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

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2021

Mrs. Axne (for herself, Mr. Feenstra, Mrs. Hinson, Mrs. Miller-Meeks, Mrs. Hartzler, and Mr. Fortenberry) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Cattle Price Discovery and Transparency Act of 2021”.

SEC. 2. DEFINITIONS.

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

(1) in paragraph (5), by striking “cattle,” and inserting “cattle (including fed cattle),”;
(2) by redesignating paragraphs (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), and (14) as paragraphs (5), (6), (7), (8), (10), (11), (12), (13), (15), (16), and (17), respectively;

(3) by inserting after paragraph (3) the following:

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

(4) by inserting after paragraph (8) (as so redesignated) the following:

“(9) Negotiated grid purchase.—The term ‘negotiated grid purchase’ means a purchase of fed cattle by a packer from a producer under which—

“(A) the buyer-seller interaction results in a negotiated base price, which may be adjusted by premiums and discounts; and

“(B) the fed cattle are scheduled for delivery to the packer not more than 14 days after the date on which the agreement for purchase is made.”; and

(5) by inserting after paragraph (13) (as so redesignated) the following:
“(14) REGIONAL MANDATORY MINIMUM.—The term ‘regional mandatory minimum’ means, for each reporting region (as designated by the Agricultural Marketing Service), of the quantity of cattle purchased for slaughter by a packer (as defined in section 259(a)) in that region each current slaughter week, the minimum percentage of such cattle that are required to be purchased through negotiated purchases or negotiated grid purchases from producers.”.

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

(1) by striking paragraph (3) and inserting the following:

“(3) FORMULA MARKETING ARRANGEMENT.—

The term ‘formula marketing arrangement’ means the advance commitment of cattle for slaughter—

“(A) by any means other than through a negotiated purchase, negotiated grid purchase, or forward contract; and

“(B) using a method for calculating price—

“(i) under which the price is determined at a future date; and
“(ii) the basis of which is a price established for a specified market, which may be based on any publicly reported price, including plant average price, regional price, downstream price, or some other mutually agreeable price source.”;

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

(3) by redesignating paragraphs (3), (4), (5), (6), (7), and (8) as paragraphs (4), (5), (7), (8), (10), and (12), respectively;

(4) by inserting after paragraph (2) the following:

“(3) CONTRACT.—

“(A) IN GENERAL.—The term ‘contract’ means any agreement, written or oral, between a packer and a producer for the purchase of fed cattle for slaughter.

“(B) EXCLUSION.—The term ‘contract’ does not include a contract for a negotiated purchase.”;

(5) by inserting after paragraph (5) (as so redesignated) the following:

“(6) HEIFER.—The term ‘heifer’ means a bovine female that has not given birth to a calf.”;
(6) by inserting after paragraph (8) (as so redesignated) the following:

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

and

(7) by inserting after paragraph (10) (as so redesignated) the following:

“(11) TYPE OF CONTRACT.—

“(A) IN GENERAL.—The term ‘type of contract’ means the classification of a contract for the purchase of cattle—

“(i) into 1 of the categories described in subparagraph (B); and

“(ii) by determining the base price of the cattle.

“(B) CATEGORIES.—The categories for classification of a type of contract are the following:

“(i) Formula marketing arrangement.

“(ii) Forward contract.

“(iii) Negotiated grid purchase contract.”.

SEC. 3. 14-DAY CATTLE SLAUGHTER.

(a) DEFINITION OF CATTLE COMMITTED.—Section 221(1) of the Agricultural Marketing Act of 1946 (7
U.S.C. 1635d(1)) is amended by striking “7-day” and inserting “14-day”.

(b) MANDATORY REPORTING FOR LIVE CATTLE.—

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

(1) in paragraph (1)—

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

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

(2) in paragraph (2), by striking “the information” and inserting “information reported under this subsection”;

(3) by redesignating paragraph (2) as paragraph (3); and

(4) by inserting after paragraph (1) the following:

“(2) PRIOR DAY REPORTING.—

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

“(B) INFORMATION REQUIRED.—The information required under subparagraph (A) shall be, with respect to the prior business day, the number of cattle, organized by cattle type, scheduled for delivery to a packer processing plant for slaughter for each of the next 14 calendar days.”.

SEC. 4. DAILY FORMULA BASE PRICE REPORTING.

Section 222(c)(1)(A) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635e(c)(1)(A)) is amended in the matter preceding clause (i) by inserting “(including base price information for cattle purchased through a formula marketing arrangement)” after “day”.

SEC. 5. EXPEDITED CARCASS WEIGHTS REPORTING.

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

“(f) EXPEDITED CARCASS WEIGHTS.—

“(1) DETERMINATION.—Not later than 180 days after the date of enactment of the Cattle Price Discovery and Transparency Act of 2021, the Secretary shall determine the minimum amount of time needed by the Secretary to publicly report the daily
average carcass weight of cattle slaughtered by packer processing plants.

“(2) REPORTING.—Not later than 180 days after the Secretary has made a determination under paragraph (1), the Secretary shall begin publicly reporting the information described in that paragraph within the time determined under that paragraph.”.

SEC. 6. CATTLE CONTRACT LIBRARY.

Chapter 2 of subtitle B of the Agricultural Marketing Act of 1946 is amended—

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

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

“SEC. 223. CATTLE CONTRACT LIBRARY.

“(a) IN GENERAL.—Subject to the availability of appropriations to carry out this section, the Secretary shall establish and maintain, through the Livestock Mandatory Price Reporting program, a library or catalog of each type of contract offered by packers to producers for the purchase of all or part of the production of the producers of fed cattle (including cattle that are purchased or committed for delivery), including any schedules of premiums or discounts associated with the contract.

“(b) INFORMATION COLLECTION.—
“(1) IN GENERAL.—To maintain the library or catalog established under subsection (a), the Secretary shall obtain information from each packer on each type of existing contract of the packer by requiring a filing or other form of information submission from each packer.

“(2) CONTRACTED CATTLE INFORMATION.—Information submitted to the Secretary by a packer under paragraph (1) shall include, with respect to each existing 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, 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, organized by reporting region;

“(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

“(ii) any weekly, monthly, annual, or other limitations on the number of cattle that may be delivered to the packer under the contract; and

“(G) a description of the provisions in the contract that provide for expansion in the numbers of fed cattle to be delivered under the contract for the 6-month and 12-month periods following the date of the contract.

“(c) Availability of Information.—

“(1) In general.—The Secretary shall make publicly available to producers and other interested persons information (including the information described in subsection (b)(2)), in a user-friendly format, on the types of contracts in the library or catalog established under subsection (a), including notice (on a real-time basis, if practicable) of the types of contracts that are being offered by packers to, and are open to acceptance by, producers for the purchase of fed cattle.

“(2) Monthly report.—

“(A) In general.—Beginning 30 days after the library or catalog is established under
subsection (a), the Secretary shall make the in-
formation obtained each month in the library or
catalog available in a monthly report to pro-
ducers and other interested persons.

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

“(i) based on the information collected
under subsection (b)(2)(E), an estimate by
the Secretary of the total number of fed
cattle committed under contracts for deliv-
ery to packers within the 6-month and 12-
month periods following the date of the re-
port, organized by reporting region and
type of contract;

“(ii) based on the information col-
lected under subsection (b)(2)(F), the
number of contracts with an open commit-
tment and any weekly, monthly, annual, or
other limitations on the number of cattle
that may be delivered under such con-
tracts; and

“(iii) based on the information col-
lected under subsection (b)(2)(G), an esti-
mate by the Secretary of the total max-
imum number of fed cattle that may be de-
livered within the 6-month and 12-month
periods following the date of the report, or-
organized by reporting region and type of
contract.
“(d) MAINTENANCE OF LIBRARY OR CATALOG.—In-
formation in the library or catalog established under sub-
section (a) about types of contracts that are no longer of-
fered or in use shall be removed from the library or cata-
log.
“(e) CONFIDENTIALITY.—The reporting require-
ments for packers under this section shall be subject to
the confidentiality protections provided under section 251.
“(f) VIOLATIONS.—It shall be unlawful and a viola-
tion of this Act for any packer to willfully fail or refuse—
“(1) to provide to the Secretary accurate infor-
mation required under this section; or
“(2) to comply with any other requirement of
this section.
“(g) AUTHORIZATION OF APPROPRIATIONS.—There
are authorized to be appropriated to the Secretary such
sums as are necessary to carry out this section.”.
SEC. 7. PUBLIC AVAILABILITY OF INFORMATION.
Section 251(a) of the Agricultural Marketing Act of
1946 (7 U.S.C. 1636(a)) is amended—
(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(2) in the matter preceding subparagraph (A) (as so redesignated), by striking “The Secretary shall make available to the public information” and inserting the following:

“(1) IN GENERAL.—The Secretary shall make available to the public all information”; and

(3) by adding at the end the following:

“(2) EFFECT.—Nothing in this section permits the Secretary, or any officer or employee of the Secretary, to withhold from the public the information, statistics, and documents described in paragraph (1).”.

SEC. 8. CASH MARKET ACQUISITION OF CATTLE.

(a) SENSE OF THE HOUSE OF REPRESENTATIVES.—It is the sense of the House of Representatives that—

(1) all participants in the fed cattle market have a responsibility to contribute to regionally sufficient levels of negotiated trade of fed cattle in all cattle feeding regions in order to achieve robust price discovery; and

(2) the Department of Agriculture should examine existing academic literature regarding minimum
levels of cash transactions necessary to achieve robust price discovery and enhance cattle producer leverage in the marketplace in each of the cattle marketing regions.

(b) AMENDMENT.—Chapter 5 of subtitle B of the Agricultural Marketing Act of 1946 (7 U.S.C. 1636 et seq.) is amended—

(1) by redesignating sections 259 and 260 as sections 260 and 261, respectively; and

(2) by inserting after section 258 the following:

"SEC. 259. REGIONAL MANDATORY MINIMUMS FOR NEGOTIATED PURCHASES AND NEGOTIATED GRID PURCHASES.

"(a) DEFINITION OF PACKER.—

"(1) IN GENERAL.—In this section, the term 'packer' has the meaning given the term in section 221.

"(2) EXCLUSION.—In this section, the term 'packer' does not include a packer that slaughters cattle at only 1 livestock processing plant.

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Cattle Price Discovery and Transparency Act of 2021, the Secretary,
in consultation with the Chief Economist, shall es-

tablish—

“(A) regional mandatory minimums for the

purpose of enhancing price discovery, trans-

parency, and cattle producer leverage for cattle

market participants; and

“(B) methods for establishing those re-

gional mandatory minimums, which shall be

publicly available.

“(2) PURCHASES.—A packer shall, with respect
to a packer processing plant, purchase by negotiated
purchase or negotiated grid purchase the percentage
of cattle required by the regional mandatory min-
imum established for the region in which the packer
processing plant is located.

“(c) PUBLIC INPUT.—In carrying out subsection (b),
the Secretary shall make all proposed regional mandatory
minimums and proposed methods for establishing those
minimums subject to a notice and comment period.

“(d) DURATION.—Regional mandatory minimums es-
tablished for each reporting region under subsection (b)(1)
shall be applicable for not more than a 24-month period.

“(e) CONSIDERATIONS.—In carrying out subsection
(b) for each reporting region, the Secretary, in consulta-
tion with the Chief Economist, shall consider the following factors:

“(1) The number of packers in the reporting region.

“(2) The availability of cattle in the reporting region.

“(3) Pre-existing contractual arrangements of packers in the reporting region.

“(4) The number of pricing transactions (pens of cattle sold) in the reporting region.

“(f) INITIAL REQUIREMENT.—

“(1) IN GENERAL.—Subject to paragraph (2), the initial regional mandatory minimums established for each reporting region under subsection (b)(1) shall be not less than the average percentage of negotiated purchases and negotiated grid purchases in that region from the preceding 18 months.

“(2) REQUIREMENT.—No initial regional mandatory minimum established for a reporting region under paragraph (1) shall exceed 300 percent of the lowest initial regional mandatory minimum established under that paragraph for a region that has publicly reported a majority of weekly market information during the previous 18 months.
“(g) Biannual Review.—On establishing regional mandatory minimums under subsection (b)(1), the Secretary—

“(1) shall review the regional mandatory minimums not less frequently than once every 2 years; and

“(2) shall, in consultation with the Chief Economist—

“(A) maintain existing regional mandatory minimums; or

“(B) modify the regional mandatory minimums after—

“(i) consulting with representatives of the United States cattle and beef industry; and

“(ii) making the proposed modification subject to a notice and comment period.

“(h) Enforcement.—On establishing regional mandatory minimums under subsection (b)(1), the Secretary shall—

“(1) regularly monitor compliance by packers with those regional mandatory minimums; and
“(2) enforce this section in accordance with section 203 of the Packers and Stockyards Act, 1921 (7 U.S.C. 193).

“(i) Cost-Benefit Analysis.—Not later than 2 years after establishing regional mandatory minimums under subsection (b)(1), the Secretary, in consultation with the Chief Economist, shall conduct a quantifiable, data-driven cost-benefit analysis regarding the operation and effect of those regional mandatory minimums.

“(j) Application.—This section shall apply only with respect to the reporting regions designated by the Agricultural Marketing Service.”.

SEC. 9. MAXIMUM PENALTY AMOUNT.

The Secretary of Agriculture shall revise section 3.91(b)(1)(lvii) of title 7, Code of Federal Regulations (or a successor regulation), to establish a maximum civil penalty of $86,156, which shall be adjusted for inflation in the same manner and to the same extent as civil monetary penalties under the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note).