Fact Sheet
Opportunities for Fairness in Farming Act
S.557 / H.R.1249

Farm Action Fund

Farm Action

The Opportunities for Fairness in Farming Act (OFF Act) was introduced to the 118th Congress by Senators Mike Lee (R-UT) and Cory Booker (D-NJ) in the Senate (S.557) and is co-sponsored by Senators Rand Paul (R-KY), Elizabeth Warren (D-MA), and Kirsten Gillibrand (D-NY). It was introduced by Representatives Nancy Mace (R-SC-1) and Dina Titus (D-NV-1) in the House (H.R. 1249).

Farmers and ranchers are being forced to pay into checkoff programs that often advocate against their best interests and support food system consolidation. This legislation would prohibit certain practices and require greater transparency and accountability in checkoff programs, while providing an exception for university-related research.

BACKGROUND

Checkoff programs, officially called research and promotion programs, were established to help agricultural industries pool money for research and promotion of their goods. Effectively a tax, farmers are mandated to fund the checkoff programs with fees calculated on a per-animal, per-bushel, or per-weight basis upon the sale of their product. Checkoff dollars go to federal, industry-specific boards, which are required by law to use the funds only for advertising campaigns and research that benefits both the farmer and the industry.

Well-known examples of checkoff-funded advertising campaigns are “Pork. The Other White Meat,” “The Incredible, Edible Egg,” and “Beef. It’s What’s for Dinner.”

All farmers and ranchers — from the smallest local-scale farm to the largest industrial operation — are required to pay the checkoff fee if they produce a commodity that has a corresponding federal program.

Despite their stated purpose, checkoff programs have repeatedly acted beyond the scope of their statutory mandate. Lax oversight by the USDA has resulted in collusive and illegal relationships between checkoff boards and lobbying organizations to influence legislation and government action — despite a broad statutory prohibition against these activities. Such lobbying efforts have an anticompetitive effect, benefiting certain producers to the detriment of others, and forcing independent farmers and ranchers to pay into a system that actively works against them.

If Congress is going to allow taxpayers’ dollars to influence consumer choices, the influence should remain within the limited scope of the checkoff programs’ purpose; anything more is government intrusion and overreach which prevents the market from operating fairly and openly.

THE OFF ACT SUPPORTS INDEPENDENT FARMERS AND RANCHERS BY:

- **Disallowing programs from contracting with organizations that engage in political advocacy, have conflicts of interest, or employ anticompetitive conduct**
- **Requiring programs to publish all budgets and disbursements to the public and submit to periodic audits by the USDA Inspector General**
- **Requiring programs to undergo periodic audits by the Comptroller General of the United States**

ABUSES OF POWER:

- **Dairy Checkoff:** For five years the USDA's Agricultural Marketing Service failed to deliver statutorily mandated financial reports to Congress.
- **Beef Checkoff:** In 2010, an independent audit examining the equivalent of just nine days of beef checkoff program spending found that the primary beef checkoff contractor, the National Cattlemen's Beef Association (NCBA), had improperly spent more than $200,000 in checkoff dollars on lobbying and overseas vacations. Despite a Freedom of Information Act complaint, the full audit has not been released to the public.
- **Pork Checkoff:** The government-appointed Pork Board and the National Pork Producers Council (NPPC) jointly operate the "We Care" industry PR program, which serves as NPPC's primary public messaging venue. The Pork Board and NPPC hold joint annual meetings, which demonstrate and symbolize the Pork Board's support of NPPC's policy agenda. NPPC recently called the Pork Board its "sister organization" — despite the fact that NPPC is a trade and lobbying organization and the Pork Board is supposed to be policy-neutral. What's more, American hog farmers don't even want the checkoff program: More than 300,000 producers voted in a referendum to dismantle the checkoff in 2000. While the referendum passed by more than five percentage points, NPPC's legal challenge to the vote was enough for the USDA to overturn the decision.
- **Egg Checkoff:** The American Egg Board spent tens of thousands of checkoff funds on an attack campaign targeting a plant-based mayo startup. A federal investigation found that the Egg Board had acted inappropriately, violating federal guidelines.

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DRIVERS OF CONSOLIDATION:

The beef industry provides a compelling case study for how corporate-seized checkoff programs operate on behalf of large, consolidated corporations and against the interests of independent producers. Independent cattle producers are required to pay a dollar per head of cattle, and as much as 83 cents of that dollar is directed to the National Cattlemen's Beef Association (NCBA), a trade and lobbying organization operating on behalf of world's largest meatpacking corporations. More than 70% of NCBA's budget comes out of the pockets of farmers and ranchers via the checkoff program. NCBA uses the money to legitimize itself as the voice of the industry, even though its membership includes less than four percent of America's cattle producers. Its policy positions on matters including labeling issues, fair competition, and fair trade practices benefit meatpacking conglomerates, not cattle producers.

Since the NCBA began administering the lion's share of the beef checkoff funds, the U.S. has lost nearly half of its cattle producers, beef consumption has declined by 30%, and the four largest meatpacking corporations control 85% of the market.

Additionally, promotions funded by checkoff programs are not allowed to distinguish between different production types, such as grassfed or regeneratively raised cattle. By reinforcing the idea that all beef is equal, these advertisements disadvantage premium beef products — even as producers are forced to help pay for them.

No farmer or rancher should be required to pay into a program that harms their own market.

They should also be secure in the knowledge that their payments are not being used for illegal advocacy or other prohibited purposes.