DATE

The Honorable Theodore E. Rokita

Attorney General of Indiana

Office of the Attorney General

302 West Washington Street

Indianapolis, IN 46204

RE: California Proposition 12

Dear Attorney General Rokita:

We are a coalition of more than \_\_\_\_ Indiana pork producers. Although our businesses collectively employ thousands of Hoosiers, we are only a small part of the greater Indiana agriculture industry that is part of the core of our State’s economy. We are honored to produce a vital part of the food supply for a growing and hungry world, and we pride ourselves on representing the highest standards of quality, animal stewardship, and humane treatment.

We know you are familiar with Proposition 12, California’s activist-driven attempt to remake America’s meat industry by forcing onerous and unscientific animal confinement requirements on producers. Brought on by radicals like the Humane Society of the United States, Proposition 12 represents a critical threat to production agriculture and pork producers, specifically. Of course, since California cannot feed itself without massive imports from agricultural states like Indiana, Proposition 12’s harm will disproportionately fall on businesses like ours, well beyond California’s borders.

That harm will be profound. The overwhelming majority of pork production facilities would require significant overhauls in order to comply with Proposition 12, which is scheduled to come into full force on January 1, 2022. In an environment of already-rising inflation, consumer food costs would rise as unnecessary Proposition 12 compliance costs are forced into the market. And, ironically, human worker and animal safety would actually be undermined by Proposition 12’s dismantling of time-tested production practices. Indiana, as one of the nation’s leading pork-producing states, would feel this harm acutely.

As you are also aware—indeed, as you have eloquently argued—Proposition 12 is grossly unconstitutional. Although it suffers from myriad defects, its main legal flaw is its violation of the dormant commerce clause of the U.S. Constitution. While the Constitution undoubtedly protects states’ police power in their own jurisdictions, so does it establish necessary limitations on their ability to burden interstate commerce or to extraterritorially regulate conduct in other states. Proposition 12 runs headlong against this and other constitutional principles.

You and your office have already exhibited steadfast leadership in opposing Proposition 12 and its copycat laws in other states. From the Indiana-led original action effort in the U.S. Supreme Court against Massachusetts to your more recent multistate amicus curiae briefing in the private challenges to Proposition 12 in the U.S. Court of Appeals for the Ninth Circuit (including your amicus brief urging the Supreme Court to review the Ninth Circuit’s flawed holding in that litigation), no public office has done more than the Indiana Attorney General to fight California’s unconstitutional experiment. We recognize those efforts and are most grateful for your commitment to this issue.

We respectfully ask you lead the States’ charge against Proposition 12 one final time. We understand that you have pending before you a request to initiate an original action against California in the Supreme Court. We understand that, if you proceed, the action would be closely modeled off the well-reasoned legal claims your office previously filed against Massachusetts, but be revised to clarify the imminence of the even more pronounced harm that California’s law poses to Indiana’s economy and public assets.

We would be deeply grateful if you undertook this effort. While we are cognizant that resources are limited and that your staff is already engaged on a full range of other important legal fights on behalf of our State, we strongly believe it is necessary to exhaust all possible remedies to stop Proposition 12 from wreaking havoc and economic harm across Indiana and the nation. We stand ready to support you in any way we can and would be pleased to serve as a resource for your team as they endeavor to understand the dimensions of the imminent harm we face.

Thank you very much for your service and leadership on this issue.

Sincerely,

[list of producers]