Dear Senator/Representative:

We write to express strong opposition to the "Ending Agricultural Trade Suppression (EATS) Act" (S.2019/H.R.4417) introduced by Sen. Roger Marshall (R-KS) and Rep. Ashley Hinson (R-IA). Better named the States' Rights Suppression Act, this legislation would thwart states' ability to govern. It could wipe out thousands of state laws and create a race-to-the-bottom when it comes to the production and sale of agricultural products. It mandates that if any state tolerates a preharvest production practice, other states must allow the sale of that product. *We urge you to oppose this dangerous, overreaching bill and do all you can to ensure that neither it nor anything like it are included in the 2023 Farm Bill.*

The EATS Act is very similar to the controversial legislation introduced by former Representative Steve King (R-IA) that – because of bipartisan outcry – was fortunately omitted from the final 2014 and 2018 Farm Bills. The King amendment generated overwhelming opposition from a diverse set of more than 170 groups, plus hundreds of federal and state legislators, individual farmers, veterinary professionals, faith leaders, legal experts, and newspaper editorials including *USA Today*.

HOW S.2019/H.R.4417 GUTS STATE AUTHORITY

Modeled after the King amendment, the EATS Act could negate many state and local laws related to agricultural production. If any state permits a preharvest practice in the production of an agricultural product – no matter how hazardous, destructive, or inhumane to people or animals – the EATS Act would dictate that every state allow the sale of such products. The EATS Act is even more overreaching than the "King amendment" since it aims to block state and local laws when there is no substantive standard to take their place – preventing action on local concerns despite a vacuum of federal action. Agricultural products are defined broadly in the bill, pursuant to 7 U.S.C. 1626, to include "agricultural, horticultural, viticultural, and dairy products, livestock and poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured product thereof."

WHAT KIND OF LAWS AND PROGRAMS COULD BE DESTROYED

The sweep of laws under threat by the EATS Act is vast – for example, laws governing food safety, such as chemicals in baby food and arsenic in animal feed, exposure to dangerous pesticides, child labor, puppy mills, wildlife protection, fire hazards, invasive pests, infectious diseases, and communities disproportionately impacted by pollution. This list is by no means all-inclusive. In addition, the EATS Act could prevent states and local governments from entering into food procurement contracts that include standards for the participation of veteran, women, and minority-owned businesses. Almost every state and hundreds of local jurisdictions have such programs for government procurement.

POTENTIALLY DEVASTATING COSTS ON STATE AND LOCAL GOVERNMENTS

The EATS Act contains a sweeping provision which allows nearly anyone to sue state and local officials for financial awards and injunctions for imposing any standard contrary to the EATS Act. It flips the burdens of proof when an injunction is sought, so that state and local governments can be barred from regulating to protect the health and safety of the food system unless they prove by clear and convincing evidence that they are in compliance with the EATS Act. This drastic provision could bankrupt state and local governments and tie them up in endless litigation. It may also deny state and local government officials their traditional legal immunities and expose them to personal financial liability.

IGNORES FOUNDING PRINCIPLES AND CONSTITUTIONAL LAW PRECEDENT

On May 11, 2023, the U.S. Supreme Court upheld California's Proposition 12, a law addressing the animal welfare and public health risks caused by the extreme confinement of pigs and other animals in small crates and cages on factory farms. The Court clearly and 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 U.S. Supreme Court has long recognized the broad latitude provided by the Tenth Amendment to allow states to enact laws that protect public health, safety, and welfare by regulating the sale of goods and services within state borders. See *Maine v. Taylor*, 477 U.S. 131, 151 (1986); *Southern Pac. Co. v. Arizona ex rel. Sullivan*, 325 U.S. 761, 767 (1945). The EATS Act runs contrary to principles of federalism and the Tenth Amendment that have guided our nation since its founding and have long allowed states to create specific guidelines and regulations for the sale of goods within their borders.

BROAD BIPARTISAN SUPPORT FOR BANNING EXTREME CONFINEMENT

There are 15 states (red, blue, and purple) with laws regarding intensive confinement of farm animals and 80% of American voters – including nearly equal numbers of Republicans and Democrats – support a law like Proposition 12 being enacted in their own states.

EATS ACT HURTS FARMERS AND RURAL COMMUNITIES

The EATS Act would take away rights from states and localities to set farmer-friendly standards. Family farmers across the country have made significant investments to come into compliance with state laws that could be undone by the EATS Act. Proposition 12 is not a case of California imposing its standards on other states. Producers in any state can decide not to alter their production methods to supply another state's consumers or can segregate animals for different markets as the industry currently does. Many large and small producers have indicated they already can or will be able to supply California's market.

We urge you to reject the EATS Act and oppose inclusion of it – or any similar assault on duly-enacted state and local measures – in the Farm Bill. Thank you for your time and consideration.

Sincerely,

Agriculture and Food Justice
Agri-Cultura Cooperative Network
American Grassfed Association
American Indian Mothers
Better Food Foundation
Center for Food Safety
Community Alliance for Global Justice
Community Farm Alliance
Dakota Resource Council
Dodge County Concerned Citizens (MN)
EarthClaims, LLC
Family Farm Defenders
Farm Action Fund
Farm Aid
Farm Forward
Food Animal Concerns Trust (FACT)
HEAL Food Alliance
Illinois Stewardship Alliance
Institute for Agriculture and Trade Policy
Institute for Local Self-Reliance
Iowa Citizens for Community Improvement
Iowa Organic Association
Local Matters (OH)
Michael Fields Agricultural Institute (WI)
National Family Farm Coalition

National Organic Coalition
National Sustainable Agriculture Coalition
New Roots Institute
North American Marine Alliance
Northeast Organic Dairy Producers Alliance
Northeast Organic Farming Association of Massachusetts (NOFA MA)
Northeast Organic Farming Association of New Hampshire (NOFA NH)
Northeast Organic Farming Association of NJ (NOFA NJ)
Northeast Organic Farming Association of New York (NOFA NY)
Northeast Organic Farming Association of Vermont (NOFA VT)
Northeast Sustainable Agriculture Working Group
Ohio Ecological Food and Farm Association
OFARM, Organic Farmers' Agency for Relationship Marketing
OrganicEye
Organic Consumers Association
Organic Farmers Association
Organic Farming and Research Foundation
Organic Seed Alliance
Poweshiek CARES (IA)
REAP Food Group (Madison, WI)
Roots of Change
Rural Vermont
Socially Responsible Agriculture Project
Sustainable Food Center
Sustainable Nantucket
The Cornucopia Institute
The Weston A. Price Foundation
UpRoot Colorado
Virginia Association for Biological Farming
Western Organization of Resource Councils

Animal Protection
American Society for the Prevention of Cruelty to Animals (ASPCA)
Animal Defense League of Arizona
Animal Equality
Animal Legal Defense Fund
Animal Outlook
Animal Partisan
Animal Protection and Rescue League, Inc. (APRL)
Animal Protection League of New Jersey
Animal Protection Voters (NM)
Animal Rescue League of Boston
Animal Save Movement
Animal Welfare Institute
Attorneys for Animals
Compassion in World Farming
CT Votes for Animals
Farm Sanctuary
FOUR PAWS USA
Healthy Pets United (HI)
Humane Farming Association

Humane Society Legislative Fund
Humane Society of the United States
Humane Voters of Arizona
Lady Freethinker
League of Humane Voters (NJ)
Maryland Votes for Animals
Mercy for Animals
Monmouth County SPCA
One Step for Animals
Oregon Humane Society
Project Coyote
Rise for Animals
San Francisco SPCA
St. Francis Alliance
The Humane League

Consumer/Food Safety/Public Health
American Public Health Association
Antibiotic Resistance Action Center, the George Washington University
Center for Science in the Public Interest
Clean Label Project
Consumer Federation of America
Consumer Reports
Food & Water Watch
Hawaii Public Health Association
National Consumers League
National Council for Occupational Safety and Health (COSH)
Oklahoma Public Health Association
Physicians Committee for Responsible Medicine
Public Citizen
U.S. PIRG
VPIRG

Environment
Alliance for the Wild Rockies
Anthropocene Alliance
Beyond Pesticides
Bluestem Group Sierra Club (NE)
Burroughs Audubon Nature Club (NY)
Californians for Pesticide Reform
Cape Henry Audubon Society (VA)
Catskill Mountainkeeper
Center for Biological Diversity
Clean Air Council
Conservation Northwest
Defenders of Wildlife
Earthjustice
Earth Charter Indiana
Endangered Habitats League
Endangered Species Coalition
Environment America

Environmental Working Group
Friends of the Earth
Hoosier Environmental Council
Kentucky Waterways Alliance
Lake Erie Waterkeeper
League of Conservation Voters
Maryland United for Peace and Justice, Inc.
Natural Resources Defense Council
New Hampshire Sierra Club
Northwest Center for Alternatives to Pesticides (NCAP)
Ocean River Institute
Ohio Sustainable Business Council
Otsego Land Trust, Inc.
Queens County Bird Club
Saw Mill River Audubon (NY)
Sierra Club
Sustainable Earth Eating
Virginia Organizing
The Trustees of Reservations
The Xerces Society for Invertebrate Conservation
Union of Concerned Scientists
Waterkeeper Alliance
Waterkeepers Chesapeake - Fair Farms Initiative

Labor
Alianza Nacional de Campesinas (The National Farmworker Women's Alliance)
CRLA Foundation
Farmworker Association of Florida
Food Chain Workers Alliance
The Child Labor Coalition (representing 38 groups)

Legal
Association of Prosecuting Attorneys
Conservation Law Center (IN)
Conservation Law Foundation (New England)
Corporate Accountability Lab
Environmental Law & Policy Center (Midwest)
Harvard Animal Law & Policy Program
Kentucky Equal Justice Center
Western Environmental Law Center

Local Government/Preemption
County Executives of America