

108TH CONGRESS
1ST SESSION

H. R. 1990

To establish a counter-cyclical income support program for dairy producers.

IN THE HOUSE OF REPRESENTATIVES

MAY 6, 2003

Mr. SANDERS (for himself and Mr. OBEY) introduced the following bill; which
was referred to the Committee on Agriculture

A BILL

To establish a counter-cyclical income support program for
dairy producers.

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 “Family Dairy Farmer
5 Preservation Act of 2003”.

6 **SEC. 2. NATIONAL COUNTER-CYCLICAL INCOME SUPPORT**
7 **PROGRAM FOR DAIRY PRODUCERS.**

8 (a) INCOME SUPPORT FOR ELIGIBLE PRODUCERS.—

9 During the period beginning on the date of the enactment
10 of this Act and ending on September 30, 2011, the Sec-

1 retary shall carry out a program to support the income
2 of eligible producers of milk.

3 (b) DEFINITIONS.—In this section:

4 (1) The term “Board” means a Regional Dairy
5 Board established under subsection (e).

6 (2) The terms “Class I milk”, “Class II milk”,
7 “Class III milk”, and “Class IV milk” mean milk
8 (including components of milk) classified as Class I,
9 II, III, or IV milk, respectively, under an order.

10 (3) The term “Class I mover” means the great-
11 er of—

12 (A) the Advanced Class III milk price (as
13 determined under section 1000.50(q)(4)(i) of
14 title 7, Code of Federal Regulations (or a suc-
15 cessor regulation)); and

16 (B) the Advanced Class IV milk price (as
17 determined under section 1000.50(q)(4)(ii) of
18 title 7, Code of Federal Regulations (or a suc-
19 cessor regulation)).

20 (4) The term “covered processor” means a milk
21 plant located in a participating State or a milk plant
22 that, while not located in a participating State, dis-
23 tributes Class I milk products in a participating
24 State.

1 (5) The term “District” means a Regional
2 Dairy District established under subsection (d).

3 (6) The term “eligible producer” means an in-
4 dividual or entity that directly or indirectly has an
5 interest in the production of milk in a participating
6 State.

7 (7) The term “eligible production” means the
8 lesser of—

9 (A) the quantity of milk produced by an el-
10 igible producer during a month; or

11 (B) 500,000 pounds per month.

12 (8) The term “marketing area” means a mar-
13 keting area subject to an order.

14 (9) The term “order” means an order issued
15 under section 8c of the Agricultural Adjustment Act
16 (7 U.S.C. 608c), reenacted with amendments by the
17 Agricultural Marketing Agreement Act of 1937, or a
18 comparable State order, as determined by the Sec-
19 retary.

20 (10) The term “participating State” means a
21 State covered by subsection (c).

22 (11) The term “Secretary” means the Secretary
23 of Agriculture.

24 (12) The term “State” means each of the 48
25 contiguous States of the United States.

1 (13) The term “Trust Fund” means the Na-
2 tional Dairy Producers Trust Fund.

3 (c) PARTICIPATING STATES.—

4 (1) SPECIFIED STATES.—The following States
5 are participating States for purposes of the program
6 authorized by this section: Alabama, Arkansas, Con-
7 necticut, Delaware, Georgia, Kansas, Kentucky,
8 Louisiana, Maine, Maryland, Massachusetts, Mis-
9 sissippi, Missouri, New Hampshire, New Jersey,
10 New York, North Carolina, Oklahoma, Pennsylvania,
11 Rhode Island, South Carolina, Tennessee, Vermont,
12 Virginia, and West Virginia.

13 (2) OTHER STATES.—The Governor of a State
14 not specified in paragraph (1) may designate the
15 State as a participating State by providing notice to
16 the Secretary in the manner prescribed by the Sec-
17 retary.

18 (3) WITHDRAWAL.—To withdraw a State from
19 participation in the program, the Governor of the
20 State (with the concurrence of the legislature of the
21 State) shall provide written notice to the Secretary
22 of the withdrawal of the State.

23 (4) EFFECTIVE DATE OF WITHDRAWAL.—The
24 withdrawal of a State from participation in the pro-
25 gram takes effect—

1 (A) in the case of written notice provided
2 during the 180-day period beginning on the
3 date of the enactment of this Act, on the date
4 on which the notice is provided to the Secretary
5 under paragraph (3); and

6 (B) in the case of written notice provided
7 after such period, on the date that is one year
8 after the date on which the notice is provided
9 to the Secretary under paragraph (3).

10 (5) EFFECT OF PARTICIPATION ON ELIGIBILITY
11 FOR OTHER DAIRY PROGRAMS.—Eligible producers
12 operating in a participating State may not receive
13 payments under section 1502 of the Farm Security
14 and Rural Investment Act of 2002 (7 U.S.C. 7982),
15 notwithstanding any contract entered into under
16 subsection (b) of such section before the date of the
17 enactment of this Act. Payments made under such
18 a contract before such date shall not be recovered,
19 but no further payments shall be made under the
20 contract.

21 (d) REGIONAL DAIRY DISTRICTS.—The Secretary
22 shall establish five Regional Dairy Districts that are com-
23 posed of the following participating States:

24 (1) NORTHEAST DISTRICT.—A Northeast Dis-
25 trict consisting of the States of Connecticut, Dela-

1 ware, Maine, Maryland, Massachusetts, New Hamp-
 2 shire, New Jersey, New York, Ohio, Pennsylvania,
 3 Rhode Island, and Vermont.

4 (2) SOUTHERN DISTRICT.—A Southern District
 5 consisting of the States of Alabama, Arkansas, Flor-
 6 ida, Georgia, Kansas, Kentucky, Louisiana, Mis-
 7 sissippi, Missouri, Nebraska, New Mexico, North
 8 Carolina, Oklahoma, South Carolina, Texas, Ten-
 9 nessee, Virginia, and West Virginia.

10 (3) UPPER MIDWEST DISTRICT.—An Upper
 11 Midwest District consisting of the States of Illinois,
 12 Indiana, Iowa, Michigan, Minnesota, North Dakota,
 13 South Dakota, and Wisconsin.

14 (4) INTERMOUNTAIN DISTRICT.—An Inter-
 15 mountain District consisting of the States of Ari-
 16 zona, Colorado, Idaho, Montana, Nevada, Utah, and
 17 Wyoming.

18 (5) PACIFIC DISTRICT.—A Pacific District con-
 19 sisting of the States of California, Oregon, and
 20 Washington.

21 (e) REGIONAL DAIRY BOARDS.—

22 (1) IN GENERAL.—Each District shall be ad-
 23 ministered by a Regional Dairy Board.

24 (2) COMPOSITION.—The Board of a District
 25 shall be composed of not less than two, and not

1 more than three, members from each participating
2 State in the District, appointed by the Secretary
3 from nominations submitted by the Governor of the
4 State.

5 (3) NOMINATIONS.—The Governor of a partici-
6 pating State shall nominate at least five residents of
7 the State to serve on the Board, of which—

8 (A) at least one nominee shall be an eligi-
9 ble producer at the time of nomination; and

10 (B) at least one nominee shall be a con-
11 sumer representative.

12 (f) NATIONAL DAIRY PRODUCERS TRUST FUND.—

13 (1) ESTABLISHMENT AND FUNDING.—There is
14 established in the Treasury of the United States a
15 trust fund to be known as the National Dairy Pro-
16 ducers Trust Fund, which shall consist of—

17 (A) the payments received by the Secretary
18 and deposited in the Trust Fund under sub-
19 section (g); and

20 (B) the payments made by the Secretary
21 to the Trust Fund under subsection (h).

22 (2) EXPENDITURES.—Amounts in the Trust
23 Fund shall be available to the Secretary, to the ex-
24 tent provided for in advance in an appropriations
25 Act, to carry out this section.

1 (g) PAYMENTS FROM COVERED PROCESSORS TO
2 TRUST FUND.—

3 (1) PAYMENTS REQUIRED.—During any month
4 for which the Class I mover is less than \$14.25,
5 each covered processor that purchases Class I milk
6 during the month that will be sold in a participating
7 State shall pay to the Secretary for deposit in the
8 Trust Fund an amount obtained by multiplying—

9 (A) the difference between \$14.25 per hun-
10 dredweight and the Class I mover; by

11 (B) the quantity of Class I milk purchased
12 from eligible producers during the month.

13 (2) COMPENSATORY PAYMENTS.—The Sec-
14 retary shall promulgate regulations requiring per-
15 sons who sell Class I milk into a participating State
16 to make compensatory payments into the Trust
17 Fund with respect to all such milk to the extent nec-
18 essary to equalize the cost of milk purchased by per-
19 sons subject to paragraph (1). In no case may a
20 compensatory payment be required on Class I milk
21 on which a payment has been made under paragraph
22 (1).

23 (h) COUNTER-CYCLICAL PAYMENTS FROM SEC-
24 RETARY TO TRUST FUND.—If the average price for Class
25 III milk during a month is less than \$13.25 per hundred-

1 weight, the Secretary shall use the funds, facilities, and
2 authorities of the Commodity Credit Corporation (in such
3 amounts as may be necessary) to make a payment each
4 month to the Trust Fund in an amount determined by
5 multiplying—

6 (1) 25 percent of the difference between \$13.25
7 per hundredweight and the weighted average of the
8 price received by producers in each participating
9 State for Class III milk during the month, as deter-
10 mined by the Secretary; by

11 (2) the quantity of eligible production of Class
12 II, Class III, and Class IV milk produced in the var-
13 ious participating States during the month, as deter-
14 mined by the Secretary.

15 (i) COMPENSATION FROM TRUST FUND FOR ADMIN-
16 ISTRATIVE AND INCREASED FOOD ASSISTANCE COSTS.—
17 The Secretary shall use amounts in the Trust Fund to
18 provide compensation—

19 (1) to the Secretary for administrative costs in-
20 curred by the Secretary and Boards in carrying out
21 this section;

22 (2) to the Secretary to cover the increased cost
23 of any milk and milk products provided under any
24 food assistance program administered by the Sec-

1 retary that results from carrying out this section;
2 and

3 (3) to each State for the increased costs in-
4 curred by the State of any milk or milk products
5 provided under the Special Supplemental Nutrition
6 Program for Women, Infants, and Children estab-
7 lished by section 17 of the Child Nutrition Act of
8 1966 (42 U.S.C. 1786) that results from carrying
9 out this section

10 (j) PAYMENTS FROM TRUST FUND TO BOARDS.—

11 (1) IN GENERAL.—The Secretary shall use any
12 amounts in the Trust Fund that remain after pro-
13 viding the compensation required under subsection
14 (i) to make monthly payments to Boards.

15 (2) AMOUNT.—The amount of a payment made
16 to a Board of a District for a month under para-
17 graph (1) shall bear the same ratio to payments
18 made to all Boards for the month as the eligible pro-
19 duction in the District during the month bears to el-
20 igible production sold in all Districts.

21 (k) PAYMENTS BY BOARDS TO PRODUCERS.—

22 (1) IN GENERAL.—With the approval of the
23 Secretary, a Board of a District shall use payments
24 received under subsection (j) to make payments to

1 eligible producers for eligible production of milk that
2 is produced in a participating State in the District.

3 (2) LIMITATION.—An eligible producer may not
4 receive payments under this subsection on produc-
5 tion in excess of 500,000 pounds of milk per month

6 (3) SUPPLY MANAGEMENT.—In carrying out
7 paragraph (1), a Board of a District may—

8 (A) use a portion of the payments de-
9 scribed in paragraph (1) to provide bonuses or
10 other incentives to eligible producers for eligible
11 production to manage the supply of milk pro-
12 duced in the District; and

13 (B) request the Secretary to review a pro-
14 posed action under subparagraph (A).

15 (4) REIMBURSEMENT OF COMMODITY CREDIT
16 CORPORATION.—

17 (A) IN GENERAL.—If the Secretary deter-
18 mines that the Commodity Credit Corporation
19 has incurred additional costs in a fiscal year to
20 carry out section 1501 of the Farm Security
21 and Rural Investment Act of 2002 (7 U.S.C.
22 7981) as a result of overproduction of milk in
23 a District due solely to the operation of this
24 section in that District, the Secretary shall re-
25 quire the Board of that District to reimburse

1 the Commodity Credit Corporation for the addi-
2 tional costs. The amount of any reimbursement
3 by a Board under this subparagraph is limited
4 to the amount that would otherwise be available
5 to the Board to make payments to producers
6 under subsection (j).

7 (B) BOARD ASSESSMENT.—The Board of
8 the District may impose an assessment on pro-
9 ducers within participating States in the Dis-
10 trict to compensate the Commodity Credit Cor-
11 poration for the additional costs.

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