

RESOLUTION OF THE
NAABIK'ÍYÁTI' STANDING COMMITTEE
24th NAVAJO NATION COUNCIL -- Fourth Year, 2022

AN ACTION RELATING TO THE HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE, THE RESOURCES AND DEVELOPMENT COMMITTEE, AND THE NAABIK'ÍYÁTI' COMMITTEE; SUPPORTING UNITED STATES SENATE BILL NO. 3221 - "A BILL TO PLACE A MORATORIUM ON LARGE CONCENTRATED ANIMAL FEEDING OPERATIONS, TO STRENGTHEN THE PACKERS AND STOCKYARDS ACT, 1921, TO REQUIRE COUNTRY OF ORIGIN LABELING ON BEEF, PORK, AND DAIRY PRODUCTS, AND FOR OTHER PURPOSES"; AND REQUEST TO AMEND THE PACKERS AND STOCKYARDS ACT, 1921, TO INCLUDE STATUTORY LANGUAGE FOR THE NAVAJO NATION TO ESTABLISH SLAUGHTERHOUSES AND PACKAGING FACILITIES.

WHEREAS:

- A. The Health, Education and Human Services Committee is a standing committee of the Navajo Nation Council empowered to represent that Navajo Nation at local, state and federal levels in other actions affecting health, environmental health, social services, education, veteran's services, employment, training and labor. 2 N.N.C. § 401(B) (7).
- B. The Resources and Development Committee is a standing committee of the Navajo Nation Council with oversight authority over agriculture and livestock. 2 N.N.C. § 500(C).
- C. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council and as such empowered the Naabik'íyáti' Committee to review and continually monitor the programs and activities of federal departments and to assist development of such programs designed to serve the Navajo People and the Navajo Nation; to coordinate all requests for information, appearances and testimony relating to proposed country, state and federal legislation impacting the Navajo Nation; and to coordinate all Navajo appearances and testimony before Congressional committees and departments of the United States government. See 2 N.N.C. §§ 700(A), 701(A) (6-8). See also CO-45-12.
- D. The Navajo Nation has a government-to-government relationship with the United States of America, Treaty of 1868, Aug. 12, 1868, 15 Stat. 667.
- E. Senator Cory Booker (D-New Jersey) for himself, Senator Elizabeth Warren (D- Massachusetts), and Senator Bernard Sanders (D-Vermont), introduced S.B. 3221 titled "A bill to

place a moratorium on large concentrated animal feeding operations, to strengthen the Packers and Stockyards Act, 1921, to require country of origin labeling on beef, pork, and dairy products, and for other purposes" during the second session of the 116th Congress. See **Exhibit A**.

- F. S.B. 3221, also known as the "Farm System Reform Act of 2021" proposes, *inter alia*, the restriction of commencement or expansion of large concentrated animal feeding operations (CAFO) from the date of the bill's enactment and the eventual cessation of large CAFO operations beyond the year January 1, 2040.
- G. S.B. 3221 also proposes certain amendments to the Packers and Stockyards Act of 1921, and specific labeling of meat and dairy products. See **Exhibit A**.
- H. The Navajo Nation further urges amending the Packers and Stockyards Act of 1921 to include statutory language for the Navajo Nation to establish slaughterhouses and packaging facilities on the Navajo Nation.
- I. The Navajo Nation finds S.B.3221 to align with the Navajo Nation's promotion of fair competition in the meatpacking industry and consumer safety, and finds it is in Navajo Nation's best interest to support S.B. 3221 as a step in creating a fair marketplace for independent family farmers, ceasing monopolistic practices of commercial meatpackers, and informing consumers of meat packaging.

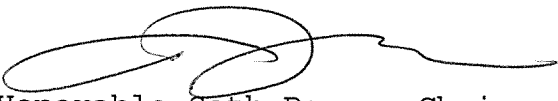
NOW THEREFORE, BE IT RESOLVED:

- A. The Navajo Nation hereby supports S.B. 3221- "A bill to place a moratorium on large concentrated animal feeding operations, to strengthen the Packers and Stockyards Act, 1921, to require country of origin labeling on beef, pork, and dairy products, and for other purposes- Farm System Reform Act of 2021" in substantially the form attached hereto in **Exhibit A**.
- B. The Navajo Nation hereby authorizes the Speaker of the Navajo Nation Council, President of the Navajo Nation, the Navajo Nation Washington Office, and/or their respective designees, to advocate on the behalf of the Navajo Nation to support the passage and enactment of S.B. 3221.
- C. The Navajo Nation hereby requests amending the Packers and Stockyards Act of 1921 to include statutory language for the

Navajo Nation to establish slaughterhouses and packaging facilities on the Navajo Nation.

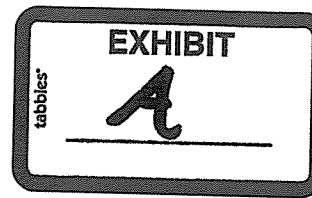
CERTIFICATION

I, hereby certify that the foregoing resolution was duly considered by the Naabik'íyáti' Committee of the 24th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 22 in Favor, and 00 Opposed, on this 13th day of January 2022.


Honorable Seth Damon, Chairman
Naabik'íyáti' Committee
1-14-2022
Date

Motion: Honorable Edmund Yazzie
Second: Honorable Jimmy Yellowhair

Chairman Seth Damon not voting



116TH CONGRESS
2D SESSION

S. 3221

To place a moratorium on large concentrated animal feeding operations, to strengthen the Packers and Stockyards Act, 1921, to require country of origin labeling on beef, pork, and dairy products, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 2020

Mr. BOOKER introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To place a moratorium on large concentrated animal feeding operations, to strengthen the Packers and Stockyards Act, 1921, to require country of origin labeling on beef, pork, and dairy products, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Farm System Reform Act of 2019”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definition of Secretary.

TITLE I—ANIMAL FEEDING OPERATIONS

Sec. 101. Definitions.

Sec. 102. Moratorium on large concentrated animal feeding operations.

Sec. 103. Voluntary debt forgiveness and transition assistance program for animal feeding operations.

Sec. 104. Integrator responsibilities and liabilities.

TITLE II—AMENDMENTS TO PACKERS AND STOCKYARDS ACT, 1921

Sec. 201. Definitions.

Sec. 202. Unlawful practices.

Sec. 203. Spot market purchases of livestock by packers.

Sec. 204. Investigation of live poultry dealers.

Sec. 205. Award of attorney fees.

Sec. 206. Technical amendments.

TITLE III—LABELING OF MEAT AND DAIRY PRODUCTS

Sec. 301. Restoration of mandatory country of origin labeling for beef and pork; inclusion of dairy products.

Sec. 302. Truth in labeling for meat and meat food products.

1 **SEC. 2. DEFINITION OF SECRETARY.**

2 In this Act, the term “Secretary” means the Sec-
3 retary of Agriculture.

4 **TITLE I—ANIMAL FEEDING** 5 **OPERATIONS**

6 **SEC. 101. DEFINITIONS.**

7 In this title:

8 (1) AGRONOMIC REQUIREMENT.—

9 (A) IN GENERAL.—The term “agronomic
10 requirement” means the quantity of nutrient
11 necessary to achieve a reasonable yield goal for
12 a crop, as determined based on land grant uni-
13 versity fertility rates, soil testing for available

1 nutrients, manure analysis, and other planned
2 nutrient applications.

3 (B) EXCLUSIONS.—Planned nutrient appli-
4 cations under subparagraph (A) do not include
5 nutrient indices, risk indices, or other methods
6 that allow land application of manure in excess
7 of crop need.

8 (2) ANIMAL FEEDING OPERATION; AFO.—

9 (A) IN GENERAL.—The term “animal feed-
10 ing operation” or “AFO” means a lot or facility
11 at which—

12 (i) for not less than a total of 45 days
13 in any 12-month period, animals (other
14 than aquatic animals) are—

15 (I) stabled or confined; and

16 (II) fed or maintained; and

17 (ii) crops, vegetation, forage growth,
18 or postharvest residues are not sustained
19 in the normal growing season over any por-
20 tion of the lot or facility.

21 (B) AGGREGATION.—Two or more lots or
22 facilities described in subparagraph (A) shall
23 constitute a single animal feeding operation if
24 the lots or facilities—

1 (i) are located within 3 miles of each
2 other; and

3 (ii) are under common ownership or
4 control.

5 (C) EXCLUSION.—The term “animal feed-
6 ing operation” or “AFO” does not include a
7 stockyard (as that term is defined in section
8 302(a) of the Packers and Stockyards Act,
9 1921 (7 U.S.C. 202(a))).

10 (3) LARGE CONCENTRATED ANIMAL FEEDING
11 OPERATION; LARGE CAFO.—The term “large con-
12 centrated animal feeding operation” or “large
13 CAFO” means an AFO at which are present not
14 less than—

15 (A) 700 mature dairy cows, milked or dry;

16 (B) 1,000 veal calves;

17 (C) 1,000 cattle (including heifers, steers,
18 bulls, cows, and calves) other than mature dairy
19 cows or veal calves;

20 (D) 2,500 swine, each weighing not less
21 than 55 pounds;

22 (E) 10,000 swine, each weighing not more
23 than 55 pounds;

24 (F) 500 horses;

25 (G) 10,000 sheep or lambs;

1 (H) 55,000 turkeys;

2 (I) in the case of an AFO that uses a liq-
3 uid manure handling system—

4 (i) 30,000 laying hens or broilers; or

5 (ii) 5,000 ducks; or

6 (J) in the case of an AFO that uses a sys-
7 tem other than a liquid manure handling sys-
8 tem—

9 (i) 125,000 chickens (other than lay-
10 ing hens);

11 (ii) 82,000 laying hens; or

12 (iii) 30,000 ducks.

13 (4) CONTRACT GROWER.—The term “contract
14 grower” means an owner of an AFO that raises live-
15 stock or poultry pursuant to a written contract,
16 marketing arrangement, or other arrangement with
17 an integrator.

18 (5) INTEGRATOR.—The term “integrator”
19 means an individual or entity that contracts with a
20 contract grower under a growout contract, mar-
21 keting arrangement, or other arrangement under
22 which the contract grower raises and cares for live-
23 stock or poultry at an AFO in accordance with the
24 instructions of the integrator for the purpose of
25 slaughtering the livestock or poultry or selling the

1 livestock or poultry for slaughter, if the livestock or
 2 poultry is sold or shipped in commerce (as described
 3 in section 2(b) of the Packers and Stockyards Act,
 4 1921 (7 U.S.C. 183)).

5 (6) MANURE.—The term “manure” means—

6 (A) the fecal and urinary excretions of live-
 7 stock and poultry; and

8 (B) litter, bedding, compost and raw mate-
 9 rials, process wastewater, and other materials
 10 commingled with the excretions described in
 11 subparagraph (A) or set aside for disposal after
 12 such commingling.

13 **SEC. 102. MORATORIUM ON LARGE CONCENTRATED ANI-**
 14 **MAL FEEDING OPERATIONS.**

15 (a) IN GENERAL.—No large CAFO may commence
 16 or expand operations on or after the date of enactment
 17 of this Act.

18 (b) CESSATION OF OPERATIONS.—No large CAFO
 19 may continue to operate as a large CAFO after January
 20 1, 2040.

21 (c) PENALTIES.—Any person that violates subsection
 22 (a) or (b) may be assessed a civil penalty of up to \$10,000
 23 per violation, per day, in addition to any other applicable
 24 statutory civil penalty or monetary damages assessed pur-
 25 suant to any State common law judgment.

(1) IN GENERAL.—In this section, the term “eligible entity” means an owner of an AFO.

(b) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall carry out a program to provide grants to eligible entities to permanently transition from operating an AFO to carrying out other activities on the property on which the AFO is located.

(1) to partially or fully pay off any outstanding debt of the eligible entity that was incurred to construct and operate the AFO; and

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1 (d) REQUIREMENT.—As a condition of receiving a
2 grant under this section, an eligible entity shall provide
3 to the Secretary a working lands easement on the property
4 on which the AFO is located that prohibits—

5 (1) the operation of the AFO and any associ-
6 ated waste management system on the easement
7 area; and

8 (2) the use of the easement area for a spray
9 field or land application of manure at rates exceed-
10 ing crop agronomic requirements for nitrogen and
11 phosphorus.

12 (e) FUNDING.—

13 (1) IN GENERAL.—On the first October 1 after
14 the date of enactment of this Act, and on each Octo-
15 ber 1 thereafter, out of any funds in the Treasury
16 not otherwise appropriated, the Secretary of the
17 Treasury shall transfer to the Secretary to carry out
18 this section \$10,000,000,000, to remain available
19 until expended.

20 (2) RECEIPT AND ACCEPTANCE.—The Sec-
21 retary shall be entitled to receive, shall accept, and
22 shall use to carry out this section the funds trans-
23 ferred under paragraph (1), without further appro-
24 priation.

1 **SEC. 104. INTEGRATOR RESPONSIBILITIES AND LIABIL-**
 2 **ITIES.**

3 (a) RESPONSIBILITIES AND LIABILITIES.—

4 (1) IN GENERAL.—An integrator that exercises
 5 substantial operational control of an AFO, as de-
 6 scribed in subsection (b), shall be responsible and
 7 liable for, with respect to the operation of the
 8 AFO—

9 (A) the disposal of dead animals;

10 (B) the disposal of manure, excrement,
 11 and other waste;

12 (C) the discharge or release of any air pol-
 13 lutant, including greenhouse gases, from any
 14 source located on or activity occurring at the
 15 AFO, including enteric processes, manure, and
 16 animal feed;

17 (D) the discharge of any pollutant to
 18 groundwater or any surface water body, includ-
 19 ing the production area, manure storage, ma-
 20 nure land application area (crop field), tile
 21 drain, and agricultural stormwater runoff of the
 22 AFO;

23 (E) any harm suffered by the contract
 24 grower of the AFO or a third party from any
 25 activity described in subparagraphs (A) through
 26 (D), or from any other on-property or off-prop-

1 erty contamination, including following an ex-
2 treme weather event; and

3 (F) any adverse health impacts, property
4 value diminution, and loss of use and enjoyment
5 of property suffered by neighboring residents of
6 the AFO due to the operation of the AFO.

7 (2) DUTIES NOT TRANSFERABLE.—The respon-
8 sibilities and liabilities of an integrator under this
9 subsection shall be nondelegable and
10 nontransferrable to any third party, including any
11 contract grower.

12 (b) SUBSTANTIAL OPERATIONAL CONTROL.—An in-
13 tegrator exercises substantial operational control of an
14 AFO if the integrator—

15 (1) holds an ownership interest in the livestock
16 or poultry, land, or other capital of the AFO;

17 (2) through a growout contract, marketing ar-
18 rangement, or other arrangement, or through direct
19 supervision of, or on-site participation in, activities
20 at the AFO, controls—

21 (A) the activity of persons working at the
22 AFO;

23 (B) the operation, management, or waste
24 management practices of the AFO; or

1 (C) the manner in which livestock or poul-
2 try at the AFO are grown, fed, watered, venti-
3 lated, heated, cooled, or medicated;

4 (3) supplies feed, pharmaceuticals, or other in-
5 puts to the AFO; or

6 (4) requires a capital investment from the con-
7 tract grower of the AFO for erecting or expanding
8 facilities at the AFO.

9 (c) CIVIL ACTIONS.—

10 (1) IN GENERAL.—Any person may—

11 (A) bring a civil action against an inte-
12 grator in an appropriate court to redress any
13 violation of this section or any other law relat-
14 ing to the activities described in this section;
15 and

16 (B) obtain appropriate relief in a civil ac-
17 tion under subparagraph (A).

18 (2) ATTORNEY'S FEES FOR PLAINTIFF.—The
19 court shall award a reasonable attorney's fee as part
20 of the costs to a prevailing plaintiff in a civil action
21 under this subsection.

22 (3) NO PREEMPTION.—Nothing in this sub-
23 section preempts, alters, displaces, abridges, or sup-
24 plants any claim or remedy available under any

1 State or Federal law, including common law, that
 2 provides a remedy for civil relief.

3 (d) AFO DISCHARGES.—Section 402 of the Federal
 4 Water Pollution Control Act (33 U.S.C. 1342) is amended
 5 by adding at the end the following:

6 “(t) AFO DISCHARGES.—The Administrator shall re-
 7 quire that all persons exercising substantial operational
 8 control (as described in section 104(b) of the Farm Sys-
 9 tem Reform Act of 2019) over an animal feeding operation
 10 (as defined in section 101 of that Act) jointly obtain a
 11 permit under this section for a discharge from the animal
 12 feeding operation.”.

13 **TITLE II—AMENDMENTS TO** 14 **PACKERS AND STOCKYARDS** 15 **ACT, 1921**

16 **SEC. 201. DEFINITIONS.**

17 Section 2(a) of the Packers and Stockyards Act,
 18 1921 (7 U.S.C. 182(a)) is amended—

19 (1) in paragraph (8), by striking “for slaugh-
 20 ter” and all that follows through “of such poultry”
 21 and inserting “under a poultry growing arrange-
 22 ment, regardless of whether the poultry is owned by
 23 that person or another person”;

24 (2) in paragraph (9), by striking “and cares for
 25 live poultry for delivery, in accord with another’s in-

1 instructions, for slaughter” and inserting “or cares for
 2 live poultry in accordance with the instructions of
 3 another person”;

4 (3) in each of paragraphs (1) through (9), by
 5 striking the semicolon at the end and inserting a pe-
 6 riod;

7 (4) in paragraph (10)—

8 (A) by striking “for the purpose of either
 9 slaughtering it or selling it for slaughter by an-
 10 other”; and

11 (B) by striking “; and” at the end and in-
 12 serting a period; and

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

14 “(15) FORMULA PRICE.—

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

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

23 “(i) any price term that establishes a
 24 base from which a purchase price is cal-

culated 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. 202. UNLAWFUL PRACTICES.

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

(1) by redesignating subsections (a) through (f) and (g) as paragraphs (1) through (6) and (10), respectively, and indenting appropriately;

(2) by striking the section designation and all that follows through “It shall be” in the matter pre-

ceding paragraph (1) (as so redesignated) and inserting the following:

“SEC. 202. UNLAWFUL ACTS.

“(a) IN GENERAL.—It shall be”;

(3) in subsection (a)—

(A) in the matter preceding paragraph (1) (as so redesignated), by striking “to:” and inserting “to do any of the following:”;

(B) in each of paragraphs (1) through (6) (as so redesignated), by striking “; or” each place it appears and inserting a period;

(C) in paragraph (6) (as so redesignated)—

(i) by striking “(1)” and inserting “(A)”;

(ii) by striking “(2)” and inserting “(B)”;

(iii) by striking “(3)” and inserting “(C)”;

(D) by inserting after paragraph (6) the following:

“(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

1 on the date on which the forward contract is
 2 entered into;

3 “(B) is not offered for bid in an open, pub-
 4 lic manner under which—

5 “(i) buyers and sellers have the oppor-
 6 tunity to participate in the bid;

7 “(ii) more than 1 blind bid is solici-
 8 ted; and

9 “(iii) buyers and sellers may witness
 10 bids that are made and accepted;

11 “(C) is based on a formula price; or

12 “(D) provides for the sale of livestock in a
 13 quantity in excess of—

14 “(i) in the case of cattle, 40 cattle;

15 “(ii) in the case of swine, 30 swine;

16 and

17 “(iii) in the case of another type of
 18 livestock, a comparable quantity of that
 19 type of livestock, as determined by the Sec-
 20 retary.

21 “(8) Own or feed livestock directly, through a
 22 subsidiary, or through an arrangement that gives a
 23 packer operational, managerial, or supervisory con-
 24 trol over the livestock, or over the farming operation
 25 that produces the livestock, to such an extent that

1 the producer of the livestock is not materially par-
2 ticipating in the management of the operation with
3 respect to the production of the livestock, except
4 that this paragraph shall not apply to—

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

11 “(B) a cooperative or entity owned by a co-
12 operative, if a majority of the ownership inter-
13 est in the cooperative is held by active coopera-
14 tive members that—

15 “(i) own, feed, or control the livestock;
16 and

17 “(ii) provide the livestock to the coop-
18 erative for slaughter;

19 “(C) a packer that is not required to re-
20 port to the Secretary on each reporting day (as
21 defined in section 212 of the Agricultural Mar-
22 keting Act of 1946 (7 U.S.C. 1635a)) informa-
23 tion on the price and quantity of livestock pur-
24 chased by the packer; or

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

3 “(9) Take any action that adversely affects or
4 is likely to adversely affect competition, regardless of
5 whether there is a business justification for the ac-
6 tion.”; and

7 (E) in paragraph (10) (as so redesign-
8 nated), by striking “subdivision (a), (b), (c),
9 (d), or (e)” and inserting “paragraphs (1)
10 through (9)”;

11 (4) by adding at the end the following:

12 “(b) UNFAIR, DISCRIMINATORY, AND DECEPTIVE
13 PRACTICES AND DEVICES.—Acts by a packer, swine con-
14 tractor, or live poultry dealer that violate subsection (a)(1)
15 include the following:

16 “(1) Refusal to provide, on the request of a
17 livestock producer, swine production contract grow-
18 er, or poultry grower with which the packer, swine
19 contractor, or live poultry dealer has a marketing or
20 delivery contract, the relevant statistical information
21 and data used to determine the compensation paid
22 to the livestock producer, swine production contract
23 grower, or poultry grower, as applicable, under the
24 contract, including—

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

3 “(B) feed analysis;

4 “(C) breeder history;

5 “(D) quality grade;

6 “(E) yield grade; and

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

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

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

18 “(B) to pursue all damages available under
19 applicable law; and

20 “(C) to seek an award of attorneys’ fees,
21 if available under applicable law.

22 “(3) Termination of a poultry growing arrange-
23 ment or swine production contract with no basis
24 other than an allegation that the poultry grower or

1 swine production contract grower failed to comply
 2 with an applicable law, rule, or regulation.

3 “(4) A representation, omission, or practice
 4 that is likely to mislead a livestock producer, swine
 5 production contract grower, or poultry grower re-
 6 garding a material condition or term in a contract
 7 or business transaction.

8 “(c) UNDUE OR UNREASONABLE PREFERENCES, AD-
 9 VANTAGES, PREJUDICES, AND DISADVANTAGES.—

10 “(1) IN GENERAL.—Acts by a packer, swine
 11 contractor, or live poultry dealer that violate sub-
 12 section (a)(2) include the following:

13 “(A) A retaliatory action (including coer-
 14 cion or intimidation) or the threat of retaliatory
 15 action—

16 “(i) in connection with the execution,
 17 termination, extension, or renewal of a
 18 contract or agreement with a livestock pro-
 19 ducer, swine production contract grower,
 20 or poultry grower aimed to discourage the
 21 exercise of the rights of the livestock pro-
 22 ducer, swine production contract grower,
 23 or poultry grower under this Act or any
 24 other law; and

1 “(ii) in response to lawful communica-
 2 tion (including as described in paragraph
 3 (2)), association, or assertion of rights by
 4 a livestock producer, swine production con-
 5 tract grower, or poultry grower.

6 “(B) Use of the tournament system for
 7 poultry as described in paragraph (3).

8 “(2) **LAWFUL COMMUNICATION DESCRIBED.**—A
 9 lawful communication referred to in paragraph
 10 (1)(A)(ii) includes—

11 “(A) a communication with officials of a
 12 Federal agency or Members of Congress;

13 “(B) any lawful disclosure that dem-
 14 onstrates a reasonable belief of a violation of
 15 this Act or any other law; and

16 “(C) any other communication that assists
 17 in carrying out the purposes of this Act.

18 “(3) **USE OF TOURNAMENT SYSTEM FOR POUL-**
 19 **TRY.**—

20 “(A) **IN GENERAL.**—Subject to subpara-
 21 graph (B), a live poultry dealer shall be in vio-
 22 lation of subsection (a)(2) if the live poultry
 23 dealer determines the formula for calculating
 24 the pay of a poultry grower in a tournament
 25 group by comparing the performance of the

1 birds of other poultry growers in the group
 2 using factors outside the control of the poultry
 3 grower and within the control of the live poultry
 4 dealer.

5 “(B) EXCEPTION.—Under subparagraph
 6 (A), a live poultry dealer shall not be found in
 7 violation of subsection (a)(2) if the live poultry
 8 dealer demonstrates through clear and con-
 9 vincing evidence that the inputs and services
 10 described in subparagraph (C) that were used
 11 in the comparative evaluation were substantially
 12 the same in quality, quantity, and timing, as
 13 applicable, for all poultry growers in the tour-
 14 nament group.

15 “(C) INPUTS AND SERVICES DESCRIBED.—
 16 The inputs and services referred to in subpara-
 17 graph (B) include, with respect to poultry grow-
 18 ers in the same tournament group—

19 “(i) the quantity, breed, sex, and age
 20 of chicks delivered to each poultry grower;

21 “(ii) the breed and age of the breeder
 22 flock from which chicks are drawn for each
 23 poultry grower;

1 “(iii) the quality, type (such as starter
2 feed), and quantity of feed delivered to
3 each poultry grower;

4 “(iv) the quality of and access to
5 medications for the birds of each poultry
6 grower;

7 “(v) the number of birds in a flock de-
8 livered to each poultry grower;

9 “(vi) the timing of the pick-up of
10 birds for processing (including the age of
11 the birds and the number of days that the
12 birds are in the care of the poultry grower)
13 for each poultry grower;

14 “(vii) the death loss of birds during
15 pick-up, transport, and time spent at the
16 processing plant for each poultry grower;

17 “(viii) condemnations of parts of birds
18 due to actions in processing for each poul-
19 try grower;

20 “(ix) condemnations of whole birds
21 due to the fault of the poultry grower;

22 “(x) the death loss of birds due to the
23 fault of the poultry grower;

1 “(xi) the stated reasons for the cause
 2 of the death losses and condemnations de-
 3 scribed in clauses (vii) through (x);

4 “(xii) the type and classification of
 5 each poultry grower; and

6 “(xiii) any other input or service that
 7 may have an impact on feed conversion to
 8 weight gain efficiency or the life span of
 9 the birds of each poultry grower.

10 “(d) HARM TO COMPETITION NOT REQUIRED.—In
 11 determining whether an act, device, or conduct is a viola-
 12 tion under paragraph (1) or (2) of subsection (a), a find-
 13 ing that the act, device, or conduct adversely affected or
 14 is likely to adversely affect competition is not required.”.

15 (b) EFFECTIVE DATE.—

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

21 (2) TRANSITION RULES.—In the case of a pack-
 22 er that, on the date of enactment of this Act, owns,
 23 feeds, or controls livestock intended for slaughter in
 24 violation of paragraph (8) of section 202(a) of the
 25 Packers and Stockyards Act, 1921 (7 U.S.C. 192)

1 (as designated by subsection (a)(2)), that paragraph
2 shall take effect—

3 (A) in the case of a packer of swine, begin-
4 ning on the date that is 18 months after the
5 date of enactment of this Act; and

6 (B) in the case of a packer of any other
7 type of livestock, beginning not later than 180
8 days after the date of enactment of this Act, as
9 determined by the Secretary.

10 **SEC. 203. SPOT MARKET PURCHASES OF LIVESTOCK BY**
11 **PACKERS.**

12 The Packers and Stockyards Act, 1921, is amended
13 by inserting after section 202 (7 U.S.C. 192) the fol-
14 lowing:

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

17 “(a) DEFINITIONS.—In this section:

18 “(1) COVERED PACKER.—

19 “(A) IN GENERAL.—The term ‘covered
20 packer’ means a packer that is required under
21 subtitle B of the Agricultural Marketing Act of
22 1946 (7 U.S.C. 1635 et seq.) to report to the
23 Secretary each reporting day information on the
24 price and quantity of livestock purchased by the
25 packer.

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

4 “(2) NONAFFILIATED PRODUCER.—The term
5 ‘nonaffiliated producer’ means a producer of live-
6 stock—

7 “(A) that sells livestock to a packer;

8 “(B) that has less than 1 percent equity
9 interest in the packer;

10 “(C) that has no officers, directors, em-
11 ployees, or owners that are officers, directors,
12 employees, or owners of the packer;

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

15 “(E) in which the packer has no equity in-
16 terest.

17 “(3) SPOT MARKET SALE.—

18 “(A) IN GENERAL.—The term ‘spot mar-
19 ket sale’ means a purchase and sale of livestock
20 by a packer from a producer—

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

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

5 “(iii) under circumstances in which a
6 reasonable competitive bidding opportunity
7 exists on the date on which the agreement
8 is entered into.

9 “(B) REASONABLE COMPETITIVE BIDDING
10 OPPORTUNITY.—For the purposes of subpara-
11 graph (A)(iii), a reasonable competitive bidding
12 opportunity shall be considered to exist if—

13 “(i) no written or oral agreement pre-
14 cludes the producer from soliciting or re-
15 ceiving bids from other packers; and

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

18 “(I) establishes the existence of
19 an implied contract (as determined in
20 accordance with the Uniform Com-
21 mercial Code); and

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

1 “(b) GENERAL RULE.—Of the quantity of livestock
 2 that is slaughtered by a covered packer during each re-
 3 porting day in each plant, the covered packer shall slaugh-
 4 ter not less than the applicable percentage specified in
 5 subsection (c) of the quantity through spot market sales
 6 from nonaffiliated producers.

7 “(c) APPLICABLE PERCENTAGES.—

8 “(1) IN GENERAL.—Except as provided in para-
 9 graph (2), the applicable percentage shall be 50 per-
 10 cent.

11 “(2) EXCEPTIONS.—In the case of a covered
 12 packer that reported to the Secretary in the 2018
 13 annual report that more than 60 percent of the live-
 14 stock of the covered packer were committed procure-
 15 ment livestock, the applicable percentage shall be the
 16 greater of—

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

20 “(B)(i) during each of calendar years 2020
 21 and 2021, 20 percent;

22 “(ii) during each of calendar years 2022
 23 and 2023, 30 percent; and

24 “(iii) during calendar year 2024 and each
 25 calendar year thereafter, 50 percent.

1 “(d) NONPREEMPTION.—This section does not pre-
 2 empt any requirement of a State or political subdivision
 3 of a State that requires a covered packer to purchase on
 4 the spot market a greater percentage of the livestock pur-
 5 chased by the covered packer than is required under this
 6 section.”.

7 **SEC. 204. INVESTIGATION OF LIVE POULTRY DEALERS.**

8 (a) ADMINISTRATIVE ENFORCEMENT AUTHORITY
 9 OVER LIVE POULTRY DEALERS.—Sections 203, 204, and
 10 205 of the Packers and Stockyards Act, 1921 (7 U.S.C.
 11 193, 194, 195) are amended by inserting “, live poultry
 12 dealer,” after “packer” each place it appears.

13 (b) AUTHORITY TO REQUEST TEMPORARY INJUNC-
 14 TION OR RESTRAINING ORDER.—Section 408(a) of the
 15 Packers and Stockyards Act, 1921 (7 U.S.C. 228a(a)) is
 16 amended by inserting “or poultry care” after “on account
 17 of poultry”.

18 (c) VIOLATIONS BY LIVE POULTRY DEALERS.—Sec-
 19 tion 411 of the Packers and Stockyards Act, 1921 (7
 20 U.S.C. 228b–2) is amended—

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

1 (2) in subsection (b), in the first sentence, by
 2 striking “any provisions of section 207 or section
 3 410” and inserting “any provision”.

4 **SEC. 205. AWARD OF ATTORNEY FEES.**

5 Section 204 of the Packers and Stockyards Act, 1921
 6 (7 U.S.C. 194) is amended by adding at the end the fol-
 7 lowing:

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

11 **SEC. 206. TECHNICAL AMENDMENTS.**

12 (a) Section 203 of the Packers and Stockyards Act,
 13 1921 (7 U.S.C. 193) is amended—

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

15 (A) by striking “he shall cause” and in-
 16 serting “the Secretary shall cause”; and

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

19 (2) in subsection (b), in the first sentence, by
 20 striking “he shall make a report in writing in which
 21 he shall state his findings” and inserting “the Sec-
 22 retary shall make a report in writing in which the
 23 Secretary shall state the findings of the Secretary”;
 24 and

1 (3) in subsection (c), by striking “he” and in-
2 serting “the Secretary”.

3 (b) Section 204 of the Packers and Stockyards Act,
4 1921 (7 U.S.C. 194) is amended—

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

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

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

13 (A) by striking “his findings” and insert-
14 ing “the findings of the Secretary”; and

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

17 (4) in subsection (g), by striking “his officers,
18 directors, agents, and employees” and inserting “the
19 officers, directors, agents, and employees of the
20 packer, live poultry dealer, or swine packer”.

1 **TITLE III—LABELING OF MEAT**
 2 **AND DAIRY PRODUCTS**

3 **SEC. 301. RESTORATION OF MANDATORY COUNTRY OF ORI-**
 4 **GIN LABELING FOR BEEF AND PORK; INCLU-**
 5 **SION OF DAIRY PRODUCTS.**

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

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

11 (2) by inserting before paragraph (2) (as so re-
 12 designated) the following:

13 “(1) BEEF.—The term ‘beef’ means meat pro-
 14 duced from cattle (including veal).”;

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

16 (A) in subparagraph (A)—

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

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

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

24 (iv) in clause (xi), by striking the pe-
 25 riod at the end and inserting “; and”; and

1 (v) by adding at the end the following:

2 “(xii) dairy products.”; and

3 (B) in subparagraph (B), by inserting

4 “(other than clause (xii) of that subpara-
5 graph)” after “subparagraph (A)”;

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

8 “(3) DAIRY PRODUCT.—The term ‘dairy prod-
9 uct’ means—

10 “(A) fluid milk;

11 “(B) cheese, including cottage cheese and
12 cream cheese;

13 “(C) yogurt;

14 “(D) ice cream;

15 “(E) butter; and

16 “(F) any other dairy product.”; and

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

19 “(8) PORK.—The term ‘pork’ means meat pro-
20 duced from hogs.”.

21 (b) NOTICE OF COUNTRY OF ORIGIN.—Section
22 282(a) of the Agricultural Marketing Act of 1946 (7
23 U.S.C. 1638a(a)) is amended by adding at the end the
24 following:

1 “(5) DESIGNATION OF COUNTRY OF ORIGIN
2 FOR DAIRY PRODUCTS.—

3 “(A) IN GENERAL.—A retailer of a covered
4 commodity that is a dairy product shall des-
5 ignate the origin of the covered commodity as—

6 “(i) each country in which or from
7 which the 1 or more dairy ingredients or
8 dairy components of the covered com-
9 modity were produced, originated, or
10 sourced; and

11 “(ii) each country in which the cov-
12 ered commodity was processed.

13 “(B) STATE, REGION, LOCALITY OF THE
14 UNITED STATES.—With respect to a covered
15 commodity that is a dairy product produced ex-
16 clusively in the United States, designation by a
17 retailer of the State, region, or locality of the
18 United States where the covered commodity
19 was produced shall be sufficient to identify the
20 United States as the country of origin.”.

21 **SEC. 302. TRUTH IN LABELING FOR MEAT AND MEAT FOOD**
22 **PRODUCTS.**

23 Section 7 of the Federal Meat Inspection Act (21
24 U.S.C. 607) is amended by adding at the end the fol-
25 lowing:

1 “(g) PRODUCT OF THE UNITED STATES.—The label
2 of a meat or meat food product may bear the phrase
3 ‘Product of U.S.A.’, or any substantially similar word or
4 phrase, only if the meat or meat food product is exclusively
5 derived from 1 or more animals exclusively born, raised,
6 and slaughtered in the United States.”.

○

NAVAJO NATION

1160

Naa'bik'iyati' Committee Regular Meeting

1/13/2022

11:34:14 AM

Amd# to Amd#	Consent Agenda	PASSED
MOT Yazzie	Legislations 0241-21, 0244-21	
SEC Yellowhair	0265-21, 0239-21	

Yeas : 22

Nays : 0

Excused : 0

Not Voting : 1

Yea : 22

Begay, E	Daniels	Slater, C	Tso, E
Begay, K	Freeland, M	Smith	Tso, O
Begay, P	Halona, P	Stewart, W	Walker, T
Brown	Henio, J	Tso, C	Yazzie
Charles-Newton	James, V	Tso, D	Yellowhair
Crotty	Nez, R		

Nay : 0

Excused : 0

Not Voting : 1

Wauneka, E

Presiding Speaker: Damon