



April 17, 2018

Governor John Kasich
Riffe Center, 30th Floor
77 South High Street
Columbus, OH 43215-6117

RE: Request for separation of Ohio Beef Council from all activities of Ohio Cattlemen's Association, appropriation of state and federal beef checkoff funds, and an audit of the funds of the Ohio Beef Council

Dear Governor Kasich,

The Ohio Farmers Union and Organization for Competitive Markets, along with over 500 Ohio petitioners, are writing to request you take swift action to end the abuse of Ohio's family farmers' and ranchers' tax dollars.

Illicit actions by the Ohio Beef Council (OBC), an Ohio state agency and a federally recognized Qualified State Beef Council pursuant to 7 CFR 1260.315, demonstrate the need for you to quickly ensure the full and complete separation of the OBC and the Ohio Cattlemen's Association, require that all beef checkoff funds be included in future state budgets for appropriations, and demand that the Ohio State Auditor fully audit the past five years of OBC funds to include how the funds were spent by all OBC contractors and vendors.

We request these actions be taken by you and your office immediately.

The information contained in the enclosed Organization for Competitive Markets and Ohio Farmers Union briefing paper clearly outline the evidence necessary for you and your office to take these actions. Below is a summary of those points:

- OBC operates in conjunction with and on behalf of a private membership-based trade and lobbying entity, Ohio Cattlemen's Association (OCA), which promotes and influences legislative action. This activity is in violation of both federal and state law. The two organizations are so intertwined that they share the same office location, staff and telephone numbers, and they share the email domain of the Ohio Beef Council.
- The OCA Political Action Committee website and brochure provide the OBC as the point of contact for providing information about the PAC and collecting its political donations. In other words, an agency of the Ohio Department of Agriculture is raising money to support political candidates, in violation of both state and federal law.
- The OBC annual report numbers, as shown in its own published report, simply do not add up. As an example, the OBC annual reports show a 2015 ending balance of \$667,299 but the 2016 beginning balance is only \$644,980. Where did the \$22,319 go?

- OBC transfers \$14,000 per year to a national private membership trade and lobbying organization, the National Cattlemen's Beef Association. This is an association whose membership represents less than 4% of U.S. cattle producers and has lobbied against Ohio cattle producers' best interest in opposing Country of Origin Labeling and the Farmer Fair Practices Rules.

In addition to the points outlined in the briefing paper, we recently discovered that OBC used government property to promote a fundraiser for the Mike DeWine gubernatorial campaign, in blatant violation of state and federal law.

These activities being conducted by OBC reflect negatively on all of us in the beef industry and damage the credibility of the beef checkoff programs nationally. Your swift action will send a clear and concise message that you and the State of Ohio will have no part of this type of illegal activity.

It is important to understand the funds collected and administered by OBC are public funds. These funds are derived from mandatory state and federal assessments paid by Ohio cattle producers each time they sell a head of cattle. This mandatory assessment is \$1.00 per head state assessment and \$1.00 per head federal assessment.

In the case of *Johanns v. Livestock Mktg. Ass'n*, 544 U.S. 550, 562 (2005), the U.S. Supreme court established government is at the helm of the checkoff program, controlling every word and every promotion. The U.S. Supreme Court recognized the beef checkoff program is government speech for which a cattle producer is mandated to pay, stripping the cattle producer of their free speech claims in defense of such payment. This finding by the court establishes the funds as government funds.

The actions we have asked you to take are not dependent on whether the OBC is a state agency, however, it should be recognized that evidence is clear OBC is a recognized Ohio state agency and board. The Ohio state legislature in Chapter 924 of the Ohio Revised Code authorized the creation of the Agricultural Marketing Programs. Through that authorization the Ohio Director of Agriculture appoints the board to the Ohio Beef Council. The Ohio Beef Council is the state and federal governments' recognized state agency responsible for the collection of both the state and federal beef checkoff tax assessments. They collect a dollar for both the state and the federal beef checkoff programs. In various government matters, ODA speaks on behalf of the Commodity Marketing Program Committee, including the Ohio Beef Council. As one example, on March 8, 2016, ODA Deputy Director Janelle Mead testified before the Ohio Sunset Review Committee on the Ohio Beef Council's behalf, specifically naming Ohio Beef Council as an ODA board. Further, it is worth noting that the Ohio Attorney General, along with 32 other states Attorneys General, joined in filing an Amicus Brief in the *Johanns* case referenced above (Nos. 03-1164 & 03-1165). In reference to the State Beef Councils, for which OBC is one, on page nine of their brief, they stated "...the councils function as governmental agencies in disseminating that message."

We think it is important to note that the State of Oklahoma's failure to provide proper and adequate oversight of the federal beef checkoff assessments resulted in \$2.6 million dollars of beef checkoff funds being embezzled over a 10-year period.

If you have questions or need more information, please contact us so that we could schedule a meeting to provide you with additional information.

Sincerely,

A handwritten signature in cursive script that reads "Joe Logan".

Joe Logan
President, Ohio Farmers Union
419-235-8061
joelogan.jl@gmail.com

A handwritten signature in cursive script that reads "Joe Maxwell".

Joe Maxwell
Executive Director, Organization for Competitive Markets
573-721-0927
jmaxwell@competitivemarkets.com

Enclosure: Briefing Paper: Analysis of the Ohio Beef Checkoff Program: Serious Abuses Show a Need for Reform

cc: David Daniels, Director of Ohio Department of Agriculture
David Yost, Ohio Auditor

Briefing Paper | February 2018

Analysis of the Ohio Beef Checkoff Program: Serious Abuses Show a Need for Reform

By Joe Maxwell and Angela Huffman

Issue

Ohio cattle producers are mandated by both state and federal laws to pay a fee to the government for every head of cattle they sell. Known as the Beef Checkoff Program, these mandatory fees are intended to be used for research and promotion of beef. The Ohio Beef Council, an agency of the Ohio Department of Agriculture, collects, administers, and expends these tax dollars.

The U.S. Supreme Court made clear that checkoff programs are activities and speech of the federal government, and therefore checkoff dollars are government funds rather than producer funds.¹ Both Ohio state law and federal law prohibit these mandatory fees from being used to influence policy. But in Ohio, there is not adequate oversight of the collection, administration, or expenditure of these tax dollars. Without state appropriations or state audits, egregious abuses of these tax dollars are occurring.

The Ohio Beef Council contributes to the salaries and overhead costs of a trade and lobbying entity, Ohio Cattlemen's Association. Sharing expenses for these internal operations furthers the policy activity of the Ohio Cattlemen's Association. The Ohio Beef Council promotes and collects contributions to the Ohio Cattlemen's Association's Political Action Committee (PAC) to influence elections and legislation. Further, the Ohio Beef Council has directly contributed nearly \$100,000 to the National Cattlemen's Beef Association, a national trade and lobbying organization.

¹ *Johanns v. Livestock Mktg. Ass'n*, 544 U.S. 550, 562 [2005].

About the Beef Checkoff Program

The Beef Checkoff Program was established in the 1985 Farm Bill. The federal law, called the Beef Promotion and Research Act, mandates that every time a cattle producer sells a head of cattle, the producer is required to pay \$1.00 to the qualified state beef council designated to collect the checkoff funds. In Ohio, the Ohio Beef Council is the state agency designated to collect the mandatory \$1.00 fee. Half of each dollar paid by Ohio cattle producers pursuant to the federal law and collected by the state agency, Ohio Beef Council, is forwarded to the Cattlemen's Beef Promotion and Research Board which oversees the national checkoff program, subject to U.S. Department of Agriculture review. The other half of the dollar is retained by the Ohio Beef Council, which is designated to expend the \$0.50 retained federal checkoff funds. This \$0.50 of the federal funds is to be administered by Ohio Beef Council pursuant to the 1985 Act and Ohio state law and used for a "program of research, producer and consumer information, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products."²

In 2014, a state Beef Checkoff Program was adopted by a referendum voted on by producers who marketed cattle in Ohio in 2013, to include out-of-state beef interests and Ohio cattle producers.³ This referendum established an additional \$1.00 mandated fee to be paid on each head of cattle sold in Ohio. As it does for the federally mandated \$1.00 per head fee, the Ohio Beef Council collects and administers the additional state checkoff funds. This additional \$1.00 per head is refundable if a cattle producer meets certain criteria and submits the proper paperwork, which is not available online. The Ohio Beef Council is controlled by an Operating Committee, which is appointed by the Ohio Director of Agriculture.⁴

Checkoffs as Government Speech

The U.S. Supreme Court has clearly defined federal checkoff funds as mandatory payments for which the U.S. Department of Agriculture has full control. Further, the U.S. Supreme Court has acknowledged the U.S. Department of Agriculture has authority over every word of the program, making these checkoff funds "government speech" and not producer funds.⁵ Therefore, these funds should be treated as any other taxpayer funds.

Both Ohio state law and federal law have prohibitions against these mandatory fees being used to influence government or policy; rather, these funds are restricted for advancing research and promotion of the sale of beef. Further, both federal law and state law prohibit the funds from being used to pick winners and losers in the market. Ohio law states: "No operating committee shall use any assessments that it levies for any political or legislative purpose, or for preferential

² 7 U.S.C. 2901.

³ Seachrist, Kristy Foster. *Ohio Beef Checkoff up for vote, would increase from \$1 to \$2 per head*. Retrieved February 8, 2018, from Farm and Dairy: <https://www.farmanddairy.com/news/ohio-beef-checkoff-referendum-vote/171553.html>.

⁴ Ohio Beef Council. *About*. Retrieved February 8, 2018: <https://www.ohiobeef.org/about/ohio-beef-council>.

⁵ *Johanns v. Livestock Mktg. Ass'n*, 544 U.S. 550, 562 (2005).

treatment of one person to the detriment of any other person affected by the marketing program.”⁶ The specific wording of the Beef Promotion and Research Act of 1985 prohibits checkoff funds “from being used in any manner for the purpose of influencing governmental action or policy.”⁷

Violations of Ohio State and Federal Law

Use of Checkoff Funds to Influence Policy

In reviewing the structure of the Ohio Beef Council, it is evident that as a state agency, it is operating in conjunction with and on behalf of the Ohio Cattlemen’s Association. The Ohio Cattlemen’s Association is a trade organization that not only works to influence legislative policy, but also operates a PAC from which it works to influence political activity.⁸

The Ohio Beef Council and Ohio Cattlemen’s Association share the same address and headquarters. (See Figure 1). The staff members of both organizations are exactly the same. (See Figure 2). Staff are being paid by both organizations. Without the checkoff funds supporting these salaries and offices, Ohio Cattlemen’s Association would not be able to maintain this staff nor this headquarters.

According to the Ohio Cattlemen’s Association PAC website and brochure, the Ohio Beef Council is the point of contact for providing information about the PAC and collecting its donations. In other words, an agency of the Ohio Department of Agriculture is raising money to support political candidates. (See Figure 3).

According to available Ohio Beef Council annual reports, between 2011 and 2016 at least \$14,000 per year has been transferred directly from the Ohio Beef Council to the National Cattlemen’s Beef Association (NCBA), a national trade and lobbying entity.⁹ NCBA membership represents less than 4% of U.S. cattle producers, and, since 1996, beef packers and processors have had a voice in NCBA’s decision making. NCBA lobbies on a variety of pro-agribusiness, pro-globalization policies. Examples include lobbying against the Farmer Fair Practices Rules and Country of Origin Labeling for beef.

Beef checkoff tax dollars are clearly being used to build the positive brand identity of Ohio Cattlemen’s Association, allowing Ohio Cattlemen’s Association to promote the perception that it is the voice of Ohio’s cattle producers. Ohio Cattlemen’s Association uses this positive brand identification to lobby on behalf of meatpacking corporations and against the interests of independent cattle producers. A lobbying trade group supported by checkoff dollars giving

⁶ Ohio R.C. 924.09 (D).

⁷ 7 U.S.C. 2904 (10).

⁸ Ohio Cattlemen’s Association. PAC. Retrieved February 8, 2018: <https://www.ohiocattle.org/pac>.

⁹ Ohio Beef Council. *Annual Reports*. Retrieved February 8, 2018: <https://www.ohiobeef.org/about/annual-reports>.

preferential treatment to one type of cattle producer over another is clear violation of state statute. The Ohio Cattlemen's Association is a government-funded lobbying and political organization operating in violation of federal and state law.

Lack of Appropriations and Audits in Ohio

In Ohio, beef checkoff funds are being used in violation of both federal and state law. Despite the requirements of Ohio Revised Code 131.35 and an Ohio Supreme Court's decision, the federal checkoff funds that the state agency, Ohio Beef Council, administer are not appropriated by the state legislature, nor are these funds audited by the state auditor. The only information available is from annual reports and financial statements that must be submitted, as required by state law. However, the available reports, prepared by the Ohio Beef Council itself, are extremely general in nature and do not provide detail on how funds have been expended nor who received expended funds.¹⁰

Ineffectiveness of the Program

The beef checkoff program has not had the result that was hoped for by cattle producers. Information provided by the Beef Checkoff Program claiming over \$11.00 return on every checkoff dollar collected is grossly misleading. While beef packers and retailers may be realizing a benefit, U.S. cattle producers are seeing a completely different result.

In the 1980s, the production, processing, and most of the market for U.S. agricultural production was domestic. In 1985, when the Beef Promotion and Research Act was passed, there were one million U.S. cattle producers and 34 million head of beef cattle.¹¹ Due to consolidation and globalization of the beef industry, the largest meatpacking corporations now control 82% of the beef market, and today, there are only 700,000 U.S. cattle producers and 29 million beef cattle. According to the Buckeye Quality Beef Association, there were 17 federally-inspected slaughter plants in Columbus, Ohio in the 1950s and 1960s. Today, there isn't one left in the state of Ohio that can process a semi-truck load of cattle (about 40 head). Meanwhile, the farmers' share of the retail price of beef has continued to decline. From 2007 to 2016, cattle feeders lost on average as much as \$73.11 per finished steer.¹²

These economic outcomes for American cattle producers may be explained by the fact that during the passage of the 1985 Act, the words "U.S. beef" were removed from the law, allowing checkoff funds to be used to promote imported beef as well as U.S.-produced beef. However, because of the pervasive abuses outlined in this briefing paper, as well as those reported in other states and

¹⁰ Ohio Beef Council, *Annual Reports*. Retrieved February 8, 2018: <https://www.ohiobeef.org/about/annual-reports>.

¹¹ U.S. Department of Agriculture. *Census of Agriculture*. 2012.

¹² Ag Decision Maker, *Monthly Cattle Feeding Returns*. Retrieved February 8, 2018, from Iowa State University: <https://www.extension.iastate.edu/agdm/livestock/html/b1-36.html>.

at the federal level, there is no way to determine if the checkoff program could bring about positive results for U.S. cattle producers.

Conclusion and Policy Recommendations

Based on the requirements of federal and state laws as applied to the facts set out above, the Organization for Competitive Markets and Ohio Farmers Union recommend the following policy changes and government actions:

- Federal and state checkoff funds should be paid directly to the appropriate federal or state treasury and then be audited by the corresponding federal or state auditing agency.
- The Ohio Department of Agriculture should immediately segregate all activity between the Ohio Beef Council and the Ohio Cattlemen’s Association. Policy should be established that clearly outlines:
 - No state employee should report to a lobbying entity office for work.
 - No state or federal funds should be used directly or indirectly to offset a lobbying entity’s overhead costs, to include office rent, equipment costs, salaries or any incidental costs incurred by the lobbying entity.
 - All government funds should be expended pursuant to state standard contracting processes.

Figure 1

Ohio Beef Council and Ohio Cattlemen’s Association share the same address, headquarters, phone and fax numbers, and email address. The shared email address uses Ohio Beef Council’s web domain, ohiobeef.org.

Ohio Beef Council:

The image shows two screenshots side-by-side. On the left is a screenshot of the Ohio Beef Council website's contact page. The URL is https://www.ohiobeef.org/about/contact-us. The page has a large 'Contact Us' header. Below it, there are two columns: 'We Have Resources For You!' and 'Contact Information'. The contact information lists the Ohio Beef Council at 10600 US Hwy. 42, Marysville, OH 43040-9526, with phone numbers (614) 873-6736 and (614) 873-6835. On the right is a screenshot of the Ohio Beef Council's Facebook page. The page shows the profile picture, name 'Ohio Beef Council', and handle '@ohiobeef'. It includes buttons for 'Watch Video' and 'Send Message', and options to 'Like' and 'Follow'. The page is identified as a 'Nonprofit Organization' with a 5.0 star rating. The 'ABOUT' tab is selected, showing the phone number 614-873-6736, a description of the organization's mission, and the email address beef@ohiobeef.org.

Ohio Cattlemen’s Association:

The image is a screenshot of the Ohio Cattlemen's Association website's contact page. The URL is https://www.ohiocattle.org/contact-us. The page has a breadcrumb trail 'Home Page > Contact Us' and a large 'CONTACT US' button. Below the button is a contact form with the following fields: 'Title' (a dropdown menu with 'MR' selected), 'First Name' (a text input field with a red asterisk indicating it is required), 'Last Name' (a text input field with a red asterisk), and 'Email Address' (a text input field with a red asterisk). To the right of the form is the 'OCA Office' information, including the address: 10600 U.S Highway 42, Marysville, Ohio 43040. Below the address, it says 'For more information about the Ohio Cattlemen's Association:' followed by contact details: Phone : 614-873-6736, Fax : 614-873-6835, and Email : beef@ohiobeef.org.

Figure 2

The staff members of Ohio Beef Council and Ohio Cattlemen’s Association are exactly the same and carry the same job titles for both organizations.

Secure | <https://www.ohiobeef.org/about/operating-committee-obc-staff>

Meet the OBC Staff

The mission of the Ohio Beef Council is to engage with Ohio’s producers and consumers to strengthen the demand for beef. \$1.50 of every \$2.00 collected remains in the state and is used to strengthen the beef industry’s position in the marketplace. The other \$.50 is utilized in a national effort to develop programs implemented by the states. The Ohio Beef Council’s operating committee is made up of 15 beef producers appointed by Ohio’s Director of Agriculture. The operating committee’s main responsibility is to determine the best use of checkoff funds.

Ohio is structured as a two-hat state meaning our staff work for both the Ohio Beef Council and the Ohio Cattlemen’s Association. This efficient structure allows for the most effective use of resources. Each staff person keeps time sheets and their time is billed to the appropriate entity on a monthly basis. Some staff members’ time is spent working more for the beef council than others.



Elizabeth Harsh
Executive Director

As Executive Director, Elizabeth directs and coordinates all activities of the Ohio Beef Council and the Ohio Cattlemen’s Association. She is responsible for compliance with the beef checkoff Act & Order and for all OBC/OCA financial statements. Finally, she supervises all OBC/OCA staff.

[Email](#)



Cambell Parrish
Director of Public Relations and Consumer Marketing

Cambell’s position focuses on developing and implementing checkoff funded programs in the areas of consumer advertising, retail, foodservice, veal and nutrition. He also coordinates the Ohio Beef Expo junior show activities.

*Staff time spent predominantly on OBC programs.

[Email](#)



Ron Windnagel
Director of Accounting & Operations

Ron is responsible for all fiscal activities for Ohio Beef Council, Ohio Cattlemen’s Association, *Ohio Cattleman* Magazine and Ohio Cattlemen’s Foundation. He generates all monthly financial statements and assists in preparing the annual budget for each entity. For the checkoff, he records all remittances, Ohio and out-of-state, makes deposits and is responsible for the Bi-monthly Checkoff Update mailing to Ohio collection points.

[Email](#)



Stephanie Sindel
Director of Member Services & Youth Programs

Stephanie coordinates association membership activities including recruitment and retention programs, county affiliate services and recognition programs, and membership processing. She works with various agri-business companies who are members of OCA’s Allied Industry Council and therefore manages the Ohio Beef Expo Trade Show and Genetic Pathway. She is also responsible for coordinating the OCA BEST Program, the association’s youth development program, and advertising for the *Ohio Cattleman* and *The Ring* publications.

*Staff time spent predominantly on OCA programs.

[Email](#)



Amber Shoemaker
Administrative Assistant & Youth Program Coordinator

Amber manages daily tasks around the office include mailings, scheduling and general organization. Processes memberships and assists directors in many of their efforts, including writing and graphic design for both Ohio Cattlemen’s Association and Ohio Beef Council. She also assists Stephanie with the BEST program and other association youth events and programs.

[Email](#)



Lauren Corry
Director of Communications

Lauren is responsible for regular updates of the OBC and OCA websites and social media platforms. She also oversees graphics design of the *Ohio Cattleman* and *The Ring* magazines and other Ohio Beef Council and Ohio Cattlemen’s Association published materials. Additionally, Lauren serves as the staff photographer and maintains media relations through press releases.

[Email](#)



Emily Henes
Project Manager

Emily coordinates event planning and organizational programs for Ohio Beef Council, Ohio Cattlemen’s Association and Ohio Cattlemen’s Foundation. She also monitors Ohio cattle sales and checkoff compliance. Emily, too, serves as a staff photographer and supporting graphics designer.

[Email](#)

Secure | <https://www.ohiocattle.org/staff-board-of-directors?group=staff>

STAFF & BOARD OF DIRECTORS

OCA Staff | OCA Executive Committee | OCA Board of Directors

Interested in running for the OCA Board of Directors or know someone who is? Nominations due October 1.

[View the Board of Directors Nomination Form.](#)



Elizabeth Harsh
Marysville
Executive Director



Stephanie Sindel
Marysville
Director of Member Services & Youth Programs



Ron Windnagel
Marysville
Director of Accounting & Operations



Amber Shoemaker
Marysville
Administrative Assistant & Youth Program Coordinator



Cambell Parrish
Marysville
Director of Public Relations & Consumer Marketing



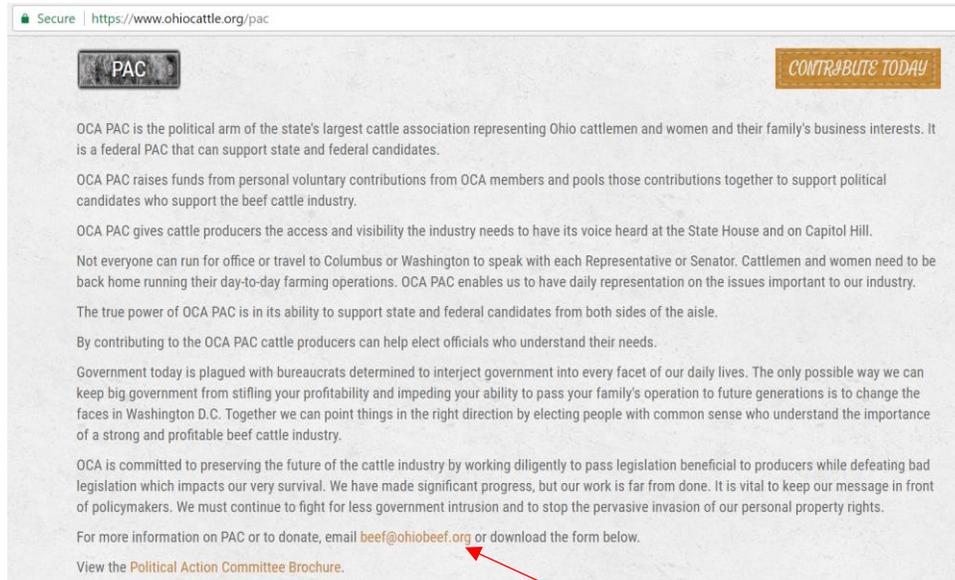
Lauren Corry
Marysville
Director of Communications



Emily Henes
Marysville
Project Manager

Figure 3

The Ohio Cattlemen's Association PAC website and brochure indicate the Ohio Beef Council provides information about the PAC and collects PAC donations through the Ohio Beef Council's email address, beef@ohiobeef.org.



OCA PAC CONTRIBUTION FORM

I would like to contribute \$ _____

I would like to be invoiced quarterly

I would like to pay by check

The following company checks are permissible by federal law:

Sole Proprietorship Partnership LP LLC

Make checks payable to: OCA PAC

I would like to be contacted about donating items for OCA PAC events.

Federal law requires that we obtain and report the name, address, occupation, and employer for each individual who contributes in excess of \$200 per calendar year.

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Occupation: _____

Employer: _____

Cell Phone: _____

E-mail: _____

Contributions to OCA PAC are not tax deductible for federal income tax purposes.

All contributions to OCA PAC are voluntary and will be for political purposes.

FOR MORE INFORMATION CONTACT:
Ohio Cattlemen's Association
10600 U.S. Highway 42
Marysville, OH 43040
614.873.6736 • beef@ohiobeef.org
www.ohiocattle.org