H. R.  

To regulate market concentration and competition in the food and agriculture industry, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. CASAR introduced the following bill; which was referred to the Committee on

A BILL

To regulate market concentration and competition in the food and agriculture industry, 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; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Fairness for Small-Scale Farmers and Ranchers Act”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—MORATORIUM ON AND REVIEW OF LARGE AGRI-
BUSINESS, FOOD AND BEVERAGE MANUFACTURING, AND GRO-
CERY RETAIL Mergers

Sec. 101. Moratorium on large agribusiness, food and beverage manufacturing, and grocery retail mergers.

Sec. 102. Retroactive review of large agribusiness, food and beverage manufac-
turing, and grocery retail mergers.

TITLE II—FARM SYSTEM REFORMS

Sec. 201. Local agriculture market program.


Sec. 203. Definitions in Packers and Stockyards Act, 1921.

Sec. 204. Unlawful practices.

Sec. 205. Spot market purchases of livestock by packers.

Sec. 206. Investigation of live poultry dealers.

Sec. 207. Ensuring fair practices in agriculture.

Sec. 208. Award of attorney fees.

Sec. 209. Review and report on fragility and national security in the food sys-
tem.


TITLE III—PROVIDING RESOURCES FOR BEGINNING, RETIRING,
AND SOCIALLY DISADVANTAGED FARMERS AND RANCHERS

Sec. 301. Reauthorization and increased funding for beginning, retiring, and socially disadvantaged farmers and ranchers.

TITLE IV—LIVESTOCK, DAIRY, AND POULTRY SUPPLY CHAIN INFRASTRUCTURE

Sec. 401. Livestock, dairy, and poultry supply chain infrastructure grants and loans.

Sec. 402. Pilot program for increased accessibility to inspection and technical assistance for eligible processing facilities.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Concentration in the food and agricultural economy, including mergers, acquisitions, and other combinations and alliances among suppliers, pack-
ers, integrators, other food processors, distributors, and retailers has been accelerating at a rapid pace.
since the 1980s, and particularly since the 2007 through 2009 recession.

(2) The trend toward greater concentration in food and agriculture has important and far reaching implications not only for family farmers, but also for food chain workers, the food we eat, the communities we live in, the integrity of the natural environment upon which we all depend, and for our collective public health.

(3) The infant formula industry, for example, has reached an alarming level of corporate concentration with 4 companies now controlling nearly 90 percent of the infant formula market. A disruption in the supply of just 1 infant formula producer now presents a grave risk to infant health in the United States.

(4) In the past 4 decades, the top 4 largest pork packers have seized control of 70 percent of the market, up from 36 percent. Over the same period, the top 4 beef packers have expanded their market share from 32 percent to 85 percent. The top 4 flour millers have increased their market share from 40 percent to 64 percent. The market share of the top 4 soybean crushers has jumped from 54 percent to 79 percent, and the top 4 wet corn processors con-
Control of the market has increased from 63 percent to 86 percent.

(5) Today the top 4 sheep, poultry, and fluid milk processors now control 62 percent, 54 percent, and 50 percent of the market, respectively.

(6) The top 4 grain companies today control as much as 90 percent of the global grain trade.

(7) During the past 5 years there has been a wave of consolidation among global seed and crop-chemical firms, 3 companies now control nearly 2/3 of the world’s commodity crop seeds. Those same 3 companies now also control nearly 70 percent of all agricultural chemicals and pesticides.

(8) In the United States, the 4 largest corn seed sellers accounted for 85 percent of the market in 2015, up from 60 percent in 2000. Over the past 20 years, the cost for an acre’s worth of seeds for an average corn farmer has nearly quadrupled, and the cost of fertilizer has more than doubled. Yet corn yields increased only 36 percent over that time, and the price received for the sale of a bushel of corn increased only 31 percent.

(9) A handful of firms dominate the processing of every major commodity. Many of them are vertically integrated, which means that they control
successive stages of the food chain, from inputs to production to distribution. The growing number and scale of cross-border agribusiness and food mergers have put foreign firms, often with considerable government backing, into prominent and even dominant positions in the United States beef, hog, poultry, seed, fertilizer, and agrichemical sectors.

(10) Growing concentration of the agricultural sector has restricted choices for farmers trying to sell their products. As the bargaining power of agribusiness firms over farmers increases, concentrated agricultural commodity markets are stacked against the farmer, with buyers of agricultural commodities often possessing regional dominance in the form of oligopsony or monopsony relative to sellers of such commodities.

(11) The high concentration and consolidation of buyers in agricultural markets has resulted in the thinning of both cash and future markets, thereby allowing dominant buyers to leverage their market shares to move those markets to the detriment of family farmers and ranchers.

(12) Buyers with oligopsonistic or monopsonistic power have incentives to engage in unfair and discriminatory acts that cause farmers to
receive less than a competitive price for their goods.
At the same time, some Federal courts have incor-
rectly required a plaintiff to show harm to competi-
tion generally, in addition to harm to the individual
farmer, when making a determination that an un-
fair, unjustly discriminatory, deceptive, or prefer-
ential act exists under the Packers and Stockyards
Act of 1921.

(13) The farmer’s share of every retail dollar
has plummeted from 41 percent in 1950, to less
than 15 percent today, while the profit share for
farm input, marketing, and processing companies
has risen.

(14) While agribusiness conglomerates are post-
ing record earnings, farmers are facing desperate
times. Since 2013, net farm income for United
States farmers has fallen by more than half and me-
dian on farm income was negative in 2020.

(15) The benefits of low commodity prices are
not being passed on to American consumers. The
gap between what shoppers pay for food and what
farmers are paid is growing wider.

(16) The steadily rising price of food has out-
paced growth in incomes for typical workers. Since
the Great Recession, the annual growth of real
prices for food at the supermarket have risen nearly 3 times faster than typical earnings.

(17) There is a growing consensus that economic consolidation contributes to the widening gap in economic opportunity in the United States and bigger, more dominant firms are more likely to deliver profits to investors than to raise wages or benefits. Mega-mergers in the food and agribusiness industries can lead to growing monopsony power abuse resulting in wage suppression, along with massive layoffs as companies shutter factories and facilities, harming working families and communities.

(18) Concentration, low prices, anticompetitive practices, and other manipulations and abuses of the agricultural economy are driving small family farmers out of business. Farmers are going bankrupt or giving up, and few are taking their places; more farm families are having to rely on other jobs to stay afloat. Seventy-nine percent of farm household income came from off farm work in 2020, up from 53 percent in 1960.

(19) Eighty-one percent of America’s farmed cropland is now controlled by 15 percent of farms, and the number of farmers leaving the land will con-
tinue to increase unless and until these trends are reversed.

(20) The decline of small family farms undermines the economies of rural communities across America; it has pushed Main Street businesses, from equipment suppliers to small banks, out of business or to the brink of insolvency.

(21) Increased concentration in the agribusiness sector has a harmful effect on the environment; corporate hog farming, for example, threatens the integrity of local water supplies and creates noxious odors in neighboring communities. Concentration also can increase the risks to food safety and limit the biodiversity of plants and animals.

(22) The decline of family farming poses a direct threat to American families and family values, by subjecting farm families to turmoil and stress. Farm advocates across the country are reporting an increase in farmer suicides over the past several years.

(23) The decline of family farming causes the demise of rural communities, as stores lose customers, churches lose congregations, schools and clinics become under-used, career opportunities for
young people dry up, and local inequalities of wealth and income grow wider.

(24) These developments are not the result of inevitable market forces. Its problems arise rather from policies made in Washington, including farm, antitrust, and trade policies.

(25) Past congressional action to remediate market failure, such as enacting country-of-origin labeling to provide transparency for domestic farmers, ranchers, and consumers regarding agricultural commodity origins, have been overturned for key commodities by oligopolistic conglomerates that use undifferentiated imports to reduce domestic farm prices.

(26) To restore competition in the agricultural economy, and to increase the bargaining power and enhance economic prospects for family farmers, the trend toward concentration must be reversed.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGRICULTURAL INPUT SUPPLIER.—The term “agricultural input supplier” means any person (excluding agricultural cooperatives) engaged in the business of selling, in interstate or foreign commerce, any product to be used as an input (including
seed, germ plasm, hormones, antibiotics, fertilizer, and chemicals, but excluding farm machinery) for the production of any agricultural commodity, except that no person shall be considered an agricultural input supplier if sales of such products are for a value less than $10,000,000 per year.

(2) BROKER.—The term “broker” means any person engaged in the business of negotiating sales and purchases of any agricultural commodity in interstate or foreign commerce for or on behalf of the vendor or the purchaser, except that no person shall be considered a broker if the only sales of such commodities are for a value less than $10,000,000 per year.

(3) COMMISSION MERCHANT.—The term “commission merchant” means any person engaged in the business of receiving in interstate or foreign commerce any agricultural commodity for sale, on commission, or for or on behalf of another, except that no person shall be considered a commission merchant if the only sales of such commodities are for a value less than $10,000,000 per year.

(4) DEALER.—The term “dealer” means any person (excluding agricultural cooperatives) engaged in the business of buying, selling, or marketing agri-
cultural commodities in interstate or foreign commerce, except that—

(A) no person shall be considered a dealer with respect to sales or marketing of any agricultural commodity of that person’s own raising; and

(B) no person shall be considered a dealer if the only sales of such commodities are for a value less than $10,000,000 per year.

(5) DISTRIBUTOR.—The term “distributor” means any entity engaged in the business of distributing agricultural products from producers or manufacturers to consumers, restaurants, or retailers.

(6) INTEGRATOR.—The term “integrator” means an entity that contracts with farmers for grower services to raise chickens or hogs to slaughter size and weight. The integrator owns the chickens or hogs, supplies the feed, slaughters, and further processes the poultry or pork.

(7) PROCESSOR.—The term “processor” means any person (excluding agricultural cooperatives) engaged in the business of handling, preparing, or manufacturing (including slaughtering and food and beverage manufacturing) of an agricultural commodity, or the products of such agricultural com-
modity, for sale or marketing for human consumption, except that no person shall be considered a processor if the only sales of such products are for a value less than $10,000,000 per year.

(8) RETAILER.—The term “retailer” means any person (excluding agricultural cooperatives, cooperative retailers, and cooperative distributors) licensed as a retailer under the Perishable Agriculture Commodities Act of 1930 (7 U.S.C. 499a(b)), except that no person shall be considered a retailer if the only sales of such products are for a value less than $10,000,000 per year.

TITLE I—MORATORIUM ON AND REVIEW OF LARGE AGRIBUSINESS, FOOD AND BEVERAGE MANUFACTURING, AND GROCERY RETAIL Mergers

SEC. 101. MORATORIUM ON LARGE AGRIBUSINESS, FOOD AND BEVERAGE MANUFACTURING, AND GROCERY RETAIL Mergers.

(a) IN GENERAL.—

(1) MORATORIUM.—Until the date referred to in paragraph (2) and except as provided in sub-

section (b)—
(A) no dealer, processor, commission merchant, agricultural input supplier, broker, or operator of a warehouse of agricultural commodities or retailer with annual net sales or total assets of more than $222,000,000 shall merge or acquire, directly or indirectly, any voting securities or assets of any other dealer, processor, commission merchant, agricultural input supplier, broker, or operator of a warehouse of agricultural commodities or retailer with annual net sales or total assets of more than $22,000,000; and

(B) no dealer, processor, commission merchant, agricultural input supplier, broker, or operator of a warehouse of agricultural commodities or retailer with annual net sales or total assets of more than $22,000,000 shall merge or acquire, directly or indirectly, any voting securities or assets of any other dealer, processor, commission merchant, agricultural input supplier, broker, or operator of a warehouse of agricultural commodities or retailer with annual net sales or total assets of more than $222,000,000 if the acquiring person would hold—
(i) 15 percent or more of the voting securities or assets of the acquired person; or

(ii) an aggregate total amount of the voting securities and assets of the acquired person in excess of $21,000,000.

(2) DATE.—The date referred to in this paragraph is the effective date of comprehensive legislation enacted on or after the date on which the reviews referred to in section 102(a) are completed—

(A) for addressing the problem of market concentration in the food and agricultural sector; and

(B) that terminates the moratorium under paragraph (1).

(b) WAIVER AUTHORITY.—The Attorney General shall have authority to waive the moratorium imposed by subsection (a) only under extraordinary circumstances, such as insolvency or similar financial distress of 1 of the affected parties.

(c) EXEMPTIONS.—The classes of transactions described in section 7A(c) of the Clayton Act (15 U.S.C. 18a(e)) are exempt from subsection (a).

(d) AVOIDANCE.—Any transaction or other device entered into or employed for the purpose of avoiding the
moratorium contained in subsection (a) shall be dis-
regarded, and the application of the moratorium shall be
determined by applying subsection (a) to the substance of
the transaction.

(e) RULEMAKING.—The Attorney General shall pro-
mulgate regulations that the Attorney General determines
are necessary to implement this section. In making the
determination under the preceding sentence, the Attorney
General shall consult with the Federal Trade Commission.

SEC. 102. RETROACTIVE REVIEW OF LARGE AGRIBUSINESS,
FOOD AND BEVERAGE MANUFACTURING,
AND GROCERY RETAIL MERGERS.

(a) IN GENERAL.—Not later than 2 years after the
date of enactment of this Act, the Attorney General and
the Federal Trade Commission shall review each merger
that the Attorney General and the Federal Trade Commiss-
ion have reviewed since January 1, 2006, that was sub-
ject to a premerger notification and waiting period pursu-
ant to section 7A of the Clayton Act (15 U.S.C. 18a) in
which a dealer, processor, distributor, commission mer-
chant, agricultural input supplier, broker, or operator of
a warehouse of agricultural commodities or retailer
merged or acquired, directly or indirectly, any voting secu-
rities or assets of any other dealer, processor, distributor,
commission merchant, agricultural input supplier, broker,
or operator of a warehouse of agricultural commodities or
retailer.

(b) UNWINDING.—The Attorney General and the
Federal Trade Commission shall consider whether to un-
wind a merger reviewed under subsection (a) to restore
competition, and may so unwind such merger, if the Attor-
ney General or the Federal Trade Commission determines
that the merger brought material harm to—

(1) competition nationally or in local markets;
(2) farmers and ranchers;
(3) workers; or
(4) consumers.

(e) INVESTIGATIVE AUTHORITY.—In conducting a re-
view of a merger under subsection (a), the Attorney Gen-
eral shall have the same power as the Federal Trade Com-
mission under section 6(b) of the Federal Trade Commis-
sion Act (15 U.S.C. 46(b)) with respect to such review.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addi-
tion to such other amounts as may be made available to
the Federal Trade Commission and the Antitrust Division
of the Department of Justice, there is authorized to be
appropriated to carry out this section for fiscal year 2024
and each fiscal year thereafter—

(1) $50,000,000 for the Federal Trade Com-
misson; and
(2) $50,000,000 for the Antitrust Division of the Department of Justice.

c) FINES AND PENALTIES.—The Federal Trade Commission and the Antitrust Division of the Department of Justice may use any funds from fines, penalties, and settlements not returned to consumers for their respective future operations.

(f) ADDITIONAL APPROPRIATIONS.—To the extent there are insufficient funds from fines, penalties, settlements, and fees received by the Federal Trade Commission and the Antitrust Division of the Department of Justice for the costs of their respective programs, projects, and activities, there are appropriated, out of monies in the Treasury not otherwise appropriated, for fiscal year 2024 and each fiscal year thereafter such sums as are necessary for the costs of such programs, projects, and activities.

TITLE II—FARM SYSTEM REFORMS

SEC. 201. LOCAL AGRICULTURE MARKET PROGRAM.

Section 210A(i)(1) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1627c(i)(1)) is amended by striking “fiscal year 2019” and inserting “each of fiscal years 2024 and 2025, and $500,000,000 for fiscal year 2026”.

SEC. 202. RESTORATION OF MANDATORY COUNTRY OF ORIGIN LABELING FOR BEEF AND PORK; INCLUSION OF DAIRY PRODUCTS.

(a) DEFINITIONS.—Section 281 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1638) is amended—

(1) by redesignating paragraphs (1), (2) through (5), (6), and (7) as paragraphs (2), (4) through (7), (9), and (10), respectively;

(2) by inserting before paragraph (2) (as so redesignated) the following:

“(1) BEEF.—The term ‘beef’ means meat produced from cattle (including veal).”;

(3) in paragraph (2) (as so redesignated)—

(A) in subparagraph (A)—

(i) in clause (i), by striking “lamb” and inserting “beef, lamb, pork,”;

(ii) in clause (ii), by striking “ground lamb” and inserting “ground beef, ground lamb, ground pork, ”;

(iii) in clause (x), by striking “and” at the end;

(iv) in clause (xi), by striking the period at the end and inserting “; and”; and

(v) by adding at the end the following:

“(xii) dairy products.”; and
(B) in subparagraph (B), by inserting

“(other than clause (xii) of that subpara-

graph)” after “subparagraph (A)”;

(4) by inserting after paragraph (2) (as so re-

designated) the following:

“(3) DAIRY PRODUCT.—The term ‘dairy prod-

uct’ means—

“(A) fluid milk;

“(B) cheese, including cottage cheese and

cream cheese;

“(C) yogurt;

“(D) ice cream;

“(E) butter; and

“(F) any other dairy product.”; and

(5) by inserting after paragraph (7) (as so re-

designated) the following:

“(8) PORK.—The term ‘pork’ means meat pro-

duced from hogs.”.

(b) NOTICE OF COUNTRY OF ORIGIN.—Section

282(a) of the Agricultural Marketing Act of 1946 (7

U.S.C. 1638a(a)) is amended by adding at the end the

following:

“(5) DESIGNATION OF COUNTRY OF ORIGIN

FOR DAIRY PRODUCTS.—
“(A) IN GENERAL.—A retailer of a covered commodity that is a dairy product shall designate the origin of the covered commodity as—

“(i) each country in which or from which the 1 or more dairy ingredients or dairy components of the covered commodity were produced, originated, or sourced; and

“(ii) each country in which the covered commodity was processed.

“(B) STATE, REGION, LOCALITY OF THE UNITED STATES.—With respect to a covered commodity that is a dairy product produced exclusively in the United States, designation by a retailer of the State, region, or locality of the United States where the covered commodity was produced shall be sufficient to identify the United States as the country of origin.”.

SEC. 203. DEFINITIONS IN PACKERS AND STOCKYARDS ACT, 1921.

Section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(a)), is amended—

(1) in the matter preceding paragraph (1), by striking “When used in this Act—” and inserting “In this Act:”;
(2) in paragraph (8), by striking “for slaughter” and all that follows through “of such poultry” and inserting “under a poultry growing arrangement, regardless of whether the poultry is owned by that person or another person”;

(3) in paragraph (9), by striking “and cares for live poultry for delivery, in accord with another’s instructions, for slaughter” and inserting “or cares for live poultry in accordance with the instructions of another person”;

(4) in each of paragraphs (1) through (9), by striking the semicolon at the end and inserting a period;

(5) in paragraph (10)—

(A) by striking “for the purpose of either slaughtering it or selling it for slaughter by another”; and

(B) by striking “; and” at the end and inserting a period; and

(6) by adding at the end the following:

“(15) FORMULA PRICE.—

“(A) IN GENERAL.—The term ‘formula price’ means any price term that establishes a base from which a purchase price is calculated on the basis of a price that will not be deter-
mined or reported until a date that is after the date on which the forward price is established.

“(B) EXCLUSION.—The term ‘formula price’ does not include—

“(i) any price term that establishes a base from which a purchase price is calculated on the basis of a futures market price; or

“(ii) any adjustment to the base for quality, grade, or other factors relating to the value of livestock or livestock products that are readily verifiable market factors and are outside the control of the packer.

“(16) FORWARD CONTRACT.—The term ‘forward contract’ means an oral or written contract for the purchase of livestock that provides for the delivery of the livestock to a packer at a date that is more than 7 days after the date on which the contract is entered into, without regard to whether the contract is for—

“(A) a specified lot of livestock; or

“(B) a specified number of livestock over a certain period of time.”.
SEC. 204. UNLAWFUL PRACTICES.

(a) IN GENERAL.—Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended to read as follows:

“SEC. 202. UNLAWFUL ACTS.

“(a) DEFINITIONS.—In this section:

“(1) BASE PRICE.—

“(A) IN GENERAL.—The term ‘base price’ means the price established in a poultry production contract that corresponds to the stated value provided by the independent contract producer under the terms of the contract, prior to the assessment of any performance-based premium or penalty.

“(B) SQUARE FOOTAGE.—The price described in subparagraph (A) may be established using the price per square foot of contracted farm infrastructure or price per pound of poultry production.

“(2) COOPERATIVE ASSOCIATION OF PRODUCERS.—The term ‘cooperative association of producers’ means a cooperative association (as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a))) engaged in marketing, bargaining, shipping, or processing agricultural products.
“(3) EXPECTED PERFORMANCE STANDARD.—

The term ‘expected performance standard’ means, with respect to a poultry production contract, a standard established in the contract for the growth and health performance of live poultry under the management of an independent contract producer, which may include expected mortality, weight gain, or feed conversion efficiency.

“(4) INDEPENDENT CONTRACT PRODUCER.—

The term ‘independent contract producer’ means an agricultural producer that—

“(A) enters into a contract to manage the production of an agricultural commodity owned by a live poultry dealer or another contracting party; and

“(B) is not a member of a cooperative association of producers that has engaged in bargaining with the other contracting party.

“(5) MINIMUM PRICE.—The term ‘minimum price’ means a contractually guaranteed price floor within a poultry production contract below which the final price delivered to an independent contract producer may not be reduced, including by performance-based penalties.
“(6) PERFORMANCE-BASED INCENTIVE FORMULA.—The term ‘performance-based incentive formula’ means a formula designed to compare the real performance of live poultry being managed by an independent contract producer relative to an expected performance standard.

“(7) POULTRY PRODUCTION CONTRACT.—The term ‘poultry production contract’ means an oral or written contract established between a live poultry dealer and an independent contract producer in which the independent contract producer provides the land, farm infrastructure, or management labor of the independent contract producer to house and raise live poultry owned by the live poultry dealer.

“(b) GENERAL RULE.—It shall be unlawful for any packer or swine contractor with respect to livestock, meats, meat food products, or livestock products in unmanufactured form, or for any live poultry dealer with respect to live poultry, to do any of the following:

“(1) Engage in or use any unfair, unjustly discriminatory, or deceptive practice or device.

“(2) Make or give any undue or unreasonable preference or advantage to any particular person or locality in any respect, or subject any particular per-
son or locality to any undue or unreasonable prejudice or disadvantage in any respect.

“(3) Sell or otherwise transfer to or for any other packer, swine contractor, or any live poultry dealer, or buy or otherwise receive from or for any other packer, swine contractor, or any live poultry dealer, any article for the purpose or with the effect of apportioning the supply between any such persons, if such apportionment has the tendency or effect of restraining commerce or of creating a monopoly.

“(4) Sell or otherwise transfer to or for any other person, or buy or otherwise receive from or for any other person, any article for the purpose or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article, or of restraining commerce.

“(5) Engage in any course of business or do any act for the purpose or with the effect or manipulating or controlling prices, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article, or of restraining commerce.

“(6) Conspire, combine, agree, or arrange with any other person—
“(A) to apportion territory for carrying on business;
“(B) to apportion purchases or sales of any article; or
“(C) to manipulate or control prices.
“(7) Use, in effectuating any sale of livestock, a forward contract that—
“(A) does not contain a firm base price that may be equated to a fixed dollar amount on the date on which the forward contract is entered into;
“(B) is not offered for bid in an open, public manner under which—
“(i) buyers and sellers have the opportunity to participate in the bid;
“(ii) more than 1 blind bid is solicited; and
“(iii) buyers and sellers may witness bids that are made and accepted;
“(C) is based on a formula price; or
“(D) provides for the sale of livestock in a quantity in excess of—
“(i) in the case of cattle, 40 cattle;
“(ii) in the case of swine, 30 swine;
and
“(iii) in the case of another type of livestock, a comparable quantity of that type of livestock, as determined by the Secretary.

“(8) Own or feed livestock directly, through a subsidiary, or through an arrangement that gives a packer operational, managerial, or supervisory control over the livestock, or over the farming operation that produces the livestock, to such an extent that the producer of the livestock is not materially participating in the management of the operation with respect to the production of the livestock, except that this paragraph shall not apply to—

“(A) an arrangement entered into not more than 7 business days before slaughter of the livestock by a packer, a person acting through the packer, or a person that directly or indirectly controls, or is controlled by or under common control with, the packer;

“(B) a cooperative or entity owned by a cooperative, if a majority of the ownership interest in the cooperative is held by active cooperative members that—

“(i) own, feed, or control the livestock;
“(ii) provide the livestock to the cooperative for slaughter;

“(C) a packer that is not required to report to the Secretary on each reporting day (as defined in section 212 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635a)) information on the price and quantity of livestock purchased by the packer; or

“(D) a packer that owns only 1 livestock processing plant.

“(9) Take any action that adversely affects or is likely to adversely affect competition, regardless of whether there is a business justification for the action.

“(10) Conspire, combine, agree, or arrange with any other person to do, or aid or abet the doing of, any act made unlawful by paragraphs (1) through (9).

“(c) UNFAIR, DISCRIMINATORY, AND DECEPTIVE PRACTICES AND DEVICES.—Acts by a packer, swine contractor, or live poultry dealer that violate subsection (b)(1) include the following:

“(1) Refusal to provide, on the request of a livestock producer, swine production contract grower, or poultry grower with which the packer, swine
contractor, or live poultry dealer has a marketing or
delivery contract, the relevant statistical information
and data used to determine the compensation paid
to the livestock producer, swine production contract
grower, or poultry grower, as applicable, under the
contract, including—

“(A) feed conversion rates by house, lot, or
pen;

“(B) feed analysis;

“(C) breeder history;

“(D) quality grade;

“(E) yield grade; and

“(F) delivery volume for any certified
branding program (such as programs for angus
beef or certified grassfed or Berkshire pork).

“(2) Conduct or action that limits or attempts
to limit by contract the legal rights and remedies of
a livestock producer, swine production contract
grower, or poultry grower, including the right—

“(A) to a trial by jury, unless the livestock
producer, swine production contract grower, or
poultry grower, as applicable, is voluntarily
bound by an arbitration provision in a contract;

“(B) to pursue all damages available under
applicable law; and
“(C) to seek an award of attorneys’ fees, if available under applicable law.

“(3) Termination of a poultry growing arrangement or swine production contract with no basis other than an allegation that the poultry grower or swine production contract grower failed to comply with an applicable law, rule, or regulation.

“(4) A representation, omission, or practice that is likely to mislead a livestock producer, swine production contract grower, or poultry grower regarding a material condition or term in a contract or business transaction.

“(d) UNDUE OR UNREASONABLE PREFERENCES, ADVANTAGES, PREJUDICES, AND DISADVANTAGES.—

“(1) IN GENERAL.—Acts by a packer, swine contractor, or live poultry dealer that violate subsection (b)(2) include the following:

“(A) The execution, termination, extension, or renewal of a contract or agreement that materially disadvantages a livestock producer, swine production contract grower, or poultry grower unless the packer, swine contractor, or live poultry dealer can show, by a preponderance of the evidence, that the acts were predominantly motivated by—
“(i) compliance with applicable regulations;

“(ii) a distinct and materially disadvantageous change to the financial relationship with the livestock producer, swine production contract grower, or poultry grower; or

“(iii) the termination of operations in the geographic region by the packer, swine contractor, or live poultry dealer.

“(B) The failure to meet the requirements described in paragraph (2).

“(C) In the case of a poultry production contract that contains a performance-based incentive formula, the failure to meet the requirements described in paragraph (3).

“(2) PAYMENT BY SQUARE FOOTAGE.—The requirements described in this paragraph are as follows:

“(A) Subject to subparagraph (B), a live poultry dealer shall structure any poultry production contract in a manner that provides for payment by the square footage of the barn or facility space in which the live birds that are subject to the contract are reared and raised.
“(B) In lieu of providing for payment by the square footage of the barn or facility space in which the live birds that are subject to the contract are reared and raised, a live poultry dealer may meet the requirement specified in subparagraph (A) if the dealer includes in the poultry production contract an alternative base price provision that was obtained through negotiations with a cooperative association of producers representing the individual independent contract producer.

“(3) USE OF PERFORMANCE-BASED INCENTIVE FORMULA.—The requirements described in this paragraph are as follows:

“(A) The poultry production contract shall guarantee a minimum price.

“(B) The expected performance standard in the poultry production contract shall be based on at least a 6-month rolling performance average of all producers in the complex of the independent contract producer.

“(C) The performance-based incentive formula shall not assess a premium or penalty percentage that exceeds the percentage difference between the performance of the independent
contract producer and the expected performance average.

“(D) The expected performance standard in the poultry production contract shall be mathematically adjusted to account for expected performance with respect to expected mortality, weight, or feed conversion efficiency, with differences relative to—

“(i) layer flock age and health;
“(ii) predelivery health issues;
“(iii) flock breed;
“(iv) flock pick-up age;
“(v) feed type;
“(vi) feed disruption of 6 hours or more; and
“(vii) medical care protocols (such as an antibiotic-free protocol).

“(E) The poultry production contract shall include a procedure for settling payment outside of the performance-based payment formula, through a performance average of at least the last 5 flocks of the independent contract producer, in the case of the independent contract producer bringing an appeal related to input quality or provision issues.
“(e) HARM TO COMPETITION NOT REQUIRED.—In determining whether an act, device, or conduct is a violation under paragraph (1) or (2) of subsection (b), a finding that the act, device, or conduct adversely affected or is likely to adversely affect competition is not required.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), paragraph (8) of section 202(b) of the Packers and Stockyards Act, 1921 (7 U.S.C. 192) (as designated by subsection (a)), shall take effect on the date of enactment of this Act.

(2) TRANSITION RULES.—In the case of a packer that, on the date of enactment of this Act, owns, feeds, or controls livestock intended for slaughter in violation of paragraph (8) of section 202(b) of the Packers and Stockyards Act, 1921 (7 U.S.C. 192) (as designated by subsection (a)), that paragraph shall take effect—

(A) in the case of a packer of swine, beginning on the date that is 18 months after the date of enactment of this Act; and

(B) in the case of a packer of any other type of livestock, beginning not later than 180 days after the date of enactment of this Act, as determined by the Secretary.
SEC. 205. SPOT MARKET PURCHASES OF LIVESTOCK BY PACKERS.

The Packers and Stockyards Act, 1921, is amended by inserting after section 202 (7 U.S.C. 192) the following:

“SEC. 202A. SPOT MARKET PURCHASES OF LIVESTOCK BY PACKERS.

“(a) DEFINITIONS.—In this section:

“(1) COVERED PACKER.—

“(A) IN GENERAL.—The term ‘covered packer’ means a packer that is required under subtitle B of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635 et seq.) to report to the Secretary each reporting day (as defined in section 212 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635a)) information on the price and quantity of livestock purchased by the packer.

“(B) EXCLUSION.—The term ‘covered packer’ does not include a packer that owns only 1 livestock processing plant.

“(2) NONAFFILIATED PRODUCER.—The term ‘nonaffiliated producer’ means a producer of livestock—

“(A) that sells livestock to a packer;
“(B) that has less than 1 percent equity interest in the packer;

“(C) that has no officers, directors, employees, or owners that are officers, directors, employees, or owners of the packer;

“(D) that has no fiduciary responsibility to the packer; and

“(E) in which the packer has no equity interest.

“(3) Spot market sale.—

“(A) In general.—The term ‘spot market sale’ means a purchase and sale of livestock by a packer from a producer—

“(i) under an agreement that specifies a firm base price that may be equated with a fixed dollar amount on the date the agreement is entered into;

“(ii) under which the livestock are slaughtered not more than 7 days after the date on which the agreement is entered into; and

“(iii) under circumstances in which a reasonable competitive bidding opportunity exists on the date on which the agreement is entered into.
“(B) REASONABLE COMPETITIVE BIDDING OPPORTUNITY.—For the purposes of subparagraph (A)(iii), a reasonable competitive bidding opportunity shall be considered to exist if—

“(i) no written or oral agreement precludes the producer from soliciting or receiving bids from other packers; and

“(ii) no circumstance, custom, or practice exists that—

“(I) establishes the existence of an implied contract (as determined in accordance with the Uniform Commercial Code); and

“(II) precludes the producer from soliciting or receiving bids from other packers.

“(b) GENERAL RULE.—Of the quantity of livestock that is slaughtered by a covered packer during each reporting day (as defined in section 212 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635a)) in each plant, the covered packer shall slaughter not less than the applicable percentage specified in subsection (c) of the quantity through spot market sales from nonaffiliated producers.

“(c) APPLICABLE PERCENTAGES.—
“(1) IN GENERAL.—Except as provided in paragraph (2), the applicable percentage shall be 50 percent.

“(2) EXCEPTIONS.—In the case of a covered packer that reported to the Secretary in the 2020 annual report that more than 60 percent of the livestock of the covered packer were committed procurement livestock, the applicable percentage shall be the greater of—

“(A) the difference between the percentage of committed procurement livestock so reported and 100 percent; and

“(B)(i) during each of calendar years 2024 and 2025, 20 percent;

“(ii) during each of calendar years 2026 and 2027, 30 percent; and

“(iii) during calendar year 2028 and each calendar year thereafter, 50 percent.

“(d) NONPREEMPTION.—This section does not preempt any requirement of a State or political subdivision of a State that requires a covered packer to purchase on the spot market a greater percentage of the livestock purchased by the covered packer than is required under this section.”.
SEC. 206. INVESTIGATION OF LIVE POULTRY DEALERS.

(a) Administrative Enforcement Authority Over Live Poultry Dealers.—Sections 203, 204, and 205 of the Packers and Stockyards Act, 1921 (7 U.S.C. 193, 194, 195), are amended by inserting “, live poultry dealer,” after “packer” each place it appears.

(b) Authority to Request Temporary Injunction or Restraining Order.—Section 408 of the Packers and Stockyards Act, 1921 (7 U.S.C. 228a), is amended by inserting “or poultry care” after “on account of poultry”.

(c) Violations by Live Poultry Dealers.—Section 411 of the Packers and Stockyards Act, 1921 (7 U.S.C. 228b–2), is amended—

(1) in subsection (a), in the first sentence, by striking “any provision of section 207 or section 410 of”; and

(2) in subsection (b), in the first sentence, by striking “any provisions of section 207 or section 410” and inserting “any provision”.

SEC. 207. ENSURING FAIR PRACTICES IN AGRICULTURE.

Not later than 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall implement, without amendment, the final rule titled “Unfair Practices and Undue Preferences in Violation of the Packers and Stockyards Act” and published in the Federal
Register by the Department of Agriculture on December 20, 2016 (81 Fed. Reg. 92703).

SEC. 208. AWARD OF ATTORNEY FEES.

Section 204 of the Packers and Stockyards Act, 1921 (7 U.S.C. 194), is amended by adding at the end the following:

“(i) ATTORNEY’S FEE.—The court shall award a reasonable attorney’s fee as part of the costs to a prevailing plaintiff in a civil action under this section.”.

SEC. 209. REVIEW AND REPORT ON FRAGILITY AND NATIONAL SECURITY IN THE FOOD SYSTEM.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a review of the fragility of the food system in the United States with respect to meat, poultry, and dairy; and

(2) submit to Congress a report containing the results of such review.

(b) REQUIREMENTS.—The report under subsection (a) shall include information on, and an analysis of—

(1) the reach of corporate consolidation and corporate control of the meat, poultry, and dairy
supply chain, including animal feed, inputs for animal feed, processing, and distribution;

(2) the effects of corporate consolidation and corporate control of the meat, poultry, and dairy supply chain on—

(A) consumers, farmers, rural communities, and meat, poultry, and dairy processing workers;

(B) greenhouse gas emissions, climate change, and costs borne by communities to adapt to climate change;

(C) water quality, soil quality, air quality, and biodiversity; and

(D) politics and political lobbying;

(3)(A) the extent to which Department of Agriculture rules and regulations designed for large covered establishments are applied to small- and medium-sized covered establishments; and

(B) the need for the Secretary of Agriculture to adapt rules and regulations to benefit small- and medium-sized covered establishments;

(4) the effects of the COVID–19 pandemic on meat, poultry, and dairy exports; meat, poultry, and dairy cold storage inventories; processing rates of
meat, poultry, and dairy; and the net profits earned
by owners of covered establishments;

(5) the effect of the COVID–19 pandemic on
meat, poultry, and dairy prices paid—
   (A) to farmers; and
   (B) by consumers;

(6) Federal support for the corporations that
control the largest percentage of the meat, poultry,
and dairy industry through contracts, procurement,
subsidies, and other mechanisms;

(7) the risk of disruption caused by corporate
consolidation among covered establishments, includ-
ing an analysis of food supply chain issues resulting
from the COVID–19 pandemic; and

(8) the extent to which breaking up the meat
packing oligopoly and the dairy processing oligopoly
would increase food system resiliency for the next
pandemic.

(c) COVERED ESTABLISHMENT DEFINED.—In this
section, the term “covered establishment” means—

(1) an establishment that is subject to inspec-
tion under the Federal Meat Inspection Act (21
U.S.C. 601 et seq.);
(2) an establishment that is subject to inspection under the Poultry Products Inspection Act (21 U.S.C. 451 et seq.); and

(3) an establishment—

(A) that is a dairy operation (as defined in section 1401 of the Agricultural Act of 2014 (7 U.S.C. 9051)); or

(B) that processes dairy.

SEC. 210. TECHNICAL AMENDMENTS.

(a) Section 203 of the Packers and Stockyards Act, 1921 (7 U.S.C. 193), is amended—

(1) in subsection (a), in the first sentence—

(A) by striking “he shall cause” and inserting “the Secretary shall cause”;

(B) by striking “his charges” and inserting “the charges”; and

(C) by striking “evidence introduced against him” and inserting “evidence introduced against the packer, live poultry dealer, or swine contractor”;

(2) in subsection (b), in the first sentence, by striking “he shall make a report in writing in which he shall state his findings” and inserting “the Secretary shall make a report in writing in which the Secretary shall...
Secretary shall state the findings of the Secretary’’;

and

(3) in subsection (c), by striking “he” and inserting “the Secretary”.

(b) Section 204 of the Packers and Stockyards Act, 1921 (7 U.S.C. 194), is amended—

(1) in subsection (a), by striking “he has his” and inserting “the packer, live poultry dealer, or swine contractor has its”;

(2) in subsection (c), by striking “his officers, directors, agents, and employees” and inserting “the officers, directors, agents, and employees of the packer, live poultry dealer, or swine packer”;

(3) in subsection (f), in the second sentence—

(A) by striking “his findings” and inserting “the findings of the Secretary”; and

(B) by striking “he” and inserting “the Secretary”; and

(4) in subsection (g), by striking “his officers, directors, agents, and employees” and inserting “the officers, directors, agents, and employees of the packer, live poultry dealer, or swine packer”.
TITLE III—PROVIDING RESOURCES FOR BEGINNING, RETIRING, AND SOCIALLY DISADVANTAGED FARMERS AND RANCHERS

SEC. 301. REAUTHORIZATION AND INCREASED FUNDING FOR BEGINNING, RETIRING, AND SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.

(a) MANDATORY FUNDING.—Section 2501(l)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(l)(1)) is amended—

(1) in subparagraph (C), by striking “and”;

(2) in subparagraph (D), by striking “2023 and each fiscal year thereafter.” and inserting “2023; and”;

and

(3) by adding at the end the following:

“(E) $100,000,000 for each of fiscal years 2024 through 2028.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 2501(l)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(l)(2)) is amended by striking “$50,000,000 for each of fiscal years 2019 through 2023” and inserting “$100,000,000 for each of fiscal years 2024 through 2028”.

TITLE IV—LIVESTOCK, DAIRY, AND POULTRY SUPPLY CHAIN INFRASTRUCTURE

SEC. 401. LIVESTOCK, DAIRY, AND POULTRY SUPPLY CHAIN INFRASTRUCTURE GRANTS AND LOANS.

Subtitle D of title III of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) is amended by adding at the end the following new section:

“SEC. 379I. LIVESTOCK, DAIRY, AND POULTRY SUPPLY CHAIN INFRASTRUCTURE.

“(a) IN GENERAL.—The Secretary is authorized to provide grants or make or insure loans under any of the programs authorized by this Act, the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.), or the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as the Secretary determines to be appropriate, to assist farmers and rural businesses and cooperatives to maintain or increase the production, aggregation, processing, distribution, and marketing of value-added, niche, or regionally marketed meat, dairy, and poultry products.

“(b) PRIORITY.—In implementing subsection (a), the Secretary shall give priority to grants or loans that will help increase or enhance the availability and geographic distribution of small processing facilities.
“(c) **SMALL PROCESSING FACILITY DEFINED.**—In this section, the term ‘small processing facility’ means—

“(1) a selected establishment (as defined in section 501(a) of the Federal Meat Inspection Act (21 U.S.C. 683(a)));

“(2) a selected establishment (as defined in section 31(a) of the Poultry Products Inspection Act (21 U.S.C. 472(a))); and

“(3) an establishment that—

“(A) specializes in processing milk, cream, or dairy products; and

“(B) processes fewer than 100,000 pounds of milk, cream, or dairy products per day.”.

**SEC. 402. PILOT PROGRAM FOR INCREASED ACCESSIBILITY TO INSPECTION AND TECHNICAL ASSISTANCE FOR ELIGIBLE PROCESSING FACILITIES.**

(a) **IN GENERAL.**—The Secretary shall carry out a 5-year pilot program within the Food Safety and Inspection Service—

(1) to expand the availability of processing inspectors, technical assistance, and onsite inspection for eligible processing facilities, including no-cost overtime inspections; and
(2) to identify and train part-time inspectors and technical assistance providers.

(b) Professional Experience.—The Secretary shall determine the appropriate professional experience of inspectors and providers described in subsection (a)(2), which shall include individuals with expertise in veterinary medicine, public health, food service management, and animal science, as applicable.

(c) Definitions.—In this section:

(1) Eligible Processing Facility.—The term “eligible processing facility” means—

(A) an eligible facility described in section 764 of division N of the Consolidated Appropriations Act, 2021 (21 U.S.C. 473), that has a labor peace agreement in place; and

(B) a dairy processing facility that has a labor peace agreement in place.

(2) Labor Peace Agreement.—The term “labor peace agreement” means an agreement—

(A) between an employer and a labor organization that represents, or is actively seeking to represent, the employees of the employer; and

(B) under which such employer and labor organization agree that—
(i) the employer—

(I) will not hinder any effort of 
an employee to join a labor organiza-
tion; and

(II) will not take any ac-
tion that directly or indirectly indi-
cates or implies any opposition to an 
employee joining a labor organization;

(ii) the labor organization agrees to 
refrain from picketing, work stoppages, or 
boycotts against the employer;

(iii) the employer provides the labor 
organization with employee contact infor-
tation, and facilitates or permits labor or-
ganization access to employees at the 
workplace, including facilitating or permit-
ting the labor organization to meet with 
employees to discuss joining the labor or-
ganization; and

(iv) the employer shall, upon the re-
quest of the labor organization, recognize 
the labor organization as the bargaining 
representative of the employees if a major-
ity of the employees choose the labor orga-
organization as their bargaining representative.