AMENDMENT TO H.R. 2, AS REPORTED
OFFERED BY MR. BRAT OF VIRGINIA

At the end of subtitle C of title IX, add the following:

SEC. 9204. REQUIREMENTS RELATING TO CONFLICTS OF INTEREST OF MEMBERS OF COMMODITY PROMOTION BOARDS.

(a) DEFINITIONS.—In this section:

(1) BOARD.—The term “Board” means a board, committee, or similar entity established to carry out a checkoff program or an order issued by the Secretary under a checkoff program.

(2) CHECKOFF PROGRAM.—The term “checkoff program” means a program to promote and provide research and information for a particular agricultural commodity without reference to specific producers or brands, including a program carried out under any of the following:

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

(B) The Potato Research and Promotion Act (7 U.S.C. 2611 et seq.).
(C) The Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.).

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


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


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

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

(J) The Watermelon Research and Promotion Act (7 U.S.C. 4901 et seq.).

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

(L) The Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6101 et seq.).
(M) The Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6201 et seq.).

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

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

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

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

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

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

(T) The Canola and Rapeseed Research, Promotion, and Consumer Information Act (7 U.S.C. 7441 et seq.).
(U) The National Kiwifruit Research, Promotion, and Consumer Information Act (7 U.S.C. 7461 et seq.).

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


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

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

(b) REQUIREMENTS OF CHECKOFF PROGRAMS.—

(1) PROHIBITIONS.—

(A) IN GENERAL.—A Board shall not enter into any contract or agreement to carry out checkoff program activities with a party that engages in activities for the purpose of influencing any government policy or action that relates to agriculture.
(B) Conflict of Interest.—A Board shall not engage in, and shall prohibit the employees and agents of the Board, acting in their official capacity, from engaging in, any act that may involve a conflict of interest.

(C) Other Prohibitions.—A Board shall not engage in, and shall prohibit the employees and agents of the Board, acting in their official capacity, from engaging in—

(i) any anticompetitive activity;

(ii) any unfair or deceptive act or practice; or

(iii) any act that may be disparaging to, or in any way negatively portray, another agricultural commodity or product.

(2) Authority to Enter into Contracts.—Notwithstanding any other provision of law, on approval of the Secretary, a Board may enter directly into contracts and agreements to carry out generic promotion, research, or other activities authorized by law.

(3) Production of Records.—

(A) In General.—Each contract or agreement of a checkoff program shall provide that the entity that enters into the contract or
agreement shall produce to the Board accurate records that account for all funds received under the contract or agreement, including any goods or services provided or costs incurred in connection with the contract or agreement.

(B) MAINTENANCE OF RECORDS.—A Board shall maintain any records received under subparagraph (A).

(4) PUBLICATION OF BUDGETS AND DISBURSEMENTS.—

(A) IN GENERAL.—The Board shall publish and make available for public inspection all budgets and disbursements of funds entrusted to the Board that are approved by the Secretary, immediately on approval by the Secretary.

(B) REQUIRED DISCLOSURES.—In carrying out subparagraph (A), the Board shall disclose—

(i) the amount of the disbursement;

(ii) the purpose of the disbursement, including the activities to be funded by the disbursement;

(iii) the identity of the recipient of the disbursement; and
(iv) the identity of any other parties that may receive the disbursed funds, including any contracts or subcontractors of the recipient of the disbursement.

(5) Audits.—

(A) Periodic audits by inspector general of USDA.—

(i) In general.—Not later than 2 years after the date of enactment of this Act, and not less frequently than every 5 years thereafter, the Inspector General of the Department of Agriculture shall conduct an audit to determine the compliance of each checkoff program with this section during the period of time covered by the audit.

(ii) Review of records.—An audit conducted under clause (i) shall include a review of any records produced to the Board under paragraph (3)(A).

(iii) Submission of reports.—On completion of each audit under clause (i), the Inspector General of the Department of Agriculture shall—
(I) prepare a report describing the audit; and

(II) submit the report described in subclause (I) to—

(aa) the appropriate committees of Congress, including the Subcommittee on Antitrust, Competition Policy and Consumer Rights of the Committee on the Judiciary of the Senate; and

(bb) the Comptroller General of the United States.

(B) AUDIT BY COMPTROLLER GENERAL.—

(i) IN GENERAL.—Not earlier than 3 years, and not later than 5 years, after the date of enactment of this Act, the Comptroller General of the United States shall—

(I) conduct an audit to assess—

(aa) the status of actions taken for each checkoff program to ensure compliance with this section; and

(bb) the extent to which actions described in item (aa) have
improved the integrity of a
checkoff program; and

(II) prepare a report describing
the audit conducted under subclause
(I), including any recommendations
for—

(aa) strengthening the effect
of actions described in subclause
(I)(aa); and

(bb) improving Federal legis-
lation relating to checkoff pro-
grams.

(ii) CONSIDERATION OF INSPECTOR
GENERAL REPORTS.—The Comptroller
General of the United States shall consider
reports described in subparagraph (A)(iii)
in preparing any recommendations in the
report under subclause (II).

(c) SEVERABILITY.—If any provision of this Act or
the application of such provision to any person or cir-
cumstance is held to be unconstitutional, the remainder
of this Act, and the application of the provision to any
other person or circumstance, shall not be affected.