

**Calendar No. 296**

106TH CONGRESS  
1ST SESSION

**S. 1672**

**[Report No. 106-168]**

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**A BILL**

To amend the Agricultural Marketing Act of 1946 to establish a program of mandatory market reporting for certain meat packers regarding the prices, quantities, and terms of sale for the procurement of cattle, swine, lambs, and products of such livestock, to improve the collection of information regarding the marketing of cattle, swine, lambs, and products of such livestock, and for other purposes.

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SEPTEMBER 30, 1999

Read twice and placed on the calendar

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**IN THE SENATE OF THE UNITED STATES**

SEPTEMBER 30, 1999

Mr. LUGAR, from the Committee on Agriculture, Nutrition, and Forestry, reported the following original bill; which was read twice and placed on the calendar

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1        *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4        (a) IN GENERAL.—This Act may be cited as the  
 5 “Livestock Mandatory Reporting Act of 1999”.

6        (b) TABLE OF CONTENTS.—The table of contents of  
 7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—LIVESTOCK MANDATORY REPORTING

Sec. 101. Livestock mandatory reporting.

“Subtitle B—Livestock Mandatory Reporting

“CHAPTER 1—PURPOSE; DEFINITIONS

“Sec. 211. Purpose.

“Sec. 212. Definitions.

“CHAPTER 2—CATTLE REPORTING

“Sec. 221. Definitions.

“Sec. 222. Mandatory reporting for live cattle.

“Sec. 223. Mandatory packer reporting of boxed beef sales.

“CHAPTER 3—SWINE REPORTING

“Sec. 231. Definitions.

“Sec. 232. Mandatory reporting for swine.

“CHAPTER 4—LAMB REPORTING

“Sec. 241. Mandatory reporting for lambs.

“CHAPTER 5—ADMINISTRATION

“Sec. 251. General provisions.

“Sec. 252. Unlawful acts.

“Sec. 253. Enforcement.

“Sec. 254. Fees.

“Sec. 255. Recordkeeping.

“Sec. 256. Voluntary reporting.

“Sec. 257. Publication of information on retail purchase prices for rep-  
 resentative meat products.

“Sec. 258. Suspension authority regarding specific terms of price reporting  
 requirements.

“Sec. 259. Federal preemption.

Sec. 102. Unjust disqualification.

Sec. 103. Conforming amendments.

## TITLE II—RELATED BEEF REPORTING PROVISIONS

- Sec. 201. Beef export reporting.  
 Sec. 202. Export certificates for meat and meat food products.  
 Sec. 203. Imports of beef, beef variety meats, and cattle.  
 Sec. 204. Authorization of appropriations.

## TITLE III—RELATED SWINE REPORTING PROVISIONS

- Sec. 301. Improvement of Hogs and Pigs Inventory Report.  
 Sec. 302. Barrow and gilt slaughter.  
 Sec. 303. Average trim loss correlation study and report.  
 Sec. 304. Swine packer marketing contracts.  
 Sec. 305. Authorization of appropriations.

## TITLE IV—IMPLEMENTATION

- Sec. 401. Regulations.  
 Sec. 402. Termination of authority.

1                   **TITLE I—LIVESTOCK**  
 2                   **MANDATORY REPORTING**

3 **SEC. 101. LIVESTOCK MANDATORY REPORTING.**

4           The Agricultural Marketing Act of 1946 (7 U.S.C.  
 5 1621 et seq.) is amended—

6                   (1) by inserting before section 202 (7 U.S.C.  
 7 1621) the following:

8           **“Subtitle A—General Provisions”;**

9           and

10                   (2) by adding at the end the following:

11           **“Subtitle B—Livestock Mandatory**  
 12                   **Reporting**

13           **“CHAPTER 1—PURPOSE; DEFINITIONS**

14 **“SEC. 211. PURPOSE.**

15           “The purpose of this subtitle is to establish a pro-  
 16 gram of information regarding the marketing of cattle,  
 17 swine, lambs, and products of such livestock that—

1           “(1) provides information that can be readily  
2 understood by producers, packers, and other market  
3 participants, including information with respect to  
4 the pricing, contracting for purchase, and supply  
5 and demand conditions for livestock, livestock pro-  
6 duction, and livestock products;

7           “(2) improves the price and supply reporting  
8 services of the Department of Agriculture; and

9           “(3) encourages competition in the marketplace  
10 for livestock and livestock products.

11 **“SEC. 212. DEFINITIONS.**

12           “In this subtitle:

13           “(1) **BASE PRICE.**—The term ‘base price’  
14 means the price paid for livestock, delivered at the  
15 packing plant, before application of any premiums or  
16 discounts, expressed in dollars per hundred pounds  
17 of carcass weight.

18           “(2) **BASIS LEVEL.**—The term ‘basis level’  
19 means the agreed-on adjustment to a future price to  
20 establish the final price paid for livestock.

21           “(3) **CURRENT SLAUGHTER WEEK.**—The term  
22 ‘current slaughter week’ means the period beginning  
23 Monday, and ending Sunday, of the week in which  
24 a reporting day occurs.

1           “(4) F.O.B.—The term ‘F.O.B.’ means free on  
2 board, regardless of the mode of transportation, at  
3 the point of direct shipment by the seller to the  
4 buyer.

5           “(5) LIVESTOCK.—The term ‘livestock’ means  
6 cattle, swine, and lambs.

7           “(6) LOT.—The term ‘lot’ means a group of 1  
8 or more livestock that is identified for the purpose  
9 of a single transaction between a buyer and a seller.

10           “(7) MARKETING.—The term ‘marketing’  
11 means the sale or other disposition of livestock, live-  
12 stock products, or meat or meat food products in  
13 commerce.

14           “(8) NEGOTIATED PURCHASE.—The term ‘ne-  
15 gotiated purchase’ means a cash or spot market pur-  
16 chase by a packer of livestock from a producer under  
17 which—

18           “(A) the base price for the livestock is de-  
19 termined by seller-buyer interaction and agree-  
20 ment on a day; and

21           “(B) the livestock are scheduled for deliv-  
22 ery to the packer not later than 14 days after  
23 the date on which the livestock are committed  
24 to the packer.

1           “(9) NEGOTIATED SALE.—The term ‘negotiated  
2 sale’ means a cash or spot market sale by a pro-  
3 ducer of livestock to a packer under which—

4           “(A) the base price for the livestock is de-  
5 termined by seller-buyer interaction and agree-  
6 ment on a day; and

7           “(B) the livestock are scheduled for deliv-  
8 ery to the packer not later than 14 days after  
9 the date on which the livestock are committed  
10 to the packer.

11           “(10) PRIOR SLAUGHTER WEEK.—The term  
12 ‘prior slaughter week’ means the Monday through  
13 Sunday prior to a reporting day.

14           “(11) PRODUCER.—The term ‘producer’ means  
15 any person engaged in the business of selling live-  
16 stock to a packer for slaughter (including the sale of  
17 livestock from a packer to another packer).

18           “(12) REPORTING DAY.—The term ‘reporting  
19 day’ means a day on which—

20           “(A) a packer conducts business regarding  
21 livestock committed to the packer, or livestock  
22 purchased, sold, or slaughtered by the packer;

23           “(B) the Secretary is required to make in-  
24 formation concerning the business described in  
25 subparagraph (A) available to the public; and

1           “(C) the Department of Agriculture is  
2           open to conduct business.

3           “(13) SECRETARY.—The term ‘Secretary’  
4           means the Secretary of Agriculture.

5           “(14) STATE.—The term ‘State’ means each of  
6           the 50 States.

## 7           **“CHAPTER 2—CATTLE REPORTING**

### 8           **“SEC. 221. DEFINITIONS.**

9           “In this chapter:

10           “(1) CATTLE COMMITTED.—The term ‘cattle  
11           committed’ means cattle that are scheduled to be de-  
12           livered to a packer within the 7-day period beginning  
13           on the date of an agreement to sell the cattle.

14           “(2) CATTLE TYPE.—The term ‘cattle type’  
15           means the following types of cattle purchased for  
16           slaughter:

17           “(A) Fed steers.

18           “(B) Fed heifers.

19           “(C) Fed Holsteins and other fed dairy  
20           steers and heifers.

21           “(D) Cows.

22           “(E) Bulls.

23           “(3) FORMULA MARKETING ARRANGEMENT.—  
24           The term ‘formula marketing arrangement’ means  
25           the advance commitment of cattle for slaughter by



1 any means other than through a negotiated purchase  
2 or a forward contract, using a method for calcu-  
3 lating price in which the price is determined at a fu-  
4 ture date.

5 “(4) FORWARD CONTRACT.—The term ‘forward  
6 contract’ means—

7 “(A) an agreement for the purchase of cat-  
8 tle, executed in advance of slaughter, under  
9 which the base price is established by reference  
10 to—

11 “(i) prices quoted on the Chicago  
12 Mercantile Exchange; or

13 “(ii) other comparable publicly avail-  
14 able prices; or

15 “(B) such other forward contract as the  
16 Secretary determines to be applicable.

17 “(5) PACKER.—The term ‘packer’ means any  
18 person engaged in the business of buying cattle in  
19 commerce for purposes of slaughter, of manufac-  
20 turing or preparing meats or meat food products  
21 from cattle for sale or shipment in commerce, or of  
22 marketing meats or meat food products from cattle  
23 in an unmanufactured form acting as a wholesale  
24 broker, dealer, or distributor in commerce, except  
25 that—

1           “(A) the term includes only a cattle proc-  
2           essing plant that is federally inspected;

3           “(B) for any calendar year, the term in-  
4           cludes only a cattle processing plant that  
5           slaughtered an average of at least 125,000 head  
6           of cattle per year during the immediately pre-  
7           ceding 5 calendar years; and

8           “(C) in the case of a cattle processing  
9           plant that did not slaughter cattle during the  
10          immediately preceding 5 calendar years, the  
11          Secretary shall consider the plant capacity of  
12          the processing plant in determining whether the  
13          processing plant should be considered a packer  
14          under this chapter.

15          “(6) PACKER-OWNED CATTLE.—The term  
16          ‘packer-owned cattle’ means cattle that a packer  
17          owns for at least 14 days immediately before slaugh-  
18          ter.

19          “(7) TERMS OF TRADE.—The term ‘terms of  
20          trade’ includes, with respect to the purchase of cat-  
21          tle for slaughter—

22                 “(A) whether a packer provided any fi-  
23                 nancing agreement or arrangement with regard  
24                 to the cattle;

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

4           “(C) whether the producer is able to uni-  
5           laterally specify the date and time during the  
6           business day of the packer that the cattle are  
7           to be delivered for slaughter; and

8           “(D) the percentage of cattle purchased by  
9           a packer as a negotiated purchase that are de-  
10          livered to the plant for slaughter more than 7  
11          days, but fewer than 14 days, after the earlier  
12          of—

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

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

17          “(8) TYPE OF PURCHASE.—The term ‘type of  
18          purchase’, with respect to cattle, means—

19                   “(A) a negotiated purchase;

20                   “(B) a formula market arrangement; and

21                   “(C) a forward contract.

22          **“SEC. 222. MANDATORY REPORTING FOR LIVE CATTLE.**

23           “(a) ESTABLISHMENT.—The Secretary shall estab-  
24          lish a program of live cattle price information reporting  
25          that will—

1           “(1) provide timely, accurate, and reliable mar-  
2           ket information;

3           “(2) facilitate more informed marketing deci-  
4           sions; and

5           “(3) promote competition in the cattle slaugh-  
6           tering industry.

7           “(b) GENERAL REPORTING PROVISIONS APPLICABLE  
8           TO PACKERS AND THE SECRETARY.—

9           “(1) IN GENERAL.—Whenever the prices or  
10          quantities of cattle are required to be reported or  
11          published under this section, the prices or quantities  
12          shall be categorized so as to clearly delineate—

13                 “(A) the prices or quantities, as applicable,  
14                 of the cattle purchased in the domestic market;  
15                 and

16                 “(B) the prices or quantities, as applicable,  
17                 of imported cattle.

18           “(2) PACKER-OWNED CATTLE.—Information re-  
19          quired under this section for packer-owned cattle  
20          shall include quantity and carcass characteristics,  
21          but not price.

22           “(c) DAILY REPORTING.—

23                 “(1) IN GENERAL.—The corporate officers or  
24                 officially designated representatives of each packer  
25                 processing plant shall report to the Secretary at

1 least twice each reporting day (including once not  
2 later than 10:00 a.m. Central Time and once not  
3 later than 2:00 p.m. Central Time) the following in-  
4 formation for each cattle type:

5 “(A) The prices for cattle (per hundred-  
6 weight) established on that day, categorized  
7 by—

8 “(i) type of purchase;

9 “(ii) the quantity of cattle purchased  
10 on a live weight basis;

11 “(iii) the quantity of cattle purchased  
12 on a dressed weight basis;

13 “(iv) a range of the estimated live  
14 weights of the cattle purchased;

15 “(v) an estimate of the percentage of  
16 the cattle purchased that were of a quality  
17 grade of choice or better; and

18 “(vi) any premiums or discounts asso-  
19 ciated with—

20 “(I) weight, grade, or yield; or

21 “(II) any type of purchase.

22 “(B) The quantity of cattle delivered to  
23 the packer (quoted in numbers of head) on that  
24 day, categorized by—

25 “(i) type of purchase;

1                   “(ii) the quantity of cattle delivered  
2                   on a live weight basis; and

3                   “(iii) the quantity of cattle delivered  
4                   on a dressed weight basis.

5                   “(C) The quantity of cattle committed to  
6                   the packer (quoted in numbers of head) as of  
7                   that day, categorized by—

8                   “(i) type of purchase;

9                   “(ii) the quantity of cattle committed  
10                  on a live weight basis; and

11                  “(iii) the quantity of cattle committed  
12                  on a dressed weight basis.

13                  “(D) The terms of trade regarding the cat-  
14                  tle, as applicable.

15                  “(2) PUBLICATION.—The Secretary shall make  
16                  the information available to the public not less fre-  
17                  quently than 3 times each reporting day.

18                  “(d) WEEKLY REPORTING.—

19                  “(1) IN GENERAL.—The corporate officers or  
20                  officially designated representatives of each packer  
21                  processing plant shall report to the Secretary, on the  
22                  first reporting day of each week, not later than 9:00  
23                  a.m. Central Time, the following information appli-  
24                  cable to the prior slaughter week:

1           “(A) The quantity of cattle purchased  
2 through a forward contract that were slaugh-  
3 tered.

4           “(B) The quantity of cattle delivered under  
5 a formula marketing arrangement that were  
6 slaughtered.

7           “(C) The quantity and carcass characteris-  
8 tics of packer-owned cattle that were slaugh-  
9 tered.

10          “(D) The quantity, basis level, and delivery  
11 month for all cattle purchased through forward  
12 contracts that were agreed to by the parties.

13          “(E) The range and average of intended  
14 premiums and discounts that are expected to be  
15 in effect for the current slaughter week.

16          “(2) FORMULA PURCHASES.—The corporate of-  
17 ficers or officially designated representatives of each  
18 packer processing plant shall report to the Sec-  
19 retary, on the first reporting day of each week, not  
20 later than 9:00 a.m. Central Time, the following in-  
21 formation for cattle purchased through a formula  
22 marketing arrangement and slaughtered during the  
23 prior slaughter week:

24           “(A) The quantity (quoted in both num-  
25 bers of head and hundredweights) of cattle.

1           “(B) The weighted average price paid for  
2           a carcass, including applicable premiums and  
3           discounts.

4           “(C) The range of premiums and discounts  
5           paid.

6           “(D) The weighted average of premiums  
7           and discounts paid.

8           “(E) The range of prices paid.

9           “(F) The aggregate weighted average price  
10          paid for a carcass.

11          “(G) The terms of trade regarding the cat-  
12          tle, as applicable.

13          “(3) PUBLICATION.—The Secretary shall make  
14          available to the public the information obtained  
15          under paragraphs (1) and (2) on the first reporting  
16          day of the current slaughter week, not later than  
17          10:00 a.m. Central Time.

18          “(e) REGIONAL REPORTING OF CATTLE TYPES.—

19                 “(1) IN GENERAL.—The Secretary shall deter-  
20                 mine whether adequate data can be obtained on a  
21                 regional basis for fed Holsteins and other fed dairy  
22                 steers and heifers, cows, and bulls based on the  
23                 number of packers required to report under this sec-  
24                 tion.



1           “(2) REPORT.—Not later than 2 years after the  
2           date of enactment of this subtitle, the Secretary  
3           shall submit to the Committee on Agriculture of the  
4           House of Representatives and the Committee on Ag-  
5           riculture, Nutrition, and Forestry of the Senate a  
6           report on the determination of the Secretary under  
7           paragraph (1).

8   **“SEC. 223. MANDATORY PACKER REPORTING OF BOXED**  
9                           **BEEF SALES.**

10          “(a) DAILY REPORTING.—The corporate officers or  
11          officially designated representatives of each packer proc-  
12          essing plant shall report to the Secretary at least twice  
13          each reporting day (not less than once before, and once  
14          after, 12:00 noon Central Time) information on total  
15          boxed beef sales, including—

16                 “(1) the price for each lot of each negotiated  
17                 boxed beef sale (determined by seller-buyer inter-  
18                 action and agreement), quoted in dollars per hun-  
19                 dredweight (on a F.O.B. plant basis);

20                 “(2) the quantity for each lot of each sale,  
21                 quoted by number of boxes sold; and

22                 “(3) information regarding the characteristics  
23                 of each lot of each sale, including—

1           “(A) the grade of beef (USDA Choice or  
2           better, USDA Select, or ungraded no-roll prod-  
3           uct);

4           “(B) the cut of beef; and

5           “(C) the trim specification.

6           “(b) PUBLICATION.—The Secretary shall make avail-  
7           able to the public the information required to be reported  
8           under subsection (a) not less frequently than twice each  
9           reporting day.

### 10           **“CHAPTER 3—SWINE REPORTING**

#### 11           **“SEC. 231. DEFINITIONS.**

12           “In this chapter:

13           “(1) AFFILIATE.—The term ‘affiliate’, with re-  
14           spect to a packer, means—

15           “(A) a person that directly or indirectly  
16           owns, controls, or holds with power to vote, 5  
17           percent or more of the outstanding voting secu-  
18           rities of the packer;

19           “(B) a person 5 percent or more of whose  
20           outstanding voting securities are directly or in-  
21           directly owned, controlled, or held with power to  
22           vote, by the packer; and

23           “(C) a person that directly or indirectly  
24           controls, or is controlled by or under common  
25           control with, the packer.

1           “(2) APPLICABLE REPORTING PERIOD.—The  
2 term ‘applicable reporting period’ means the period  
3 of time prescribed by the prior day report, the morn-  
4 ing report, and the afternoon report, as required  
5 under section 232(c).

6           “(3) BARROW.—The term ‘barrow’ means a  
7 neutered male swine.

8           “(4) BASE MARKET HOG.—The term ‘base mar-  
9 ket hog’ means a hog for which no discounts are  
10 subtracted from and no premiums are added to the  
11 base price.

12           “(5) BRED FEMALE SWINE.—The term ‘bred  
13 female swine’ means any female swine, whether a  
14 sow or gilt, that has been mated or inseminated and  
15 is assumed, or has been confirmed, to be pregnant.

16           “(6) FORMULA PRICE.—The term ‘formula  
17 price’ means a price determined by a mathematical  
18 formula under which the price established for a  
19 specified market serves as the basis for the formula.

20           “(7) GILT.—The term ‘gilt’ means a young fe-  
21 male swine that has not produced a litter.

22           “(8) HOG CLASS.—The term ‘hog class’ means,  
23 as applicable—

24                   “(A) barrows or gilts;

25                   “(B) sows; or

1                   “(C) boars or stags.

2                   “(9) NONCARCASS MERIT PREMIUM.—The term  
3                   ‘noncarcass merit premium’ means an increase in  
4                   the base price of the swine offered by an individual  
5                   packer or packing plant, based on any factor other  
6                   than the characteristics of the carcass, if the actual  
7                   amount of the premium is known before the sale and  
8                   delivery of the swine.

9                   “(10) OTHER MARKET FORMULA PURCHASE.—

10                   “(A) IN GENERAL.—The term ‘other mar-  
11                   ket formula purchase’ means a purchase of  
12                   swine by a packer in which the pricing mecha-  
13                   nism is a formula price based on any market  
14                   other than the market for swine, pork, or a  
15                   pork product.

16                   “(B) INCLUSION.—The term ‘other market  
17                   formula purchase’ includes a formula purchase  
18                   in a case in which the price formula is based on  
19                   1 or more futures or options contracts.

20                   “(11) OTHER PURCHASE ARRANGEMENT.—The  
21                   term ‘other purchase arrangement’ means a pur-  
22                   chase of swine by a packer that—

23                   “(A) is not a negotiated purchase, swine or  
24                   pork market formula purchase, or other market  
25                   formula purchase; and

1           “(B) does not involve packer-owned swine.

2           “(12) PACKER.—The term ‘packer’ means any  
3 person engaged in the business of buying swine in  
4 commerce for purposes of slaughter, of manufac-  
5 turing or preparing meats or meat food products  
6 from swine for sale or shipment in commerce, or of  
7 marketing meats or meat food products from swine  
8 in an unmanufactured form acting as a wholesale  
9 broker, dealer, or distributor in commerce, except  
10 that—

11           “(A) the term includes only a swine proc-  
12 essing plant that is federally inspected;

13           “(B) for any calendar year, the term in-  
14 cludes only a swine processing plant that  
15 slaughtered an average of at least 100,000  
16 swine per year during the immediately pre-  
17 ceding 5 calendar years; and

18           “(C) in the case of a swine processing  
19 plant that did not slaughter swine during the  
20 immediately preceding 5 calendar years, the  
21 Secretary shall consider the plant capacity of  
22 the processing plant in determining whether the  
23 processing plant should be considered a packer  
24 under this chapter.

1           “(13) PACKER-OWNED SWINE.—The term  
2           ‘packer-owned swine’ means swine that a packer (in-  
3           cluding a subsidiary or affiliate of the packer) owns  
4           for at least 14 days immediately before slaughter.

5           “(14) PACKER-SOLD SWINE.—The term ‘pack-  
6           er-sold swine’ means the swine that are—

7                   “(A) owned by a packer (including a sub-  
8                   sidiary or affiliate of the packer) for more than  
9                   14 days immediately before sale for slaughter;  
10                  and

11                   “(B) sold for slaughter to another packer.

12           “(15) PORK.—The term ‘pork’ means the meat  
13           of a porcine animal.

14           “(16) PORK PRODUCT.—The term ‘pork prod-  
15           uct’ means a product or byproduct produced or proc-  
16           essed in whole or in part from pork.

17           “(17) PURCHASE DATA.—The term ‘purchase  
18           data’ means all of the applicable data, including  
19           weight (if purchased live), for all swine purchased  
20           during the applicable reporting period, regardless of  
21           the expected delivery date of the swine, reported  
22           by—

23                   “(A) hog class;

24                   “(B) type of purchase; and

25                   “(C) packer-owned swine.

1           “(18) SLAUGHTER DATA.—The term ‘slaughter  
2 data’ means all of the applicable data for all swine  
3 slaughtered by a packer during the applicable re-  
4 porting period, regardless of when the price of the  
5 swine was negotiated or otherwise determined, re-  
6 ported by—

7                   “(A) hog class;

8                   “(B) type of purchase; and

9                   “(C) packer-owned swine.

10           “(19) SOW.—The term ‘sow’ means an adult fe-  
11 male swine that has produced 1 or more litters.

12           “(20) SWINE.—The term ‘swine’ means a por-  
13 cine animal raised to be a feeder pig, raised for  
14 seedstock, or raised for slaughter.

15           “(21) SWINE OR PORK MARKET FORMULA PUR-  
16 CHASE.—The term ‘swine or pork market formula  
17 purchase’ means a purchase of swine by a packer in  
18 which the pricing mechanism is a formula price  
19 based on a market for swine, pork, or a pork prod-  
20 uct, other than a future or option for swine, pork,  
21 or a pork product.

22           “(22) TYPE OF PURCHASE.—The term ‘type of  
23 purchase’, with respect to swine, means—

24                   “(A) a negotiated purchase;

25                   “(B) other market formula purchase;

1                   “(C) a swine or pork market formula pur-  
2                   chase; and

3                   “(D) other purchase arrangement.

4 **“SEC. 232. MANDATORY REPORTING FOR SWINE.**

5           “(a) ESTABLISHMENT.—The Secretary shall estab-  
6           lish a program of swine price information reporting that  
7           will—

8                   “(1) provide timely, accurate, and reliable mar-  
9                   ket information;

10                   “(2) facilitate more informed marketing deci-  
11                   sions; and

12                   “(3) promote competition in the swine slaugh-  
13                   tering industry.

14           “(b) GENERAL REPORTING PROVISIONS APPLICABLE  
15           TO PACKERS AND THE SECRETARY.—

16                   “(1) IN GENERAL.—The Secretary shall estab-  
17                   lish and implement a price reporting program in ac-  
18                   cordance with this section that includes the report-  
19                   ing and publication of information required under  
20                   this section.

21                   “(2) PACKER-OWNED SWINE.—Information re-  
22                   quired under this section for packer-owned swine  
23                   shall include quantity and carcass characteristics,  
24                   but not price.



1           “(3) PACKER-SOLD SWINE.—If information re-  
2           garding the type of purchase is required under this  
3           section, the information shall be reported according  
4           to the numbers and percentages of each type of pur-  
5           chase comprising—

6                   “(A) packer-sold swine; and

7                   “(B) all other swine.

8           “(4) ADDITIONAL INFORMATION.—

9                   “(A) REVIEW.—The Secretary shall review  
10           the information required to be reported by  
11           packers under this section at least once every 2  
12           years.

13                   “(B) OUTDATED INFORMATION.—After  
14           public notice and an opportunity for comment,  
15           subject to subparagraph (C), the Secretary shall  
16           promulgate regulations that specify additional  
17           information that shall be reported under this  
18           section if the Secretary determines under the  
19           review under subparagraph (A) that—

20                   “(i) information that is currently re-  
21           quired no longer accurately reflects the  
22           methods by which swine are valued and  
23           priced by packers; or

24                   “(ii) packers that slaughter a signifi-  
25           cant majority of the swine produced in the

1 United States no longer use backfat or  
2 lean percentage factors as indicators of  
3 price.

4 “(C) LIMITATION.—Under subparagraph  
5 (B), the Secretary may not require packers to  
6 provide any new or additional information  
7 that—

8 “(i) is not generally available or main-  
9 tained by packers; or

10 “(ii) would be otherwise unduly bur-  
11 densome to provide.

12 “(c) DAILY REPORTING.—

13 “(1) PRIOR DAY REPORT.—

14 “(A) IN GENERAL.—The corporate officers  
15 or officially designated representatives of each  
16 packer processing plant shall report to the Sec-  
17 retary, for each business day of the packer,  
18 such information as the Secretary determines  
19 necessary and appropriate to—

20 “(i) comply with the publication re-  
21 quirements of this section; and

22 “(ii) provide for the timely access to  
23 the information by producers, packers, and  
24 other market participants.

1           “(B) REPORTING DEADLINE AND PLANTS  
2           REQUIRED TO REPORT.—Not later than 7:00  
3           a.m. Central Time on each reporting day, a  
4           packer required to report under subparagraph  
5           (A) shall report information regarding all swine  
6           purchased, priced, or slaughtered during the  
7           prior business day of the packer.

8           “(C) INFORMATION REQUIRED.—The in-  
9           formation from the prior business day of a  
10          packer required under this paragraph shall  
11          include—

12               “(i) all purchase data, including—

13                       “(I) the total number of—

14                               “(aa) swine purchased; and

15                               “(bb) swine scheduled for  
16                               delivery; and

17                       “(II) the base price and purchase  
18                       data for slaughtered swine for which a  
19                       price has been established;

20               “(ii) all slaughter data for the total  
21          number of swine slaughtered, including—

22                       “(I) information concerning the  
23                       net price, which shall be equal to the  
24                       total amount paid by a packer to a  
25                       producer (including all premiums, less

1 all discounts) per hundred pounds of  
2 carcass weight of swine delivered at  
3 the plant—

4 “(aa) including any sum de-  
5 ducted from the price per hun-  
6 dredweight paid to a producer  
7 that reflects the repayment of a  
8 balance owed by the producer to  
9 the packer or the accumulation of  
10 a balance to later be repaid by  
11 the packer to the producer; and

12 “(bb) excluding any sum  
13 earlier paid to a producer that  
14 must later be repaid to the pack-  
15 er;

16 “(II) information concerning the  
17 average net price, which shall be equal  
18 to the quotient (stated per hundred  
19 pounds of carcass weight of swine) ob-  
20 tained by dividing—

21 “(aa) the total amount paid  
22 for the swine slaughtered at a  
23 packing plant during the applica-  
24 ble reporting period, including all  
25 premiums and discounts, and in-

1 including any sum deducted from  
2 the price per hundredweight paid  
3 to a producer that reflects the re-  
4 payment of a balance owed by  
5 the producer to the packer, or  
6 the accumulation of a balance to  
7 later be repaid by the packer to  
8 the producer, less all discounts;  
9 by

10 “(bb) the total carcass  
11 weight (in hundred pound incre-  
12 ments) of the swine;

13 “(III) information concerning the  
14 lowest net price, which shall be equal  
15 to the lowest net price paid for a sin-  
16 gle lot or a group of swine slaughtered  
17 at a packing plant during the applica-  
18 ble reporting period per hundred  
19 pounds of carcass weight of swine;

20 “(IV) information concerning the  
21 highest net price, which shall be equal  
22 to the highest net price paid for a sin-  
23 gle lot or group of swine slaughtered  
24 at a packing plant during the applica-

1 ble reporting period per hundred  
2 pounds of carcass weight of swine;

3 “(V) the average carcass weight,  
4 which shall be equal to the quotient  
5 obtained by dividing—

6 “(aa) the total carcass  
7 weight of the swine slaughtered  
8 at the packing plant during the  
9 applicable reporting period; by

10 “(bb) the number of the  
11 swine described in item (aa);

12 adjusted for special slaughter situa-  
13 tions (such as skinning or foot re-  
14 moval), as the Secretary determines  
15 necessary to render comparable car-  
16 cass weights;

17 “(VI) the average sort loss,  
18 which shall be equal to the average  
19 discount (in dollars per hundred  
20 pounds carcass weight) for swine  
21 slaughtered during the applicable re-  
22 porting period, resulting from the fact  
23 that the swine did not fall within the  
24 individual packer’s established carcass  
25 weight or lot variation range;

1                   “(VII) the average backfat, which  
2 shall be equal to the average of the  
3 backfat thickness (in inches) meas-  
4 ured between the third and fourth  
5 from the last ribs, 7 centimeters from  
6 the carcass split (or adjusted from the  
7 individual packer’s measurement to  
8 that reference point using an adjust-  
9 ment made by the Secretary) of the  
10 swine slaughtered during the applica-  
11 ble reporting period;

12                   “(VIII) the average lean percent-  
13 age, which shall be equal to the aver-  
14 age percentage of the carcass weight  
15 comprised of lean meat for the swine  
16 slaughtered during the applicable re-  
17 porting period, except that when a  
18 packer is required to report the aver-  
19 age lean percentage under this sub-  
20 clause, the packer shall make avail-  
21 able to the Secretary the underlying  
22 data, applicable methodology and for-  
23 mulae, and supporting materials used  
24 to determine the average lean percent-  
25 age, which the Secretary may convert

1 to the carcass measurements or lean  
2 percentage of the swine of the indi-  
3 vidual packer to correlate to a com-  
4 mon percent lean measurement; and

5 “(IX) the total slaughter quan-  
6 tity, which shall be equal to the total  
7 number of swine slaughtered during  
8 the applicable reporting period, in-  
9 cluding all types of purchases and  
10 packer-owned swine; and

11 “(iii) packer purchase commitments,  
12 which shall be equal to the number of  
13 swine scheduled for delivery to a packer for  
14 slaughter for each of the next 14 calendar  
15 days.

16 “(D) PUBLICATION.—The Secretary shall  
17 publish the information obtained under this  
18 paragraph in a prior day report not later than  
19 8:00 a.m. Central Time on the reporting day on  
20 which the information is received from the  
21 packer.

22 “(2) MORNING REPORT.—

23 “(A) IN GENERAL.—The corporate officers  
24 or officially designated representatives of each  
25 packer processing plant shall report to the Sec-



1           retary not later than 10:00 a.m. Central Time  
2           each reporting day—

3                   “(i) the packer’s best estimate of the  
4                   total number of swine, and packer-owned  
5                   swine, expected to be purchased through-  
6                   out the reporting day through each type of  
7                   purchase;

8                   “(ii) the total number of swine, and  
9                   packer-owned swine, purchased up to that  
10                  time of the reporting day through each  
11                  type of purchase;

12                  “(iii) the base price paid for all base  
13                  market hogs purchased up to that time of  
14                  the reporting day through negotiated pur-  
15                  chases; and

16                  “(iv) the base price paid for all base  
17                  market hogs purchased through each type  
18                  of purchase other than negotiated purchase  
19                  up to that time of the reporting day, un-  
20                  less such information is unavailable due to  
21                  pricing that is determined on a delayed  
22                  basis.

23                  “(B) PUBLICATION.—The Secretary shall  
24                  publish the information obtained under this  
25                  paragraph in the morning report as soon as

1 practicable, but not later than 11:00 a.m. Cen-  
2 tral Time, on each reporting day.

3 “(3) AFTERNOON REPORT.—

4 “(A) IN GENERAL.—The corporate officers  
5 or officially designated representatives of each  
6 packer processing plant shall report to the Sec-  
7 retary not later than 2:00 p.m. Central Time  
8 each reporting day—

9 “(i) the packer’s best estimate of the  
10 total number of swine, and packer-owned  
11 swine, expected to be purchased through-  
12 out the reporting day through each type of  
13 purchase;

14 “(ii) the total number of swine, and  
15 packer-owned swine, purchased up to that  
16 time of the reporting day through each  
17 type of purchase;

18 “(iii) the base price paid for all base  
19 market hogs purchased up to that time of  
20 the reporting day through negotiated pur-  
21 chases; and

22 “(iv) the base price paid for all base  
23 market hogs purchased up to that time of  
24 the reporting day through each type of  
25 purchase other than negotiated purchase,

1           unless such information is unavailable due  
2           to pricing that is determined on a delayed  
3           basis.

4           “(B) PUBLICATION.—The Secretary shall  
5           publish the information obtained under this  
6           paragraph in the afternoon report as soon as  
7           practicable, but not later than 3:00 p.m. Cen-  
8           tral Time, on each reporting day.

9           “(d) WEEKLY NONCARCASS MERIT PREMIUM RE-  
10          PORT.—

11           “(1) IN GENERAL.—Not later than 4:00 p.m.  
12          Central Time on the first reporting day of each  
13          week, the corporate officers or officially designated  
14          representatives of each packer processing plant shall  
15          report to the Secretary a noncarcass merit premium  
16          report that lists—

17           “(A) each category of standard noncarcass  
18          merit premiums used by the packer in the prior  
19          slaughter week; and

20           “(B) the amount (in dollars per hundred  
21          pounds of carcass weight) paid to producers by  
22          the packer, by category.

23           “(2) PREMIUM LIST.—A packer shall maintain  
24          and make available to a producer, on request, a cur-  
25          rent listing of the dollar values (per hundred pounds

1 of carcass weight) of each noncarcass merit premium  
2 used by the packer during the current or the prior  
3 slaughter week.

4 “(3) AVAILABILITY.—A packer shall not be re-  
5 quired to pay a listed noncarcass merit premium to  
6 a producer that meets the requirements for the pre-  
7 mium if the need for swine in a given category is  
8 filled at a particular point in time.

9 “(4) PUBLICATION.—The Secretary shall pub-  
10 lish the information obtained under this subsection  
11 as soon as practicable, but not later than 5:00 p.m.  
12 Central Time, on the first reporting day of each  
13 week.

#### 14 **“CHAPTER 4—LAMB REPORTING**

##### 15 **“SEC. 241. MANDATORY REPORTING FOR LAMBS.**

16 “(a) ESTABLISHMENT.—The Secretary may establish  
17 a program of mandatory lamb price information reporting  
18 that will—

19 “(1) provide timely, accurate, and reliable mar-  
20 ket information;

21 “(2) facilitate more informed marketing deci-  
22 sions; and

23 “(3) promote competition in the lamb slaugh-  
24 tering industry.

1       “(b) NOTICE AND COMMENT.—If the Secretary es-  
 2       tablishes a mandatory price reporting program under sub-  
 3       section (a), the Secretary shall provide an opportunity for  
 4       comment on proposed regulations to establish the program  
 5       during the 30-day period beginning on the date of the pub-  
 6       lication of the proposed regulations.

## 7           **“CHAPTER 5—ADMINISTRATION**

### 8       **“SEC. 251. GENERAL PROVISIONS.**

9       “(a) CONFIDENTIALITY.—The Secretary shall make  
 10       available to the public information, statistics, and docu-  
 11       ments obtained from, or submitted by, packers, retail enti-  
 12       ties, and other persons under this subtitle in a manner  
 13       that ensures that confidentiality is preserved regarding—

14               “(1) the identity of persons, including parties to  
 15       a contract; and

16               “(2) proprietary business information.

17       “(b) DISCLOSURE BY FEDERAL GOVERNMENT EM-  
 18       PLOYEES.—

19               “(1) IN GENERAL.—Subject to paragraph (2),  
 20       no officer, employee, or agent of the United States  
 21       shall, without the consent of the packer or other per-  
 22       son concerned, divulge or make known in any man-  
 23       ner, any facts or information regarding the business  
 24       of the packer or other person that was acquired  
 25       through reporting required under this subtitle.

1           “(2) EXCEPTIONS.—Information obtained by  
2 the Secretary under this subtitle may be disclosed—

3           “(A) to agents or employees of the Depart-  
4 ment of Agriculture in the course of their offi-  
5 cial duties under this subtitle;

6           “(B) as directed by the Secretary or the  
7 Attorney General, for enforcement purposes; or

8           “(C) by a court of competent jurisdiction.

9           “(3) DISCLOSURE UNDER FREEDOM OF INFOR-  
10 MATION ACT.—Notwithstanding any other provision  
11 of law, no facts or information obtained under this  
12 subtitle shall be disclosed in accordance with section  
13 552 of title 5, United States Code.

14          “(c) REPORTING BY PACKERS.—A packer shall re-  
15 port all information required under this subtitle on an in-  
16 dividual lot basis.

17          “(d) REGIONAL REPORTING AND AGGREGATION.—  
18 The Secretary shall make information obtained under this  
19 subtitle available to the public only in a manner that—

20           “(1) ensures that the information is published  
21 on a national and a regional or statewide basis as  
22 the Secretary determines to be appropriate;

23           “(2) ensures that the identity of a reporting  
24 person is not disclosed; and

1           “(3) conforms to aggregation guidelines estab-  
2           lished by the Secretary.

3           “(e) ADJUSTMENTS.—Prior to the publication of any  
4 information required under this subtitle, the Secretary  
5 may make reasonable adjustments in information reported  
6 by packers to reflect price aberrations or other unusual  
7 or unique occurrences that the Secretary determines would  
8 distort the published information to the detriment of pro-  
9 ducers, packers, or other market participants.

10          “(f) VERIFICATION.—The Secretary shall take such  
11 actions as the Secretary considers necessary to verify the  
12 accuracy of the information submitted or reported under  
13 chapter 2, 3, or 4.

14          “(g) ELECTRONIC REPORTING AND PUBLISHING.—  
15 The Secretary shall, to the maximum extent practicable,  
16 provide for the reporting and publishing of the information  
17 required under this subtitle by electronic means.

18          “(h) REPORTING OF ACTIVITIES ON WEEKENDS AND  
19 HOLIDAYS.—

20                 “(1) IN GENERAL.—Livestock committed to a  
21 packer, or purchased, sold, or slaughtered by a pack-  
22 er, on a weekend day or holiday shall be reported by  
23 the packer to the Secretary (to the extent required  
24 under this subtitle), and reported by the Secretary,  
25 on the immediately following reporting day.

1           “(2) LIMITATION ON REPORTING BY PACK-  
 2           ERS.—A packer shall not be required to report ac-  
 3           tions under paragraph (1) more than once on the  
 4           immediately following reporting day.

5           “(i) EFFECT ON OTHER LAWS.—Nothing in this sub-  
 6           title, the Livestock Mandatory Reporting Act of 1999, or  
 7           amendments made by that Act restricts or modifies the  
 8           authority of the Secretary to—

9           “(1) administer or enforce the Packers and  
 10          Stockyards Act, 1921 (7 U.S.C. 181 et seq.);

11          “(2) administer, enforce, or collect voluntary re-  
 12          ports under this title or any other law; or

13          “(3) access documentary evidence as provided  
 14          under sections 9 and 10 of the Federal Trade Com-  
 15          mission Act (15 U.S.C. 49, 50).

16 **“SEC. 252. UNLAWFUL ACTS.**

17          “‘It shall be unlawful and a violation of this subtitle  
 18          for any packer or other person subject to this subtitle (in  
 19          the submission of information required under chapter 2,  
 20          3, or 4, as determined by the Secretary) to willfully—

21          “(1) fail or refuse to provide, or delay the time-  
 22          ly reporting of, accurate information to the Sec-  
 23          retary (including estimated information);

24          “(2) solicit or request that a packer, the buyer  
 25          or seller of livestock or livestock products, or any



1 other person fail to provide, as a condition of any  
2 transaction, accurate or timely information required  
3 under this subtitle;

4 “(3) fail or refuse to comply with this subtitle;  
5 or

6 “(4) report estimated information in any report  
7 required under this subtitle in a manner that dem-  
8 onstrates a pattern of significant variance in accu-  
9 racy when compared to the actual information that  
10 is reported for the same reporting period, or as de-  
11 termined by any audit, oversight, or other  
12 verification procedures of the Secretary.

13 **“SEC. 253. ENFORCEMENT.**

14 “(a) CIVIL PENALTY.—

15 “(1) IN GENERAL.—Any packer or other person  
16 that violates this subtitle may be assessed a civil  
17 penalty by the Secretary of not more than \$10,000  
18 for each violation.

19 “(2) CONTINUING VIOLATION.—Each day dur-  
20 ing which a violation continues shall be considered to  
21 be a separate violation.

22 “(3) FACTORS.—In determining the amount of  
23 a civil penalty to be assessed under paragraph (1),  
24 the Secretary shall consider the gravity of the of-  
25 fense, the size of the business involved, and the ef-

1       fect of the penalty on the ability of the person that  
2       has committed the violation to continue in business.

3           “(4) MULTIPLE VIOLATIONS.—In determining  
4       whether to assess a civil penalty under paragraph  
5       (1), the Secretary shall consider whether a packer or  
6       other person subject to this subtitle has engaged in  
7       a pattern of errors, delays, or omissions in violation  
8       of this subtitle.

9           “(b) CEASE AND DESIST.—In addition to, or in lieu  
10      of, a civil penalty under subsection (a), the Secretary may  
11      issue an order to cease and desist from continuing any  
12      violation.

13          “(c) NOTICE AND HEARING.—No penalty shall be as-  
14      sessed, or cease and desist order issued, by the Secretary  
15      under this section unless the person against which the  
16      penalty is assessed or to which the order is issued is given  
17      notice and opportunity for a hearing before the Secretary  
18      with respect to the violation.

19          “(d) FINALITY AND JUDICIAL REVIEW.—

20           “(1) IN GENERAL.—The order of the Secretary  
21      assessing a civil penalty or issuing a cease and desist  
22      order under this section shall be final and conclusive  
23      unless the affected person files an appeal of the  
24      order of the Secretary in United States district court

1 not later than 30 days after the date of the issuance  
2 of the order.

3 “(2) STANDARD OF REVIEW.—A finding of the  
4 Secretary under this section shall be set aside only  
5 if the finding is found to be unsupported by substan-  
6 tial evidence.

7 “(e) ENFORCEMENT.—

8 “(1) IN GENERAL.—If, after the lapse of the  
9 period allowed for appeal or after the affirmance of  
10 a penalty assessed under this section, the person  
11 against which the civil penalty is assessed fails to  
12 pay the penalty, the Secretary may refer the matter  
13 to the Attorney General who may recover the pen-  
14 alty by an action in United States district court.

15 “(2) FINALITY.—In the action, the final order  
16 of the Secretary shall not be subject to review.

17 “(f) INJUNCTION OR RESTRAINING ORDER.—

18 “(1) IN GENERAL.—If the Secretary has reason  
19 to believe that any person subject to this subtitle has  
20 failed or refused to provide the Secretary informa-  
21 tion required to be reported pursuant to this sub-  
22 title, and that it would be in the public interest to  
23 enjoin the person from further failure to comply  
24 with the reporting requirements, the Secretary may  
25 notify the Attorney General of the failure.

1           “(2) ATTORNEY GENERAL.—The Attorney Gen-  
2           eral may apply to the appropriate district court of  
3           the United States for a temporary or permanent in-  
4           junction or restraining order.

5           “(3) COURT.—When needed to carry out this  
6           subtitle, the court shall, on a proper showing, issue  
7           a temporary injunction or restraining order without  
8           bond.

9           “(g) FAILURE TO OBEY ORDERS.—

10           “(1) IN GENERAL.—If a person subject to this  
11           subtitle fails to obey a cease and desist or civil pen-  
12           alty order issued under this subsection after the  
13           order has become final and unappealable, or after  
14           the appropriate United States district court has en-  
15           tered a final judgment in favor of the Secretary, the  
16           United States may apply to the appropriate district  
17           court for enforcement of the order.

18           “(2) ENFORCEMENT.—If the court determines  
19           that the order was lawfully made and duly served  
20           and that the person violated the order, the court  
21           shall enforce the order.

22           “(3) CIVIL PENALTY.—If the court finds that  
23           the person violated the cease and desist provisions of  
24           the order, the person shall be subject to a civil pen-  
25           alty of not more than \$10,000 for each offense.

1 **“SEC. 254. FEES.**

2 “The Secretary shall not charge or assess a user fee,  
3 transaction fee, service charge, assessment, reimburse-  
4 ment, or any other fee for the submission or reporting of  
5 information, for the receipt or availability of, or access to,  
6 published reports or information, or for any other activity  
7 required under this subtitle.

8 **“SEC. 255. RECORDKEEPING.**

9 “(a) IN GENERAL.—Subject to subsection (b), each  
10 packer required to report information to the Secretary  
11 under this subtitle shall maintain, and make available to  
12 the Secretary on request, for 2 years—

13 “(1) the original contracts, agreements, receipts  
14 and other records associated with any transaction  
15 relating to the purchase, sale, pricing, transpor-  
16 tation, delivery, weighing, slaughter, or carcass char-  
17 acteristics of all livestock; and

18 “(2) such records or other information as is  
19 necessary or appropriate to verify the accuracy of  
20 the information required to be reported under this  
21 subtitle.

22 “(b) LIMITATIONS.—Under subsection (a)(2), the  
23 Secretary may not require a packer to provide new or ad-  
24 ditional information if—

25 “(1) the information is not generally available  
26 or maintained by packers; or



1       “(b) INFORMATION.—The report published by the  
2 Secretary under subsection (a) shall include—

3           “(1) information on retail prices for each rep-  
4 resentative food product described in subsection (a);  
5 and

6           “(2) information on total sales quantity (in  
7 pounds and dollars) for each representative food  
8 product.

9       “(c) MEAT PRICE SPREADS REPORT.—During the  
10 period ending 2 years after the initial publication of the  
11 report required under subsection (a), the Secretary shall  
12 continue to publish the Meat Price Spreads Report in the  
13 same manner as the Report was published before the date  
14 of enactment of this subtitle.

15       “(d) INFORMATION COLLECTION.—

16           “(1) IN GENERAL.—To ensure the accuracy of  
17 the reports required under subsection (a), the Sec-  
18 retary shall obtain the information for the reports  
19 from 1 or more sources including—

20           “(A) a consistently representative set of re-  
21 tail transactions; and

22           “(B) both prices and sales quantities for  
23 the transactions.

24       “(2) SOURCE OF INFORMATION.—The Sec-  
25 retary may—

1           “(A) obtain the information from retailers  
2           or commercial information sources; and

3           “(B) use valid statistical sampling proce-  
4           dures, if necessary.

5           “(3) ADJUSTMENTS.—In providing information  
6           on retail prices under this section, the Secretary  
7           may make adjustments to take into account dif-  
8           ferences in—

9           “(A) the geographic location of consump-  
10          tion;

11          “(B) the location of the principal source of  
12          supply;

13          “(C) distribution costs; and

14          “(D) such other factors as the Secretary  
15          determines reflect a verifiable comparative retail  
16          price for a representative food product.

17          “(e) ADMINISTRATION.—The Secretary—

18          “(1) shall collect information under this section  
19          only on a voluntary basis; and

20          “(2) shall not impose a penalty on a person for  
21          failure to provide the information or otherwise com-  
22          pel a person to provide the information.



1 **“SEC. 258. SUSPENSION AUTHORITY REGARDING SPECIFIC**  
2 **TERMS OF PRICE REPORTING REQUIRE-**  
3 **MENTS.**

4 “(a) IN GENERAL.—The Secretary may suspend any  
5 requirement of this subtitle if the Secretary determines  
6 that application of the requirement is inconsistent with the  
7 purposes of this subtitle.

8 “(b) SUSPENSION PROCEDURE.—

9 “(1) PERIOD.—A suspension under subsection  
10 (a) shall be for a period of not more than 240 days.

11 “(2) ACTION BY CONGRESS.—If an Act of Con-  
12 gress concerning the requirement that is the subject  
13 of the suspension under subsection (a) is not enacted  
14 by the end of the period of the suspension estab-  
15 lished under paragraph (1), the Secretary shall im-  
16 plement the requirement.

17 **“SEC. 259. FEDERAL PREEMPTION.**

18 “In order to achieve the goals, purposes, and objec-  
19 tives of this title on a nationwide basis and to avoid poten-  
20 tially conflicting State laws that could impede the goals,  
21 purposes, or objectives of this title, no State or political  
22 subdivision of a State may impose a requirement that is  
23 in addition to, or inconsistent with, any requirement of  
24 this subtitle with respect to the submission or reporting  
25 of information, or the publication of such information, on

1 the prices and quantities of livestock or livestock prod-  
2 ucts.”.

3 **SEC. 102. UNJUST DISQUALIFICATION.**

4 Section 202(b) of the Packers and Stockyards Act,  
5 1921 (7 U.S.C. 192(b)), is amended by striking “whatso-  
6 ever” each place it appears.

7 **SEC. 103. CONFORMING AMENDMENTS.**

8 (a) Section 416 of the Packers and Stockyards Act,  
9 1921 (7 U.S.C. 229a), is repealed.

10 (b) Section 1127 of the Agriculture, Rural Develop-  
11 ment, Food and Drug Administration, and Related Agen-  
12 cies Appropriations Act, 1999 (7 U.S.C. 1421 note; Public  
13 Law 105–277), is amended—

14 (1) by striking subsection (b) and inserting the  
15 following:

16 “(b) EXPORT MARKET REPORTING.—The Secretary  
17 shall—

18 “(1) implement a streamlined electronic system  
19 for collecting export sales and shipments data, in the  
20 least intrusive manner possible, for fresh or frozen  
21 muscle cuts of meat food products; and

22 “(2) develop a data-reporting program to dis-  
23 seminate summary information in a timely manner  
24 (in the case of beef, consistent with the reporting

1 under section 602(a) of the Agricultural Trade Act  
2 of 1978 (7 U.S.C. 5712(a)).”; and

3 (2) in subsection (c), by striking “this section  
4 of the Act” and inserting “subsection (b)”.

5 **TITLE II—RELATED BEEF**  
6 **REPORTING PROVISIONS**

7 **SEC. 201. BEEF EXPORT REPORTING.**

8 Section 602(a)(1) of the Agricultural Trade Act of  
9 1978 (7 U.S.C. 5712(a)(1)) is amended by inserting  
10 “, beef,” after “cotton”.

11 **SEC. 202. EXPORT CERTIFICATES FOR MEAT AND MEAT**  
12 **FOOD PRODUCTS.**

13 Not later than 1 year after the date of enactment  
14 of this Act, the Secretary of Agriculture shall fully imple-  
15 ment a program, through the use of a streamlined elec-  
16 tronic online system, to issue and report export certificates  
17 for all meat and meat products.

18 **SEC. 203. IMPORTS OF BEEF, BEEF VARIETY MEATS, AND**  
19 **CATTLE.**

20 (a) IN GENERAL.—The Secretary of Agriculture  
21 shall—

22 (1) obtain information regarding the import of  
23 beef and beef variety meats (consistent with the in-  
24 formation categories reported for beef exports under  
25 section 602(a) of the Agricultural Trade Act of 1978

1 (7 U.S.C. 5712(a))) and cattle using available infor-  
2 mation sources; and

3 (2) publish the information in a timely manner  
4 weekly and in a form that maximizes the utility of  
5 the information to beef producers, packers, and  
6 other market participants.

7 (b) CONTENT.—The published information shall in-  
8 clude information reporting the year-to-date cumulative  
9 annual imports of beef, beef variety meats, and cattle for  
10 the current and prior marketing years.

11 **SEC. 204. AUTHORIZATION OF APPROPRIATIONS.**

12 There are authorized to be appropriated such sums  
13 as are necessary to carry out sections 202 and 203.

14 **TITLE III—RELATED SWINE**  
15 **REPORTING PROVISIONS**

16 **SEC. 301. IMPROVEMENT OF HOGS AND PIGS INVENTORY**  
17 **REPORT.**

18 (a) IN GENERAL.—Effective beginning not later than  
19 90 days after the date of enactment of this Act, the Sec-  
20 retary of Agriculture shall publish on a monthly basis the  
21 Hogs and Pigs Inventory Report.

22 (b) GESTATING SOWS.—The Secretary shall include  
23 in a separate category of the Report the number of bred  
24 female swine that are assumed, or have been confirmed,  
25 to be pregnant during the reporting period.

1           (c) PHASE-OUT.—Effective for a period of 8 quarters  
2 after the implementation of the monthly report required  
3 under subsection (a), the Secretary shall continue to main-  
4 tain and publish on a quarterly basis the Hogs and Pigs  
5 Inventory Report published on or before the date of enact-  
6 ment of this Act.

7 **SEC. 302. BARROW AND GILT SLAUGHTER.**

8           (a) IN GENERAL.—The Secretary of Agriculture shall  
9 promptly obtain and maintain, through an appropriate col-  
10 lection system or valid sampling system at packing plants,  
11 information on the total slaughter of swine that reflects  
12 differences in numbers between barrows and gilts, as de-  
13 termined by the Secretary.

14           (b) AVAILABILITY.—The information shall be made  
15 available to swine producers, packers, and other market  
16 participants in a report published by the Secretary not less  
17 frequently than weekly.

18           (c) ADMINISTRATION.—

19               (1) IN GENERAL.—The Secretary shall admin-  
20 ister the collection and compilation of information,  
21 and the publication of the report, required by this  
22 section.

23               (2) NONDELEGATION.—The Secretary shall not  
24 delegate the collection, compilation, or administra-  
25 tion of the information required by this section to

1 any packer (as defined in section 201 of the Packers  
2 and Stockyards Act, 1921 (7 U.S.C. 191)).

3 **SEC. 303. AVERAGE TRIM LOSS CORRELATION STUDY AND**  
4 **REPORT.**

5 (a) IN GENERAL.—The Secretary of Agriculture shall  
6 contract with a qualified contractor to conduct a correla-  
7 tion study and prepare a report establishing a baseline and  
8 standards for determining and improving average trim  
9 loss measurements and processing techniques for pork  
10 processors to employ in the slaughter of swine.

11 (b) CORRELATION STUDY AND REPORT.—The study  
12 and report shall—

13 (1) analyze processing techniques that would  
14 assist the pork processing industry in improving pro-  
15 cedures for uniformity and transparency in how trim  
16 loss is discounted (in dollars per hundred pounds  
17 carcass weight) by different packers and processors;

18 (2) analyze slaughter inspection procedures that  
19 could be improved so that trimming procedures and  
20 policies of the Secretary are uniform to the max-  
21 imum extent determined practicable by the Sec-  
22 retary;

23 (3) determine how the Secretary may be able to  
24 foster improved breeding techniques and animal han-  
25 dling and transportation procedures through train-

1       ing programs made available to swine producers so  
2       as to minimize trim loss in slaughter processing; and

3               (4) make recommendations that are designed to  
4       effect changes in the pork industry so as to achieve  
5       continuous improvement in average trim losses and  
6       discounts.

7       (c) SUBSEQUENT REPORTS ON STATUS OF IMPROVE-  
8       MENTS AND UPDATES IN BASELINE.—Not less frequently  
9       than once every 2 years after the initial publication of the  
10      report required under this section, the Secretary shall  
11      make subsequent periodic reports that—

12              (1) examine the status of the improvement in  
13      reducing trim loss discounts in the pork processing  
14      industry; and

15              (2) update the baseline to reflect changes in  
16      trim loss discounts.

17      (d) SUBMISSION OF REPORTS TO CONGRESS, PRO-  
18      DUCERS, PACKERS, AND OTHERS.—The reports required  
19      under this section shall be made available to—

20              (1) the public on the Internet;

21              (2) the Committee on Agriculture of the House  
22      of Representatives;

23              (3) the Committee on Agriculture, Nutrition,  
24      and Forestry of the Senate;

25              (4) producers and packers; and

1 (5) other market participants.

2 **SEC. 304. SWINE PACKER MARKETING CONTRACTS.**

3 Title II of the Packers and Stockyards Act, 1921 (7  
4 U.S.C. 191 et seq.) is amended—

5 (1) by inserting before section 201 (7 U.S.C.  
6 191) the following:

7 **“Subtitle A—General Provisions”;**

8 and

9 (2) by adding at the end the following:

10 **“Subtitle B—Swine Packer**  
11 **Marketing Contracts**

12 **“SEC. 221. DEFINITIONS.**

13 “Except as provided in section 223(a), in this sub-  
14 title:

15 “(1) MARKET.—The term ‘market’ means the  
16 sale or disposition of swine, pork, or pork products  
17 in commerce.

18 “(2) PACKER.—The term ‘packer’ has the  
19 meaning given the term in section 231 of the Agri-  
20 cultural Marketing Act of 1946.

21 “(3) PORK.—The term ‘pork’ means the meat  
22 of a porcine animal.

23 “(4) PORK PRODUCT.—The term ‘pork product’  
24 means a product or byproduct produced or processed  
25 in whole or in part from pork.



1           “(5) STATE.—The term ‘State’ means each of  
2 the 50 States.

3           “(6) SWINE.—The term ‘swine’ means a por-  
4 cine animal raised to be a feeder pig, raised for  
5 seedstock, or raised for slaughter.

6           “(7) TYPE OF CONTRACT.—The term ‘type of  
7 contract’ means the classification of contracts or  
8 risk management agreements for the purchase of  
9 swine by—

10           “(A) the mechanism used to determine the  
11 base price for swine committed to a packer,  
12 grouped into practicable classifications by the  
13 Secretary (including swine or pork market for-  
14 mula purchases, other market formula pur-  
15 chases, and other purchase arrangements); and

16           “(B) the presence or absence of an accrual  
17 account or ledger that must be repaid by the  
18 producer or packer that receives the benefit of  
19 the contract pricing mechanism in relation to  
20 negotiated prices.

21           “(8) OTHER TERMS.—Except as provided in  
22 this subtitle, a term has the meaning given the term  
23 in section 212 or 231 of the Agricultural Marketing  
24 Act of 1946.

1 **“SEC. 222. SWINE PACKER MARKETING CONTRACTS OF-**  
2 **FERED TO PRODUCERS.**

3 “(a) IN GENERAL.—Subject to the availability of ap-  
4 propriations to carry out this section, the Secretary shall  
5 establish and maintain a library or catalog of each type  
6 of contract offered by packers to swine producers for the  
7 purchase of all or part of the producers’ production of  
8 swine (including swine that are purchased or committed  
9 for delivery), including all available noncarcass merit pre-  
10 miums.

11 “(b) AVAILABILITY.—The Secretary shall make avail-  
12 able to swine producers and other interested persons infor-  
13 mation on the types of contracts described in subsection  
14 (a), including notice (on a real-time basis if practicable)  
15 of the types of contracts that are being offered by each  
16 individual packer to, and are open to acceptance by, pro-  
17 ducers for the purchase of swine.

18 “(c) CONFIDENTIALITY.—The reporting require-  
19 ments under subsections (a) and (b) shall be subject to  
20 the confidentiality protections provided under section 251  
21 of the Agricultural Marketing Act of 1946.

22 “(d) INFORMATION COLLECTION.—

23 “(1) IN GENERAL.—The Secretary shall—

24 “(A) obtain (by a filing or other procedure  
25 required of each individual packer) information  
26 indicating what types of contracts for the pur-

1 chase of swine are available from each packer;  
2 and

3 “(B) make the information available in a  
4 monthly report to swine producers and other in-  
5 terested persons.

6 “(2) CONTRACTED SWINE NUMBERS.—Each  
7 packer shall provide, and the Secretary shall collect  
8 and publish in the monthly report required under  
9 paragraph (1)(B), information specifying—

10 “(A) the types of existing contracts for  
11 each packer;

12 “(B) the provisions contained in each con-  
13 tract that provide for expansion in the numbers  
14 of swine to be delivered under the contract for  
15 the following 6-month and 12-month periods;

16 “(C) an estimate of the total number of  
17 swine committed by contract for delivery to all  
18 packers within the 6-month and 12-month peri-  
19 ods following the date of the report, reported by  
20 reporting region and by type of contract; and

21 “(D) an estimate of the maximum total  
22 number of swine that potentially could be deliv-  
23 ered within the 6-month and 12-month periods  
24 following the date of the report under the provi-  
25 sions described in subparagraph (B) that are

1 included in existing contracts, reported by re-  
2 porting region and by type of contract.

3 “(e) VIOLATIONS.—It shall be unlawful and a viola-  
4 tion of this title for any packer to willfully fail or refuse  
5 to provide to the Secretary accurate information required  
6 under, or to willfully fail or refuse to comply with any re-  
7 quirement of, this section.

8 “(f) AUTHORIZATION OF APPROPRIATIONS.—There  
9 are authorized to be appropriated such sums as necessary  
10 to carry out this section.

11 **“SEC. 223. REPORT ON THE SECRETARY’S JURISDICTION,**  
12 **POWER, DUTIES, AND AUTHORITIES.**

13 “(a) DEFINITION OF PACKER.—In this section, the  
14 term ‘packer’ has the meaning given the term in section  
15 201 of the Packers and Stockyards Act, 1921 (7 U.S.C.  
16 191).

17 “(b) REPORT.—Not later than 90 days after the date  
18 of enactment of this subtitle, the Comptroller General of  
19 the United States shall provide to the Committee on Agri-  
20 culture of the House of Representatives and the Com-  
21 mittee on Agriculture, Nutrition, and Forestry of the Sen-  
22 ate a report describing the jurisdiction, powers, duties,  
23 and authorities of the Secretary that relate to packers and  
24 other persons involved in procuring, slaughtering, or proc-

1 essing swine, pork, or pork products that are covered by  
2 this Act and other laws, including—

3 “(1) the Federal Trade Commission Act (15  
4 U.S.C. 41 et seq.), especially sections 6, 8, 9, and  
5 10 of that Act (15 U.S.C. 46, 48, 49, 50); and

6 “(2) the Agricultural Marketing Act of 1946 (7  
7 U.S.C. 1621 et seq.).

8 “(c) CONTENTS.—The Comptroller General shall in-  
9 clude in the report an analysis of—

10 “(1) burdens on and obstructions to commerce  
11 in swine, pork, and pork products by packers, and  
12 other persons that enter into arrangements with the  
13 packers, that are contrary to, or do not protect, the  
14 public interest;

15 “(2) noncompetitive pricing arrangements be-  
16 tween or among packers, or other persons involved  
17 in the processing, distribution, or sale of pork and  
18 pork products, including arrangements provided for  
19 in contracts for the purchase of swine;

20 “(3) the effective monitoring of contracts en-  
21 tered into between packers and swine producers;

22 “(4) investigations that relate to, and affect,  
23 the disclosure of—

24 “(A) transactions involved in the business  
25 conduct and practices of packers; and

1           “(B) the pricing of swine paid to producers  
2           by packers and the pricing of products in the  
3           pork and pork product merchandising chain;

4           “(5) the adequacy of the authority of the Sec-  
5           retary to prevent a packer from unjustly or arbi-  
6           trarily refusing to offer a producer, or disqualifying  
7           a producer from eligibility for, a particular contract  
8           or type of contract for the purchase of swine; and

9           “(6) the ability of the Secretary to cooperate  
10          with and enhance the enforcement of actions initi-  
11          ated by other Federal departments and agencies, or  
12          Federal independent agencies, to protect trade and  
13          commerce in the pork and pork product industries  
14          against unlawful restraints and monopolies.”.

15 **SEC. 305. AUTHORIZATION OF APPROPRIATIONS.**

16          There are authorized to be appropriated such sums  
17          as are necessary to carry out this title and the amend-  
18          ments made by this title.

19           **TITLE IV—IMPLEMENTATION**

20 **SEC. 401. REGULATIONS.**

21          (a) IN GENERAL.—Not later than 180 days after the  
22          date of enactment of this Act, the Secretary of Agriculture  
23          shall publish final regulations to implement this Act and  
24          the amendments made by this Act.

1 (b) PUBLICATION OF PROPOSED REGULATIONS.—  
2 Not later than 90 days after the date of enactment of this  
3 Act, the Secretary shall publish proposed regulations to  
4 implement this Act and the amendments made by this Act.

5 (c) COMMENT PERIOD.—The Secretary shall provide  
6 an opportunity for comment on the proposed regulations  
7 during the 30-day period beginning on the date of the pub-  
8 lication of the proposed regulations.

9 (d) FINAL REGULATIONS.—Not later than 60 days  
10 after the conclusion of the comment period, the Secretary  
11 shall publish the final regulations and implement this Act  
12 and the amendments made by this Act.

13 **SEC. 402. TERMINATION OF AUTHORITY.**

14 The authority provided by this Act and the amend-  
15 ments made by this Act terminate 5 years after the date  
16 of enactment of this Act.