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June 2, 2022

The Honorable Xavier Becerra  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

The Honorable Tom Vilsack  
Secretary  
U.S. Department of Agriculture  
1400 Independence Avenue, SW  
Washington, DC 20250

Dear Secretary Becerra and Secretary Vilsack:

The formula shortage crisis has highlighted various gaps in this country's ability to ensure that infants, children, and our most vulnerable are fed. For example, since January 2022, many families and particularly rural and low-income families have had to navigate this ongoing formula shortage to manage their children's metabolic or gastrointestinal disorders without reliable, alternative sources of quality formula.<sup>1</sup> Additionally, in communities that have been disproportionately affected by the COVID-19 pandemic, families have been negatively impacted by the increased costs associated with finding and purchasing specialty formula, including participants in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) living in rural areas.<sup>2</sup>

While the Biden Administration continues to take steps to increase the formula supply, we must do more to be better prepared in times of future crisis and I write to explore ways in which to accomplish this goal. To that end, I request that the Departments coordinate to conduct a feasibility study to consider whether additional measures can be taken to ensure the availability of a continuous 30-day supply of formula products, including specialty formula products, in case of future emergencies.

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<sup>1</sup> See Edgar Sandoval, Amanda Morris and Madeleine Ngo, *A Baby Formula Shortage Leaves Desperate Parents Searching for Food*, THE NEW YORK TIMES (May 10, 2022), <https://www.nytimes.com/2022/05/10/us/baby-formula-shortage.html>.

<sup>2</sup> See Chabeli Carrazana, *In rural, low-income parts of the country, how do you find baby formula when there is nowhere to look?*, THE 19<sup>TH</sup> (May 19, 2022), <https://19thnews.org/2022/05/baby-formula-shortage-low-income-rural-families-limited-access>; Fatma Khaled, *Parents Are Driving Hours for Baby Formula Only to Exit Stores Empty-Handed*, NEWSWEEK (May 13, 2022), <https://www.newsweek.com/parents-are-driving-hours-baby-formula-exit-stores-empty-handed-1706615>.

Specific to the U.S. Department of Health and Human Services (HHS), I request that HHS determine, in the joint study, the following: (1) whether a continuous 30-day supply of formula products could be added to the Strategic National Stockpile (SNS) to be used in the event of a public health emergency or disaster, supply chain disruption, and/or formula recall event; (2) whether a secondary stockpile managed by the Department outside of the SNS, with a continuous 30-day supply of formula products, could be created for use in the aforementioned circumstances; or (3) whether the Department should require that manufacturers produce formula products to maintain a continuous 30-day surplus of formula for use in the aforementioned circumstances.

Additionally, I request that the U.S. Department of Agriculture (USDA) determine: (1) whether the Department should require that manufacturers who contract with WIC maintain a continuous 30-day surplus of formula products to be used by WIC participants in the event of a public health emergency or disaster, supply chain disruption, and/or formula recall event; or (2) whether a secondary stockpile managed by the Department, with a continuous 30-day supply of formula products, could be created for use in the aforementioned circumstances.

For both HHS and the USDA, I request that the joint feasibility study of the above options include, at minimum, the following:

- (1) Any legal and/or regulatory authority needed to create and/or require a surplus or stockpile;
- (2) An analysis of how the Department would monitor and assess formula product shortages, declare a shortage event, and initiate the distribution of formula to respond to future shortages, as well as any legal and/or regulatory authority needed to take these steps;
- (3) The federal or other costs associated with the creation and maintenance of a surplus or stockpile;
- (4) An estimate of how much formula would be needed to maintain a continuous 30-day supply for a surplus or stockpile;
- (5) An analysis of which formula products, if any, should take precedence in a surplus or stockpile and the extent to which these products should take precedence;
- (6) A process to oversee the shelf life of surplus or stockpiled formula so that the stock is rotated, and product is used before it expires;
- (7) The potential that the creation of either a stockpile or reserved manufacturer surplus would cause a market disruption and the implications of such a disruption (e.g., increased costs for formula products, etc.);
- (8) A cost-benefit analysis of stockpile management strategies for a Department-managed secondary stockpile including whether Just-in-Time or Just-in-Case logistics would be a preferable means for stockpile management;
- (9) An analysis of the measures needed to ensure that each stockpile or reserved manufacturer surplus would be monitored, inspected, and regulated to prevent contamination;
- (10) An analysis of how the surplus or stockpile would be equitably distributed to ensure that those who need formula will have access; and

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The Honorable Tom Vilsack  
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- (11) Based on, at minimum, the above favors, an analysis of which option is the most feasible, cost effective, and practicable to implement, and the projected time frame by which implementation could occur.

I ask that the Departments coordinate and conduct this joint study promptly so that we may better understand what possible solutions exist to prevent a similar crisis in the future.

Thank you for your consideration of this request and your attention to this important matter. If you have any questions or wish to discuss this request further, please contact Tanisha Wilburn, Director of Labor/Health Oversight, U.S. House of Representatives Committee on Education and Labor, at [tanisha.wilburn2@mail.house.gov](mailto:tanisha.wilburn2@mail.house.gov), or Michele Simensky, Labor/Health Oversight Counsel, U.S. House of Representatives Committee on Education and Labor, at [michele.simensky@mail.house.gov](mailto:michele.simensky@mail.house.gov). Please direct all official correspondence to the Committee's Chief Clerk, Rasheedah Hasan, at [Rasheedah.Hasan@mail.house.gov](mailto:Rasheedah.Hasan@mail.house.gov).

Sincerely,



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**ROBERT C. "BOBBY" SCOTT**  
Chairman