

108TH CONGRESS  
2D SESSION

# H. R. 4597

To establish regional dairy marketing areas to stabilize the price of milk  
and support the income of dairy producers.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 2004

Mr. REYNOLDS (for himself, Mr. MCHUGH, Mr. SANDERS, Mr. ETHERIDGE, Mr. OBEY, Mr. SIMMONS, Mr. BOEHLERT, Mr. MCGOVERN, Mrs. JOHNSON of Connecticut, Mr. QUINN, Mr. HOUGHTON, Mr. WALSH, Mr. TURNER of Texas, Ms. SLAUGHTER, Mr. OLVER, Mr. HINCHEY, Mr. SWEENEY, Mr. McNULTY, Mr. LATOURETTE, Mrs. KELLY, and Mr. LANGEVIN) introduced the following bill; which was referred to the Committee on Agriculture

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## A BILL

To establish regional dairy marketing areas to stabilize the  
price of milk and support the income of 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 “National Dairy Equity  
5       Act of 2004”.

1 **SEC. 2. REGIONAL DAIRY MARKETING AREAS.**

2 Subtitle E of title I of the Farm Security and Rural  
3 Investment Act of 2002 (7 U.S.C. 7981 et seq.) is amend-  
4 ed—

5 (1) by inserting before section 1501 (7 U.S.C.  
6 7981) the following:

7 **“CHAPTER 1—GENERAL PROVISIONS”;**

8 (2) by adding at the end the following:

9 **“CHAPTER 2—REGIONAL DAIRY**  
10 **MARKETING AREAS**

11 **“SEC. 1511. DEFINITIONS.**

12 “In this chapter:

13 “(1) BOARD.—The term ‘Board’ means the Re-  
14 gional Dairy Board established for a Region under  
15 section 1514.

16 “(2) CLASSES OF MILK.—The terms ‘Class I  
17 milk’, ‘Class II milk’, ‘Class III milk’, and ‘Class IV  
18 milk’ mean milk (including components of milk)  
19 classified as Class I, II, III, or IV milk, respectively,  
20 under a Federal milk marketing order.

21 “(3) COVERED PROCESSOR.—The term ‘covered  
22 processor’ means a person or entity operating—

23 “(A) a milk plant located in the regulated  
24 area of a Region; or

1           “(B) a milk plant that, while not located  
2           in the regulated area of a Region, distributes  
3           Class I milk products in a regulated area.

4           “(4) ELIGIBLE PRODUCER.—(A) The term ‘eli-  
5           gible producer’ means an individual or entity that  
6           the Secretary determines directly or indirectly—

7                   “(i) shares in the risk of producing milk;  
8                   and

9                   “(ii) makes contributions (including land,  
10                  labor, management, equipment, or capital) to  
11                  the dairy farming operation of the individual or  
12                  entity that are at least commensurate with the  
13                  share of the individual or entity of the proceeds  
14                  of the operation.

15           “(B) The term does not include an individual or  
16           entity that elects under section 1512(c) to continue  
17           to receive national dairy market loss payments pur-  
18           suant to a contract entered into under section 1502.

19           “(5) FUND.—The term ‘Fund’ means the Na-  
20           tional Dairy Producers Fund established under sec-  
21           tion 1518.

22           “(6) FEDERAL MILK MARKETING ORDER.—The  
23           term ‘Federal milk marketing order’ means a Fed-  
24           eral milk marketing order issued under section 8c of  
25           the Agricultural Adjustment Act (7 U.S.C. 608c),

1 reenacted with amendments by the Agricultural  
2 Marketing Agreement Act of 1937.

3 “(7) OVER-ORDER PREMIUM.—The term ‘over-  
4 order premium’ means the difference between—

5 “(A) the over-order price established by  
6 the Board for the regulated area of a Region;  
7 and

8 “(B) the Class I milk price per hundred-  
9 weight in Boston under the applicable Federal  
10 milk marketing order.

11 “(8) OVER-ORDER PRICE.—The term ‘over-  
12 order price’ means the minimum price for Class I  
13 milk in the regulated area of a Region, as estab-  
14 lished by the Board by regulation under section  
15 1515.

16 “(9) PARTIALLY REGULATED PLANT.—(A) The  
17 term ‘partially regulated plant’ means—

18 “(i) a milk plant that, while not located in  
19 the regulated area of a Region, distributes  
20 Class I milk products in a regulated area; or

21 “(ii) a milk plant that, while located in the  
22 regulated area of a Region, distributes Class I  
23 milk products in the regulated area of a dif-  
24 ferent Region.

1           “(B) The term does not include a milk plant  
2           described in subparagraph (A) that distributes less  
3           than a minimum quantity of Class I milk in the reg-  
4           ulated area in which such distribution occurs, or de-  
5           rives less than a minimum quantity of receipts from  
6           such distribution. The Board for the regulated area  
7           in which such distribution occurs shall establish the  
8           minimum quantity of milk or receipts for purposes  
9           of this exclusion.

10           “(10) PARTICIPATING STATE.—The term ‘par-  
11           ticipating State’ means a State that is designated as  
12           a participating State in a Region under section  
13           1512.

14           “(11) POOL PLANT.—The term ‘pool plant’  
15           means a milk plant located in the regulated area of  
16           a Region.

17           “(12) REGION.—The term ‘Region’ means a  
18           Regional Dairy Marketing Area established under  
19           section 1513.

20           “(13) REGULATED AREA.—The term ‘regulated  
21           area’ means that portion of a Region consisting of  
22           participating States.

23           “(14) SECRETARY.—The term ‘Secretary’  
24           means the Secretary of Agriculture.

1 **“SEC. 1512. PARTICIPATING STATES.**

2 “(a) DESIGNATION OF PARTICIPATING STATES.—

3 For the purpose of this chapter, the following States are  
4 participating States:

5 “(1) Each State in the Northeast, Southern,  
6 and Midwest Regions specified in section 1513.

7 “(2) Each State in a different Region specified  
8 in section 1513, if that State elects to become a par-  
9 ticipating State by providing to the Secretary writ-  
10 ten notice through the Governor of the State in ac-  
11 cordance with State law.

12 “(b) TERMINATION OF PARTICIPATION.—

13 “(1) METHOD OF TERMINATION.—To terminate  
14 the designation of a State as a participating State  
15 in a Region, the Governor of the State (with the  
16 concurrence of the legislature of the State) shall  
17 submit written notice to the Secretary and the appli-  
18 cable Board of the termination.

19 “(2) EFFECTIVE DATE OF TERMINATION.—

20 “(A) INITIAL TERMINATION AUTHORITY.—

21 If a State submits the written notice required  
22 by paragraph (1) before the end of the 30-day  
23 period beginning on the date of enactment of  
24 this chapter, the termination of the designation  
25 of the State as a participating State shall take

1 effect 30 days after the date on which the no-  
2 tice was submitted.

3 “(B) SUBSEQUENT TERMINATION AUTHOR-  
4 ITY.—If a State submits the written notice re-  
5 quired by paragraph (1) after the end of the pe-  
6 riod specified in subparagraph (A), the termi-  
7 nation of the designation of the State as a par-  
8 ticipating State shall take effect 1 year after  
9 the date on which notice was submitted.

10 “(3) RESUMPTION OF PARTICIPATION.—A  
11 State that terminates its designation as a partici-  
12 pating State may restore, in the manner provided by  
13 State law, the designation of the State as a partici-  
14 pating State. The Governor of the State shall pro-  
15 vide written notice to the Secretary and the applica-  
16 ble Board of the decision to restore such designa-  
17 tion, which shall take effect on the first day of the  
18 first month beginning after the Secretary receives  
19 the written notice.

20 “(c) RELATION TO NATIONAL DAIRY MARKET LOSS  
21 PAYMENTS.—

22 “(1) ELECTION OF BENEFITS.—In the case of  
23 each eligible producer operating in a participating  
24 State that is also a party to a contract entered into  
25 under section 1502 to receive national dairy market

1 loss payments, the Secretary shall give the producer  
2 a 60-day period within which to elect to terminate  
3 the contract and to instead receive payments under  
4 this chapter. The 60-day period for eligible pro-  
5 ducers in a State shall commence on the date on  
6 which the State is first designated as a participating  
7 State under subsection (a).

8 “(2) EFFECTIVE DATE OF TERMINATION.—If  
9 an eligible producer elects to terminate a contract  
10 under section 1502, as authorized by paragraph (1),  
11 the termination shall take effect on the date on  
12 which payments are first made to eligible producers  
13 under section 1521 in the participating State in  
14 which the producer operates.

15 “(3) PROTECTION DURING INITIAL STATE TER-  
16 MINATION PERIOD.— If a State exercises the initial  
17 termination authority provided under subsection (b),  
18 any election made by an eligible producer in that  
19 State under paragraph (1) to terminate a contract  
20 under section 1502 shall not take effect.

21 “(4) EFFECT OF ELECTION TO CONTINUE CON-  
22 TRACT.—An eligible producer that does not elect to  
23 terminate a contract under section 1502, as author-  
24 ized by paragraph (1), shall cease to be an eligible  
25 producer for the purpose of this chapter at the end

1 of the period specified in such paragraph. The con-  
2 tract of such a producer shall terminate on Sep-  
3 tember 30, 2005, notwithstanding any amendment  
4 to section 1502 to extend the duration of such con-  
5 tracts. After that date, the producer shall be ineli-  
6 gible for national dairy market loss payments under  
7 section 1502 and ineligible for payments under this  
8 chapter.

9 “(5) EFFECT OF SUBSEQUENT STATE TERMI-  
10 NATION OR RESTORATION OF PARTICIPATION.—An  
11 eligible producer operating in a State that termi-  
12 nates its designation as a participating State under  
13 subsection (b)(2)(B) shall be eligible to enter into a  
14 contract under section 1502 to receive national dairy  
15 market loss payments, but only if—

16 “(A) the producer is not ineligible to re-  
17 ceive such payments under paragraph (4); and

18 “(B) the producer agrees to terminate the  
19 contract under section 1502 if the State in  
20 which the producer operates restores its des-  
21 ignation as a participating State under sub-  
22 section (b)(3).

1 **“SEC. 1513. DAIRY MARKETING AREAS.**

2 “There are established 5 Regional Dairy Marketing  
3 Areas to be composed of the following States, so long as  
4 the States are designated as participating States:

5 “(1) NORTHEAST REGION.—A Northeast Dairy  
6 Marketing Area composed of the States of Con-  
7 necticut, Delaware, Maine, Maryland, Massachu-  
8 setts, New Hampshire, New Jersey, New York,  
9 Pennsylvania, Rhode Island, and Vermont.

10 “(2) SOUTHERN REGION.—A Southern Dairy  
11 Marketing Area composed of the States of Alabama,  
12 Arkansas, Florida, Georgia, Kentucky, Louisiana,  
13 Mississippi, Missouri, North Carolina, Oklahoma,  
14 South Carolina, Texas, Tennessee, Virginia, and  
15 West Virginia.

16 “(3) MIDWEST REGION.—A Midwest Dairy  
17 Marketing Area composed of the States of Illinois,  
18 Indiana, Iowa, Kansas, Michigan, Minnesota, Ne-  
19 braska, North Dakota, Ohio, South Dakota, and  
20 Wisconsin.

21 “(4) INTERMOUNTAIN REGION.—An Inter-  
22 mountain Dairy Marketing Area composed of the  
23 States of Arizona, Colorado, Idaho, Montana, Ne-  
24 vada, New Mexico, Utah, and Wyoming.

1           “(5) PACIFIC REGION.—A Pacific Dairy Mar-  
2           keting Area composed of the States of Alaska, Cali-  
3           fornia, Hawaii, Oregon, and Washington.

4   **“SEC. 1514. REGIONAL DAIRY BOARDS.**

5           “(a) IN GENERAL.—Each Region shall be adminis-  
6           tered by a Regional Dairy Board.

7           “(b) COMPOSITION.—

8           “(1) NUMBER AND APPOINTMENT.—The Board  
9           for a Region shall be composed of 3 members from  
10          each participating State in the Region, appointed by  
11          the Secretary from nominations submitted as pro-  
12          vided in paragraph (2).

13          “(2) NOMINATION PROCESS.—The members of  
14          the Board from a participating State shall be se-  
15          lected from at least 9 individuals nominated by the  
16          Governor of the State, except that, if the commis-  
17          sioner of the department of agriculture of the State  
18          is an elected position, the nominations for the State  
19          shall be made by the commissioner. The nominations  
20          shall be made in consultation with eligible producers  
21          and the dairy industry in the participating State.

22          “(3) REPRESENTATION.—Of the members of  
23          the Board nominated and appointed to represent a  
24          participating State—

1           “(A) at least 1 member shall be an eligible  
2           producer in the State at the time of nomination  
3           and appointment; and

4           “(B) at least 1 member shall be a con-  
5           sumer representative.

6       “(c) TERMS.—

7           “(1) IN GENERAL.—Except as provided in para-  
8           graph (2), each member of the Board shall serve for  
9           a term of 3 years.

10          “(2) INITIAL APPOINTMENTS.—Of the members  
11          first appointed to the Board from a participating  
12          States, the Secretary shall appoint—

13               “(A) 1 member to serve a term of 1 year;

14               “(B) 1 member to a term of 2 years; and

15               “(C) 1 member to a term of 3 years.

16       “(d) VOTING.—The members of the Board rep-  
17       resenting a participating State shall be entitled to cast  
18       only 1 vote on behalf of the participating State in any  
19       vote taken by members of the Board.

20       “(e) POWERS.—In carrying out this chapter in a Re-  
21       gion, the Board for the Region is authorized—

22               “(1) to investigate, or provide for investigations  
23       or research projects designed to review, the laws of  
24       participating States in the Region—

1                   “(A) to measure the impact of the laws  
2                   on—

3                   “(i) the production and marketing of  
4                   milk; and

5                   “(ii) the shipment of milk and milk  
6                   products in the Region; and

7                   “(B) to review the administration and  
8                   costs of the laws.

9                   “(2) to study and recommend to participating  
10                  States of the Region joint or cooperative programs  
11                  for the administration of dairy marketing laws and  
12                  to prepare estimates of cost savings and benefits of  
13                  such programs;

14                  “(3) to encourage harmonious relationships be-  
15                  tween the various elements of the dairy industry in  
16                  the Region for the solution of material problems, in-  
17                  cluding conducting symposia or conferences designed  
18                  to improve dairy-industry relations; or resolve prob-  
19                  lems of the dairy industry;

20                  “(4) to submit to participating States in the  
21                  Region periodic reports on activities and programs  
22                  of the Board;

23                  “(5) to review the processing and marketing  
24                  system for milk and milk products in the regulated  
25                  area of the Region and to recommend changes in the

1 system used for the production and distribution of  
2 milk to assist, improve, or promote more efficient  
3 production and distribution of milk;

4 “(6) to investigate costs and charges in the reg-  
5 ulated area of the Region for producing, hauling,  
6 handling, processing, distributing, selling, and con-  
7 ducting all other services performed with respect to  
8 milk;

9 “(7) to examine—

10 “(A) economic forces affecting eligible pro-  
11 ducers in the Region;

12 “(B) probable trends in production and  
13 consumption of milk and milk products in the  
14 Region;

15 “(C) the level of dairy farm prices in rela-  
16 tion to costs in the Region;

17 “(D) the financial condition of eligible pro-  
18 ducers in the Region; and

19 “(E) the need for an emergency order to  
20 relieve critical conditions on dairy farms in the  
21 regulated area;

22 “(8) to take such actions as may be necessary  
23 to manage any overproduction of milk in the regu-  
24 lated area of the Region, including the authority to  
25 develop and implement an incentive-based supply

1 management program in addition to other actions to  
 2 manage such overproduction; and

3 “(9) to issue such orders, promulgate such reg-  
 4 ulations, and take such other actions as are nec-  
 5 essary to carry out this chapter in the regulated  
 6 area of the Region.

7 “(f) USE OF OTHER AGENCIES.—The Board for a  
 8 Region shall, to the maximum extent practicable, enter  
 9 into agreements with Federal or State agencies for the ex-  
 10 change of information or services for the purpose of reduc-  
 11 ing regulatory burden and cost of administering this chap-  
 12 ter. The Board may reimburse other agencies for the rea-  
 13 sonable cost of providing the services.

14 “(g) TECHNICAL ASSISTANCE.—At the request of the  
 15 Board, the administrator of a Federal milk marketing  
 16 order shall provide technical assistance to the Board. The  
 17 Board shall reimburse the administrator for the reason-  
 18 able cost of providing the technical assistance.

19 **“SEC. 1515. ESTABLISHMENT OF OVER-ORDER PRICE FOR**  
 20 **SALE OF CLASS I MILK.**

21 “(a) AUTHORITY TO ESTABLISH OVER-ORDER  
 22 PRICE.—Subject to subsection (b), the Board for a Region  
 23 may establish, by regulation, an over-order price for the  
 24 sale of Class I milk in the regulated area of a Region  
 25 that—

1           “(1) is higher than the price for Class I milk  
2           established under Federal milk marketing orders op-  
3           erating in the regulated area; and

4           “(2) is higher than the price for fluid milk oth-  
5           erwise applicable in any portion of the regulated  
6           area not covered by a Federal milk marketing order.

7           “(b) MAXIMUM AUTHORIZED OVER-ORDER PRICE.—  
8           During the beginning on the date of the enactment of this  
9           chapter and ending on December 31, 2005, an over-order  
10          price established under subsection (a) may not exceed  
11          \$17.50 per hundredweight. For each subsequent calendar  
12          year, the maximum over-order price applicable during the  
13          preceding year shall be adjusted by the Secretary to reflect  
14          changes for the 12-month period ending the preceding No-  
15          vember 30 in the Consumer Price Index for All Urban  
16          Consumers published by the Bureau of Labor Statistics  
17          of the Department of Labor.

18          “(c) APPLICATION OF OVER-ORDER PRICE AND PRE-  
19          MIUM.—

20                 “(1) UNIFORM PRICES.—In the regulations es-  
21                 tablishing an over-order price, the Board shall pro-  
22                 vide for—

23                         “(A) the payment of uniform prices to all  
24                         eligible producers and associations of eligible  
25                         producers delivering milk to all covered proc-

1           essors for all milk so delivered, irrespective of  
2           the uses made of the milk by an individual cov-  
3           ered processor; or

4                   “(B) the payment of uniform prices to all  
5           eligible producers and associations of eligible  
6           producers delivering milk to the same covered  
7           processor for all milk delivered by the eligible  
8           producers and associations to that covered proc-  
9           essor.

10           “(2) PAYMENT BY COVERED PROCESSORS.—As  
11          provided in section 1516, the over-order premium  
12          applicable to the regulated area of a Region, deter-  
13          mined on the basis of the over-order price estab-  
14          lished under subsection (a) for the regulated area,  
15          shall be paid by pool plants, partially regulated  
16          plants, and all other covered processors receiving  
17          milk from eligible producers located in a regulated  
18          area.

19           “(3) LEGAL OBLIGATION TO PAY PRICE.—The  
20          legal obligation to pay the over-order price shall be  
21          determined solely by the terms and purpose of the  
22          regulation establishing the price, without regard to  
23          the location of the transfer of title, possession, or  
24          any other factors not related to the purposes of the  
25          regulation and this chapter.

1           “(4) PRODUCER-HANDLERS.—A producer-han-  
2       dler (as defined in the applicable Federal milk mar-  
3       keting order) that sells not more 150,000 pounds of  
4       milk per month shall not be subject to an over-order  
5       price under this subsection or the payment of the re-  
6       sulting over-order premium.

7       “(d) EQUALIZATION POOLS.—

8           “(1) OVER-ORDER PRICES.—In the case of reg-  
9       ulations establishing an over-order price, the Board  
10      may establish 1 or more equalization pools within  
11      the regulated area for the sole purpose of equalizing  
12      returns to eligible producers throughout the regu-  
13      lated area.

14          “(2) POOLING AND EQUALIZATION OF OVER-  
15      ORDER PRICES.—For purposes of the pooling and  
16      equalization of an over-order price—

17           “(A) the value of milk used in other use  
18           classifications shall be calculated at the appro-  
19           priate class price established pursuant to the  
20           applicable Federal milk marketing order; and

21           “(B) the value of milk not covered by a  
22           Federal milk marketing order shall be cal-  
23           culated in relation to the nearest prevailing  
24           class price in accordance with and subject to

1           such adjustments as the Board may prescribe  
2           by regulation.

3           “(e) FACTORS.—In determining the amount of an  
4 over-order price to be established under this section, the  
5 Board shall consider—

6           “(1) the balance between production and con-  
7 sumption of milk and milk products in the regulated  
8 area;

9           “(2) the costs of milk production in the regu-  
10 lated area, including—

11           “(A) the price of feed, including the cost of  
12 hay, silage, pasture, and other forage;

13           “(B) the cost of labor, including the rea-  
14 sonable value of the eligible producer’s own  
15 labor and management;

16           “(C) machinery expenses;

17           “(D) interest expenses; and

18           “(E) other cash expenses, including the  
19 cost of hauling, veterinary services and medi-  
20 cine, bedding and litter, marketing, custom  
21 services and supplies, fuel, lubrication, elec-  
22 tricity, machinery and building repairs, labor,  
23 association fees, and assessments;

24           “(3) the prevailing price for milk outside the  
25 regulated area;

1 “(4) the purchasing power of the public; and

2 “(5) the price necessary to yield a reasonable  
3 return to the eligible producer.

4 “(f) PRODUCER SETTLEMENT FUNDS.—The regula-  
5 tions shall require that the account of any person regu-  
6 lated under the over-order price shall be adjusted for any  
7 payments made to or received by the person with respect  
8 to a producer settlement fund of any Federal milk mar-  
9 keting order within the regulated area.

10 **“SEC. 1516. PAYMENTS FROM COVERED PROCESSORS.**

11 “(a) PAYMENTS REQUIRED.—Subject to subsection  
12 (b), each covered processor that purchases Class I milk  
13 during a month that will be sold in the regulated area  
14 of a Region shall pay to the Secretary an amount equal  
15 to the product obtained by multiplying—

16 “(1) the over-order premium in effect for the  
17 regulated area for the month; by

18 “(2) the quantity of Class I milk so purchased  
19 from eligible producers during the month.

20 “(b) REDUCTION FOR ANY APPLICABLE EQUALI-  
21 ZATION PAYMENTS.—The product obtained under sub-  
22 section (a) for a covered processor for a month shall be  
23 reduced by any applicable equalization payments made for  
24 the same month by the covered processor pursuant to reg-  
25 ulations issued under section 1517(a).

1       “(c) DEPOSIT OF PAYMENTS IN FUND.—The Sec-  
 2       retary shall deposit amounts received under this section  
 3       in the Fund.

4       **“SEC. 1517. OPTIONAL PROVISIONS FOR PRICING ORDERS.**

5       “(a) EQUALIZATION PAYMENTS.—

6               “(1) IN GENERAL.—In issuing regulations es-  
 7       tablishing an over-order price, the Board for a Re-  
 8       gion may include a provision to require persons that  
 9       bring Class I milk into the regulated area of the Re-  
 10      gion to make equalization payments with respect to  
 11      all such milk to the extent necessary to equalize the  
 12      cost of milk purchased by covered processors subject  
 13      to the over-order price.

14              “(2) DISCRIMINATION.—The regulations shall  
 15      not discriminate against milk producers outside the  
 16      regulated area.

17              “(3) AMOUNT.—The regulations for equali-  
 18      zation payments may require payment of the dif-  
 19      ference between—

20                      “(A) the applicable over-order price; and

21                      “(B) the Class I price required to be paid  
 22              for the milk in the State of production by a  
 23              Federal milk marketing order.

24       “(b) PARTIALLY REGULATED PLANTS.—The regula-  
 25      tions issued by the Board for a Region may provide special

1 provisions governing the pricing and pooling of milk han-  
2 dled by partially regulated plants.

3 “(c) OTHER PROVISIONS.—The regulations issued by  
4 the Board for a Region may contain such other provisions  
5 and requirements as the Board determines are necessary  
6 or appropriate—

7 “(1) to effectuate the purposes of this chapter;  
8 and

9 “(2) to provide for the payment of fair and eq-  
10 uitable minimum prices for milk sold by eligible pro-  
11 ducers.

12 **“SEC. 1518. NATIONAL DAIRY PRODUCERS FUND.**

13 “(a) ESTABLISHMENT.—There is established in the  
14 Treasury of the United States a revolving fund to be  
15 known as the ‘National Dairy Producers Fund’. The fund  
16 shall consist of the following:

17 “(1) Payments by covered processors required  
18 to be deposited in the Fund under section 1516(c).

19 “(2) The interest on, and the proceeds from the  
20 sale or redemption of, any obligations held in the  
21 Fund under subsection (d).

22 “(3) To the extent that amounts referred to in  
23 the preceding paragraphs are insufficient to carry  
24 out this chapter, funds of the Commodity Credit

1 Corporation, which shall be transferred by the Sec-  
 2 retary to the Fund to make up the short-fall.

3 “(b) EXPENDITURES FROM FUND.—On request by  
 4 the Secretary, the Secretary of the Treasury shall transfer  
 5 from the Fund to the Secretary such amounts as the Sec-  
 6 retary determines are necessary to carry out this chapter.

7 “(c) INVESTMENT OF AMOUNTS.—

8 “(1) IN GENERAL.—The Secretary of the  
 9 Treasury shall invest such portion of the Fund as is  
 10 not, in the judgment of the Secretary, required to  
 11 meet current operating requirements.

12 “(2) INVESTMENTS.—Investments may be made  
 13 only in interest-bearing obligations of the United  
 14 States.

15 “(3) ACQUISITION OF OBLIGATIONS.—For the  
 16 purpose of investments under paragraph (1), obliga-  
 17 tions may be acquired—

18 “(A) on original issue at the issue price; or

19 “(B) by purchase of outstanding obliga-  
 20 tions at the market price.

21 “(4) SALE OF OBLIGATIONS.—Any obligation  
 22 acquired by the Fund may be sold by the Secretary  
 23 of the Treasury at the market price.

1 **“SEC. 1519. COMPENSATION FOR ADMINISTRATIVE AND IN-**  
2 **CREASED FOOD ASSISTANCE COSTS.**

3 “(a) ADMINISTRATIVE COSTS.—

4 “(1) BOARD ASSESSMENT FOR ADMINISTRATIVE  
5 COSTS.—The Board for a Region may impose and  
6 collect an assessment on covered processors oper-  
7 ating in the regulated area of the Region to cover  
8 administrative costs incurred by the Board to carry  
9 out its duties under this chapter. The assessment  
10 amount may not exceed \$0.03 per hundredweight.

11 “(2) USE OF FUND.—The Secretary shall use  
12 amounts in the Fund to cover—

13 “(A) administrative costs incurred by the  
14 Secretary to carry out this chapter; and

15 “(B) any administrative costs incurred by  
16 the Boards not covered by the assessments im-  
17 posed under paragraph (1).

18 “(b) INCREASED FEDERAL FOOD ASSISTANCE  
19 COSTS.—The Secretary shall use amounts in the Fund to  
20 cover the increased cost of any milk and milk products  
21 that results from carrying out this chapter—

22 “(1) child nutrition programs (as defined in  
23 section 25(b) of the Richard B. Russell National  
24 School Lunch Act (42 U.S.C. 1769f(b)); and

25 “(2) nutrition services provided through  
26 projects carried out under part C of title IV of the

1 Older Americans Act of 1965 (42 U.S.C. 3030e et  
2 seq.).

3 “(c) INCREASED STATE FOOD ASSISTANCE COSTS.—  
4 The Secretary shall use amounts in the Fund to make  
5 payments to each participating State for the increased  
6 costs incurred by the participating State of any milk or  
7 milk products provided under the special supplemental nu-  
8 trition program for women, infants, and children estab-  
9 lished by section 17 of the Child Nutrition Act of 1966  
10 (42 U.S.C. 1786) that results from carrying out this chap-  
11 ter.

12 “(d) COMPENSATION OF COMMODITY CREDIT COR-  
13 PORATION FOR INCREASED MILK PURCHASES.—At the  
14 end of each month for which an over-order price is in ef-  
15 fect for a Region, the Board of the Region shall com-  
16 pensate the Commodity Credit Corporation for the cost  
17 of any purchases of milk and milk products by the Cor-  
18 poration in the regulated area of the Region for that  
19 month resulting from a rate of increase in milk production  
20 for the month in the regulated area in excess of the na-  
21 tional average rate of the increase in milk production over  
22 the 3-year period ending at the end of the preceding  
23 month, as determined by the Secretary.

1 **“SEC. 1520. USE OF FUND TO ASSIST ELIGIBLE PRODUCERS.**

2 “(a) PROVISION OF FUNDS TO BOARDS.—The Sec-  
3 retary shall use amounts in the Fund to make monthly  
4 payments to the Boards.

5 “(b) AMOUNT.—The amount of a payment made to  
6 a Board for a Region for the most recent month for which  
7 data are available shall be the greater of—

8 “(1) the amount of payments made by covered  
9 processors to the Fund under section 1516 for pur-  
10 chases of Class I milk that will be sold in the regu-  
11 lated area of the Region during the month; or

12 “(2) the amount obtained by multiplying—

13 “(A) a payment quantity equal to the total  
14 quantity of all milk produced in the regulated  
15 area of the Region during the month;

16 “(B) a payment rate equal to the over-  
17 order premium in effect for the regulated area  
18 for the month; and

19 “(C) 50 percent.

20 “(c) PAYMENTS TO PRODUCERS.—The Board for a  
21 Region shall use amounts received under this section to  
22 make payments to eligible producers for all classes of milk  
23 that is produced in the regulated area of the Region.

24 **“SEC. 1521. PRODUCER REFERENDUM.**

25 “(a) REFERENDUM REQUIRED.—For the purpose of  
26 ascertaining whether the issuance, amendment, or termi-

1 nation of regulations establishing an over-order price is  
2 approved by eligible producers in the regulated area of a  
3 Region, the Board for the Region shall conduct a ref-  
4 erendum among such eligible producers.

5 “(b) TIMING.—The referendum shall be held in a  
6 timely manner, as determined by regulation of the Board.

7 “(c) BALLOT CONTENT.—

8 “(1) IN GENERAL.—The terms and conditions  
9 of the proposed order or amendment shall be de-  
10 scribed by the Board in the ballot used in the ref-  
11 erendum.

12 “(2) ACTIONS.—The nature, content, or extent  
13 of the description shall not be used a basis for at-  
14 tacking the legality of the order or any action relat-  
15 ing to the order.

16 “(d) APPROVAL.—An order or amendment shall be  
17 considered approved by eligible producers if the Board de-  
18 termines that the order or amendment is approved by a  
19 majority of the voting eligible producers who, during a  
20 representative period determined by the Board, have been  
21 engaged in the production of milk the price of which would  
22 be regulated under the proposed order or amendment.

23 “(e) COOPERATIVES.—

24 “(1) IN GENERAL.—Subject to paragraphs (2)  
25 through (6), for the purpose of a referendum, the

1 Board shall consider the approval or disapproval by  
2 any cooperative association of eligible producers  
3 qualified under the Act entitled ‘An Act to authorize  
4 association of producers of agricultural products’  
5 (commonly known as the ‘Capper-Volstead Act’) (7  
6 U.S.C. 291 et seq) and engaged in marketing milk,  
7 or in rendering services for or advancing the inter-  
8 ests of eligible producers, as the approval or dis-  
9 approval of the eligible producers who are members  
10 or stockholders in, or under contract with, the coop-  
11 erative association of eligible producers.

12 “(2) COMMON MARKETING AGENCY.—No coop-  
13 erative that has been formed to act as a common  
14 marketing agency for both the cooperative and indi-  
15 vidual eligible producers shall be qualified to block  
16 vote for the cooperative or individual eligible pro-  
17 ducers.

18 “(3) NOTIFICATION BY COOPERATIVE.—

19 “(A) IN GENERAL.—Any cooperative that  
20 is qualified to block vote shall, before submit-  
21 ting the approval or disapproval of the coopera-  
22 tive in any referendum, give prior written notice  
23 to each of the members of the cooperative as to  
24 whether and how the cooperative intends to cast  
25 the vote of the cooperative.

1           “(B) ADMINISTRATION.—The notice shall  
2           be given in a timely manner as established, and  
3           in the form prescribed, by the Board.

4           “(4) PRODUCER BALLOTS.—

5           “(A) IN GENERAL.—Any eligible producer  
6           may obtain a ballot from the Board in order to  
7           register approval or disapproval of the proposed  
8           order.

9           “(B) BALLOTS.—If a cooperative provides  
10          notice to an eligible producer of the intent of  
11          the cooperative to approve or not approve a pro-  
12          posed order and the eligible producer casts a  
13          ballot that is contrary to the intent of the coop-  
14          erative—

15               “(i) the eligible producer shall notify  
16               the Board as to the name of the coopera-  
17               tive of which the eligible producer is a  
18               member; and

19               “(ii) the Board shall—

20                       “(I) remove the name of the eli-  
21                       gible producer from the list certified  
22                       by the cooperative of corporate vote of  
23                       the cooperative; and

1 “(II) provide the eligible pro-  
 2 ducer with an independent ballot that  
 3 may be cast in the referendum.

4 “(5) NOTIFICATION BY BOARD.—In order to  
 5 ensure that all eligible producers are informed re-  
 6 garding the proposed order, the Board shall notify  
 7 all eligible producers that—

8 “(A) an order is being considered; and

9 “(B) each eligible producer may register  
 10 the approval or disapproval of the eligible pro-  
 11 ducer with the Board directly or through the  
 12 cooperative of the eligible producer.

13 **“SEC. 1522. ENFORCEMENT WITH RESPECT TO COVERED**  
 14 **PROCESSORS.**

15 “In the case of covered processors, the Board may  
 16 enforce this chapter (including regulations establishing an  
 17 over-order price and other regulations issued under this  
 18 chapter) by—

19 “(1) commencing an action for legal or equi-  
 20 table relief brought in the name of the Board in  
 21 Federal or State court of competent jurisdiction;

22 “(2) referral to the State agency for enforce-  
 23 ment by judicial or administrative remedy with the  
 24 agreement of the appropriate State agency of a par-  
 25 ticipating State; or

1           “(3) bringing an action for an injunction to en-  
2           force this chapter, without being compelled to allege  
3           or prove that an adequate remedy of law does not  
4           exist.”.

5   **SEC. 3. NATIONAL DAIRY MARKET LOSS PAYMENTS.**

6           Section 1502 of the Farm Security and Rural Invest-  
7   ment Act of 2002 (7 U.S.C. 7982) is amended by striking  
8   “2005” each place it appears in subsections (f) and (g)(1)  
9   and inserting “2007”.

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