

**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:

1 **SEC. 9204. REQUIREMENTS RELATING TO CONFLICTS OF**
2 **INTEREST OF MEMBERS OF COMMODITY**
3 **PROMOTION BOARDS.**

4 (a) DEFINITIONS.—In this section:

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

9 (2) CHECKOFF PROGRAM.—The term “checkoff
10 program” means a program to promote and provide
11 research and information for a particular agricul-
12 tural commodity without reference to specific pro-
13 ducers or brands, including a program carried out
14 under any of the following:

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

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

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

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

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

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

10 (G) Subtitle B of the Dairy Production
11 Stabilization Act of 1983 (7 U.S.C. 4501 et
12 seq.).

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

16 (I) The Pork Promotion, Research, and
17 Consumer Information Act of 1985 (7 U.S.C.
18 4801 et seq.).

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

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

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

1 (M) The Lime Research, Promotion, and
2 Consumer Information Act of 1990 (7 U.S.C.
3 6201 et seq.).

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

7 (O) The Fluid Milk Promotion Act of 1990
8 (7 U.S.C. 6401 et seq.).

9 (P) The Fresh Cut Flowers and Fresh Cut
10 Greens Promotion and Information Act of 1993
11 (7 U.S.C. 6801 et seq.).

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

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

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

21 (T) The Canola and Rapeseed Research,
22 Promotion, and Consumer Information Act (7
23 U.S.C. 7441 et seq.).

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

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

7 (W) The Hass Avocado Promotion, Re-
8 search, and Information Act of 2000 (7 U.S.C.
9 7801 et seq.).

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

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

17 (b) REQUIREMENTS OF CHECKOFF PROGRAMS.—

18 (1) PROHIBITIONS.—

19 (A) IN GENERAL.—A Board shall not enter
20 into any contract or agreement to carry out
21 checkoff program activities with a party that
22 engages in activities for the purpose of influ-
23 encing any government policy or action that re-
24 lates to agriculture.

1 (B) CONFLICT OF INTEREST.—A Board
2 shall not engage in, and shall prohibit the em-
3 ployees and agents of the Board, acting in their
4 official capacity, from engaging in, any act that
5 may involve a conflict of interest.

6 (C) OTHER PROHIBITIONS.—A Board shall
7 not engage in, and shall prohibit the employees
8 and agents of the Board, acting in their official
9 capacity, from engaging in—

10 (i) any anticompetitive activity;

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

13 (iii) any act that may be disparaging
14 to, or in any way negatively portray, an-
15 other agricultural commodity or product.

16 (2) AUTHORITY TO ENTER INTO CONTRACTS.—
17 Notwithstanding any other provision of law, on ap-
18 proval of the Secretary, a Board may enter directly
19 into contracts and agreements to carry out generic
20 promotion, research, or other activities authorized by
21 law.

22 (3) PRODUCTION OF RECORDS.—

23 (A) IN GENERAL.—Each contract or agree-
24 ment of a checkoff program shall provide that
25 the entity that enters into the contract or

1 agreement shall produce to the Board accurate
2 records that account for all funds received
3 under the contract or agreement, including any
4 goods or services provided or costs incurred in
5 connection with the contract or agreement.

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

9 (4) PUBLICATION OF BUDGETS AND DISBURSE-
10 MENTS.—

11 (A) IN GENERAL.—The Board shall pub-
12 lish and make available for public inspection all
13 budgets and disbursements of funds entrusted
14 to the Board that are approved by the Sec-
15 retary, immediately on approval by the Sec-
16 retary.

17 (B) REQUIRED DISCLOSURES.—In carrying
18 out subparagraph (A), the Board shall dis-
19 close—

- 20 (i) the amount of the disbursement;
21 (ii) the purpose of the disbursement,
22 including the activities to be funded by the
23 disbursement;
24 (iii) the identity of the recipient of the
25 disbursement; and

1 (iv) the identity of any other parties
2 that may receive the disbursed funds, in-
3 cluding any contracts or subcontractors of
4 the recipient of the disbursement.

5 (5) AUDITS.—

6 (A) PERIODIC AUDITS BY INSPECTOR GEN-
7 ERAL OF USDA.—

8 (i) IN GENERAL.—Not later than 2
9 years after the date of enactment of this
10 Act, and not less frequently than every 5
11 years thereafter, the Inspector General of
12 the Department of Agriculture shall con-
13 duct an audit to determine the compliance
14 of each checkoff program with this section
15 during the period of time covered by the
16 audit.

17 (ii) REVIEW OF RECORDS.—An audit
18 conducted under clause (i) shall include a
19 review of any records produced to the
20 Board under paragraph (3)(A).

21 (iii) SUBMISSION OF REPORTS.—On
22 completion of each audit under clause (i),
23 the Inspector General of the Department
24 of Agriculture shall—

1 (I) prepare a report describing
2 the audit; and

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

5 (aa) the appropriate com-
6 mittees of Congress, including
7 the Subcommittee on Antitrust,
8 Competition Policy and Con-
9 sumer Rights of the Committee
10 on the Judiciary of the Senate;
11 and

12 (bb) the Comptroller Gen-
13 eral of the United States.

14 (B) AUDIT BY COMPTROLLER GENERAL.—

15 (i) IN GENERAL.—Not earlier than 3
16 years, and not later than 5 years, after the
17 date of enactment of this Act, the Comp-
18 troller General of the United States shall—

19 (I) conduct an audit to assess—

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

24 (bb) the extent to which ac-
25 tions described in item (aa) have

1 improved the integrity of a
2 checkoff program; and

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

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

10 (bb) improving Federal leg-
11 islation relating to checkoff pro-
12 grams.

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

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

