

## CATTLE CONTRACT LIBRARY ACT OF 2021

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DECEMBER 7, 2021.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. DAVID SCOTT of Georgia, from the Committee on Agriculture, submitted the following

### R E P O R T

[To accompany H.R. 5609]

The Committee on Agriculture, to whom was referred the bill (H.R. 5609) to amend the Agricultural Marketing Act of 1946, to establish a cattle contract library, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### BRIEF EXPLANATION

This legislation directs USDA's Agricultural Marketing Service (AMS) to establish a publicly available library of cattle contracts. The legislation also establishes a grant program, to be administered in coordination with USDA's National Institute of Food and Agriculture, for producer education on how to best use cattle market information.

#### PURPOSE AND NEED FOR LEGISLATION

Given the long-term trend towards the sale of cattle through specialized alternative marketing agreements, rather than through traditional negotiated trades, there has been growing concern from parts of the cattle industry—specifically cattle producers—that there is not enough transparency in cattle markets. In creating a contract library, the goal is to increase transparency and improve price discovery by giving producers access to more information regarding these marketing agreements. Additional transparency will be achieved by requiring USDA to maintain publicly available data regarding the various types of contracts offered by packers to producers for the sale of fed cattle. The library will include summarized information for each type of contract including price terms, premiums and discounts, and associated transportation costs.

USDA already maintains a contract library for the swine industry. The cattle contract library is modeled off the swine contract library but with some alterations to improve utility.

## H.R. 5609, CATTLE CONTRACT LIBRARY ACT OF 2021

### SECTION-BY-SECTION

#### *Section 1. Short title*

Section 1 provides the short title of the bill as the “Cattle Contract Library Act of 2021.”

#### *Section 2. Cattle Contract Library*

This section amends chapter 2 of subtitle B of the Agricultural Marketing Act of 1946 by adding a new section at the end. Subsection (a) of the new section requires the Secretary to establish and maintain a library or catalog of each type of contract offered by packers to producers for the purchase of fed cattle, including any schedules of premiums or discounts associated with the contract. Subsection (b) requires the Secretary to obtain such information by requiring each packer to submit a form of information that includes: (1) the type of contract; (2) the duration of the contract; (3) all contract summary information; (4) the provisions in the contract that may affect the price of cattle covered by the contract including base price, schedules of premiums or discounts, and transportation arrangements; (5) the total number of cattle covered by the contract solely committed to the packer each week within the 6-month and 12-month periods following the date of the contract; (6) for contracts that do not specify a number of cattle committed to the packer, an indication that the contract is an open commitment and any weekly, monthly, annual, or other limitations on the number of cattle that may be delivered to the packer under the contract; and (7) a description of the provisions in the contract that provided for expansion in the committed numbers of fed cattle to be delivered under the contract for the 6-month and 12-month periods following the date of the contract.

Subsection (c) requires the Secretary to make a summary of the information collected for each type of contract publicly available in a user-friendly format. Within 30 days after the establishment of the library or catalog, the Secretary is required to make weekly or monthly reports available for the public that include: (1) the total number of fed cattle committed under contracts for delivery to packers within the 6-month and 12-month periods following the date of the report; (2) the number of contracts with an open commitment along with weekly, monthly, annual, or other limitations on the number of cattle that may be delivered under such contracts; and (3) the total maximum number of fed cattle that may be delivered within the 6-month and 12-month periods following the date of the report. Subsection (d) requires that contracts in the library or catalog that are no longer offered or in use be labeled as inactive.

Subsection (e) requires the publication of information be subject to confidentiality protections provided under section 251 of the Agricultural Marketing Act of 1946 which protect proprietary business information and the identity of all parties to a contract. Subsection (f) makes it unlawful and a violation of the Act for any

packer to willfully fail or refuse to provide the Secretary accurate information required under this section or to comply with any other requirement of this section. Subsection (g) requires the Secretary, through the Administrator of the Agricultural Marketing Service and in coordination with the Director of the National Institute of Food and Agriculture, to make competitive grants to eligible entities, as defined as an entity listed in subsection (b)(7) of the Competitive, Special, and Facilities Research Grant, for producer outreach and education efforts on best uses of cattle market information. Subsection (h) authorizes to be appropriated such sums as are necessary to carry out this section.

### *Section 3. Definitions*

Section 3 amends section 221 of the Agricultural Marketing Act to define “formula marketing arrangement” as the advance commitment of cattle for slaughter: (1) by any means other than through a negotiated purchase, negotiated grid purchase, or a forward contract; and (2) using a method for calculating price under which the price is determined at a future date. It also defines “negotiated grid purchase” as a purchase of fed cattle by a packer from a producer under which: (1) the base price for the cattle is determined by seller-buyer interaction on a day; (2) the cattle are scheduled for delivery to the packer not more than 14 days after the date on which the agreement for purchase is made; and (3) the base price is subject to adjustment by premiums and discounts after delivery. It also defines “type of contract” as the classification of contracts for the purchase of fed cattle based on the mechanism used to determine the base price for the fed cattle committed to a packer under contract, including formula purchases, negotiated grid purchases, forward contracts, and other purchase agreements, as determined by the Secretary.

## COMMITTEE CONSIDERATION

### I. HEARING

The Committee on Agriculture has held two hearings in the 117th Congress to examine issues facing the cattle industry and hear various perspectives on how to address industry and market challenges.

On July 28, 2021, the Subcommittee on Livestock and Foreign Agriculture held a hearing titled, *State of the Beef Supply Chain: Shocks, Recovery, and Rebuilding* where some of the following witnesses testified on matters addressed in H.R. 5609:

- Dr. Jayson Lusk, Distinguished Professor and Head of the Department of Agricultural Economics, Purdue University, West Lafayette, IN
- Dr. Jennifer van de Ligt, Director, Food Protection and Defense Institute, University of Minnesota, St. Paul, MN
- Dr. Keri Jacobs, Associate Professor of Ag & Applied Economics, Division of Applied Social Sciences, College of Agriculture, Food and Natural Resources, University of Missouri, Columbia, MO
- Dr. Dustin Aherin, Vice President and Rabo Research Animal Protein Analyst, Rabo AgriFinance, Chesterfield, MO

In response to questions from Members of the Committee, witnesses discussed the potential for disclosing more information about alternative marketing arrangements to increase transparency in the cattle markets.

On October 7, 2021, the full Committee held a hearing titled, *A Hearing To Review the State of the Livestock Industry* where the following witnesses testified on some matters that were subsequently addressed in H.R. 5609:

Panel 1:

- The Honorable Chuck Grassley (R), United States Senator, Iowa

Panel 2:

- The Honorable Thomas J. “Tom” Vilsack, Secretary, U.S. Department of Agriculture

Panel 3:

- Mr. Todd Wilkinson, Vice President, National Cattlemen’s Beef Association, DeSmet, SD

- Mr. François Léger, Owner, FPL Food, on behalf of the North American Meat Institute, Augusta, GA

- Mr. Scott Blubaugh, President, Oklahoma Farmers Union, on behalf of National Farmers Union, Tonkawa, OK

- Mr. Scott Hays, Vice President, National Pork Producers Council, Monroe City, MO

- Mr. Brad Boner, Vice President, American Sheep Industry Association, Glenrock, WY

This hearing examined various aspects of the livestock industry, but related to a cattle contract library, Members of the Committee heard testimony and answers to questions regarding the potential for a cattle contract library to enhance market transparency and improve the negotiating position of producers when they market their cattle.

## II. FULL COMMITTEE

On October 21, 2021, the Committee on Agriculture met pursuant to notice, with a quorum present, to consider H.R. 5609, the Cattle Contract Library Act of 2021. Chairman Scott made an opening statement as did Ranking Member Thompson. Chairman Scott requested other Members submit their opening statements for the record. Without objection, H.R. 5609 was placed before the Committee for consideration, a first reading of the bill was waived, and it was opened for amendment at any point.

Chairman Scott recognized Mr. Johnson, the bill’s sponsor to speak on the bill. Discussion occurred and without objection, the Committee considered the bill. There being no amendments, a voice vote was conducted, and the bill was reported favorably from Committee.

At the conclusion of the meeting, Chairman Scott advised Members that pursuant to the Rules of the House of Representatives, Members had until October 28, 2021 to file any supplemental, additional, dissenting, or minority views with the Committee. Without objection, staff was given permission to make any necessary technical, clarifying, or conforming changes to reflect the intent of the Committee. Chairman Scott thanked all the Members and adjourned the meeting.

#### COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the House of Representatives, H.R. 5609 was reported by voice vote with a majority quorum present. There was no request for a recorded vote.

#### COMMITTEE OVERSIGHT FINDING

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

#### COST OF LEGISLATION AND THE CONGRESSIONAL BUDGET ACT

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of the Congressional Budget Office. The Committee adopts as its own cost estimate the forthcoming cost estimate of the Director of the Congressional Budget Office, should such cost estimate be made available before House passage of the bill.

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. Congressional Budget Office staff has informed the Committee on a preliminary, informal, nonbinding basis that there does not appear to be any direct spending associated with the bill.

#### CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the Constitutional authority for this legislation in Article I, section 8, clause 3, that grants Congress the authority to regulate foreign and interstate commerce.

#### PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the House of Representatives, the performance goals and objectives of this measure are to establish a cattle contract library and provide a summary of the information in the contracts in a publicly available user-friendly format.

#### ADVISORY COMMITTEE STATEMENT

No advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act was created by this legislation.

#### APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

## FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chair of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

## EARMARK STATEMENT

This measure does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the House of Representatives.

## DUPLICATION OF FEDERAL PROGRAMS

This measure does not establish or reauthorize a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program in the most recent Catalog of Federal Domestic Assistance.

## DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee does not believe that the legislation directs an Executive Branch official to conduct any specific rule making proceedings within the meaning of 5 U.S.C. 551.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

**AGRICULTURAL MARKETING ACT OF 1946**

## TITLE II

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**Subtitle B—Livestock Mandatory Reporting**

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**CHAPTER 2—CATTLE REPORTING****SEC. 221. DEFINITIONS.**

In this chapter:

- (1) **CATTLE COMMITTED.**—The term “cattle committed” means cattle that are scheduled to be delivered to a packer within the 7-day period beginning on the date of an agreement to sell the cattle.

(2) CATTLE TYPE.—The term “cattle type” means the following types of cattle purchased for slaughter:

- (A) Fed steers.
- (B) Fed heifers.
- (C) Fed Holsteins and other fed dairy steers and heifers.
- (D) Cows.
- (E) Bulls.

[(3) FORMULA MARKETING ARRANGEMENT.—The term “formula marketing arrangement” means the advance commitment of cattle for slaughter by any means other than through a negotiated purchase or a forward contract, using a method for calculating price in which the price is determined at a future date.]

(3) FORMULA MARKETING ARRANGEMENT.—*The term “formula marketing arrangement” means the advance commitment of cattle for slaughter—*

- (A) *by any means other than through a negotiated purchase, negotiated grid purchase, or a forward contract; and*
- (B) *using a method for calculating price under which the price is determined at a future date.*

(4) FORWARD CONTRACT.—The term “forward contract” means—

- (A) an agreement for the purchase of cattle, executed in advance of slaughter, under which the base price is established by reference to—
  - (i) prices quoted on the Chicago Mercantile Exchange; or
  - (ii) other comparable publicly available prices; or
- (B) such other forward contract as the Secretary determines to be applicable.

(5) NEGOTIATED GRID PURCHASE.—*The term “negotiated grid purchase” means a purchase of fed cattle by a packer from a producer under which—*

- (A) *the base price for the cattle is determined by seller-buyer interaction on a day;*
- (B) *the cattle are scheduled for delivery to the packer not more than 14 days after the date on which the agreement for purchase is made; and*
- (C) *the base price is subject to adjustment by premiums and discounts after delivery.*

[(5)] (6) PACKER.—The term “packer” means any person engaged in the business of buying cattle in commerce for purposes of slaughter, of manufacturing or preparing meats or meat food products from cattle for sale or shipment in commerce, or of marketing meats or meat food products from cattle in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce, except that—

- (A) the term includes only a cattle processing plant that is federally inspected;
- (B) for any calendar year, the term includes only a cattle processing plant that slaughtered an average of at least 125,000 head of cattle per year during the immediately preceding 5 calendar years; and
- (C) in the case of a cattle processing plant that did not slaughter cattle during the immediately preceding 5 cal-

endar years, the Secretary shall consider the plant capacity of the processing plant in determining whether the processing plant should be considered a packer under this chapter.

~~[(6)]~~ (7) **PACKER-OWNED CATTLE.**—The term “packer-owned cattle” means cattle that a packer owns for at least 14 days immediately before slaughter.

~~[(7)]~~ (8) **TERMS OF TRADE.**—The term “terms of trade” includes, with respect to the purchase of cattle for slaughter—

(A) whether a packer provided any financing agreement or arrangement with regard to the cattle;

(B) whether the delivery terms specified the location of the producer or the location of the packer’s plant;

(C) whether the producer is able to unilaterally specify the date and time during the business day of the packer that the cattle are to be delivered for slaughter; and

(D) the percentage of cattle purchased by a packer as a negotiated purchase that are delivered to the plant for slaughter more than 7 days, but fewer than 14 days, after the earlier of—

(i) the date on which the cattle were committed to the packer; or

(ii) the date on which the cattle were purchased by the packer.

(9) **TYPE OF CONTRACT.**—*The term “type of contract” means the classification of contracts for the purchase of fed cattle based on the mechanism used to determine the base price for the fed cattle committed to a packer under the contract, including formula purchases, negotiated grid purchases, forward contracts, and other purchase agreements, as determined by the Secretary.*

~~[(8)]~~ (10) **TYPE OF PURCHASE.**—The term “type of purchase”, with respect to cattle, means—

(A) a negotiated purchase;

(B) a formula market arrangement; and

(C) a forward contract.

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**SEC. 224. CATTLE CONTRACT LIBRARY.**

(a) **IN GENERAL.**—*Not later than 90 days after the enactment of this Act, the Secretary shall establish and maintain a library or catalog of each type of contract offered by packers to producers for the purchase of all or part of the producers’ production of fed cattle (including cattle that are purchased or committed for delivery), including any schedules of premiums or discounts associated with the contract.*

(b) **INFORMATION COLLECTION.**—

(1) **IN GENERAL.**—*To maintain the library or catalog established under subsection (a), the Secretary shall obtain information from each packer on each type of contract of the packer by requiring a filing or other form of information submission from each packer.*

(2) **CONTRACTED CATTLE INFORMATION.**—*Information submitted to the Secretary by a packer under paragraph (1) shall include, with respect to each contract of a packer—*

- (A) *the type of contract;*
- (B) *the duration of the contract;*
- (C) *all contract summary information;*
- (D) *provisions in the contract that may affect the price of cattle covered by the contract including—*
  - (i) *base price;*
  - (ii) *schedules of premiums or discounts; and*
  - (iii) *transportation arrangements;*
- (E) *the total number of cattle covered by the contract solely committed to the packer each week within the 6-month and 12-month periods following the date of the contract, by reporting region;*
- (F) *in the case of a contract in which a specific number of cattle are not solely committed to the packer—*
  - (i) *an indication that the contract is an open commitment; and*
  - (ii) *any weekly, monthly, annual, or other limitations on the number of cattle that may be delivered to the packer under the contract; and*
- (G) *a description of the provisions in the contract that provide for expansion in the committed numbers of fed cattle to be delivered under the contract for the 6-month and 12-month periods following the date of the contract.*

(c) **AVAILABILITY OF INFORMATION.—**

(1) **LIBRARY CONTENTS.**—*The Secretary shall make publicly available in a user-friendly format a summary of the information collected for each type of contract under subsection (b), including notice (on a real-time basis, if practicable) of the types of contracts that are being offered by packers to, and are open to acceptance by, producers for the purchase of fed cattle.*

(2) **REPORTS REQUIRED.**—*Beginning not later than 30 days after the date on which the library or catalog is established under subsection (a), the Secretary shall make publicly available weekly or monthly reports for producers and other interested persons, which shall include—*

(A) *based on the information collected under subsection (b)(2)(E), the total number of fed cattle committed under contracts for delivery to packers within the 6-month and 12-month periods following the date of the report, organized by reporting region and type of contract;*

(B) *based on the information collected under subsection (b)(2)(F), the number of contracts with an open commitment along with any weekly, monthly, annual or other limitations on the number of cattle that may be delivered under such contracts; and*

(C) *based on the information collected under subsection (b)(2)(G), the total maximum number of fed cattle that may be delivered within the 6-month and 12-month periods following the date of the report, organized by reporting region and type of contract.*

(d) **MAINTENANCE OF LIBRARY OR CATALOG.**—*Information in the library or catalog established under subsection (a) about types of contracts that are no longer offered or in use shall be labeled as inactive in the library or catalog.*

(e) *CONFIDENTIALITY.*—The publication of information under this section shall be subject to the confidentiality protections provided under section 251 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1636).

(f) *VIOLATIONS.*—It shall be unlawful and a violation of this Act for any packer to willfully fail or refuse—

(1) to provide to the Secretary accurate information required under this section; or

(2) to comply with any other requirement of this section.

(g) *PRODUCER EDUCATION GRANTS.*—

(1) *IN GENERAL.*—The Secretary, acting through the Administrator of the Agricultural Marketing Service and in coordination with the Director of the National Institute of Food and Agriculture, shall make competitive grants to eligible entities for producer outreach and education efforts on best uses of cattle market information, including information made available through the livestock mandatory reporting program and the catalog or library established under subsection (a).

(2) *SELECTION CRITERIA.*—In selecting grant recipients under this section, the Secretary shall give priority to eligible entities that—

(A) demonstrate an ability to work directly with cattle producers;

(B) can quickly and accurately publish and disseminate information and analysis of relevant Department of Agriculture data in a manner that benefits producer decision making; and

(C) collaborate with trade associations or other organizations with a demonstrated ability to provide educational programs on markets and risk management.

(3) *ELIGIBLE ENTITY.*—The term “eligible entity” means an entity listed in subsection (b)(7) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 3157(b)(7)).

(h) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section.

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