

## Reform Commodity Checkoff Bills

**S. 3001, the “Commodity Checkoff Program Improvement Act of 2016,” introduced in the United States Senate by Sen. Mike Lee (R-UT) and Sen. Cory Booker (D-NJ), would prohibit certain practices relating to commodity promotion programs and require greater transparency in those programs.**

**S. 3000, the “Voluntary Checkoff Program Participation Act,” introduced in the United States Senate by Sen. Mike Lee (R-UT), would prohibit mandatory or compulsory check-off programs.**

### Background

Commodity checkoff programs (“checkoff programs”) were established to serve as mechanisms by which agricultural industries pool money for common promotional purposes. Fees are mandatory, from the smallest local farmer to the biggest factory operation. Checkoff dollars go to federal, industry-specific boards, which are required by law to use these funds for mutually beneficial advertising campaigns and research.

In spite of this limited 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, both of which have repeatedly used checkoff funds to influence legislation and government action despite a broad statutory prohibition against these activities. Such advocacy efforts have an anticompetitive effect, benefiting certain producers to the detriment of others, and forcing smaller producers that value traditional husbandry practices to pay into a system that actively works against them.

**The below examples illustrate the conflicts of interest, episodes of unlawful policy coordination and anti-competitive market activities that have become all too commonplace for checkoff.**

### Beef Checkoff

- The private policy and trade group, National Cattleman’s Beef Association (NCBA), is the primary contractor for beef checkoff advertising efforts, and has become inappropriately intertwined with the beef checkoff program. NCBA receives 97% of the approximately \$80 million collected annually in national checkoff fees, making up 82% of NCBA’s total budget. As much as 72% of the NCBA president’s nearly half a million dollar salary comes from checkoff fees.
- Despite their claims to propriety, a 2010 audit of NCBA expenditures of beef checkoff dollars over a short nine-day period uncovered gross misuse of funds, resulting in an agreement by NCBA to return \$216,000.00.
- The NCBA has repeatedly engaged in anticompetitive market activities. In 2012, they attacked USDA staffers who circulated a newsletter supporting John Hopkins School of Public Health’s “Meatless Mondays” program. Meanwhile, the national beef checkoff administrator, Cattleman’s Beef Board, has developed a “Masters of Beef Advocacy” program designed to train its advocates to go after agriculture reformers who promote non-corporate forms of farming and ranching.
- NCBA’s lock on the near \$80 million in beef checkoff funds ensures they control the perceived voice of America’s cattlemen in spite of the fact that their membership is less than 5% of that constituency. For NCBA, it doesn’t matter if all cattlemen are represented; they get paid either way.

### **Egg Checkoff**

- In 2008, the federal Egg Board attempted to funnel \$3 million to United Egg Producers, a private trade group and lobbying organization, to oppose a ballot measure in California prohibiting the extreme confinement of farm animals. They were stopped only by an injunction issued by a federal court.
- In 2013, the Egg Board attempted to get government regulators and retailers to take action to halt sales of egg-free vegan “Just Mayo” brand products.

### **Pork Checkoff**

- A 1999 OIG audit noted that the Pork Board (the checkoff administrator) and the National Pork Producer’s Council (an advocacy group) operate so closely together that producers have difficulty telling them apart.
- In 2000, the majority of producers passed a referendum to end pork checkoff only to have the new administration determine the vote was not binding.
- The Pork Board funneled \$60 million to the NPPC to fuel prohibited lobbying activity under the guise of paying for a trademark that is no longer in use. A federal court recently rejected an attempt by the NPPC to stop a USDA re-appraisal of the trademark’s value.
- The Pork Board developed environmental audit software with producer funds, then “gave” that software to NPPC, which used it to found a very profitable subsidiary (Validus).
- The Pork Board and the NPPC jointly operate the “We Care” industry PR program. This is 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 lobbying organization and the Pork Board is supposed to be policy-neutral).

### **Lack of Transparency**

Checkoff programs have repeatedly attempted to hinder efforts to shine a light on their misconduct. The Egg Board’s attacks on “Just Mayo” were only revealed through FOIA action. Meanwhile, the Pork Board has repeatedly refused to process FOIA requests, and the NCBA is the subject of a motion for equitable relief by the Organization for Competitive Markets, which fought for 18 months to obtain public audit records.

### **Fixing the Problem Through Legislation**

S.B.3201 would amend the authorizing checkoff bills to reaffirm that these programs may not engage in policy advocacy, conflicts of interest, or anticompetitive activities that harm other commodities. It would also require that they publish all budgets and disbursements of funds for the purposes of public inspection, and submit to periodic audits by the USDA Inspector General.

S.B.3200 would amend the authorizing checkoff bills to make all fees and assessments entirely voluntary, ensuring that producers who are not benefited by checkoff programs are not forced to pay for them, or contribute to illegal lobbying activities.

No producer should be required to pay into a program that harms their market segment. Even if a producer opts-in to a checkoff program, they should be secure in the knowledge that their payments are not being used for illegal advocacy or other prohibited purposes.

---

For more information please contact Joe Maxwell at [jmaxwell@competitivemarkets.org](mailto:jmaxwell@competitivemarkets.org) 573.721.0927

