need for success in the coming years.

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Just as much as I want to hear your priorities for inclusion in upcoming legislation, sometimes I know it is even more important that Congress understand what you want kept out and why. So, I also welcome your expertise and wisdom on avoiding legislative pitfalls as we navigate this process.

Speaking of pitfalls, the livestock and protein processing sectors are no strangers to unwarranted regulatory assault, and I would like to insert for the record a recent WALL STREET JOURNAL op-ed entitled, *Big Meat Conspiracy Theory Unravels,*[1] that articulates how the Biden Administration simply got it wrong when pointing the finger at the packing industry for food inflation.

In addition to the Administration's continued blame game with industry, I remain concerned with the Administration's insistence on contentious Packers and Stockyards regulations, and a lack of certainty regarding our pork and poultry processors' ability to efficiently operate at speeds proven safe and reliable for decades.

And the Supreme Court's disappointing decision on Proposition 12 threatens to even further complicate the regulatory landscape.

I appreciate your partnership as we continue to explore potential solutions to these and a variety of other issues that will surely be highlighted in today's discussion.

Thank you, and I yield back.

ATTACHMENT

WSJ | OPINION

[*https://www.wsj.com/articles/tyson-foods-profits-meat-packers-president-biden-elizabeth-warren-987e6c95*]

The Big Meat Conspiracy Theory Unravels

Tyson Foods loses money, which doesn't sound like a monopoly.

By *The Editorial Board*[1]

Updated May 15, 2023 2:42 p.m. ET

Remember when President Biden and progressives last year accused meat packers of colluding to fatten their profits. Are they now conspiring to lose money? *Tyson Foods*[2] last week reported its first quarterly loss since 2009 as meat prices tumbled. Here's a lesson in market economics, Mr. President.

Tyson's stock plunged after it reported anemic sales and downgraded its forecast. The quarterly loss at the largest U.S. meat supplier marks a stunning reversal from 2021 and early last year when it earned record profits amid a run-up in meat prices. What happened?

Well, meat supply increased as packers ramped up production and increased wages for employees to meet demand. But producer costs for cattle and chicken have remained elevated. At the same time, consumer demand for pricier cuts of beef and pork has declined as inflation ate into purchasing power. All of this has shrunk Tyson's margins.

As we explained in "*Carving Up Biden's Inflation Beef*"[3] (Jan. 7, 2022), the gusher of pandemic transfer payments swelled demand for more expensive meat products

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[1] *https://www.wsj.com/articles/tyson-foods-profits-meat-packers-president-biden-elizabeth-warren-987e6c95*.

[1] *https://www.wsj.com/news/author/editorial-board*.

[2] *https://www.wsj.com/market-data/quotes/TSN*.

[3] *https://www.wsj.com/articles/carving-up-bidens-inflation-beef-meat-producers-tyson-prices-11641587628?mod=article_inline*.

and contributed to a labor shortage that constrained production. When demand exceeds supply, business margins increase as markets ration scarce goods via prices.

Yet Democrats alleged a corporate conspiracy. Mr. Biden claimed that rising meat prices and profits reflect "the market being distorted by a lack of competition" and "capitalism without competition isn't capitalism; it's exploitation." Massachusetts Sen. Elizabeth Warren accused Tyson of abusing its "corporate market power and raking in record profits by jacking up meat prices."

If markets were "distorted," the culprit was pandemic transfer payments that were a disincentive to work. As these programs lapsed, hiring became easier. Competition for workers and market share raised supplier costs while pushing down prices and profits. Meat prices fell 0.4% in April and are up only 0.3% over the past 12 months.

Tyson's stock has fallen by nearly half over the past year and is trading at the lowest levels since 2015. This doesn't look like an antitrust conspiracy or market oligopoly, but the meat packers and their shareholders will never get an apology from Washington.

Photo: Toby Talbot/*Associated Press.*

Appeared in the May 15, 2023, print edition as '*The Big Meat Conspiracy Theory Unravels*'.

The CHAIRMAN. Thank you. The chair would request that other Members submit their opening statements for the record so the witnesses may begin their testimony, and to ensure that there is ample time for questions.

To introduce our first witness today, I am pleased to yield to our colleague, someone who is no stranger to this Subcommittee, the gentleman from South Dakota, Mr. Johnson.

Mr. JOHNSON. Mr. Chairman, thank you, and it is an honor that today's panel is bookended by South Dakotans. We first have Todd Wilkinson, who is the President of the National Cattlemen's Beef Association, and in a beautiful town out on the South Dakota Prairie, De Smet, Todd Wilkinson runs a cow-calf operation, finishing and feeding as well, and he has practiced law for nearly 40 years. And, Mr. Chairman, you cannot find a more respected voice in cattle country on these issues than Todd Wilkinson.

And we also have Kelsey Scott, from a beautiful town out on the South Dakota Prairie of Eagle Butte. She is representing the Intertribal Agriculture Council, but she runs a direct to consumer beef operation. She really, really understands these issues. And she is whip smart and has taught a lot of us a whole lot about her world. It is an honor to have them both here.

The CHAIRMAN. Thank you. To introduce our second witness today, I am pleased to yield to our colleague, the gentleman from Missouri, Mr. Alford.

Mr. ALFORD. Thank you so much, Mr. Chairman. It is an honor to introduce Scott Hays, the President of the National Pork Producers Council today. Scott is a fifth generation pork producer from Hannibal, Missouri. He is involved in several state and national organizations as well, serving as a strong advocate for pork producers and the broader agriculture industry. I am proud to call Scott a friend. We have gotten to know each other quite well over the last couple of weeks especially, and I know his expertise is going to be a great resource as we dive into pressing issues facing the livestock and meat processing industries. Scott, good to have you here, and Mr. Chairman, I yield back.

The CHAIRMAN. I thank the gentleman. Our third witness today is Mr. John Zimmerman, the Vice Chairman of the National Turkey Federation. The next witness is Mr. Bryan Burns, the Vice President and General Counsel for the North American Meat Institute. The fifth witness is Ms. Laurie Hubbard, who is the Region I Director of the American Sheep Industry Association. And, as was mentioned, our sixth and final witness today is Ms. Kelsey Scott, the Director of Programs for the Intertribal Agriculture Council.

Thank you all for—our witnesses for joining us today. We will now proceed with your testimony. You will each have 5 minutes. The timer in front of you will count down to zero, at which point your time will be expired. Mr. Wilkinson, please begin when you are ready.

STATEMENT OF TODD WILKINSON, PRESIDENT, NATIONAL CATTLEMEN'S BEEF ASSOCIATION, DE SMET, SD

Mr. WILKINSON. Chairman Mann, Ranking Member Costa, and Members of the Subcommittee, on behalf of America's cattle producers, thank you for inviting me to provide an update on the state of the U.S. cattle industry. My name is Todd Wilkinson. I currently serve as President of the National Cattlemen's Beef Association, the oldest and largest national trade association representing the U.S. cattle industry. NCBA represents over 25,000 direct members, and approximately 178,000 producers through our 44 state affiliate organizations.

When I last appeared before this Committee in October of 2021, my report to Congress was bleak. Prices were low, and cattle were substantially backlogged across the supply chain. Countless family farmers and ranchers struggled to remain profitable as cattle prices slogged. Today I am pleased to report that the state of the cattle industry has greatly improved. Earlier this month USDA's Livestock Mandatory Reporting Program showed an average fed cattle price of around $173 per hundredweight. When I was here last in 2021, that figure was closer to $122 per hundredweight. I would be remiss if I did not underscore the fact that the entirety of this price movement we are currently seeing has occurred without the enactment of market altering legislation. Our membership opposes any bill that would restrict their ability to market cattle in the most profitable and effective manner. We call upon Congress to respect their wishes.

While price environment for cattle has drastically improved over the past 2 years, the recovery has been bittersweet. Herd contraction, largely spurred by drought across most of cattle country, has resulted in a year over year beef cattle inventory reduction of nearly four percent, the lowest in 61 years. Make no mistake, even amid a recovering cattle market, producers still face a myriad of challenges. And this is by no means a comprehensive list, but I want to address three specific areas.

First, animal disease preparedness. NCBA calls on Congress to fully fund three critical animal health components in the farm bill, the National Animal Vaccine and Veterinary Countermeasures Bank, the National Animal Disease Preparedness and Responsive Program, and the National Animal Health Laboratory Network, collectively referred to as the three-legged stool. The U.S. must be prepared to deal with disasters like a foot-and-mouth disease outbreak, as economic consequences would be in the tens of billions of dollars. We simply cannot afford to do nothing. In this case, an ounce of prevention is truly worth more than a pound of cure, and NCBA calls on Congress to robustly fund the three-legged stool.

Second, USDA's proposed forthcoming Packers and Stockyards rules. Yet again USDA is attempting to unilaterally expand its authority under the Packers and Stockyards Act. We have seen this same playbook employed by USDA several times over the past 15 years. If finalized, these rules would upend decades of innovation in livestock marketing agreements and open the door to frivolous lawsuits. Put simply, the rules empower trial lawyers to impose regulation by litigation. This is precisely why NCBA, and the vast majority of livestock and poultry groups, have opposed, and continue to oppose, these misguided regulations.

Finally, the beef check-off. The beef check-off is one of the most important marketing tools available for today's cattle producers. Unfortunately, it appears some have bought into misinformation about commodity check-offs and introduced a deceptively titled "Opportunities for Fairness in Farming," or OFF Act (H.R. 1249/S. 557). Let me be clear, the OFF Act is nothing more than a thinly veiled attempt by radical animal rights activists and their allies to eradicate the most popular and longstanding beef promotion effort in history. Contrary to the claims of the bill's proponents, check-off dollars are not used to influence public policy or disparage other commodities, period. There are ample safeguards, audits, and accountability protocols already in place both at USDA and internally to ensure compliance of the law. Cattle producers overwhelmingly support the beef check-off, and we urge Congress to continue to do the same. I have highlighted more issues in my written testimony, and I refer those to you.

In closing, Mr. Chairman, many of you have said it before, and I wholeheartedly agree, food security is national security. Working together, we can ensure the long-term success and the viability of those on the front line providing critical food security. We owe it to the next generation, and the generations beyond, to get this right. Thank you, Mr. Chairman, and I will now stand for questions.

[The prepared statement of Mr. Wilkinson follows:]

PREPARED STATEMENT OF TODD WILKINSON, PRESIDENT, NATIONAL CATTLEMEN'S BEEF ASSOCIATION, DE SMET, SD

Introduction

Chairman Mann, Ranking Member Costa, and Members of the Subcommittee. On behalf of America's cattle producers, thank you for inviting me to provide an update on the state of the U.S. cattle industry.

My name is Todd Wilkinson, and I currently serve as President of the National Cattlemen's Beef Association. I am a second-generation rancher and live in De Smet, SD. I own and operate a cow-calf and cattle backgrounding operation with my son, who is the third generation of our family to work the ranch. Additionally, I run a small cattle feeding facility and maintain a law practice, where I assist other farmers and ranchers with estate planning and other agricultural law issues.

I am testifying today on behalf of the National Cattlemen's Beef Association (NCBA), the trusted leader and definitive voice of the U.S. cattle and beef industry. Initiated in 1898, NCBA is the American cattle and beef industry's oldest and largest national trade association. In addition to our nearly 26,000 direct members, NCBA represents forty-four state cattlemen's associations with collective memberships numbering some 178,000 cattle producers. It is important to note that well over 90% of those members are, like myself, family-owned business entities involved in the cow-calf, stocker/backgrounder, and feeding sectors of the supply chain. Each of those members has a voice in our organization's century-old policymaking process, and it is from the resolutions and directives resulting from this process that NCBA takes positions on legislation and proposed regulations.

The State of the Cattle Industry

When last I appeared before this Committee in October 2021, my report to Congress was bleak. Market-ready cattle were oversupplied and beef packing capacity—despite operating at or near maximum throughput—was insufficient to meet the immense processing demand. As a result, prices were low and cattle were substantially backlogged across the supply chain. While that underlying supply-demand dynamic was cyclically appropriate, and mostly anticipated, the unprecedented market shocks brought on by the COVID–19 pandemic drastically exacerbated the adverse effects of that phase of the long-term cattle cycle. Countless family farmers and ranchers struggled to remain profitable as cattle prices slogged.

I. Current Cattle Market Conditions

Today, I am pleased to report that the state of the cattle industry has greatly improved. As we have further transitioned into a new phase of the cattle cycle, prices have significantly increased—and done so in a relatively short amount of time. Just last month, we set a record high spot futures price for Live Cattle, with the April 2023 contract hitting $175.50/cwt. For context, when I last testified on October 7, 2021, spot Live Cattle closed the day at $125.27. This upward pricing trend has been true across marketing methods (*i.e.,* negotiated cash, formula, *etc.*) and classes of cattle (*i.e.,* calves, feeders, finished steers and heifers, *etc.*). So far this month, USDA's Livestock Mandatory Reporting (LMR) program showed a weighted average fed cattle cash price of $173.93/cwt. Again, in October 2021, that figure was closer to $122.55/cwt.

While the price environment for cattle has drastically improved over the past 2 years, the recovery has been bittersweet. The naturally occurring contraction phase of the cattle cycle, which we are currently experiencing, has been accelerated by severe drought experienced across the country. In fact, herd contraction has resulted in a year-over-year beef cattle inventory reduction of nearly 4% as of January 2023.[1] There are currently about 89.27 million head of cattle in the U.S.—the lowest inventory in 61 years.[2] Make no mistake: even amid a recovering market, cattle producers still face a myriad of challenges.

[1] *Cattle Report.* USDA–NASS: 2023.
[2] *Beef Cow Numbers Decline.* American Society of Animal Science: 2023.

I would be remiss if I did not underscore that the entirety of the price improvement we are currently seeing has occurred without the enactment of market-altering legislation. Claims suggesting cattle market conditions would never again favor producers unless Congress intervened with massive government programs have been undeniably proven false. The market has unequivocally demonstrated it functions best when free from interference by Federal planners—when cattle producers are at liberty to make economic decisions in the best interests of their unique businesses. To that end, NCBA has been clearly directed by its membership to maintain opposition to any bills which would limit their ability to market cattle in the way they see fit, and we call upon Congress to continue respecting their wishes.

II. Insufficient Forage Availability

Cattle producers are also experiencing substantially reduced access to forage. From persistent drought in the Midwest to record spring precipitation in parts of the Great Basin, grazing land is either mud or dust, and feed is more difficult to come by across most of cattle country. Tight land and hay supplies even further exacerbate forage costs and lease rates. While weather events cannot be controlled, the tools which producers utilize to respond to its effects can be. As I will explain later in my testimony, access to risk management tools and disaster indemnity programs is crucial to ensuring the strength of the livestock sector.

III. Rising Interest Rates

Economic headwinds, such as higher interest rates, continue to undermine producer profitability and the economic sustainability of rural America. Cattle producers rely on consistent, dependable access to credit to cover many different needs, from budgeted operating costs to unexpected events like emergency veterinary costs or rebuilding fence after a disaster. To cover these costs, many producers take out loans that are repaid after their cattle are sold. Unfortunately, for most of the year cattle operations define cash flow as money leaving the business instead of coming into the business. Access to credit allows cattle producers to purchase goods and services in their local market and support local businesses. While news of higher cattle prices is welcome, we are also the recipients of higher interest rates that result in larger loan payments, smaller profit margins for producers and less business activity for local economies. This is a situation that most producers know all too well.

IV. Surging Input Costs

The meteoric rise in input costs—despite strong and strengthening cattle prices—remains an immense barrier to producer profitability. Inflationary pressures continue to erode bottom lines on family farms and ranches across the country. Fuel, fertilizer, fencing materials, animal health supplies, and equipment prices are sharply higher across the board, and many of these cost categories have increased at a faster rate than cattle prices. Congress must seriously evaluate the extent to which Federal policies have contributed to this unsustainable situation and, where appropriate, take the necessary steps to remedy it. Any solutions must be rooted in sound monetary policy and in accordance with the free-market principles which define the American economy.

V. Burdensome Regulations

Overly burdensome Federal regulations also complicate producers' ability to be profitable, undermining their ability to maximize their investments in all facets of sustainable operation. Whether it is uncertainty resulting from arduous livestock transportation requirements, compliance costs associated with the Biden Administration's *Waters of the United States* (WOTUS) Rule, or land management restrictions resulting from unscientific influences in implementation of the National Environmental Policy Act (NEPA) and Endangered Species Act (ESA), cattle producers end up being saddled with the bill more often than not. Further compounding this problem is the unserious manner in which Federal agencies calculate stakeholder compliance costs in their rulemaking analyses, often grossly underestimating financial burdens. At a time of great geopolitical uncertainty, the U.S. simply cannot afford to further burden food producers with massive costs and rules crafted by those farthest from the ground. As elaborated later in my testimony, over-regulation must be addressed. Food security is national security, and the current regulatory environment jeopardizes the continued success of America's farmers and ranchers—those on the front lines providing that food security.

VI. Summary

To recap, though challenges remain, I am optimistic about the state of the cattle industry. While cattle prices are reaching record highs, many producers are not able to fully take advantage of this welcome development due to increased input costs, climbing interest rates, and a web of regulatory red tape. In fact, several producers are analyzing these very risk factors and opting out while the going is good rather than investing with confidence in the growth of our industry. Going into a farm bill year and a new Congress, lawmakers can help those producers share my optimism by addressing several key issues.

NCBA Priorities for the 118th Congress

As the Committee seeks to address a host of challenges during the 118th Congress, NCBA urges lawmakers to consider several key areas of importance to cattle producers. While the following is by no means an exhaustive list, these are the areas of most immediate concern to farmers and ranchers.

I. Pass the 2023 Farm Bill

An important priority for cattle producers this Congress is timely passage of a robust farm bill. The farm bill authorizes several important U.S. Department of Agriculture (USDA) programs ranging in mission from conservation to risk management, and trade promotion to animal disease preparedness. Farmers and ranchers rely on efficient implementation of these programs to ensure stability across the agricultural sector.

Specifically, NCBA urges the following as the 2023 Farm Bill is considered:

- *Protect Animal Health*

  Animal disease poses one of the greatest threats to the U.S. livestock industry. Since passage of the 2018 Farm Bill, highly pathogenic avian influenza has wreaked havoc upon the domestic poultry industry, African swine fever has spread closer to U.S. shores, and foot-and-mouth disease continues to run rampant across the globe. These diseases, and others like them, will cause tremendous economic devastation if not properly responded to in a timely manner. Simply put, Congress cannot afford to cut corners on animal disease prevention and preparedness programs.

  Therefore, NCBA calls on Congress to strongly support three critical animal health components in the farm bill. First, provide mandatory funding to the National Animal Vaccine and Veterinary Countermeasures Bank (NAVVCB) at $153 million per year. This level of support will significantly ramp up the cattle industry's ability to respond to and eradicate animal disease outbreaks through a robust vaccine bank. Second, NCBA requests $70 million per year in mandatory funding for the National Animal Disease Preparedness and Response Program (NADPRP) at USDA's Animal and Plant Health Inspection Service (APHIS). This crucial program allows USDA to collaborate with interested stakeholders nationwide to better prepare for and remedy animal health emergencies. Third and finally, NCBA urges lawmakers to provide $10 million per year in mandatory funding for the National Animal Health Laboratory Network (NAHLN), with an additional authorization for appropriations of $45 million per year. This program conducts critical animal disease surveillance and diagnostic work which is instrumental to rapid response in the event of an outbreak. Collectively, the [NAVVCB], NADPRP, and NAHLN are colloquially referred to as the "Three-Legged Stool," and NCBA reiterates the importance of adequately supporting all three elements within APHIS.

- *Promote Voluntary Conservation Programs*

  Cattle producers graze on more than 660 million acres in the United States, nearly ⅓ of the nation's continental land mass. Encouraging and incentivizing voluntary conservation practices is an essential part of the equation when it comes to managing across the portion of those acres that are privately owned. NCBA strongly supports a number Title II conservation programs in the farm bill, as many cattle producers' only nexus with the Federal Government is through their local Natural Resources Conservation Service (NRCS) or Farm Service Agency (FSA) office.

  Working lands programs such as the EQIP and Conservation Stewardship Program (CSP)—in tandem with Conservation Technical Assistance—provide the most direct, on-the-ground support for cattle producers. The 2018 Farm Bill maintained a 50% carve-out for livestock-related practices under EQIP, but this set-aside was removed in the Inflation Reduction Act.[3] NCBA urges Congress to reestablish the set-aside; CSP funding goes primarily to crop producers, and

[3] Pub. L. 117–169.

the EQIP set-aside will ensure an equitable distribution of programmatic funding and maximize impact across all working lands.

The Conservation Reserve Program (CRP) can be a valuable tool for cattle producers, both for conservation purposes and for income diversification. However, the current terms and parameters of CRP leases discourage many producers from enrolling. NCBA encourages Congress to allow grazing as a mid-contract management tool, as a more climate-friendly alternative to chemical use or controlled burning. We also urge Congress to open CRP acreage for emergency haying and grazing. Certain CRP practices lose emergency haying and grazing access when counties quality for the Livestock Forage Disaster Program (LFP). Not only does this limit grazing access when forage supply is most limited, but the distribution of payments to all producers in a county creates inflation within the industry and pushes hay prices up.

Finally, NCBA requests that lawmakers direct USDA to allow producers to graze cover crops planted as part of voluntary conservation programs without a reduction in payment. Again, grazing is a low-impact, nimble tool that can be highly beneficial in place of burning, tilling, or chemical treatment.

- *Reinforce Disaster Programs*

  Natural disasters, livestock predation, and other unforeseen events can have catastrophic consequences for cattle producers. Disaster programs, such as the Livestock Indemnity Program (LIP) and Livestock Forage Program (LFP) ensure farmers and ranchers can easily recover from weather events or other causes of death loss. Congress should continue to support such programs in the upcoming farm bill and avoid changes that would make programs less accessible or restrictive.

- *Support Risk Management Programs*

  Risk management is a major component of a successful and solvent cattle operation. Cattle producers utilize a myriad of insurance tools, production practices, and futures products to better protect themselves from market volatility. While the Federal crop insurance system is primarily geared toward crop production, historically, those few products designed for livestock producers have not been workable for the majority of the cattle industry—particularly smaller, cow-calf operators. However, recent administrative changes to programs like the Livestock Risk Protection (LRP) and Pasture, Rangeland, Forage (PRF) programs have resulted in record-breaking enrollment in both programs. The Federal Crop Insurance Board and USDA's Risk Management Agency (RMA) have taken feedback from the livestock sector and improved upon their suite of products to ensure efficacy and viability. In addition, new tools continue to come to market which could help cattle producers better weather the price swings inherent to commodity production. Congress should continue to support RMA's crop insurance programs, including LRP and PRF, in the farm bill and resist any attempts to roll back support for these critical resources.

- *Oppose a Standalone Livestock Title*

  The cattle industry focuses on a handful of specific programs in the farm bill, but a standalone livestock title is not necessary to accomplish our purposes. However well-intended, such action would open the door to harmful mandates or poison pills—such as Mandatory Country-of-Origin Labeling—during conference negotiations. We respectfully request Congress advance a bill void of a livestock title.

II. Nullify USDA's Harmful Packers & Stockyards Rules

In July 2021, Agriculture Secretary Tom Vilsack announced that USDA would begin work to, "strengthen enforcement of the Packers and Stockyards Act."[4] Since then, the USDA's Agricultural Marketing Service (AMS) has promulgated three rules in furtherance of this objective: "Transparency in Poultry Grower Contracting Tournaments,"[5] "Poultry Growing Tournament Systems: Fairness and Related Concerns,"[6] and "Inclusive Competition and Market Integrity Under the Packers and Stockyards Act."[7] Additionally, NCBA anticipates at least one additional rule which, as of this writing, has not been proposed but is identified in the Fall 2022 Unified

[4] USDA Press Release No. 0130.21.
[5] 87 *Fed. Reg.* 34980.
[6] 87 *Fed. Reg.* 34814.
[7] 87 *Fed. Reg.* 60010.

Regulatory Agenda as, "Unfair Practices, Undue Preferences, and Harm to Competition Under the Packers and Stockyards Act." [8]

This suite of regulations is the latest in a series of rulemaking efforts dating back to the 2008 Farm Bill. That legislation directed the Secretary of Agriculture to, "promulgate regulations pursuant to the Packers and Stockyards Act of 1921 to establish criteria that the Secretary will consider in determining whether an undue or unreasonable preference or advantage has occurred in violation of such Act." [9] USDA has attempted rulemaking in accordance with this Congressional mandate three times: once in 2010,[10] again in 2016,[11] and finally in 2020. The 2010 and 2016 rules were met with overwhelming opposition from NCBA and the vast majority of livestock and poultry industry representatives. As a result, the 2010 rule was defunded through the appropriations process beginning in Fiscal Year 2012,[12] and the 2016 rule was withdrawn by the Agency.[13] The 2020 rule, which NCBA reluctantly supported, was finalized and took effect in January 2021, satisfying the Congressional directive outlined in the 2008 Farm Bill.[14] USDA bears no statutory obligation to continue promulgating regulations under Sections 202(a) and 202(b) of the Packers and Stockyards Act. Despite this fact, USDA is proceeding with the aforementioned regulations and NCBA once again opposes these misguided rules which, if enacted, would have devastating effects on the cattle market.

Though not the sole source of our concerns with these rules, chief among them is USDA's position regarding Harm to Competition, a crucial legal precedent which has been upheld in Federal circuit court each of the eight times it has been tried.[15] In his 2021 announcement, Secretary Vilsack indicated that USDA, "will re-propose a rule to clarify that parties do not need to demonstrate harm to competition in order to bring an action under (the Packers and Stockyards Act)." If USDA is successful in this attempt, standard business practices developed by cattle producers would be subjected to immense litigation and Federal scrutiny by Washington bureaucrats. This would set the industry back decades in terms of innovation and profitability, and cost cattle producers billions in legal costs.[16]

To date, USDA has demonstrated little interest in seriously engaging with livestock and poultry producers to address our concerns with these regulations, and NCBA expects the proposed rules will finalize with few significant amendments. As such, we urge Congress to once again reign in USDA's egregious breach of both Congressional intent and judicial precedent by taking action to bar the rules from taking full force and effect.

III. Defend the Beef Check-off

Commodity research and promotion boards, authorized by individual statute or the Commodity Promotion, Research, and Information Act,[17] are indelible in promoting U.S. agriculture- and natural resource-based commodities both at home and abroad. Earlier this year, H.R. 1249, the so-called Opportunities for Fairness in Farming (OFF) Act, was introduced in the House of Representatives. Despite purporting to be a vehicle to modernize these critical tools, this bill is a blatant attack on all commodity research and promotion boards (also known as "Check-off" programs) which, if enacted, would substantially undermine producers' ability to market their products and stymie critical research, including in the field of human nutrition.

The Beef Check-off, for example, was established by statute in 1985 and ratified by 79% of cattle producers in a national referendum 3 years later. The Beef Check-off collects $1 per head from the receipts of cattle sold and uses these pooled resources to conduct research and market U.S. beef to both domestic consumers and foreign importers. According to USDA estimates, cattle producers realize $11.91 in return for every $1 invested in the Beef Check-off assessments.[18]

Research and promotion boards, including the Beef Check-off, exist to develop new markets and strengthen existing channels for specific commodities while conducting

[8] Docket No.: AMS–FTPP–21–0046.
[9] Pub. L. 110–234 [Sec. 11006]; 7 U.S.C. § 228.
[10] 75 *Fed. Reg.* 35338.
[11] 81 *Fed. Reg.* 92703.
[12] Pub. L. 112–55; Division A, Title VII, Section 721.
[13] 82 *Fed. Reg.* 48603.
[14] 85 *Fed. Reg.* 79779.
[15] *Terry* v. *Tyson Farms, Inc.,* 604 F.3d 272, 277–79 (6th Cir. 2010) (stating, "All told, seven circuits—the Fourth, Fifth, Seventh, Eighth, Ninth, Tenth, and Eleventh Circuits—have now weighed in on this issue, with unanimous results.")
[16] *An Estimate of the Economic Impact of GIPSA's Proposed Rules.* Informa Economics: 2010.
[17] Pub. L. 104–127.
[18] *Cattlemen's Beef Board.* U.S. Department of Agriculture.

important research and promotional activities (*e.g.,* the immensely successful Beef. It's What's For Dinner. campaign). They also work to educate consumers on behalf of a particular commodity to expand total demand to the benefit of all producers. Contrary to claims made by proponents of the OFF Act, check-offs are prohibited from influencing public policy and disparaging other commodity products. As such, they are currently subjected to rigorous compliance protocols, both internally and by USDA.[19]

The Beef Check-off has measurably improved beef demand since its inception. Without check-off programs, demand and education outreach efforts would be adversely impacted to an immense degree. NCBA urges Congress to defend the Beef Check-off and vehemently oppose the OFF Act.

IV. Promote Animal Health and Disease Preparedness

As previously noted, one of the biggest threats to cattle producers is animal disease. Established by Congress in 2003 as an amendment to the Food, Drug, and Cosmetics Act,[20] the Animal Drug User Fee Act (ADUFA) authorizes the Food and Drug Administration (FDA) to collect fees from animal health companies to enable FDA's Center for Veterinary Medicine to meet performance standards for the timely approval of new animal drugs.[21] NCBA urges swift reauthorization of the ADUFA program with no post-market amendments before September 30, 2023. An efficient new animal drug review process is essential to the approval of safe and effective new animal drugs that protect animal and public health.

Equally as important, in January 2023, USDA–APHIS announced a proposed rule to require electronic identification (EID) for interstate movement of certain cattle. NCBA recognizes that animal disease traceability (ADT) is an essential component of protecting the U.S. cattle herd during an animal disease outbreak. While NCBA would have preferred industry take the lead on this issue rather than APHIS, we support the development and implementation of a nationally significant ADT system. An official ADT program rule from USDA should include parameters that ensure strict data integrity throughout the system, limit the cost passed onto producers, and operate at the speed of commerce. Additionally, in order to ensure a smooth transition to compliance with the proposed rule and robust participation in ADT programs, Congress should provide APHIS sufficient funding to purchase official EID tags and related infrastructure to be made available to cattle producers impacted by the rule. This is not unprecedented, as APHIS has previously used the Animal Health Technical Services line for this purpose when EID was a voluntary form of official identification.

Without a national traceability system in place, the already significant impacts of a foreign animal disease outbreak would be magnified. For example, a foot-and-mouth disease (FMD) outbreak in the United States would lead to an immediate stop of all livestock movement for at least 72 hours. Most major export markets would close to U.S. beef and the estimated economic impact would be in the tens of billions of dollars. A traceability system would support a quick return to normal operations for cattle producers following a disease outbreak. Traceability data would allow producers in low-risk areas to resume transporting cattle, while helping animal health officials stop the spread of disease in high-risk areas. A traceability program would also help expedite the return to an FMD-free designation, which is beneficial for trading relationships and consumer trust in beef.

V. Correct the Record on Cattle's Climate and Conservation Benefits

The United States is home to the most sustainable beef production system in the world, thanks to decades of and continual improvement by American farmers and ranchers. Thanks to investments in cattle genetics, technologies, and management practices, the same nutritious protein today takes significantly less land, water, and feed to produce. Our emissions per pound of beef have decreased nearly 40% since 1960, and direct emissions from beef account for only 2% of our nation's overall greenhouse gas emissions.

Cattle play an integral role in the carbon cycle on our nation's grasslands, landscapes that have always existed in harmony with grazing animals. Within 10 years, 90% of that methane combines with oxygen in the atmosphere and converts to carbon dioxide. Carbon dioxide is absorbed by grasses during photosynthesis, cattle graze the grass, and the cycle begins anew. The methane emitted by cattle reenters the carbon cycle; it does not remain in the atmosphere in perpetuity.

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[17] *Guidelines for AMS Oversight of Commodity Research and Promotion Programs.* U.S. Department of Agriculture: 2020.

[20] Pub. L. 75–717.

[21] Pub. L. 108–130.

Thanks to the natural topography of the continent, cattle are able to graze our vast landscapes without deforestation. Cattle spend most of their lives grazing on pasture, oftentimes on ground that is unsuitable for producing crops. Between their consumption of otherwise inedible forage and the use of other food byproducts in cattle feed, 90% of what cattle consume is inedible to humans. This makes them incredibly efficient upcyclers, turning forage and foodstuffs that would otherwise end up in a landfill into nutritious, high-quality protein that feeds consumers at home and around the world.

The livestock industry holds an unmatched capability to influence land management in the United States for the better, and a strong track record of sustainable stewardship. Forty-seven percent of all U.S. private land is grazed by livestock, comprised of diverse range, pasture, and forest ecosystems.[22] On Federal lands, cattle and sheep ranchers hold more than 22,000 Federal permits to graze on lands administered by the Bureau of Land Management (BLM) and U.S. Forest Service (USFS) on behalf of the American people. These ranchers undergird the rural economy across much of the western United States, contributing an estimated $1.5 billion each year to communities across the region.

Additionally, Federal grazing permittees make invests in the land that benefit our natural resources, the Federal agencies tasked with management, and the taxpaying Americans that treasure these iconic landscapes. Grazing is an effective tool to manage a wide variety of forage, encouraging the growth of perennial native grasses and curbing the spread of invasive species like cheatgrass. Grazing makes significant contributions to soil health, through both added organic matter and mechanical hoof action, both of which improve the soil's ability to store carbon. Last year, wildfires burned more than 7.5 million acres across the West.[23] To state the obvious, the need to reduce fuel loads and lower the risk of catastrophic wildfire is critical. According to the National Interagency Fire Center, this work costs Federal agencies on average $150/acre—livestock grazing can accomplish the same task at no cost to taxpayers. Cattle grazing play a critical role in fire suppression and creating resiliency on the land. Grazing is also nimble and scalable, meaning it can be applied in precise locations and patterns to create fuel breaks where other tools like chemical treatments or prescribed burns may not be possible or advisable.

On both private and public lands, cattle ranchers' conservation work supports some of our nation's most iconic wildlife species, generates billions of dollars through recreation and tourism, and keeps millions of acres healthy, green, and free of development sprawl. NCBA urges Congress to continue to incentivize voluntary conservation work on private lands, encourage cross-boundary collaboration on private and public lands, and reduce the regulatory burden on ranchers so that they can continue stewarding our nation's open landscapes.

VI. Develop New and Existing Export Markets for U.S. Beef

Trade is vital to the success of the U.S. cattle and beef industry. Every effort should be made to expand export opportunities for U.S. beef by removing tariff and non-tariff barriers through trade agreements and other terms of market access. NCBA strongly supports market-driven and science-based trade policy that removes restrictive tariffs and arbitrary measures that punish U.S. cattle producers and our global customers. NCBA's trade goals include reauthorizing Trade Promotion Authority and prioritizing trade with our allies, especially the United Kingdom. Effective trade policy will empower the entire production chain—from cattle producer to retailer—to capitalize on consumer demand and benefit from exports and imports of live cattle and beef.

Trade agreements have been instrumental in removing tariff and non-tariff trade barriers—resulting in record-setting export sales for U.S. beef. In 2022, exports added $448 per head by selling certain cuts like tongues and short plate at stronger prices overseas.[24] Imported lean beef trimmings are used in combination with our fat cattle trimmings to make the leaner ground beef American consumers are demanding. The volume of cattle involved in cross-border cattle trade is small in comparison to overall U.S. cattle production, and Congress should continue to support trade initiatives that include provisions beneficial to cattle producers.

The U.S. has some of the highest food safety and animal health standards in the world, and for a foreign country to gain access to our market it must demonstrate safety equivalence to these rigid standards. U.S. beef consumers demand well-mar-

[22] Natural Resources Conservation Service. *National Range and Pasture Handbook.* U.S. Department of Agriculture: 1997.

[23] *National Interagency Coordination Center Wildland Fire Summary and Statistics Annual Report.* National Interagency Fire Center: 2022.

[24] *2022 Beef Exports Set Annual Records.* U.S. Meat Export Federation: 2023.

bled steaks and lean ground beef—two products which are not derived from the same animal. To meet lean beef demand, we import approximately 11% of beef consumed domestically. Of that, ¾ is lean trim for blending. One of the leading import sources for lean trimmings is Brazil. Unfortunately, the government of that country has repeatedly shown they are unwilling or unable to report outbreaks of animal disease in a timely manner as prescribed by the World Organization for Animal Health. NCBA has repeatedly raised these concerns with USDA and Secretary Vilsack, and strongly encourages the U.S. government to hold Brazil accountable and ensure protection of U.S. beef producers and consumers.

VII. Reduce Regulatory Burdens for Cattle Producers

Cattle producers navigate an immensely bloated body of regulations each day in the course of running their businesses and caring for the land. One of the most impactful and burdensome regulations, on both private- and public-land operators, is the Endangered Species Act (ESA). The well-meaning law was intended to create a framework for identifying at-risk species, evaluating status, listing, recovery, and delisting when goals are met. In the half-century since its inception, only 2% of listed species have ever met the recovery and delisting thresholds; improvements are urgently needed.

NCBA urges Congress to work with cattle producers, not against them, in their efforts to voluntarily conserve species habitat. Many species of note, such as the lesser-prairie chicken, rely almost entirely on private landowners for their habitat. Moving away from overly punitive, restrictive, and prescriptive listings and encouraging voluntary conservation work will benefit both producers and species at risk. One fix to expand flexibility would be to pass legislation allowing for the creation of a 4(d) rule under the ESA for species listed as "endangered," not just "threatened."

Additionally, we ask Congress to close ESA loopholes that have allowed frivolous litigation to bog down the U.S. Fish and Wildlife Service (USFWS) and other agencies for decades. Radical environmental activists have perfected the art of using the ESA to target industries they oppose, such as farming and ranching. Lawsuits that force USFWS to jump through legal and administrative hoops bog down the agency, push them to regulate by popular opinion rather than sound science, and divert resources from the species that are truly in peril.

Finally, NCBA urges Congress to support efforts to de-list species in a prompt and timely manner when recovery goals have been met. When enacted, part of Congress' clear intent in the ESA was to measure success, demonstrate recovery goals had been met, and de-list the species. Litigation and constantly shifting definitions of recovery have made delisting very rare. This opaque process has resulted in species like the gray wolf, which has met recovery goals many times over, to remain on the list, undermining public confidence and trust in USFWS.

On Federal lands, the greatest regulatory burden facing cattle producers is the National Environmental Policy Act (NEPA). NEPA assesses nearly every activity on public lands, including grazing permits. Cattle ranchers understand and support Federal land management agencies making decisions based on the best available science. However, NEPA has evolved from a decision-guiding tool into a barrier that is exploited to obstruct projects. In 2018, the White House Council on Environmental Quality estimated that it took the Bureau of Land Management (BLM) and U.S. Forest Service (USFS) an average of 4.5 years to complete a NEPA Environmental Impact Statement. Some ranchers have waited years or even decades to complete simple tasks like renewing a grazing permit, installing a water feature that will benefit livestock and wildlife, or reducing fuel loads in wildfire-prone areas.

In its current form, the NEPA administrative process is completely unable to keep pace with the needs of the livestock industry, infrastructure projects, renewable and conventional energy development, and overdue environmental management actions. NCBA urges Congress to expand agencies' ability to use Categorical Exclusions for grazing permit renewals and wildfire mitigation actions. We also request that Congress require agencies to consider the full impacts of a proposed action, including socioeconomic factors, in addition to environmental criteria.

VIII. Reauthorize Livestock Mandatory Reporting

LMR is the most accessible and important market transparency tool available to cattle producers today. Since its inception over twenty years ago, cattle producers have benefited from consistent, timely, and accurate reporting of market information by USDA–AMS. In addition to using this information to make informed business decisions, LMR information is often used in cattle pricing agreements. It is a trusted source which has been wildly successful and popular throughout its history.

LMR must be reauthorized by Congress every 5 years, and most recently expired at the conclusion of Fiscal Year 2020. Though its authority has been temporarily extended through the appropriations process since then, cattle producers need the certainty and dependability that only a full and complete reauthorization can provide. As such, NCBA once again urges Congress to reauthorize this critical program before September 30, 2023.

IX. Expand Beef Processing Capacity

NCBA is generally supportive of USDA's investments to expand meat and poultry processing capacity. Increased hook space will further improve producer leverage in cattle negotiations, increase resiliency in the beef supply chain, and provide producers more options for packing services. Programs such as the Meat and Poultry Processing Expansion Program, which has awarded over $130 million in grants to eligible processors to expand their capacity, is a significant tool which will help strengthen the supply chain. NCBA appreciates USDA's attention to this very important issue and looks forward to continuing to work together to make sure investments go where they are needed most, and processors can access the funds they need.

In addition to capital assistance, NCBA supports removing regulatory barriers for smaller, regional beef processors where practicable. However, we remain opposed to legislation that rolls back longstanding food safety protocols and could unintentionally erode consumer confidence in the security of beef. For example, the Processing Revival and Intrastate Meat Exemption (PRIME) Act would pave the way for uninspected meat and poultry products to be sold in retail channels.[25] While well-intended, this bill would cause consumers to question U.S. beef's superb safety reputation, ultimately resulting in a decline in beef demand which only harms cattle producers. Supply side market shocks, such as the disruptions caused by COVID–19, are comparatively easier to recover from than demand side market shocks (*i.e.,* reduced consumer confidence in the safety of meat and poultry products). Consequently, NCBA has supported, and continues to support, legislative proposals like the Direct Interstate Retail Exemption for Certain Transactions (DIRECT) Act which would increase access to marketing channels for state-inspected meat and poultry processors.[26] We have also supported the Amplifying Processing of Livestock in the United States (A–PLUS) Act, which would modernize regulations to allow auction markets to invest in local beef processing.[27] These bills address key barriers for smaller processors while also accommodating the food safety measures which consumers trust.

Conclusion

To summarize, Mr. Chairman, it has been said many times before and will certainly be said again in the future: cattle producers are resilient. Overcoming adversity, and sometimes the odds, we will continue to produce the best beef on earth in the most sustainable way in the world.

Thank you for inviting me to testify on these important issues. I look forward to answering any questions.

Respectfully Submitted,

TODD WILKINSON,
President,
National Cattlemen's Beef Association.

The CHAIRMAN. Thank you. Mr. Hays, please begin your testimony when you are ready.

STATEMENT OF SCOTT HAYS, PRESIDENT, NATIONAL PORK PRODUCERS COUNCIL; MEMBER, MISSOURI PORK ASSOCIATION, MONROE CITY, MO

Mr. HAYS. Chairman Mann, Ranking Member Costa, and Members of the Subcommittee, my name is Scott Hays, and I serve as President of the National Pork Producers Council. I am a fifth generation producer, and owner of Two Mile Pork in northeast Missouri. The U.S. pork industry serves as a major contributor to both

[25] H.R. 2814.
[26] H.R. 547, 117th Cong.
[27] H.R. 530.

agriculture and the overall U.S. economy. In 2021, U.S. pork producers marketed more than 140 million hogs, valued at over $28 billion, while supporting more than 610,000 U.S. jobs, and supplying consumers with nutritious products that are raised safely and humanely. To produce those hogs, pork producers use roughly 1.6 billion bushels of corn, the meal from 433 million bushels of soybeans, and purchase more than 1.6 billion in other feed ingredients annually.

While the successes in our industry are particularly impressive, given the challenges our farmers have faced, today is a tough time in the U.S. pork industry, where producers are losing an average of $40 per head on hogs marketed so far in 2023. Current losses are largely due to record high production costs that have increased about 50 percent from 2020. This is putting a pinch on the pork industry, and could drive consolidation at the farm level, as producers may be forced to exit the industry due to this economic reality.

On top of this, the Supreme Court released a disappointing decision on California's Prop 12 last week. The implications of that decision will go far beyond the farm. We are committed to ensuring our consumers have food on the table, our pork producers and family farms are strong, and to working with our champions to address the issues this decision raised. With higher costs and fewer choices, every American will be impacted by this decision. We stand behind the rights of farmers and consumers across this country. As Congress drafts the next farm bill, it must look to ensure not only— consider the needs and economic conditions of today, but provide tools needed for the next 5 years.

A growing threat of foreign animal disease, and specifically African Swine Fever, is of particular concern, and farmers need tools to prevent and rapidly respond to an outbreak should one ever occur. The three-legged stool of animal health that was laid out in the 2018 Farm Bill has set the course for what pork producers need in the upcoming farm bill. The outbreak of foreign animal disease would devastate not just hog farmers, but also cattle, sheep, and feed grain producers, and result in the loss of thousands of jobs through disruptions in domestic production, and the loss of export markets.

Outside of disease concerns and threats, Livestock Mandatory Reporting remains a critical issue, and we cannot allow this vital program to lapse. Market reporting is a meaningful price discovery, and critical to pork producers' ability to accurately market their livestock. Declaring mandatory price reporting an essential service and improving transparency and utility of the reported information are critical and needed enhancements. Changes in the way hogs are marketed over the past 3 years have made it necessary to reevaluate our priorities for full authorization.

While NPPC believes that we can make meaningful changes to price reporting that would give producers greater transparency in marketing their livestock, we are also concerned about current efforts that would stifle innovation, reduce competition, and introduce significant legal and regulatory uncertainty. For these reasons, NPPC opposes the changes proposed under the Packers and Stockyards Act and ask that USDA work with the industry to find meaningful reforms that provide greater transparency for pork producers.

Public policy should also reflect the tremendous value of exports, and the benefits that would come from expanding foreign markets for U.S. agricultural products. Comprehensive free trade agreements are vital to the industry's continued success. Additionally, the Market Access Program, Foreign Market Development Program, are critical to building commercial export markets for U.S. agriculture. The value of pork exports equals $61 per every hog marketed. NPPC is therefore a strong advocate for increase in funding for these programs through the farm bill. In addition to export markets, U.S. pork producers face challenges at home too, including an ongoing labor shortage impacting much of the agricultural sector, and threatening the food supply. Despite significant wage increases and competitive benefits, pork farm employment has declined since 2021.

Thank you for the opportunity to speak to you today. I am happy to answer questions.

[The prepared statement of Mr. Hays follows:]

PREPARED STATEMENT OF SCOTT HAYS, PRESIDENT, NATIONAL PORK PRODUCERS COUNCIL; MEMBER, MISSOURI PORK ASSOCIATION, MONROE CITY, MO

Introduction

The National Pork Producers Council (NPPC), representing 42 affiliated state associations, works to ensure the U.S. pork industry remains a consistent and responsible supplier of high-quality pork to domestic and international markets. Through public policy outreach, NPPC fights for reasonable legislation and regulations, develops revenue and market opportunities, and protects the livelihoods of America's more than 66,000 pork producers.

The U.S. pork industry serves as a major contributor to both the agricultural and overall U.S. economy. In 2021, U.S. pork producers marketed more than 140 million hogs valued at over $28 billion, while supporting more than 610,000 U.S. jobs and supplying consumers with nutritional products that are raised safely and humanely. The U.S. is also a global supplier of pork, with exports accounting for nearly a quarter of annual pork production and supporting more than 155,000 U.S. jobs.

To produce those hogs, pork producers used roughly 1.6 billion bushels of corn and the soybean meal from 433 million bushels of soybeans in 2022. They also used roughly 5 million tons of distillers dried grains with solubles (DDGS), a major byproduct of corn ethanol production.

The successes seen in our industry are particularly impressive given the challenges our farmers face. From trade retaliation, supply chain issues exacerbated by the COVID–19 pandemic, labor shortages, and looming threats of foreign animal diseases, pig farmers have prevailed in difficult times to put safe and accessible food on American tables.

It remains a challenging time for the U.S. pork industry, with hog producers losing on average $40 per head of hogs marketed. While current markets are within the range typically seen at this point in the marketing year, input costs have risen by some 50 percent in the past year. This is putting a pinch on the pork industry and will lead to greater consolidation as producers may be forced to exit the industry due to this economic reality. This only adds to the uncertainty that exists with the credit market and the presence of African Swine Fever in the western hemisphere.

On top of this, the Supreme Court released its very disappointing decision on California's Proposition 12 last week. The implications of the decision will go far beyond the farm. With higher costs and fewer choices, every American will be impacted by this decision. We stand behind the right of farmers everywhere and consumers across the country—and we look forward to working constructively to find a reasonable solution.

NPPC is hopeful the 2023 Farm Bill fully funds programs vital to ensuring animal health across species. The growing threat of foreign animal disease is of particular concern, and farmers need tools to prevent and rapidly respond to an outbreak.

Foreign Animal Disease (FAD) Prevention

Pork producers are facing an increasing threat from foreign animal diseases (FADs), such as African swine fever (ASF). To combat this, U.S. farmers collaborate with the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS), state animal health officials, and other stakeholders. They work to maintain early detection, prevention, and rapid response tools to address any outbreak, including a strong laboratory capacity for surveillance, and a stockpile of vaccines to quickly respond to high-consequence diseases. If an FAD, like foot-and-mouth disease (FMD), were to occur, it would devastate not only hog farmers but also cattle, sheep, and feed grain producers. It would lead to significant job losses due to disruptions in domestic production and the loss of export markets.

The 2018 Farm Bill funded Animal Disease Prevention and Management actions to address FAD risks, and NPPC urges continued funding for these critically important programs, specifically:

- **National Animal Vaccine and Veterinary Countermeasures Bank (NAVVCB):** Established in the 2018 Farm Bill, this U.S.-only vaccine bank allows USDA to stockpile animal vaccines and related products to use in the event of an outbreak of FMD or other high-impact FADs. The bank ensures vaccines are available for rapid response in the case of an outbreak. It is also imperative that the NAVVCB is well funded in the event that vaccines for other high-consequence FADs, such as ASF, become viable.
- **National Animal Health Laboratory Network (NAHLN):** The NAHLN is a network of over 60 laboratories that collaborates with the National Veterinary Services Laboratories (NVSL) on disease monitoring. Should FAD strike, diagnosing and detecting the extent of the outbreak as rapidly as possible plays a key role in responding to a disease and limiting the impact on producers. The laboratory capacity of the NAHLN is critical to ensuring the United States can rapidly and effectively respond to an outbreak. Enhancing animal health diagnostic testing for both endemic and high-consequence pathogens in the nation's livestock and poultry is vital to protecting animal health, public health, and the nation's food supply.
- **National Animal Disease Preparedness and Response Program (NADPRP):** This program allows APHIS to collaborate with animal health partners nationwide to implement high-value projects that enhance prevention, preparedness, detection, and response to the most damaging and emerging FADs that threaten U.S. agriculture. Cooperative or interagency agreements between APHIS and states, universities, livestock producer organizations, Tribal organizations, land-grant universities, and other eligible entities are vital to addressing the risk of animal pests and diseases.
- **National Veterinary Stockpile (NVS):** The NVS provides veterinary countermeasures (animal vaccines, antivirals, or therapeutic products, supplies, equipment, and response support services) that states, Tribes, and Territories need to respond to animal disease outbreaks. Depopulation is a key component of any FAD control effort, and adequate euthanasia equipment is critical to its success. Also essential is sampling and vaccination equipment. The NVS should be well-supplied to step in if a large-scale outbreak requires resources beyond what states, Tribes, or Territories may have.

Several other measures to prevent foreign animal diseases from entering the United States have been enormously successful, and farmers would benefit from them being continued if not expanded.

The Feral Swine Eradication and Control Pilot Program (FSCP), for instance, is a joint effort between USDA's Natural Resources Conservation Service (NRCS) and Animal and Plant Health Inspection Service (APHIS). Originally included in the 2018 Farm Bill, FSCP addresses the threat of feral swine pose on agriculture, ecosystems, and animal health. Given feral swine's role in the worldwide ASF pandemic, funding for this program should be increased to reduce the risk of the potential spread of FADs, including ASF, in the United States.

The Agricultural Quarantine and Inspection (AQI) Services User Fees Program, jointly administered by the USDA and U.S. Customs and Border Protection, is crucial to keeping invasive plant and animal pests and diseases out of the United States. This critical program is funded through user fees collected by APHIS from international travelers and commercial traffic.

Unfortunately, in September of last year, APHIS lost its 30 year authority to collect a surcharge through certain fees because of a District of Columbia Circuit Court ruling. The loss of this longstanding authority to collect reserve funds destabilizes AQI funding and threatens the effectiveness of its programs. NPPC urges Congress to restore this fundamental user fee authority to APHIS through the 2023 Farm Bill.

To prevent the introduction of ASF and other FADs into the United States, the Secretary of Agriculture has used discretionary authority to operate the **National Detector Dog Training Center.** The center is the primary training facility for the so-called “Beagle Brigade” of the AQI program and other agricultural canine teams that help protect America’s natural resources and agriculture producers from foreign animal and plant diseases and pests. The Beagle Brigade is crucial to securing the country against ASF, as the disease has gained a foothold in the Western Hemisphere for the first time in 40 years. We are therefore imploring Congress to include the Beagle Brigade Act (H.R. 1480/S. 759) in the farm bill.

Livestock Marketing and Transparency

Livestock Mandatory Reporting (LMR) remains a critical issue for pork farmers today, and we cannot allow this vital program to lapse. Market Reporting and meaningful price discovery are critical to pork producers’ ability to accurately market their livestock. In 2020, producers identified several priorities to include in the reauthorization of LMR. While we consider the declaration of mandatory price reporting as an essential service and improving the transparency and usefulness of reported information for producers to be crucial and necessary improvements, changes in the marketing of hogs over the past 3 years have prompted our industry to reevaluate its priorities for full reauthorization. Therefore, NPPC has convened a task force and is seeking a 1 year LMR authorization to allow additional time for stakeholders to work collaboratively to develop specific recommendations.

While NPPC believes that we can make meaningful changes to price reporting that would give hog producers greater transparency in marketing their livestock, we are also concerned about current efforts that would stifle innovation, reduce competition, and introduce significant legal and regulatory uncertainty. In January 2020, the USDA proposed rules outlining criteria to determine if a preference or advantage given to a producer can be justified based on market conditions and reasonable business decisions. USDA also made clear in the rule that to prevail in the Packers and Stockyards Act (PSA) challenges, a plaintiff must show a preference or advantage that is likely to harm competition in the marketplace. The new rules were finalized in December 2020 and took effect on January 11, 2021.

In 2021, USDA announced it would propose a series of three new rules to strengthen the Packers and Stockyards Act, two of which have been proposed. The first rule, proposed in June 2022, focused on the poultry industry. A second proposed rule, published in October 2022, would create a new class of producers called “market vulnerable individuals” and names a broad list of conduct retaliatory. Rather than promoting competition, the rule would create uncertainty, confusion, and needless litigation in the pork industry without addressing any specific existing issue. A third rule covering the scope of the PSA is expected sometime in 2023, meaning that the industry has not had the opportunity to assess the potentially overlapping impacts of this series of rulemaking. NPPC opposes the implementation of these rules and believes that hog producers must have the freedom to enter contracts that best fit their operations.

Expanding Market Access

Trade is vital to America’s pork producers, who annually export about ¼ of their total production to more than 100 countries. The pork industry exported $7.68 billion of pork in 2022. Those exports contributed more than $61 to the average price received for each hog marketed, supported 155,000 American jobs, and contributed more than $14.5 billion to the U.S. economy, according to Iowa State University economists.

Despite numerous challenges, a strong U.S. dollar, ongoing supply chain issues and trade retaliation from some of its top foreign markets, the U.S. pork industry continues to export a significant amount of pork. In fact, as of February this year, American pork producers had already exported products worth $1.2 billion to foreign destinations. This represents an increase of nearly 123 percent compared to the same period last year when exports were valued at about $1.1 billion.

The biggest reason for U.S. pork export growth over the past 2 decades has been through trade initiatives, whether free trade agreements (FTAs), less-formal trade and investment framework agreements (TIFAs) or one-off market access deals. Through such initiatives, the United States moved from a net importer to a net exporter of pork in 1995.

As a result of trade agreements, U.S. pork exports have increased more than 1,850 percent in value and more than 1,560 percent in volume since 1989, the year the United States implemented its FTA with Canada and started opening international markets for value-added agriculture products.

Since 2000, pork exports to FTA countries have increased 913 percent, and in countries where the United States has negotiated preferential market access and where tariffs were slashed, pork exports increased tremendously.

In addition to comprehensive trade agreements granting better market access for U.S. pork, the pacts are usually the best avenue for U.S. agricultural science-based standards to be accepted and for broader non-tariff market access issues to be resolved.

Policies that foster the free flow of goods and expand export markets—mostly through trade agreements—are critical to the continued success of America's pork producers, U.S. agriculture and the overall American economy. **The bottom line: The United States needs more comprehensive trade agreements that eliminate or significantly reduce tariffs on and non-tariff barriers to U.S. exports.**

Other Priorities for Hog Farmers

As noted above, exports are critical to the U.S. pork industry. We believe there are two opportunities that should be prioritized to promote market access. The first is the **Indo-Pacific Economic Framework for Prosperity (IPEF),** a U.S.-led initiative developed to forge closer relationships among nations in the Asia-Pacific region. Pork producers encourage negotiators to include tariff elimination and agricultural market access among member nations. NPPC agrees it is important to negotiate a level playing field for agricultural sanitary and regulatory standards. However, the biggest disadvantage facing our industry is high tariffs as competitors have negotiated and entered into agreements such as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) that eliminate tariffs and quotas for pork and pork products.

Another opportunity is the **U.S.-Taiwan Initiative on 21st-Century Trade,** which was launched in June 2022 to develop concrete ways to deepen the countries' economic and trade relationship. NPPC welcomes these negotiations and hopes that market access issues for U.S. pork will finally be addressed. Until recently, when new barriers to trade were enacted, Taiwan had been a growing market for U.S. pork products. U.S. pork exports peaked in 2020 at $53.9 million but fell to $16 million in 2021. Meanwhile, exports from competing countries increased by over 70 percent in 2021. The initiative is a timely opportunity to negotiate eliminating Taiwan's unjustified restrictions on U.S. pork.

U.S. pork producers face challenges at home too. Chief among them is an ongoing labor shortage impacting much of the agriculture sector and threatening the food supply. Despite significant wage increases and competitive benefits, pig farm employment has declined since 2021. Historically low unemployment rates, changing demographics, and declining populations in rural communities indicate that the domestic labor force will not be able to offset the pork industry's worker shortage. As a result, pig farmers are increasingly dependent on non-domestic workers, and current visa programs fail to meet our workforce needs. Improving and updating the antiquated H–2A visa program by granting access to year-round agriculture industries would solve this problem and address the needs of non-seasonal farming.

Conclusion

While the industry is facing many challenges, hog farmers, like me, and our industry allies are committed to working together to maintain the strength of the U.S. pork industry. We are proud of the work we do and appreciate the opportunity to help feed America's families.

NPPC and our members are thankful to Chairman Mann, Ranking Member Costa, and Members of the Subcommittee for their leadership and consideration of these important issues.

The CHAIRMAN. Thank you. Next we will hear from Mr. Zimmerman. Please begin when you are ready.

STATEMENT OF JOHN ZIMMERMAN, VICE CHAIRMAN, NATIONAL TURKEY FEDERATION, NORTHFIELD, MN

Mr. ZIMMERMAN. Good morning, Chairman Mann, Ranking Member Costa, Members of the Subcommittee, and thank you for the opportunity to be here today. My name is John Zimmerman, and I am a turkey grower from Northfield, Minnesota, where I also grow corn and soybeans. I also serve as the Vice Chairman of the National Turkey Federation, which represents every segment of the turkey industry, from growers like me to processors, breeders, and their allied companies. Last year the turkey industry raised more than 216 million turkeys and produced 5.2 billion pounds of ready to cook turkey meat. We are coming off an especially challenging year, but the industry is determined to stay competitive and meet consumer demand in a crowded protein field.

Since the current Avian Influenza outbreak began in early 2022 there have been 227 cases in commercial turkey flocks, resulting in the loss of ten million turkeys. Minnesota was hardest hit, with over 40 percent of the national total. NTF appreciates USDA's coordinated response to the outbreak, including the indemnification program, that has been an economic lifeline to growers, processors in rural America. We also deeply appreciate the strong support from Congress. Working together, we have come a long way from the last major outbreak in 2015. Though viral loads in the wild bird population have been much higher this time, and the current strain of the virus is resistant to warm weather, USDA reports far fewer instances of farm to farm transmission of the virus. Biosecurity enhancements implemented during the last 7 years are working. The speed with which USDA deployed a coordinated response was impressive, and trade disruptions have been reduced. But we still have more to do.

The outbreak has put tremendous strain on USDA's APHIS. The agency has been understaffed for some time and needs at least 150 full time employees to return to normal strength, and ensure we are able to depopulate infected barns as quickly as possible. Results from APHIS's Wild Bird Surveillance Program provide a vital early warning system that helps the turkey industry take timely action to slow the introduction and spread of the virus, and we need Congress's continued support.

An effective vaccine could be an important tool for eradication, but outdated trade agreements create enormous trade ramifications. NTF has repeatedly stated that we are not seeking to vaccinate commercial poultry if it would severely damage export opportunities for any poultry or egg product, but we must work together to identify a potential vaccine and to modernize our trade agreements. No one should be afraid of sound science, scientific research, and open negotiation with our trading partners.

Indemnity payments have been a vital tool in this battle. It does not cover all grower losses, but they provide a vital economic lifeline. APHIS has begun paying higher indemnities for breeders and organic turkeys, and we hope Congress will support expanding this approach to other special categories, including no antibiotics ever turkeys, and grandparent and great-grandparent breeder stock. The up and coming farm bill can play an important role in battling HPAI. The 2018 Farm Bill created a strong program to combat foreign animal diseases by establishing a three-tier animal disease program with mandatory funding, and legislation is being introduced in the House and Senate this week to highlight the three-tiered program, and we urge everyone here to cosponsor the bill, and we look forward to continuing our work together on the upcoming farm bill.

These are not our only challenges, and I would like to touch on a few more. CO_2 is essential in turkey production as a stunning agent, and as a way to safely cool products in our plants. But CO_2 prices have soared, and suppliers have invoked *force majeure* numerous times because of CO_2 shortages. Almost every turkey plant has experienced at least one *force majeure,* and the industry has lost over 500 days collectively to shortages. Initial disruptions were driven by maintenance at CO_2 processing plants, but the looming doubling of the Sec. 45Q tax credit for carbon sequestration in the Inflation Reduction Act (Pub. L. 117–169) is sure to exacerbate the problem.

The turkey industry's commitment to food safety will always be our top priority, and NTF welcomes the exploration of new approaches to controlling *Salmonella,* so long as the new policies are science and data-driven, and likely to improve public health. In April USDA's FSIS released a proposed rule to declare *Salmonella* an adulterant in a raw chicken product. The agency also is conducting two risk assessments related to *Salmonella* in poultry and preparing to draft a new *Salmonella* policy for poultry plants. The risk assessment will provide valuable data, and new policy proposals may lead to advances in food safety regulation, but new regulations should not be proposed before the risk assessments are complete.

USDA has also recently issued two proposed rules seeking to address what the Department says are flaws in the current poultry production contracting process. The first rule dealt with contract transparency, and the second is designed to ensure inclusiveness in the poultry contracting. The first rule lacks a clear understanding of turkey production, and as a turkey grower, I can tell you this proposal does not benefit me, or any of my neighbors. The second rule is far too ambiguous, clearly invites litigation, and will make it much more difficult for processors and growers to conduct business. We urge USDA to withdraw the rule.

And finally, our industry continues to suffer from a lack of access to workers. Most turkey plants are located in rural, low unemployment areas, and to fully staff our plants, our processors need outside labor, including immigrant labor. Guestworker programs target only seasonal, on-farm labor and non-agricultural manufacturing. The turkey industry supports immigration reform that will maximize benefits to the industry and ensure a strong immigration system that meets the needs of the U.S. economy.

Once again, thank you for the opportunity to testify today on the state of the U.S. turkey industry and the issues impacting our businesses, and I would be happy to answer any questions.

[The prepared statement of Mr. Zimmerman follows:]

PREPARED STATEMENT OF JOHN ZIMMERMAN, VICE CHAIRMAN, NATIONAL TURKEY FEDERATION, NORTHFIELD, MN

Good morning, Chairman Mann, Ranking Member Costa[, and] Members of the Subcommittee. Thank you for the opportunity to share the turkey industry's perspective today.

My name is John Zimmerman, and I'm a second-generation turkey grower from Northfield, Minnesota. On my farm, we raise about 100,000 turkeys annually that produce roughly 4 million pounds of turkey meat each year. We also grow corn and soybeans as well. For me, raising turkeys is a family business. I've been around the industry my entire life. My father raised turkeys before me, and I took over the family business. I won't say it's easy work. But I do what I love.

I also serve as the Vice Chairman of the National Turkey Federation, which represents every segment of the U.S. turkey industry—from growers like me to processors, breeders and the allied companies that produce the goods and services we use to bring turkeys from the farm to tables in this country and around the world.

Last year, more than 216 million turkeys were raised in the United States, and USDA's latest data projects that turkey meat production will exceed last year's 5.2 billion pounds of ready to cook turkey meat. As the industry continues to work through challenges and ultimately recover from the current highly-pathogenic avian influenza (HPAI) outbreak, we are also working to find more ways to remain competitive and meet consumer demands in a crowded protein field. Turkey may have its big day on Thanksgiving, but it's also a great year-round protein source. While HPAI has dealt the industry a severe blow, our history indicates a tremendous resilience in our industry that translates into growth opportunities in the near future.

Disease isn't the only challenge we face. We need common-sense policies from our leaders in Washington that protect food safety, animal welfare and the environment without undermining our ability to produce safe, wholesome and nutritious products affordable to Americans of all income levels. We need your help, and we look forward to working with Congress, and this Committee, to address these issues.

Highly-Pathogenic Avian Influenza

Since the HPAI outbreak began in early February of 2022, there have been 227 cases in commercial turkey or turkey breeder flocks, resulting in the loss of slightly more than ten million turkeys. Across all commercial poultry and egg producing operations, almost 57 million birds have been lost to the disease. The H5N1 strain has been found in commercial and backyard flocks in 47 states, taking a huge toll on farmers and the communities in which they operate.

NTF appreciates USDA's coordinated response to the outbreak, including the indemnification program that has been an economic lifeline to growers, processors and rural America. We also deeply appreciate the strong Congressional support as we manage through this crisis. That support will be critical in the months ahead as we seek to put this outbreak behind us and reduce the chances of another outbreak in the future.

Working together, we have come a long way from the 2015 outbreak. The viral loads in the wild-bird population have been significantly higher this time than they were in 2015, and the current strain of the virus is more heat resistant, meaning the virus did not die out with the arrival of summer. Nonetheless, we have scored some important victories on which we can build. USDA reports far fewer instances of farm-to-farm transmission of the virus, meaning the biosecurity enhancements implemented across the last 7 years are working. The speed with which USDA deployed a coordinated response was impressive. Trade disruptions have been reduced.

We still have important work yet to be completed. We would like to outline some of the most important challenges that lie ahead.

Readiness: While the Federal response has been impressive, dealing with a large multi-state outbreak has put tremendous strain on USDA's Animal and Plant Health Inspection Service (APHIS). The agency has been understaffed for some time and needs at least 150 full-time employees (FTEs) to return to normal strength and provide maximum assistance with all aspects of this outbreak. Time is of the essence when dealing with a positive flock to reduce the shedding of additional virus into the environment. Addressing the staffing shortage will ensure the speediest possible depopulation and disposal times, which are essential to fully that save money and avoid unnecessary flock mortality. We encourage Congress to provide the funds that will allow APHIS to compete with the private sector and hire and train the 150+ FTEs the agency so badly needs. It not only will help speed the end of this outbreak; it will allow for the type of effective, rapid response that will be needed in any future outbreak.

In addition to providing APHIS with the necessary financial resources, Congress should empower the agency to pursue other creative solutions such as developing cooperative agreements to train state, or even industry employees, so they can be called upon during animal health emergencies. In addition, there should be an effort made to explore options to incentivize veterinarians to enter Federal service. Potential programs could include a debt forgiveness package along with a more robust vet school intern program.

Continue Funding APHIS Wild Bird Surveillance: Timely reporting of results from APHIS' wild bird surveillance program provide a vital early warning system about the potential introduction and distribution of avian influenza viruses in the United States. Routine sampling of wild birds in all four major flyways—Atlantic, Mississippi, Central and Pacific—allows for APHIS and the turkey industry to take timely and enhanced actions to reduce the introduction and spread to our commercial flocks. This program must continue to be fully funded in the future.

Vaccination: Vaccination could be an effective tool for eradicating an outbreak but trade agreements based on outdated science create enormous obstacles to vaccination, even if an effective vaccine is developed to combat the current strain. For this reason, NTF has repeatedly and emphatically stated we are not asking for USDA to approve vaccination of commercial poultry if it would severely damage the export opportunities for any poultry or egg product. USDA also has made it clear it would not authorize vaccination if it would decimate trade. With the Federal Government and all poultry and egg trade associations in complete agreement on this important issue, there should be no cause for alarm in any quarter of the poultry and egg industry. All of which makes it baffling to NTF that some continue to generate fearmongering communications about vaccination. So, we will try once again to state clearly and unequivocally the turkey industry's position on vaccination.

NTF and its members are calling for federally supported research to determine if an effective vaccine can be developed to treat the current HPAI strain. A verifiable program also must be in place to differentiate between vaccinated birds and birds that have been infected with HPAI (also known as a DIVA program). Any vaccine that meets these requirements should be used only to end an active outbreak, not as an open-ended control measure. We also are urging the Federal Government to begin discussions with our trading partners to see if new agreements can be reached that would permit vaccination without harm to trade. We appreciate that Secretary Vilsack and the USDA team recognize that this strategy currently is being pursued in Europe and likely will be pursued by other poultry producing countries as well, creating the very real possibility that other countries will gain a competitive edge over the U.S. Those that do not support a judicious, constructive approach to vaccination—one that moves as fast as science and diplomacy allow—are fundamentally pursuing an America Last policy.

This obviously is a complicated challenging process, and it is impossible to predict exactly how long it will take. That is why we are gratified USDA has begun to take some preliminary steps. It still is unclear how the international community will respond, we are encouraged by the fact that the European Union is exploring vaccination strategies, and we hope others will follow suit.

Our industry remains strongly supportive of the process of developing a vaccination strategy through sound scientific research and critical conversations with our trading partners. The U.S. needs to pursue this regardless of whether the current outbreak remains active or not to better prevent further impacts on the poultry industry.

Indemnity to Mitigate the Impact of HPAI: Indemnity payments are made when the Federal Government orders the depopulation of a flock to control or eradicate HPAI and other animal diseases. While indemnity values traditionally reflected the costs associated with conventional commercial turkey meat production, APHIS (utilizing a limited NTF survey) during this outbreak has created turkey production subcategories of premium value, including turkey breeders and organic turkeys. Additional funding and Congressional direction to update indemnity values for all current subcategories on a yearly basis to reflect current costs associated is necessary and to include missing subcategories, such as no antibiotic ever (NAE) production as well as grandparent and great-grandparent breeder stock.

2023 Farm Bill

The current HPAI outbreak is a prime example of how important the farm bill is to our industry and the animal agriculture community. Foreign animal diseases have the ability to cripple the entire agricultural sector and have long-lasting ramifications for the economic viability of U.S. livestock and poultry production. It is critical that the new farm bill continue to address these risks to animal health while likewise bolstering the long-term ability of U.S. animal agriculture to be competitive in the global marketplace and provide consumers around the world safe, wholesome, affordable food produced in a sustainable manner.

The 2018 Farm Bill established a three-tiered animal disease program with mandatory funding to ensure the sufficient development and timely deployment of all measures necessary to prevent, identify and mitigate the potential catastrophic impacts that an animal disease outbreak would have on our country's food security, export markets and overall economic stability. With Congress on the brink of writing a new farm bill, NTF and its coalition partners are asking for these programs to be renewed and remain robustly funded for the life of the next bill.

The three-tiers include:

- The National Animal Disease Preparedness and Response Program (NADPrep), which allows APHIS to collaborate with farmers, ranchers and animal health companies to develop programs that help prevent and eliminate the most serious animal disease threats.
- The National Animal Disease Vaccine and Veterinary Countermeasures Bank (Vaccine Bank), which helps fund the stockpiling of vaccines and diagnostic tests that may be needed to prevent or control disease outbreaks.
- The National Animal Health Monitoring System (NAHMS) Laboratory Network, which is comprised of more than 60 Federal, state and university veterinary diagnostic labs. The NAHMS network has been critical in the effort to rapidly detect and diagnose HPAI cases.

We are extremely grateful for the support Congress has shown to our industry through this challenging time of HPAI. We look forward to continuing our work together in the upcoming farm bill.

Carbon Dioxide (CO_2) Supply Disruptions

Carbon Dioxide (CO_2) is essential to turkey production. It is a highly effective stunning agent for turkeys that are about to be processed, it is used to help cool the chillers that are a critical component of plants' food safety systems and it is utilized in other facets of turkey production. During the last year, CO_2 prices have soared, and suppliers have invoked *force majeure* numerous times because of increasing CO_2 shortages. This has created new chaos in a supply chain that had just begun to recover from the [COVID]–19 pandemic, has disrupted production and processing schedules and created new levels of uncertainty for an industry already reeling from the HPAI outbreaks. Many of these initial shortages have been caused initially by disruptions at CO_2 processing plants, but the looming tax incentives for carbon sequestration, passed as part of the Inflation Reduction Act, are sure to exacerbate the problem.

As background, we associate carbon dioxide with global warming and climate change. It's easy to assume that a carbon dioxide shortage would be a good thing, but in recent years the depletion of this gas has caused an onslaught of issues for the industries that rely on it for key elements of their supply chain. There simply isn't enough of it in the right places to satisfy the myriad uses of this atmospheric gas. With global shortages on this rise, there is no clear solution to the CO_2 shortage and disruptions in the food and beverage space at the current time.

As stated, the food and beverage industry has been the most affected by the carbon dioxide shortage. From the carbonation of beer and soda to food chilling and packaging applications, CO_2 is an essential component of the supply chain for our industries. Furthermore, the turkey industry has a specific and critical use of CO_2 in the stunning of birds at the start of processing. All of this has led to what is now being categorized as a potential food and drink crisis.

CO_2's importance to many food and beverage production systems was most obvious during the supply chain challenges at the beginning of the pandemic. However, as most supply chain challenges have improved, CO_2 has continued to be a source of significant challenges and it is no better observed than during high demand season—especially in the summer when many plants that produce CO_2 shut down for maintenance.

Now we are beginning to learn that these shortages have caused almost everyone, across all sectors, to ration or prioritize products to some degree, but over the past 12 months the turkey industry alone has witnessed a cumulative of 505 days of lost processing because of not enough CO_2 available for a day's production. That does not even include turkey plants that had to reduce daily capacity because of rationing. This is leading to significant price increases, so we ask a couple of critical questions. Other concerning developments since 2020 is the ever-increasing use of the *Force Majeure* clauses to limit supply as **all** turkey companies have indicated the use, at least once in the past 12 months, of this and one company indicated its use as many as 18 times. The exponential uptick in the use of this clause should be one that Congress should more closely monitor and evaluate to reduce disruptions and efficiencies. All totaled these actions have resulted in increased costs to all turkey companies with a range of mid-six figured to low seven-figures across the board.

This all creates questions that we think Congress should more closely review to ensure the Federal Government policy that is now law is not a driving factor of this realized tax. First, minus true oversight of the CO_2 utilization market, can any Federal department or agency have the ability to assist in predicting or better forecasting when CO_2 supplies will truly respond to the market and correct itself thus curbing this increased cost or tax? With annual shutdowns of CO_2 production facilities for maintenance causing supply chain disruptions, could the Federal Government assist in managing this commodity to improve the predictability of the markets? Finally, there is significant concern for those of us that need CO_2 on a daily basis to make the food and beverages that the Inflation Reduction Act's (doubling of the 45Q tax credit has prioritized carbon capture over other important and necessary uses. I recognize the realities of what this tax incentive was meant to do but Congress overlooked an important sector of the economy that is harmed by increasing the tax credit.

A coalition of like-minded industries including a broad swath of food and beverage producers has begun asking these questions. Without exception, Members of Congress, their staff and Committee staff all have indicated they did not take into account the signals this legislation sent to the market. We recognize this Committee does not have jurisdiction over these provisions; however, you do have the ability to shine a spotlight on the impact this legislation has had on the industries you do oversee.

Food Safety

The turkey industry's commitment to food safety is widely recognized by a wide range of stakeholders. It always will be our top priority. NTF is supportive of new approaches or technological advancements that enhance control of *Salmonella* and other foodborne pathogens. However, any new policies should be founded in science, data driven and highly likely to impact public health.

On April 25 USDA's Food Safety and Inspection Service (FSIS) released a proposed rule to declare *Salmonella* an adulterant in breaded stuffed raw chicken products when the chicken component tests. While this proposed rule does not impact the regulatory process for turkey products, this is the first time FSIS has declared *Salmonella* an adulterant in raw poultry and represents a substantial shift in the agency's position.

Additionally, FSIS is currently conducting two risks assessments related to *Salmonella* in poultry. Ultimately, the risk assessments will be released for public comment and review from industry and all other stakeholders before being updated and finalized. Simultaneously, FSIS has indicated it will be drafting new *Salmonella* policy for establishments producing turkey and chicken products and anticipates publishing a proposed rule this summer. A proposed rule ultimately may lead to important advances in food safety regulation, but the timing is troubling. New regulations should not be proposed before the risk assessments are complete.

We also are concerned that FSIS engagement with stakeholders since the proposed framework was issued has been limited. Additional data input would be incredibly valuable to the risk assessments, however, due to the policy timeline posed, the collection period was short. That is why, NTF along with the National Chicken Council and the North American Meat Institute have officially asked for an additional 120 day extension to that review process given the significance of the impacts this could have on all parties involved. Unfortunately, on Friday, May 12th the agency granted only a 30 day extension. Given the magnitude of this proposed determination, we ask that the Committee also support us by seeking an additional extension.

Packers and Stockyards Act Contracting Rules

USDA so far has issued two proposed rules in the last year seeking to address what the department says are flaws in the current poultry production contracting process. The first rule dealt with contract transparency and indicated a surprising lack of understanding about turkey production. In the preamble to rule, USDA acknowledged that it based most of the rule based on information it had gathered about the chicken industry. It shows. It sought to require provisions that fundamentally already exist in turkey contracts but that now may need to be rewritten to comply with a rule designed for another industry. As a turkey grower, I can tell you this does not benefit me, and it does not benefit most of my neighbors. We have urged USDA to withdraw the rule. If it must move forward with a new rule, it should gather additional input to better reflect unique differences between the various species it is attempting to regulate.

The second proposed rule, "Inclusive Competition and Market Integrity Under the Packers and Stockyards Act," is even more concerning. NTF has urged the agency to withdraw and repropose the rule because the current version is far too ambiguous regarding what activities are prohibited. It will lead to increased legal and regulatory uncertainty, clearly invites increased litigation, and will make it far more difficult for processors and growers to conduct business. In addition, the proposed rule targets conduct that is already clearly prohibited by provisions of the Packers and Stockyards Act, creating redundant, duplicitous red tape.

Labor

As I mentioned a few years ago during my testimony before this Committee, our industry continues to suffer from a lack of access to workers. The turkey industry supports immigration reform that includes policies and provisions that will maximize benefits to the industry and ensure a strong and durable immigration system that meets the needs of the U.S. economy.

Most turkey plants are located in rural, low-unemployment areas. To fully staff these plants, producers must recruit from outside of their local areas and in many instances must rely on immigrant labor. Existing guestworker programs target only seasonal, on-farm labor and non-agricultural manufacturing. We need workers in our plants year-round, and we stand ready to work with all parties to achieve a workable system. The turkey industry hopes that Washington can put the rhetoric aside and find a solution.

Once again, thank you for the opportunity to testify today on the state of the U.S. turkey industry and the issues impacting our businesses. I will be happy to answer any questions.

The CHAIRMAN. Thank you. Mr. Burns, please begin when you are ready.

STATEMENT OF BYRAN BURNS, J.D., VICE PRESIDENT AND ASSOCIATE GENERAL COUNSEL, NORTH AMERICAN MEAT INSTITUTE, WASHINGTON, D.C.

Mr. BURNS. Chairman Mann, Ranking Member Costa, and Members of the Subcommittee, thank you for the opportunity to testify today on behalf of NAMI, the North American Meat Institute. I am Bryan Burns, VP and Associate General Counsel at NAMI. Prior to my time at the institute I worked 20 years in the industry, both as legal counsel, and head of environment health and safety at two different meat and poultry packing companies. NAMI is the oldest and largest trade association representing meat and poultry packers, both large and small. More than half of our members have fewer than 100 employees.

Make no mistake, our industry is facing headwinds, both due to economic factors and due to recent court decisions, proposed regulations, and laws that will negatively impact our industry, and thus the consumers and customers we serve. On the economic front, fed cattle prices are at record highs. Our pork processor members are facing declining wholesale pork prices, and some of our larger members have seen reduced earnings, have been forced to lay off employees, and have closed facilities. These market dynamics have unfolded exactly as four member company CEOs testified would happen before the full Committee a little over a year ago. And just this week THE WALL STREET JOURNAL ran an article on these dynamics entitled, *The Big Meat Conspiracy Theory Unravels,* and thank you to Chairman Thompson for inserting that into the record today.

However, I want to emphasize that the industry is incredibly resilient, despite claims to the contrary. Against challenges such as COVID, supply chain disruptions, labor availability, and the impact of drought, beef production set new records for 4 consecutive years, from 2019 through 2022. Pork production has seen similar 4 year totals over the same period.

The industry faces challenges on the judiciary, legislative, and regulatory fronts. The U.S. Supreme Court recently issued a fragmented decision to uphold California Proposition 12. That decision will trigger similar regulations in Massachusetts under their Ballot Initiative 3. It will also embolden anti-animal ag groups to pursue burdensome laws elsewhere, and it will open the door to chaos of interstate commerce through state by state trade barriers. Not just for meat and poultry products, but for any products not meeting the standards set by another state. Industry needs certainty, but any Federal or legislative solution to this requires careful drafting to ensure it is legally sufficient to address the problem, but not vulnerable to legal challenges in court.

USDA's recent round of proposed rules under the Packers and Stockyards Act is also a threat, both to packers and producers. The Department should withdraw its entire suite of interconnected rules and publish them together, if they are going to publish them at all, with a sufficient comment period to allow stakeholders and Congress to consider the overlapping impact of the intertwined rules. The piecemeal approach that USDA has chosen in promulgating these rules is deliberate regulatory obfuscation.

Courts have repeatedly held that the Packers and Stockyards Act, like other anti-trust laws, is a competition statute. These laws exist to protect the marketplace, and not to address individual grievances that could be decided in state courts. Eight Federal Circuit Courts of Appeals have held that a Plaintiff must show harm, or likely harm, to competition to prevail in a case brought under the Packers and Stockyards Act, yet USDA seeks to circumvent the court decisions, and Congressional intent, and rewrite the Packers and Stockyards Act by regulation as a Federal tort claim statute.

The Administration claims the proposals are needed because the injury to competition standard is an insurmountable bar for Plaintiffs and eliminating it will help rein in the big companies. However, the small family-owned poultry company I once worked for suffered a $14½ million verdict in a Packers and Stockyards case that was decided under the injury to competition standard. That amount was large enough to drive that company to the verge of bankruptcy, and the result was that that company is now owned by an owner outside the United States. Small and medium companies stand much to lose from large verdicts in these cases.

The most pressing day to day need for the meat industry continues to be access to a reliable, stable workforce. We are pleased that Chairman Thompson plans to establish an Agricultural Workforce Working Group within the House Agriculture Committee. We urge the working group to consider the workforce needs of our industry as it deliberates. We aren't eligible currently for the H–2A Program, even though we are the hardest stage of the agricultural process, and we are essential to the food supply. We would welcome the opportunity to be a part of the discussion so that a solution can be found that works for all of agriculture.

Another key priority is reauthorization of LMR. Since 2020 Congress has extended LMR's 5 year authorizations through the appropriation process. NAMI has, since 2019, and continues to support, a clean 5 year reauthorization of LMR. The meat and poultry industry is a critical part of the agriculture industry. It provides an essential, nutritious component of Americans' diets. Thank you for the opportunity to testify today, and I look forward to answering your questions.

[The prepared statement of Mr. Burns follows:]

PREPARED STATEMENT OF BYRAN BURNS, J.D., VICE PRESIDENT AND ASSOCIATE GENERAL COUNSEL, NORTH AMERICAN MEAT INSTITUTE, WASHINGTON, D.C.

Chairman Mann, Ranking Member Costa, and Members of the Committee, thank you for the opportunity to present testimony today on behalf of the North American Meat Institute (NAMI or the Meat Institute).

The Meat Institute is the United States' oldest and largest trade association representing packers and processors of beef, pork, lamb, veal, poultry, and processed meat products. The Meat Institute has 330 general members, operating more than 800 facilities subject to daily Federal inspection by the U.S. Department of Agriculture's (USDA) Food Safety and Inspection Service. Of those members, more than half have fewer than 100 employees. NAMI also has 200 supplier members, which provide a broad range of products and services ranging from large processing equipment to laboratory testing for food safety to packaging, all to help ensure Americans enjoy a safe and abundant supply of meat and poultry products. The U.S. meat and poultry processing industry produces nutrient-dense foods that play a unique role in healthy diets and are driving solutions for the environment, farmers' livelihoods, animal care, and more.

The North American Meat Institute and our partners in the Protein PACT for the People, Animals & Climate of Tomorrow are committed to accelerating progress and building momentum for public commitments in each of five focus areas: the environment, animal care, food safety, nutrition, and our workforce. Protein PACT is a commitment to continuous improvement toward a common set of ambitious goals across the industry. It empowers the animal protein industry to proactively meet the needs of its customers and consumers by accelerating continuous improvement across animal agriculture, transparently verifying progress toward ambitious targets, and proactively communicating that progress. Protein PACT unites partners committed to sustaining healthy people, healthy animals, healthy communities, and a healthy environment.

To achieve its Protein PACT targets, the Meat Institute pioneered creating a sector-wide dataset and published in October 2022 the first-ever data report measuring baselines and providing a snapshot of achievements to date. In its first year, the Meat Institute's data collection effort covered an estimated 90% (by volume) of meat sold in the United States. By 2030, 100% of Meat Institute members will report on all metrics.

Other Protein PACT targets include:

- By 2025, the Meat Institute will help measure and fill the "protein gap"—the difference between the high-quality meat and dairy products needed by families facing hunger and what food banks and charities can provide. In 2022 alone, Meat Institute members announced more than $12.9 million in food security contributions, including building and expanding infrastructure needed to safely receive, store, and distribute fresh meat and milk.
- By 2030, 100% of Meat Institute members will have emissions reductions targets approved by the independent Science-Based Targets Initiative (SBTI). Today, 12 of the sector's leaders have set or committed to setting an SBTI, and 84% of facilities reporting data are covered by a company commitment to reduce emissions.

On May 1, the Meat Institute opened the second Protein PACT data reporting period, which will run through July 31. The Meat Institute and our Protein PACT partners look forward to sharing the animal agriculture industry's proactive improvement over the coming years.

The Meat Institute's member companies operate in what has become one of the toughest, most competitive, and certainly one of the most scrutinized sectors of our economy: meat packing and processing. The industry is very efficient, highly complex, extremely capital intensive, and heavily regulated. Beyond live animals, the packing and processing industry requires labor, capital, and technology, as well as other inputs to produce the products consumers enjoy and expect.

The most recent data from the U.S. Census Bureau shows meat and poultry processing is a $266.99 billion industry employing 526,849 people directly and supporting many more jobs up and down stream in the value chain across both rural and urban communities. Of course, packers and processors depend on livestock and poultry producers. Likewise, they support these farmers' livelihoods. According to the U.S. Department of Agriculture, animal agriculture represents 47 percent of total U.S. farm cash receipts.

Meat packers and processors compete, sometimes struggle, and mostly thrive in a volatile industry. They must continually adapt to changing market conditions and innovate to remain competitive and viable. And in times like these, they must maintain the capital to withstand negative margins in periodic down cycles. Indeed, the industry currently is facing economic headwinds due to a variety of factors, from higher production costs to consumers' concerns over economic uncertainty, and global economic forces. For the record, this is exactly what four beef company CEOs predicted would happen in testimony before the full Committee a little more than a year ago. Supply and demand fundamentals are at work.

USDA's most recent forecast, and the first look at 2024, projects total red meat and poultry production will decrease, which would be the first year-over-year decrease in a decade. On the beef side, a rapid decline in the beef cattle herd has resulted in record cattle prices, similar to 2014 when the cattle herd size was at its smallest since 1952. Moreover, USDA projects cattle prices in 2024 to increase further from today's records. On the pork side, building inventories, declining wholesale pork prices, and increased production costs are weighing on the industry.

Additionally, the pork and hog sectors now face the costs and uncertainty of California's Proposition 12 (Prop 12), which was recently upheld by the U.S. Supreme Court. Proposition 12, a 2018 ballot initiative, will effectively regulate sow housing, not only in California, but nationally by banning the sale in California of whole pork meat derived from sows—or the pigs they produce—unless they were housed with 24 square feet or more of floorspace.

The Prop 12 decision will embolden anti-animal agriculture groups to pursue ballot measures in other states and localities. The decision opens the door to chaos in interstate commerce through state-by-state trade barriers, not just for meat and poultry products, but for any agricultural or manufactured products not meeting standards set by another state. No industry can operate when facing 50 different standards. It is worth noting that with the Court's decision, similar restrictions will be allowed to go into effect in Massachusetts under that state's ballot initiative, Question 3. It is estimated that California represents about 13 to 15 percent of U.S. pork consumption. Based on the population in Massachusetts, it can be assumed that an additional two percent or more of U.S. pork consumption would be subject to these rules.

Our industry, like any other, needs certainty. But any Federal solution requires deliberation and careful drafting to ensure it is legally sufficient.

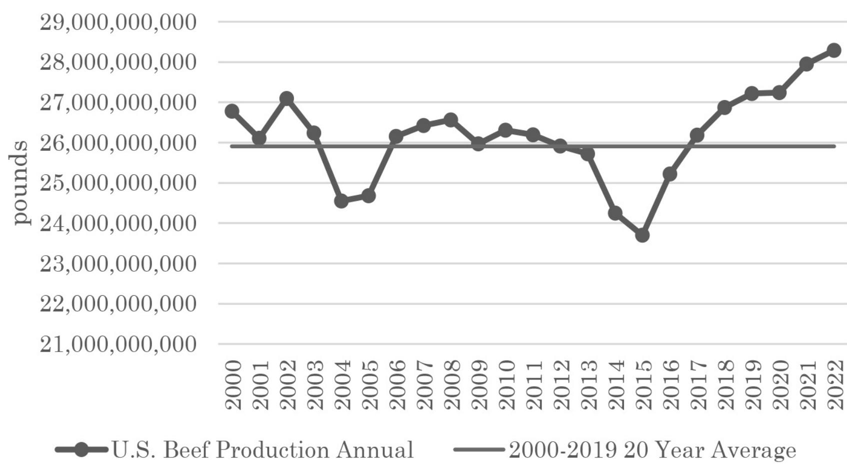
Beef and Pork Industry Market Overview

Despite the economic pressures facing the meat and poultry industry and its employees, consumers, and producer suppliers, it is important to highlight the industry's resiliency, especially over the past few years.

Cattle Market Fundamentals at Work

Faced with the many challenges—COVID, supply chain disruptions, labor availability, and impact of drought on the cattle supply—since 2020, the U.S. beef packing sector has proven resilient. Beef production has set historical records for the past 4 consecutive years. In short, since the pre-COVID year of 2019, beef production has increased 3.9 percent, and is up a remarkable 9.2 percent over the 20 year average from 2000 to 2019.

U.S. Beef Production Annual

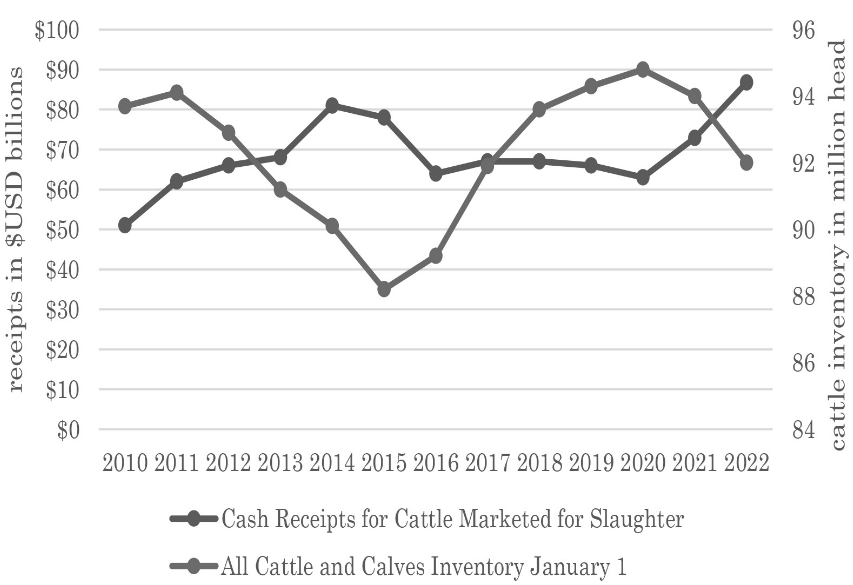


Source: USDA ERS.

Cattle markets are driven by the fundamentals of supply and demand. After a 5 year expansion cycle in the cattle herd size, inventories reached a peak in January 2020. Two and a half months later COVID hit, which created a shock to the demand for cattle as packers were temporarily unable to operate at full capacity. That shock created a backlog of cattle, negatively affecting cattle prices. Ultimately, packers worked their way through the bottleneck, and exceptionally strong consumer demand for beef in 2021 led to improving cattle prices and further increases in 2022.

Total receipts for cattle in 2022 reached a record $86.8 billion, compared to the previous record of $81 billion in 2014, the only other year in which total producer receipts topped $80 billion.

Cattle Market Fundamentals at Work



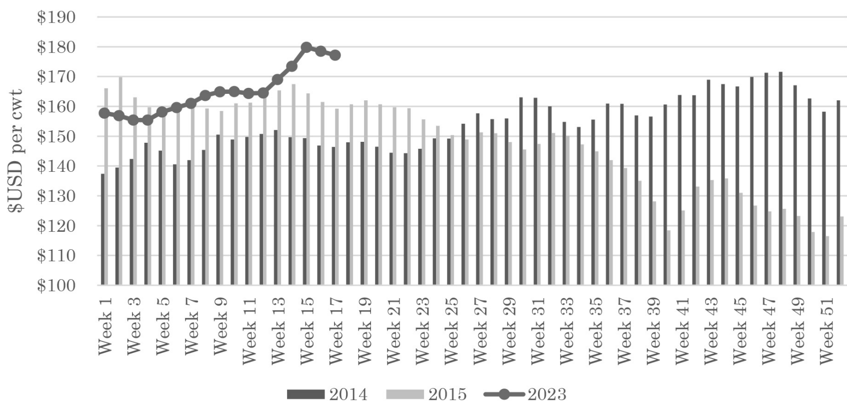
Source: USDA AMS.

In 2022, liquidation of cattle off farms and ranches led to record monthly inventories of cattle on feed in 9 of the 12 months of the year. But U.S. beef packers, having generally recovered from labor shortages and supply chain disruptions faced in 2020 and through much of 2021, were able to harvest and process all these cattle. As a result of packers' demand, cattle prices rose dramatically.

In December 2022, fed cattle prices hit their highest level for that month since 2014, when the overall cattle herd was at its smallest since 1952 (during the Truman Administration), and in January 2023 reached the highest January prices since 2015. So far in 2023, cattle prices have hit record levels—exceeding those of 2014 and 2015.

Weekly Fed Cattle Prices

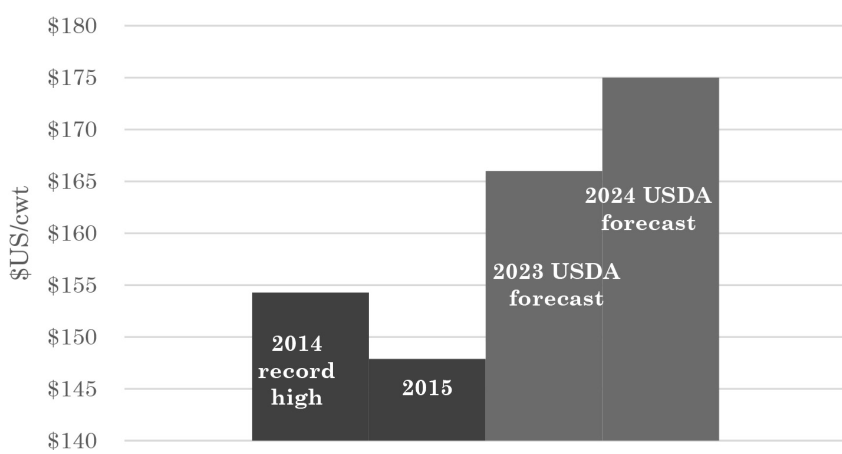
*Current **Versus** 2014–2015 Record Highs*



Source: USDA AMS.

Looking ahead for the rest of the year, USDA projects record fed cattle prices to continue. The May World Agricultural Supply and Demand Estimates (WASDE) report forecast cattle prices to maintain an annual average of $166 per hundredweight. That is $12 per hundredweight, or 7.6 percent higher, than the previous record. USDA's forecast for 2024 projects another 5.4 percent increase over this year's historical record.

Annual Average Fed Cattle Prices

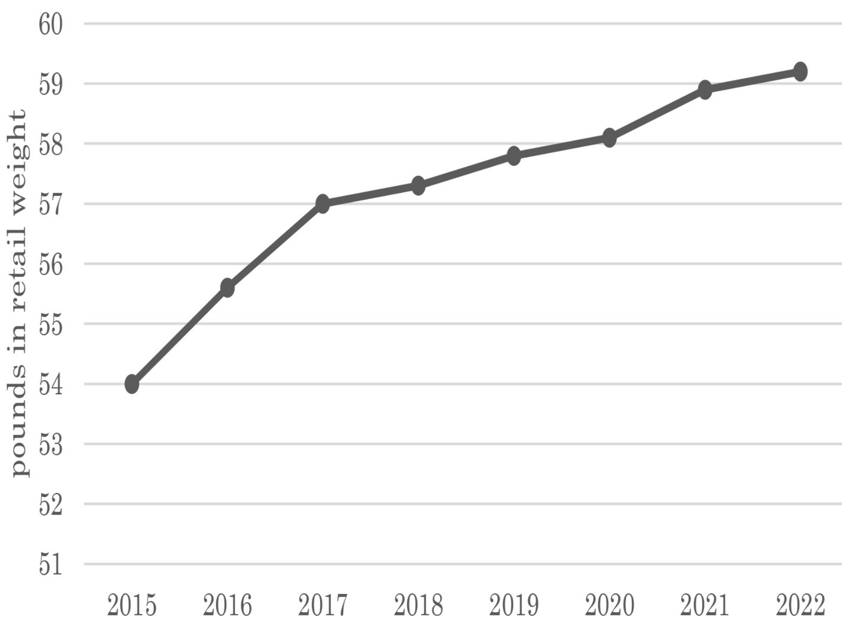


Source: USDA AMS.

Consumer Demand & Beef Quality

Consumer demand for beef has been extremely strong. Consumption has grown by more than 5 pounds per capita since 2015.

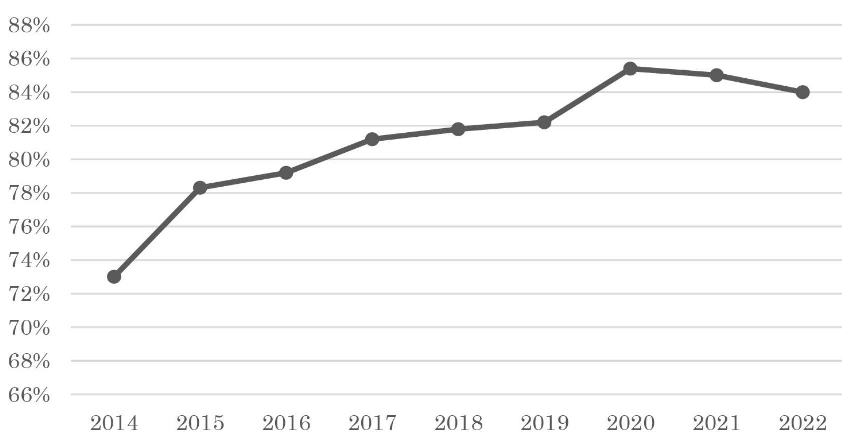
Beef Per Capita Consumption



Source: USDA ERS.

Importantly, beef quality over that time has improved hand-in-hand with per capita consumer demand because packers and producers have both focused on what consumers demand. From 2020 to 2022 beef production at the two highest quality grades, Prime and Choice, has averaged 84.8 percent. That compares to 76 percent for the same quality grades in 2014 and 2015.

Percent of Beef Grading Prime and Choice

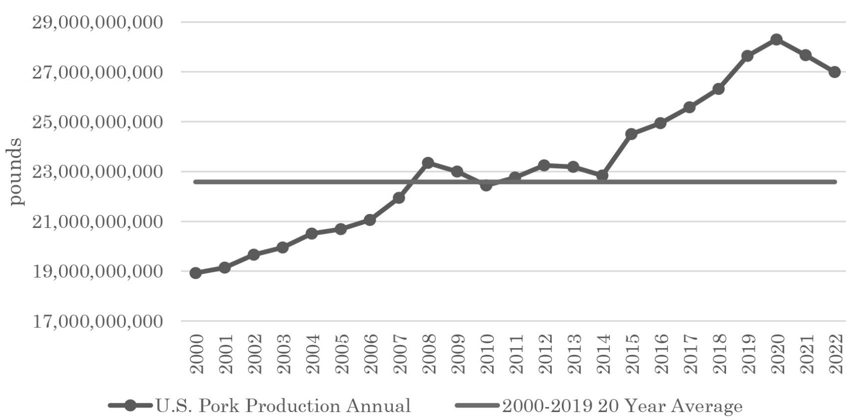


Source: USDA ERS.

Hog Market Fundamentals at Work

Pork production faced the same challenges from COVID and the ongoing disruptions, which came on the heels of unprecedented global pressures resulting from the outbreak of African swine fever in China, which maintains nearly half of the world's swine herd. U.S. pork packers also showed their resiliency through all this volatility. Pork production hit a record in 2020 at 28.3 billion pounds. Although pork production was down in 2022 to 26.995 billion pounds, it remained a staggering 19.5 percent above the 20 year average from 2000 to 2019.

U.S. Pork Production Annual

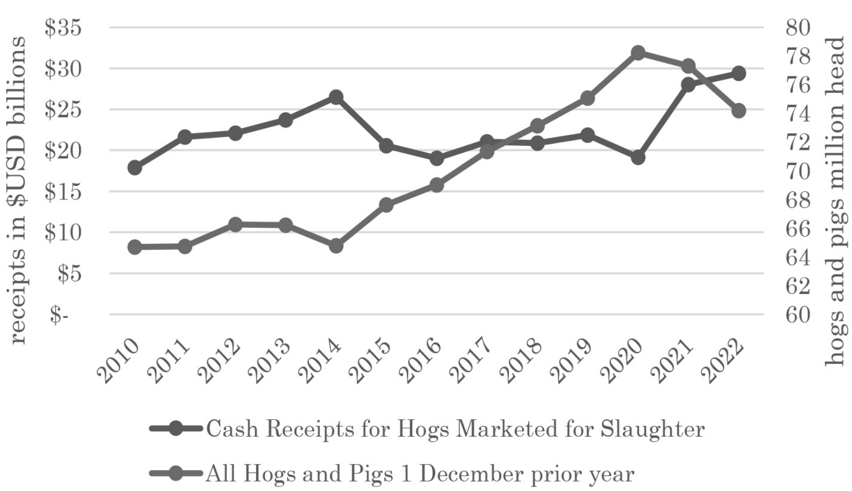


Source: USDA ERS.

Like cattle, hog prices are driven by the fundamentals of supply and demand. After a 6 year expansion cycle driven by tight global supplies and record export demand, the December inventory of hogs and pigs hit its peak in 2019. Three and a half months later COVID hit, which created a shock to the demand for market hogs and feeder pigs as packers were temporarily unable to operate at full volume.

Total receipts for hogs in 2022 reached a record $29.375 billion, compared to the previous record of $28.03 billion in 2021—the only other year in which total producer receipts topped $27 billion.

Hog Market Fundamentals at Work



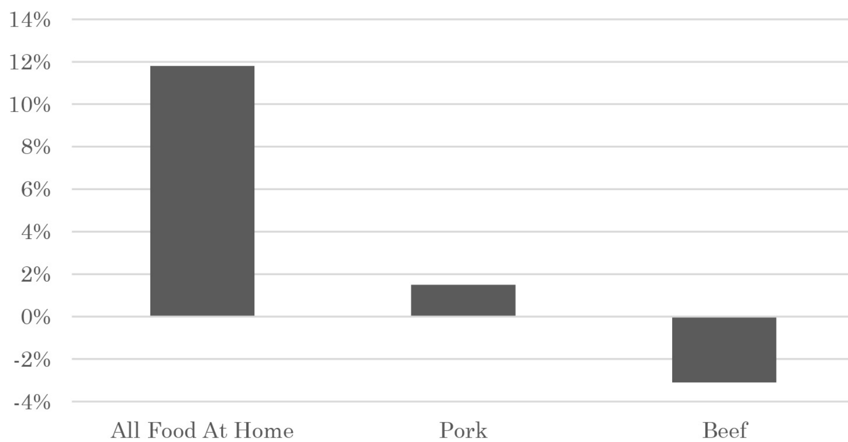
Source: USDA AMS.

USDA is projecting an increase in pork production in 2023 of 1.4 percent. That would bring total output to 27.4 billion pounds—the fourth time that pork production has exceeded 27 billion pounds, and all since 2019.

Red Meat Outlook

With exceptionally strong meat demand in 2021, inflation was an issue that year despite a record volume of 55.9 billion pounds of red meat production. In 2022, however, meat prices lagged far behind the general food inflation index. Red meat and poultry still lag behind the general consumer price index inflation rate, but consumers are faced with a great deal of economic uncertainty.

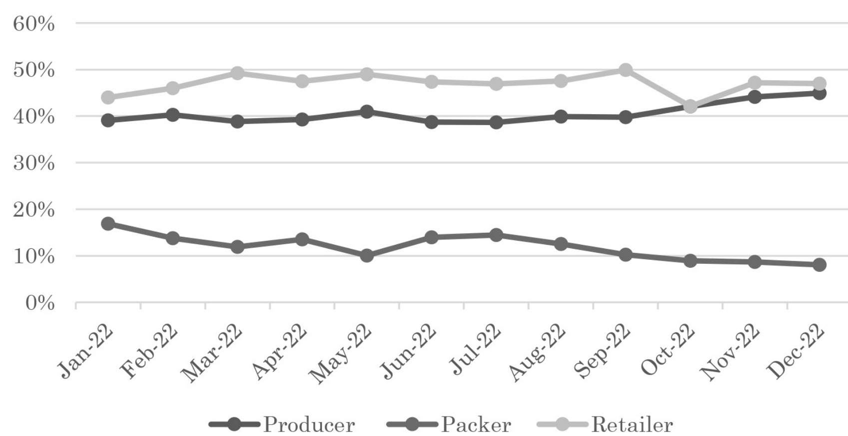
Food Inflation 2022



Source: Bureau of Labor Statistics.

With rising cattle prices in 2022, cattle producers saw their share of the consumer beef dollar rise from 39 percent to 45 percent. The packers' share ended 2022 at eight percent, remaining the smallest share of the consumer dollar it has been in the 640 months since records started in January 1970, with the exception of May 2020 at the height of the COVID disruptions to the packing sector.

2022 Share of Retail Beef Dollar

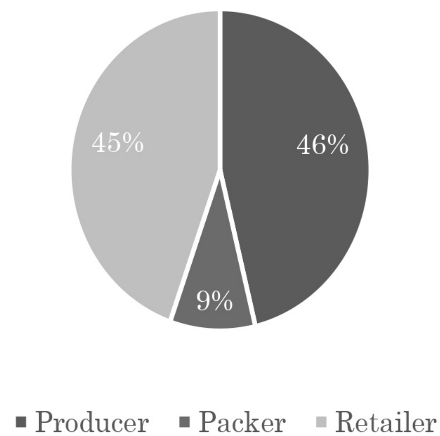


Source: USDA ERS.

So far, for the first quarter of 2023, based on cattle and beef prices to date, the producers' share has averaged 46 percent, one percent higher than the retailers' share, and above the packers' share of nine percent.

2023 Q1: Share of the Consumer Beef Dollar

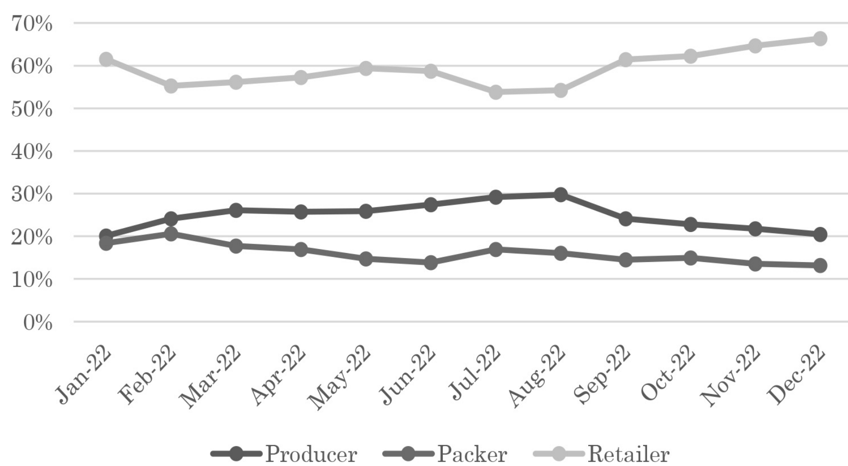
USDA Meat Price Spreads data



Source: USDA ERS.

In 2022, the producers' and packers' share of the retail pork dollar came under pressure late in the year as the retailer share increased.

2022 Share of Retail Pork Dollar

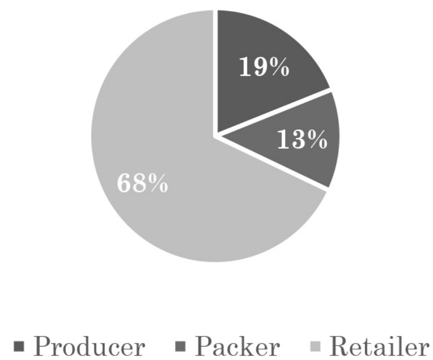


Source: USDA ERS.

So far in the first quarter of 2023, that situation has continued.

2023 Q1: Share of the Consumer Pork Dollar

USDA Meat Price Spreads Data



Source: USDA ERS.

Public Policy Issues

Rulemaking Under the Packers and Stockyards Act

First announced in July 2021, USDA is in the midst of proposing a "suite of major actions" to alter the structure of the meat and poultry industry through regulatory changes under the Packers and Stockyards Act (PSA). Last year, USDA's Agricultural Marketing Service (AMS) published a proposed rule and Advance Notice of Proposed Rulemaking to alter the poultry growing system, followed by a proposed rule titled, "Inclusive Competition and Market Integrity Under the Packers and Stockyards Act" (Inclusive Competition Proposed Rule) that would change the marketing of all species. Finally, USDA has stated it plans to publish a third proposed rule to limit the harm to competition standard under the PSA.

As a threshold matter, the Department should withdraw all the PSA proposals and publish the entire "suite" of interconnected proposals together, with a comment period sufficient to allow stakeholders and Congress to consider the authority undergirding the proposals, the overlapping impact of the proposals, and so stakeholders can provide comments with a comprehensive understanding of USDA's agenda. The piecemeal approach USDA has chosen is deliberate regulatory obfuscation.

For example, the Inclusive Competition Proposed Rule itself makes no reference to longstanding court precedent that a plaintiff in a PSA section 202 case must show injury, or likelihood of injury, to competition to prevail. The proposal's preamble, however, is a different story and is littered with statements to the contrary. In at least seven locations, AMS asserts an individual need not "show market-wide harm to secure relief under the Act," which suggests the agency believes simply saying something enough times is sufficient to overturn the precedent established by eight Federal appellate circuits.

As the United States Court of Appeals for the Fifth Circuit correctly explained, Congress enacted the PSA "to combat restraints on trade" and to "promote healthy competition" in the livestock industry.[1] In enacting the statute, Congress "incorporate[d] the basic antitrust blueprint of the Sherman Act and other pre-existing antitrust legislation."[2] Congress intended the PSA to be a competition law, not a law creating individual rights of action. Under the settled principle of antitrust law, a plaintiff must show antitrust injury—a harm that the antitrust laws were designed to prevent.[3] To prove an antitrust injury, it is not enough for the plaintiff to show it was harmed by the defendant's conduct; rather, the plaintiff must prove that competition was harmed or likely to be harmed by the defendant's conduct.[4]

In an *en banc* decision, the Fifth Circuit stated succinctly:

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[1] *Wheeler* v. *Pilgrim's Pride Corp.* 591 F.3d 355, 361 (5th Cir. 2009) (*en banc*); see H.R. Rep. No. 85–1048, at 1 (1957) (Act's purpose was to "assure fair competition and fair trade practices in livestock marketing and in the meatpacking industry").

[2] *De Jong Packing Co.* v. *United States Dep't of Agric.,* 618 F.2d 1329, 1335 n. 7. (9th Cir. 1980), *cert. denied,* 449 U.S. 1061 (1980).

[3] *See Brunswick Corp.* v. *Pueblo Bowl-O-Mat, Inc.,* 429 U.S. 477, 489 (1977).

[4] *See, e.g., Race Tires Am., Inc.* v. *Hoosier Racing Tire Corp.,* 614 F.3d 57, 83 (3d Cir. 2010); see also Brunswick, 429 U.S. at 488 ("[A]ntitrust laws . . . were enacted for 'the protection of competition not competitors.'").

> Once more a Federal court is called to say that the purpose of the Packers and Stockyards Act of 1921 is to protect competition and, therefore, only those practices that will likely affect competition adversely violate the Act. That is this holding.[5]

And the most recent appellate court to address this issue said it best:

> The tide has now become a tidal wave, with the recent issuance of the Fifth Circuit Court of Appeals' *en banc* decision in *Wheeler* v. *Pilgrim's Pride Corp.,* 591 F.3d 355 (5th Cir. 2009) (*en banc*), in which that court joined the ranks of all other Federal appellate courts that have addressed this precise issue when it held that "the purpose of the Packers and Stockyards Act of 1921 is to protect competition and, therefore, only those practices that will likely affect competition adversely violate the Act." *Wheeler,* 591 F.3d at 357. All told, seven circuits—the Fourth, Fifth, Seventh, Eighth, Ninth, Tenth, and Eleventh Circuits—have now weighed in on this issue, *with unanimous results.*[6] (Emphasis added.)

USDA's attempt to circumvent the courts and Congress to impose a new interpretation of the harm to competition standard brings to mind the Supreme Court's recent decision in *West Virginia* v. *EPA.*[7] In that decision the Supreme Court invoked explicitly the "major questions doctrine," which requires Congress to speak clearly when authorizing agency action in certain cases.

The "major questions doctrine" turns on several considerations, including whether: the agency discovered in a "long-extant statute an unheralded power" that significantly expands or even "transform[s]" its regulatory authority; the claimed authority derives from an "ancillary," "gap-filler," or otherwise "rarely used" provision of the statute; or the agency adopted a regulatory program Congress had "conspicuously and repeatedly declined to enact itself."[8] The Court is skeptical where an agency seeks to promulgate a rule "that Congress has conspicuously and repeatedly declined to enact itself."[9]

Where an agency has long administered a statute, the "lack of historical precedent, coupled with the breadth of authority that the [agency] now claims, is a telling indication that the mandate extends beyond the agency's legitimate reach."[10] Section 202 of the PSA can hardly be called an ancillary or rarely used provision of the statute and given Congress has amended section 202 multiple times over the decades, when it considered amending the statute to articulate the legal standard AMS promotes, Congress declined to do so.

Indeed, Congress has "conspicuously and repeatedly" declined to alter the harm to competition standard. In the 2008 Farm Bill that led to this rulemaking, Congress considered and rejected a proposal to amend section 202(a) to state that a business practice can be found to be "unfair, unjustly discriminatory or deceptive" "regardless of whether the practice or device causes a competitive injury or otherwise adversely affects competition and regardless of any alleged business justification for the practice or device."[11] Senator Tom Harkin, who was then the Chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, explained that his legislation would overturn court rulings that "producers need to prove an impact on competition in the market in order to prevail" in cases alleging that packers or dealers engaged in "unfair" or "unjustly discriminatory" practices.[12] Not only did the legislation not pass either the House or Senate, but Sen. Harkin did not include it in the Senate farm bill he introduced.[13] Congress's decision not to amend section 202 "after years of judicial interpretation supports adherence to the traditional view" that a finding of harm or likely harm to competition is required.[14]

And the 2008 Farm Bill was not the only instance Congress kept the harm to competition standard. Between 1921 and 2002, Congress amended section 202 of the PSA seven times, but it never disrupted the courts of appeals' statutory interpreta-

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[5] *Wheeler* 591 F3d at 357.

[6] *Terry* v. *Tyson Farms, Inc.,* 604 F.3d 272, 277 (6th Cir. 2010).

[7] *West Virginia* v. *EPA,* 142 S. Ct. 2587 (2022); *see also NFIB* v. *OSHA,* 142 S. Ct. 661 (2022) (*per curiam*); *Alabama Association of Realtors* v. *HHS,* 141 S. Ct. 2485 (2021).

[8] *West Virginia* v. *EPA.*

[9] *West Virginia* v. *EPA* at 2610.

[10] *NFIB,* 142 S. Ct. at 666 (quotation marks omitted).

[11] *See* Competitive and Fair Agricultural Markets Act of 2007, S. 622, 110th Cong. § 202 (2007); see also H.R. 2135, 110th Cong. § 202 (same).

[12] 153 *Cong. Rec.* S2053 (daily ed. Feb. 15, 2007).

[13] S. 2302, 110th Cong.

[14] *Wheeler,* 591 F.3d at 362 (quoting *Gen. Dynamics* v. *Cline,* 540 U.S. 581, 593–94 (2004)).

tion.[15] Congressional inaction in the face of the decisions of the appellate courts suggests that it has accepted that settled understanding.

But Congress has also affirmatively acted to stop changes to the harm to competition standard. AMS's statements regarding harm to competition embedded in the Inclusive Competition Proposed Rule's preamble are not the first time the agency has taken this position. In a 2010 failed rulemaking the agency stated a violation of sections 202(a) or (b) of the PSA "can be proven without proof of predatory intent, competitive injury, or likelihood of injury."[16]

The 2010 proposal failed when Congress, on a broad, bipartisan basis, prohibited USDA from moving forward with the rulemaking. Proposed section 201.3(c) of the failed 2010 rulemaking would have attempted to overrule the harm to competition standard established by the courts. However, Congress intervened and the appropriations bills for each of Fiscal Years 2012 through 2015 included language prohibiting the agency from expending any funds to "publish a final or interim final rule in furtherance of, or otherwise implement" proposed section 201.3(c), among other sections of the 2010 proposed rule.

The appropriations language Congress passed four times prohibiting USDA from finalizing the proposed rule supports the conclusion that the standard set by the appellate courts is the proper one. Congress spoke directly to the issue and stopped USDA from changing the harm to competition standard. Yet, once again, in the Inclusive Competition Proposed Rule and the announcement of a future proposal also related to the harm to competition standard, USDA is attempting to circumvent both Congress and the courts, directly contravening Congressional intent and exceeding the authority granted by the PSA.

The Inclusive Competition Proposed Rule's faults related to the harm to competition standard are compounded by the proposal's other provisions. The proposal would broaden the basis of liability under the PSA in a way that will fundamentally alter the operations of protein markets in the United States to the detriment of producers, packers, and consumers.

First, the agency proposal prohibits unequal treatment of a "market vulnerable individual," which AMS would define as a

> person who is a member, or who a regulated entity perceives to be a member, of a group whose members have been subjected to, or are at heightened risk of, adverse treatment because of their identity as a member or perceived member of the group without regard to their individual qualities. A market vulnerable individual includes a company or organization where one or more of the principal owners, executives, or members would otherwise be a market vulnerable individual.[17]

This definition is so vague, and the preamble discussion associated with it so wide ranging, a regulated entity could not begin to know what actions to take or policies to implement to even attempt to ensure compliance. The proposed rule would subject packers and poultry integrators to untold litigation risks and force the industry toward a one-size fits all, lowest common denominator approach to procurement and contracting practices.

The proposal would also prohibit certain actions the agency characterizes as retaliation or deception. As the courts have required showing harm or likely harm to competition in cases brought under PSA section 202, the courts have consistently rejected claims that the PSA makes a Federal offense out of breaches of contract or retaliatory actions that have no adverse effect on competition. In *London* v. *Fieldale Farms* the Eleventh Circuit found no section 202 violation based on allegations that a poultry dealer committed a breach of contract and terminated a grower's contract in retaliation for the grower's testimony against the dealer in a separate lawsuit.[18] Likewise, the Sixth Circuit rejected claims that an alleged retaliatory act by a poultry dealer violates the PSA absent harm, or likelihood of harm, to competition.[19]

Under the Inclusive Competition Proposed Rule, a regulated entity could be subject to liability under the Act for simply terminating, or refusing to renew a contract, with any covered producer that has "communicated with a government agency with respect to any matter related to livestock, meats, meat food products, livestock

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[15] *See Wheeler,* 591 F.3d at 361–62; *see also General Dynamics Land Sys., Inc.* v. *Cline,* 594, 599 (2004) explaining that "Congressional silence" in the face of "years of judicial interpretation" suggests that Congress has accepted the judicial consensus.

[16] 75 *Fed. Reg.* 35338, 35340 (June 22, 2010).

[17] 87 *Fed. Reg.* 60054, proposed section 201.302.

[18] *London* v. *Fieldale Farms Corp.,* 410 F.3d 1295, 1303 (11th Cir. 2005).

[19] *Terry* v. *Tyson Farms, Inc.,* 604 F.3d at 279.

products in unmanufactured form, or live poultry." In creating such broad liability, the proposed rule will increase litigation costs for processors, which will likely be passed on, in some measure, to consumers.

Covered entities seeking to reduce litigation risk will be incentivized to reduce the variety of contracts, and instead offer standardized contracts to producers, reducing producers' ability to reap the rewards of value-added production practices. USDA has advocated the need for increasing environmentally sustainable agricultural production practices. Ironically, the Inclusive Competition Proposed Rule will disincentivize packers from contracting with producers to provide premiums for innovative sustainability practices.

USDA's Inclusive Competition Proposed Rule also attempts to transform a Federal competition law into a Federal tort claim statute. Producers have significant protections under state laws for the grievances USDA would turn into Federal cases. Allowing individual claims to be brought under the PSA would trigger spurious litigation, reduce efficiency and inject added costs throughout the supply chain, resulting in higher costs and less innovative products available to consumers and limiting producers' ability to collect premiums for value added production practices. The Meat Institute urges Congress to once again step in and stop USDA's regulatory overreach.

Livestock Mandatory Reporting Reauthorization

Despite claims to the contrary, there is robust price discovery in the cattle and beef markets. Congress established, and USDA administers, the Livestock Mandatory Reporting Act (LMR) program to facilitate open, transparent price discovery and provide all market participants, both large and small, with comparable levels of market information for slaughter cattle and beef, hogs and pork, and sheep and lamb. Despite the desires of some, LMR is not a tool to direct market changes.

Under LMR regulations, packers must report to AMS daily the prices they pay to procure cattle, and other information, including slaughter data for cattle harvested during a specified period and with net prices, actual weights, dressing percentages, percent of beef grading Choice, and price ranges, and then AMS publishes the anonymized data.

AMS publishes 24 daily and 20 weekly cattle reports each week, starting Monday afternoon and ending the next Monday morning. These reports cover time periods, regions, and activities and the data include actual cattle prices. Further, packers report all original sale beef transactions in both volume and price through the Daily Boxed Beef Report. This data is reported twice daily, at 11:00 a.m. and at 3:00 p.m. Central Time. The morning report covers market activity since 1:30 p.m. of the prior business day until 9:30 a.m. of the current business day. The afternoon report is cumulative, including all market activity in the morning plus all additional transactions between 9:30 a.m. and 1:30 p.m., and is on the USDA DataMart website. The boxed beef report covers both individual beef item sales and beef cutout values and current volumes, both of which are derived from the individual beef item sales data.

AMS also publishes 20 daily and two weekly hog reports each week covering similar time periods, regions and activities. Further, AMS reports four daily and eight weekly reports covering prices and quantities of all wholesale pork sold. Packers are required to report this information twice daily as well.

Few, if any, other industries have this degree of transparency via government mandated reporting of detailed price and product data on an on-going, daily basis, published for all other market participants—including up-stream sellers, downstream buyers, and direct competitors—to view, analyze, and use strategically. Given these regulatory mandates on packers, the most critical component of the program is confidentiality. Without the firewall of confidentiality, each entity in the supply chain from producer to retail and food service will know exactly what the other entities are doing at a given time.

When LMR was established, Congress smartly established a 5 year authorization period such that the program was decoupled from the 5 year farm bill authorization. Keeping LMR decoupled from the farm bill is critical: LMR requires highly technical knowledge of procurement and sales in the complex livestock and meat markets. Well intended changes to LMR enacted as part of broader farm bill policy negotiations and compromises could drive unintended market responses. By keeping LMR separate from farm bill policy deliberations, stakeholder groups can negotiate the technical changes to LMR they seek, reach consensus over any changes, and provide Congress with the technical changes upon which stakeholders agree. This consensus-driven approach has allowed LMR to be reauthorized without acrimony or market-disrupting changes.

The Livestock Mandatory Reporting program's 5 year authorization was scheduled to sunset in 2020, but Congress has extended its authorization annually in appropriations legislation. Since 2019, the North American Meat Institute has supported a clean, 5 year reauthorization of LMR, and NAMI continues to hold that position today.

Meat Institute member companies worked closely with the livestock producer community, AMS, and other interested stakeholders when this reporting program first came into being and on every reauthorization effort since. This iteration of reauthorization must be no different. In that regard, the Meat Institute is committed to working with its membership and with livestock producer groups, to find consensus on reauthorizing the Livestock Mandatory Reporting Act and I hope we continue this partnership free of controversy. I am confident we can achieve this goal in a manner that makes the program more effective and efficient without increasing costs or regulatory burdens.

Labor Availability

Access to a reliable, stable workforce continues to be the most pressing day-to-day challenge facing the meat industry—this was the case before the pandemic, and it has only become more acute. Meat packers and processors have significantly raised salaries and benefits, with starting salaries in many beef slaughter operations starting at more than $22 an hour, plus benefits.

The Meat Institute was pleased to hear Committee Chairman Glenn Thompson's plan to establish an agricultural workforce working group within the House Agriculture Committee. We appreciate the Chairman's leadership and innovative thinking in creating the working group, and are pleased the Committee will bring its expertise on agricultural issues to the agricultural workforce discussion.

As Committee Members know, meat packing and processing facilities are not eligible to employ workers under the agricultural guestworker visa (H–2A) program. However, meat packers and processors are quite simply the harvest stage of the livestock industry—they are essential to the livestock industry and food supply. The Meat Institute urges the working group to consider the workforce needs of the packing and processing community as it deliberates, and we would welcome the opportunity to be part of the task force's discussions so a solution can be found that works for all of agriculture.

International Trade

Last year, 2022, was a strong year for U.S. meat exports. U.S. pork exports were the third highest on record, totaling more than 5.89 billion pounds and valued at $7.68 billion. Beef exports set records in both volume and value in 2022, at nearly 3.25 billion pounds and a value of $11.68 billion. According to the U.S. Meat Export Federation (USMEF), pork exports equated to $61.26 per head slaughtered, representing 27.5 percent of pork production, while beef exports equated to a record $447.58 per head of fed cattle slaughtered in 2022, and 15.2 percent of total beef production.

For the first quarter of 2023, beef exports are down, based on a smaller cattle herd and reduced production, from the record levels of 2022. Pork exports, however, are strong. Exports of U.S. pork through March 2023 are up 17 percent over March 2022 by volume and 18 percent by value. The month of March 2023 was the ninth largest month on record for pork exports in both volume and value, according to USMEF.

It is clear international trade is vital to the long-term strength of the U.S. meat and poultry industry, supports thousands of jobs along the supply chain, particularly in rural communities, and improves livelihoods of American producers, farmers, and ranchers. However, the U.S. meat and poultry industry's export potential remains limited by unjustified sanitary barriers, prohibitive tariffs and tariff rate quotas, and onerous registration and approval requirements for exporting facilities. These challenges are further exacerbated by the lack of new, comprehensive U.S. free trade agreements (FTAs).

Preserving and enforcing existing U.S. trade agreements and frameworks, while indispensable, will not alone guarantee export growth or the economic benefits it confers. This assertion is especially true as China, the European Union (EU), and other competitors forcefully, and swiftly, negotiate FTAs that shirk internationally-recognized standards and undermine U.S. access to growing and mature markets, alike. Rather, the U.S. would be prudent to negotiate additional access with existing trading partners, while also pursuing new markets to compete effectively, for example, with China's Regional Comprehensive Economic Partnership and the EU's mounting list of ratified FTAs and ongoing negotiations in Asia and the Americas.

Although the Meat Institute supports the Administration's initiatives to deepen collaboration, trade, and economic ties with the Indo Pacific region and in the Americas through the Indo-Pacific Economic Framework (IPEF) and the Americas Partnership for Economic Prosperity (APEP), respectively, these initiatives, as currently envisioned, will not create an equal playing field for American workers and businesses, especially small- and medium-sized businesses, without addressing both tariff and non-tariff barriers inhibiting U.S. export trade. With the proliferation of FTAs in the Indo-Pacific, in particular, U.S. exporters face a substantial, and growing, tariff disadvantage compared to countries in the European Union and China, for example.

Therefore, NAMI continues to encourage the Biden Administration to prioritize improved market access through tariff reductions and non-tariff barrier elimination in IPEF and APEP negotiations. Existing tariff disadvantages facing U.S. agriculture in the Indo-Pacific drastically reduce the export potential of U.S. meat and poultry in the region. Even if non-tariff barriers are addressed through IPEF, APEP, and other similar initiatives, access will be severely impeded by prohibitive tariffs, leading customers in key markets to source product from alternate suppliers outside the U.S. This not only weakens U.S. export value, but also detrimentally affects American meat and poultry companies and the workers and communities they sustain.

In exercising its oversight and consultative authority on trade, Congress is well positioned to advance, in outreach to the Administration, the importance for American workers and the U.S. economy of addressing barriers—both tariff and non-tariff—that preclude U.S. exports from reaching strategically-significant global markets.

In addition to encouraging a more comprehensive, robust trade policy, Congress has an opportunity to support and promote U.S. agricultural exports by funding the successful USDA Market Access Program (MAP) and Foreign Market Development Program (FMD). According to USDA, between 1977 and 2019, every dollar invested in these proven export promotion programs returned on average $24.50 in annual export value. During the same period, these programs increased U.S. export revenue by $9.6 billion annually and added $12.2 billion to farm cash receipts. In an increasingly competitive global trade environment, where 95 percent of consumers reside outside the U.S., these export promotion programs provide critical investments that help level the playing field for American agricultural products in markets around the world, increase consumer awareness about the quality and safety of U.S. agricultural exports, and return value to American businesses and workers.

Xylazine

We have all watched with horror the death, trauma, and pain that fentanyl has inflicted across the country. Now, xylazine, a drug approved by the U.S. Food and Drug Administration for use in animals as a sedative, is being added to fentanyl to create what is sometimes called "tranq" or the "zombie drug," which is cheaper to produce and sell than pure fentanyl. Xylazine is not an opioid and so does not respond to naloxone, further complicating the challenges for first responders to treat overdoses.

Xylazine is used legally and safely by beef packers and others in the animal agriculture industry. For beef packers, xylazine is used to quickly and humanely sedate sick or injured cattle before euthanization in a manner that can safely and effectively be administered by workers. Beef packers using xylazine follow strict protocols, including keeping it locked in a safe with access limited to a small group of specially trained personnel, and maintaining meticulous records of all administration and doses.

As Congress examined ways to address the human crisis related to xylazine, the Meat Institute worked closely with the bipartisan sponsors of the Combating Illicit Xylazine Act (H.R. 1839). The legislation gives the Drug Enforcement Agency (DEA) the power to stop the flow of xylazine to humans, while allowing its continued access for veterinary purposes. Thus, veterinary use of xylazine may continue, while the DEA and other law enforcement officials can go after criminals manufacturing and selling xylazine to humans.

The Meat Institute supports the Combating Illicit Xylazine Act and appreciates the deliberative approach the bill's sponsors took to ensure that xylazine would remain available for approved veterinary use. If you have not already, please consider cosponsoring the bill. The Meat Institute urges Congress to quickly pass the legislation to give DEA the tools it needs to go after xylazine traffickers.

Rural Development Opportunities: Public-Private Partnerships

NAMI member companies are vital contributors to the predominantly rural areas in which they operate. Not only are they major employers and economic drivers, but also stewards of their communities. NAMI has several members providing free community college and other educational opportunities for their team members, cost-share, and in some cases free childcare in childcare deserts, and affordable housing in areas needing more infrastructure to support economic growth.

Our member companies are making substantial investments to improve rural communities, investments that stand to cost-effectively benefit even more rural Americans should a mechanism exist within Rural Development to foster public-private partnerships. The upcoming farm bill reauthorization presents a real opportunity to better leverage private company investments into a more prosperous rural America.

Conclusion

Thank you for the opportunity to testify before the Subcommittee. The meat and poultry industry is a critical part of the agriculture industry, and it provides an essential component of Americans' diets. I look forward to answering any questions.

The CHAIRMAN. Thank you. Next up, Ms. Hubbard. Please begin when you are ready.

STATEMENT OF LAURIE HUBBARD, REGION I DIRECTOR, EXECUTIVE BOARD, AMERICAN SHEEP INDUSTRY ASSOCIATION, NEW PARIS, PA

Ms. HUBBARD. Chairman Mann, Ranking Member Costa, Members of the Subcommittee, thank you for the opportunity to speak with you today on the priorities of America's sheep producers. I raise sheep in Pennsylvania and speak today from my experience as a livestock producer, but also as a representative to 100,000 family farms and ranches raising sheep across the country. For the majority of sheep operations, this year continues to be a struggle. The cost of feed and literally every input on our farm is dramatically higher, which stretches our ability to cover our production expenses. I believe we are still working through the disruption caused by the pandemic.

As a former Director on the Board overseeing the American Lamb Check-off, I share firsthand the critical piece of our market that restaurants, particularly fine dining, represent. This customer all but disappeared in 2020, and sadly, many of those businesses have yet to return: 40 percent of our lamb went to fine dining before 2020, and today it is possibly only at 25 percent. We are pressing hard in our promotions at retail grocery, as well as direct marketing of American lamb, to strengthen demand. Last month we completed the single largest marketing season of the year for lamb, with Easter, Passover, and Ramadan holidays. While demand improved over 2022, it was not back to pre-pandemic levels. The commercial lamb feeding sector has been unprofitable for 13 consecutive months. Some feedlots were empty this winter as operators could not pencil their cost of gain for profit, despite the lowest feeder lamb prices in a decade.

We are fortunate that two lamb slaughter plants began operations in late 2020 and early 2021, following the bankruptcy of the second largest processor. These companies promote more competition for our lambs, yet, due to their structure, we remain lacking in price reporting. We fully urge the reauthorization of Livestock Mandatory Price Reporting and provide suggested changes to enhance the program's effectiveness. The first recommendation is to change or replace the 3/70/20 confidentiality guideline. The current guideline is not required by statute, and current market prices have a relatively short-term relevance.

Additionally, we support Congressional and Administration efforts to expand livestock processing facilities. To my knowledge, neither of our new companies were able to avail themselves of the existing programs, however, I can attest from my part of the world that processing is very tight. Producers often need to book their lamb processing as far as a year in advance. Before leaving the topic of the lamb market, I want to thank you for supporting our American check-off programs, and let you know that we are here to help you protect the programs in Congress. We have approved our check-off twice through national referendums by wide margins of both producers and production.

Regarding the wool market, unfortunately, we find the same volatility in demand as with lamb. As you can imagine, the demand for wool suits, sports coats, and slacks has dropped dramatically with the remote work of recent years. This created a huge backlog of unsold wool in storage around the world, and our markets reflect that oversupply. The American Sheep Industry Association is the cooperator with USDA Foreign Agricultural Service, and aggressively uses the export programs to market to the world's textile industry. Thank you for your support of the USDA export programs, and we strongly encourage increased funding in the next farm bill.

I also ask your support to reauthorize the Wool Marketing Loan. The program is designed to kick in when markets fall apart. After nearly a decade of no payments nationwide, when the wool market collapsed in 2020, the program reacted. For some producers, it is the only revenue available for wool this year. I do ask for your full consideration of updating the loan rate to the Wool Marketing Loan Program in the farm bill. The program was created in 2002, and currently reflects wool prices from 2 decades ago.

As relayed in my written testimony, I share three final priorities for the farm bill. We join our colleagues today with strong support of the animal disease prevention and management programs, established in the 2018 Farm Bill. The Wool Manufacturers' Trust Fund of the 2018 bill is critical to our industry and the customers for American wool. And, finally, the Sheep Production and Marketing Grant Program proved invaluable to our industry, replacing the lamb processing plant lost in 2020, and the commercial wool testing laboratory, and we fully support reauthorization. Thank you very much.

[The prepared statement of Ms. Hubbard follows:]

PREPARED STATEMENT OF LAURIE HUBBARD, REGION I DIRECTOR, EXECUTIVE BOARD, AMERICAN SHEEP INDUSTRY ASSOCIATION, NEW PARIS, PA

Introduction

Chairman Thompson, Ranking Member Scott, and Members of the Committee, thank you for the opportunity to speak with you today. I am Laurie Hubbard, a sheep producer from Pennsylvania and a director on the 13-member Executive Board of the American Sheep Industry Association (ASI). ASI is the national trade association for the United States sheep industry, representing the nation's 100,000 lamb and wool producers. I appreciate the opportunity to present the state of the sheep industry and our industry's perspective across several priorities.

State of the American Lamb and Wool Industries

Price inflation, labor challenges, lamb imports and ongoing economic uncertainty are pressuring the American lamb and wool businesses. These are in turn impacting the sustainability of the sheep industry. There is some optimism as consumer interest in sustainability has become more mainstream and is providing opportunities for our industry as wool is being recognized as a natural regenerative fiber for performance wear, and the vast environmental benefits of targeted grazing with sheep, are being recognized by private and public land managers and solar developers across the country.

We are fortunate to have an American Lamb check-off program which proved invaluable during the disruptions of the recent years. According to the American Lamb Board, the [COVID] pandemic caused huge losses within lamb's fundamental fine dining market but created opportunities for retail sales and at-home consumption. While consumers are buying lamb, elevated price levels have made it difficult for lamb to compete with other proteins. More product is coming from imports, usually with a significant price advantage over American lamb. The non-traditional or ethnic market, with demand for smaller carcasses, has grown and cultural preferences are creating new opportunities for our industry. The pandemic led to the loss of a major lamb processor in 2020, yet smaller processors are emerging and being embraced by a society seeking a more local supply structure. High production costs have made it more costly to get lamb to the consumer and the inflationary environment has impacted consumer's willingness to purchase American lamb. Producer and lamb feeder profit margins have been pressured as lamb prices have not kept pace with higher input costs and feed prices.

I would note that commercial lamb feeders have been unprofitable for 13 consecutive months.

The American wool industry continues to endure several challenges which are adversely impacting American wool producers. The American wool market is heavily dependent on the export market. Over the last decade, approximately 67% of American wool is exported, with 72% of those exports destined for China. The ensuing global pandemic resulted in the closure of key international markets and drastically altered consumer demand for apparel products. The Chinese trade tariffs and the lost markets for American wool, drove wool prices down and large supplies of wool into storage. We have classes of wool today that bring only pennies per pound to producers and the impending closure of the Mid-States Wool Cooperative headquartered in Ohio is a major concern for Midwest and Eastern sheep producers.

Farm Bill Priorities

The American Sheep Industry strongly supports reauthorization of the Agricultural Improvement Act of 2018 (Farm Bill). The farm bill should provide producers with a reasonable safety net for market risk, encourage rural growth, and support the production of food and fiber.

Risk Management

The 2018 Farm Bill authorized nonrecourse marketing assistance loans (MALs) and loan deficiency payments (LDPs) for wool to eligible producers who grow and shear wool. This safety net needs to be drastically improved to address current market conditions including inflation and supply chain disruptions. Illustrative of how little support the wool commodity program provides, our records indicate over the life of the 2018 Farm Bill, specifically the 2019–2022 crop years, the commodity program supporting wool has only expended approximately $12.5 million. The national loan rates for graded and ungraded wool were established in 2002 and have not been adjusted since to keep pace with the market and producer costs. The outdated rates creating an ineffective support program, coupled with the recent low levels of producer income, is why ASI is supporting a re-examination of the wool loan rate and an adjustment so that sheep producers have one effective risk management tool.

The American lamb industry is currently without a market-based risk management program. As the lamb industry continues to face market challenges due to pandemic related market disturbances, lamb producers and feeders do not have the tools to address higher feed and input prices, price instability and increased market risk. The increase in interest rates is also going to impact sheep producers and lamb feeders needing to secure capital to sustain their operations. The data gaps in Livestock Mandatory Price Reporting resulting in the corresponding lack of published prices led the industry to support USDA's withdrawal of Livestock Risk Protection—Lamb (LRP-Lamb) in 2021. LRP-Lamb was a Federal lamb price insurance product and the only risk protection product available to lamb producers and feeders to hedge their risk.

Animal Disease Prevention and Management

An outbreak of Foot-and-Mouth Disease (FMD) in the United States would have a devastating impact on the sheep and wool industry. That is why the American Sheep Industry is supporting several efforts aimed at safeguarding sheep production and promoting business continuity in the face of a foreign animal disease outbreak. ASI strongly supports continued funding of the animal disease prevention and management programs established in the 2018 Farm Bill. These programs include the National Annual Vaccine and Veterinary Countermeasures Bank (NAVVCB) which is the only vaccine bank that allows USDA to stockpile animal vaccines and related products to use in the event of an outbreak of FMD or other high-impact foreign animal diseases, the National Animal Disease Preparedness and Response Program (NADPRP), the National Animal Health Laboratory Network (NAHLN), and the National Veterinary Stockpile (NVS). All these programs are vital to protecting the United States livestock industry against a foreign animal disease outbreak.

Minor Use Minor Species Animal Drug Program

America's sheep producers have limited means to protect and prevent disease in their animals as animal health and welfare are critical aspects for ensuring a sustainable sheep industry. The cost to bring a new animal drug to market is rising and many pharmaceutical companies are not investing in developing products for sheep. USDA established the Minor Use Animal Drug Program to address the shortage of animal drugs for minor species and uses by funding and overseeing the efficacy, animal safety, and human food safety research and environmental assessment required for Food and Drug Administration (FDA) drug approval. Funding for this program ceased in 2016, and a result the program lacks the staff and expertise to meet its mission of increasing the number of therapeutic drugs approved for minor animal species. To remedy this, ASI supports an annual allocation to USDA's National Institute of Food and Agriculture (NIFA) Minor Use Animal Drug Program (MUADP) of $5 million to fund research and development to support the approval of new drug products for sheep.

Mandatory Price Reporting

Ensuring there is not a lapse in Livestock Mandatory Price Reporting (LMR) is critical to the United States sheep industry. Unfortunately for sheep producers, LMR has not adjusted to changes in the lamb industry. Of particular concern is the implementation of the current LMR confidentiality guideline which restricts market information available to sheep producers. In 2011, there were 13 reports under mandatory price reporting for lamb. Today, there are only five reports available, all of which are national reports released on a weekly basis. Of these five reports, the amount of information provided in the slaughter lamb report has increasingly diminished over the years with the data on formula traded lambs not being reported since 2020.

The American Sheep Industry Association has proposed several potential changes to LMR that we believe would enhance the program's effectiveness for lamb producers while protecting the interests of everyone in the supply chain. The first recommendation is to change or replace the 3/70/20 Confidentiality Guideline. This guideline is not required by statute and current market prices have a relatively short-term relevance. By the time prices are reported, they only reflect past transactions. Prices and market activity can be reported without sacrificing confidentiality and the current confidentiality guideline by USDA is stifling the information lamb producers need to make accurate marketing decisions. Additionally, ASI has recommended that USDA amend LMR, so it reflects the unique nature of today's lamb industry and is in discussions on developing a lamb contracts library pilot program based on the recent program for cattle. ASI believes these changes would greatly enhance the program for all users.

Trade

The lamb market in the United States is heavily influenced by imported lamb, particularly from Australia and New Zealand, which make up over 50% of total lamb sales. The American Sheep Industry Association in response has asked successive Administrations to prioritize lamb export opportunities for United States producers before allowing additional imports. Our industry still cannot access potentially lucrative markets like China, the European Union, and the United Kingdom; this despite the opening of our market in 2021 to imported lamb from the United Kingdom. The domestic industry's ability to withstand additional import pressure at this challenging time, and the United Kingdom's tremendous potential for significant lamb exports in the wake of their departure from the European Union is a concern for United States lamb producers. A cautious and deliberative approach is necessary to ensure that while trade may be free, it is fair.

Wool trade too remains a challenge. While we have seen an increase in wool shipments to China, numbers are still significantly lower than they were prior to the tariff retaliation. Additionally, shipping challenges continue to mount. The same holds true for the export of pelts. Prior to the implementation of tariffs, 72 percent of American raw wool exports and 80 percent of sheep skins were sent to China. Continuing to build strength in the international marketing of lamb and wool requires a commitment to the promotion and export of United States wool to export markets through strong USDA Foreign Agricultural Service (FAS) Program funding. ASI supports increased funding for FAS programs including the Market Access Program, the Foreign Market Development Program, and the Quality Samples Program. These programs are vital for providing value to America's wool producers through expanding export markets for American wool and sheepskins.

H–2A Temporary Agricultural Workers

The American Sheep Industry has a decades long history of a reliable, consistent, and legal workforce. Sheep ranchers depend on the H–2A sheepherder program to help care for and protect more than ⅓ of the ewes and lambs in the United States. To meet those needs, the industry has participated in temporary visa programs (in various forms) since the 1950s. As a result, sheep producers employ a legal labor force with an estimated eight American jobs created/supported by each foreign worker employed. A workable temporary foreign labor program is essential for the sheep industry including the special procedures for herding in future legislation involving immigration reform.

Access to Animal Drugs

With five million head of sheep, animal drug manufacturers often find that securing FDA approval for new, innovative, and even older products is not cost effective for this market. While the Minor Use and Minor Species Animal Health Act of 2004 (MUMS Act) is intended to make more products legally available for minor animal species, the current FDA animal drug-approval process is unworkable for the sheep industry. It is prohibitively expensive, which is discouraging the development of products for the prevention and treatment of sheep diseases in the United States. The lack of access to these products which are used by our competitors in other countries, places the United States sheep producers at a disadvantage, not to mention limiting their ability to ensure the welfare of their animals and the safety of the national food supply. While imported lamb may be treated with a product that has a USDA/Food Safety Inspection Service accepted residue level, that same product often is not approved for use in the United States by the FDA. ASI is requesting a study by the [Government] Accountability Office (GAO) on the MUMS Act to evaluate if the objectives set forth are being met with respect to sheep, the effectiveness of the incentives to address the high development costs, the cost and duration to bring a new animal drug product to market *versus* other countries, and to review the number of products for sheep in the United States relative to the those available in our competing markets.

Predation

Coyotes, mountain lions, wolves, and bears kill tens of thousands of lambs each year. Livestock losses attributed to these predators cost producers more than $232 million annually. American sheep producers rely on USDA/Wildlife Services, state, and county programs to effectively control and manage predation by state managed and federally protected predatory species. The Livestock protection program is majority funded by industry and local cooperators. Sheep producers have adopted many techniques to reduce predation, including the wide-spread use of livestock protection dogs, but access to lethal and non-lethal predator control methods must be maintained. We add our support for Congressional action to provide us more options to address avian predators primarily the black vulture which is expanding its range and increasingly the primary predator in areas of the U.S.

Thank you for your support of the livestock industry and for allowing me to visit with you about our priorities.

The CHAIRMAN. Thank you. Next, Ms. Scott, please begin when you are ready.

STATEMENT OF KELSEY R. SCOTT, DIRECTOR OF PROGRAMS, INTERTRIBAL AGRICULTURE COUNCIL, EAGLE BUTTE, SD

Ms. SCOTT. *Híŋhaŋni wasté* and *Wóphila,* Chairman Mann, Ranking Member Costa, and Members of the Subcommittee. My name is Kelsey Scott, and I am here in two capacities, as a rancher and direct to consumer grass-fed beef business owner, and as the Director of Programs for the Intertribal Agriculture Council, an organization that has worked with Tribal producers that have family operations much like mine for over 35 years. Home for me is on the Cheyenne River Sioux Indian Reservation located in the Northern Great Plains. Our family operation allows us the privilege to engage with local consumers amidst a USDA-defined *food desert.* Like many rural family-run operations, we aim to be good stewards of the land and our community.

While running a cow-calf operation consists of grueling work, accompanied by risk of plenty, it offers fulfillment beyond what many have the chance to ever experience. This way of life, passed on to me by my family, is one that I hope to pass on to my own son. It is this very hope, one that I share with many other livestock operations, that brings me here today. An alarming 89 percent of agricultural producers nationwide must supplement their operational income with off-farm income in order to survive. While these folks have learned to be profoundly resilient, this Congress has the opportunity to make improvements that will provide a greater chance of viability for these small family livestock operations.

To do this, Congress must understand that the set of solutions often proposed by large-scale animal agriculture stakeholder groups is an entirely separate set of solutions than those needed by the small family agricultural operations, a segment of which constitutes many of the historically underserved, including Tribal producers, whom I have set out to represent today. I urge Congress to consider the following solutions tailored to the needs of smaller family operations.

Enhanced USDA services, and a cooperatorship that reimagines farm loans, conservation support, and disaster responsive programming to better serve family operations. Livestock operations should have the same options as crop growers, including market assistance, price loss support, and on-farm storage facility loans that crop producers have had access to for generations. There should be more realistic values attributed to livestock losses in disaster programs. Solutions must encompass cost-shared risk mitigation and price guarantee tools that are affordable and enhance a family operation's management, ensuring that the value received at the farm gate is proportional to the retail price enjoyed later on in the supply chain.

Further, unrestricted and quality access to fair credit that models a greater appreciation for family operations as the multigenerational businesses they truly are will be vital to the future of small, family-sized farms. A lack of access to credit is exacerbated by the lack of financial investments in the operational infrastructure that otherwise ensures family operations can continue to steward our most important ecosystems.

We must urgently address just how powerless family livestock operations are when there are no diversified market opportunities, and a lack of transparency in the marketplace. Livestock producers become victims to the demands of homogeneity and uniformity preferences that offer them nominal value but demand tremendous investment. Increasing market options and practicing rigorous, unbiased scrutiny of the industry monopolies that currently amass wealth at the expense of our livelihoods and sanity is long overdue. The decentralization of our food system demands scalable food safety regulatory requirements and increased remote meat inspection utilization. Keep in mind, this utilization does demand up front capital, and will require investment to support value-added production and retail market access.

Finally, the actions this Congress takes to support smaller family livestock operations will require accountability when it comes to implementation. USDA cooperators will prove vital to informing agency discretion to best serve family operations. These priorities, if addressed, will not only strengthen this country's food security, but they will uplift rural economies by supporting living wages for family operators. I invite Congress to reach out to small family operators like myself to continue to inform how your decisions can enhance or impede our ability to stay in business. And I have faith that together we can build a future where my son enjoys a ranching livelihood where his take-home pay is no longer best measured in Meadowlark songs, sunsets on the prairie, and "it will get better" promises. *Wóphila* for the chance to be here to testify today.

[The prepared statement of Ms. Scott follows:]

PREPARED STATEMENT OF KELSEY R. SCOTT, DIRECTOR OF PROGRAMS, INTERTRIBAL AGRICULTURE COUNCIL, EAGLE BUTTE, SD

Híŋhaŋni wasté (*good morning*) and *Wóphila,* (*thank you*) Chairman Mann, Ranking Member Costa, and Members of the Subcommittee on Livestock, Dairy, and Poultry, for the opportunity to appear before you today to discuss animal agriculture stakeholder priorities.

Introduction

My name is Kelsey Scott, and I am here today in two capacities—as a rancher and direct-to-consumer grass-fed beef business owner, and as the Director of Programs for the Intertribal Agriculture Council (IAC); an organization headquartered in Billings, Montana, that has, for 35 years, worked alongside Tribal producers throughout the United States to help develop their agriculture resources. As recent as the 2017 Agriculture Census, despite Tribal producers' agriculture operations accounting for more than six percent of U.S. farmland, our agriculture operations account for less than one percent of U.S. agriculture sales.[1] IAC works with Tribal producers in navigating and accessing USDA programs that are not necessarily tailored to meet the needs of Tribal producers, and the majority of agriculture producers, generally.

Home for me is on the Cheyenne River Sioux Indian Reservation, located in the Northern Great Plains of South Dakota; a vast landscape which many of my Lakota ancestors deserve credit for stewarding into the robust, resilient prairie ecosystem that is now home to 5.3% of the United States' beef cow inventory—the fifth highest in the country.[2] Our family operation allows us the privilege to engage with local consumers amidst a USDA defined "food desert". Our unofficial ranch motto is "*to be good stewards of the land and our community.*"

As a fourth-generation rancher on lands that include my great-grandfather's original allotment on the Cheyenne River Sioux Reservation, land stewardship and animal husbandry have been ingrained in me since birth. While running a cow-calf op-

[1] USDA NASS, 2017 Census of Agriculture, *Highlights, American Indian/Alaska Native Producers* (October 2019), *https://www.nass.usda.gov/Publications/Highlights/2019/2017Census_AmericanIndianAlaskaNative_Producers.pdf*.

[2] South Dakota Governor's Office of Economic Dev., *Livestock Development* (2023) *https://sdgoed.com/key-industries/livestock-development/*.

eration consists of grueling work, accompanied by risk of plenty, it offers fulfillment beyond what many have the chance to experience. It is a way of life that was passed on to me by my family, and it is one I hope to pass to my children. It is for this reason, as well as for the many other livestock producers who hope for the same opportunity, I am here with you today. I hope that in sharing how profoundly resilient one must be to carry out this way of life, you will appreciate the ways in which you can make improvements that will provide a greater chance of viability for the livestock producers who see the least help when the unforeseen and unplanned circumstances occur; detrimentally impacting their livelihood, stifling rural economies, and jeopardizing this Country's own food security.

Family operations are the cornerstone of rural communities throughout the United States. It is family operations that are responsible for stewarding what remains of this country's topsoil; the very lifeblood of our agricultural industry. We sequester carbon at rates unrealized in any other sector of the industry. We maintain safe haven landscapes where wildlife fauna can complete their mating rituals each spring so that the gamesmen and -women can enjoy their annual hunts each winter. We offer our own reputation as the face of agriculture while we fortify rural economies; conducting our business in Small Town America. Serving on school boards, volunteering at the polling stations, and joining in county-wide trash clean up days, we find ways to model quality U.S. citizenship, and we so rightly deserve a more meaningful representation in Congressional action as a response to the contributions we make to this country.

But to date, Congress has failed to respond to the very real needs of the majority of family operators in ways that will guard against farm and ranch closures and financial ruin. With nearly a decade of experience providing technical assistance as a USDA Cooperator, it is urgent that the realities endured by the majority of family farmers and ranchers guide Congress's actions in agriculture-related legislation.

Identifying Gaps in USDA Services to Small Family Operations

Recently, USDA's Economic Research Service published data on Farming and Farm Income, which noted that "[f]amily farms (where most of the business is owned by the operator and individuals related to the operator) of various types together accounted for nearly 98 percent of U.S. farms in 2021[, and] [s]mall family farms (less than $350,000 in GCFI) accounted for 89 percent of all U.S. farms."[3] A significant reality that has yet to guide meaningful legislation in recent years is that the approximately 89 percent of U.S. farms that constitute small family operations represent households that must "typically rely on off-farm sources for the majority of their household income. In contrast, the median household of operating large-scale farms earned $486,475 in 2021, and most of that came from farming."[4]

The most meaningful takeaway that the Subcommittee can have from my testimony is that the set of solutions often proposed by large scale animal agriculture stakeholder groups is an entirely separate set of solutions than those needed by the family agriculture operations that account for 89% of producers in the United States. If Members of Congress want to meaningfully and adequately represent constituents who have family operations in their districts, all while addressing the consolidation and homogenization of our food system, then I would encourage Congress to prioritize the design of a solutions toolbox tailored also to the needs of smaller family operations. This toolbox would include:

1. Enhanced USDA Services & Programmings Customized for Family Operations
2. Cost-shared Risk Mitigation and Price Guarantee Tools
3. Unrestricted and Quality Access to Fair Credit
4. Meaningful Financial Investment in Infrastructure
5. Diversified Market Opportunities & Transparency in the Marketplace
6. Scalable Food Safety Regulatory Requirements & Increased Remote Meat Inspection Utilization
7. Investment in Value Added Production & Retail Market Access
8. Receptivity to Feedback on 2023 Farm Bill Implementation Process

[3] USDA ERS, *Farming and Farm Income* (last updated March 14, 2023), *https://www.ers.usda.gov/data-products/ag-and-food-statistics-charting-the-essentials/farming-and-farm-income/*.
[4] *Id.*

Solutions Tailored to the Needs of Family Operations and Historically Underserved Producers

Enhanced USDA Services & Programmings Customized for Family Operations

Enhanced county-level USDA services are critical to family operations. Among these enhanced services is the need for inclusive, renovated farm lending offerings, updated farm programming and conservation resources, and more flexible and responsive disaster assistance. Coupled with elevated investment in USDA cooperatorship, Congress can ensure dynamic accommodation and representation of the specific producer needs which tend to vary drastically from one county to the next. While the farm bill presents us with a unique opportunity to establish national efforts to support our agricultural and food systems, many aspects of implementation at the county level encompass efforts towards exclusion, rather than inclusion. This can be largely attributed to a mindset still practiced today in many USDA offices that producers should not need, or should not qualify for, the support initially intended by farm bill programming.

Disaster programming available to livestock producers does not carry the same weight in support as appreciated in other sectors of the industry. Each producer's livestock valuation is based on an institutionalized pricing index that is updated (at best) annually by the USDA. This pricing valuation is not inclusive of speciality production practices and voids appreciation for a producer's uniquely specific genetic pool they've curated to match their environment over generations. Additionally, this pricing index only compensates producers for a singular unit of production lost, rather than appreciating that when a livestock animal dies or loses their offspring, the entire production unit falls out of the operation. This displaces future income potential for the producer and also results in a significant loss of investment that had been placed in the production unit. Livestock producers therefore realize a financial hardship across several production seasons but can only find compensation for a short term income disruption through current USDA disaster programs.

Smaller family operations are often home to several operators who are reliant upon the pooling of resources in order to accommodate production demands. Certain disaster programming payment schedules do not account for this form of enterprise diversification. Further, many programs are absent of appreciation for the elevated livestock care apparent on family operations; this contributes to further disparity in disaster assistance programming valuation realized by family operators.

In addition to these programmatic variances from real-world experiences of family farmers and ranchers, these producers must navigate confusing application processes, limited and unaccommodating sign-up periods, and county office scrutiny that ultimately dissuades producers from applying. Not only does USDA disaster programming need to be expanded upon for family livestock operations, but the services provided to these individuals at a county level could stand to be enhanced as well. In other words, as Federal assistance programs are updated to more adequately address the needs of family livestock operations, we need to ensure County Office services to these stakeholders adopt a mindset of enhanced, expanded, and inclusive outreach and programmatic access for our producers who are laboring day-in and day-out to provide for their families, communities, and this country.

Cost-shared Risk Mitigation and Price Guarantee Tools

Cost-shared risk mitigation and price guarantee tools must be created to do more for the livestock producer than hedge prices in the existing Cattle Market Exchange; these tools need to be affordable and must enhance—not prohibit—a manager's ability to adapt.

Accessing the current risk mitigation and price guarantee tools require time and financial resources that the majority of family operations do not have the liberty to expend. We operate at a level where economies of scale do not yet come into play. Each animal, acre, or unit of production that we are able to attain in our operation's expansion comes with a direct cost increase that offsets potential profit from expansion.

With this limited ability to expand production, family operators are under extreme pressure to elevate income derived per production unit. One common way family operations can attain this increase in income per unit, is by differentiating their product into a specialty commodity. The underlying goal in this diversification is to have a net gain realized in the valuation of your livestock in comparison to the industry standard. By growing an animal that better withstands the climate, raises a larger calf, or presents more desirable traits, family producers claw ahead incrementally with each elevated investment (often in the form of time, money, and expertise). However, current risk mitigation and price guarantee tools do not accommodate an awareness of this investment. Family producers that have made the effort to create an above industry standard animal through strategic management approaches have limited ability to protect this investment. And, in the instance there is a coverage tool that can offer such protection, the producers are often too over-extended financially to take up the offering. For this reason, cost-share support for family operations to be able to access risk mitigation and price guarantee tools proves invaluable.

Unrestricted and Quality Access to Fair Credit

Family operations deserve unrestricted and quality access to fair credit that models a greater appreciation for family operations as the multi-generational businesses they truly are. We must abolish the suggestion that family operations have to be subsidized by off-farm incomes, we need to prioritize lowering the average age of producers, and we must focus on increasing equity for the smaller family farms that are the foundations for rural communities. With a credit system that is so intentionally tailored to the needs of corporate entities, family farms are reliant upon the Federal Government to lead this massive undertaking. The result? The next generations of family farmers assume the debt of their predecessors, oftentimes beginning at a deficit.

Like most family operations, in order to stay in business, I seek an off-farm income to subsidize the nominal profits that our on-farm enterprises can achieve. This is a reality endured by most family operations. In my work with the IAC, I've been able to get to know hundreds of family operations, and I have yet to meet a single producer not reliant on some form of an off-farm income.

When family operations get to enjoy profit margins in our businesses, it is because the weather patterns, market trends, and inflation rates were in our favor that production season. And when we do not see profit margins, we are told we are bad managers, when the truth of the matter is that the system is not designed for us to amass profits as a family operation. Even in the best years, though, most financial institutions do not allow for us to account for a livable wage in our cash flow. In fact, my local FSA loan officer once told me that "producer wages" are merely "owner's withdrawal" and that my cash flow could withstand a quicker repayment plan once we remove that expenditure.

I suggested to the loan officer that without producer wages, I would need an operating loan to accommodate the following production year's cash flow. Laughably, they suggested that using my off-farm income to cover on-farm operating expenses would be a better route, given I wouldn't have the interest costs to worry about that fall. Unsurprisingly, the next year I found myself in a similar situation as most other family operations—floating my annual operating expenses on credit cards, after the local bank that my family has been loyal customers to for three generations was not able to "find enough collateral to extend credit," since I didn't have my calf crop on the ground yet.

With a credit system that does not equitably serve us as generational businesses that span across multiple lifetimes, we continually overextend ourselves on our balance sheets just to accommodate a banking system that better serves the large scale producers. This is a reality that needs to be addressed, or young and beginning farmers and ranchers will never be able to step in as the next generation of producers, and the family operations will go extinct.

Meaningful Financial Investment in Infrastructure

Meaningful financial investment in livestock infrastructure is necessary to withstand extreme weather conditions, adopt climate-smart practices, and update decades old land management developments. Infrastructure investment will help keep family operations stewarding our most important ecosystems that prop up this country's agriculture economies.

Like most family operations in rural America, we must navigate expansive landscapes void of the necessary infrastructure conducive to withstanding extreme weather. For example, our closest gas station is 25 miles away, and the grocery store we frequent is 50 miles further. When we sell our calves, we ship them 98 miles to a livestock auction barn with the slogan, "An Oasis on the Prairie." While traffic does not usually burn up our time, the vast distances we have to travel for basic accommodations, do. Our extreme rural existence also drives the prices of basic living expenses higher, and demands a forward thinking resourcefulness when it comes to how we extend our investments into infrastructure on the landscape.

Production at this scale embraces tradition and culture that is rooted deeply in the "help thy neighbor" teaching. This friendly rural value system may currently be why family operations are able to remain in business. At present, this teaching results in the sharing of dilapidated infrastructure resources well beyond their useful lifespan. For instance, a watering location shared by several herds, loading corrals frequented by multiple producers, an irrigation line that is no longer efficiently distributing water, and beyond. Producers can be found sharing because they can't afford not to. When this exchange works, it's great. However, an over extended resource can quickly serve as a point of contention for neighbors. Overwhelmed by the lack of support they are receiving by the industry, producers have no choice but to "blame thy neighbor" for a lack of functional infrastructure that is limiting their ability to manage.

Approaching the investment in infrastructure must accommodate an awareness of individual operation demands. Present USDA infrastructure support does not adequately account for the supply-chain disruptions, inflated costs of materials and present-day labor shortages.

Additionally, most infrastructure support is funded through competitive ranking processes and family operations often do not score high enough to receive the financial support necessary for otherwise critical infrastructure. This shortfall is especially true for many family operations that are so small they are currently sharing infrastructure access with their neighbors.

Unique to producers on Tribal lands, is a reality where livestock producers function in a quasi-shared leasing management system. The functionality and responsiveness of Bureau of Indian Affairs and Tribal Land Offices adds in an additional layer of complexity that oftentimes results in the expense of a producer's timely eligibility for current infrastructure support.

A heavy infrastructure cost-share offering must be extended to family operations, perhaps offering a prioritization of support to efforts of producers cooperating amongst one another and operating on Tribal lands.

Diversified Market Opportunities & Transparency in the Marketplace

Family operations are reliant upon extremely limited market opportunities; many, like myself, rely upon access to a couple feasible entry points. Lack of market entry points for my livestock results in an undervalued commodity product. Within each of these limited market opportunities, exists demand for homogeneity and uniformity in my livestock herd. Penalized for lack of uniformity; the same uniformity undermines our ability to withstand nature's woes.

Conforming to this demand benefits industry monopolies, vastly undermines resiliency offerings of diversified livestock herds, and is reliant solely on my own investment. Greater scrutiny of industry monopolies (such as aggregators and corporations) that amass wealth at the expense of our livelihoods and sanity is one of several steps needed to enhance market opportunities and transparency in the marketplace.

Scalable Food Safety Regulatory Requirements & Increased Remote Meat Inspection Utilization

Livestock producers hoping to contribute to their local food system will benefit greatly from scalable food safety regulatory requirements that acknowledge small scale processing immensely reduces potential for cross contamination. Further, embracing today's technology to increase remote meat inspection capabilities will significantly increase the prevalence of local meat purchasing options.

DX Beef is my family's direct-to-consumer grass fed beef business. Our livestock leave the ranch for the first time ever when we load them in the 26′ horse trailer on slaughter day. We drive them 45 minutes to a mom and pop butcher shop in a town of less than 700 people. Upon arrival, we unload them into a facility that will only be occupied by livestock from a handful of operations throughout the entire week. Eventually, I'll pick up the product and we will typically feed a maximum of 15–20 households per month, all within the state of South Dakota (most often, within the tri county area).

Demand for this butcher's services and access to the limited state certified meat inspection is so high that my slaughter dates are scheduled anywhere from 12–18 months in advance. When the weather does not accommodate a slaughter delivery date, we are simply out an entire month's product, as our butcher is not able to easily reschedule with the inspector without further disrupting his clientele base.

In addition to restrictive inspection access, production at my scale is further encumbered by out of line food safety regulatory requirements. I'm required to meet similar food safety regulation standards of slaughter plants that process hundreds of animals per 12 hour shift. I've had instances in which the state lab testing timelines have impeded my delivery schedules by nearly 2 weeks. I do not highlight these realities to merely complain about the system. Rather, I hope to demonstrate how nationally enforced regulatory requirements intended to keep the masses safe actually create a disadvantage to family livestock operations that would otherwise love to contribute to local meat production efforts.

An increase in market opportunity and value-added production potential for the producer can be matched by a localization of food dollars that will have a net positive income on the communities that the current food system most significantly exploits. Ultimately, this can contribute to the decentralization of our meat supply chain. The result would be a more informed consumer, as local meat offerings will once again connect consumers with their farmers.

Investment in Value-Added Production & Retail Market Access

Continued investment in value-added production and retail market access to fortify prevalence of local meat purchasing options available to consumers.

Enhanced local market entry is not feasible until the underlying issues with access to credit are first addressed. With each diversification we pursue in an attempt to increase our ability to feed our communities, we have to stand up an entirely new enterprise on-farm. We have to do this enterprise development from the profits, or lack thereof, from our already existing cash flows.

Receptivity to Feedback on 2023 Farm Bill Implementation Process

Congressional intent advanced through the farm bill is not always matched in agency implementation. The actions this Congress takes in the upcoming farm bill require agency accountability through implementation to ensure that improvements to the animal agricultural sector for operations of all sizes are actually achieved.

I can't, in good faith, use this opportunity to directly speak to many of the issues presented by my fellow panelists before you today without highlighting the glaring differences in the reality of their stakeholders, and that of ours. The current livestock industry has been systematically designed to exploit family operations. The reality is that few of the 12% of producers who do not have to seek income outside of their agriculture operations to make a liveable wage represent the historically underserved at USDA. The missing piece for the historically underserved producers, and their fellow producers in the 89 percent is not hard work. Rather, it is laws and policies that create barriers to agriculture production providing a respectable, living wage for the majority of this nation's producers.

I have hopes that these stories will shed light in a way that inspires longer conversations that span far beyond this farm bill season. This country's small family farmers and ranchers—especially our historically underserved stakeholders who are working zealously to hang on to operations passed down to them or working to bring new lands into production—are the strongest neighbors, partners, and cornerstones for the Tribes, counties, states, and regions from which we come. I respectfully ask this Subcommittee to in turn be good partners for small family farms, historically underserved producers, and the 89 percent who, despite their best efforts, cannot live off their agriculture operations alone. This type of partnership will only serve to enhance this nation's food security and food economies.

Conclusion

I want to conclude by thanking the Subcommittee for inviting me here today to share with you the priorities of the stakeholders that include small family operations, Tribal producers like myself, and more broadly, historically underserved producers. Our commitment to the land, our families, our rural communities, and this nation's food systems is unparalleled. These priorities, if addressed, will not only strengthen this country's food security, they will uplift rural economies by supporting living wages for producers. I hope that this Subcommittee, and the Agriculture Committee as a whole, will continue to reach out to smaller family operators like myself to inform how your decisions can enhance or impede our livelihoods. And I have faith that together, we can build a future where my son enjoys a ranching livelihood where his take home pay is no longer best measured in Meadowlark songs, sunsets on the prairie, and "it'll get better" promises.

The CHAIRMAN. Thank you all for your important testimony, and for joining us this morning. At this time, Members will be recognized for questions in order of seniority, alternating between Majority and Minority Members, and in order of arrival for those who joined us after the hearing convened. You will be recognized for 5 minutes each in order to allow us to get to as many questions as possible. First, I recognize myself for 5 minutes.

I am concerned with the Biden Administration's rulemaking under the Packers and Stockyards Act, including their proposed rules on transparency, inclusive competition, and market integrity.

USDA has stated that its intent is to clarify that parties do not need to demonstrate harm to competition in order to bring an action under Section 202(a) and 202(b) of the Packers and Stockyards Act. These rules, if finalized, would profoundly alter the operation of American protein markets, and have devastating impacts on the quality, efficiency, and innovation of America's animal agriculture.

Producers would lose the ability to reap the financial rewards of their superior performance and product, and customers would be saddled with higher costs for lower quality goods. These rules are an egregious example of regulatory overreach that will harm producers and consumers alike.

First question for you, Mr. Burns, and I know you talked about this a little bit in your testimony, but if finalized, what effect do you think these rules will have on the quality of animal protein available to consumers? You talked about the financial impact, but what do you see so far as the quality impact for producers, and also consumers?

Mr. BURNS. Thank you, Chairman Mann, for the question, and we certainly agree with all of the statements you made within the question. I think the impact, both on quality—would be significant and on the price that consumers pay would be significant. Adding costs to the industry will result in higher food cost, and we are trying to recover from a period of historic food inflation, so adding transactional cost to the industry at this time would be a mistake for American consumers.

And quality will suffer. If the industry cannot reward producers of the highest quality, or niche, or specialized products, there will be no economic incentive for producers to produce those products for us to be able to supply to our customers and consumers.

The CHAIRMAN. Okay. Thank you. The next question will be for you, Mr. Wilkinson. On January 19, 2023 USDA APHIS proposed a rule that would require electronic ID, or EID, tags for purposes of animal disease traceability and as a requisite for official interstate movement of certain cattle and bison. While I understand the goals here, it would obviously come at an added cost for producers in my district and across the country. In the past APHIS has provided free EID tags and financial assistance for related infrastructure to comply with the regulation. Mr. Wilkinson, do you believe Congress should bolster USDA animal traceability efforts to further promote ongoing disease prevention, including mitigating the cost to producers, and other entities like sale barns for compliance with the EID rule?

Mr. WILKINSON. Mr. Chairman, I believe that if Congress doesn't proceed in that fashion, we are exposing the American beef herd to greater and greater risk. All we have to do is look to poultry and pork and see the risks that they are facing, and what is offshore. The foot-and-mouth disease has spread across literally 70 percent of the cattle area in the world, and unless we have an effective system of tracing potential outbreaks, we run a serious risk of exposing our beef herd to disastrous consequences.

America's cattle producers would welcome the ability of having assistance on the tagging, but the mood shift over the last 15 years in our industry has been remarkable. We have seen cattle producers say absolutely no way am I going to tag my cattle to yes, I understand the importance of protecting the herd. The ability to do that is going to come through an electronic means. And not only do we think that it needs to get into the breeding herd, we feel, on a goal, it needs to get into all of the cattle sector. And that is not going to come without cost to the producers.

They are willing to shoulder the burden on a lot of that, but we need some assistance. But yes, Mr. Chairman, it is critically important.

The CHAIRMAN. All right. Thank you. Last question, with the minute I have remaining, Mr. Hays, we heard in Mr. Burns' testimony today that Proposition 12 ruling will embolden anti-animal agriculture groups to pursue ballot measures in other states and localities, which would open the door to chaos for not only meat products, but many other agricultural manufactured products as well. Can you elaborate on how this decision sets a dangerous precedent for interstate commerce and its impact on your industry?

Mr. HAYS. Thank you for the question, sir. Yes, what California used was the way some production practices don't meet their moral standard. They had to pull the language on animal welfare, they had to pull the language on public safety, because those were just not true. And so all they were left with was their moral standard. So this opens the door for anyone in any state to say something doesn't meet their moral standard, and they can start restricting it from coming from another state.

The CHAIRMAN. Yes. Thank you. I see my time has expired. Next I recognize the gentleman from California, Mr. Costa, for 5 minutes.

Mr. COSTA. Thank you. I was interested to hear your reactions to the Supreme Court's decision regarding Prop 12 in California. It has been a challenge, in California, to adjust to it, and there are a lot of decisions the Supreme Court makes that I don't support or agree with. I guess I am wondering what your solution or alternative is. In California, we—for better or worse—have to live with it and adjust to it. But, it has been a challenge. But I want to move on.

Mr. Burns, over the past 6 months or so, supply chain issues have improved, but what lessons have the meat packers taken from the supply chain crisis that, I don't assume that we are over with pandemics. I think that this is something that we need to be better prepared for in the future. So what lessons are there to learn from this?

Mr. BURNS. Well, I think that we have to be careful, in terms of setting long-term policy based on black swan events. We do have to be prepared; but, we have to be mindful of the fact that some of the dynamics that played into that were actually expected. From 2015 through 2020 the cattle herd expansion happened. We actually happened to roll into the pandemic with a very, very large record cattle herd. And that is not something that I know—that I think could have been predicted, or at this point.

Mr. COSTA. But—no, I know—I understand, but I have family in the cattle business, and I think you have to be prepared for the unexpected. I mean, we have had pandemics, historically, throughout world history. I think when we talk about perishables and supply chains, cold chains, I think we—those are areas that we can look to the future to better protect ourselves, don't you think?

Mr. BURNS. Well, one of the issues we ran into was processing capacity. We really, as an industry, can't afford to overbuild and have excess capacity that sits idle outside of these unique events. That would be underutilized capacity, and it is just not a cost, as an industry, we can absorb. So yes, there are opportunities throughout the supply chain to be better, but we need to be mindful of economic reality——

Mr. COSTA. I mean, there were all sorts of impacts. I mean, we have had our export ability—and I want to thank you for making reference to the Market Access Program, and others that have been very important, but we have products that we can compete in, and ship in to foreign markets, and we can't get consignment on containers—ships, and that has been a problem.

Mr. BURNS. Yes.

Mr. COSTA. And we have had internal problems with our domestic supply chain issues that relate to our freight capacity.

Ms. Scott, there have been numerous USDA programs that have been rolled out that bring more processing online. Have you seen any benefit to these programs in your area?

Ms. SCOTT. Absolutely. I think that, especially in the communities where we have seen these most recent offerings, the extra capacity is realized as a community service. There is now access to local processing opportunities. Producers are able to diversify their income streams.

Mr. COSTA. Do you think we can improve on that in the farm bill?

Ms. SCOTT. Absolutely. I think further investment in this space, as well as expanded accommodation for identifying where current processing capacity exists and being able to more robustly——

Mr. COSTA. Yes. And I think, for all of the witnesses, part of the struggle I am having—I think many of us on the Committee here, as we reauthorize the farm bill, is that many of the titles here where we have popular programs, whether it is with EQIP, or whether it is market access, or whether it is NRCS, are oversubscribed. And how our producers around the country are utilizing them. As we look in the farm bill to provide opportunities for those successes to continue, any comments?

Mr. WILKINSON. Who were you addressing the comment to, sir?

Mr. COSTA. To whoever would like to respond.

Mr. WILKINSON. Well, the utilization of EQIP, and other programs that you just mentioned, are critical to the cattle——

Mr. COSTA. Yes. The problem is they are oversubscribed, and so how do we deal with that in the farm bill?

Mr. WILKINSON. Well, it—I guess that would depend upon the definition of *oversubscribed.*

Mr. COSTA. They are popular. A lot of people want to utilize them.

Mr. WILKINSON. Well, sometimes having a popular product is a good thing, and——

Mr. COSTA. No, I know, so how do you create more opportunities?

Mr. WILKINSON. Well, I think as long as you offer a reasonable rate of return on a voluntary basis for that producer to participate, what—let us go with the programs.

Mr. COSTA. Yes. Well, I am just figuring how we create more opportunities. My time has expired. I was very interested in talking about the comments, the sea change on tagging. Having been from the dairy industry, obviously we identify our cattle all the time, but I think it is important that we continue to work on this. Thank you.

The CHAIRMAN. I now recognize the gentleman from Pennsylvania, the Chairman of the full Committee, Chairman Thompson.

Mr. THOMPSON. Thank you, and in response to my friend from California, I would say promoting the SUSTAINS Act—or SUSTAINS Law, which allows us to expand funding for conservation using private-sector dollars. And there is a lot of interest out there.

Ms. Hubbard, thank you again for being here. Can you elaborate on how consumer interest in sustainability is benefitting the sheep industry?

Ms. HUBBARD. Sure. That is a great question, and sustainability is key for the sheep industry. We have such a great story to tell, from our animal stewardship, the conservation, the passion that we put into raising of our products, both meat and wool. The industry is currently working on supporting further research so we can fine tune those messaging that we can get out to the consumer.

Mr. THOMPSON. That is great. From what I am understanding, the sheep industry is struggling with access to animal drugs. Is the Federal Government responsive to those concerns?

Ms. HUBBARD. Right now drug manufacturers—it is just not profitable for them to produce for our industry, being so small. There is a lack of access to products used by our competitors, all of the imported lamb coming in, and it really puts our industry at a significant disadvantage. We are asking the Committee to mandate a study on barriers of minor-use animal drugs to work toward bioequivalent approval through USDA.

Mr. THOMPSON. Very good. Well, thank you. Mr. Wilkinson, as you pointed out in your written testimony, Livestock Mandatory Reporting, or LMR, is a critical tool for cattle producers, but as you also know, in the wake of the pandemic, there were a variety of obstacles and competing legislative priorities that thus far prevented a formal multi-year LMR reauthorization by Congress. In your opinion, have the concerns surrounding those obstacles been addressed, and is it now time to return focus to a longer-term extension effort to provide more certainty to producers?

Mr. WILKINSON. Mr. Chairman, absolutely. This is way past overdue. I know that there has been a lot of bills undertaken by Congress, and a lot of discussion, but a full reauthorization of LMR is critical.

Mr. THOMPSON. Are there any of the other witnesses wish to weigh in on that?

Mr. BURNS. Just one comment. We support, and have supported since 2019, a full reauthorization. We would ask that it be freestanding legislation, not tied to other pieces of legislation. We think it is a successful program, and important enough that it needs its own freestanding bill.

Mr. THOMPSON. Thanks, Mr. Burns. Any others? If not, I will move on to my next question, for Mr. Hays. As you know, in March the Department of Agriculture announced an extension of their time-limited trial allowing eligible New Swine Slaughter Inspection System, or NSIS, pork packing plants to operate at higher speeds through the end of November as the Department continues to collect a variety of data that relates to worker safety. From a producer perspective, can you talk about the importance of this trial, and the need for a permanent solution?

Mr. HAYS. Yes, Mr. Chairman. The line speed issues are very critical to pork producers. We run very close on capacity when it comes to getting pigs harvested, so any change in the amount of pigs we can harvest per day has a great impact on the market price of pigs. We don't have a real long shelf life. When a pig is ready to be marketed, it needs to move. So, we have been testing this for a number of years. It has been proven safe for workers, safe for human health, and we would certainly like to see the line speeds—the new rules that were proposed a number of years ago in place permanently on line speeds. But we do appreciate the pilot program, we appreciate that they are continuing the line speeds as they continue to study it, but we would appreciate a permanent solution.

Mr. THOMPSON. Absolutely. Yes. And, Mr. Zimmerman, the ongoing Highly-Pathogenic Avian Influenza outbreak has been devastating the poultry producers in the U.S. More than 58 million birds have been affected—ducks, turkeys, poultry—across 47 states, including Pennsylvania. Can you walk us through how your organization has been working with USDA to address the outbreaks, educate producers and consumers, and enact protocols that will help prevent spread and future outbreaks?

Mr. ZIMMERMAN. Thank you. As I said in my testimony, compared to the 2015 outbreak, we are doing much better, and we have had a lot of—great lessons have been learned. The virus this time has a little bit of—it has had some changes. It is more heat resistant. The wild bird population has a much higher viral load, but you could see there was much less farm to farm spread, and that is definitely because of our increase in biosecurity. And our state and national organizations, along with APHIS and USDA, have been great in educating both the producers and the processors on how best we can manage our biosecurity practices to limit that farm to farm spread.

So I think we have come a long way in eliminating that spread. We have to look at other options in the future, and that is why we are open to talking about vaccines, and other things such as that.

Mr. THOMPSON. Very good. Thank you, Mr. Chairman. My time has expired.

The CHAIRMAN. Thank you. I now recognize the gentlewoman from Colorado for 5 minutes.

Ms. CARAVEO. Thank you. And thank you to you, Chairman Mann, and Ranking Member Costa, for hosting our hearing this morning, and to all of our panelists. Thank you so much for taking the time to provide your testimony today. It is difficult to overstate the importance of livestock in Colorado: 66 percent of the states's over $7 billion in agricultural cash receipts can be attributed to livestock, so I am very grateful to hear from you all this morning on your stakeholder priorities.

While our number one agricultural commodity is cattle, Colorado's market share of sheep and lambs rank second in the nation, and Colorado wool production ranks fourth. In recent years the lamb industry, like others—farmers and ranchers have faced unprecedented volatility and drastic price swings. However, American lamb producers do not have a futures market, or active insurance products, to help hedge against these price swings. So, Ms. Hubbard, you go into this somewhat in your testimony, but what would you recommend that risk management in the lamb industry look like to provide a stronger safety net for our producers and our wool growers?

Ms. HUBBARD. It is really crucial, when we are talking about risk management, that we work on that mandatory price reporting. That is where all of our formula prices, our contract prices—we have a growing non-traditional market across the country, especially in the East, but it is growing across the country. And that, unfortunately, isn't captured within that price reporting, so we are at a huge disadvantage there, not being able to capture those numbers. And as I did mention in my verbal testimony, we really need some significant changes to that confidentiality, the 3/70/20 rule. So that would help us significantly.

Ms. CARAVEO. Thank you, Ms. Hubbard. And, even though we have had a very good winter, in terms of snowpack in Colorado, drought continues to be a significant issue in the West. So for Ms. Scott and Mr. Wilkinson, you touched on disaster assistance in your testimonies. How would you recommend we improve our existing programs to ensure that our livestock producers, especially small producers, are getting timely, adequate assistance with extreme weather events, such as drought?

Mr. HAYS. I am sorry, I thought you were addressing Ms. Scott. With—on—yes, I—in the pig industry, drought affects, obviously, the feedgrain production, and so—we did have some drought issues this winter, but hopefully we have a better growing season this summer. We rely on our grain producing partners for that, not so much for forage crop production. So I will give back my time.

Ms. CARAVEO. Yes, and I am sorry, I apologize, I said Scott rather than Hays. Mr. Wilkinson, any thoughts?

Mr. WILKINSON. Yes. Thank you for the question, because it is critical, both on the forage side and on the grazing side, the total rainfall. And having those programs there have really benefitted cattle producers the past 4 or 5 years. And I have to give hats off to Congress, because there were some programs that you put in place for cattle producers that have really been helpful. And continuing those programs, and adequately funding those programs, our Livestock Risk Protection Program, is critical. So thank you. We don't get to say thank you a lot, and in this case, from America's cattle producers, please continue that program.

Ms. CARAVEO. That is always great to hear. Switching topics again, for Mr. Burns this time, your testimony touches on how member companies contribute to educational opportunities, affordable housing and childcare within rural communities in which they operate. I know that that is a big part of what one of our producers in Greeley does. How can we better leverage private company investments in order to support, develop, and invest in our rural communities?

Mr. BURNS. Well, thank you for the comment on that. What we are seeking is more public-private partnerships on that. Our companies have made significant private investment. They care about the rural communities in which they operate, and most of our companies' plants are in rural communities. So perhaps the farm bill is an opportunity to look at increased funding to develop those educational opportunities, clinics, health clinics. Anything that can improve the quality of life in our rural communities, we would certainly be in favor of more funding for.

Ms. CARAVEO. Those are things that are very much appreciated in rural communities like the ones that I represent, and so I am definitely interested in working on that.

Mr. BURNS. Thank you.

Ms. CARAVEO. With that, I yield back my time.

The CHAIRMAN. Thank you. I now recognize the gentleman from Tennessee for 5 minutes.

Mr. DESJARLAIS. Thank you, Mr. Chairman. In just over 3 years President Biden's Environmental Protection Agency has released a slew of overly burdensome regulations that disproportionately impact rural communities and our nation's producers. For example, we have seen yet another expansive WOTUS rule, a proposed emission reporting requirement for on-farm animal waste, crippling natural gas power plant emission standards that will further increase farm and ranch input costs, and increased oversight over thousands of animal feeding operations in the Chesapeake Bay Watershed, setting a dangerous national precedent.

Mr. Wilkinson, or any witness interested in weighing in, can you speak to the detrimental effects these type of onerous rules have on livestock producers, and how uncertainty and compliance costs trickle down to the American consumer?

Mr. WILKINSON. Yes. Thank you for the question. The WOTUS field, and the whole EPA approach on this, has been troubling for America's ranchers and farmers. We go from the Obama Administration, with a series of rules, to the Trump Administration, with a series of rules, to the Biden Administration, with a series of rules. And, unfortunately, America's producer is left out there, trying to figure out which way to go. And we can't be dealing with these constantly changing rules from the EPA. We feel like we are being attacked.

And to try and make our operations go forward, we need one set of rules. You can't keep changing the rules. It is like playing a football game and tying your hand behind your back. So we need to move forward with one set of rules, and we ask that Congress consistently apply the rules, and don't give us a mixed signal constantly.

Mr. DESJARLAIS. Well, certainly that would be helpful. Any other witnesses like to comment on this?

Mr. BURNS. Just a brief comment. We support everything Mr. Wilkinson says with regard to the WOTUS rule, and the uncertainty that has existed on that front. And we too have felt somewhat under attack by EPA. They are currently engaged in a process to revise effluent limitation guidelines for meat and poultry processing facilities that are going to impose tremendous costs on those facilities that we don't think the agency has factored in. That is a big concern.

And the recent change to the national drinking water standard involving PFAS chemicals we believe can have unintended consequences, in terms of other agencies that tie their regulations to the national drinking water standards. We don't believe that EPA has adequately sought input from those other agencies or has adequately sought input from industry.

And, finally, I will mention we now have a second environmental agency, in that the SEC issued climate guidelines that impose all sorts of environmental requirements. Too deep to go into today, but we would suggest that the SEC stay in its lane, and not try to become a second Environmental Protection Agency, and withdraw those rules.

Mr. DESJARLAIS. Yes. Well, I appreciate your thoughts. Anyone else like to comment?

Mr. HAYS. Yes. The pig industry is proud of our record on climate and sustainability and the environment, and we would just like for Congress to recognize that manure from a pig farm is a very valuable resource. It is not a waste, and we apply it that way, especially with prices of fertilizer today. Pig farmers rely on that storage of manure to fertilize the next crop, and we use it very judiciously, and we don't need rules that restrict our ability to use it properly.

Mr. DESJARLAIS. Anyone else?

Ms. SCOTT. Thank you for the question. I would like to share, just an underscore of the fact, that we are not only meat, protein producers for the country, but landscape stewards. A lot of times, when regulatory enactment takes place, there isn't also the offering of opportunity to be able to update our resources, such as infrastructure, on family operations to be able to accommodate.

One of the things that I am really excited and hopeful for is the diversification of how conservation efforts are able to reach our producers, through cooperatorship and through identifying more flexible, regionally adaptive conservation efforts to support our family operators.

Mr. DESJARLAIS. Okay. That is it? All right. Well, I hope the Administration, the EPA, is listening to your important thoughts, and I yield back.

The CHAIRMAN. I now recognize the gentleman from North Carolina for 5 minutes.

Mr. DAVIS of North Carolina. Thank you so much, Mr. Chairman, and to the Ranking Member. Thanks for bringing us together today, and to all the witnesses who are here. Good morning, and thank you for all that you do in particular to help us not only feed and clothe eastern North Carolinians, but Americans. I am proud to support bipartisan common sense priorities for stakeholders here today, including the Beagle Brigade, as well as combating illicit Xylazine.

Eastern North Carolina producers desperately need farm labor, in terms of the workforce. And, given the ongoing population loss, in particular in the eastern North Carolina, and often many rural parts of America, and yet the growing workforce needs, I am just curious to hear from any of the witnesses today on your thoughts on how we can update an outdated H–2A program, in particular to ensure that our producers have a steady labor supply.

Mr. ZIMMERMAN. Well, thank you for the question. We have been struggling with this issue for quite a number of years, but we need a visa program that recognizes that our meat processing plants are year-round operations. The current programs are for seasonal workers, and we just don't fit into that mold. So we need some sort of visa program that recognizes that we need that labor force year-round, would be the greatest change we could have. And I know it is a very contentious issue, but all our plants are struggling with 15 to 20 percent shortages in labor right now, and that affects me on the farm, all the way through the processing plant. It took 3 years to find help for my farm, and I finally did find a person, but we can't operate successfully with this shortage of labor.

Mr. DAVIS of North Carolina. Okay.

Mr. HAYS. Yes, sir, the pig industry has the same issue with labor. The pig farms are year-round, so we need a visa program that provides year-round labor. In the rural areas, where pig farms are at, unemployment is at three percent or less. And coupled with that is an aging population, and a shrinking family size. So it is just—the labor is just not available. We pay very competitive wages, we provide good benefits. The people just aren't there. So we need a visa program that works for our industry the way it works.

Mr. DAVIS of North Carolina. Okay.

Mr. HAYS. And reform to the H–2A Program seems to be a common sense approach to fixing that.

Mr. DAVIS of North Carolina. Let me ask, what other potential reforms would you consider putting on the table that goes beyond just the year-round program?

Mr. HAYS. Well, one of the programs that has been successful for us is the TN (Trade NAFTA) Visa Program through the—and an improvement in that would—currently a TN visa worker can bring their family up with them, but the family members are not allowed to work. So it would certainly help our rural areas if those family members could take some type of job in our rural community. Maybe it is not on the farm. Maybe it is helping in our schools, or working in our restaurants, or whatever part time work. Just be able to do some work in our small communities that would free up labor for the farms. Because our rural communities are hurting for labor across the board.

We are seeing reduced services in our communities, and obviously seeing technology, we have to order our own cheeseburger now like everybody else.

Mr. WILKINSON. At least you are ordering a cheeseburger.

Mr. HAYS. With bacon.

Mr. BURNS. If I could, just briefly, I would like to echo everything my colleague said, but remind everyone that the same issues apply within the plants, and the processing capacity is essential. We need year-round workers.

Mr. DAVIS of North Carolina. Yes. Well, I do appreciate those comments today. I am very concerned and interested in how we deal with workforce. So thank you for that. And we are getting close, Mr. Chairman, to lunchtime, and a cheeseburger sounds pretty good. Therefore I yield back.

The CHAIRMAN. With bacon. Yes, bring me one, please. Thank you. I now recognize the gentleman from Mississippi for 5 minutes.

Mr. KELLY. I am all about cheeseburgers. Mr. Wilkinson, in your testimony you mentioned how CSP funding primarily goes to row crop producers. However, in my home State of Mississippi, we have seen a tremendous amount of interest and contract enrollment by our livestock producers, in particular our beef cattle producers. That is why I have authored a bill to restore CSP back to the 2014 Farm Bill level of $9 billion, as opposed to the 2018 authorized levels of $3.9 billion. My proposal increases CSP by repurposing dollars in the Inflation Reduction Act for conservation programs and reduces the burdensome environmental CSPRA barriers to entry for producers created by the Biden Administration. Can I get a commitment from you to work with me and my staff to look at this bill, and can you also elaborate on the value and the importance of voluntary, incentive-based conservation programs, such as CSP, in the farm bill?

Mr. WILKINSON. Congressman, I think your last part of your question hits the nail on the head. Voluntary program is the solution, and absolutely the cattle industry is behind moving that idea forward. The idea of producers getting to select what they want to get involved in, and then getting behind it with both feet, that is why you get things accomplished. Not a mandate, but a voluntary basis, and I absolutely harken to your comment.

Mr. KELLY. Thank you, Mr. Wilkinson. To any of our producer witnesses, the Inflation Reduction Act authorized $8 billion for EQIP, however, the law removed the existing requirement that at least 50 percent of EQIP funding support livestock producers. How does this impact livestock producers' fair consideration for receiving contracts through the funding?

Mr. WILKINSON. Well, I will take that first. I believe in the 2018 there was a direct set-aside for a portion of that funding, and that was removed, and we believe that that needs to be restored so that there is a direct allocation to at least the beef industry.

Ms. SCOTT. I might add, I believe the EQIP funding supports livestock infrastructure development that other USDA offerings leaves livestock producers out of, and so I think it is critical to be able to have a set-aside specific to animal agriculture to utilize the tools that offer greater opportunity, expanded practices eligibility, as well as allowable participation. There are some programs right now that, after a certain amount of years within the contract, you are no longer eligible to qualify for those practices as a livestock producer, and I don't think that is fair when you compare against some of the crop producers' access to programming year after year.

Mr. KELLY. Thank you, and I now yield the balance of my time to Mr. Bacon.

Mr. BACON. Thank you. First of all, I appreciate Mr. Wilkinson's comments on WOTUS. The farmers and ranchers are angry as can be in Nebraska about this new change in the rule. I think whatever support the Administration had in our farmer and ranch land has been undermined. I also appreciate the comments on foot-and-mouth disease. That was an initiative I brought forward in the last farm bill. I am so proud of the progress that we have made.

And I have one question for Mr. Hays. What is the status of the African Swine Fever? Are you seeing the risks and threats going up, or are we making progress? Thank you.

Mr. HAYS. Yes, the status is—it continues to move around the world. The only place that we have it in the Western Hemisphere is the Dominican Republic and Haiti, with really no hopes of cleaning it up, at least in Haiti. So it is going to be a threat there for a long time, and that is just too close to our shores.

So, our first priority is prevention, and we have made some great strides in prevention, closing some loopholes. I think you have the Healthy Dog Importation Act (H.R. 1184) ahead of you. That was one of the glaring loopholes that we had no idea about until we got to studying the problems.

Mr. BACON. Yes.

Mr. HAYS. That—made some big strides identifying how long the virus can live, and products that come to us from positive countries. And now we are storing those products at the coast for that period of time, before they even move in to where the livestock is at.

But, beyond prevention—and the Beagle Brigade is huge for prevention. We are so proud of that program, and what they are doing, and any expansion of that would be great, because an accidental introduction of disease is probably the most likely course that it would come in. We need to do some work on feral swine. But after prevention, preparedness is huge. If we do get the disease in this country, then we have to get our arms around it quickly. We have to get it stamped out. If it moves across this country, especially if it gets in the feral swine herd, it would be very, very difficult to ever clean up.

Mr. BACON. Thank you. I appreciate your feedback, and, Mr. Chairman, thank you.

The CHAIRMAN. Thank you, Mr. Bacon, for your questions to the pork industry. Seems fitting. We will now——

Mr. BACON. I was asked today what my favorite steak is. Bacon wrapped steak.

The CHAIRMAN. There you go. Next I will recognize the gentlewoman from Hawaii for 5 minutes.

Ms. TOKUDA. Thank you very much. Obviously we are all very hungry and looking forward to lunch now. Thank you to the panel for being here. I just returned recently from a trip back home, to our Second Congressional District in Hawaii. There I flew to five islands in 5 days, and met with agriculture ranchers, farmers, producers, stakeholders, in some of our most rural and remote communities in our country.

During a very candid roundtable with our Hawaii Cattlemen's Council, they shared with me the real struggles and harsh realities that they face. Some spoke openly about the ability for them to maintain a way of life that goes back generations for them, being able to pass that on to their children, and how hopes were harsh as to that potential reality. Access to water, labor shortages, a lack of local processing capacity and inspectors, transportation costs.

We ship and fly cows, as some of you know, thousands of miles away to be finished and processed in the Continental United States. There is actually a plane that sits at the Kona Airport that only flies cows for finishing. And having more than 90 percent of cattle from Hawaii sent to the Continent for processing, only to come back to our islands more expensive than mainland or foreign beef for local consumption, is not sustainable, from a food security, business, or environmental perspective. Furthermore, because of the limited processing capacity in Hawaii, processing fees can be more than four times what they may be in the Continental United States.

Ms. Scott, how can we increase access to mobile processing and small-scale processors in rural and remote communities through USDA programs, and what steps can the USDA take to improve access to inspection services for producers in remote communities, and how can we encourage scalable food safety regulatory requirements that may assist in smaller scaling processing?

Ms. SCOTT. Thank you very much for the question, and I empathize with what the producers that you met with shared. The rural communities of Indian Country face similar challenges. There are estimations that the meat in some of our grocery stores that could have been raised right out the back door actually has traveled 1,200 miles in order to be in our grocery store shelves available for purchase by our Tribal members.

I think that one of the things as small operators—we maintain predominantly closed cattle herds. We are able to utilize NRCS EQIP cost-sharing for cross-fences so we don't have cross-contamination. We have all of these opportunities to mitigate potential for food-borne illnesses on farm. And if we had a more direct access to processing capacity right there locally, there would be regulatory concerns that wouldn't necessarily have to encumber in the development of that more localized food system offering.

In order for us, as an operation, to be able to produce at that direct to consumer scale, though we had to plan out 12 to 24 months in advance to get on the books, so an increase processing capacity is essential. There is also the need for improved infrastructure, to be able to enter in and diversify, and it takes up-front capital. We were investing our off-farm income into the standing up of this food business, and there was generally a lack of guidance or support in the form of technical assistance that could be extended to us. So I think if we can really, as a group, identify support to all of those buckets, it makes it that much more viable for us to diversify in enterprise development, and provide that community service of feeding our communities.

Ms. TOKUDA. Thank you, and I would absolutely agree with you. Infrastructure, lacking just the up-front capital. So hard for many of our smaller producers to really come up with. And technical assistance in ways that people can understand. Even broadband access sometimes is hard for people to get in remote areas. It is really important.

Ms. Scott, I also want to just take a look at some of your testimony that you provided, talking about USDA disaster assistance and how it can be more responsive.

Ms. SCOTT. Yes.

Ms. TOKUDA. Do existing programs adequately meet the needs of small producers, and can you talk a bit more about what changes could be made at the USDA to tailor the programs to family farmers and ranchers? In particular I am looking at the pricing index, and how it does not fully compensate for production loss, and cash flow issues many small family farms may face as they wait for assistance to arrive.

Ms. SCOTT. Thank you very much for that question. I think one of the glaring realities is that the pricing index for my cow's calf is based on that cow's—or that calf's age or evaluation at the time of loss. Only if it is above an allowable expectation for loss within my herd will I qualify for compensation. The issue being that my cow then falls out of production, so it is not just the loss of that production, it is the entire reproducing unit that my business has taken a hit on.

And while that calf may have been born at that age, there has been investment up through the entire gestation of that animal is carrying of that offspring, and so that investment has already been made, but I am not able to realize the value in being able to grow that calf all the way to the sale. And so figuring out how we can increase and access a more equitable valuation is crucial.

Ms. TOKUDA. Thank you very much. And, as you know, this becomes a go/no go situation for many of our farmers and ranchers. Thank you, Mr. Chairman. I yield back my time.

The CHAIRMAN. Thank you. I now recognize the gentleman from Alabama for 5 minutes.

Mr. MOORE. Thank you, Mr. Chairman, and thank you to our panel of witnesses for being here today. In Alabama's Second District, we represent cattlemen and broad swaths of the poultry industry, so disease outbreaks, over-regulation of the industry, obviously labor shortages, and supply chain bottlenecks make it difficult for my districts to survive sometimes, and to do business necessarily profitable.

So—we also have a lot of birds, Mr. Zimmerman, and so—and I don't know if you know I am an animal—I am actually a Poultry Science major from Auburn, so I understand some of this industry pretty well, but I am a little rusty, it has been a few years. But, if you could, would you please explain the need for research and investment in the poultry industry to combat this high-path avian influenza we hear about?

Mr. ZIMMERMAN. I am sorry, the research investment?

Mr. MOORE. Yes. Just kind of—just explain the need for that, if you will.

Mr. ZIMMERMAN. Well, it has been a coordinated effort between the state organizations, our national organizations, USDA, APHIS. And we have learned by experience, obviously. The 2015 outbreak has taught us tremendously, and the epidemiological studies that USDA did in the 2015 outbreak showed us what we needed to improve on, and that was biosecurity. And we did that, and we saw the results of that with a very much decreased farm to farm spread in the 2022 outbreak that we are currently going through.

Unfortunately, we are dealing with viruses, and they tend to mutate, so we are constantly learning, and constantly have to change our strategy, and how to deal with this. I think we have come a long way with biosecurity, but we need to look at other things. And, right now, with the high viral load in the wild bird population, a lot of studying needs to occur to figure out why do these birds have a higher viral load, and why are they living while our domestic birds are dying from this virus, and what can we do to live with a wild bird population that seems to have endemic High-Path Avian Influenza in their system?

In the future we talk about vaccines. And, as I said in my testimony, we want to make sure—I think all the poultry groups are in agreement on this that we will not pursue a vaccine until the trade issues are taken care of, and that our trade—there are no—there will be no damage to our trade partners, our trade agreements, if we start to vaccinate.

So research needs to occur on a vaccine. Hopefully we can differentiate between a wild strain and the domestic vaccinated strain, and then just how we would go about vaccinating the birds, whether it be small areas to stamp out an outbreak, or a wider vaccination strategy. So I think vaccination is our primary research goal for the near future.

Mr. MOORE. Thank you. I didn't realize that it was in the wild populations. I had no idea that it was pretty prevalent there.

Mr. ZIMMERMAN. It is incredibly prevalent. I mean, the water fowl, the ducks and the geese, are our primary enemies. If I take my 8 year old son to Disney World, we will cross to the other side of the street if Donald Duck comes down the road. We do not want to go anywhere near——

Mr. MOORE. That is also a good excuse to go duck hunting, too, though, Mr. Zimmerman.

Mr. ZIMMERMAN. No.

Mr. MOORE. No?

Mr. ZIMMERMAN. No.

Mr. MOORE. Okay. So I am going to change gears a little bit, and—Mr. Wilkinson, Mr. Hays, and Mr. Zimmerman, I am going to kind of ask you guys to address this. Could you all describe how the USDA's proposed Packers and Stockyards rules will impact your members? And what, if any, role do you think Congress needs to play in that? Mr. Wilkinson?

Mr. WILKINSON. Thank you, and I am glad you brought that up. The change that—the proposed change to the harm—the competition is really—it is really frustrating to a cattle producer, because you work all your life to improve your cattle herd, to make yours a little bit better. That is what you are trying to work for. And now suddenly, because I am getting a deal from Packer A that recognizes my improved genetics, we are going to have my neighbor be able to sue that packer? That is going to totally defeat the increase in the market, and we are going to go back to commodity cattle. We are going to be back to the 1970s. Let us not go back to the 1970s.

Mr. MOORE. Mr. Hays?

Mr. HAYS. We have some serious concerns about lawsuits, the door this opens to just a number of lawsuits to increase our production costs. And we believe that this system in place today, with the DOJ and USDA, provides the protection that producers need. We don't think we need another police force looking over our shoulders that is out looking for violations.

Mr. MOORE. Mr. Zimmerman, I have 38 seconds.

Mr. ZIMMERMAN. We have serious concerns about the rules. Number one, it appears that USDA does not differentiate between different species of poultry, and the turkey industry is vastly different than the chicken industry. We have many different styles of contracts in the turkey industry. We have no idea—many of our processors are cooperatives, grower-owned cooperatives, and we don't understand how this rule would affect a grower cooperative.

And the second part of the rule, dealing with inclusivity, it is so vague that we are not really sure who a market-disadvantaged individual would be. I am not sure. I am a small grower. Am I market-disadvantaged individual? We just don't know. So, it just seems like fertile ground for trial lawyers to set up and sue people.

Mr. MOORE. Got you. Thank you for your time. Mr. Chairman, I will yield back.

The CHAIRMAN. Thank you. I now recognize the gentleman from Florida for 5 minutes.

Mr. SOTO. Thank you, Mr. Chairman. Proud to represent central Florida, home to the largest cattle herd in the nation. Look it up, if you want to double check on that. We do our cow-calf operations throughout the region. Not only do we have cattle country, but citrus, blueberries, strawberries, and more. And proud that we preserve millions of acres for ranching, hunting leases, and environmental leases throughout the region, even as we were experiencing a lot of high growth.

Mr. Wilkinson, Florida cattlemen have asked about more regional beef processors, and some finally are on their way. What do you think the proper balance is for competition between large and regional beef processors so that we can have access for the whole country?

Mr. WILKINSON. Yes. And, first of all, hats off for the Florida cattlemen. It is a great bunch of people down there, and they are doing a wonderful job with production down there. The level, I don't know if there is a magic number one way or another, but I will tell you, greater regional competition gives us more competition in the market, and that is always a good thing. The concern we have is are they going to have the staying capacity when the market conditions turn, and that has to be part of the equation. So The cattle industry is all for greater regional competition, because that means money in our pocket.

Mr. SOTO. Thank you. And how critical is this upcoming farm bill to the long-term prosperity of ranchers and of consumers?

Mr. WILKINSON. Well, it is critical. Ranchers—and I am not going to disparage the row crop operators, but ranchers don't look for subsidies. We want to operate without a great deal of regulation, and where we need protection in particular is in that animal disease arena, and we need Congress to adequately fund that three-legged stool to make sure that we can reduce the risk to our producers.

Mr. SOTO. So the vaccine bank is a critical part, through the farm bill, to make sure to fight off future diseases?

Mr. WILKINSON. Absolutely.

Mr. SOTO. Mr. Burns, would you say that the SNAP Program is a key market for our meat producers?

Mr. BURNS. Absolutely. I believe that all the government programs are important markets for our producers.

Mr. SOTO. Do you think there has any way we can improve access for local ranchers and other beef producers to be able to participate in SNAP within their states?

Mr. BURNS. We are happy to work with our producer partners. They may have ideas on that as well, but we stand ready to work with them on anything that improves access.

Mr. SOTO. We have seen a limit on immigration, because of COVID, over the last couple years in the farm workforce program. I realize that poultry, and beef, and others don't use as much farm workers as row crops, but has that been a source of barriers? Has that been a problem for our meat producers, a lack of labor?

Mr. BURNS. I would say, prior to the pandemic, lack of labor was our biggest day to day issue. During the pandemic it got worse, and it has not really fully rebounded. Access to stable, reliable workforce is our biggest issue, and one of the biggest problems is the current H–2A Program, and the seasonality aspect of it, when we are the harvest stage of an agricultural process, and we run year-round. So that program definitely needs to be expanded, and we would be happy to work with you to find solutions that address all of agriculture.

Mr. SOTO. And I am glad you mention that year-round issue, because I hear a lot from our local cattlemen that it is not a row crop that comes out, and then you don't—and you need people for next year, and—which is why we had worked together on the Farm Workforce Modernization Act (H.R. 1603, 117th Congress), to create these 5 year visas where people can go and come back. Obviously, lawful immigration, so something I am happy to continue to work on.

And, Ms. Scott, in past farm bills, were there any gaps in what Tribal producers were able to benefit from, and ways we might be able to improve in this farm bill to increase agriculture in Tribal country?

Ms. SCOTT. Yes, absolutely. Thank you for the question. I think it comes down to offering of opportunities. What can livestock producers in Indian Country actually qualify for, or what programs are designed specifically to reach their unique set of needs? Which is often different. It often is needing to access some of the programming that was accessed by their non-Tribal counterparts decades ago. But that programming has since come and gone.

And so more locality, and being able to diversify the offerings, as it relates to conservation, and other Rural Development support investment would be really helpful. In addition, continued enhanced quality of service, and understanding of how to speak to some of the Tribal specific needs. And I think that cooperators and local expertise within those county offices that represents the folks who are trying to serve in Indian Country is really meaningful to that end.

Mr. SOTO. Thanks, and my time has expired.

The CHAIRMAN. Thank you. I now recognize the gentleman from Iowa for 5 minutes.

Mr. FEENSTRA. Thank you, Chairman Mann. Thank you for holding this hearing. I want to thank each of our witnesses. It was incredible to hear and read your testimonies. I am from one of the largest ag districts in the country, and I got hit severely with, really, Prop 12, and this is what I want to talk about. The Prop 12 ruling, I would say, it—was a poor opinion, in my opinion, simply my opinion, allowing a single state to impose rules on the rest of America. Obviously, for my state, and for my district, it imposes rules on the number one hog producing area in the country, along with the number one ag producing district in the country.

This, to me, is a direct attack, direct attack on our producers. I want to be very clear, our producers treat our animals very well. They really do. I watch it every day. My in-laws are part of the livestock industry, and we take care of our animals. So this rule, really, to me, is very counterintuitive. The ruling, to me, opens the floodgates for a lot more laws coming down the pipe. I mean, what is next? What does New York want to do, what does Illinois want to do? All of a sudden you have these different rulings from different states, and now all of a sudden the producers—the bread basket to the world—have to follow each and every state.

So my question, Mr. Hays, how do you look at this, as we move forward with Prop 12, and do you have concerns about what the future could look like, and the uncertainty for our producers, especially when it comes to the unknown? I mean, we really don't know what is unknown out there.

Mr. HAYS. Yes, we have a lot of concerns about the unknowns of—implications of Proposition 12. Right now we are trying to protect consumers in California. We are trying to ensure that they have product, even though it is going to cost them a lot more for the same product. And we are trying to protect producers' freedom to operate, but we do have concerns moving forward. Like I said, these rules are—it is not about the pork industry. It is about everyone who produces something.

So—and then it is also about being able to comply with so many different rules. I mean, I guess, in theory, we could have 50 different markets in this country, if each state adopts its own rules, and that would just be devastating to every industry, as far as being able to produce for those small markets, and then segregate the product to go into them.

Mr. FEENSTRA. Yes. And that is what I am afraid of. I mean, you literally could have 50 different rules for every producer. And it blows me away that we have interstate commerce, and yet the Supreme Court went down this path. And, being the number one producer of hogs and eggs, now all of a sudden it is going to cost millions of dollars for each producer to retrofit, to get this done. And it concerns me not only with hogs and cattle—or hogs and eggs, but where does it go from here? I mean, cattle, you name it.

And it is all touchy feel-good stuff. Let that chicken walk around a little. Let that pig—they have no idea. They have never spent time on a farm, I guarantee it. We, as farmers, as producers, we understand what it means to take care of an animal, we really do. And it just slays me to have California saying, Iowa, this is what you have to do, and we know best. And you know what? They don't grow hogs in California, or even eggs. They don't have eggs. Why?

Because they are so burdensome. It is just a frustration point for me.

I want to talk a little bit about the export market. Obviously we want to grow our export market, and, unfortunately, our Administration is doing a very poor job. It is like pushing a rope. I mean, we haven't had any free trade agreements in the last several years under this Administration. But that is not what I want to talk about. I want to talk about cold chain storage.

Again, when you start talking about pork, when you start talking about other commodities that have to be refrigerated, to get into the export space, especially in developing countries, we need more cold chain storage. Mr. Hays, sorry to hit you again, but can you talk about the importance of developing infrastructure like cold chain storage, and what that would mean to grow our pork exports and other ag exports?

Mr. HAYS. So obviously we need adequate storage to be able to put together orders to ship out of the country. I am not sure I am the best to speak on this, but I know the amount of product across the board in the meat industry is growing in storage, and the storage capacity certainly could be an issue.

Mr. FEENSTRA. Absolutely. Thanks for the comments. I just want to—I have 12 seconds left. I just want to quickly note this. You think about Prop 12, you think about *Waters of the U.S.,* you think about the lack of exports. I mean, this is just crushing our producers in the bread basket to our nation, to the world, and it is all because of this Administration. Thank you, I yield back.

The CHAIRMAN. And I now recognize the gentleman from Connecticut for 5 minutes.

Mrs. HAYES of Connecticut. I am a lady.

The CHAIRMAN. Gentlelady from Connecticut for 5——

Mrs. HAYES of Connecticut. Thank you, Mr. Chairman, and thank you, Ranking Member Costa, for holding this hearing, and to the witnesses today. Thank you so much for being here. In Connecticut, dairy cows make up most of the animal agriculture. As of January 2023 there were 18,500 cows in the state, compared to just 4,500 beef cattle, and 2,800 hogs. In the Fifth District, 94 percent of operations are family farms, and 92 percent have less than $100,000 in sales value.

Ms. Scott, in your testimony you highlighted the ways in which agriculture policy often overlooks small farms. South Dakota and Connecticut are very different, but our small family farms face similar challenges. Producers in my district know how important it is to keep operations resilient. They are the leaders in climate resilience. But the assistance offered by the farm bill is often depleted before they have a chance to access it.

My question to you, Ms. Scott—in your testimony you spoke about your ancestors' stewardship of a robust, resilient prairie ecosystem. How does climate change threaten those generations of work, and what support can this farm bill provide to ensure that small family farms can survive the worsening impacts of climate change?

Ms. SCOTT. Thank you very much for the question. I want to underscore some of the reasons why I believe that there is a shortage of young folks coming up in, and this growing age gap relates back to how hard it is for family operations to grow their own children into being the next generation of farmers and ranchers to help to steward these landscapes. And I think we need to address that, so that we can stop seeing that disruption, so that it is feasible for our own children to imagine themselves making a livable career operating on the land.

As it relates to adapting with the climate, and—I think that our livestock growers, especially those that are practicing regenerative grazing efforts, who are adapting with what is presented to them as natural disasters, or weather events surface, really do a tremendous job of practicing that resilience and that tenacity, accommodating the woes that come their way.

But if we could offer risk mitigation support to those individuals, such as accessing opportunity for Price Loss Coverage, or farm storage capacity—or, sorry, infrastructure support that would accommodate their ability to withstand the climate shifts, they can then have less disruption in their day to day management and stewardship that helps with stewarding these ecosystems to be more resilient to change, and to offering the niche ecosystem offerings that our lands are intended to offer.

Mrs. HAYES of Connecticut. Thank you. Two things you reminded me of, because I have seen many of our generational farming families where the children now are choosing different careers, and leaving the family farm.

Ms. SCOTT. Yes.

Mrs. HAYES of Connecticut. So I am a strong advocate for vo-ag training programs so that young people can see the many opportunities that are available in this industry, and really recognize how it applies to the talents and the gifts that they already have. And the second thing, many of my small farmers in Connecticut I have seen make voluntary shifts, where they are on their own deciding that it is good for their economic forward prospects if they make these—address these climate issues. The thing that they are telling me, that the up-front costs are astronomical, so they are really looking for ways to mitigate some of those things. But the decision to make those shifts has been made voluntarily by most of these small farmers, because they recognize that it just makes good business sense.

You also spoke about building a diverse and robust food system. The pandemic revealed how fragile our food systems and food supply chains are. The consolidation of production and processing presents serious risks. I am particularly interested in your work serving a food desert in your community. The USDA's Meat and Poultry Processing Expansion Programs can increase capacity to support small farmers, and create more resilient local food systems. How can limited processing capacity threaten food security, and what are your recommendations for this farm bill to strengthen local processing?

Ms. SCOTT. Yes. Well, cold storage facility has been mentioned several times. My small family business had to save up for several years before we could afford a storage facility that would enhance our ability to serve more of our local consumers. And, in filling that storage facility, we are waiting months in advance with booking out our processing, and if we have a normal South Dakota weather event in the winter, we missed that gap, and our inventory supply is disrupted because there is not an adequate access for meat inspection at that facility, and so we are just out for that month's production. So I think that being able to enhance and expand upon these areas is critical.

Mrs. HAYES of Connecticut. I am sorry, my time has expired. Thank you. And anyone on the panel who has any thoughts on how we could improve SNAP feeding people, anything we can do for food security, I welcome your thoughts. Please reach out to my office.* I am sorry, I yield back.

The CHAIRMAN. Thank you. And I recognize the gentleman from Texas for 5 minutes.

Mr. JACKSON of Texas. Thank you, Mr. Chairman, Mr. Wilkinson, I know that some of this was covered in your opening statement, so I appreciate that, but I just want to make a statement here. America's animal agriculture industry has been extremely fortunate that the U.S. has kept out many foreign animal diseases that have devastated producers throughout the world. If and when a foreign animal disease outbreak occurs in the U.S., the effects are devastating.

African Swine Fever, which has been detected in the Dominican Republic and Haiti, is projected to cost the U.S. swine industry $50 billion. A foot-and-mouth disease outbreak is projected to lead to $57 million a day losses. I repeat, $57 million a day in losses. We have already seen the devastating consequences of the High-Path Avian Influenza, where the USDA has spent over $800 million in indemnity payments.

Mr. Hays, could you please expand on the importance of the National Animal Vaccine and Veterinarian Countermeasures Bank, the National Animal Disease Preparedness and Response Program, and the National Animal Health Lab Network, and how additional funding in the upcoming farm bill will help protect producers from the effects of a foreign animal disease outbreak?

Mr. HAYS. Yes, sir. Thank you for the question. We refer to that as our three-legged stool for foreign animal disease. The vaccine bank is important, not only to the pig industry, but all—or several of the industries because of the foot-and-mouth vaccine. When it comes to African Swine Fever, there is no vaccine that is viable, so preparedness, and then having the ability to prevent it first, and then prepare to deal with it if it does get here is really our only resources.

So, it is critical that we have the funding for these programs. It is critical too, for the Beagle Brigade, for the vaccine bank, for all of these programs, so that we are prepared, and we can prevent it.

Mr. JACKSON of Texas. Thank you, sir. Mr. Wilkinson or Mr. Zimmerman, do you have any additional insight into the significance of these programs, and the need for additional funding?

Mr. WILKINSON. Yes, I would just—I don't know if everybody is aware of what happens if we get a foot-and-mouth outbreak in the United States. First thing that is going to happen is there is no movement of cattle for 72 hours. Everything goes to all stop. You

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* **Editor's note:** the responses to the information referred to are located: for Mr. Wilkinson, on p. 87; Mr. Hays, on p. 87; Mr. Zimmerman, on p. 88; Mr. Burns, on p. 88; Ms. Hubbard, on p. 89; Ms. Scott, on p. 89.

think we have an issue with a plant fire at Holcomb, magnify it hundreds of times over by what happens if we get a foot-and-mouth outbreak.

The other thing that is going to happen is all of our trade partners are going to immediately shut us off. So we are going to lose China, we are going to lose Korea, we are going to lost Japan. Just ding, ding, ding. BSE is going to be a cakewalk compared to what is going to happen with a foot-and-mouth outbreak. It is going to spread north to south, and east to west, in a matter of days. We have to be prepared.

Mr. JACKSON of Texas. Yes, sir. Thank you. Mr. Zimmerman?

Mr. ZIMMERMAN. We have been through this. The last thing I want to have happen is that my colleagues over here have to go through what we have been through. You know how devastating this outbreak has been for the poultry industry. If we were to get foot-and-mouth or African Swine Flu at the same time as the High-Path outbreak, I don't know what would happen. I mentioned in my testimony APHIS is 150 full-time equivalent short. We need to be prepared for these outbreaks now, before they happen.

And, it is a combination of the three-legged stool being prepared, and then working on containment, and then also what the future is, whether that be vaccination or whatever. So the importance of this three-legged, or three-tiered, program is essential, as we have seen in our industry, to protect my colleagues to both sides of me in the future if we have any more outbreaks.

Mr. JACKSON of Texas. Thank you, sir, I appreciate it. And a lot of what you have all said here, and what we know to be true, and we have heard here today, in other statements about the animal disease prevention program and management, I encourage all of my colleagues to support my Foreign Animal Disease Prevention, Surveillance, and Rapid Response Act (H.R. 3419), which we will work to include in this year's farm bill, so thank you.

Real quickly, I have one real quick question. One of the things that we have heard today is that, even when market conditions are favorable, the cumulative weight of misguided Federal regulation is one of the quickest ways to put cattle producers out of business. One of the heaviest bricks in that pile is the Endangered Species Act. I hope to support Chairman Mann's Congressional Review Act to oppose the overreaching, burdensome listing of the Lesser Prairie Chicken that will disrupt cattle production and devastate producers in my district. Mr. Wilkinson, can you please give us some more information on the impact this Endangered Species Act listing will have on cattle producers?

Mr. WILKINSON. Yes, and I appreciate the comment, and I will be quick. When we go to the Endangered Species Act, and produce—and particularly with the Prairie Chicken issue, 90 percent of that is on private land. If you want to put cattle producers out of business, you try and regulate them out of business. And I guess if that is what is intended, that is what you are going to succeed with, if it still proceeds in that fashion. You have to let the best conservationists in the world do their job, and they will get the production because they want their rangeland to produce, and that way you are going to have the best habitat for the Prairie Chicken.

Mr. JACKSON of Texas. Yes, sir. Thank you. I am out of time. Thank you.

The CHAIRMAN. Thank you. And I recognize the gentleman from Missouri for 5 minutes.

Mr. ALFORD. Thank you, Mr. Chairman. Good to be here. Thank you to all of our panelists and guests today, witnesses. Mr. Wilkinson, in your written testimony you talk about NCBA's objection to the PRIME Act, but also state that you support removing regulatory barriers for small and regional meat packing plants. Specifically, you identified the DIRECT Act, and our bill, the A–PLUS Act, as more viable means of achieving the same objective without jeopardizing consumer confidence in the safety of beef. Can you elaborate as to why the A–PLUS Act, and acts like that, are more tenable solutions than the PRIME Act?

Mr. WILKINSON. Thank you for the question. And while I think the PRIME Act is well intended, the consequences of having uninspected meat going into commerce could be disastrous for the reputation of the cattle industry. The producer out there expects that their meat is going to be inspected, it is going to be wholesome, and a hearty product, and we have spent decades building that reputation. The advantage of your Act, or the DIRECT Act, the A–PLUS Act still maintains that inspection process and gives us the best of both worlds. So I appreciate you bringing a product forward that allows us to get the meat into the commerce stream, but doesn't subject our consumers to any risk of uninspected meat.

Mr. ALFORD. Well, hopefully we can get through Congress. I appreciate your support on that. I know you talked about foot-and-mouth disease, and you were very impassioned about that. I want to delve in a little bit deeper now on the trade implications of that, should there be an outbreak. How programs like the Vaccine Bank, how would it impact our restoration time for foreign markets? How devastating could this be in foreign trade?

Mr. WILKINSON. Well, just look at BSE. There's a classic example. How long did it take us to get back into those Asian markets? It took years. We can't wait years. We just came through some pretty difficult times in the beef industry for the cow-calf sector, and if we lose those markets, we don't have the ability to sit on the sidelines and just deal with all of that meat coming just in the United States.

Contrary to some people out there, we need exports, and our exports are phenomenal right now. And the ability to export is putting hundreds of dollars on that paycheck when it comes back to me as a feeder. If you cut that off, if you cut off those export markets, you are going to cut off hundreds of dollars that goes to the producers, and it is going to take years for us to get back into that. We don't have that time.

Mr. ALFORD. Thank you, sir. Let us go from beef to pork. Mr. Hays, I want to talk a little bit more about Prop 12. I know we have talked *ad nauseum*. I have been in other committee meetings, so some of this may have been covered, but I was very interested to hear what you had to say in your opening remarks. So I want you to put on your pork prognostication hat right here a little bit. What happens if restrictions like Prop 12 continue to be propagated across our country? What happens to the pork industry?

Mr. HAYS. It would be a real challenge for the pork industry. As I said earlier, we could have as many as 50 different markets to raise pigs for, and they very easily could be conflicting where you would have to pick a market. So I may be in a market that is profitable, while my neighbor is in a market that is not profitable. But the real shame of that whole thing is the cost. So the consumer has to bear the cost of all that, upgrades at the farm, segregating the meat.

And one of the challenges with—we don't eat all of the pig in this country. That is what exports do for, we eat all the bacon, we eat all of the ribs, but everything else, a portion of it gets shipped overseas. So the Californians are going to find out pretty quick, they have to bear all of the cost of Prop 12 on the small percentage of the pig that they eat.

Mr. ALFORD. Thank you so much, once again, to everyone for being here today. This is a very important hearing as we put together the farm bill, and I yield back.

The CHAIRMAN. Thank you. I now recognize the gentleman from Wisconsin for 5 minutes.

Mr. VAN ORDEN. Thank you, Mr. Chairman. I have to tell you, I have to continue along these lines of Mr. Alford and Mr. Feenstra in reference to Prop 12. I do not think that the State of California should be able to control interstate commerce for the entire United States of America. I think that is an absurd proposition. And I just got back from California, and it just reinforced that. Sorry, John.

So, Mr. Burns, what is the actual—do you think the actual monetary impact that is going to happen? Because we are talking about 13 to 17 percent of the consumption of pork going out to California, additional potentially two percent—this is from your testimony—with Massachusetts if they do something like that. So, in hard dollars, do have an estimate what that would cost your industry?

Mr. BURNS. I don't have a hard number for that yet. We are still working on assessing the impact of that, so I can't answer that directly, but I can tell you it is going to be very significant. And I would echo the concerns raised by our producer community, and also I would mention that I think Chairman Mann captured the concern really well in the agriculture community a few days ago when he said today it is the pig pen, and tomorrow it is the whole barnyard.

Mr. VAN ORDEN. Yes.

Mr. BURNS. We need to be concerned not just about the financial impact on the pork industry, but also other species, and, in fact, other manufacturing enterprises.

Mr. VAN ORDEN. Thank you for that. Mr. Hays, are we importing hogs from countries that are at risk, or have been shown to have African Swine Fever?

Mr. HAYS. So we don't import live animals from countries that would have ASF. There are some meat products that come in, but we recognize regionalization and we ask other countries to recognize our regionalization plan as well.

Mr. VAN ORDEN. Okay.

Mr. HAYS. So there is a little bit of product that comes in, mostly from Poland, but it is from a region that would be ASF free.

Mr. VAN ORDEN. Okay. For now. That is my concern. So right now Poland doesn't have ASF, but what are their types of controls that are put in place so that, if it is introduced into Poland, and then we bring it here to the United States? Do you have any visibility on how they are inspecting their hogs, and how they are getting things into their country before it comes to ours?

Mr. HAYS. Yes. USDA's spent a significant amount of time over there understanding their system, and is satisfied that their system will protect our hog industry.

Mr. VAN ORDEN. Okay. Outstanding. And, Ms. Scott, I had the opportunity to work on Shiprock Reservation in New Mexico, a Navajo Reservation, and I just had a woman from my district—I represent the Third Congressional District of Wisconsin, and our indigenous folks are Ho-Chunk. And she is—your testimony is fascinating, because we are trying to figure this out right now. And she raises small specialty crops, and how to get them into the rez, and teach people on the rez how to farm so that they can have a sustainable ecosystem within the reservation, and Indian Country, as you said. So I just want you to know that we are working on this from my office, and I appreciate all of your efforts. With that, sir, I yield back.

The CHAIRMAN. Thank you. I now recognize the gentleman from California for 5 minutes.

Mr. DUARTE. Thank you, Mr. Chairman. In the Supreme Court arguments on Prop 12 just a few days ago—well, the ruling was a few days ago, the arguments were a few months ago—the arguments supporting it centered around morality. It is immoral to keep a pig in too tight a pig pen, it is immoral—not an animal welfare issue, not a human health issue. Those were all presented in Prop 12 during the balloting, but they weren't argued in the Supreme Court. It was a moral issue. So I will ask any of the panel that would like to chime, please compare, if you will, the morality of your pork production processes to—take your pick. I suggest cobalt mines of 9 year olds swimming in toxic water in Africa, producing lithium ion batteries for green energy fantasies. I will invite any of you to jump in.

Mr. HAYS. If I could, I would like to go first. I am a fifth generation pork producer. My great-grandfather bought our farm in 1918, and we have been known as pig people for five generations, and now the sixth generation is raising pigs. I have seen it done several different ways. When I was a kid, all the pigs were outside. Sows are bullies. That is what they are. We changed our production practices—my dad, my grandpa changed the production practices to protect the animals from one another.

And what Prop 12 requires us to do is to put those animals back together, basically have pig fights every day on our farm. There are farms that make it work, and they can make it work well, but that is not how we choose to humanely take care of our pigs. We think our pigs need to—we prefer them in individual pens. So I would encourage you to get on a modern pig farm, look at it, and see what you think.

The other—as far as production practices, one of the things—in the 1980s, the consumers demanded that we get pigs leaner, pork leaner, and we have done that. Pigs today have about ½″ of back fat. When I was a kid, they had 2″ of back fat.

Mr. DUARTE. That tasted really good.

Mr. HAYS. It did.

Mr. DUARTE. I remember those pork chops.

Mr. HAYS. It tasted really good. But what we did is we took their coat away from them. We took their protection away from them. So the pigs I raise today are—and we also bred pigs to be more docile. When I was a kid, you didn't mess with baby pigs with a mama sow.

Mr. DUARTE. Yes.

Mr. HAYS. Today, we can do whatever we want.

Mr. DUARTE. So please do—I mean, you are doing great, but I am just—so I represent a district in California. It is a big agricultural district. I am a farmer myself, so I like to take pride in the sustainability and the humanity of what we do. Compare the morality of this bill, and those like it—chickens have to spread their wings, and everything else nowadays—to the working families in my district.

I have the—I think the 17th highest poverty rate in my district. Working families are facing food inflation, the water has been taken off their farms, they are having trouble making ends meet. They can't go to work. It is a lot, lot of hardship in my district right now. And somebody, I call them Bobos in Paradise sometimes, are deciding that they have to pay a little more for their pork, and that would be just fine, from a moral framing. So I will take comments on that also, please.

Mr. HAYS. Well, if we go backwards in production standards, it is going to cost more to raise pigs, no doubt about it, and the consumer has to pay that. And, and pig farming today is very sustainable. We have reduced the amount of land it takes to produce a pound of pork by 75 percent, the amount of water by 25 percent. Our carbon footprint is smaller than ever before, because we just keep doing a better job at what we do.

Mr. DUARTE. Would any of you on the panel agree that there is a moral problem with our animal husbandry production systems in America today?

Mr. WILKINSON. I would agree that there has a problem with some state imposing their moral judgment on the rest of the country. I can't relate to pigs, because I don't raise pigs, I raise cattle. But for somebody to say that they know better how to raise my cattle than I do, I challenge them to come out to South Dakota when it is −25° and tell me that they know how to raise cattle.

Mr. DUARTE. Do you doubt that they are cattle ranchers themselves?

Mr. WILKINSON. Pardon me?

Mr. DUARTE. Do you doubt that they are cattle ranchers themselves?

Mr. WILKINSON. Yes, I doubt that they are cattle ranchers themselves, correct.

Mr. DUARTE. Very well. Thank you very much. I yield back.

The CHAIRMAN. Thank you. And I recognize the gentleman from New York for 5 minutes.

Mr. MOLINARO. Thank you, Mr. Chairman. I am so glad I came in at that very moment. They are neither hat nor cowboy those folks, I suppose. Although I do look forward to coming to your part of the country. How cold was it?

Mr. Chairman, I have served 20 years in—the last 20 years in local elected office in the State of New York, and time and time again Upstate New York farms, which are somewhat unique, smaller, obviously more family driven, have all talked about, and raised concern regarding access to meat processing. Beyond the dangerous implications on supply chain, there are also real challenges associated with costs for rural communities throughout my district. In particular, Upstate New York's lack of meat processing closes our opportunity to take advantage of New York City as a marketplace opportunity.

Now, we do know the USDA and New York State did create programs that expand local processing capacity, however, from what I know, and, of course, the farmers I represent know, these programs dedicate a lot of capital to the problem, which is important, but they don't address some of the more nuanced problems, and I suspect it continues the conversation that was just had.

Mr. Wilkinson, as you have mentioned in your testimony, you talk about those regulatory barriers, and I would like to ask my first question of you. Like many states, New York in particular does not have its own meat and poultry inspection service, and therefore relies on a very small number of USDA inspectors. And so, beyond access and capital, many small and custom processors don't wish to become USDA inspected facilities due to lack of technical assistance, *et cetera.* Have you seen any progress in eliminating some of these barriers by the USDA, and are any of the USDA's recent efforts producing expanded local processing capacity?

Mr. WILKINSON. Yes, we actually have, and if anything came out of COVID that was a positive, it was the spotlight that got shone on how our system cannot handle everything that just has to go through a major packing facility. And the regional and the small butcher shops, the local processor—I would harken back to the comments about having to wait months and months, if not up to a year, to get a slot to be able to process animals.

It has become readily apparent that we can market our cattle, in many respects, through that local processing facility more quickly, and at a better rate of return for me, as a cattle operator. So we have seen some improvements, and I believe that that is going to continue. But I would also tell you that just simply throwing money at everything, which seems to be the course out here, isn't the answer to everything.

Mr. MOLINARO. Yes, this government, and I would say, respectfully, this Administration, thinks it is their money. It is not. It is the taxpayers'. So, to continue that, though, what would be the one thing that would move the needle a bit more to accessing processing capacity in—and I will say, in smaller farm regions like my own.

Mr. WILKINSON. Well, I think the DIRECT Act, the A–PLUS Act, are both really good starts at that, and I think that that would help a lot. But, again, building the facility is not just the issue. It is the capital to run the facility, and the labor to work in the facility. And having those things handled—everybody wants to put up brick and mortar, but you have to run the thing once you have it up, and that is what we need to deal with.

Mr. MOLINARO. Yes. And I actually appreciate that, only because it segues to what I know has been a topic of conversation today, in your testimony, and certainly we understand it nationally, and that is the lack of access to labor force, workforce. And so in—just outside my district is the State of New York University Cobleskill, Cobleskill, New York. It offers training available to the public to offer hands-on courses for those interested in meat processing. It is a great program, however, it needs to be scaled.

And so to any of you on the panel, is there a method, or a solution, to scaling this kind of college level—I would say non-credited training capacity nationally? And anyone, in my last 30 seconds, feel free to take the lead on that.

Ms. SCOTT. I think that that effort has been modeled in utilizing some of the federally supported initiatives, such as the federally recognized Travel Extension Program, right? Like, the community extension efforts, which cooperate with land-grant institutions, as well as Tribal colleges, historically underserved colleges, to increase access to that knowledge base, and to that curriculum. And we can look back at what has been successful, and try to ensure that we model that pilot with this particular subject area.

Mr. MOLINARO. Mr. Chairman, without extending my welcome, I just would say the issue we—that challenges us is the connection between K–12 to that experience. We have the capacity, but we need to bridge the divide to encourage young people to do it. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. I now recognize the gentleman from Ohio for 5 minutes. You have been very patient.

Mr. MILLER of Ohio. Thank you, Mr. Chairman. Thank you to all our witnesses, and I usually go last, so it is normal. But thank you again. Ohio is one of the country's leading producers of livestock, which represents about half of all Ohio agricultural production. Ohio farmers and ranchers raise more than 2.95 million hogs each year, 296,000 cows, and there are about 2,200 dairy farms in Ohio.

Means to safeguard the nation's food supply against threats from foreign animal disease, fostering foreign markets for United States agricultural products, voluntary incentive-based conservation tools, and risk management are among the key farm bill priorities I am hearing from our Ohio livestock producers. Among these, I wanted to call attention to the fact that, if a foreign animal disease outbreak were to occur, it could immediately impact the agricultural sector, stifle needed food supplies, and curtail critical U.S. exports. As such, farm bill disease prevention programs are vital.

Finally, as we work to meet tomorrow's livestock challenges, I would like to mention the work of Ohio State University's Agricultural Technical Institute training facility, which provides literally hands-on training in beef, cattle, dairy, and swine production, as well as the state of the art skills to educate livestock leaders of the future. And I had a lot of questions regarding animal disease. I am not going to ask them now because our colleagues did such a great job in their tact, and you gave us great answers on those.

But, to Mr. Wilkinson, Ohio ranks 12th in the nation in number of cattle operations, supporting more than 12,300 jobs in Ohio. As you mentioned in your testimony, the farm bill authorizes several important USDA programs, ranging from animal health to conservation, risk management, and trade promotion. Can you expand on these priorities, including conservation, beef check-off, and reinforcement disaster programs?

Mr. WILKINSON. Yes, and I would start first with the beef check-off. The beef check-off is a classic example of something that works. It was voted in by producers, it gives you almost a 12 to 1 rate of return for every dollar invested, and that doesn't happen very often. You actually put something in place where you can generate a 12 to 1 rate of return, and out of that comes some of the things that you are talking about. The research, the education programs that come out of there, the trade promotion issues. And yet we continue to have Members of Congress that want to take a shot at it that are directly based on, what I believe, are animal activists that want to put us out of business.

Mr. MILLER of Ohio. Yes.

Mr. WILKINSON. And, to put in something that would defund a program that has been so successful is just ridiculous to me. And I don't understand how animal rights activists can get a Member of Congress to substantiate that argument and to put it forward, because all it does is prove that there is an ignorant population out there that doesn't know what they are talking about when they are trying to defund the check-off.

Mr. MILLER of Ohio. Yes. Well—and regarding the other ones, but what some of our colleagues do is they tie emotion into messaging, and that is how they fall into that, because when you get into being emotional, you lose logic and reason, and you are more reactionary, and it is hard to disassociate a business decision as to how you feel personally. And that is a lot of what I see here when you talk about activism, right? And we see a lot of that with our colleagues here, and it is cutting through that, and it is really representing the American people at its core.

And that is why I am glad and proud to be here today, and every time we have one of these hearings, and even for the full Committee, so the American people can see what it is that our farmers are going through, and the struggle throughout our country, and the regulatory policies that have been put in place by this Administration, and how they are inhibiting growth through farming.

Food is national security. People say that all the time. I feel as if when they say that it is cute fodder. They truly don't understand where we are within this country, and the regulatory policies that have been implemented on you all, and you are the ones dealing with it every single day. So I thank you for your time, I truly appreciate all of you being here. Mr. Chairman, I yield back. Thank you.

The CHAIRMAN. Thank you. Today's hearing has been a perfect example of why the livestock sector is so important. As I mentioned earlier, agriculture is all in this together. Our commodity producers greatly benefit from a strong livestock sector, as livestock consumes grain. The livestock industry benefits from the biofuels industry, as that industry relies on them as an important feed source. Agriculture is incredibly interconnected.

To our witnesses, thank you for being here today. Those of us in Congress have heard you loud and clear. From lessening the burden of unfunded mandates on producers, like the electronic identification tag rule, to pushing pack on the UDSA's unnecessary Packers and Stockyards rules, from supporting the three-legged stool to strengthening the markets for American protein exports and pushing back on the regulations that continue to threaten our industry as we know it, we have our work cut out for us. I look forward to working with you all on the livestock issues that are so important to America as we reauthorize the strongest farm bill yet.

Under the Rules of the Committee, the record of today's hearing will remain open for 10 calendar days to receive additional material and supplementary written responses from the witnesses to any question posed by a Member. I hope everyone enjoys their lunch today, which is grown by an American ag producer. This hearing of the Subcommittee on Livestock, Dairy, and Poultry is adjourned.

[Whereupon, at 12:20 p.m., the Subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

SUPPLEMENTARY MATERIAL SUBMITTED BY TODD WILKINSON, PRESIDENT, NATIONAL CATTLEMEN'S BEEF ASSOCIATION

Insert

> Mrs. HAYES of Connecticut. I am sorry, my time has expired. Thank you. And anyone on the panel who has any thoughts on how we could improve SNAP feeding people, anything we can do for food security, I welcome your thoughts. Please reach out to my office. I am sorry, I yield back.

Farmers and ranchers are committed to providing wholesome, nutritious beef to all Americans at every stage of life, in rural and urban communities, and within all socioeconomic populations in the United States. Ensuring food and specifically nutrition security for all Americans is increasingly important for effectively improving public health. America's beef producers are predominantly found in rural communities across our country. Limitations or lack of healthcare and nutritious foods in rural areas has led to food deserts in many of these areas. Beef producers are part of the foundation of local food systems, helping to sustain rural communities. Additionally, many beef producers work at a local level to enrich farm to school nutrition programs, agricultural education, and assist local foodbanks and hunger organizations.

In addition, there's a growing need to balance people's plates with nutrient-dense foods that they enjoy eating, such as beef, to address consumer behavior barriers and meet Americans' needs for delicious, safe, wholesome, convenient, and affordable food. Beef nourishes Americans with its unique combination of high-quality protein, iron, zinc, choline, and B vitamins. In fact, no other protein food source delivers the same nutrient-rich package as beef. Research continues to demonstrate that eating high-quality protein, like beef, as part of a healthy dietary pattern can help Americans meet their protein needs, improve satiety (or feelings of fullness) and preserve lean muscle mass, which is increasingly important given current overweight and obesity rates in America.

Lack of availability, affordability, and access to protein is a struggle in many parts of the world, including America's urban food deserts. In the past few years, many Americans gained a greater understanding and appreciation of supply chains and our vulnerabilities as consumers. The Biden Administration's focus on building more resilient supply chains is a goal we can all support, but we must make sure that we are expanding our supply chains through robust, market-based, and science-based trade agreements with our allies. The Biden Administration's current approach of abstaining from market access negotiations is not helpful for American consumers who need greater access to food. Trade frameworks that do not remove tariff barriers will result in higher food prices for U.S. consumers and less export opportunities for U.S. producers. Many American consumers have year-round access to safe and affordable food, and we need trade policy that extends that opportunity to all Americans.

SUPPLEMENTARY MATERIAL SUBMITTED BY SCOTT HAYS, PRESIDENT, NATIONAL PORK PRODUCERS COUNCIL; MEMBER, MISSOURI PORK ASSOCIATION

Insert

> Mrs. HAYES of Connecticut. I am sorry, my time has expired. Thank you. And anyone on the panel who has any thoughts on how we could improve SNAP feeding people, anything we can do for food security, I welcome your thoughts. Please reach out to my office. I am sorry, I yield back.

I appreciate the opportunity to respond to the question. Our industry is deeply concerned with food security, both domestically and globally, and that is a critical piece of this equation. We work hard every day to ensure that we can produce a steady supply of readily available, affordable, nutritious and safe products. And the SNAP Program plays a critical role in reducing food insecurity across the country by providing millions of Americans the ability to purchase high-quality protein like pork.

While we look for ways to improve [] SNAP, we also must ensure that there is food available to purchase. That is why it is also important to make sure that we have the tools in place to protect against and prepare for an outbreak of a major foreign animal disease (FAD), such as African Swine Fever (ASF) or Foot-and-Mouth Disease (FMD). In addition to the impact on animal health and welfare, and the livelihoods of farmers, one of these diseases could also devastate domestic production at a time when global protein production is already under strain, driving prices dramatically higher. The latest estimate our industry has is that the economic impact of FMD alone would be in excess of $240 billion over 10 years, including impacts to the pork, beef, and lamb industries as well as feed grain and other producers.

The U.S. is one of the only major livestock producing countries in the world that are free of these diseases. The farm bill provides many of the robust tools, like the "three-legged stool" of animal health (H.R. 3419), that help ensure that we can stay free of these diseases or, in a worst-case scenario, respond to them rapidly if they arrive on our shores. While the price of preparation may be high, it is not nearly as high as the cost of one of these FADs. I think we can all agree that protecting our food supply is critical to addressing food security, and our industry looks forward to working with Congress on this.

SUPPLEMENTARY MATERIAL SUBMITTED BY JOHN ZIMMERMAN, VICE CHAIRMAN, NATIONAL TURKEY FEDERATION

Insert

> Mrs. HAYES of Connecticut. I am sorry, my time has expired. Thank you. And anyone on the panel who has any thoughts on how we could improve SNAP feeding people, anything we can do for food security, I welcome your thoughts. Please reach out to my office. I am sorry, I yield back.

Mrs. Hayes, Thank you for your question. The National Turkey Federation' members recognize the important role the SNAP program has played in ensuring Americans of all income levels have access to turkey and other nutritious foods. A 3 oz. (or approximately 100 g) of roast turkey breast provides 25–30 g of high biological value (HBV) protein while only contributing 140–160 calories and 3–4 g of fat (most of which (2.6 g) are unsaturated fats), according to USDA Foods Fact Sheet [1] and other online nutrition data analyzer tools.[2] Turkey also provides important B vitamins and several important minerals including iron, zinc, and selenium. While I obviously have a strong bias toward this particular nutrient-dense lean meat, NTF believes an important component of food security is ensuring SNAP recipients have access to a wide variety of food choices. Shopping options can vary greatly, so excessive restrictions on food choices can be unnecessarily limiting to those recipients. The turkey industry will continue to work closely with others in the food supply chain to maintain turkey's availability for all those seeking to enjoy this nutrient-dense lean meat regardless of socioeconomic conditions.

SUPPLEMENTARY MATERIAL SUBMITTED BY BYRAN BURNS, J.D., VICE PRESIDENT AND ASSOCIATE GENERAL COUNSEL, NORTH AMERICAN MEAT INSTITUTE

Insert

> Mrs. HAYES of Connecticut. I am sorry, my time has expired. Thank you. And anyone on the panel who has any thoughts on how we could improve SNAP feeding people, anything we can do for food security, I welcome your thoughts. Please reach out to my office. I am sorry, I yield back.

Meat and poultry are essential staples of the Supplemental Nutrition Assistance Program, and these nutrient-dense products play a critical role in improving nutrition and ending hunger in the United States. Meat and poultry products provide a convenient, direct, and balanced dietary source of all essential amino acids. These products are important sources of micronutrients, such as iron, zinc, potassium, selenium, and vitamins B_{12}, B_6, thiamin, riboflavin and niacin. The iron and zinc in beef, pork, lamb, poultry, and fish are also more bioavailable than from other sources, meaning these minerals are more easily absorbed and utilized by the body.

The Meat Institute supports maintaining customer choice within SNAP, rather than limiting products eligible for purchase under SNAP to only those products government officials deem nutritious. Directing the government to define foods as "in" or "out" means a bureaucratic approach to picking winners and losers on retailers' shelves, increasing bureaucratic influence over private enterprise and making decisions about what Americans can buy. SNAP restrictions would create a new bureaucracy built around establishing and maintaining a list of foods eligible for

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[1] U.S. Department of Agriculture. Household USDA Foods Fact Sheet. Turkey, Roast, Frozen. July 2012.

[2] SELFNutritionData. Turkey, all classes, light meat, cooked, roasted; Nutrient data for this listing was provided by USDA SR–21. 2014. Accessed at: *http://nutritiondata.self.com/facts/poultry-products/825/2*.

SNAP; a list that would change with each new Administration. Identifying, evaluating, and tracking the nutritional profile of every food available would be a substantial undertaking, in addition to implementation and enforcement. This expanded bureaucracy would mean increased, not decreased, administrative costs. With thousands of new food items introduced on the market each year, the bureaucracy's work would be ongoing and immense.

SNAP is characterized by its efficiency—providing targeted populations with resources to purchase food in the normal channels of commerce. Congress should embrace that efficiency and reject bureaucratic and burdensome SNAP restrictions.

The meat and poultry industry provides a wide variety of products that meet a large range of individual nutrient and lifestyle needs and preferences. SNAP should continue to respect the dignity, autonomy, and choice of participants and provide benefits and purchasing flexibility—including online purchasing—adequate to ensure participants can purchase the nutrient-dense meat and poultry products their families want and need.

According to Feeding America, for every meal the Feeding America network provides, SNAP provides nine meals. SNAP and food banks work in combination to ensure food security. Meat and poultry are some of the most needed foods for food banks, but most food banks have extremely limited capacity to safely store, pack, and distribute meat and poultry products. Thus, improving cold storage and distribution infrastructure are critical to ensuring nutrient-dense animal protein products are available to those in need. Investments in food donation infrastructure complement SNAP and help ensure food security.

SUPPLEMENTARY MATERIAL SUBMITTED BY LAURIE HUBBARD, REGION I DIRECTOR, EXECUTIVE BOARD, AMERICAN SHEEP INDUSTRY ASSOCIATION

Insert

> Mrs. HAYES of Connecticut. I am sorry, my time has expired. Thank you. And anyone on the panel who has any thoughts on how we could improve SNAP feeding people, anything we can do for food security, I welcome your thoughts. Please reach out to my office. I am sorry, I yield back.

Seeing as how the question is targeted towards SNAP, which does not necessarily fit into ASI's farm bill requests/priorities, we do not have any qualified response for the question.

SUPPLEMENTARY MATERIAL SUBMITTED BY KELSEY R. SCOTT, DIRECTOR OF PROGRAMS, INTERTRIBAL AGRICULTURE COUNCIL

Insert

> Mrs. HAYES of Connecticut. I am sorry, my time has expired. Thank you. And anyone on the panel who has any thoughts on how we could improve SNAP feeding people, anything we can do for food security, I welcome your thoughts. Please reach out to my office. I am sorry, I yield back.

Much of the discussion around SNAP often centers around fraud in connection with the program, with little attention as to how the program can be improved in a way that enhances food security by providing nutritious food options to eligible households, while simultaneously securing a market for smaller producers to provide their products direct-to-consumer. With the recommended improvements outlined below, Congress would strengthen SNAP for both consumers and producers by securing a market that better supports regional food systems and economies. Specifically, Congress can improve SNAP by:

- Enhancing the products available to eligible households by incentivizing SNAP participation among small family operations with products that are eligible for direct-to-market purchase by:

    1. Improving technical assistance available to small family agriculture operations around SNAP participation;
    2. Scaling producer participation requirements by the size of the agriculture operation and authorizing alternative electronic payment methods that remove cost barriers to small family agriculture operations;
    3. Removing the policing burden from small family agriculture operations that accept SNAP benefits for the purpose of feeding members of their communities;

4. Incentivizing participation by small family agriculture operations.

- Promoting effectiveness and efficiency of SNAP administration in Tribal communities by:
  1. Authorizing the dual use of SNAP and the Food Distribution Program on Indian Reservations (FDPIR); and
  2. Authorizing Tribal administration of SNAP through 638 contracts.

Enhancing the products available to eligible households by incentivizing SNAP participation among small family operations with products that are eligible for direct-to-market purchase

While the Agricultural Act of 2014 authorized "agricultural producers who market agricultural product directly to consumers" as "retail food stores" for the purpose of accepting EBT,[1] * the framework of SNAP—in its current form—undermines the participation of small family agriculture operations [2] ** as retail food stores, and instead favors large-scale producers and retailers that may not have a presence in rural or remote communities where many small family operations do. The application process and rules are onerous for small family operators, which often have limited staff and income,[3] to make the process worthwhile from a business standpoint. Indeed, in its current form, SNAP can wind up costing a small family operation more than they make from accepting EBT due to the one-size-fits-all requirements employed by USDA in implementing SNAP. The consequence is that the small family agriculture operations that are the backbone of local and regional food system security forgo participation, and local economies, alongside eligible households that cannot access local agriculture products, suffer.

1. Improving technical assistance available to small family agriculture operations around SNAP participation and the application process

According to USDA, "[a]pplying to the Supplemental Nutrition Assistance Program (SNAP) as a retailer is a simple, online process that costs you nothing. You can complete an online application in as little as 15 minutes."[4] Step 1 of this online process is registering for a USDA eAuthentication account, which requires a producer to select one of the three following user types: Customer; USDA Employee/ Contractor; or Other Federal Employee/Contractor. From the outset, no explanation is provided as to how a direct-to-market producer interested in being a SNAP "retail food store" fits within any of these user types. Thus, a producer must then proceed with hunting down guidance as to what constitutes a specific user type, decreasing the likelihood that the producer will complete the application in 15 minutes. Couple this with the fact that the overwhelming majority of small family agriculture operations have two or fewer producers,[5] a less than intuitive application—from the first step—becomes a barrier to many small family producers wishing to accept EBT for their direct-to-market products.

At a minimum, technical assistance and guidance specific to small family agriculture operations offering direct-to-consumer products should be readily available to small family operators. These agriculture operations are more likely to navigate this process on their own, while larger-scale operations and retailers have greater flexibility to hire or direct staff to understand and complete this process. Considering that small family agriculture operations represent just under half of all agriculture lands in the United States,[6] failing to actively engage these producers

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[1] Agricultural Act of 2014, Pub. L. 113–79,† 128 Stat. 793, § 4012 (codified as 7 U.S.C. § 2012(o)(4)) ("(o) 'Retail food store' means—(4) any private nonprofit cooperative food purchasing venture, including those in which the members pay for food purchased prior to the receipt of such food, *or agricultural producers who market agricultural products directly to consumers;*") (emphasis added).

** **Editor's note:** due to references to multiple sections, Pub. L. 113–79, in its entirety, is retained in Committee file

[2] *See generally* U.S. Dept. of Agriculture, National Agricultural Statistics Services, 2017 Census of Agriculture Highlights: *Family Farms* (2021), *https://www.nass.usda.gov/Publications/Highlights/2021/census-typology.pdf*† (USDA defines a small family farm as one with a gross cash farm income (GCFI)—producer's sales of crops and livestock, fees for delivering commodities under production contracts, government payments, and farm-related income-less than $350,000. Further, "[s]mall family farms account for 88% of all U.S. farms, 46% of land in farms, and 19% of the value of all agricultural products sold.").

** **Editor's note:** references annotated with † are retained in Committee file.

[3] *Id.* ("92% of small family farms have two or fewer producers . . . .").

[4] U.S. Dept. of Agriculture, *How to Apply and Accept SNAP Benefits* (Dec. 18, 2017), *https://fns-prod.azureedge.us/sites/default/files/snap/SNAP-application-educational-notice.pdf*.†

[5] U.S. Dept. of Agriculture, *Supra* note 3.

[6] U.S. Dept. of Agriculture, *Supra* note 2.

around SNAP EBT reflects a significant gap in strengthening food security within the very communities where these producers live and operate.

2. Scaling producer participation requirements by the size of the agriculture operation and authorizing alternative electronic payment methods that remove cost barriers to small family agriculture operations

The implementation of SNAP EBT is not designed, much less scaled, to accommodate small agriculture producers offering direct-to-market products. To participate as a retail food store, small agriculture producers with direct-to-market products must navigate the same regulatory process as other, larger and/or more traditional retail food stores. While this process may represent a common interaction for larger business entities, such as retail chains that have the legal and technical guidance of executive-level employees capable of navigating these processes, that is not the case for small family operations. In these instances, the agricultural producer themselves is sitting down to the computer to navigate this process; typically without any prior experience or legal insight guiding them. Requirements that present confusion for small agricultural operations include SNAP EBT application's reference to a permanent storefront, stringent requirements around necessary equipment for processing benefits without reference to how to procure such technology, and pointed directives around the need to police the use of benefits or face repercussions with the Federal Government. This process is less than user-friendly and serves to discourage small family producers from participating as a "retail food store" with their own products, thereby removing a community food source that could otherwise be available. Because small agriculture operations are not reflected in the regulations that implement SNAP EBT, these same operations may deem their retail business unfit to become certified as a SNAP EBT vendor (retailer).

As an example, after being approved as a SNAP EBT vendor (retailer), I—a small family agriculture producer—had to procure the software that allows me to accept SNAP EBT payments. USDA did not provide any guidance to me as to where to procure these services. Even so, within 6 hours of receiving my SNAP EBT vendor authorization notification, private companies were soliciting my business. Thus, they had access to my information as an approved SNAP EBT vendor, but I did not have the same, easy access to resources that would support me in making an informed decision about the software and company that would be right for my business. After a week of my own, independent research—which was a confusing and convoluted process—I decided to procure the services of TotilPay. This particular platform required an up-front cost of a couple hundred dollars, an annual subscription and monthly platform fee, as well as a per transaction processing cost. From my vantage point, TotilPay does not offer a unique technology beyond that which other small business purchasing platforms, such as Square Up, do, yet the processing costs are much more exorbitant. USDA should reduce or eliminate this barrier to ensure that small family agricultural operations are able to process SNAP EBT payments without hidden or inflated fees.

It seems the 2014 Farm Bill attempted to address some of the hurdles small family agricultural operations offering direct-to-market products encounter, but these provisions have not been made readily accessible at USDA. In addition to authorizing agricultural producers who market agricultural products directly to consumers to accept EBT, the 2014 Farm Bill also "require[s] participating retail food stores . . . to pay 100 percent of the costs of acquiring, and arrange for the implementation of, electronic benefit transfer point-of-sale equipment and supplies, including related services."[7] Importantly, however, the subsequent section authorizes the Secretary—at their discretion—to exempt "farmers' markets and other direct-to-consumer markets" from paying the 100 percent of costs associated with EBT equipment, supplies and services.[8] Even so, it remains unclear, if not altogether elusive, as to how this exemption might be obtained today. Without clear guidance, this keeps many small family agriculture operations from accepting EBT due to the costs associated with doing so. The House Conference Report that accompanied what would become the 2014 Farm Bill noted that, while these provisions were intended to reduce fraud, the House also deemed it "imperative that the Secretary work with SNAP-approved retailers to ensure there are no additional costs or burdens that are duplicative or inconsistent with common commercial practices" and "acknowledge[d] that many small businesses and direct-to-consumer retailers continue to face challenges related to the cost of utilizing EBT and advanced technologies."[9] These same

[7] Agricultural Act of 2014, § 4002(b)(2)(A) (codified as 7 U.S.C. § 2016(f)(2)(A)).
[8] *Id.* at § 4002(b)(2)(B) (codified as 7 U.S.C. § 2016(f)(2)(B)).
[9] H.R. Rep. No. 113–333 (2014) (Conf. Rep.).†

challenges remain today, to the detriment of small family agriculture producers, local and rural economies, and this nation's overall food security.

Improving SNAP to work better at feeding people and shoring up food security cannot occur without addressing the source of food and providing options around food. Small family agricultural operations are the heart of food production, and the process for direct-to-market producers to participate as vendors (retailers) in SNAP EBT must reflect this to support greater participation among small agricultural operations. And the laws governing SNAP must do the same. This can be accomplished, in part, by modernizing the application process to be more directly inclusive of the ways that a small family operation sells to their community; embracing reference to vendor locations such as pop up shops, market stands, farm stands, seasonal sales venues, *etc.,* as the point of sales for small family operations often needs to be mobile. Additionally, the mobile nature of small agricultural producers offering direct-to-market products has worked against their participation as SNAP EBT vendors. SNAP vendors are required to produce a printed receipt for the customer, which requires internet connection and electrical access beyond what most of the typical sales locations for small operations can accommodate. Typically, the majority of customers I serve do not want a receipt, especially with their ability to login to their account online and verify their balance. Outdated requirements like these not only prohibit family operations from pursuing/maintaining SNAP vendor certification, they limit economic opportunities in remote locations that do not have the same level of access to technology and services required by this program.

3. Removing the policing burden from small family agriculture operations that accept SNAP EBT for the purpose of feeding members of their communities

Rules for maintaining SNAP eligibility can be especially intimidating for smaller family operations that are offering direct-to-market products. In addition to the inputs required for producing a market-ready product, smaller producers accepting SNAP EBT are also required to navigate SNAP policing requirements—often among their own community members. This creates a stigma with consequences that include eligible households avoiding transactions with small family operations *and* producers having to turn people away from nutritious, locally-produced food when their benefits do not align with the producer's product. Smaller producers in more remote communities often accept SNAP as a means to try and help feed their own communities, but the current framework creates barriers for local producers and SNAP-eligible households alike.

4. Incentivize participation by small family agriculture operations

Another route for improving the function of SNAP and overall food security is to incentivize small family agriculture operations to participate in SNAP by offering incentives that, at a minimum, minimize the out-of-pocket costs they incur in order to participate. This could be accomplished through a set-aside fund for grants to small family agriculture operations that are authorized to accept SNAP EBT; allowing SNAP EBT vendors access to a greater number of Small Business Administration loan portfolio offerings; and increasing the funding towards farmers' market SNAP Support Grants, while simultaneously eliminating purchasing requirements inflicted upon SNAP recipients. Influencing how a SNAP recipient purchases foods should not be the program's primary focus, especially when the foods the recipient is trying to procure are fresh, local, and grown by a family operation in their community.

Promoting effectiveness and efficiency of SNAP administration in Tribal communities

As a member of the Cheyenne River Sioux Tribe who lives and ranches within the reservation boundaries of my Tribe, food security issues are always present. Tribal members across Indian Country live in the most remote regions of the United States. This presents significant food access challenges when Tribal members, both food program recipients and producers, are expected to access resources in the same manner as those with easier access to more readily available options. There are common sense proposals that would not only serve to better address food security, but would also improve the efficiency of SNAP in Tribal communities.

1. Authorizing the dual use of SNAP and FDPIR

In a 2022 report, the Native Farm Bill Coalition outlined an opportunity to improve food security among Tribal members by removing the prohibition currently in place that bars qualifying Tribal members from utilizing the Food Distribution Program on Indian Reservations (FDPIR) and SNAP in the same month.[10] As reported in *Gaining Ground:*

> This creates an administrative headache for certification of anyone who chooses to move between programs. It also is not representative of any other food program combination. Individuals who qualify for both TEFAP and SNAP may use both, or WIC and SNAP, and on and on. Removing this statutory prohibition would improve food access and opportunities for Tribal citizens to feed their families. If enacted in combination with Tribal administration of SNAP, this provision could also be a powerful tool to not only improve food access in Indian Country but also provide market opportunities for Native-produced foods. It is important to note, however, that both FDPIR and SNAP remain vital parts of the food security landscape for Indian Country and Tribal citizens. Removing this barrier does not indicate that the need for either program has ended.[11]

In a modern and mobile society, there are Tribal members who may spend time in more urban areas for job and educational opportunities, while going back to their homes on the reservation in between. The current prohibition against using FDPIR and SNAP within the same month forces people to choose a program that means they may not have access to food at another point in time within the same month.

2. Authorizing Tribal administration of SNAP through 638 contracts

Government programs administered at the local level are best suited to be responsive to the needs of local community members and more effective in identifying eligible participants. The same is true for SNAP and supports the need for Congress to authorize federally recognized Tribes to administer SNAP pursuant to the Indian Self Determination and Education Assistance Act of 1975 (ISDEAA), Pub. L. 93–638—more commonly referenced as "638" contracts.

The Native Farm Bill Coalition, in *Gaining Ground,* notes: "Expanding '638' authority to the SNAP program would allow for a more robust Tribal option than programmatic administration and be a significant acknowledgment of Tribal sovereignty in food systems. '638' has been shown to reduce programmatic costs and produce cost-savings in other arenas and could do so here as well."[12]

In the 2018 Farm Bill, Congress authorized a 638 pilot program for Tribal authority over the procurement of food for the Food Distribution Program on Indian Reservations (FDPIR). Participating Tribes administered the programs within their communities with great success—providing fresher, locally procured food items, while building Tribal economies. While every Tribe may not choose to exercise 638 authority, for those that do, it is an option—within SNAP and FDPIR—to build food security and local economies.

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[10] Parker, Erin, and Griffith Hotvedt, Carly, *et al., Gaining Ground: A Report on the 2018 Farm Bill Successes for Indian Country and Opportunities for 2023*† 50 (Sept. 2022), *https://www.nativefarmbill.com/_files/ugd/8b3589_763e8879ac2842c0baa45c586ddfd83a.pdf.*

[11] *Id.*

[12] *Id.*