

Briefing Paper | February 2018

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

By Joe Maxwell and Angela Huffman

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## **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.<sup>1</sup> 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.

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<sup>1</sup> *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."<sup>2</sup>

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.<sup>3</sup> 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.<sup>4</sup>

## 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.<sup>5</sup> 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 treatment of one person to the detriment of any

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<sup>2</sup> 7 U.S.C. 2901.

<sup>3</sup> 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>.

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

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

other person affected by the marketing program.”<sup>6</sup> 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.”<sup>7</sup>

## **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.<sup>8</sup>

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.<sup>9</sup> 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 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.

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<sup>6</sup> Ohio R.C. 924.09 (D).

<sup>7</sup> 7 U.S.C. 2904 (10).

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

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

## **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.<sup>10</sup>

Further, the Ohio Beef Council's own reported numbers simply do not add up. As an example, the Ohio Beef Council annual reports show a 2015 ending balance of \$667,299, but a 2016 beginning balance of only \$644,980.

## **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.<sup>11</sup> 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.<sup>12</sup>

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

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

<sup>11</sup> U.S. Department of Agriculture. *Census of Agriculture*. 2012.

<sup>12</sup> 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>.

## **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 side-by-side screenshots. The left screenshot is of the Ohio Beef Council website's 'Contact Us' page. The browser address bar shows 'https://www.ohiobeef.org/about/contact-us'. The page has a navigation menu with 'Ohio Beef Council', 'Operating Committee & OBC Staff', 'Annual Reports', and 'Contact Us'. The main content area is titled 'Contact Us' and includes a section 'We Have Resources For You!' with a link to a 'store'. To the right, under 'Contact Information', it lists: 'Ohio Beef Council', '10600 US Hwy. 42', 'Marysville, OH 43040-9526', and phone/fax numbers '(614) 873-6736' and '(614) 873-6835'. The right screenshot is of the Ohio Beef Council's Facebook page. The header shows the name 'Ohio Beef Council' and handle '@ohiobeef'. It has buttons for 'Watch Video' and 'Send Message'. Below are 'Like' and 'Follow' buttons, a 'Nonprofit Organization' badge with a 5.0 star rating, and a navigation bar with 'HOME', 'ABOUT', 'PHOTOS', and 'VIDEOS'. The 'ABOUT' section shows the phone number '614-873-6736', a description of the organization's mission to connect the beef community, and the email address 'beef@ohiobeef.org'.

Ohio Cattlemen's Association:

The image is a screenshot of the Ohio Cattlemen's Association (OCA) website's 'Contact Us' page. The browser address bar shows 'https://www.ohiocattle.org/contact-us'. The page has a breadcrumb trail 'Home Page > Contact Us'. A large 'CONTACT US' button is at the top. Below it is a contact form with the following fields: 'Title' (a dropdown menu with 'MR' selected), 'First Name', 'Last Name', and 'Email Address'. Each of the last three fields has a red asterisk to its right, indicating they are required. A legend '\*Required' is located above the form fields. To the right of the form, under the heading 'OCA Office', the address is listed as '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 information: '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



**Ron Windnagel**  
Director of Accounting & Operations


Ron is responsible for all fiscal activities for Ohio Beef Council, Ohio Cattlemen's Association, *Ohio Cattlemen 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



**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.



**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




**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




**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 Cattlemen* and *The Ring* publications.

\*Staff time spent predominantly on OCA 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 Cattlemen* 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.


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](mailto:beef@ohiobeef.org).

Secure | <https://www.ohiocattle.org/pac>

**PAC** **CONTRIBUTE TODAY**

OCA PAC is the political arm of the state's largest cattle association representing Ohio cattlemen and women and their family's business interests. It is a federal PAC that can support state and federal candidates.

OCA PAC raises funds from personal voluntary contributions from OCA members and pools those contributions together to support political candidates who support the beef cattle industry.

OCA PAC gives cattle producers the access and visibility the industry needs to have its voice heard at the State House and on Capitol Hill.

Not everyone can run for office or travel to Columbus or Washington to speak with each Representative or Senator. Cattlemen and women need to be back home running their day-to-day farming operations. OCA PAC enables us to have daily representation on the issues important to our industry.

The true power of OCA PAC is in its ability to support state and federal candidates from both sides of the aisle.

By contributing to the OCA PAC cattle producers can help elect officials who understand their needs.

Government today is plagued with bureaucrats determined to interject government into every facet of our daily lives. The only possible way we can keep big government from stifling your profitability and impeding your ability to pass your family's operation to future generations is to change the faces in Washington D.C. Together we can point things in the right direction by electing people with common sense who understand the importance of a strong and profitable beef cattle industry.

OCA is committed to preserving the future of the cattle industry by working diligently to pass legislation beneficial to producers while defeating bad legislation which impacts our very survival. We have made significant progress, but our work is far from done. It is vital to keep our message in front of policymakers. We must continue to fight for less government intrusion and to stop the pervasive invasion of our personal property rights.

For more information on PAC or to donate, email [beef@ohiobeef.org](mailto:beef@ohiobeef.org) or download the form below.

View the [Political Action Committee Brochure](#).

**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](mailto:beef@ohiobeef.org)  
[www.ohiocattle.org](http://www.ohiocattle.org)