

Congress of the United States
Washington, DC 20515

June 24, 2021

The Honorable Tom Vilsack
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

Dear Secretary Vilsack,

We are writing to direct your attention to a recent U.S. district court decision which vacated a portion of the Department of Agriculture (“USDA”) New Swine Inspection System (“NSIS”) rule relating to line speeds at NSIS packing plants. By removing this provision six plants will be forced to reduce their output, and by extension, their purchase of hogs.

While the economic impact to these packers will be significant, it is the nation’s small and medium-sized hog farmers who will suffer the greatest harm from upstream impacts. It is imperative that USDA act quickly, and pursue all available options, to prevent this reduction in packing capacity which is set to take place at the end of June.

Although NSIS is relatively new, it is based upon a pilot program that operated successfully for decades. Its predecessor, the Hazard Analysis and Critical Control Point (“HACCP”) Inspection Models Project (“HIMP”) program was developed during the Clinton administration and ran continuously through 2019. As a result of HIMP’s success, USDA began consideration of a permanent program during your first term as Secretary under the Obama administration and finalized the program during the Trump administration.

The order to vacate the NSIS line speed provisions was due to the rulemaking process. The court determined the agency failed to satisfy the Administrative Procedure Act (“APA”), claiming it did not address certain comments raising worker safety concerns. Adherence to the APA is crucial to preserve sound and reasoned rulemaking by federal agencies. However, there is compelling data about the safety of workers in NSIS. Specifically, FSIS data between 2002 and 2010 shows fewer worker injuries in NSIS program facilities over time and fewer injuries at NSIS plants when compared to their non-NSIS counterparts.

If USDA fails to act, American hog farmers will face significant harm. Research from Dr. Dermot Hayes at Iowa State University indicates that the decision would reduce national packing capacity by 2.5% which will create a surplus of hogs on the market—dropping prices by \$10.70/cwt or roughly \$23.22 per animal. The total economic loss of this decision on U.S. hog farmers is estimated at \$80 million in 2021.

As the hog production cycle spans nearly a year, hogs set to enter this reduced-capacity market are already being raised. Farmers have little ability to alter their supply in the next year. Many farmers supplying these NSIS plants will need to find alternative destinations for their hogs. The resulting surplus and reduced demand in a concentrated geographic region will shift economic power to pork processing companies. The culmination of economic losses from the

producers selling their operation. By failing to act, USDA will drive consolidation in the pork industry.

To avoid these consequences, the Department must defend the NSIS program through all available channels while the court-ordered 90 day stay is in place. Failure to do so will leave our nation's hog producers to bear the brunt of the consequences due to no fault of their own. Thank you for your consideration.

Sincerely,



Charles Grassley
United States Senate



Jim Hagedorn
Member of Congress



John Boozman
United States Senator



Dusty Johnson
Member of Congress



John Thune
United States Senator



G.T. Thompson
Member of Congress



Roger Marshall, M.D.
United States Senator



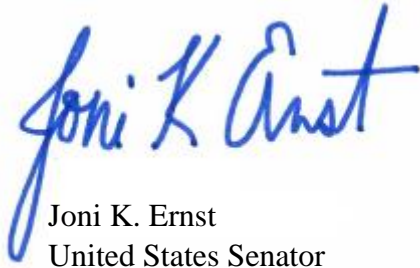
Randy Feenstra
Member of Congress



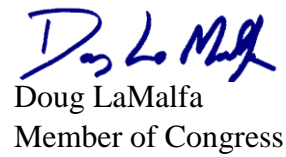
Thom Tillis
United States Senator



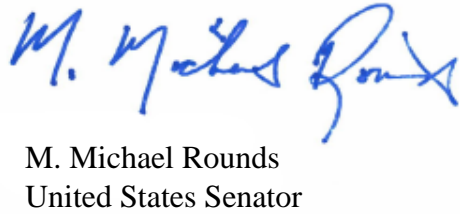
Michelle Fischbach
Member of Congress



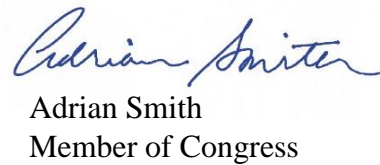
Joni K. Ernst
United States Senator



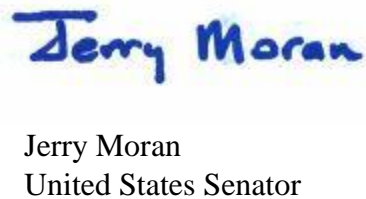
Doug LaMalfa
Member of Congress



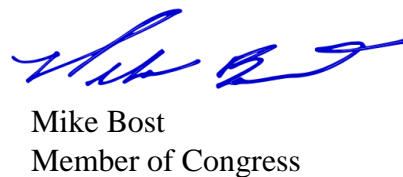
M. Michael Rounds
United States Senator



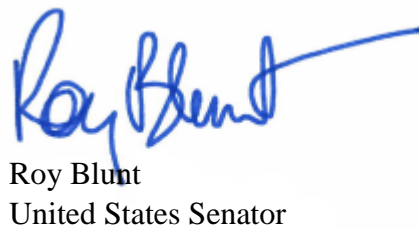
Adrian Smith
Member of Congress



Jerry Moran
United States Senator



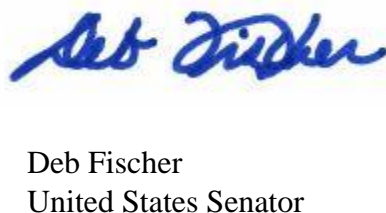
Mike Bost
Member of Congress



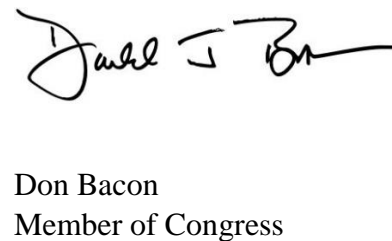
Roy Blunt
United States Senator



Darin LaHood
Member of Congress



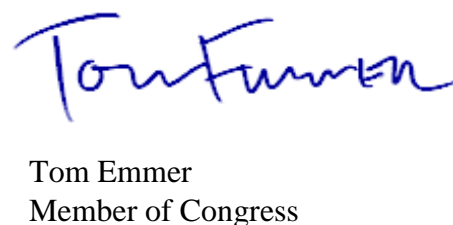
Deb Fischer
United States Senator



Don Bacon
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John Hoeven
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Tom Emmer
Member of Congress



Richard Burr
United States Senate



James E. Baird
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Mike Braun
United States Senator



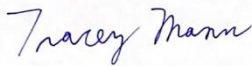
Mary Miller
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Jim Inhofe
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Warren Davidson
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Tracey Mann
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Rodney Davis
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Robert E. Latta
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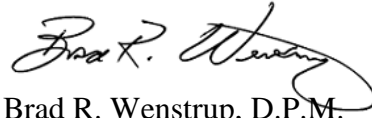
Ashley Hinson
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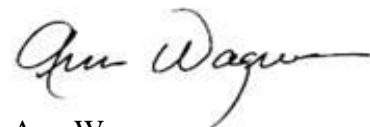
Tedd Budd
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Mike Kelly
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Bob Gibbs
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Madison Cawthorn
Member of Congress

James R. Comer
Member of Congress

Chris Stewart
Member of Congress

Bill Johnson
Member of Congress

Mike Gallagher
Member of Congress

A handwritten signature in black ink, appearing to read "Jason Smith". The signature is fluid and cursive, with the first name "Jason" written in a larger, more prominent script than the last name "Smith".

Jason Smith
Member of Congress

Congress of the United States
Washington, DC 20515

June 24, 2021

The Honorable Elizabeth Prelogar
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Acting Solicitor General Prelogar,

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producers selling their operation. By failing to act, the USG will drive consolidation in the pork industry.

To avoid these consequences, the USG must defend the NSIS program through all available channels while the court-ordered 90 day stay is in place. Failure to do so will leave our nation's hog producers to bear the brunt of the consequences due to no fault of their own. Thank you for your consideration.

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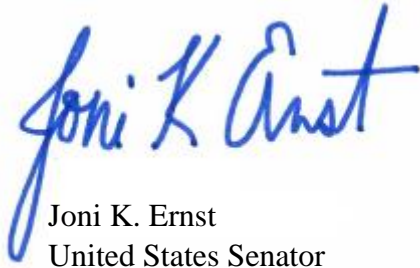
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Member of Congress



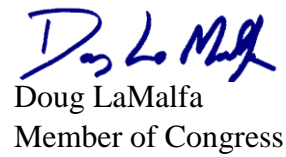
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United States Senator



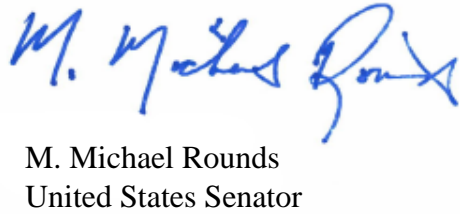
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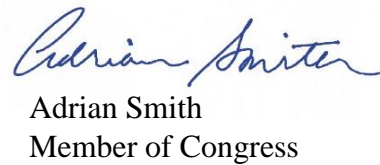
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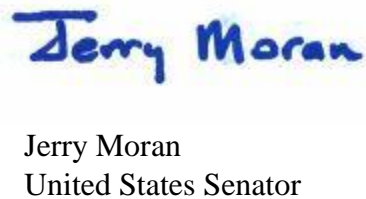
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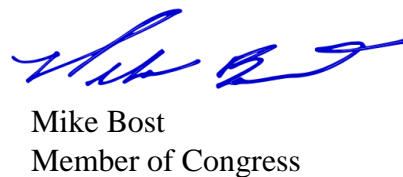
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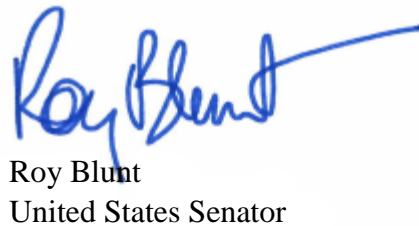
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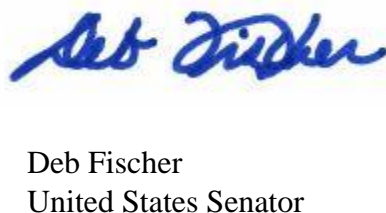
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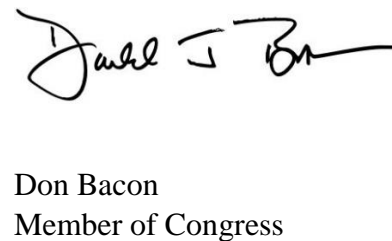
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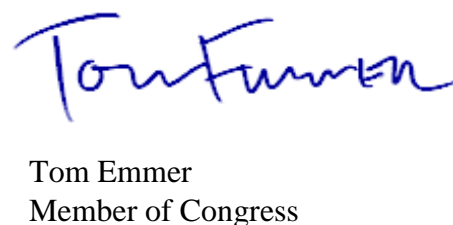
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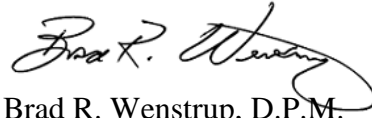
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Jason Smith
Member of Congress