

BUTCHER BLOCK ACT

JUNE 14, 2022.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 4140]

The Committee on Agriculture, to whom was referred the bill (H.R. 4140) to make improvements with respect to the pricing of cattle in the United States, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Butcher Block Act”.

SEC. 2. ASSISTANCE FOR NEW AND EXPANDED LIVESTOCK OR MEAT PROCESSORS.

(a) IN GENERAL.—The Secretary of Agriculture (in this section referred to as the “Secretary”) may make or guarantee a loan for the purpose of—

- (1) increasing capacity of livestock and poultry processing, facilitating economic opportunity for livestock and poultry producers through processing activities, and diversifying processing ownership;
- (2) increasing the customer base or revenue returns of livestock and poultry producers through investment in processing capacity;
- (3) improving, developing, or financing livestock and poultry processing capacity or employment including through the financing of working capital; or
- (4) promoting the interstate trade and local sales of processed livestock and poultry by financing improvements to meet relevant Federal, State, and local regulatory standards.

(b) ELIGIBILITY; GENERAL LIMITATIONS.—

- (1) ELIGIBLE RECIPIENT.—An entity shall be eligible for a loan or guarantee under this section if the entity is—
 - (A) a public, private, or cooperative organization organized on a for-profit or nonprofit basis;
 - (B) an Indian tribe on a Federal or State reservation, or any other federally recognized Indian tribal group; or
 - (C) an individual.
- (2) FACILITY LOCATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a facility constructed, expanded, modified, refurbished, or re-equipped with proceeds from a loan made or guaranteed under this section shall be in a rural area.

(B) EXCEPTION.—A facility constructed, expanded, modified, refurbished, or re-equipped with proceeds from a loan made or guaranteed under this section may be in a non-rural area if—

(i) the primary use of the loan involved is for the facility, and the facility will increase the customer base or revenue returns of livestock and poultry producers that are located within 300 miles of the facility;

(ii) the loan involved will be used to increase the capacity in livestock and poultry processing in a region; and

(iii) the principal amount of the loan involved does not exceed \$50,000,000.

(C) RURAL AREA DEFINED.—In this paragraph, the term “rural area” has the meaning given the term in section 343(a)(13) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)).

(3) LIMITATIONS.—

(A) LIMITATION ON AMOUNT OF LOAN INVOLVED.—A loan of more than \$50,000,000 may not be made or guaranteed under this section.

(B) LIMITATION ON ELIGIBILITY.—A loan may not be made or guaranteed under this section to an entity that is owned in partnership or in whole by—

(i) a foreign entity; or

(ii) an entity that currently processes over 5 percent of the daily harvest of any species.

(c) SPECIAL RULES APPLICABLE WITH RESPECT TO COOPERATIVES.—

(1) LIMITATION ON AMOUNT OF LOAN INVOLVED.—

(A) IN GENERAL.—Notwithstanding subsection (b)(3), a loan of not more than \$100,000,000 may be made or guaranteed for a cooperative organization under this section.

(B) CONDITIONS APPLICABLE IF LOAN INVOLVED IS FOR MORE THAN \$50,000,000.—A loan of more than \$50,000,000 may not be made or guaranteed for a cooperative organization under this section unless the loan is used to carry out a project that significantly increases the livestock and poultry processing in a region, where insufficient processing capacity exists, as determined by the Secretary.

(2) INTANGIBLE ASSETS.—

(A) IN GENERAL.—In determining whether a cooperative organization is eligible for a loan or guarantee under this section, the Secretary may consider the market value of a properly appraised brand name, patent, or trademark of the cooperative.

(B) ACCOUNTS RECEIVABLE.—In the sole discretion of the Secretary, if the Secretary determines that the action would not create or otherwise contribute to an unreasonable risk of default or loss to the Federal Government, the Secretary may take accounts receivable as security for the obligations entered into in connection with a loan made or guaranteed under this section, and a borrower may use accounts receivable as collateral to secure such a loan.

(3) PURCHASE OF COOPERATIVE STOCK.—

(A) IN GENERAL.—The Secretary may make or guarantee a loan in accordance with this section to an individual farmer or rancher for the purpose of purchasing capital stock of a farmer or rancher cooperative undertaking an eligible project under this section.

(B) PROCESSING CONTRACTS DURING INITIAL PERIOD.—A cooperative described in subparagraph (A) with respect to which a farmer or rancher receives a guarantee to purchase stock under subparagraph (A) may contract for services to fulfill any eligible purpose under this section, during the 5-year period beginning on the date the cooperative commences operations, in order to provide adequate time for the planning and construction of the processing facility of the cooperative.

(C) FINANCIAL INFORMATION.—A farmer or rancher from whom the Secretary requires financial information as a condition of making or guaranteeing a loan under subparagraph (A) shall provide the information in the manner generally required by commercial agricultural lenders in the geographical area in which the farmer or rancher is located.

(d) CONDITIONS APPLICABLE WITH RESPECT TO USING LOAN INVOLVED FOR REFINANCING.—A borrower may use 25 percent of a loan made or guaranteed under this section to refinance a loan made for a purpose described in subsection (a) if—

- (1) the borrower is current and performing with respect to the loan to be refinanced;
 - (2) the borrower has not defaulted on any payment required to be made with respect to the loan to be refinanced;
 - (3) none of the collateral for the loan to be refinanced has been converted; and
 - (4) there is adequate security or full collateral for the loan to be refinanced.
- (e) **LOAN APPRAISAL.**—The Secretary may require that any appraisal made in connection with a loan made or guaranteed under this section be conducted by a specialized appraiser that uses standards that are similar to standards used for similar purposes in the private sector, as determined by the Secretary.
- (f) **PREFERENCE.**—In making or guaranteeing a loan under this section, the Secretary shall give a preference to applicants that have experience in livestock and poultry processing and can quickly scale-up to increase overall processing capacity in the region involved.
- (g) **LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$100,000,000 for each of fiscal years 2023 through 2025.

SEC. 3. NEW AND EXPANDING LIVESTOCK OR MEAT PROCESSING GRANTS.

- (a) **IN GENERAL.**—The Secretary of Agriculture may make grants to—
- (1) expand, diversify, and increase capacity in livestock or poultry processing activities;
 - (2) improve compliance with livestock and poultry processing statutes (including the regulations issued thereunder), such as the Federal Meat Inspection Act (21 U.S.C. 661) and the Poultry Products Inspection Act (21 U.S.C. 454);
 - (3) identify and reduce barriers to entry for new for new livestock and poultry processors; or
 - (4) update, expand, or otherwise improve existing facilities.
- (b) **ELIGIBLE GRANTEES.**—An entity shall be eligible for a grant under this section if the entity is—
- (1) a governmental entity;
 - (2) a public, private, or cooperative organization organized on a for-profit or nonprofit basis; or
 - (3) an Indian tribe on a Federal or State reservation or any other federally recognized Indian tribal group.
- (c) **USE OF FUNDS.**—An entity to which a grant is made under this section may use the grant funds to establish or support new or expanded livestock or poultry processing activity, or other activity which will increase the customer base or revenue returns of livestock and poultry producers, by undertaking project, that—
- (1) identifies and analyzes business opportunities, including feasibility studies as required for creditworthiness;
 - (2) identifies, trains, and provides technical assistance to existing or prospective rural entrepreneurs and managers or processing facilities;
 - (3) provides technical assistance to gain compliance with Federal, State, or local regulations;
 - (4) conducts regional, community, and local economic development planning and coordination, and leadership development; or
 - (5) establishes a center for training, technology, and trade that will provide training to livestock or poultry processing employees.
- (d) **PREFERENCE.**—In awarding grants under this section, the Secretary shall give a preference to applicants that have experience in livestock and poultry processing and can quickly scale-up to increase overall processing capacity in the region involved.
- (e) **LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$20,000,000 for each of fiscal years 2023 through 2025.

BRIEF EXPLANATION

This legislation, as reported out of Committee, authorizes direct and guaranteed loans and grants to help expand livestock and poultry processing capacity and promote interstate and local sales of processed livestock and poultry products by financing improvements to facilities so that they meet relevant local, state, and Federal regulations. The legislation would authorize \$100 million for each fiscal year from 2023 to 2025 for loans and loan guarantees, and \$20 million per fiscal year for the same time period for grants.

PURPOSE AND NEED FOR LEGISLATION

A number of black swan events over the past few years, including the pandemic, a fire at a Tyson facility in Holcomb, Kansas, and a cyberattack against JBS, have underscored the importance of a resilient and diversified processing sector for both producers and consumers. The Butcher Block Act would support the establishment or enhancement of small- and medium-sized processing facilities, ultimately increasing nationwide processing capacity.

According to a recent Rabobank report, an additional daily packing capacity of 5,000 to 6,000 head of fed cattle could restore the historical balance of fed cattle supplies and packing capacity. Unfortunately, there are critical roadblocks to new and expanding market entrants. Between labor availability and meeting necessary worker and food safety requirements, industry sources estimate that a new plant could cost \$100–\$120 million for every 1,000 head of daily capacity. USDA has sought to address this issue by providing funds to support small- and medium-sized processors, and this legislation would further support those efforts.

H.R. 4140, BUTCHER BLOCK ACT

SECTION-BY-SECTION

Section 1. Short title

Section 1 provides the short title of the bill as the “Butcher Block Act.”

Sec. 2. Assistance for new and expanded livestock or meat processors

Section 2 allows the Secretary of Agriculture to make direct or guaranteed loans to eligible recipients for the purpose of increasing capacity of livestock and poultry processing, facilitating economic opportunity for livestock and poultry producers through processing activities, and diversifying processing ownership; increasing the customer base of livestock and poultry producers through investment in processing capacity; improving livestock and poultry processing capacity or employment; or promoting the interstate trade and local sale of processed livestock and poultry by financing improvements to meet regulatory standards.

Subsection (b) defines “eligible recipients” as a public, private, or cooperative organization organized on a for-profit or nonprofit basis, an Indian tribe, or an individual. Paragraph (2) requires that any facility constructed or expanded with proceeds from the loan be in a rural area unless the facility is designed to increase the customer base or revenue returns of livestock and poultry producers within a 300-mile range by increasing processing capacity in the region and the principal amount of the loan does not exceed \$50,000,000. The paragraph also clarifies “rural area” has the meaning given in section 343(a)(13) of the Consolidated Farm and Rural Development Act. Paragraph (3) requires that loans must not be more than \$50,000,000 and prohibits loans from being made or guaranteed to an entity that has any ownership by a foreign entity or an entity that currently processes over five percent of the daily harvest of any species.

Subsection (c) limits the amount of a loan for a cooperative organization to not more than \$100,000,000, but to be eligible for loans of more than \$50,000,000, the loan must be used to significantly increase processing in regions with insufficient processing capacity as determined by the Secretary. When determining eligibility of a cooperative organization for a loan, the Secretary may consider the market value of a brand name, patent, or trademark of the cooperative. The Secretary may take accounts receivable as security for the obligations entered into in connection with a loan made or guaranteed under this section, and a borrower may use accounts receivable as collateral to secure such a loan. The subsection also allows the Secretary to make or guarantee a loan to an individual farmer or rancher for the purpose of purchasing capital stock in a producer-owned cooperative. The producer-owned cooperative may contract for services to process agricultural commodities or value-added agricultural products during the first 5 years that the cooperative begins operations. The farmer or rancher receiving the loan must provide the Secretary the same financial information as is generally required by commercial agricultural lenders.

Subsection (d) allows an entity to use 25 percent of a loan to refinance a loan made if certain requirements are met.

Subsection (e) allows the Secretary to require any appraisal made in connection with a loan be conducted by a specialized appraiser.

Subsection (f) requires the Secretary to give a preference to applicants that have experience in livestock or poultry processing and can quickly increase processing capacity.

Subsection (g) authorizes \$100,000,000 in appropriations for each of Fiscal Years 2023 through 2025.

Sec. 3. New and expanding livestock or meat processing grants

Section 3 allows the Secretary to make grants to eligible entities to expand, diversify, and increase capacity in livestock or poultry processing activities; improve compliance with livestock and poultry processing statutes; identify and reduce barriers to entry for new livestock and poultry processors; or improve existing facilities.

Subsection (b) defines eligible grantee as a government entity, a public, private, or cooperative organization organized on a for-profit or nonprofit basis, or an Indian Tribe.

Subsection (c) allows eligible grantees to use grant funds to establish or support new or expanded processing activity by undertaking projects that analyze business opportunities; provide technical assistance to existing or prospective rural entrepreneurs and managers or processing facilities; provide technical assistance to gain compliance with Federal, State, or local regulations; conduct economic development planning and coordination, and leadership development; or establish a center for training, technology, and trade that will provide training to livestock or poultry processing employees.

Subsection (d) requires the Secretary to give preference for grant applicants that have experience in livestock and poultry processing and can quickly scale-up to increase overall processing capacity in the region.

Subsection (e) authorizes \$20,000,000 in appropriations for each of Fiscal Years 2023 through 2025.

COMMITTEE CONSIDERATION

I. Hearings

The Committee on Agriculture has held three 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 entitled *State of the Beef Supply Chain: Shocks, Recovery, and Rebuilding* where some of the following witnesses testified on matters addressed in H.R. 4140:

- 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 impacts of increased capacity for livestock processing as well as the challenges faced by new and expanding facilities.

On October 7, 2021, the full Committee held a hearing entitled *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. 4140:

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 including how increasing processing capacity could improve the negotiating position of producers when they market their cattle.

On April 27, 2022, the full Committee held a hearing entitled *An Examination of Price Discrepancies, Transparency, and Alleged Unfair Practices in Cattle Markets* where the following witnesses testified on matters addressed in H.R. 4140:

Panel 1:

- Mr. Coy Young, cow/calf producer, Blythedale, MO
- Mr. Gilles Stockton, cow/calf producer, on behalf of National Plains Research Council, Grass Range, MT
- Mr. Don Schiefelbein, cattle producer and President, National Cattlemen's Beef Association, Kimball, MN

Panel 2:

- Mr. David MacLennan, Chief Executive Officer, Cargill, Inc., Wayzata, MN
- Mr. Tim Schellpeper, Chief Executive Officer, JBS USA Holdings, Inc., Greeley, CO
- Mr. Tim Klein, Chief Executive Officer, National Beef Packing Company, LLC, Kansas City, MO
- Mr. Donnie King, Chief Executive Officer, Tyson Foods, Springdale, AR

Witnesses discussed their views on concentration and competition in the livestock industry including the potential benefits of increased processing capacity.

II. Full Committee

On May 17, 2022, the Committee on Agriculture met pursuant to notice, with a quorum present to consider H.R. 4140, To make improvements with respect to the pricing of cattle in the United States, and for other purposes. 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. 4140 was placed before the Committee for consideration, a first reading of the bill was waived.

Chairman Scott recognized Mr. Johnson, the bill's sponsor, to speak on the bill. Discussion occurred. Chairman Scott made a motion for unanimous consent to discharge H.R. 4140 from the Subcommittee on Commodity Exchanges, Energy, and Credit. The motion was adopted without objection. Chairman Scott made a motion for unanimous consent to adopt and favorably report H.R. 4140 to the House. The motion for unanimous consent was adopted without objection.

The Committee recessed until May 18, 2022. At the conclusion of the meeting, Chairman Scott advised Members that pursuant to the Rules of the House of Representatives, Members had until May 20, 2022, at 12:00 p.m. 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 Members and adjourned the meeting.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the House of Representatives, H.R. 4140 was reported by unanimous consent with a majority quorum present.

COMMITTEE OVERSIGHT FINDINGS

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 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 revenue effects or 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 authorize direct and guaranteed loans and grants to finance improvements to livestock and poultry processing facilities to increase capacity.

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.