

119TH CONGRESS
1ST SESSION

S. _____

To prohibit certain practices relating to certain commodity promotion programs, to require greater transparency by those programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. LEE introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To prohibit certain practices relating to certain commodity promotion programs, to require greater transparency by those programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Opportunities for Fair-
5 ness in Farming Act of 2025”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the generic programs to promote and pro-
9 vide research and information for an agricultural

1 commodity (commonly known as “checkoff pro-
2 grams”) are intended to increase demand for all of
3 that agricultural commodity and benefit all assessed
4 producers of that agricultural commodity;

5 (2) although the laws establishing checkoff pro-
6 grams broadly prohibit the use of funds in any man-
7 ner for the purpose of influencing legislation or gov-
8 ernment action, checkoff programs have repeatedly
9 been shown to use funds to influence policy directly
10 or by partnering with organizations that lobby;

11 (3) the unlawful use of checkoff programs funds
12 benefits some agricultural producers while harming
13 many others;

14 (4) to more effectively prevent Boards from
15 using funds for unlawful purposes, strict separation
16 of engagement between the Boards and policy enti-
17 ties is necessary;

18 (5) conflicts of interest in the checkoff pro-
19 grams allow special interests to use checkoff pro-
20 gram funds for the benefit of some assessed agricul-
21 tural producers at the expense of many others;

22 (6) prohibiting conflicts of interest in checkoff
23 programs is necessary to ensure the proper and law-
24 ful operation of the checkoff programs;

1 (7) checkoff programs are designed to promote
2 agricultural commodities, not to damage other types
3 of agricultural commodities through anticompetitive
4 conduct or otherwise;

5 (8) prohibiting anticompetitive and similar con-
6 duct is necessary to ensure proper and lawful oper-
7 ation of checkoff programs;

8 (9) lack of transparency in checkoff programs
9 enables abuses to occur and conceals abuses from
10 being discovered; and

11 (10) requiring transparency in the expenditure
12 of checkoff program funds is necessary to prevent
13 and uncover abuses in checkoff programs.

14 **SEC. 3. DEFINITIONS.**

15 In this Act:

16 (1) BOARD.—The term “Board” means a Fed-
17 eral or State board, committee, council, or similar
18 entity established to carry out a checkoff program or
19 an order issued by the Secretary under a checkoff
20 program.

21 (2) CHECKOFF PROGRAM.—The term “checkoff
22 program” means a program to promote and provide
23 research and information for a particular agricul-
24 tural commodity without reference to specific pro-

1 ducers or brands, including a program carried out
2 under any of the following:

3 (A) The Cotton Research and Promotion
4 Act (7 U.S.C. 2101 et seq.).

5 (B) The Potato Research and Promotion
6 Act (7 U.S.C. 2611 et seq.).

7 (C) The Egg Research and Consumer In-
8 formation Act (7 U.S.C. 2701 et seq.).

9 (D) The Beef Research and Information
10 Act (7 U.S.C. 2901 et seq.).

11 (E) The Wheat and Wheat Foods Re-
12 search and Nutrition Education Act (7 U.S.C.
13 3401 et seq.).

14 (F) The Floral Research and Consumer
15 Information Act (7 U.S.C. 4301 et seq.).

16 (G) Subtitle B of the Dairy Production
17 Stabilization Act of 1983 (7 U.S.C. 4501 et
18 seq.).

19 (H) The Honey Research, Promotion, and
20 Consumer Information Act (7 U.S.C. 4601 et
21 seq.).

22 (I) The Pork Promotion, Research, and
23 Consumer Information Act of 1985 (7 U.S.C.
24 4801 et seq.).

1 (J) The Watermelon Research and Pro-
2 motion Act (7 U.S.C. 4901 et seq.).

3 (K) The Pecan Promotion and Research
4 Act of 1990 (7 U.S.C. 6001 et seq.).

5 (L) The Mushroom Promotion, Research,
6 and Consumer Information Act of 1990 (7
7 U.S.C. 6101 et seq.).

8 (M) The Lime Research, Promotion, and
9 Consumer Information Act of 1990 (7 U.S.C.
10 6201 et seq.).

11 (N) The Soybean Promotion, Research,
12 and Consumer Information Act (7 U.S.C. 6301
13 et seq.).

14 (O) The Fluid Milk Promotion Act of 1990
15 (7 U.S.C. 6401 et seq.).

16 (P) The Fresh Cut Flowers and Fresh Cut
17 Greens Promotion and Information Act of 1993
18 (7 U.S.C. 6801 et seq.).

19 (Q) The Sheep Promotion, Research, and
20 Information Act of 1994 (7 U.S.C. 7101 et
21 seq.).

22 (R) Section 501 of the Federal Agriculture
23 Improvement and Reform Act of 1996 (7
24 U.S.C. 7401).

1 (S) The Commodity Promotion, Research,
2 and Information Act of 1996 (7 U.S.C. 7411 et
3 seq.).

4 (T) The Canola and Rapeseed Research,
5 Promotion, and Consumer Information Act (7
6 U.S.C. 7441 et seq.).

7 (U) The National Kiwifruit Research, Pro-
8 motion, and Consumer Information Act (7
9 U.S.C. 7461 et seq.).

10 (V) The Popcorn Promotion, Research,
11 and Consumer Information Act (7 U.S.C. 7481
12 et seq.).

13 (W) The Hass Avocado Promotion, Re-
14 search, and Information Act of 2000 (7 U.S.C.
15 7801 et seq.).

16 (3) CONFLICT OF INTEREST.—The term “con-
17 flict of interest” means a direct or indirect financial
18 interest in a person or entity that performs a service
19 for, or enters into a contract or agreement with, a
20 Board for anything of economic value.

21 (4) SECRETARY.—The term “Secretary” means
22 the Secretary of Agriculture.

23 **SEC. 4. REQUIREMENTS OF CHECKOFF PROGRAMS.**

24 (a) PROHIBITIONS.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (4), for any checkoff program with an annual
3 assessment revenue equal to more than \$20,000,000,
4 a Board shall not enter into any contract or agree-
5 ment to carry out activities under the checkoff pro-
6 gram with a party that engages in activities for the
7 purpose of influencing any government policy or ac-
8 tion that relates to agriculture.

9 (2) CONFLICTS OF INTEREST.—A Board shall
10 not engage in, and shall prohibit the employees and
11 agents of the Board, acting in their official capacity,
12 from engaging in, any act that may involve a conflict
13 of interest.

14 (3) OTHER PROHIBITIONS.—A Board shall not
15 engage in, and shall prohibit the employees and
16 agents of the Board, acting in their official capacity,
17 from engaging in—

18 (A) any anticompetitive activity;

19 (B) any unfair or deceptive act or practice;

20 or

21 (C) any act that may be disparaging to, or
22 in any way negatively portray, another agricul-
23 tural commodity or product.

24 (4) EXCEPTION FOR CERTAIN CONTRACTS WITH
25 INSTITUTIONS OF HIGHER EDUCATION.—Paragraph

1 (1) shall not apply to a contract or agreement en-
2 tered into between a Board and an institution of
3 higher education for the purpose of research, exten-
4 sion, and education.

5 (b) AUTHORITY TO ENTER INTO CONTRACTS.—Not-
6 withstanding any other provision of law, on approval of
7 the Secretary, a Board may enter directly into contracts
8 and agreements to carry out generic promotion, research,
9 or other activities authorized by law.

10 (c) PRODUCTION OF RECORDS.—

11 (1) IN GENERAL.—Each contract or agreement
12 of a checkoff program shall provide that the entity
13 that enters into the contract or agreement shall
14 produce to the applicable Board, on a quarterly
15 basis, accurate records that account for all funds re-
16 ceived under the contract or agreement, including
17 any goods or services provided or costs incurred in
18 connection with the contract or agreement.

19 (2) MAINTENANCE AND PUBLICATION OF
20 RECORDS.—Each Board shall—

21 (A) maintain any records received under
22 paragraph (1); and

23 (B) publish and make available for public
24 inspection those records by not later than 30
25 days after the date of receipt.

1 (d) PUBLICATION OF BUDGETS AND DISBURSE-
2 MENTS.—

3 (1) IN GENERAL.—A Board shall publish and
4 make available for public inspection all budgets and
5 disbursements of funds entrusted to the Board that
6 are approved by the Secretary, immediately on ap-
7 proval by the Secretary.

8 (2) REQUIRED DISCLOSURES.—In carrying out
9 paragraph (1), a Board shall disclose—

10 (A) the amount of the disbursement;

11 (B) the purpose of the disbursement, in-
12 cluding the activities to be funded by the dis-
13 bursement;

14 (C) the identity of the recipient of the dis-
15 bursement; and

16 (D) the identity of any other parties that
17 may receive the disbursed funds, including any
18 contracts or subcontractors of the recipient of
19 the disbursement.

20 (e) AUDITS.—

21 (1) PERIODIC AUDITS BY INSPECTOR GEN-
22 ERAL.—

23 (A) IN GENERAL.—Not later than 2 years
24 after the date of enactment of this Act, and not
25 less frequently than once every 5 years there-

1 after, the Inspector General of the Department
2 of Agriculture shall conduct an audit to deter-
3 mine the compliance of each checkoff program
4 with this section during the period of time cov-
5 ered by the audit.

6 (B) REVIEW OF RECORDS.—An audit con-
7 ducted under subparagraph (A) shall include a
8 review of any records produced to a Board
9 under subsection (c)(1).

10 (C) SUBMISSION OF REPORTS.—On com-
11 pletion of each audit under subparagraph (A),
12 the Inspector General of the Department of Ag-
13 riculture shall—

14 (i) prepare a report describing the
15 audit; and

16 (ii) submit the report described in
17 clause (i) to—

18 (I) the appropriate committees of
19 Congress, including the Subcommittee
20 on Competition Policy, Antitrust, and
21 Consumer Rights of the Committee on
22 the Judiciary of the Senate; and

23 (II) the Comptroller General of
24 the United States.

25 (2) AUDIT BY COMPTROLLER GENERAL.—

11

1 (A) IN GENERAL.—Not earlier than 3
2 years, and not later than 5 years, after the date
3 of enactment of this Act, the Comptroller Gen-
4 eral of the United States shall—

5 (i) conduct an audit to assess—

6 (I) the status of actions taken for
7 each checkoff program to ensure com-
8 pliance with this section; and

9 (II) the extent to which actions
10 described in subclause (I) have im-
11 proved the integrity of a checkoff pro-
12 gram; and

13 (ii) prepare a report describing the
14 audit conducted under clause (i), including
15 any recommendations for—

16 (I) strengthening the effect of ac-
17 tions described in clause (i)(I); and

18 (II) improving Federal legislation
19 relating to checkoff programs.

20 (B) CONSIDERATION OF INSPECTOR GEN-
21 ERAL REPORTS.—The Comptroller General of
22 the United States shall consider reports de-
23 scribed in paragraph (1)(C) in preparing any
24 recommendations in the report under subpara-
25 graph (A)(ii).

1 **SEC. 5. SEVERABILITY.**

2 If any provision of this Act or the application of such
3 provision to any person or circumstance is held to be un-
4 constitutional, the remainder of this Act, and the applica-
5 tion of the provision to any other person or circumstance,
6 shall not be affected.