

117TH CONGRESS
2D SESSION

S. 4030

To amend the Agricultural Marketing Act of 1946 to establish a cattle contract library, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 7, 2022

Mrs. FISCHER (for herself, Mr. GRASSLEY, Mr. TESTER, Mr. WYDEN, Ms. ERNST, Mr. BRAUN, Ms. SMITH, Mrs. HYDE-SMITH, Mr. DAINES, Mr. CASSIDY, Mr. LUJÁN, Mr. DURBIN, Mr. HEINRICH, Mr. WARNOCK, Mr. BLUMENTHAL, Mrs. GILLIBRAND, Ms. LUMMIS, and Mr. HAWLEY) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Agricultural Marketing Act of 1946 to establish a cattle contract library, and for other purposes.

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.**

4 This Act may be cited as the “Cattle Price Discovery
5 and Transparency Act of 2022”.

6 **SEC. 2. DEFINITIONS.**

7 (a) IN GENERAL.—Section 212 of the Agricultural
8 Marketing Act of 1946 (7 U.S.C. 1635a) is amended—

1 (1) in paragraph (5), by striking “cattle,” and
2 inserting “cattle (including fed cattle),”;

3 (2) by redesignating paragraphs (1) through
4 (14) as paragraphs (2), (3), (4), (6) through (8),
5 (10), and (12) through (18), respectively;

6 (3) by inserting before paragraph (2) (as so re-
7 designated) the following:

8 “(1) APPROVED PRICING MECHANISM.—The
9 term ‘approved pricing mechanism’ means a pur-
10 chase of fed cattle made—

11 “(A) through a negotiated purchase;

12 “(B) through a negotiated grid purchase;

13 “(C) at a stockyard (as defined in section
14 302 of the Packers and Stockyards Act, 1921
15 (7 U.S.C. 202)); or

16 “(D) through a trading system or platform
17 for the purchase or sale of cattle, or for an ar-
18 rangement to purchase or sell cattle, through
19 any means in which multiple buyer and seller
20 participants have the ability to, and regularly
21 and consistently, make and accept bids and of-
22 fers on or at the trading system or platform.”;

23 (4) by inserting after paragraph (4) (as so re-
24 designated) the following:

1 “(5) FED CATTLE.—The term ‘fed cattle’
 2 means a steer or heifer that has been finished on a
 3 ration of roughage and feed concentrates, such as
 4 grains, protein meal, grass (forage), and other nutri-
 5 ent-rich feeds, prior to slaughter.”;

6 (5) by inserting after paragraph (8) (as so re-
 7 designated) the following:

8 “(9) MANDATORY MINIMUM.—The term ‘man-
 9 datory minimum’ means, of the quantity of fed cat-
 10 tle purchased for slaughter by a covered packer (as
 11 defined in section 221) for each processing plant,
 12 the minimum percentage of such cattle that are re-
 13 quired to be purchased through approved pricing
 14 mechanisms from producers that are not packers.”;
 15 and

16 (6) by inserting after paragraph (10) (as so re-
 17 designated) the following:

18 “(11) NEGOTIATED GRID PURCHASE.—The
 19 term ‘negotiated grid purchase’, with respect to cat-
 20 tle, means a purchase—

21 “(A) involving the negotiation of a base
 22 price from which premiums are added and dis-
 23 counts are subtracted, determined by seller-
 24 buyer interaction and agreement on a delivery
 25 day; and

1 “(B) under which the cattle are scheduled
 2 for delivery to the packer not later than 14
 3 days after the date on which the cattle are com-
 4 mitted to the packer.”.

5 (b) CATTLE REPORTING DEFINITIONS.—Section 221
 6 of the Agricultural Marketing Act of 1946 (7 U.S.C.
 7 1635d) is amended—

8 (1) in paragraph (1), by striking “7-day” and
 9 inserting “14-day”;

10 (2) in paragraph (8)(B), by striking “market”
 11 and inserting “marketing”;

12 (3) by redesignating paragraphs (3), (4), (5),
 13 (6), (7), and (8) as paragraphs (5), (6), (8), (9),
 14 (11), and (12), respectively;

15 (4) by inserting after paragraph (2) the fol-
 16 lowing:

17 “(3) COVERED CONTRACT.—

18 “(A) IN GENERAL.—The term ‘covered
 19 contract’ means any agreement, written or oral,
 20 between a packer and a producer for the pur-
 21 chase of fed cattle for slaughter.

22 “(B) EXCLUSION.—The term ‘covered con-
 23 tract’ does not include a contract for a nego-
 24 tiated purchase.

1 “(4) COVERED PACKER.—The term ‘covered
2 packer’ means a packer that has slaughtered during
3 the immediately preceding 5 calendar years an aver-
4 age of not less than 5 percent of the number of fed
5 cattle slaughtered nationally during the immediately
6 preceding 5 calendar years.”;

7 (5) by inserting after paragraph (6) (as so re-
8 designated) the following:

9 “(7) HEIFER.—The term ‘heifer’ means a bo-
10 vine female that has not given birth to a calf.”; and

11 (6) by inserting after paragraph (9) (as so re-
12 designated) the following:

13 “(10) STEER.—The term ‘steer’ means a bovine
14 male castrated before reaching sexual maturity.”.

15 **SEC. 3. 14-DAY CATTLE SLAUGHTER REPORT.**

16 Section 222(c) of the Agricultural Marketing Act of
17 1946 (7 U.S.C. 1635e(c)) is amended—

18 (1) in paragraph (1)—

19 (A) by striking subparagraphs (B) and
20 (C); and

21 (B) by redesignating subparagraph (D) as
22 subparagraph (B);

23 (2) in paragraph (2), by striking “the informa-
24 tion” and inserting “information reported under this
25 subsection”;

1 (3) by redesignating paragraph (2) as para-
2 graph (3); and

3 (4) by inserting after paragraph (1) the fol-
4 lowing:

5 “(2) PRIOR DAY REPORTING.—

6 “(A) IN GENERAL.—The corporate officers
7 or officially designated representatives of each
8 packer processing plant shall report to the Sec-
9 retary, for each business day of the packer
10 processing plant, not later than 10:00 a.m.
11 Central Time on each reporting day, the infor-
12 mation from the prior business day described in
13 subparagraph (B).

14 “(B) INFORMATION REQUIRED.—The in-
15 formation required under subparagraph (A)
16 shall be, with respect to the prior business day,
17 the number of cattle scheduled for delivery to a
18 packer processing plant for slaughter for each
19 of the next 14 calendar days.”.

20 **SEC. 4. EXPEDITED CARCASS WEIGHTS REPORTING.**

21 Section 222 of the Agricultural Marketing Act of
22 1946 (7 U.S.C. 1635e) is amended by adding at the end
23 the following:

24 “(f) EXPEDITED CARCASS WEIGHTS.—

1 “(1) DETERMINATION.—Not later than 180
 2 days after the date of enactment of the Cattle Price
 3 Discovery and Transparency Act of 2022, the Sec-
 4 retary shall determine the minimum amount of time
 5 needed by the Secretary to publicly report the daily
 6 average carcass weight of cattle slaughtered by pack-
 7 er processing plants.

8 “(2) REPORTING.—Not later than 180 days
 9 after the Secretary has made a determination under
 10 paragraph (1), the Secretary shall begin publicly re-
 11 porting the information described in that paragraph
 12 within the time determined under that paragraph.”.

13 **SEC. 5. MANDATORY REPORTING OF CUTOUT YIELD.**

14 Section 223 of the Agricultural Marketing Act of
 15 1946 (7 U.S.C. 1635f) is amended—

16 (1) in subsection (a)—

17 (A) in the subsection heading, by striking
 18 “DAILY REPORTING” and inserting “IN GEN-
 19 ERAL”;

20 (B) in paragraph (3)—

21 (i) in subparagraph (C), by striking
 22 the period at the end and inserting “;
 23 and”; and

24 (ii) by redesignating subparagraphs
 25 (A) through (C) as clauses (i) through

1 (iii), respectively, and indenting appro-
 2 priately;

3 (C) by redesignating paragraphs (1)
 4 through (3) as subparagraphs (A) through (C),
 5 respectively, and indenting appropriately;

6 (D) in the matter preceding subparagraph
 7 (A) (as so redesignated), by striking “Secretary
 8 at least” and inserting the following: “Sec-
 9 retary—
 10 “(1) at least”; and

11 (E) by adding at the end the following:
 12 “(2) at least once each year, at a time deter-
 13 mined by the Secretary, cutout yield data.”; and
 14 (2) in subsection (b)—

15 (A) by striking “the information required
 16 to be reported under subsection (a)”; and

17 (B) by striking “day.” and inserting the
 18 following: “day—

19 “(1) the information required to be reported
 20 under subsection (a)(1); and

21 “(2) a composite price using the information re-
 22 quired to be reported under paragraphs (1) and (2)
 23 of subsection (a).”.

1 **SEC. 6. CATTLE CONTRACT LIBRARY.**

2 The Agricultural Marketing Act of 1946 is amend-
3 ed—

4 (1) by redesignating section 223 (7 U.S.C.
5 1635f) as section 224; and

6 (2) by inserting after section 222 (7 U.S.C.
7 1635e) the following:

8 **“SEC. 223. CATTLE CONTRACT LIBRARY.**

9 “(a) IN GENERAL.—Not later than 120 days after
10 the date of enactment of the Cattle Price Discovery and
11 Transparency Act of 2022, the Secretary shall establish
12 and maintain, through the Livestock Mandatory Price Re-
13 porting program, a library or catalog (referred to in this
14 section as the ‘library’), of each type of covered contract
15 entered into between packers and producers for the pur-
16 chase of fed cattle (including cattle that are purchased or
17 committed for delivery), including any schedules of pre-
18 miums or discounts associated with the covered contract.

19 “(b) INFORMATION COLLECTION.—

20 “(1) IN GENERAL.—To maintain the library,
21 the Secretary shall obtain information from each
22 packer on each type of existing covered contract of
23 the packer by requiring a filing or other form of in-
24 formation submission from each packer.

25 “(2) CONTRACT INFORMATION.—Information
26 submitted to the Secretary by a packer under para-

graph (1) shall include, with respect to each existing covered contract of a packer—

“(A) the type of contract;

“(B) the duration of the contract;

“(C) a summary of the contract terms;

“(D) provisions in the contract that may affect the price of cattle covered by the contract, including schedules, premiums and discounts, financing and risk-sharing arrangements, and transportation arrangements;

“(E) the total number of cattle covered by the contract solely committed to the packer each week within the 6-month and 12-month periods following the date of the contract and the percentage of cattle each week that may vary for delivery or nondelivery at the discretion of the packer, organized by reporting region or in such other manner as the Secretary may determine;

“(F) in the case of a contract in which a specific number of cattle are not solely committed to the packer—

“(i) an indication that the contract is an open commitment; and

1 “(ii) any weekly, monthly, annual, or
2 other limitations or requirements on the
3 number of cattle that may be delivered to
4 the packer under the contract, including
5 the percentage of cattle that may vary for
6 delivery or nondelivery in a given time pe-
7 riod at the discretion of the packer; and

8 “(G) a description of the provisions in the
9 contract that provide for expansion in the num-
10 bers of fed cattle to be delivered under the con-
11 tract for the 6-month and 12-month periods fol-
12 lowing the date of the contract.

13 “(c) AVAILABILITY OF INFORMATION.—

14 “(1) IN GENERAL.—The Secretary shall make
15 publicly available to producers and other interested
16 persons information (including the information de-
17 scribed in subsection (b)(2)), in a user-friendly for-
18 mat, on the types of covered contracts in the library,
19 including notice (on a real-time basis, if practicable)
20 of the types of covered contracts that are entered
21 into between packers and producers for the purchase
22 of fed cattle.

23 “(2) MONTHLY REPORT.—

24 “(A) IN GENERAL.—Beginning 30 days
25 after the library is established, the Secretary

1 shall make the information obtained each
2 month in the library available in a monthly re-
3 port to producers and other interested persons.

4 “(B) CONTENTS.—The monthly report de-
5 scribed in subparagraph (A) shall include—

6 “(i) based on the information collected
7 under subsection (b)(2)(E), an estimate by
8 the Secretary of the total number of fed
9 cattle committed under covered contracts
10 for delivery to packers within the 6-month
11 and 12-month periods following the date of
12 the report, organized by reporting region
13 and type of contract;

14 “(ii) based on the information col-
15 lected under subsection (b)(2)(F), the
16 number of covered contracts with an open
17 commitment and any weekly, monthly, an-
18 nual, or other limitations or requirements
19 on the number of cattle that may be deliv-
20 ered under such contracts, including the
21 percentage of cattle that may vary for de-
22 livery or nondelivery in a given time period
23 at the discretion of the packer; and

24 “(iii) based on the information col-
25 lected under subsection (b)(2)(G), an esti-

1 mate by the Secretary of the total max-
 2 imum number of fed cattle that may be de-
 3 livered within the 6-month and 12-month
 4 periods following the date of the report, or-
 5 ganized by reporting region and type of
 6 contract.

7 “(d) MAINTENANCE OF LIBRARY.—Information in
 8 the library about types of contracts that are no longer of-
 9 fered or in use shall be removed from the library.

10 “(e) CONFIDENTIALITY.—The reporting require-
 11 ments for packers under this section shall be subject to
 12 the confidentiality protections provided under section 251.

13 “(f) VIOLATIONS.—It shall be unlawful and a viola-
 14 tion of this Act for any packer to willfully fail or refuse—

15 “(1) to provide to the Secretary accurate infor-
 16 mation required under this section; or

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

19 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
 20 are authorized to be appropriated to the Secretary such
 21 sums as are necessary to carry out this section.”.

22 **SEC. 7. MARKET ACQUISITION OF FED CATTLE.**

23 (a) SENSE OF THE SENATE.—It is the sense of the
 24 Senate that—

1 (1) all participants in the fed cattle market
2 have a responsibility to contribute to sufficient levels
3 of negotiated trade of fed cattle in all cattle feeding
4 regions in order to achieve competitive bidding and
5 maximum transparency in all relevant markets and
6 robust price discovery for the benefit of all market
7 participants;

8 (2) covered packers that use negotiated market
9 prices or internal formulations thereof as the basis
10 for formula marketing arrangements may have in-
11 centives to not participate in price discovery in fed
12 cattle markets, including in order to influence the
13 price, especially if the majority of the cattle pur-
14 chases are under fed cattle formula marketing ar-
15 rangements under which it is particularly important
16 to have minimum participation; and

17 (3) the Department of Agriculture should exam-
18 ine academic literature regarding minimum levels of
19 negotiated transactions necessary to achieve robust
20 price discovery, eliminate the potential for price ma-
21 nipulation, and enhance cattle producer leverage in
22 the marketplace in each of the cattle marketing re-
23 gions.

24 (b) PENALTIES.—Section 253(a) of the Agricultural
25 Marketing Act of 1946 (7 U.S.C. 1636b(a)) is amended—

1 (1) in paragraph (1)—

2 (A) by striking the paragraph designation
3 and heading and all that follows through “Any
4 packer” and inserting the following:

5 “(1) PENALTY AMOUNT.—

6 “(A) IN GENERAL.—Except as provided in
7 subparagraph (B), any packer”; and

8 (B) by adding at the end the following:

9 “(B) MANDATORY MINIMUM VIOLATION.—

10 Any packer or other person that violates section
11 259 may be assessed a civil penalty by the Sec-
12 retary of not more than \$90,000 for each viola-
13 tion (as adjusted for inflation).”; and

14 (2) in paragraph (2)—

15 (A) by striking “Each day” and inserting
16 the following:

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (B), each day”; and

19 (B) by adding at the end the following:

20 “(B) MANDATORY MINIMUM VIOLATION.—

21 Each week during which a violation of section
22 259 continues shall be considered to be a sepa-
23 rate violation.”.

24 (c) MANDATORY MINIMUMS.—The Agricultural Mar-
25 keting Act of 1946 is amended—

1 (1) by redesignating sections 259 and 260 (7
2 U.S.C. 1636h, 1636i) as sections 260 and 261, re-
3 spectively; and

4 (2) by inserting after section 258 (7 U.S.C.
5 1636g) the following:

6 **“SEC. 259. MANDATORY MINIMUMS.**

7 “(a) PURPOSE.—The purpose of this section is to es-
8 tablish mandatory minimums—

9 “(1) to enhance price discovery, transparency,
10 and cattle producer leverage for cattle market par-
11 ticipants; and

12 “(2) to minimize and mitigate conflicts of inter-
13 est and other incentives for a covered packer to in-
14 fluence the base price of formula marketing arrange-
15 ments for the benefit of the covered packer through
16 action or inaction in the market in which the base
17 price is determined.

18 “(b) ESTABLISHMENT.—

19 “(1) IN GENERAL.—Not later than 2 years
20 after the date of enactment of the Cattle Price Dis-
21 covery and Transparency Act of 2022, the Secretary
22 shall establish—

23 “(A) 5 to 7 contiguous regions (referred to
24 in this section as ‘covered regions’) that—

1 “(i) together encompass the entire
2 continental United States; and

3 “(ii) to the extent practicable, reason-
4 ably reflect similar fed cattle purchase
5 practices;

6 “(B) a mandatory minimum—

7 “(i) for each covered region estab-
8 lished under subparagraph (A); and

9 “(ii) that shall be applicable with re-
10 spect to each processing plant of a covered
11 packer located in that covered region; and

12 “(C) a time period within which a covered
13 packer shall be required to meet the applicable
14 mandatory minimum, which shall be not less
15 than 1 week but not more than 30 days.

16 “(2) MODIFICATIONS.—The Secretary—

17 “(A) shall review the mandatory minimums
18 established under paragraph (1) not later than
19 2 years after the date of establishment and pe-
20 riodically thereafter, but not less frequently
21 than once every 5 years; and

22 “(B) modify any such mandatory min-
23 imum, as necessary, after consulting with rep-
24 resentatives of the United States cattle and beef
25 industry and in accordance with paragraph (4).

1 “(3) PUBLIC INPUT.—In carrying out this sub-
2 section, the Secretary shall make all proposed man-
3 datory minimums subject to notice and comment
4 rulemaking and a cost-benefit analysis.

5 “(4) CONSIDERATIONS.—In establishing or
6 modifying mandatory minimums under this sub-
7 section for any covered region, the Secretary shall
8 consider the following factors:

9 “(A) The number of covered packers in the
10 covered region.

11 “(B) The availability of fed cattle in the
12 covered region.

13 “(C) Pre-existing contractual arrange-
14 ments of packers in the covered region.

15 “(D) The number of pricing transactions
16 (pens of cattle sold) in the covered region.

17 “(E) The proportion of fed cattle pur-
18 chased in the covered region through negotiated
19 purchases or negotiated grid purchases relative
20 to the number of formula marketing arrange-
21 ments that use the negotiated prices or nego-
22 tiated grid prices as base prices.

23 “(5) INITIAL MANDATORY MINIMUM REQUIRE-
24 MENT.—The initial mandatory minimum established

1 under paragraph (1)(B) for each covered region
 2 shall be—

3 “(A) not less than the average percentage
 4 of negotiated purchases and negotiated grid
 5 purchases made in that covered region between
 6 January 1, 2020, and January 1, 2022; and

7 “(B) not more than 50 percent.

8 “(c) PURCHASES.—A covered packer shall, with re-
 9 spect to each processing plant of the covered packer, pur-
 10 chase through an approved pricing mechanism not less
 11 than the percentage of fed cattle required under the man-
 12 datory minimum established under subsection (b) for the
 13 covered region in which the processing plant is located.

14 “(d) ENFORCEMENT.—

15 “(1) IN GENERAL.—On establishing mandatory
 16 minimums under subsection (b), the Secretary—

17 “(A) shall regularly monitor compliance by
 18 covered packers with those mandatory mini-
 19 mums; and

20 “(B) in the case of noncompliance by a
 21 covered packer in a given period, may allow the
 22 covered packer to remedy the noncompliance by
 23 purchasing the applicable shortfall in the ap-
 24 proved pricing mechanism in 1 or more subse-
 25 quent periods, subject to paragraph (2).

1 “(2) NONREMEDY.—The Secretary shall not
2 allow a covered packer to remedy noncompliance
3 under paragraph (1)(B) if the covered packer has a
4 pattern or practice of noncompliance, as determined
5 by the Secretary.

6 “(e) EFFECT ON PREMIUMS.—Nothing in this sec-
7 tion prohibits a formula marketing arrangement from in-
8 cluding a premium in addition to the base price, including
9 a premium for meat quality, consistency, breed, produc-
10 tion method, branding, or any other value-added effort.”.

○