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Testimony on

S. 3239, the Egg Products Inspection Act Amendments of 2012

U.S. Senate Committee on Agriculture, Nutrition & Forestry

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Washington, DC, 20510

Madame Chairwoman, Senator Roberts and other distinguished Senators of the Committee, thank you for the opportunity to testify before the Committee today on behalf of Egg Farmers of America to discuss our opposition to S. 3239, the Egg Products Inspection Act Amendments of 2012. Egg Farmers of America is an association of over a dozen small and medium sized family egg farming operations, including cage-free operators, located throughout the Midwest.

My name is Amon Baer, and along with my wife of 38 years, Camille, we are owners and operators of a family farming operation in Lake Park, Minnesota. And when I say family farming, I mean that our operations involve several of my immediate family members. Two of our five sons have joined our farm on a full time basis. We have 300,000 laying hens. We grade, carton and market 6 million dozen eggs per year. We also produce hogs and grow corn, soybeans and wheat. Four of my brothers all have farming operations very similar to mine. In total, 9 of our children are at various stages of transitioning to ownership of our family farms. I say this because you need to understand that Senate bill 3239 would put at risk our children's ability to buy, own and operate our egg production. Therefore, we oppose S. 3239 for 5 primary reasons:

1. The bill will essentially kill the small family egg farm;
2. The bill will result in a dramatic increase in the costs to consumers by as much as 55%;
3. The bill is not necessary and is inconsistent with a Congress that has vowed to limit the size and scope of the federal government;
4. You would establish a precedent that will affect virtually all other animal production; and
5. S.3239 is not justified by science.

I will briefly elaborate on each point in my comments:

1. Killing the small family egg farm

Egg production is a cyclical, high volume, very low-margin business. Our operation of 300,000 layer hens is small by today's standards. In the US, there are ~2,000 commercial egg farms, 180 of which produce 95% of the total US egg production. Those operations range between several hundred thousand to 28 million laying hens each. The remaining 5% of the US egg production comes from the ~1800 small, family farms. This bill, if passed, would benefit the 180 mega operations to the detriment of the 1800 family farms. The experience of my nephew is an example of why that is the case. He just installed new hen housing, investing \$2.5 million into housing that has an expected useful life of over 30 years. Had S. 3239 been in place last year, no banker would have lent him money to build the new houses, first because he would have had to reduce the size of his operation and secondly because S. 3239 would have required him to scrap his equipment more than 10 years early. If S. 3239 becomes law he will be required to tear out all that equipment and essentially start over just as he was getting the current system paid for. His replacement cost to convert to enriched housing and maintain his production base would double up to \$5 million dollars. Based on 40 years of my experience in the egg industry, he would not be able to raise the capital necessary to accomplish that, especially in today's tight credit markets.

When it comes to saddling small farmers with bigger costs, I've heard lawmakers from both sides of the aisle urge colleagues to protect small and medium-sized producers. Yet here we are today, discussing a bill that will accelerate consolidation in the egg industry, enriching the mega corporate producers who have more access to capital while discriminating against the small farmer who does not.

2. Costs to the industry and consumers

In 1999, the European Union issued a directive requiring the conversion to enriched housing over a phase-in period spanning 12 years with implementation taking effect in January 2012. As anticipated, many producers waited until January and simply closed their operations rather than endure higher

production costs. The results have been harsh - especially on European consumers who have seen supplies cut by up to 20% and prices soar, on average, 55% higher. We expect similar consequences here if S. 3239 becomes law because it would force over 90% of the industry to overhaul their production facilities.

A 55% price increase for eggs means that taxpayers would shoulder additional direct costs for WIC which requires egg purchases as well as eggs purchased for the Department of Defense. Further, some implementation estimates only count one-time costs rather than ongoing cost increases for USDA to enforce S. 3239. The cost to implement S. 3239 ranges from \$4 billion as acknowledged by the United Egg Producers (UEP), to \$10 billion, as disclosed by farmers who have already priced out the transition to enriched housing. For small and medium sized farmers, this cost is terminal. And for a country facing \$15.6 trillion in debt, it is incredibly irresponsible.

3. The law is unnecessary

Today, any egg producer who currently wants to produce eggs in enriched colony housing has the freedom and ability to do so. Therefore, you must question the true motivation behind a federal statute which mandates inch per cubic inch size requirements for hen houses. Already some quick service restaurants such as Burger King and McDonald's have announced future purchases will come from larger hen houses. Consumers can choose cage-free, free-range or organic options at various price points. Simply put, the free market is working and producers of all sizes are free to make housing changes.

According to data provided to the UEP certified program in 2011 by Information Resources Inc, 96% of eggs purchased in the United States or 19.8 billion eggs come from current housing systems. In substance consumers are voting based on cost. Incidentally, S. 3239 will have a negative impact on producers that have made investments in novel production practices. Since S. 3239 mandates a higher production cost, those who made investments in cage free systems will stand to see their premiums

wiped out. It is that reason why Egg Farmers of America, in addition to representing small egg farmers, also represents the voice of cage-free and organic operations.

4. Bad Precedent

As a lifelong UEP member and UEP Board Member, I am sympathetic to the unfortunate situation faced by egg farmers in California as a consequence of Proposition 2 passed in 2008. BUT, the problems of one state or even a handful of states does not justify a federal mandate on all 50 states. Whether debating CAFÉ standards, crop life protectants or even food labeling, Congressional members from California have fought AGAINST federal laws that preempt their state. Now, they are seeking federal preemption to override a bad state law. Keep in mind that Proposition 2 applied to production in the state of California. A separate law passed by the California assembly applied those standards to eggs sold from outside the state. This clear violation of interstate commerce was a result rendered by the General Assembly, not the ballot initiative. I along with the other members of Egg Farmers of America, and even the members of UEP, shouldn't be invoiced for the charges racked up by the California Assembly. I agree with one California Congressman who recently said during House Agriculture Committee consideration of the Farm Bill, quote "We have a terrible situation created by the voters of California with the egg situation there. Now that I'm a retiring Member I can say that I don't always agree with what the voters do. And they in California made an awful mistake with regard to the poultry situation, the egg situation in California."

5. S. 3239 is not justified by science

After the 1999 EU directive, as many as 27 separate food safety studies were performed in Europe and in the United States. None of the science conclusively points to improved food safety as a result of enriched housing. Additionally, the U.S. Department of Agriculture stated last July that quote: "Hens can experience stress in all housing types, and no single housing system gets high scores on all welfare

parameters. Like-wise, no single breed of laying hen is perfectly adapted to all types of housing systems. Additionally, management of each system has a profound impact on the welfare of the birds in that system, thus even a housing system that is considered to be superior relative to hen welfare, can have a negative impact on welfare if poorly managed.” Then on January 26th of this year, the American Veterinary Medical Association noted in a statement that, quote “Each of the additional features in an enriched colony has the potential to malfunction causing injury, harboring disease vectors or parasites or provoking aggression.”

Before concluding my remarks, I would like to state for the record that I personally as well as others who oppose this legislation have received threats in an attempt to force our support rather than oppose this legislation. We are evaluating those threats with lawyers and law enforcement officials. I wanted this record to reflect our concern, so that its absence is not used against us in later legal proceedings.

To summarize, Madame Chairwoman and Senator Roberts, I believe this legislation will kill the family farmer, will cost consumers and taxpayers a 55% increase in egg prices, is unnecessary and scientifically unjustified. I respectfully urge Congress to resist any further action on this legislation.