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Chairwoman Stabenow, Ranking Member Boozman, and members of the Committee, thank you for allowing me the opportunity to testify today. My name is Shawn Tiffany. I am President elect of the Kansas Livestock Association (KLA) and a member of the National Cattlemen’s Beef Association (NCBA) Live Cattle Marketing Committee and Board of Directors. I co-own and operate Tiffany Cattle Company Inc. with my brother, Shane. We grew up in the cattle feeding business and had the opportunity in 2007 to purchase Black Diamond Custom Feeders, the feedyard our father managed and that we grew up working in. Since then, we have grown to include a second finishing yard near Marquette, Kansas and, most recently, a grow yard at Allen, Kansas. I also am a partner in Elevate Ag, a company that produces biological inputs for farming and grazing systems reducing dependency on chemicals and synthetic fertilizers. I have a bachelor's degree in animal sciences and industry from Kansas State University. My wife, Nicky, and I live near Herington, Kansas with our five children.

Price discovery, market transparency, access to additional processing capacity, and proper oversight of cattle markets is important to me and all cattle producers. However, neither of the bills being discussed today represent the right approach to these issues. I am opposed to these bills and ask that the committee not advance either S. 4030 or S. 3870 in their current form.

The Cattle Price Discovery and Transparency Act of 2022 (S. 4030) would establish a mandatory minimum level of fed cattle trade under approved pricing mechanisms in each of five to seven geographic regions across the country. The initial minimum levels would be established not by economic analysis, but by the average percentage of negotiated cash and grid purchases between January 1, 2020, and January 1, 2022.

The vast majority of cattle producers oppose government mandating a minimum level of negotiated trade. In February, members of NCBA adopted policy opposing government mandates on cattle marketing methods. KLA joined with 29 other NCBA affiliates in a letter to this committee expressing opposition to marketing mandates. In January, the American Farm Bureau Federation took a position in opposition to marketing mandates. Having participated in both the KLA and NCBA policy process, I can tell you those members overwhelmingly believe cattle producers should have the opportunity to market their cattle how they see fit without arbitrary limitations imposed by the federal government.

Effective price discovery in the fed cattle market is essential to a healthy, functioning market. There is broad agreement among cattle producers on the importance of effective price discovery. Negotiated fed cattle trade is a component of effective price discovery. That’s why over the past

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18 months cattle feeders have made it a priority to increase negotiated trade levels. The result has been significantly higher negotiated trade levels in both the Texas/Oklahoma/New Mexico and Kansas Livestock Mandatory Reporting (LMR) regions. We didn't need a government mandate to do this. Cattle feeders recognized the need for more negotiated trade and took steps to achieve it for themselves. These voluntary efforts have improved negotiated trade, but left room for producers to be flexible in response to various market dynamics. I have attached graphs at the end of my testimony showing negotiated trade numbers in Texas/Oklahoma/New Mexico and Kansas. Included in the graph is trend line for each region, with both heading higher.

Tiffany Cattle Company is a custom cattle feeding business. That means the cattle in our feedyards are owned by other cattle producers. The cattle owner places their cattle with us to provide feed and care during the finishing phase. One of the services we provide our customers is marketing their cattle when they are ready for harvest. We work with multiple packers using several different marketing methods to maximize the value our customers receive for their cattle. A mandated minimum level of negotiated trade will limit my ability to maximize the value my customers receive for their cattle. Furthermore, a mandate on the packers will force packers to discontinue some alternative marketing arrangements (AMAs) to meet an arbitrary minimum negotiated trade mandate. Which of my customers will lose their ability to access value added marketing when this happens? Neither myself, nor my customers, will be given the option to choose because the mandate, and the power to comply with the mandate, will be on the packer.

Cattle producers have made the decision to move away from negotiated cash trade, and instead use AMAs. This shift has not been driven by packers, but by producers. There are many reasons for this. AMAs allow a cattle producer to capitalize on investments in improved genetics and production practices. AMAs allow the cattle producer to capture more of the value when their cattle yield beef products with attributes consumers desire.

My brother and I built our business from 2500 head, initially, to finishing approximately 70,000 head per year and went from 10 customers to over 200 customers by having access to quality-based premium programs. Not only has our own business grown but our customers' operations have as well because AMAs allow them to be paid for the exceptional quality cattle that they raise. My typical customer has fewer than 200 cows and will retain ownership of their calves in order to receive the true value for their efforts and, just as importantly, to receive the carcass data to make breeding decisions for continued improvement on their ranches.

Tiffany Cattle is also engaged in efforts to produce beef with lower total greenhouse gas emissions. This program requires an AMA to facilitate the supply-chain coordination necessary to connect these products to consumers willing to pay for that certification. We also feed a high percentage of NHTC or Non-Hormone Treated Cattle and Natural Program cattle. These labels rely on AMAs to ensure the cattle producer who has taken on the additional expense of gaining that certification is assured access to a market willing to pay for the added value.

Increased use of AMAs is correlated with improved beef quality. When packers pay for quality, farmers and ranchers are incentivized to produce it. In 2000, about 60% of fed cattle graded choice or better. Today, more than 80% of fed cattle grade choice or better. In my own operation we have averaged 92% choice or higher in all marketings for the last 10 years. That improved

quality has led to better beef eating experiences, which has led to increased consumer demand for beef, both domestically and internationally. AMAs have helped the cattle industry better meet consumer preferences. Consumers are gravitating to our beef because of the high quality and the unique brands we have developed. When competitor proteins are at a much lower price point, the cattle industry must prioritize quality if we wish to compete. I ask Congress not to limit my use of AMAs, which have helped make these quality improvements possible.

The Meat and Poultry Special Investigator Act of 2022 (S. 3870) would establish the Office of the Special Investigator for Competition Matters within the U.S. Department of Agriculture (USDA). I support proper oversight of cattle and beef markets, but I am concerned adding another layer of bureaucracy will only confound efforts to ensure fair and competitive markets. USDA already has the authority to protect cattle producers from unfair markets. The Packers and Stockyards Division conducts investigations under the Packers and Stockyards Act (PSA) and regularly refers enforcement action to the Department of Justice (DOJ). DOJ has attorneys skilled in antitrust matters and regularly pursues enforcement. While we may not always like the speed or transparency, which DOJ investigates PSA matters, it doesn't mean PSA referrals are going unattended or being mishandled. If Congress cannot point to an actual instance of DOJ misapplying the law, for what purpose does growing government and adding duplicative enforcement authority accomplish? I would encourage this committee to work with USDA and DOJ to determine what additional resources are needed by the Packers and Stockyards Division to effectively enforce competition rules.

While we oppose both S. 4030 and S. 3870, there are a number of ways members of Congress can support the cattle industry. Cattle producers would benefit from more packers and packing capacity. Congress should pursue opportunities to eliminate or reduce the regulatory barriers to entry in beef packing. Congress also should pursue changes to agricultural guest worker programs to better address the labor needs of the beef industry. We support timely reauthorization of LMR. We recommend adding Wyoming fed cattle trade to the Colorado region and South Dakota and Illinois to the Iowa/Minnesota region. The creation of a cattle contracts library has the potential to provide useful information for market participants.

A government mandate to require cash trade of fed cattle is a big gamble for the cattle industry, and I ask the Senators on the Committee to consider this path carefully before taking away a producer's ability to operate as they choose, free of government intervention. I caution against taking away the personal freedoms and free choice ranchers currently enjoy on how to run our ranches, farms and feedyards. The government's track record of establishing red-tape and bureaucracy is not something I wish to have thrust upon myself and my fellow ranchers as we go about the day-to-day business of marketing our cattle. Putting the government in charge of determining how and where AMAs can be utilized in the future will hinder American farmers and ranchers.

The market dynamics over the last two years have been difficult. The key driver has not been how fed cattle are sold. The reality has been we have had more market-ready cattle coupled with diminished and vulnerable processing capacity. Turning over marketing decisions to Washington bureaucrats will not yield the market results desired by the proponents but will yield unintended consequences that could be devastating for cattle producers.

Every producer wants fair market value for the animals we raise and produce and many of us achieve that true value through value-based AMAs. Accordingly, I do not support a government mandate, of any kind. Regardless of how well intentioned, the end result will be fewer marketing options for U.S. producers. Fewer marketing options will disincentive U.S. producers from investing in superior genetics and production techniques, and ultimately resulting in lower quality U.S. beef products for consumers.

