

Congress of the United States

Washington, DC 20515

August 21, 2023

The Honorable Glenn Thompson
Chairman
House Committee on Agriculture
1301 Longworth House Office Bldg.
Washington, D.C. 20515

The Honorable David Scott
Ranking Member
House Committee on Agriculture
1010 Longworth House Office Bldg.
Washington, D.C. 20515

Dear Chairman Thompson and Ranking Member Scott,

We write today expressing our strong opposition to the inclusion of H.R. 4417, the Ending Agricultural Trade Suppression (EATS) Act, or any similar legislation in the 2023 Farm Bill. Modeled after former Representative Steve King's amendment, which was intensely controversial and ultimately excluded from the final 2014 and 2018 Farm Bills, the EATS Act could harm America's small farmers, threaten numerous state laws, and infringe on the fundamental rights of states to establish laws and regulations within their own borders.

Demand from consumers, food companies, and the farming community has propelled 15 states to enact public health, food safety, and humane standards for the in-state production and sale of products from egg-laying chickens, veal calves, and mother pigs. The egg industry, which chose not to fight these laws, is far along in transitioning to cage-free facilities. But at the behest of some in the pork industry,¹ the EATS Act was introduced with the primary goal of undermining these standards – particularly California's Proposition 12, which the Supreme Court upheld in a recent decision. Unsurprisingly, the Court unanimously rejected the pork industry's primary claim that Proposition 12's ban on the sale of pork from cruelly confined animals is unconstitutional merely because it may have indirect so-called "extraterritorial" effects on out-of-state pork producers. The Court noted that, "Companies that choose to sell products in various States must normally comply with the laws of those various States."²

This is not a case of California imposing its standards on other states. Producers in any state can choose not to supply another state's consumers or to segregate animals for different markets. Pork industry economists noted this in an amicus brief, writing, "Only those producers for which compliance with Proposition 12 is economically beneficial will choose to do so, while all others will continue to supply the vast majority of the North American pork market beyond California's border and face little or no economic impact."³ In fact, many large pork producers, including Hormel,⁴ Perdue,⁵ Tyson,⁶ and Smithfield,⁷ as well as many small farmers, have

¹ National Pork Producers Council, Capital Update - For the Week Ending July 7, 2023, <https://nppc.org/news/capital-update-july-7-2023/>.

² *National Pork Producers Council v. Ross*, 143 S. Ct. 1142, 1142 (2023).

³ Brief of Agricultural and Resource Economics Professors as Amicus Curiae, p. 24, *National Pork Producers Council v. Ross*, 143 S. Ct. 1142 (2023), available at https://www.supremecourt.gov/DocketPDF/21/21-468/228373/20220617170252460_21-468AgriculturalAndResourceEconomicProfessors.pdf.

⁴ Hormel Foods, *Hormel Foods Company Information About California Proposition 12*, <https://www.hormelfoods.com/newsroom/news/hormel-foods-company-information-about-california-proposition-12/>.

⁵ Press Statement, Niman Ranch, *Niman Ranch Statement on U.S. Supreme Court Decision to Uphold Proposition 12*, (May 11, 2023) <https://www.businesswire.com/news/home/20230511005858/en/> (Perdue Farms bought Natural Food Holdings, the owner of Niman Ranch, in 2015).

⁶ Tyson Foods, *Third Quarter Earnings 2021 Report*, pg 15, (Aug. 9, 2021), https://s22.g4cdn.com/104708849/files/doc_financials/2021/q3/08-11-21_Tyson-Foods-080921.pdf.

⁷ Smithfield, 2021, *Our 20th Annual Sustainability Impact Report*, pg. 22, <https://www.smithfieldfoods.com/getmedia/7ecf12e2-da3b-4d31-8796-d07e38b39e51/2021-Sustainability-Impact-Report.pdf>.

indicated that they already can or will be able to comply with Proposition 12's standards to supply the California market. A joint amicus brief submitted by small and independent farming businesses, farm advocacy organizations including the National Sustainable Agriculture Coalition, and state farmers unions for Indiana, Iowa, Pennsylvania, Idaho, Oregon and Washington stated, "Independent farmers are willing to meet this demand, and in doing so, can access some of the wealth and power that has accumulated only for pork integrators, and redistribute it back to local communities, businesses, and families."⁸ The EATS Act would undermine this progress and devalue the investments that farmers have already made to comply with Proposition 12 and similar laws.

The EATS Act goes beyond overturning Proposition 12 to threaten many other state laws. The bill is particularly draconian in that it aims to negate state and local laws even if there is no federal standard to take their place, creating an overnight regulatory vacuum. In doing so, H.R. 4417 would drastically broaden the scope of federal preemption and impede the ability of voters and elected officials to enact laws that address local concerns.

The range of potentially impacted laws is vast and covers every state.⁹ A sample of categories that could be impacted includes measures to protect against invasive pests, prevent infectious diseases, improve food safety, address agricultural concerns such as seed standards, and promote animal welfare and consumer protection regarding puppy mills and pet food.

We believe that Congress should not usurp the power of states to regulate food and agricultural products in a manner that is responsive to local contexts. We need not agree with every law or rule adopted by each state to adhere to this core principle of federalism. The federal government should play a complementary role to the states on agriculture policy, rather than rendering them powerless. H.R. 4417, like its precursors, remains extremely controversial. We urge you to reject inclusion of this provision or anything like it in the Farm Bill.

Thank you for your consideration.

Sincerely,




Earl Blumenauer
Member of Congress



Brian K. Fitzpatrick
Member of Congress

⁸ Brief of Small and Independent Farming Businesses, State Farmers Unions, and Farm Advocacy Organizations as Amicus Curiae, p. 16, National Pork Producers Council v. Ross, 143 S. Ct. 1142 (2023), available at https://www.supremecourt.gov/DocketPDF/21/21-468/233586/20220815212509809_IndFarmers_Ross_Amicus%20Document%20August%2015%202022%20File.pdf.

⁹ Harvard Law School Animal Law and Policy Program, *Legislative Analysis of S. 2019 / H.R. 4417: The "Ending Agricultural Trade Suppression Act"*, (July 2023), available at <https://animal.law.harvard.edu/wp-content/uploads/Harvard-ALPP-EATS-Act-Report.pdf>.



Joe Courtney
Member of Congress



Katie Porter
Member of Congress



Eleanor Holmes Norton
Member of Congress



Rashida Tlaib
Member of Congress



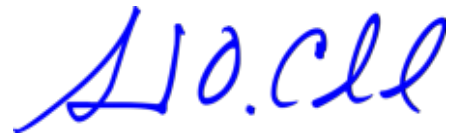
Eric Swalwell
Member of Congress



André Carson
Member of Congress



David J. Trone
Member of Congress



Salud Carbajal
Member of Congress



Kim Schrier, M.D.
Member of Congress



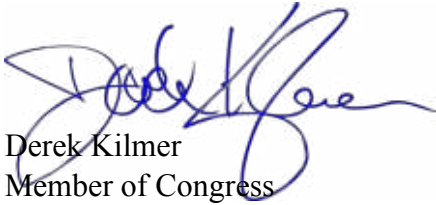
Seth Moulton
Member of Congress



Mark Takano
Member of Congress



Bradley Scott Schneider
Member of Congress



Derek Kilmer
Member of Congress



Ritchie Torres
Member of Congress



Susan Wild
Member of Congress



Jason Crow
Member of Congress



Veronica Escobar
Member of Congress



Lloyd Doggett
Member of Congress



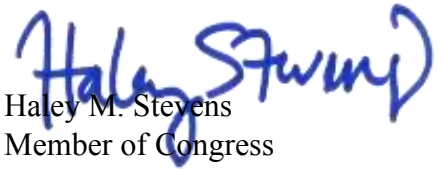
Zoe Lofgren
Member of Congress



Adam Smith
Member of Congress



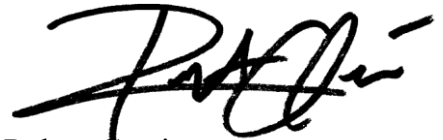
Jamie Raskin
Member of Congress



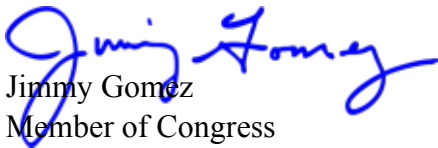
Haley M. Stevens
Member of Congress



Julia Brownley
Member of Congress



Robert Garcia
Member of Congress



Jimmy Gomez
Member of Congress



Mark DeSaulnier
Member of Congress



Kevin Mullin
Member of Congress



Mikie Sherrill
Member of Congress



Josh Harder
Member of Congress



Dwight Evans
Member of Congress



Raul Ruiz, M.D.
Member of Congress



Adam B. Schiff
Member of Congress



Ro Khanna
Member of Congress



Jerrold Nadler
Member of Congress



Jesús G. "Chuy" García
Member of Congress



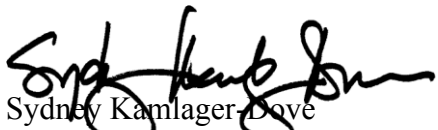
Nanette Diaz Barragán
Member of Congress



Barbara Lee
Member of Congress



Jimmy Panetta
Member of Congress



Sydney Kamlager-Dove
Member of Congress



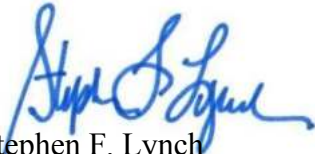
Tony Cardenas
Member of Congress



Donald M. Payne, Jr.
Member of Congress



Mike Thompson
Member of Congress



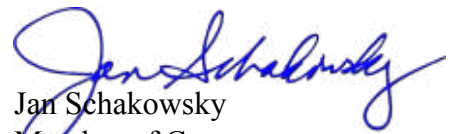
Stephen F. Lynch
Member of Congress



Ted W. Lieu
Member of Congress



Anna G. Eshoo
Member of Congress



Jan Schakowsky
Member of Congress



Steve Cohen
Member of Congress



Bill Pascrell, Jr.
Member of Congress



Jared Huffman
Member of Congress



Alma S. Adams, Ph.D.
Member of Congress



Jim Tokuda
Member of Congress




Doris Matsui
Member of Congress



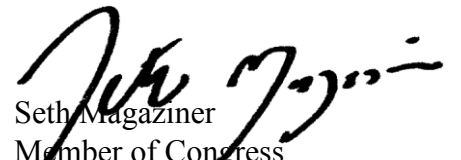
Jim Costa
Member of Congress




Lori Trahan
Member of Congress



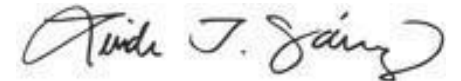
Hillary J. Scholten
Member of Congress




Seth Magaziner
Member of Congress




Debbie Wasserman Schultz
Member of Congress



Linda T. Sánchez
Member of Congress



Scott H. Peters
Member of Congress



Raja Krishnamoorthi
Member of Congress



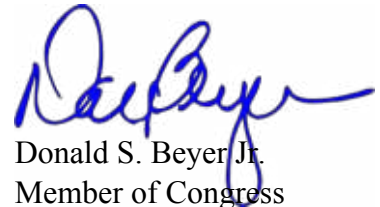
C. A. Dutch Ruppertsberger
Member of Congress



Suzan K. DelBene
Member of Congress



Mike Quigley
Member of Congress



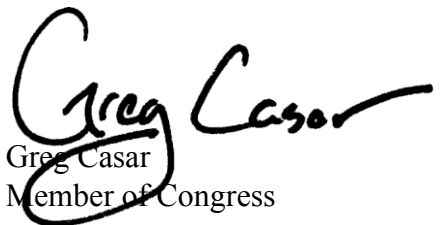
Donald S. Beyer Jr.
Member of Congress



Mike Levin
Member of Congress



Debbie Dingell
Member of Congress



Greg Casar
Member of Congress



Dina Titus
Member of Congress



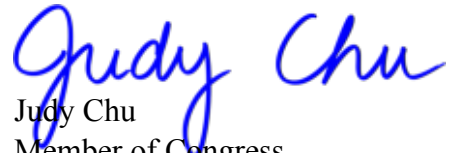
Norma J. Torres
Member of Congress



Mark Pocan
Member of Congress




Donald Norcross
Member of Congress



Judy Chu
Member of Congress



Lucy McBath
Member of Congress



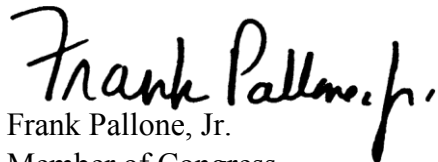
Mary Gay Scanlon
Member of Congress



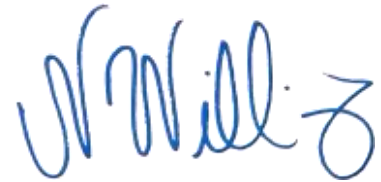
John P. Sarbanes
Member of Congress



Nancy Pelosi
Member of Congress



Frank Pallone, Jr.
Member of Congress



Nikema Williams
Member of Congress



Rosa L. DeLauro
Member of Congress



Ami Bera, M.D.
Member of Congress



Chellie Pingree
Member of Congress



Bill Foster
Member of Congress



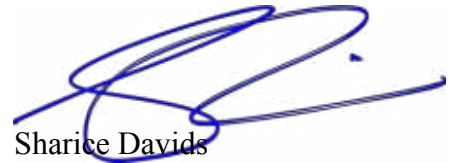
Sara Jacobs
Member of Congress



Jared Moskowitz
Member of Congress



Sylvia R. Garcia
Member of Congress



Sharice Davids
Member of Congress



James P. McGovern
Member of Congress



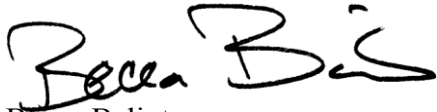
Betty McCollum
Member of Congress



Ann McLane Kuster
Member of Congress



Cori Bush
Member of Congress



Becca Balint
Member of Congress



Jennifer Wexton
Member of Congress



Suzanne Bonamici
Member of Congress



Juan Vargas
Member of Congress



Lois Frankel
Member of Congress



Grace Meng
Member of Congress



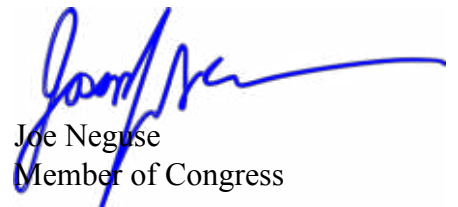
Josh Gottheimer
Member of Congress



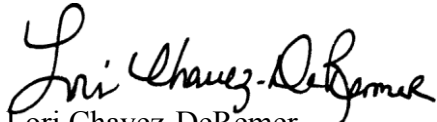
Pramila Jayapal
Member of Congress



Susie Lee
Member of Congress



Joe Neguse
Member of Congress



Lori Chavez-DeRemer
Member of Congress



Frederica S. Wilson
Member of Congress



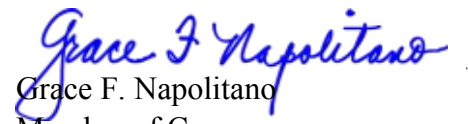
Gerald E. Connolly
Member of Congress




Joaquin Castro
Member of Congress




J. Luis Correa
Member of Congress



Grace F. Napolitano
Member of Congress




Henry C. "Hank" Johnson, Jr.
Member of Congress



Brad Sherman
Member of Congress



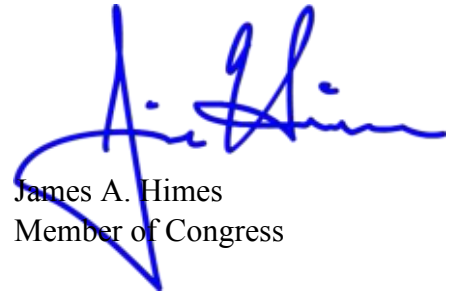
Patrick Ryan
Member of Congress



John Garamendi
Member of Congress



Marilyn Strickland
Member of Congress



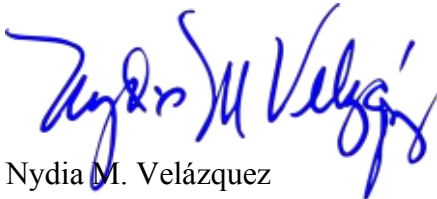
James A. Himes
Member of Congress



Gregorio Kilili Camacho Sablan
Member of Congress



Pete Aguilar
Member of Congress



Nydia M. Velázquez
Member of Congress



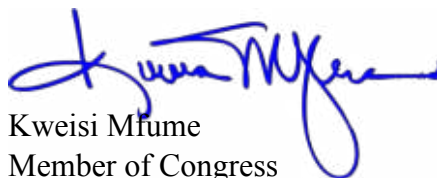
Colin Z. Allred
Member of Congress



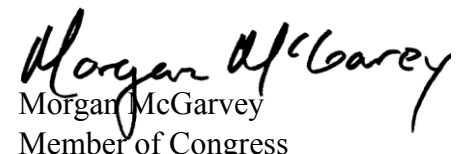
Paul D. Tonko
Member of Congress



Brian Higgins
Member of Congress



Kweisi Mfume
Member of Congress



Morgan McGarvey
Member of Congress



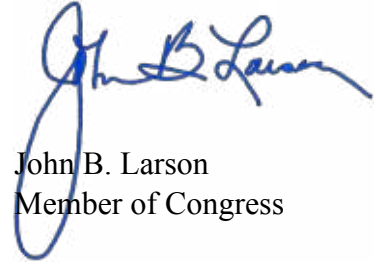
Robert C. "Bobby" Scott
Member of Congress



Jahana Hayes
Member of Congress



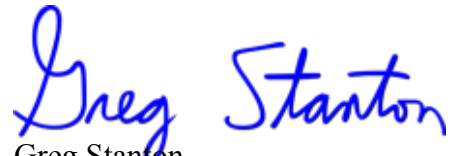
Matt Cartwright
Member of Congress



John B. Larson
Member of Congress



Adriano Espaillat
Member of Congress



Greg Stanton
Member of Congress



Brendan F. Boyle
Member of Congress



Andy Kim
Member of Congress



Shri Thanedar
Member of Congress



Ayanna Pressley
Member of Congress



Delia C. Ramirez
Member of Congress



Sheila Cherfilus-McCormick
Member of Congress



Jamaal Bowman
Member of Congress



Valerie P. Foushee
Member of Congress



Madeleine Dean
Member of Congress



Chris Pappas
Member of Congress



Marie Gluesenkamp Perez
Member of Congress




Chrissy Houlahan
Member of Congress





Rick Larsen
Member of Congress



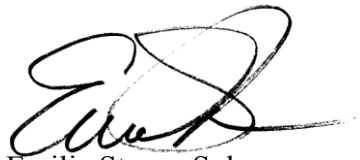
Sean Casten
Member of Congress



Summer Lee
Member of Congress


Andrea Salinas
Member of Congress


William R. Keating
Member of Congress


Maxwell Alejandro Frost
Member of Congress

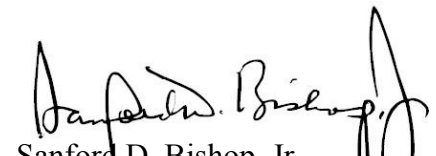

Emilia Strong Sykes
Member of Congress


Christopher H. Smith
Member of Congress


Shontel M. Brown
Member of Congress


Al Green
Member of Congress


Jake Auchincloss
Member of Congress


Sanford D. Bishop, Jr.
Member of Congress



Ilhan Omar
Member of Congress



Terri A. Sewell
Member of Congress



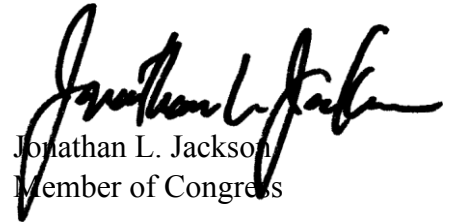
Yvette D. Clarke
Member of Congress



Chris Deluzio
Member of Congress



Diana DeGette
Member of Congress



Jonathan L. Jackson
Member of Congress



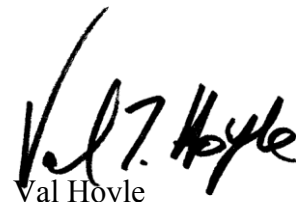
Robert J. Menendez
Member of Congress




Dan Goldman
Member of Congress



Troy Carter
Member of Congress



Val Hoyle
Member of Congress



Steven Horsford
Member of Congress



Raúl M. Grijalva
Member of Congress



Ruben Gallego
Member of Congress



Richard E. Neal
Member of Congress



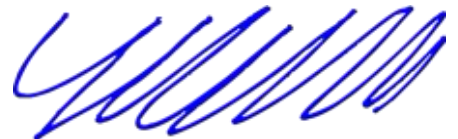
Michael Lawler
Member of Congress



Brittany Pettersen
Member of Congress



Darren Soto
Member of Congress



Mike Garcia
Member of Congress

/s

Maxine Waters
Member of Congress