

Calendar No. 92

106TH CONGRESS
1ST Session

S. J. RES. 22

JOINT RESOLUTION

To reauthorize, and modify the conditions for, the consent of Congress to the Northeast Interstate Dairy Compact and to grant the consent of Congress to the Southern Dairy Compact.

APRIL 28, 1999

Read the second time and placed on the calendar

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To reauthorize, and modify the conditions for, the consent of Congress to the Northeast Interstate Dairy Compact and to grant the consent of Congress to the Southern Dairy Compact.

IN THE SENATE OF THE UNITED STATES

APRIL 27, 1999

Mr. JEFFORDS (for himself, Mr. LEAHY, Mr. SPECTER, Mr. COCHRAN, Mr. MOYNIHAN, Mr. SESSIONS, Ms. SNOWE, Mr. LOTT, Ms. LANDRIEU, Ms. COLLINS, Mr. KENNEDY, Mr. SCHUMER, Mr. SHELBY, Ms. MIKULSKI, Mr. HOLLINGS, Mr. HUTCHINSON, Mr. DODD, Mr. BREAUX, Mr. THURMOND, Mr. CHAFEE, Mr. SMITH of New Hampshire, Mr. SARBANES, Mr. COVERDELL, Mr. CLELAND, Mr. GREGG, Mr. REED, Mr. KERRY, Mr. HELMS, Mr. BYRD, Mr. TORRICELLI, Mr. EDWARDS, Mr. LIEBERMAN, Mr. ASHCROFT, Mr. ROCKEFELLER, Ms. LINCOLN, Mr. BIDEN, Mr. FRIST, Mr. BOND, and Mr. THOMPSON) introduced the following joint resolution; which was read the first time

APRIL 28, 1999

Read the second time and placed on the calendar

JOINT RESOLUTION

To reauthorize, and modify the conditions for, the consent of Congress to the Northeast Interstate Dairy Compact and to grant the consent of Congress to the Southern Dairy Compact.

1 *Resolved by the Senate and House of Representatives*
 2 *of the United States of America in Congress assembled,*

3 **TITLE I—NORTHEAST**
 4 **INTERSTATE DAIRY COMPACT**

5 **SEC. 101. NORTHEAST INTERSTATE DAIRY COMPACT.**

6 Section 147 of the Agricultural Market Transition
 7 Act (7 U.S.C. 7256) is amended—

8 (1) in the matter preceding paragraph (1), by
 9 striking “Massachusetts, New Hampshire,” and in-
 10 serting “Maryland, Massachusetts, New Hampshire,
 11 New Jersey, New York,”;

12 (2) by striking paragraphs (1), (3), and (7);

13 (3) in paragraph (4), by striking “Delaware,
 14 New Jersey, New York, Pennsylvania, Maryland,
 15 and Virginia” and inserting “Delaware, Ohio, and
 16 Pennsylvania”;

17 (4) in paragraph (5), by striking “the projected
 18 rate of increase” and all that follows through “Sec-
 19 retary” and inserting “the operation of the Compact
 20 price regulation during the fiscal year, as determined
 21 by the Secretary (in consultation with the Commis-
 22 sion) using notice and comment procedures provided
 23 in section 553 of title 5, United States Code”; and

1 (5) by redesignating paragraphs (2), (4), (5),
2 and (6) as paragraphs (1), (2), (3), and (4), respec-
3 tively.

4 **TITLE II—SOUTHERN DAIRY**
5 **COMPACT**

6 **SEC. 201. CONGRESSIONAL CONSENT TO SOUTHERN DAIRY**
7 **COMPACT.**

8 (a) IN GENERAL.—Congress consents to the South-
9 ern Dairy Compact entered into among the States of Ala-
10 bama, Arkansas, Kentucky, Louisiana, Mississippi, North
11 Carolina, South Carolina, Tennessee, Virginia, and West
12 Virginia, subject to the following conditions:

13 (1) LIMITATION OF MANUFACTURING PRICE
14 REGULATION.—The Southern Dairy Compact Com-
15 mission may not regulate Class II, Class III, or
16 Class III–A milk used for manufacturing purposes
17 or any other milk, other than Class I, or fluid milk,
18 as defined by a Federal milk marketing order issued
19 under section 8c of the Agricultural Adjustment Act
20 (7 U.S.C. 608c), reenacted with amendments by the
21 Agricultural Marketing Act of 1937 (referred to in
22 this Act as “Federal milk marketing order”) unless
23 Congress has first consented to and approved such
24 authority by a law enacted after the date of enact-
25 ment of this joint resolution.

1 (2) ADDITIONAL STATES.—Florida, Georgia,
 2 Missouri, Oklahoma, Kansas, and Texas are the only
 3 additional States that may join the Southern Dairy
 4 Compact, individually or otherwise.

5 (3) COMPENSATION OF COMMODITY CREDIT
 6 CORPORATION.—Before the end of each fiscal year
 7 in which a Compact price regulation is in effect, the
 8 Southern Dairy Compact Commission shall com-
 9 pensate the Commodity Credit Corporation for the
 10 cost of any purchases of milk and milk products by
 11 the Corporation that result from the operation of the
 12 Compact price regulation during the fiscal year, as
 13 determined by the Secretary (in consultation with
 14 the Commission) using notice and comment proce-
 15 dures provided in section 553 of title 5, United
 16 States Code.

17 (4) MILK MARKETING ORDER ADMINIS-
 18 TRATOR.—At the request of the Southern Dairy
 19 Compact Commission, the Administrator of the ap-
 20 plicable Federal milk marketing order shall provide
 21 technical assistance to the Compact Commission and
 22 be compensated for that assistance.

23 (b) COMPACT.—The Southern Dairy Compact is sub-
 24 stantially as follows:

1 **“ARTICLE I. STATEMENT OF**
2 **PURPOSE, FINDINGS AND**
3 **DECLARATION OF POLICY**

4 **“§ 1. Statement of purpose, findings and declaration**
5 **of policy**

6 “The purpose of this compact is to recognize the
7 interstate character of the southern dairy industry and the
8 prerogative of the states under the United States Con-
9 stitution to form an interstate commission for the south-
10 ern region. The mission of the commission is to take such
11 steps as are necessary to assure the continued viability of
12 dairy farming in the south, and to assure consumers of
13 an adequate, local supply of pure and wholesome milk.

14 “The participating states find and declare that the
15 dairy industry is an essential agricultural activity of the
16 south. Dairy farms, and associated suppliers, marketers,
17 processors and retailers are an integral component of the
18 region’s economy. Their ability to provide a stable, local
19 supply of pure, wholesome milk is a matter of great impor-
20 tance to the health and welfare of the region.

21 “The participating states further find that dairy
22 farms are essential and they are an integral part of the
23 region’s rural communities. The farms preserve land for
24 agricultural purposes and provide needed economic stimuli
25 for rural communities.

1 “In establishing their constitutional regulatory au-
2 thority over the region’s fluid milk market by this com-
3 pact, the participating states declare their purpose that
4 this compact neither displace the federal order system nor
5 encourage the merging of federal orders. Specific provi-
6 sions of the compact itself set forth this basic principle.

7 “Designed as a flexible mechanism able to adjust to
8 changes in a regulated marketplace, the compact also con-
9 tains a contingency provision should the federal order sys-
10 tem be discontinued. In that event, the interstate commis-
11 sion is authorized to regulate the marketplace in replace-
12 ment of the order system. This contingent authority does
13 not anticipate such a change, however, and should not be
14 so construed. It is only provided should developments in
15 the market other than establishment of this compact re-
16 sult in discontinuance of the order system.

17 “By entering into this compact, the participating
18 states affirm that their ability to regulate the price which
19 southern dairy farmers receive for their product is essen-
20 tial to the public interest. Assurance of a fair and equi-
21 table price for dairy farmers ensures their ability to pro-
22 vide milk to the market and the vitality of the southern
23 dairy industry, with all the associated benefits.

24 “Recent, dramatic price fluctuations, with a pro-
25 nounced downward trend, threaten the viability and sta-

1 bility of the southern dairy region. Historically, individual
 2 state regulatory action had been an effective emergency
 3 remedy available to farmers confronting a distressed mar-
 4 ket. The federal order system, implemented by the Agri-
 5 cultural Marketing Agreement Act of 1937, establishes
 6 only minimum prices paid to producers for raw milk, with-
 7 out preempting the power of states to regulate milk prices
 8 above the minimum levels so established.

9 “In today’s regional dairy marketplace, cooperative,
 10 rather than individual state action is needed to more effec-
 11 tively address the market disarray. Under our constitu-
 12 tional system, properly authorized states acting coopera-
 13 tively may exercise more power to regulate interstate com-
 14 merce than they may assert individually without such au-
 15 thority. For this reason, the participating states invoke
 16 their authority to act in common agreement, with the con-
 17 sent of Congress, under the compact clause of the Con-
 18 stitution.

19 **“ARTICLE II. DEFINITIONS AND** 20 **RULES OF CONSTRUCTION**

21 **“§ 2. Definitions**

22 “For the purposes of this compact, and of any supple-
 23 mental or concurring legislation enacted pursuant thereto,
 24 except as may be otherwise required by the context:

1 “(1) ‘Class I milk’ means milk disposed of in
2 fluid form or as a fluid milk product, subject to fur-
3 ther definition in accordance with the principles ex-
4 pressed in subdivision (b) of section three.

5 “(2) ‘Commission’ means the Southern Dairy
6 Compact Commission established by this compact.

7 “(3) ‘Commission marketing order’ means regu-
8 lations adopted by the commission pursuant to sec-
9 tions nine and ten of this compact in place of a ter-
10 minated federal marketing order or state dairy regu-
11 lation. Such order may apply throughout the region
12 or in any part or parts thereof as defined in the reg-
13 ulations of the commission. Such order may estab-
14 lish minimum prices for any or all classes of milk.

15 “(4) ‘Compact’ means this interstate compact.

16 “(5) ‘Compact over-order price’ means a min-
17 imum price required to be paid to producers for
18 Class I milk established by the commission in regu-
19 lations adopted pursuant to sections nine and ten of
20 this compact, which is above the price established in
21 federal marketing orders or by state farm price reg-
22 ulations in the regulated area. Such price may apply
23 throughout the region or in any part or parts there-
24 of as defined in the regulations of the commission.

1 “(6) ‘Milk’ means the lacteral secretion of cows
2 and includes all skim, butterfat, or other constitu-
3 ents obtained from separation or any other process.
4 The term is used in its broadest sense and may be
5 further defined by the commission for regulatory
6 purposes.

7 “(7) ‘Partially regulated plant’ means a milk
8 plant not located in a regulated area but having
9 Class I distribution within such area. Commission
10 regulations may exempt plants having such distribu-
11 tion or receipts in amounts less than the limits de-
12 fined therein.

13 “(8) ‘Participating state’ means a state which
14 has become a party to this compact by the enact-
15 ment of concurring legislation.

16 “(9) ‘Pool plant’ means any milk plant located
17 in a regulated area.

18 “(10) ‘Region’ means the territorial limits of
19 the states which are parties to this compact.

20 “(11) ‘Regulated area’ means any area within
21 the region governed by and defined in regulations es-
22 tablishing a compact over-order price or commission
23 marketing order.

24 “(12) ‘State dairy regulation’ means any state
25 regulation of dairy prices, and associated assess-

1 ments, whether by statute, marketing order or other-
2 wise.

3 **“§ 3. Rules of construction**

4 “(a) This compact shall not be construed to displace
5 existing federal milk marketing orders or state dairy regu-
6 lation in the region but to supplement them. In the event
7 some or all federal orders in the region are discontinued,
8 the compact shall be construed to provide the commission
9 the option to replace them with one or more commission
10 marketing orders pursuant to this compact.

11 “(b) The compact shall be construed liberally in order
12 to achieve the purposes and intent enunciated in section
13 one. It is the intent of this compact to establish a basic
14 structure by which the commission may achieve those pur-
15 poses through the application, adaptation and develop-
16 ment of the regulatory techniques historically associated
17 with milk marketing and to afford the commission broad
18 flexibility to devise regulatory mechanisms to achieve the
19 purposes of this compact. In accordance with this intent,
20 the technical terms which are associated with market
21 order regulation and which have acquired commonly un-
22 derstood general meanings are not defined herein but the
23 commission may further define the terms used in this com-
24 pact and develop additional concepts and define additional
25 terms as it may find appropriate to achieve its purposes.

1 **“ARTICLE III. COMMISSION**
2 **ESTABLISHED**

3 **“§ 4. Commission established**

4 “There is hereby created a commission to administer
5 the compact, composed of delegations from each state in
6 the region. The commission shall be known as the South-
7 ern Dairy Compact Commission. A delegation shall include
8 not less than three nor more than five persons. Each dele-
9 gation shall include at least one dairy farmer who is en-
10 gaged in the production of milk at the time of appointment
11 or reappointment, and one consumer representative. Dele-
12 gation members shall be residents and voters of, and sub-
13 ject to such confirmation process as is provided for in the
14 appointing state. Delegation members shall serve no more
15 than three consecutive terms with no single term of more
16 than four years, and be subject to removal for cause. In
17 all other respects, delegation members shall serve in ac-
18 cordance with the laws of the state represented. The com-
19 pensation, if any, of the members of a state delegation
20 shall be determined and paid by each state, but their ex-
21 penses shall be paid by the commission.

22 **“§ 5. Voting requirements**

23 “All actions taken by the commission, except for the
24 establishment or termination of an over-order price or
25 commission marketing order, and the adoption, amend-

1 ment or rescission of the commission's by-laws, shall be
 2 by majority vote of the delegations present. Each state del-
 3 egation shall be entitled to one vote in the conduct of the
 4 commission's affairs. Establishment or termination of an
 5 over-order price or commission marketing order shall re-
 6 quire at least a two-thirds vote of the delegations present.
 7 The establishment of a regulated area which covers all or
 8 part of a participating state shall require also the affirma-
 9 tive vote of that state's delegation. A majority of the dele-
 10 gations from the participating states shall constitute a
 11 quorum for the conduct of the commission's business.

12 **“§ 6. Administration and management**

13 “(a) The commission shall elect annually from among
 14 the members of the participating state delegations a chair-
 15 person, a vice-chairperson, and a treasurer. The commis-
 16 sion shall appoint an executive director and fix his or her
 17 duties and compensation. The executive director shall
 18 serve at the pleasure of the commission, and together with
 19 the treasurer, shall be bonded in an amount determined
 20 by the commission. The commission may establish through
 21 its by-laws an executive committee composed of one mem-
 22 ber elected by each delegation.

23 “(b) The commission shall adopt by-laws for the con-
 24 duct of its business by a two-thirds vote, and shall have
 25 the power by the same vote to amend and rescind these

1 by-laws. The commission shall publish its by-laws in con-
2 venient form with the appropriate agency or officer in each
3 of the participating states. The by-laws shall provide for
4 appropriate notice to the delegations of all commission
5 meetings and hearings and of the business to be trans-
6 acted at such meetings or hearings. Notice also shall be
7 given to other agencies or officers of participating states
8 as provided by the laws of those states.

9 “(c) The commission shall file an annual report with
10 the Secretary of Agriculture of the United States, and
11 with each of the participating states by submitting copies
12 to the governor, both houses of the legislature, and the
13 head of the state department having responsibilities for
14 agriculture.

15 “(d) In addition to the powers and duties elsewhere
16 prescribed in this compact, the commission shall have the
17 power:

18 “(1) To sue and be sued in any state or federal
19 court;

20 “(2) To have a seal and alter the same at pleas-
21 ure;

22 “(3) To acquire, hold, and dispose of real and
23 personal property by gift, purchase, lease, license, or
24 other similar manner, for its corporate purposes;

1 “(4) To borrow money and issue notes, to pro-
2 vide for the rights of the holders thereof and to
3 pledge the revenue of the commission as security
4 therefor, subject to the provisions of section eighteen
5 of this compact;

6 “(5) To appoint such officers, agents, and em-
7 ployees as it may deem necessary, prescribe their
8 powers, duties and qualifications; and

9 “(6) To create and abolish such offices, employ-
10 ments and positions as it deems necessary for the
11 purposes of the compact and provide for the re-
12 moval, term, tenure, compensation, fringe benefits,
13 pension, and retirement rights of its officers and em-
14 ployees. The commission may also retain personal
15 services on a contract basis.

16 **“§ 7. Rulemaking power**

17 “In addition to the power to promulgate a compact
18 over-order price or commission marketing orders as pro-
19 vided by this compact, the commission is further empow-
20 ered to make and enforce such additional rules and regula-
21 tions as it deems necessary to implement any provisions
22 of this compact, or to effectuate in any other respect the
23 purposes of this compact.

1 **“ARTICLE IV. POWERS OF THE**
2 **COMMISSION**

3 **“§ 8. Powers to promote regulatory uniformity, sim-**
4 **plicity, and interstate cooperation**

5 “The commission is hereby empowered to:

6 “(1) Investigate or provide for investigations or
7 research projects designed to review the existing
8 laws and regulations of the participating states, to
9 consider their administration and costs, to measure
10 their impact on the production and marketing of
11 milk and their effects on the shipment of milk and
12 milk products within the region.

13 “(2) Study and recommend to the participating
14 states joint or cooperative programs for the adminis-
15 tration of the dairy marketing laws and regulations
16 and to prepare estimates of cost savings and benefits
17 of such programs.

18 “(3) Encourage the harmonious relationships
19 between the various elements in the industry for the
20 solution of their material problems. Conduct
21 symposia or conferences designed to improve indus-
22 try relations, or a better understanding of problems.

23 “(4) Prepare and release periodic reports on ac-
24 tivities and results of the commission’s efforts to the
25 participating states.

1 “(5) Review the existing marketing system for
2 milk and milk products and recommend changes in
3 the existing structure for assembly and distribution
4 of milk which may assist, improve or promote more
5 efficient assembly and distribution of milk.

6 “(6) Investigate costs and charges for pro-
7 ducing, hauling, handling, processing, distributing,
8 selling and for all other services performed with re-
9 spect to milk.

10 “(7) Examine current economic forces affecting
11 producers, probable trends in production and con-
12 sumption, the level of dairy farm prices in relation
13 to costs, the financial conditions of dairy farmers,
14 and the need for an emergency order to relieve crit-
15 ical conditions on dairy farms.

16 **“§ 9. Equitable farm prices**

17 “(a) The powers granted in this section and section
18 ten shall apply only to the establishment of a compact
19 over-order price, so long as federal milk marketing orders
20 remain in effect in the region. In the event that any or
21 all such orders are terminated, this article shall authorize
22 the commission to establish one or more commission mar-
23 keting orders, as herein provided, in the region or parts
24 thereof as defined in the order.

1 “(b) A compact over-order price established pursuant
2 to this section shall apply only to Class I milk. Such com-
3 pact over-order price shall not exceed one dollar and fifty
4 cents per gallon at Atlanta, Ga., however, this compact
5 over-order price shall be adjusted upward or downward at
6 other locations in the region to reflect differences in min-
7 imum federal order prices. Beginning in nineteen hundred
8 ninety, and using that year as a base, the foregoing one
9 dollar fifty cents per gallon maximum shall be adjusted
10 annually by the rate of change in the Consumer Price
11 Index as reported by the Bureau of Labor Statistics of
12 the United States Department of Labor. For purposes of
13 the pooling and equalization of an over-order price, the
14 value of milk used in other use classifications shall be cal-
15 culated at the appropriate class price established pursuant
16 to the applicable federal order or state dairy regulation
17 and the value of unregulated milk shall be calculated in
18 relation to the nearest prevailing class price in accordance
19 with and subject to such adjustments as the commission
20 may prescribe in regulations.

21 “(c) A commission marketing order shall apply to all
22 classes and uses of milk.

23 “(d) The commission is hereby empowered to estab-
24 lish a compact over-order price for milk to be paid by pool
25 plants and partially regulated plants. The commission is

1 also empowered to establish a compact over-order price to
2 be paid by all other handlers receiving milk from pro-
3 ducers located in a regulated area. This price shall be es-
4 tablished either as a compact over-order price or by one
5 or more commission marketing orders. Whenever such a
6 price has been established by either type of regulation, the
7 legal obligation to pay such price shall be determined sole-
8 ly by the terms and purpose of the regulation without re-
9 gard to the situs of the transfer of title, possession or any
10 other factors not related to the purposes of the regulation
11 and this compact. Producer-handlers as defined in an ap-
12 plicable federal market order shall not be subject to a com-
13 pact over-order price. The commission shall provide for
14 similar treatment of producer-handlers under commission
15 marketing orders.

16 “(e) In determining the price, the commission shall
17 consider the balance between production and consumption
18 of milk and milk products in the regulated area, the costs
19 of production including, but not limited to the price of
20 feed, the cost of labor including the reasonable value of
21 the producer’s own labor and management, machinery ex-
22 pense, and interest expense, the prevailing price for milk
23 outside the regulated area, the purchasing power of the
24 public and the price necessary to yield a reasonable return
25 to the producer and distributor.

1 “(f) When establishing a compact over-order price,
 2 the commission shall take such other action as is necessary
 3 and feasible to help ensure that the over-order price does
 4 not cause or compensate producers so as to generate local
 5 production of milk in excess of those quantities necessary
 6 to assure consumers of an adequate supply for fluid pur-
 7 poses.

8 “(g) The commission shall whenever possible enter
 9 into agreements with state or federal agencies for ex-
 10 change of information or services for the purpose of reduc-
 11 ing regulatory burden and cost of administering the com-
 12 pact. The commission may reimburse other agencies for
 13 the reasonable cost of providing these services.

14 **“§ 10. Optional provisions for pricing order**

15 “Regulations establishing a compact over-order price
 16 or a commission marketing order may contain, but shall
 17 not be limited to any of the following:

18 “(1) Provisions classifying milk in accordance
 19 with the form in which or purpose for which it is
 20 used, or creating a flat pricing program.

21 “(2) With respect to a commission marketing
 22 order only, provisions establishing or providing a
 23 method for establishing separate minimum prices for
 24 each use classification prescribed by the commission,

1 or a single minimum price for milk purchased from
2 producers or associations of producers.

3 “(3) With respect to an over-order minimum
4 price, provisions establishing or providing a method
5 for establishing such minimum price for Class I
6 milk.

7 “(4) Provisions for establishing either an over-
8 order price or a commission marketing order may
9 make use of any reasonable method for establishing
10 such price or prices including flat pricing and for-
11 mula pricing. Provision may also be made for loca-
12 tion adjustments, zone differentials and for competi-
13 tive credits with respect to regulated handlers who
14 market outside the regulated area.

15 “(5) Provisions for the payment to all pro-
16 ducers and associations of producers delivering milk
17 to all handlers of uniform prices for all milk so deliv-
18 ered, irrespective of the uses made of such milk by
19 the individual handler to whom it is delivered, or for
20 the payment of producers delivering milk to the
21 same handler of uniform prices for all milk delivered
22 by them.

23 “(A) With respect to regulations estab-
24 lishing a compact over-order price, the commis-
25 sion may establish one equalization pool within

1 the regulated area for the sole purpose of equal-
2 izing returns to producers throughout the regu-
3 lated area.

4 “(B) With respect to any commission mar-
5 keting order, as defined in section two, subdivi-
6 sion three, which replaces one or more termi-
7 nated federal orders or state dairy regulations,
8 the marketing area of now separate state or
9 federal orders shall not be merged without the
10 affirmative consent of each state, voting
11 through its delegation, which is partly or wholly
12 included within any such new marketing area.

13 “(6) Provisions requiring persons who bring
14 Class I milk into the regulated area to make com-
15 pensatory payments with respect to all such milk to
16 the extent necessary to equalize the cost of milk pur-
17 chased by handlers subject to a compact over-order
18 price or commission marketing order. No such provi-
19 sions shall discriminate against milk producers out-
20 side the regulated area. The provisions for compen-
21 satory payments may require payment of the dif-
22 ference between the Class I price required to be paid
23 for such milk in the state of production by a federal
24 milk marketing order or state dairy regulation and

1 the Class I price established by the compact over-
2 order price or commission marketing order.

3 “(7) Provisions specially governing the pricing
4 and pooling of milk handled by partially regulated
5 plants.

6 “(8) Provisions requiring that the account of
7 any person regulated under the compact over-order
8 price shall be adjusted for any payments made to or
9 received by such persons with respect to a producer
10 settlement fund of any federal or state milk mar-
11 keting order or other state dairy regulation within
12 the regulated area.

13 “(9) Provision requiring the payment by han-
14 dlers of an assessment to cover the costs of the ad-
15 ministration and enforcement of such order pursu-
16 ant to Article VII, Section 18(a).

17 “(10) Provisions for reimbursement to partici-
18 pants of the Women, Infants and Children Special
19 Supplemental Food Program of the United States
20 Child Nutrition Act of 1966.

21 “(11) Other provisions and requirements as the
22 commission may find are necessary or appropriate to
23 effectuate the purposes of this compact and to pro-
24 vide for the payment of fair and equitable minimum
25 prices to producers.

“ARTICLE V. RULEMAKING PROCEDURE

“§ 11. Rulemaking procedure

“Before promulgation of any regulations establishing a compact over-order price or commission marketing order, including any provision with respect to milk supply under subsection 9(f), or amendment thereof, as provided in Article IV, the commission shall conduct an informal rulemaking proceeding to provide interested persons with an opportunity to present data and views. Such rulemaking proceeding shall be governed by section four of the Federal Administrative Procedure Act, as amended (5 U.S.C. § 553). In addition, the commission shall, to the extent practicable, publish notice of rulemaking proceedings in the official register of each participating state. Before the initial adoption of regulations establishing a compact over-order price or a commission marketing order and thereafter before any amendment with regard to prices or assessments, the commission shall hold a public hearing. The commission may commence a rulemaking proceeding on its own initiative or may in its sole discretion act upon the petition of any person including individual milk producers, any organization of milk producers or handlers, general farm organizations, consumer or public interest groups, and local, state or federal officials.

1 **“§ 12. Findings and referendum**

2 “(a) In addition to the concise general statement of
3 basis and purpose required by section 4(b) of the Federal
4 Administrative Procedure Act, as amended (5 U.S.C.
5 § 553(c)), the commission shall make findings of fact with
6 respect to:

7 “(1) Whether the public interest will be served
8 by the establishment of minimum milk prices to
9 dairy farmers under Article IV.

10 “(2) What level of prices will assure that pro-
11 ducers receive a price sufficient to cover their costs
12 of production and will elicit an adequate supply of
13 milk for the inhabitants of the regulated area and
14 for manufacturing purposes.

15 “(3) Whether the major provisions of the order,
16 other than those fixing minimum milk prices, are in
17 the public interest and are reasonably designed to
18 achieve the purposes of the order.

19 “(4) Whether the terms of the proposed re-
20 gional order or amendment are approved by pro-
21 ducers as provided in section thirteen.

22 **“§ 13. Producer referendum**

23 “(a) For the purpose of ascertaining whether the
24 issuance or amendment of regulations establishing a com-
25 pact over-order price or a commission marketing order,
26 including any provision with respect to milk supply under

1 subsection 9(f), is approved by producers, the commission
2 shall conduct a referendum among producers. The ref-
3 erendum shall be held in a timely manner, as determined
4 by regulation of the commission. The terms and conditions
5 of the proposed order or amendment shall be described
6 by the commission in the ballot used in the conduct of
7 the referendum, but the nature, content, or extent of such
8 description shall not be a basis for attacking the legality
9 of the order or any action relating thereto.

10 “(b) An order or amendment shall be deemed ap-
11 proved by producers if the commission determines that it
12 is approved by at least two-thirds of the voting producers
13 who, during a representative period determined by the
14 commission, have been engaged in the production of milk
15 the price of which would be regulated under the proposed
16 order or amendment.

17 “(c) For purposes of any referendum, the commission
18 shall consider the approval or disapproval by any coopera-
19 tive association of producers, qualified under the provi-
20 sions of the Act of Congress of February 18, 1922, as
21 amended, known as the Capper–Volstead Act, bona fide
22 engaged in marketing milk, or in rendering services for
23 or advancing the interests of producers of such com-
24 modity, as the approval or disapproval of the producers
25 who are members or stockholders in, or under contract

1 with, such cooperative association of producers, except as
2 provided in subdivision (1) hereof and subject to the provi-
3 sions of subdivision (2) through (5) hereof.

4 “(1) No cooperative which has been formed to
5 act as a common marketing agency for both coopera-
6 tives and individual producers shall be qualified to
7 block vote for either.

8 “(2) Any cooperative which is qualified to block
9 vote shall, before submitting its approval or dis-
10 approval in any referendum, give prior written notice
11 to each of its members as to whether and how it in-
12 tends to cast its vote. The notice shall be given in
13 a timely manner as established, and in the form pre-
14 scribed, by the commission.

15 “(3) Any producer may obtain a ballot from the
16 commission in order to register approval or dis-
17 approval of the proposed order.

18 “(4) A producer who is a member of a coopera-
19 tive which has provided notice of its intent to ap-
20 prove or not to approve a proposed order, and who
21 obtains a ballot and with such ballot expresses his
22 approval or disapproval of the proposed order, shall
23 notify the commission as to the name of the coopera-
24 tive of which he or she is a member, and the com-
25 mission shall remove such producer’s name from the

1 list certified by such cooperative with its corporate
2 vote.

3 “(5) In order to insure that all milk producers
4 are informed regarding the proposed order, the com-
5 mission shall notify all milk producers that an order
6 is being considered and that each producer may reg-
7 ister his approval or disapproval with the commis-
8 sion either directly or through his or her cooperative.

9 **“§ 14. Termination of over-order price or marketing**
10 **order**

11 “(a) The commission shall terminate any regulations
12 establishing an over-order price or commission marketing
13 order issued under this article whenever it finds that such
14 order or price obstructs or does not tend to effectuate the
15 declared policy of this compact.

16 “(b) The commission shall terminate any regulations
17 establishing an over-order price or a commission mar-
18 keting order issued under this article whenever it finds
19 that such termination is favored by a majority of the pro-
20 ducers who, during a representative period determined by
21 the commission, have been engaged in the production of
22 milk the price of which is regulated by such order; but
23 such termination shall be effective only if announced on
24 or before such date as may be specified in such marketing
25 agreement or order.

1 “(c) The termination or suspension of any order or
 2 provision thereof, shall not be considered an order within
 3 the meaning of this article and shall require no hearing,
 4 but shall comply with the requirements for informal rule-
 5 making prescribed by section four of the Federal Adminis-
 6 trative Procedure Act, as amended (5 U.S.C. § 553).

7 **“ARTICLE VI. ENFORCEMENT**

8 **“§ 15. Records; reports; access to premises**

9 “(a) The commission may by rule and regulation pre-
 10 scribe record keeping and reporting requirements for all
 11 regulated persons. For purposes of the administration and
 12 enforcement of this compact, the commission is authorized
 13 to examine the books and records of any regulated person
 14 relating to his or her milk business and for that purpose,
 15 the commission’s properly designated officers, employees,
 16 or agents shall have full access during normal business
 17 hours to the premises and records of all regulated persons.

18 “(b) Information furnished to or acquired by the
 19 commission officers, employees, or its agents pursuant to
 20 this section shall be confidential and not subject to dis-
 21 closure except to the extent that the commission deems dis-
 22 closure to be necessary in any administrative or judicial
 23 proceeding involving the administration or enforcement of
 24 this compact, an over-order price, a compact marketing
 25 order, or other regulations of the commission. The com-

1 mission may promulgate regulations further defining the
2 confidentiality of information pursuant to this section.
3 Nothing in this section shall be deemed to prohibit (i) the
4 issuance of general statements based upon the reports of
5 a number of handlers, which do not identify the informa-
6 tion furnished by any person, or (ii) the publication by
7 direction of the commission of the name of any person vio-
8 lating any regulation of the commission, together with a
9 statement of the particular provisions violated by such
10 person.

11 “(c) No officer, employee, or agent of the commission
12 shall intentionally disclose information, by inference or
13 otherwise, which is made confidential pursuant to this sec-
14 tion. Any person violating the provisions of this section
15 shall, upon conviction, be subject to a fine of not more
16 than one thousand dollars or to imprisonment for not
17 more than one year, or to both, and shall be removed from
18 office. The commission shall refer any allegation of a viola-
19 tion of this section to the appropriate state enforcement
20 authority or United States Attorney.

21 **“§ 16. Subpoena; hearings and judicial review**

22 “(a) The commission is hereby authorized and em-
23 powered by its members and its properly designated offi-
24 cers to administer oaths and issue subpoenas throughout
25 all signatory states to compel the attendance of witnesses

1 and the giving of testimony and the production of other
2 evidence.

3 “(b) Any handler subject to an order may file a writ-
4 ten petition with the commission stating that any such
5 order or any provision of any such order or any obligation
6 imposed in connection therewith is not in accordance with
7 law and praying for a modification thereof or to be ex-
8 empted therefrom. He shall thereupon be given an oppor-
9 tunity for a hearing upon such petition, in accordance with
10 regulations made by the commission. After such hearing,
11 the commission shall make a ruling upon the prayer of
12 such petition which shall be final, if in accordance with
13 law.

14 “(c) The district courts of the United States in any
15 district in which such handler is an inhabitant, or has his
16 principal place of business, are hereby vested with jurisdic-
17 tion to review such ruling, provided a complaint for that
18 purpose is filed within thirty days from the date of the
19 entry of such ruling. Service of process in such pro-
20 ceedings may be had upon the commission by delivering
21 to it a copy of the complaint. If the court determines that
22 such ruling is not in accordance with law, it shall remand
23 such proceedings to the commission with directions either
24 (1) to make such ruling as the court shall determine to
25 be in accordance with law, or (2) to take such further pro-

1 ceedings as, in its opinion, the law requires. The pendency
 2 of proceedings instituted pursuant to this subdivision shall
 3 not impede, hinder, or delay the commission from obtain-
 4 ing relief pursuant to section seventeen. Any proceedings
 5 brought pursuant to section seventeen, except where
 6 brought by way of counterclaim in proceedings instituted
 7 pursuant to this section, shall abate whenever a final de-
 8 cree has been rendered in proceedings between the same
 9 parties, and covering the same subject matter, instituted
 10 pursuant to this section.

11 **“§ 17. Enforcement with respect to handlers**

12 “(a) Any violation by a handler of the provisions of
 13 regulations establishing an over-order price or a commis-
 14 sion marketing order, or other regulations adopted pursu-
 15 ant to this compact shall:

16 “(1) Constitute a violation of the laws of each
 17 of the signatory states. Such violation shall render
 18 the violator subject to a civil penalty in an amount
 19 as may be prescribed by the laws of each of the par-
 20 ticipating states, recoverable in any state or federal
 21 court of competent jurisdiction. Each day such viola-
 22 tion continues shall constitute a separate violation.

23 “(2) Constitute grounds for the revocation of li-
 24 cense or permit to engage in the milk business under
 25 the applicable laws of the participating states.

1 “(b) With respect to handlers, the commission shall
 2 enforce the provisions of this compact, regulations estab-
 3 lishing an over-order price, a commission marketing order
 4 or other regulations adopted hereunder by:

5 “(1) Commencing an action for legal or equi-
 6 table relief brought in the name of the commission
 7 of any state or federal court of competent jurisdic-
 8 tion; or

9 “(2) Referral to the state agency for enforce-
 10 ment by judicial or administrative remedy with the
 11 agreement of the appropriate state agency of a par-
 12 ticipating state.

13 “(c) With respect to handlers, the commission may
 14 bring an action for injunction to enforce the provisions
 15 of this compact or the order or regulations adopted there-
 16 under without being compelled to allege or prove that an
 17 adequate remedy of law does not exist.

18 **“ARTICLE VII. FINANCE**

19 **“§ 18. Finance of start-up and regular costs**

20 “(a) To provide for its start-up costs, the commission
 21 may borrow money pursuant to its general power under
 22 section six, subdivision (d), paragraph four. In order to
 23 finance the costs of administration and enforcement of
 24 this compact, including payback of start-up costs, the
 25 commission is hereby empowered to collect an assessment

1 from each handler who purchases milk from producers
2 within the region. If imposed, this assessment shall be col-
3 lected on a monthly basis for up to one year from the date
4 the commission convenes, in an amount not to exceed
5 \$.015 per hundredweight of milk purchased from pro-
6 ducers during the period of the assessment. The initial as-
7 sessment may apply to the projected purchases of handlers
8 for the two-month period following the date the commis-
9 sion convenes. In addition, if regulations establishing an
10 over-order price or a compact marketing order are adopt-
11 ed, they may include an assessment for the specific pur-
12 pose of their administration. These regulations shall pro-
13 vide for establishment of a reserve for the commission's
14 ongoing operating expenses.

15 “(b) The commission shall not pledge the credit of
16 any participating state or of the United States. Notes
17 issued by the commission and all other financial obliga-
18 tions incurred by it, shall be its sole responsibility and no
19 participating state or the United States shall be liable
20 therefor.

21 **“§ 19. Audit and accounts**

22 “(a) The commission shall keep accurate accounts of
23 all receipts and disbursements, which shall be subject to
24 the audit and accounting procedures established under its
25 rules. In addition, all receipts and disbursements of funds

1 handled by the commission shall be audited yearly by a
 2 qualified public accountant and the report of the audit
 3 shall be included in and become part of the annual report
 4 of the commission.

5 “(b) The accounts of the commission shall be open
 6 at any reasonable time for inspection by duly constituted
 7 officers of the participating states and by any persons au-
 8 thorized by the commission.

9 “(c) Nothing contained in this article shall be con-
 10 strued to prevent commission compliance with laws relat-
 11 ing to audit or inspection of accounts by or on behalf of
 12 any participating state or of the United States.

13 **“ARTICLE VIII. ENTRY INTO** 14 **FORCE; ADDITIONAL MEM-** 15 **BERS AND WITHDRAWAL**

16 **“§ 20. Entry into force; additional members**

17 “The compact shall enter into force effective when
 18 enacted into law by any three states of the group of states
 19 composed of Alabama, Arkansas, Florida, Georgia, Ken-
 20 tucky, Louisiana, Maryland, Mississippi, North Carolina,
 21 Oklahoma, South Carolina, Tennessee, Texas, Virginia
 22 and West Virginia and when the consent of Congress has
 23 been obtained.

1 **“§ 21. Withdrawal from compact**

2 “Any participating state may withdraw from this
3 compact by enacting a statute repealing the same, but no
4 such withdrawal shall take effect until one year after no-
5 tice in writing of the withdrawal is given to the commis-
6 sion and the governors of all other participating states.
7 No withdrawal shall affect any liability already incurred
8 by or chargeable to a participating state prior to the time
9 of such withdrawal.

10 **“§ 22. Severability**

11 “If any part or provision of this compact is adjudged
12 invalid by any court, such judgment shall be confined in
13 its operation to the part or provision directly involved in
14 the controversy in which such judgment shall have been
15 rendered and shall not affect or impair the validity of the
16 remainder of this compact. In the event Congress consents
17 to this compact subject to conditions, said conditions shall
18 not impair the validity of this compact when said condi-
19 tions are accepted by three or more compacting states. A
20 compacting state may accept the conditions of Congress
21 by implementation of this compact.”.

22 **SEC. 202. RESERVATION OF RIGHTS.**

23 The right to alter, amend, or repeal this title is
24 reserved.