



"Working for Nebraska beef producers - pasture to plate."

April 25, 2022

The Honorable Debbie Stabenow, Chairwoman
The Honorable John Boozman, Ranking Member
Senate Committee on Agriculture, Nutrition & Forestry
328A Russell Senate Office Building
Washington, DC 20510

Re: Legislative hearing to review S. 4030, the Cattle Price Discovery and Transparency Act of 2022, and S.3870, the Meat and Poultry Special Investigator Act of 2022.

Dear Chairman Stabenow, Ranking Member Boozman, and members of the committee:

Nebraska Cattlemen is grateful for the opportunity to share our member's thoughts regarding S. 4030, the Cattle Price Discovery and Transparency Act of 2022. Our association is a grassroots membership organization representing thousands of farmers and ranchers from every scope and sector of the beef cattle industry in Nebraska. My comments today will primarily focus on the need to compel price discovery, while noting our appreciation of the components of S. 4030 that focus on price transparency.

Our beef cattle producer members and their livelihoods are directly impacted by the cattle market's ability or inability to send appropriate price signals up and down the beef cattle supply chain. In the past decade, those price signals have encouraged ranchers to expand their cow herds and cattle feeders to expand their feeding operations as domestic and global demand has exponentially grown like few could have imagined. Yet today, as wholesale beef prices start to shift from historic highs, the percent of the available profit margins in the beef supply chain passed onto cattle producers remains disproportionately low.

It has become painfully apparent to our members that, in recent years, the ability of the cattle market to send the correct price signals to producers is broken. For the greater part of a decade, fed cattle price transparency and price discovery have been a headline issue for members of our organization. Ideally, Nebraska Cattlemen would have preferred to share our members' concerns in person at today's hearing. Our producer members choosing not to testify in person today shows just how precarious and dire this situation has become within the industry and live cattle markets. Our members have voiced agreement that market issues need to be addressed, still none of our producer members we encouraged to testify were willing to put themselves out front for fear of possible retribution by other market participants - an unfortunate reality of today's cattle industry.

Where we are today is not a result of an evil plot to purposely stifle ranchers' livelihoods. Instead has been a progression - across the beef supply chain over the last two decades to become increasingly more efficient in fed cattle marketing and inventory management as an industry through alternative marketing agreements (AMAs). While these efficiencies have benefited some, they came at the cost of robust price discovery and market leverage for other producers. Undoubtedly, you will hear today about the positive industry effects of AMAs, otherwise defined by USDA Livestock Mandatory Reporting as "formula" trades, which have helped incentivize the production of higher quality beef. Please realize, however, that the long-term proliferation of



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AMA's has also led to a continued deterioration of price discovery as beef packers have financially incentivized the commitment of cattle without price negotiation.

Price discovery is a public good. Negotiated cash market participants invest resources to negotiate and discover cash market prices for the entire industry, while those who utilize AMAs capitalize on that investment, benefit from the efficiencies, and use the prices discovered by cash market participants. This type of scenario is best described as a tragedy of the commons. When an increasing number of market participants overuse a public good or "shared resource" for their own short-term best interest, abuse of the shared resource results in less value of that resource overall for everyone in the long run. Until the price discovery "public good" is better valued, the industry could continue this downward trend until there is little to no negotiated trade left and price determination will need to rely on other outside markets. Data to support this claim can be found attached to this testimony in a report titled *Annual LMR Live Cattle Purchase Type Breakdown by Region*.

How does our industry correct this course? Continuing to focus on expanding options for market participants to participate in price discovery is key. Our members seek options that contribute to price discovery, like working with the packing industry to sell on a negotiated grid - a mechanism that allows producers to garner premiums for higher-value cattle while still participating in the price discovery process by offering their cattle to numerous buyers. However, producers have grown frustrated with the lack of willingness of all packers to offer this marketing option. To incentivize packers to participate in the negotiated market and contribute to price discovery, the industry must either mandate participation, financially incentivize negotiated trade, or penalize entities who continually show a lack of participation in the price discovery process. We fully realize and acknowledge that the provision of the bill that requires regional mandatory minimums for the purpose of compelling price discovery for cattle market participants expressed in S. 4030 is a concern for some cattle industry participants, yet there has not been an entity or organization that has identified an effective alternative to achieve the goal of compelling price discovery.

An additional source of frustration for our members is the continued perception that all AMAs reward carcass merit and therefore lead to the production of higher quality cattle. Last summer, Nebraska Cattlemen worked with USDA-AMS to gain additional insight into the mix of transaction types that comprise the "formula" fed cattle price and volume data that USDA-LMR reports. Specifically, Nebraska Cattlemen sought more information regarding the total volume and/or percentage of total reported "formula" headcounts that are transacted in such a way that USDA quality and/or yield grade parameters have a bearing on the final price paid vs. the volume and/or percentage of total reported volume where that is not the case.

Analysis of USDA-LMR data from January through mid-May of 2021 indicated rather clearly that in the Nebraska and Iowa/Southern Minnesota LMR regions (compared to other regions), there is a higher percentage of cattle that fall into the "formula" transaction type that are simply marked at the LMR weekly Nebraska dressed steer weighted average price, or possibly that data point plus some predetermined premium. However, still there are no other premiums or discounts applied relative to quality grade or yield grade. We understand why this type of transaction falls into the "formula" data as it is not a negotiated cash sale, a negotiated grid sale, or a contract purchase - however, we also see it to be somewhat different than a transaction that involves quality and or yield grade premiums and discounts. Our specific ask was to look at



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the prevalence of this type of transaction type in the LMR "formula" data set on a regional, 5-area, and nationwide scale.

The results showed that the northern regions, specifically Nebraska and Iowa/Minnesota, exhibited the highest proportion of transactions with no premium or discount applied. With the quality of the cattle/beef not having any direct impact on the net price paid for cattle marketing in this manner, it would appear that any premium paid by the buyer is essentially done to reward suppliers for furnishing unpriced inventory and consequently reducing the buyers need to participate/compete in the negotiated market and contribute to the price discovery process. A copy of this report can be found attached to this testimony titled *Highlights of the Evaluation of Formula Based Cattle Purchases*.

Another key component to price discovery and price determination is market transparency. S. 4030 takes significant action to address many of our members' concerns regarding market transparency. Specifically, the adoption of the beef contract library and the 14-day slaughter reporting window.

Thank you for the opportunity to share the thoughts and concerns of Nebraska Cattlemen members. As we continue to work towards finding solutions to increase fed cattle market transparency and expand price discovery to robust levels, we look forward to being at the table to talk through solutions and take actions to protect our members' family legacies

Best,

A handwritten signature in cursive script, appearing to read "Brenda Masek".

Brenda Masek
President - Nebraska Cattlemen

CC: Senator Deb Fischer

Addendum: Annual LMR Live Cattle Purchase Type Breakdown by Region & Highlights of the Evaluation of Formula Based Cattle Purchases

Annual LMR Live Cattle Purchase Type Breakdown by Region

NATIONAL																	
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Cash	52.1%	49.4%	47.3%	42.6%	38.8%	37.4%	32.6%	26.0%	23.1%	23.1%	21.3%	25.6%	25.7%	25.5%	20.9%	23.4%	19.5%
Formula	33.2%	34.3%	37.4%	39.1%	43.7%	43.1%	47.4%	54.8%	59.8%	56.8%	57.0%	57.6%	57.2%	61.1%	64.8%	62.7%	61.0%
Forward Contract	4.8%	7.2%	6.8%	11.2%	9.5%	11.9%	13.2%	12.0%	10.8%	15.8%	17.5%	12.7%	13.0%	9.6%	11.0%	8.9%	10.9%
Negotiated Grid	9.9%	9.0%	8.5%	7.1%	8.0%	7.6%	6.7%	7.2%	6.3%	4.3%	4.2%	4.1%	4.1%	3.8%	3.3%	5.0%	8.6%

5-AREA																	
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Cash	55.8%	52.0%	49.8%	45.3%	43.2%	42.4%	36.8%	27.8%	24.1%	24.0%	21.3%	26.3%	26.8%	26.1%	20.5%	23.3%	19.4%
Formula	31.9%	33.3%	35.9%	38.1%	42.3%	42.2%	46.5%	56.2%	61.8%	58.7%	58.8%	59.4%	59.5%	64.2%	69.6%	67.0%	64.7%
Forward Contract	4.6%	7.1%	6.8%	10.4%	8.1%	9.9%	10.9%	10.0%	8.6%	13.7%	16.7%	11.2%	10.8%	7.0%	7.6%	5.4%	7.7%
Negotiated Grid	7.7%	7.7%	7.5%	6.3%	6.4%	5.5%	5.7%	5.9%	5.4%	3.6%	3.2%	3.1%	2.9%	2.7%	2.3%	4.3%	8.2%

TEXAS -OKLAHOMA-NEW MEXICO																	
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019*	2020	2021
Cash	47.2%	42.5%	36.7%	31.5%	26.4%	21.5%	17.0%	10.2%	6.1%	3.0%	2.6%	6.4%	9.3%	6.2%	5.4%	10.1%	7.4%
Formula	42.2%	42.2%	48.4%	53.3%	60.4%	66.9%	72.7%	76.0%	83.0%	84.6%	85.9%	82.4%	81.8%	86.2%	87.9%	84.2%	80.8%
Forward Contract	3.1%	5.0%	4.4%	5.8%	5.4%	4.9%	4.4%	5.4%	4.0%	7.4%	9.3%	7.0%	6.2%	4.9%	5.3%	4.3%	5.0%
Negotiated Grid	7.5%	10.3%	10.5%	9.3%	7.8%	6.7%	5.9%	8.4%	6.9%	5.1%	2.1%	4.2%	2.6%	2.7%	1.6%	1.4%	6.8%

KANSAS																	
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Cash	50.6%	47.3%	44.8%	41.7%	39.9%	41.0%	36.9%	27.4%	21.0%	15.6%	12.5%	23.0%	21.9%	19.3%	16.2%	18.2%	12.5%
Formula	44.8%	46.0%	48.5%	48.0%	52.1%	51.6%	54.1%	63.6%	68.5%	69.5%	64.8%	67.3%	70.7%	76.4%	81.6%	76.7%	74.4%
Forward Contract	2.8%	5.4%	5.4%	7.8%	7.0%	6.3%	7.1%	5.7%	6.5%	14.3%	22.2%	9.3%	7.0%	3.9%	1.7%	1.4%	3.8%
Negotiated Grid	1.8%	1.3%	1.3%	2.4%	1.0%	1.0%	2.0%	3.4%	4.0%	0.7%	0.6%	0.4%	0.4%	0.4%	0.5%	3.7%	9.3%

NEBRASKA																	
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Cash	64.6%	63.7%	64.7%	61.0%	60.4%	55.8%	48.3%	38.9%	36.4%	38.3%	32.6%	42.1%	41.3%	43.0%	32.9%	36.1%	31.1%
Formula	18.3%	16.8%	17.8%	17.8%	22.6%	23.4%	28.7%	41.0%	48.4%	42.6%	44.4%	42.0%	41.0%	45.2%	52.4%	54.0%	52.1%
Forward Contract	5.8%	9.7%	7.8%	14.7%	9.0%	14.0%	15.6%	14.8%	10.2%	14.7%	17.7%	12.7%	13.5%	8.5%	11.7%	4.6%	8.8%
Negotiated Grid	11.3%	9.8%	9.6%	6.5%	8.0%	6.7%	7.4%	5.3%	5.0%	4.4%	5.3%	3.2%	4.2%	3.3%	3.0%	5.3%	8.0%

COLORADO																	
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018*	2019**	2020**	2021**
Cash	51.8%	40.7%	39.6%	28.5%	28.8%	19.7%	17.9%	12.5%	10.6%	11.2%	8.3%	13.8%	16.0%	13.5%	N/A	N/A	N/A
Formula	30.1%	46.7%	46.3%	54.5%	57.9%	64.0%	64.1%	69.1%	71.4%	64.1%	70.8%	73.4%	69.4%	74.5%	N/A	N/A	N/A
Forward Contract	8.6%	7.3%	7.5%	13.3%	10.5%	14.4%	16.0%	16.8%	16.8%	24.1%	20.3%	12.2%	14.1%	10.9%	N/A	N/A	N/A
Negotiated Grid	9.5%	5.3%	6.6%	3.8%	2.7%	1.9%	2.0%	1.6%	1.2%	0.6%	0.6%	0.6%	0.5%	1.1%	N/A	N/A	N/A

IOWA-MINNESOTA																	
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Cash	73.9%	68.8%	68.8%	66.7%	63.9%	65.6%	61.8%	56.4%	54.6%	57.0%	56.7%	50.9%	51.0%	57.1%	50.0%	51.2%	47.5%
Formula	7.2%	8.4%	8.2%	9.0%	10.3%	11.2%	10.9%	20.5%	23.2%	20.3%	20.2%	21.1%	21.3%	22.3%	25.3%	24.7%	24.9%
Forward Contract	7.1%	10.2%	13.3%	16.7%	13.2%	13.9%	17.1%	13.2%	13.8%	17.1%	16.1%	20.1%	19.8%	13.6%	17.8%	15.6%	17.4%
Negotiated Grid	11.8%	12.6%	9.7%	7.6%	12.6%	9.3%	10.2%	9.9%	8.4%	5.7%	7.0%	7.9%	7.9%	7.0%	6.9%	8.5%	10.2%

Source: USDA AMS Livestock, Poultry & Grain Market News

*Dataset has a minimum of one quarter removed due to 3/70/20 confidentiality guidelines

**Entire dataset removed due to 3/70/20 confidentiality guidelines.



Highlights of the Evaluation of Formula Based Cattle Purchases

Formula purchase arrangements of fed cattle use an agreed to methodology of calculating the net price. The final net price for some formula purchases may include the application of any premiums or discounts associated with carcass performance as specified in the transaction agreement. In response to the cattle industry’s desire for more transparency in the formula slaughter cattle market, AMS conducted an evaluation of formula-based cattle purchases reported under the requirements of the Livestock Mandatory Reporting Act and regulation to learn more about the makeup of these purchases. More specifically, AMS analyzed formula net price data for slaughter cattle purchases reported between January 4, 2021 and May 31, 2021, to evaluate the proportion of these formula purchases with no premium or discount applied and therefore likely priced from data referenced on another AMS report; versus similar formula cattle purchases that also included at least one premium or discount for quality, yield, weight, or other factor. Further, AMS evaluated this on a regional basis to see if there were any marketing differences among the states across the 5-area region.

Here are a few of the highlights found from this evaluation:

- Despite some variations among the five regions, a solid majority of formula purchases in all areas do have at least one premium or discount applied.
- The northern regions of Nebraska and Iowa/Minnesota exhibited the highest proportion of transactions with no premium or discount applied.
- While the proportion of cattle in which no premium or discount was applied likely represents formula transactions limited strictly to price reference methodology, it’s also possible that some of these cattle simply met baseline specifications in which no premium or discount thresholds were triggered. A complete determination cannot be made under the current LMR reporting requirements.

LMR Formula Net Premium/Discount Application Percentages Jan-May 2021

	National	5-Area	TX/OK/NM	KS	NE	CO	IA/MN
At least 1 Premium or Discount <u>was</u> Applied	82%	82%	86%	85%	74%	84%	65%
<u>No</u> Premium or Discount Applied	18%	18%	14%	15%	26%	16%	35%

* 5-Area - Texas, New Mexico, Oklahoma, Kansas, Colorado, Nebraska, Iowa, Minnesota.
TX/OK/NM - Texas, Oklahoma, New Mexico; KS – Kansas; NE – Nebraska; CO – Colorado; IA/MN – Iowa, Minnesota.