

MEAT AND POULTRY SPECIAL INVESTIGATOR ACT OF
2022

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JUNE 9, 2022.—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

SUPPLEMENTAL REPORT

[To accompany H.R. 7606]

Pursuant to clause 3(a)(2) of rule XIII of the Rules of the House of Representatives for the 117th Congress, the Committee on Agriculture is filing this supplemental report to correct an error in the report to accompany H.R. 7606 to establish the Office of the Special Investigator for Competition Matters within the Department of Agriculture, filed on June 7, 2022 (H. Rept. 117-357, pt. 1).

This supplemental report includes dissenting views that were omitted from the initial filing.

DISSENTING VIEWS

SUMMARY

In July 2021, President Biden issued Executive Order (EO) 14036, “Promoting Competition in the American Economy,” a key plank of the White House’s public relations effort to shift blame for skyrocketing inflation away from their own policies to the private sector and alleged industry concentration. Economists across the spectrum, including former Obama and Clinton Administration officials, have dismissed the strategy as misleading or blatantly political.

Ten months later, the White House continues to argue consolidation is to blame for fractured supply chains and historic price increases. Yet, as recently as 2020, the Council of Economic Advisers itself rejected the overconcentration narrative, concluding “the argument that the U.S. economy is suffering from insufficient competition is built on weak empirical foundation and questionable assumptions.”

The bill under consideration, the *Meat and Poultry Special Investigator Act of 2022*, is illustrative of how easily disinformation seeps into Congress and how quickly the Majority acts on the Administration’s whims rather than addressing the very real needs and concerns of farm families and rural America.

Supply chain disruptions and historic inflation are happening now. The *Meat and Poultry Special Investigator Act of 2022* will not help the nation today or even tomorrow. An immediate crisis of any proportion cannot be mitigated with unfunded mandates, duplicative authorities, politicized agencies, and big government. We need manufacturers, importers, industry, farmers, and other stakeholders at the table to inform policies that can actually mitigate these crises. The Minority continues its calls for this Administration to end its irresponsible regulatory actions and for the Majority to stop fueling the fire with out-of-control spending packages and haphazard policy.

BACKGROUND

Issues surrounding cattle markets are of vital importance, exemplified by the extensive bipartisan work conducted by the Committee in exploring and debating related issues during the 117th Congress. This work includes a closed-door roundtable with U.S. Department of Agriculture (USDA, Department) officials, a subcommittee hearing on beef supply chains with a slate of esteemed economists, and a lengthy full committee hearing on the state of the livestock industry featuring Secretary Vilsack, livestock stakeholders, and a packer representative, during which various related pieces legislation were discussed. The Committee heard no testi-

mony in support of the *Meat and Poultry Special Investigator Act of 2022* during any of these Committee proceedings.

The Committee's work led to legislation ensuring the continued availability of crucial Livestock Mandatory Reporting data and the establishment of a cattle contract library pilot program to provide an additional layer of market transparency with both being enacted into law on March 15, 2022, as part of the fiscal year 2022 Omnibus.

Then, on March 17, 2022, as Russia's invasion of Ukraine was sending shockwaves through global commodity and energy markets, Chairman Scott requested the appearance of the Chief Executive Officers of each of the four largest meatpackers to examine "whether meat packing companies have engaged in anti-competitive behavior that has led to inflated food prices." The Minority was officially notified of the hearing as letters requesting testimony were sent, and the threat of subpoenas to compel participation began to circulate. The Committee eventually held that hearing on April 27, 2022. One of the most sensationalized proceedings in the Committee's history, the hearing was an obvious attempt to bolster the Biden Administration's baseless, perpetual narrative of blaming corporations for skyrocketing inflation rather than its own agenda.

Near the end of the five-hour hearing, the Chairman repeatedly spoke of upcoming bipartisan legislative solutions and highlighted the importance of partnering with all segments of the beef industry to "find the right legislative solution." Despite these comments, the April 27 hearing proved nothing more than an exercise in political theatrics, setting the stage for the Majority's effort to rush through the passage of this unvetted and controversial bill.

A FLAWED PROPOSAL

The *Meat and Poultry Special Investigator Act of 2022* would create a duplicative, unfunded office within the Office of the Secretary of USDA, headed by a "special investigator" with a mandate to investigate packers and live poultry dealers. The investigator would be granted independent litigation authority giving them carte blanche power to file civil suits against packing companies at the whims of the Secretary without any required coordination with the Department of Justice (DOJ)—a longstanding practice required under current law.

Even the bill's sponsor struggled to articulate the alleged problem the legislation aims to address. During Committee consideration, her lengthy defense of the proposal veered from dramatic references to rancher suicide, to complaints regarding industry concentration, rising food costs, and alleged anti-competitive packer behavior, to platitudes of supposed benefits to family farmers and consumers.

The sponsor also framed the proposal as a response to general skepticism about the enforcement of the Packers and Stockyards Act, "anecdotes" from across the country, and frustration with a lack of public findings from the DOJ's ongoing investigation of the major meat processing companies.

This Committee cannot effectively legislate based on emotion, mere anecdotes, and generalized frustration. Facts and an under-

standing of the implementation of current law are an essential basis for making informed legislative decisions sure to have enormous industry-wide impacts.

Unfortunately, the Minority was denied participation in technical discussions with the Department and received minimal written feedback to a litany of questions regarding the proposed legislation. There were no hearings with agency officials on Packers and Stockyards Act enforcement—not even a briefing with USDA or DOJ on general enforcement process and activities.

Perhaps the facts would not support this politically charged “solution.”

If concentration is the concern, industry consolidation levels have been relatively steady for decades at or below “moderately concentrated” levels according to the Herfindahl-Hirschman Index, a widely accepted measure of market concentration. Regardless, the legislation would do nothing to change those levels.

If lax enforcement of existing law is the concern, USDA already has an entire Packers and Stockyards Division (PSD) charged with enforcing the Packers and Stockyards Act—and based on the latest available data—filed and closed 1,860 investigations in 2020 alone. PSD consists of teams of seasoned attorneys, market specialists, and auditors and has the option to pursue administrative enforcement through USDA’s Office of General Counsel, before an administrative law judge, or through the Department of Justice in federal court.

If additional PSD resources are needed to enhance enforcement capability, the Department, the bill sponsor, and livestock industry stakeholders all seem to agree. Nevertheless, despite the Administration’s budget request for more funding and full-time employees, this bill provides zero funding, raising concerns that existing enforcement resources would have to be stretched even further to stand up this unnecessary office.

Despite the many questions regarding the bill, one thing is for certain—it does not have the broad backing of industry stakeholders, including the largest producer organizations in the nation.

The National Cattlemen’s Beef Association, National Pork Producers Council, National Chicken Council, National Turkey Federation, and North American Meat Institute are all in opposition, and the American Farm Bureau Federation has raised a number of concerns and unanswered questions.

The bill sponsor’s suggestion that the proposal would streamline enforcement ignores stakeholder concerns that such a duplicative arrangement would confuse the law enforcement chain of command while undermining the DOJ’s role as the litigation arm of the federal government. The bill also duplicates the efforts of USDA’s existing office of Homeland Security, leaving stakeholders concerned with the unnecessary complication of government-wide cyber- and national security coordination.

Despite the bill sponsor’s adamant denial of the bill resulting in increased compliance costs, she led the Majority in defeating an industry-supported exercise in good governance that would have required an objective analysis of the cost and benefits to producers, regulated industry, and consumers, of pending controversial Pack-

ers and Stockyards rules the special investigator would be charged with enforcing.

The needless layers of additional bureaucracy and obvious increases to compliance costs resulting from this bill would only exacerbate the burden of record-level inflation on our farmers, ranchers, and businesses, almost assuredly resulting in higher prices for consumers in the grocery store—quite the opposite of the sponsor’s empty promises.

As our producer stakeholders have correctly warned, passage of this bill is the antithesis of good governance, and the Minority advises against its consideration on the House floor.

GLENN “GT” THOMPSON,
Ranking Member.

