

117TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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

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IN THE SENATE OF THE UNITED STATES

Mrs. FISCHER (for herself, Mr. GRASSLEY, Mr. TESTER, Mr. WYDEN, Ms. ERNST, Mr. BRAUN, Ms. SMITH, Mrs. HYDE-SMITH, Mr. DAINES, and Mr. CASSIDY) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**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 2021”.

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 (4), (5), (6),  
4           (7), (8), (9), (10), (11), (12), (13), and (14) as  
5           paragraphs (5), (6), (7), (8), (10), (11), (12), (13),  
6           (15), (16), and (17), respectively;

7           (3) by inserting after paragraph (3) the fol-  
8           lowing:

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

14          (4) by inserting after paragraph (8) (as so re-  
15          designated) the following:

16          “(9) NEGOTIATED GRID PURCHASE.—The term  
17          ‘negotiated grid purchase’ means a purchase of fed  
18          cattle by a packer from a producer under which—

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

22                 “(B) the fed cattle are scheduled for deliv-  
23                 ery to the packer not more than 14 days after  
24                 the date on which the agreement for purchase  
25                 is made.”; and

1           (5) by inserting after paragraph (13) (as so re-  
2 designated) the following:

3           “(14) REGIONAL MANDATORY MINIMUM.—The  
4 term ‘regional mandatory minimum’ means, for each  
5 reporting region (as designated by the Agricultural  
6 Marketing Service), of the quantity of cattle pur-  
7 chased for slaughter by a packer (as defined in sec-  
8 tion 259(a)) in that region each current slaughter  
9 week, the minimum percentage of such cattle that  
10 are required to be purchased through negotiated  
11 purchases or negotiated grid purchases from pro-  
12 ducers.”.

13           (b) CATTLE REPORTING DEFINITIONS.—Section 221  
14 of the Agricultural Marketing Act of 1946 (7 U.S.C.  
15 1635d) is amended—

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

18           “(3) FORMULA MARKETING ARRANGEMENT.—  
19 The term ‘formula marketing arrangement’ means  
20 the advance commitment of cattle for slaughter—

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

24                   “(B) using a method for calculating  
25 price—

1                   “(i) under which the price is deter-  
2                   mined at a future date; and

3                   “(ii) the basis of which is a price es-  
4                   tablished for a specified market, which  
5                   may be based on any publicly reported  
6                   price, including plant average price, re-  
7                   gional price, downstream price, or some  
8                   other mutually agreeable price source.”;

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

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

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

16                  “(3) CONTRACT.—

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

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

24                  (5) by inserting after paragraph (5) (as so re-  
25                  designated) the following:

1           “(6) HEIFER.—The term ‘heifer’ means a bo-  
2           vine female that has not given birth to a calf.”;

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

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

7           and

8           (7) by inserting after paragraph (10) (as so re-  
9           designated) the following:

10          “(11) TYPE OF CONTRACT.—

11                 “(A) IN GENERAL.—The term ‘type of con-  
12                 tract’ means the classification of a contract for  
13                 the purchase of cattle—

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

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

18                 “(B) CATEGORIES.—The categories for  
19                 classification of a type of contract are the fol-  
20                 lowing:

21                         “(i) Formula marketing arrangement.

22                         “(ii) Forward contract.

23                         “(iii) Negotiated grid purchase con-  
24                         tract.”.

1 **SEC. 3. 14-DAY CATTLE SLAUGHTER.**

2 (a) DEFINITION OF CATTLE COMMITTED.—Section  
3 221(1) of the Agricultural Marketing Act of 1946 (7  
4 U.S.C. 1635d(1)) is amended by striking “7-day” and in-  
5 serting “14-day”.

6 (b) MANDATORY REPORTING FOR LIVE CATTLE.—  
7 Section 222(c) of the Agricultural Marketing Act of 1946  
8 (7 U.S.C. 1635e(c)) is amended—

9 (1) in paragraph (1)—

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

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

14 (2) in paragraph (2), by striking “the informa-  
15 tion” and inserting “information reported under this  
16 subsection”;

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

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

21 “(2) PRIOR DAY REPORTING.—

22 “(A) IN GENERAL.—The corporate officers  
23 or officially designated representatives of each  
24 packer processing plant shall report to the Sec-  
25 retary, for each business day of the packer  
26 processing plant, not later than 10:00 a.m.

1 Central Time on each reporting day, the infor-  
2 mation from the prior business day described in  
3 subparagraph (B).

4 “(B) INFORMATION REQUIRED.—The in-  
5 formation required under subparagraph (A)  
6 shall be, with respect to the prior business day,  
7 the number of cattle, organized by cattle type,  
8 scheduled for delivery to a packer processing  
9 plant for slaughter for each of the next 14 cal-  
10 endar days.”.

11 **SEC. 4. DAILY FORMULA BASE PRICE REPORTING.**

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

17 **SEC. 5. EXPEDITED CARCASS WEIGHTS REPORTING.**

18 Section 222 of the Agricultural Marketing Act of  
19 1946 (7 U.S.C. 1635e) is amended by adding at the end  
20 the following:

21 “(f) EXPEDITED CARCASS WEIGHTS.—

22 “(1) DETERMINATION.—Not later than 180  
23 days after the date of enactment of the Cattle Price  
24 Discovery and Transparency Act of 2021, the Sec-  
25 retary shall determine the minimum amount of time

1 needed by the Secretary to publicly report the daily  
2 average carcass weight of cattle slaughtered by pack-  
3 er processing plants.

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

9 **SEC. 6. CATTLE CONTRACT LIBRARY.**

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

12 (1) by redesignating section 223 (7 U.S.C.  
13 1635f) as section 224; and

14 (2) by inserting after section 222 (7 U.S.C.  
15 1635e) the following:

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

17 “(a) IN GENERAL.—Subject to the availability of ap-  
18 propriations to carry out this section, the Secretary shall  
19 establish and maintain, through the Livestock Mandatory  
20 Price Reporting program, a library or catalog of each type  
21 of contract offered by packers to producers for the pur-  
22 chase of all or part of the production of the producers  
23 of fed cattle (including cattle that are purchased or com-  
24 mitted for delivery), including any schedules of premiums  
25 or discounts associated with the contract.

1 “(b) INFORMATION COLLECTION.—

2 “(1) IN GENERAL.—To maintain the library or  
3 catalog established under subsection (a), the Sec-  
4 retary shall obtain information from each packer on  
5 each type of existing contract of the packer by re-  
6 quiring a filing or other form of information submis-  
7 sion from each packer.

8 “(2) CONTRACTED CATTLE INFORMATION.—In-  
9 formation submitted to the Secretary by a packer  
10 under paragraph (1) shall include, with respect to  
11 each existing contract of a packer—

12 “(A) the type of contract;

13 “(B) the duration of the contract;

14 “(C) a summary of the contract terms;

15 “(D) provisions in the contract that may  
16 affect the price of cattle covered by the con-  
17 tract, including schedules, premiums and dis-  
18 counts, and transportation arrangements;

19 “(E) the total number of cattle covered by  
20 the contract solely committed to the packer  
21 each week within the 6-month and 12-month  
22 periods following the date of the contract, orga-  
23 nized by reporting region;

1           “(F) in the case of a contract in which a  
2           specific number of cattle are not solely com-  
3           mitted to the packer—

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

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

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

15           “(c) AVAILABILITY OF INFORMATION.—

16                   “(1) IN GENERAL.—The Secretary shall make  
17           publicly available to producers and other interested  
18           persons information (including the information de-  
19           scribed in subsection (b)(2)), in a user-friendly for-  
20           mat, on the types of contracts in the library or cata-  
21           log established under subsection (a), including notice  
22           (on a real-time basis, if practicable) of the types of  
23           contracts that are being offered by packers to, and  
24           are open to acceptance by, producers for the pur-  
25           chase of fed cattle.

1 “(2) MONTHLY REPORT.—

2 “(A) IN GENERAL.—Beginning 30 days  
3 after the library or catalog is established under  
4 subsection (a), the Secretary shall make the in-  
5 formation obtained each month in the library or  
6 catalog available in a monthly report to pro-  
7 ducers and other interested persons.

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

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

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

1                   “(iii) based on the information col-  
2                   lected under subsection (b)(2)(G), an esti-  
3                   mate by the Secretary of the total max-  
4                   imum number of fed cattle that may be de-  
5                   livered within the 6-month and 12-month  
6                   periods following the date of the report, or-  
7                   ganized by reporting region and type of  
8                   contract.

9                   “(d) MAINTENANCE OF LIBRARY OR CATALOG.—In-  
10                  formation in the library or catalog established under sub-  
11                  section (a) about types of contracts that are no longer of-  
12                  fered or in use shall be removed from the library or cata-  
13                  log.

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

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

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

21                         “(2) to comply with any other requirement of  
22                         this section.

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

1 **SEC. 7. PUBLIC AVAILABILITY OF INFORMATION.**

2 Section 251(a) of the Agricultural Marketing Act of  
3 1946 (7 U.S.C. 1636(a)) is amended—

4 (1) by redesignating paragraphs (1) and (2) as  
5 subparagraphs (A) and (B), respectively, and indent-  
6 ing appropriately;

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

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

13 (3) by adding at the end the following:

14 “(2) EFFECT.—Nothing in this section permits  
15 the Secretary, or any officer or employee of the Sec-  
16 retary, to withhold from the public the information,  
17 statistics, and documents described in paragraph  
18 (1).”.

19 **SEC. 8. CASH MARKET ACQUISITION OF CATTLE.**

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

22 (1) all participants in the fed cattle market  
23 have a responsibility to contribute to regionally suffi-  
24 cient levels of negotiated trade of fed cattle in all  
25 cattle feeding regions in order to achieve robust  
26 price discovery; and

1           (2) the Department of Agriculture should exam-  
2           ine existing academic literature regarding minimum  
3           levels of cash transactions necessary to achieve ro-  
4           bust price discovery and enhance cattle producer le-  
5           verage in the marketplace in each of the cattle mar-  
6           keting regions.

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

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

12           (2) by inserting after section 258 the following:

13           **“SEC. 259. REGIONAL MANDATORY MINIMUMS FOR NEGO-**  
14                                   **TIATED PURCHASES AND NEGOTIATED GRID**  
15                                   **PURCHASES.**

16           “(a) DEFINITION OF PACKER.—

17           “(1) IN GENERAL.—In this section, the term  
18           ‘packer’ has the meaning given the term in section  
19           221.

20           “(2) EXCLUSION.—In this section, the term  
21           ‘packer’ does not include a packer that slaughters  
22           cattle at only 1 livestock processing plant.

23           “(b) ESTABLISHMENT.—

24           “(1) IN GENERAL.—Not later than 2 years  
25           after the date of enactment of the Cattle Price Dis-

1 cover and Transparency Act of 2021, the Secretary,  
2 in consultation with the Chief Economist, shall es-  
3 tablish—

4 “(A) regional mandatory minimums for the  
5 purpose of enhancing price discovery, trans-  
6 parency, and cattle producer leverage for cattle  
7 market participants; and

8 “(B) methods for establishing those re-  
9 gional mandatory minimums, which shall be  
10 publicly available.

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

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

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

24 “(e) CONSIDERATIONS.—In carrying out subsection  
25 (b) for each reporting region, the Secretary, in consulta-

1 tion with the Chief Economist, shall consider the following  
2 factors:

3           “(1) The number of packers in the reporting re-  
4           gion.

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

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

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

11          “(f) INITIAL REQUIREMENT.—

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

18           “(2) REQUIREMENT.—No initial regional man-  
19          datory minimum established for a reporting region  
20          under paragraph (1) shall exceed 300 percent of the  
21          lowest initial regional mandatory minimum estab-  
22          lished under that paragraph for a region that has  
23          publicly reported a majority of weekly market infor-  
24          mation during the previous 18 months.

1 “(g) BIENNIAL REVIEW.—On establishing regional  
2 mandatory minimums under subsection (b)(1), the Sec-  
3 retary—

4 “(1) shall review the regional mandatory mini-  
5 mumms not less frequently than once every 2 years;  
6 and

7 “(2) shall, in consultation with the Chief Econ-  
8 omist—

9 “(A) maintain existing regional mandatory  
10 minimums; or

11 “(B) modify the regional mandatory mini-  
12 mumms after—

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

16 “(ii) making the proposed modifica-  
17 tion subject to a notice and comment pe-  
18 riod.

19 “(h) ENFORCEMENT.—On establishing regional man-  
20 datory minimums under subsection (b)(1), the Secretary  
21 shall—

22 “(1) regularly monitor compliance by packers  
23 with those regional mandatory minimums; and

1           “(2) enforce this section in accordance with sec-  
2           tion 203 of the Packers and Stockyards Act, 1921  
3           (7 U.S.C. 193).

4           “(i) COST-BENEFIT ANALYSIS.—Not later than 2  
5           years after establishing regional mandatory minimums  
6           under subsection (b)(1), the Secretary, in consultation  
7           with the Chief Economist, shall conduct a quantifiable,  
8           data-driven cost-benefit analysis regarding the operation  
9           and effect of those regional mandatory minimums.

10          “(j) APPLICATION.—This section shall apply only  
11          with respect to the reporting regions designated by the Ag-  
12          ricultural Marketing Service.”.

13          **SEC. 9. MAXIMUM PENALTY AMOUNT.**

14          The Secretary of Agriculture shall revise section  
15          3.91(b)(1)(lvi) of title 7, Code of Federal Regulations (or  
16          a successor regulation), to establish a maximum civil pen-  
17          alty of \$86,156, which shall be adjusted for inflation in  
18          the same manner and to the same extent as civil monetary  
19          penalties under the Federal Civil Penalties Inflation Ad-  
20          justment Act of 1990 (28 U.S.C. 2461 note).