

April 24, 2017

The Honorable Pat Roberts  
Chairman  
Senate Committee on Agriculture, Nutrition, & Forestry  
328A Russell Senate Office Building  
Washington, DC, 20510

The Honorable Debbie Stabenow  
Ranking Member  
Senate Committee on Agriculture, Nutrition, & Forestry  
328A Russell Senate Office Building  
Washington, DC, 20510

cc. Members of the U.S. Senate

**Re: Support of Legislative Action to Provide Meaningful Reforms of Checkoff Programs**

Dear Members of the U.S. Senate:

We, the undersigned organizations, businesses and individuals call on Congress to address through legislation the egregious marketplace abuses which have been clearly demonstrated by the commodity checkoff programs ("checkoff programs"). Please contact Mary Bathon in Senator Lee's office at 202-224-5444 or Adam Zipkin in Senator Booker's office at 202-224-3224 and consider cosponsoring Senator Lee's S. 740 and Senators Lee and Booker's S. 741.

Checkoff programs were established to serve as mechanisms by which agricultural producers' pool money for common promotional and research 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 U.S. Department of Agriculture ("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 in spite of a broad statutory prohibition against these activities. Such advocacy efforts have an anticompetitive effect, benefiting certain producers to the detriment of others, and forcing some producers to pay into a system that actively works against them.

Some of their tactics have gone so far as to expend government mandated fees to prevent new food products from entering the market.

For the future of America's agriculture and its family farmers and ranchers, legislative action must be taken. Senators Lee's and Booker's S. 741, "**Opportunities for Fairness in Farming Act of 2017**" addresses the most glaring abuses by the commodity checkoff programs, clearly and concisely providing:

(a) That checkoff boards shall not enter into any contract or agreement to carry out checkoff program activities with lobbying or special interest groups. While checkoff laws broadly prohibit the use of funds in any manner for the purpose of influencing legislation or government action, many programs have repeatedly ignored this constraint. In order to more effectively prevent boards from using funds for this unlawful purpose, which benefits certain producers while harming many others, strict separation of engagement between these boards and policy entities is necessary.

(b) That no board member, employee or agent may act if a conflict of interest exists. Conflicts of interest in the checkoff programs allow special interests to use program funds for the benefit of some assessed producers, at the expense of many other producers. Prohibiting conflicts of interest in these programs is necessary to ensure their proper and lawful operation.

(c) That federally mandated funds may not be used in an anticompetitive or disparaging manner in the marketplace. The checkoff programs are designed to promote their specific named commodity. They are not intended to damage other types of commodities, through anticompetitive conduct or otherwise. Prohibiting anticompetitive and similar conduct is necessary to ensure government dollars are not used to pick winners in the marketplace or to prevent new emerging products from finding their way into the marketplace.

(d) That checkoff board actions be transparent. Lack of transparency in checkoff programs enables abuses to occur and conceals them from being discovered. Requiring transparency in the expenditure of checkoff funds through publication of all budgets and disbursements is necessary to prevent and uncover abuses in these programs.

(e) That regular audits be conducted for each of the checkoff programs. Regular audits build confidence in those paying the funds that their federally mandated fees are being expended for the purpose Congress has provided.

Together, these provisions would eliminate the abuses and conflicts of interest plaguing the checkoff programs and will restore for U.S. producers credible, unbiased programs that can effectively and efficiently promote their individual commodities. It would further address the ongoing problem of cross-subsidization of checkoff and policy activities, as exemplified by the

National Cattlemen's Beef Association's ("NCBA's") ability to materially offset and subsidize its policy-related costs and expenses with beef checkoff funds. The Beef Checkoff Program was never intended as a vehicle to strengthen the political voice of the NCBA or any other policy organization above the voices of any other organization or above the collective voice of the producers funding the program. Neither the NCBA nor any other private organization should be permitted to so substantially dominate the program or to so substantially reward itself for doing so.

Further, we strongly urge you to support Senator Lee's S. 740. By making all checkoff program payments voluntary, it ensures those farmers, ranchers and businesses who choose to participate in their commodity checkoff program may do so. But it further ensures that those farmers, ranchers and businesses who do not want to participate may choose to not pay into a commodity checkoff program that does not benefit their business. Today's commodity market is extremely diversified and segmented. It includes the world's largest companies right down to the small farmer selling directly to their neighbors at their local markets. Given the complexity of this market, it is simply too challenging to have a single program that can remain fair, unbiased and beneficial to all participants.

Companion legislation has been filed in the U.S. House of Representatives by Representatives Brat, Gaetz and Titus. We greatly appreciate your support in cosponsoring S. 740 and S. 741. Thank you for your consideration of this vital issue facing America's family farmers and ranchers.

For additional information please contact either Mary Bathon in Senator Lee's office at 202.224.5444 ([Mary\\_Bathon@lee.senate.gov](mailto:Mary_Bathon@lee.senate.gov)) or Adam Zipkin in Senator Booker's office at 202.224.3224 ([adam\\_zipkin@booker.senate.gov](mailto:adam_zipkin@booker.senate.gov)). Also, please let Fred Stokes (Organization for Competitive Markets), 601.527.2459 ([tfredstokesfarm@gmail.com](mailto:tfredstokesfarm@gmail.com)) or Bill Bullard, (R-CALF USA) 406.670.8157 ([billbullard@r-calfusa.com](mailto:billbullard@r-calfusa.com)) know your decision so they can communicate your decision to those who have joined on this letter of support.

Sincerely,