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February 10, 2025

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Submitted electronically via Regulations.gov

Re: Comments of the States of Nebraska, Alabama, Arkansas, Florida, Georgia, Idaho, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wyoming on the *Request for Public Comments on the Scientific Report of the 2025 Dietary Guidelines Advisory Committee* [HHS-OASH-2024-0017-0001], 89 Fed. Reg. 99883 (Dec. 11, 2024).

Dear Director Taylor and Acting Administrator Owens:

You recently issued a notice of opportunity for public comment on the *Scientific Report of the 2025 Dietary Guidelines Advisory Committee*. As you know, the Scientific Report forms the basis for the "Dietary Guidelines for Americans" that the Secretary of Health and Human Services and the Secretary of Agriculture publish jointly every five years. *See* 7 U.S.C. § 5341(a)(1); *id.* § 5302(9). The Advisory Committee that prepared the report was appointed by the Biden-Harris Administration. Their recommendations, particularly with respect to limiting beef consumption, are anti-scientific and potentially harmful. This Administration has the opportunity to correct the Advisory Committee's errors before the dietary guidelines become final. Nebraska and 22 other States write to provide our objections to the Scientific Report prepared by appointees of the Biden-Harris Administration.

To be clear at the outset: the Unites States' government's attempt to influence the food choices of Americans has been an abject failure. Since 1970s, the federal government has published the *Dietary Guidelines for Americans*, which serve as the "cornerstone of Federal food and nutrition guidance."[1] The dietary guidelines are the government's way of directly involving itself in how Americans fill our grocery carts and what is on the menu in our nation's school cafeterias.

Only a brief look at the history of the guidelines makes clear that they have given Americans poor guidance. For example, the dietary guidelines used to advise the public that "[c]arbohydrates are especially helpful in weight-reduction diets."[2] Indeed, the original food pyramid recommended that adults consume between 6 and 11 servings of bread, cereal, rice, and pasta *every single day*.[3] But research (and common sense) strongly suggest that a diet heavy in carbohydrates can lead to insulin resistance, a hallmark of type-2 diabetes. Doubling-down on this bad advice, the guidelines at one point stated "[d]iets high in sugars have not been shown to cause diabetes."[4] We now know that those statements and recommendations are not only anti-scientific but are actively harmful.[5]

Rather than help Americans lead healthier lives, the issuance of the guidelines has corresponded with a dramatic decline in the overall health of our nation's citizens. This is particularly seen in the alarming rise in obesity rates across the country. Just over a decade ago, not a single State had an adult obesity rate above 35 percent.[6] Today, 22 States bear that unhealthy distinction.[7] Nationally, nearly 42 percent of American adults and one in five American children are obese.[8] This dramatic rise in obesity rates has corresponded with a shocking rise in type-2 diabetes. In the past decade, type-2 diabetes in adults has increased by almost 20 percent.[9] The problem is even worse among children. Since the Covid-19 pandemic, type-2 diabetes rates among

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[1] *History of the Dietary Guidelines*, Dietary Guidelines for Americans, https://perma.cc/7ZL9-GHVX.
[2] U.S. Dep't of Health and Hum. Servs. & U.S. Dep't of Ag., *Dietary Guidelines for Americans, 1985*, at 17 (1985).
[3] *See* U.S. Dep't of Ag., *A Brief History of the USDA Food Guides* 2 (May 2024), https://perma.cc/2RS2-DKYE.
[4] U.S. Dep't of Health and Hum. Servs. & U.S. Dep't of Ag., *Dietary Guidelines for Americans, 1990*, at 22 (1990).
[5] *E.g.*, Mark t. Cucuzzella, *A Low-Carbohydrate Survey: Evidence for Sustainable Metabolic Syndrome Reversal*, 2 J. of Insulin Resistance 1 (2017); Samir Faruque, et al., *The Dose Makes the Poison: Sugar and Obesity in the United States – A Review*, 69 Polish J. of Food & Nutrition Sci. 219 (2019); Emily J. Endy, *Added Sugar Intake Is Associated with Weight Gain and Risk of Developing Obesity over 30 Years: The CARDIA Study*, 34 Nutrition, Metabolism & Cardiovascular Diseases 466 (2024); Yi Wan, et al., *Association Between Changes In Carbohydrate Intake And Long Term Weight Changes: Prospective Cohort Study*, BMJ 382:e073939, at 1 (Sept. 27, 2023).
[6] Molly Warren, et al., Trust for America's Health, *The State of Obesity 2023: Better Policies for a Healthier America* 6 (Sept. 2023).
[7] *Id.*
[8] *Id.* at 5.
[9] Leigh Hataway, *Type 2 Diabetes Increased by Almost 20% Over a Decade*, UGA Today (Aug. 20, 2024), https://perma.cc/V7B9-WRFD.

children have climbed a staggering 62 percent.[10] Obesity, often caused by bad dietary choices, is the number one risk factor for developing type-2 diabetes.[11]

The dietary recommendations in the Scientific Report prepared under the Biden-Harris Administration will age as poorly as—if not worse than—the recommendations in years past. While we take issue with the dietary guidelines as a whole, Nebraska and 22 other States object to two specific aspects of this year's Scientific Report: (1) its downplaying the importance of beef and other animal-based sources of protein, and (2) its "review of scientific evidence through a health equity lens." Part A, at 11.

The Advisory Committee's criticism of red meat as a primary source of protein ignores a vast scientific literature that touts the importance of beef and other animal-based sources of protein to healthy anatomical functioning, a recommendation that will serve only to exacerbate the very problems the previous guidelines have already created. And the Advisory Committee's express use of race and non-medical factors in reviewing the scientific literature conflicts with the factors Congress enumerated for consideration in preparing the dietary guidelines.

I. The Advisory Committee Overlooked the Benefits of Animal-Based Sources of Protein Like Beef in a Healthy Diet

The Advisory Committee's ill treatment of animal-based sources of protein are unwarranted by the evidence. The Scientific Report recommends that the Secretaries advise the public to "[l]imit consumption of red and processed meats." Part D, ch. 2, at 26. In a radical departure from previous dietary guidelines, the Advisory Committee further "proposes reorganizing the order of the Protein Foods Group to list Beans, Peas, and Lentils first, followed by Nuts, Seeds, and Soy products, then Seafood, and finally Meats, Poultry, and Eggs." *Id.* This is shortsighted.

First, animal sources of food—especially beef—are an incredibly important to a healthy diet, as they are the best sources of protein in existence. "Proteins are the building blocks of life."[12] Sufficient protein consumption is therefore a staple of a healthy diet. Protein helps our bodies build and retain muscle, support healthy bone mass, and suppress hunger.[13] Due to its high protein content, beef also plays a significant role in promoting satiety, which helps control hunger and manage weight.[14] On the other hand, a diet with deficient protein intake contributes to poor growth in childhood and adolescence, cardiovascular dysfunction, and an increased risk of infectious

[10] Mary Van Beusekom, *Type 2 Diabetes Rates in US Youth Rose 62% After COVID Pandemic Began, Study Suggests*, CIDRAP (Sept. 22, 2023), https://perma.cc/TD54-T4FX.
[11] *See Diabetes*, FamiliyDoctor.org (Nov. 2024), https://perma.cc/S2S7-L38Q.
[12] Stefania Manetti, *Protein in Diet*, MedlinePlus (updated Apr. 13, 2023), https://perma.cc/5WVG-XAU4.
[13] Alisa Bowman, *Can You Consume Enough Protein on a Plan-Based Diet?*, Mayo Clinic (Aug. 30, 2024), https://perma.cc/TV9H-2WZY.
[14] *See High-Satiety Meat, Poultry & Eggs: The Best Options*, Diet Doctor, https://perma.cc/2GTN-URTK.

disease.[15] Despite its well-known and widely accepted importance, a nutrition expert at the Mayo Clinic has identified protein as "probably the nutrient most people tend to undereat."[16]

The best source of protein comes from red meats like beef. A single three-ounce serving of beef contains approximately 22 grams of protein.[17] Given a daily dietary intake of 2000 calories, a single three-ounce serving of beef could provide almost half the protein a person needs in a day.[18] To consume the same amount of protein through a non-beef substitute, a person would need to consume, for example, three cups of quinoa, six and a half tablespoons of peanut butter, or nearly two cups of black beans.[19] Eating such large amounts of beef substitutes to reach the same protein intake as a single serving of beef would require consuming up to four times as many calories.[20] It also could include a higher number of carbohydrates.

The reason that "meats" like "beef, goat, lamb, pork, and game meat" and "eggs" appear at the top of the recommended protein foods in the 2020 dietary guidelines is that these animal-based foods are packed full of protein and limit unnecessary calories.[21] Researchers have cautioned about the inferiority of plant-based protein consumption as compared to diets where protein is consumed through animal sources.[22] In addition to beef, eggs are also a "nutrient-dense food[]." Part D, ch. 9, at 1. Indeed, the Advisory Committee itself notes that eggs help to ensure sufficient choline intake, an "essential nutrient for methyl metabolism, cholinergic neurotransmission (which is involved in memory and muscle control), cell membrane signaling, and lipid and cholesterol transport and metabolism," and that vegan diets make it "challenging to achieve" proper choline levels. Part D, ch. 1, at 47. The scientific report's downplaying of both meat and eggs makes it more difficult to achieve sufficient intake of macronutrients like protein and micronutrients like choline. As compared to lentils, beef and eggs are also a safer choice. Raw legumes are responsible for approximately 20 percent of all food poisoning cases worldwide, and the lectins in legumes can cause long-term digestive tract problems.[23]

The building blocks of protein, amino acids, are plentiful in animal-based sources of protein like beef. Amino acids like leucine, lysine, methionine, and tryptophan play important roles in different metabolic functions, including skeletal muscle development, insulin secretion, and

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[15] *See* Guoyao Wu, *Dietary Protein Intake and Human Health*, 7 Food & Function 1251, 1251, 1255 (2016).
[16] Bowman, *supra* note 13 (quoting Dr. Andrew R. Jagim, Ph.D.).
[17] *Nutrition Facts: Beef, Ground, 90% Lean Meat / 10% Fat, Patty, Cooked, Broiled, 1 Serving (3 oz)*, Univ. of Rochester Med. Ctr., https://perma.cc/5LCV-8NP2.
[18] *See* David M. Klurfeld, *What Is the Role of Meat in a Healthy Diet?*, Animal Frontiers, July 2018, at 5, 6.
[19] *The Power of Beef's Protein*, Beef Checkoff, https://www.beefitswhatsfordinner.com/nutrition/beef-protein (last visited Jan. 24. 2025).
[20] *Id.*
[21] U.S. Dep't of Health and Hum. Servs. & U.S. Dep't of Ag., *Dietary Guidelines for Americans, 2020–2025*, at 29 (Dec. 2020).
[22] *See* Steven R. Hertzler, *Plant Proteins: Assessing Their Nutritional Quality And Effects On Health And Physical Function*, 12 Nutrients 3704 (2020).
[23] Karthik Kumar, *Why Are Lentils Bad for You?*, MedicineNet (Apr. 14, 2021), https://perma.cc/8G2Q-G489.

maintaining proper levels of the neurotransmitter, serotonin.[24] Animal-based sources of protein contain all essential amino acids in sufficient amounts, while nearly all plant-based sources of protein do not.[25] The Scientific Report even seems to acknowledge that meat-based sources of protein are superior in many ways to plant-based protein. The Advisory Committee notes that "both plant-based and animal-based foods contribute to protein intake, but the nutrient profiles for each can differ substantially." Part D, ch. 2, at 1. Scientific studies bear this out. One study concluded that "[s]everal lines of evidence show that animal-source protein has a greater nutritional value than plant-source protein to sustain skeletal-muscle mass."[26] And another found that, as compared to soy-based patties, beef patties were much more effective at stimulating "muscle protein synthesis"—a process that "plays a crucial role in the metabolic health of skeletal muscle by renewing older, less functional muscle protein fibers with better-functioning fibers."[27]

In addition to its protein and satiety benefits, beef is an indispensable source of micronutrients like vitamins and minerals. Iron, zinc, potassium, selenium, vitamin B6, vitamin B12, thiamin, riboflavin, and niacin are all essential to a healthy diet, and all of those are found in beef, goat, lamb, and pork.[28] Iron, zinc, and B vitamins in particular are important to healthy cognitive development and maintenance in children and adults.[29] Given its high iron content, red meat consumption serves as a straightforward way to help the 1.2 million children in the United States who have anemia, and the teenage girls and pregnant women who are at a higher risk of anemia.[30] Micronutrients are also more bioavailable in meat than they are in non-meat sources; this means that the proportion of ingested nutrients utilized for metabolic functions is greater in meat than it is for plants.[31]

All these benefits of beef are especially pronounced for vulnerable populations. Studies show that babies who are six months to one year old benefit from the iron, zinc, and protein that

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[24] KatieRose McCullough, *A Guide to Meat Processing for the Nutrition Community* 8, https://perma.cc/RB8D-ATLV.
[25] *What Are Complete Proteins?*, Cleveland Clinic (Dec. 6, 2022), https://perma.cc/BR9C-DZZW.
[26] Wu, *supra* note 15, at 1258.
[27] David D. Church et al., *The Anabolic Response to a Ground Beef Patty and Soy-Based Meat Alternative: A Randomized Controlled Trial*, 120 Am. J. of Clinical Nutrition 1085, 1085 (2024).
[28] *See* Gita Sharma et al., *Contribution of Meat to Vitamin B(12), Iron and Zinc Intakes in Five Ethnic Groups in the USA: Implications for Developing Food-Based Dietary Guidelines*, 26 J. Hum. Nutrition Diet 156 (2013). *See generally* Institute of Medicine, National Academy of Sciences, *Dietary Reference Intakes for Vitamin A, Vitamin K, Arsenic, Boron, Chromium, Copper, Iodine, Iron, Manganese, Molybdenum, Nickel, Silicon, Vanadium, and Zinc.* (2001); Institute of Medicine, National Academy of Sciences*, Dietary Reference Intakes for Vitamin C, Vitamin E, Selenium, and Carotenoids* (2000); Institute of Medicine, National Academy of Sciences, *Dietary Reference Intakes for Thiamin, Riboflavin, Niacin, Vitamin B6, Folate, Vitamin B12, Pantothenic Acid, Biotin, and Choline* (2000).
[29] *Frequently asked questions about beef nutrition*, Beef Checkoff, https://www.beefitswhatsfordinner.com/nutrition/beef-faqs (last visited Jan. 24, 2025).
[30] *See* Cattlemen's Beef Bd. & Nat'l Cattlemen's Beef Ass'n, *Beef in the Early Years: A Research Brief Detailing Beef as a Complementary First Food* 5 (2021), https://perma.cc/NR4Y-FJ7E; *see also* Meghan F. Raleigh et al., *Anemia in Infancts and Children: Evaluation and Treatment*, 110 Am. Family Physician 612, 612 (2024).
[31] *See* Sylvia M. S. Chungchunlam & Paul J. Moughan, *Comparative Bioavailability of Vitamins in Human Foods Sourced from Animals and Plants*, 64 Food Science & Nutrition 11,590 (2024).

beef and other meat provide as first complements to breast milk or formula.[32] As mentioned, the micronutrients in beef and animal sources of food are also integral to healthy childhood development on a number of fronts, including physical growth and cognitive development.[33] The Scientific Report adds that, for children, "nutrients such as protein, phosphorus, and magnesium are critical for bone mineral development." Part D, ch. 10, at 10. The Advisory Committee also recognizes that "23 percent of females ages 14 through 18 years have intakes of protein below the [estimated average requirement]." Part D, ch. 1, at 55. Swapping lamb for lentils will do nothing to close that gap. For pregnant women, beef is a prime dietary choice to ensure that mothers are consuming enough protein and essential micronutrients.[34] And for seniors, protein consumption helps to prevent the loss of lean muscle mass that occurs with age.[35] Part D, ch. 1, at 52. Switching out pork for peas for these populations will make it harder for them to achieve the protein and micronutrient levels they need.

The Advisory Committee ignored these benefits of beef based on a solitary thread—a singular interest in reducing saturated fat. *See* Part D, ch. 4, at 2. In doing so, the Advisory Committee isolated a single nutrient in red meat and recommended that its consumption be limited based on its saturated fat content alone. The implication of the Advisory Committee's laser focus on saturated fat is that red meat leads to bad health care outcomes. That implication is not warranted. To start, the Advisory Committee's assumption that saturated fat and heart disease are inextricably linked may not be true.[36] A recent study concluded that "the conceptual model of dietary saturated fat clogging a pipe is just plain wrong" and that there is "no association between saturated fat consumption" and coronary heart disease and type-2 diabetes in healthy adults.[37] In addition, beef has independent and unique nutritional value that is unmatched by other foods at both the macro- and micronutrient levels. Chief among the many benefits of beef as compared to other foods is its extremely high protein content. Not only are animal-based sources of protein nutritious. Humans have been eating meat for millennia.[38] Eating beef has been, and should continue to be, a staple of a healthy human diet.

In sum, plant-based sources of protein cannot replace animal-based sources as the primary source of protein. At both the macro- and micronutrient levels, beef, goat, lamb, and pork have

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[32] *Supra* note 17, at 9.
[33] *See* Suzanne P. Murphy & Lindsay H. Allen, *Nutritional Importance of Animal Source Foods*, 133 J. Nutrition 3923 (2023).
[34] Sanjiv Agarwal & Victor L. Fulgoni III, *Contribution of Beef to Key Nutrient Intakes and Nutrient Adequacy in Pregnant and Lactating Women: NHANES 2011–2018 Analysis*, 16 Nutrients 981 (2024).
[35] *See* Jeanette M. Beasly, et al., *The Role of Dietary Protein Intake in the Prevention of Sarcopenia of Aging*, 28 Nutrition in Clinical Prac. 684 (2013); *see also* Sanjiv Agarwal & Victor L. Fulgoni III, *Beef Consumption Is Associated with Higher Intakes and Adequacy of Key Nutrients in Older Adults Age 60+ Years: National Health and Nutrition Examination Survey 2011–2018 Analysis*, 16 Nutrients 1779 (2024).
[36] *See, e.g.*, Gregory Ferenstein, *I Lost Weight by Eating Lots of Bacon and Cream. Here's a Scientific Explanation for Why*, Vox (Jan. 6, 2015), https://perma.cc/6UJU-KTCP.
[37] Aseem Malhotra, *Saturated Fat Does Not Clog the Arteries: Coronary Heart Disease Is a Chronic Inflammatory Condition, The Risk of Which Can Be Effectively Reduced from Healthy Lifestyle Interventions*, 51 British J. of Sports Med. 1111 (2017).
[38] Tess Joosse, *Meet the Scientist Studying How Humans Started Eating Meat*, Smithsonian Magazine (Dec. 9, 2021).

dietary benefits that plants simply do not. The Secretaries should reject the Advisory Committee's recommendation and retain meat as the first listed food in that group.

II. The Advisory Committee Wrongly Considered Non-Scientific, Non-Medical Factors

Beyond botching the benefits of beef, the Advisory Committee exceeded the bounds of its authority by considering factors that Congress did not intend it to. The Advisory Committee was chartered to help the Secretary of Health and Human Services and Secretary of Agriculture fulfill their statutory duty to publish the Dietary Guidelines for Americans. *See* 7 U.S.C. § 5341(a)(1); Charter, *2025 Dietary Guidelines Advisory Committee* (Dec. 9, 2022), https://perma.cc/3GN7-WNFT. Congress deemed that the "information and guidelines contained in" the dietary guidelines "shall be based on the preponderance of the scientific and medical knowledge which is current at the time the report is prepared." *Id.* § 5341(a)(2). Under the statute, the Secretaries—and, by extension, the Advisory Committee—can consider only current scientific and medical information in preparing the dietary guidelines.

Yet the Advisory Committee reached well beyond the current scientific and medical literature in the Scientific Report. The report unapologetically "considered factors such as race, ethnicity, socioeconomic position, and culture" and "examined relationships between diet and health across the lifespan through a health equity lens." Scientific Report at 1, 4. The report is also replete with "green callout boxes with the health equity icon" that "highlight examples of where health equity considerations strongly factored into the Committee's conclusions." Part B, ch. 2, at 1–2. Any data or study reviewed through a health equity "lens" is contrary to the plain text of section 5341(a)(2). The Advisory Committee's use of health equity is also arbitrary and capricious under the Administrative Procedure Act because the Advisory Committee "relied on factors which Congress has not intended it to consider." *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). For these reasons, any analysis in the Scientific Report that is based on health equity framework should be ignored in the Dietary Guidelines for Americans, 2025–2030.

III. Conclusion

This Administration has the opportunity to correct the anti-scientific dietary recommendations of the Biden-Harris Administration. The Secretaries should reject the Advisory Committee's recommendation to limit the consumption of red meat and any analysis based on health equity considerations in publishing the Dietary Guidelines for Americans, 2025–2030.

Sincerely,

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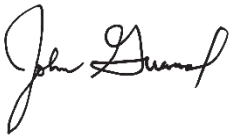

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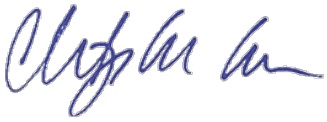

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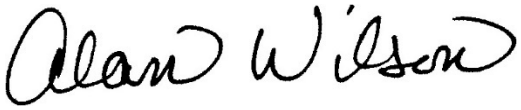

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