

108TH CONGRESS
2D SESSION

S. 2525

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

IN THE SENATE OF THE UNITED STATES

JUNE 16, 2004

Mr. SPECTER (for himself and Mr. SCHUMER) introduced the following bill;
which was read twice and referred to the Committee on Agriculture, Nu-
trition, and Forestry

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”.

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

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

1 (1) by inserting before section 1501 (7 U.S.C.
2 7981) the following:

3 **“CHAPTER 1—GENERAL PROVISIONS”;**

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

5 **“CHAPTER 2—REGIONAL DAIRY**
6 **MARKETING AREAS**

7 **“SEC. 1511. DEFINITIONS.**

8 “In this chapter:

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

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

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

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

21 “(B) a milk plant that, while not located
22 in the regulated area of a Region, distributes
23 Class I milk products in a regulated area.

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

4 “(i) shares in the risk of producing milk;

5 and

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

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

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

19 “(6) FEDERAL MILK MARKETING ORDER.—The
20 term ‘Federal milk marketing order’ means a Fed-
21 eral milk marketing order issued under section 8c of
22 the Agricultural Adjustment Act (7 U.S.C. 608c),
23 reenacted with amendments by the Agricultural
24 Marketing Agreement Act of 1937.

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

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

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

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

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

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

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

23 “(B) The term does not include a milk plant
24 described in subparagraph (A) that distributes less
25 than a minimum quantity of Class I milk in the reg-

1 ulated area in which such distribution occurs, or de-
 2 rives less than a minimum quantity of receipts from
 3 such distribution. The Board for the regulated area
 4 in which such distribution occurs shall establish the
 5 minimum quantity of milk or receipts for purposes
 6 of this exclusion.

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

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

14 “(12) REGION.—The term ‘Region’ means a
 15 Regional Dairy Marketing Area established under
 16 section 1513.

17 “(13) REGULATED AREA.—The term ‘regulated
 18 area’ means that portion of a Region consisting of
 19 participating States.

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

22 **“SEC. 1512. PARTICIPATING STATES.**

23 “(a) DESIGNATION OF PARTICIPATING STATES.—
 24 For the purpose of this chapter, the following States are
 25 participating States:

1 “(1) Each State in the Northeast, Southern,
2 and Upper Midwest Regions specified in section
3 1513.

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

9 “(b) TERMINATION OF PARTICIPATION.—

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

16 “(2) EFFECTIVE DATE OF TERMINATION.—

17 “(A) INITIAL TERMINATION AUTHORITY.—

18 If a State submits the written notice required
19 by paragraph (1) before the end of the 30-day
20 period beginning on the date of enactment of
21 this chapter, the termination of the designation
22 of the State as a participating State shall take
23 effect 30 days after the date on which the no-
24 tice was submitted.

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

8 “(c) RELATION TO NATIONAL DAIRY MARKET LOSS
 9 PAYMENTS.—

10 “(1) ELECTION OF BENEFITS.—In the case of
 11 each eligible producer operating in a participating
 12 State that is also a party to a contract entered into
 13 under section 1502 to receive national dairy market
 14 loss payments, the Secretary shall give the producer
 15 a 60-day period within which to elect to terminate
 16 the contract and to instead receive payments under
 17 this chapter. The 60-day period for eligible pro-
 18 ducers in a State shall commence on the date on
 19 which the State is first designated as a participating
 20 State under subsection (a).

21 “(2) EFFECTIVE DATE OF TERMINATION.—If
 22 an eligible producer elects to terminate a contract
 23 under section 1502, as authorized by paragraph (1),
 24 the termination shall take effect on the date on
 25 which payments are first made to eligible producers

1 under section 1521 in the participating State in
2 which the producer operates.

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

9 “(4) EFFECT OF ELECTION TO CONTINUE CON-
10 TRACT.—An eligible producer that does not elect to
11 terminate a contract under section 1502, as author-
12 ized by paragraph (1), shall cease to be an eligible
13 producer for the purpose of this chapter at the end
14 of the period specified in such paragraph. The con-
15 tract of such a producer shall terminate on Sep-
16 tember 30, 2005, notwithstanding any amendment
17 to section 1502 to extend the duration of such con-
18 tracts. After that date, the producer shall be ineli-
19 gible for national dairy market loss payments under
20 section 1502 and ineligible for payments under this
21 chapter.

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

23 “There are established 5 Regional Dairy Marketing
24 Areas to be composed of the following States, so long as
25 the States are designated as participating States:

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

6 “(2) SOUTHERN REGION.—A Southern Dairy
 7 Marketing Area composed of the States of Alabama,
 8 Arkansas, Florida, Georgia, Kansas, Kentucky, Lou-
 9 isiana, Mississippi, Missouri, Nebraska, North Caro-
 10 lina, Oklahoma, South Carolina, Texas, Tennessee,
 11 Virginia, and West Virginia.

12 “(3) UPPER MIDWEST REGION.—An Upper
 13 Midwest Dairy Marketing Area composed of the
 14 States of Illinois, Indiana, Iowa, Michigan, Min-
 15 nesota, North Dakota, South Dakota, and Wis-
 16 consin.

17 “(4) INTERMOUNTAIN REGION.—An Inter-
 18 mountain Dairy Marketing Area composed of the
 19 States of Arizona, Colorado, Idaho, Montana, Ne-
 20 vada, New Mexico, Utah, and Wyoming.

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

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

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

4 “(b) COMPOSITION.—

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

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

19 “(3) REPRESENTATION.—Of the members of
20 the Board nominated and appointed to represent a
21 participating State—

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

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

1 “(c) TERMS.—

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

5 “(2) INITIAL APPOINTMENTS.—Of the members
6 first appointed to the Board from a participating
7 State, the Secretary shall appoint—

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

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

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

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

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

17 “(1) to investigate, or provide for investigations
18 or research projects designed to review, the laws of
19 participating States in the Region—

20 “(A) to measure the impact of the laws
21 on—

22 “(i) the production and marketing of
23 milk; and

24 “(ii) the shipment of milk and milk
25 products in the Region; and

1 “(B) to review the administration and
2 costs of the laws.

3 “(2) to study and recommend to participating
4 States of the Region joint or cooperative programs
5 for the administration of dairy marketing laws and
6 to prepare estimates of cost savings and benefits of
7 such programs;

8 “(3) to encourage harmonious relationships be-
9 tween the various elements of the dairy industry in
10 the Region for the solution of material problems, in-
11 cluding conducting symposia or conferences designed
12 to improve dairy-industry relations; or resolve prob-
13 lems of the dairy industry;

14 “(4) to submit to participating States in the
15 Region periodic reports on activities and programs
16 of the Board;

17 “(5) to review the processing and marketing
18 system for milk and milk products in the regulated
19 area of the Region and to recommend changes in the
20 system used for the production and distribution of
21 milk to assist, improve, or promote more efficient
22 production and distribution of milk;

23 “(6) to investigate costs and charges in the reg-
24 ulated area of the Region for producing, hauling,
25 handling, processing, distributing, selling, and con-

1 ducting all other services performed with respect to
2 milk;

3 “(7) to examine—

4 “(A) economic forces affecting eligible pro-
5 ducers in the Region;

6 “(B) probable trends in production and
7 consumption of milk and milk products in the
8 Region;

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

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

13 “(E) the need for an emergency order to
14 relieve critical conditions on dairy farms in the
15 regulated area;

16 “(8) to take such actions as may be necessary
17 to manage any overproduction of milk in the regu-
18 lated area of the Region, including the authority to
19 develop and implement an incentive-based supply
20 management program in addition to other actions to
21 manage such overproduction; and

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

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

8 “(g) TECHNICAL ASSISTANCE.—At the request of the
 9 Board, the administrator of a Federal milk marketing
 10 order shall provide technical assistance to the Board. The
 11 Board shall reimburse the administrator for the reason-
 12 able cost of providing the technical assistance.

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

15 “(a) AUTHORITY TO ESTABLISH OVER-ORDER
 16 PRICE.—Subject to subsection (b), the Board for a Region
 17 may establish, by regulation, an over-order price for the
 18 sale of Class I milk in the regulated area of a Region
 19 that—

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

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

1 “(b) MAXIMUM AUTHORIZED OVER-ORDER PRICE.—
 2 During the beginning on the date of the enactment of this
 3 chapter and ending on December 31, 2005, an over-order
 4 price established under subsection (a) may not exceed
 5 \$17.50 per hundredweight. For each subsequent calendar
 6 year, the maximum over-order price applicable during the
 7 preceding year shall be adjusted by the Secretary to reflect
 8 changes for the 12-month period ending the preceding No-
 9 vember 30 in the Consumer Price Index for All Urban
 10 Consumers published by the Bureau of Labor Statistics
 11 of the Department of Labor.

12 “(c) APPLICATION OF OVER-ORDER PRICE AND PRE-
 13 MIUM.—

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

17 “(A) the payment of uniform prices to all
 18 eligible producers and associations of eligible
 19 producers delivering milk to all covered proc-
 20 essors for all milk so delivered, irrespective of
 21 the uses made of the milk by an individual cov-
 22 ered processor; or

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

1 processor for all milk delivered by the eligible
2 producers and associations to that covered proc-
3 essor.

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

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

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

1 “(d) EQUALIZATION POOLS.—

2 “(1) OVER-ORDER PRICES.—In the case of reg-
3 ulations establishing an over-order price, the Board
4 may establish 1 or more equalization pools within
5 the regulated area for the sole purpose of equalizing
6 returns to eligible producers throughout the regu-
7 lated area.

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

11 “(A) the value of milk used in other use
12 classifications shall be calculated at the appro-
13 priate class price established pursuant to the
14 applicable Federal milk marketing order; and

15 “(B) the value of milk not covered by a
16 Federal milk marketing order shall be cal-
17 culated in relation to the nearest prevailing
18 class price in accordance with and subject to
19 such adjustments as the Board may prescribe
20 by regulation.

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

1 “(1) the balance between production and con-
 2 sumption of milk and milk products in the regulated
 3 area;

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

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

8 “(B) the cost of labor, including the rea-
 9 sonable value of the eligible producer’s own
 10 labor and management;

11 “(C) machinery expenses;

12 “(D) interest expenses; and

13 “(E) other cash expenses, including the
 14 cost of hauling, veterinary services and medi-
 15 cine, bedding and litter, marketing, custom
 16 services and supplies, fuel, lubrication, elec-
 17 tricity, machinery and building repairs, labor,
 18 association fees, and assessments;

19 “(3) the prevailing price for milk outside the
 20 regulated area;

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

22 “(5) the price necessary to yield a reasonable
 23 return to the eligible producer.

24 “(f) PRODUCER SETTLEMENT FUNDS.—The regula-
 25 tions shall require that the account of any person regu-

1 lated under the over-order price shall be adjusted for any
 2 payments made to or received by the person with respect
 3 to a producer settlement fund of any Federal milk mar-
 4 keting order within the regulated area.

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

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

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

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

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

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

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

25 “(a) EQUALIZATION PAYMENTS.—

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

9 “(2) DISCRIMINATION.—The regulations shall
 10 not discriminate against milk producers outside the
 11 regulated area.

12 “(3) AMOUNT.—The regulations for equali-
 13 zation payments may require payment of the dif-
 14 ference between—

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

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

19 “(b) PARTIALLY REGULATED PLANTS.—The regula-
 20 tions issued by the Board for a Region may provide special
 21 provisions governing the pricing and pooling of milk han-
 22 dled by partially regulated plants.

23 “(c) OTHER PROVISIONS.—The regulations issued by
 24 the Board for a Region may contain such other provisions

1 and requirements as the Board determines are necessary
 2 or appropriate—

3 “(1) to effectuate the purposes of this chapter;
 4 and

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

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

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

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

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

18 “(3) To the extent that amounts referred to in
 19 the preceding paragraphs are insufficient to carry
 20 out this chapter, funds of the Commodity Credit
 21 Corporation, which shall be transferred by the Sec-
 22 retary to the Fund to make up the short-fall.

23 “(b) EXPENDITURES FROM FUND.—On request by
 24 the Secretary, the Secretary of the Treasury shall transfer

1 from the Fund to the Secretary such amounts as the Sec-
 2 retary determines are necessary to carry out this chapter.

3 “(c) INVESTMENT OF AMOUNTS.—

4 “(1) IN GENERAL.—The Secretary of the
 5 Treasury shall invest such portion of the Fund as is
 6 not, in the judgment of the Secretary, required to
 7 meet current operating requirements.

8 “(2) INVESTMENTS.—Investments may be made
 9 only in interest-bearing obligations of the United
 10 States.

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

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

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

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

20 **“SEC. 1519. COMPENSATION FOR ADMINISTRATIVE AND IN-**
 21 **CREASED FOOD ASSISTANCE COSTS.**

22 “(a) ADMINISTRATIVE COSTS.—

23 “(1) BOARD ASSESSMENT FOR ADMINISTRATIVE
 24 COSTS.—The Board for a Region may impose and
 25 collect an assessment on covered processors oper-

1 ating in the regulated area of the Region to cover
 2 administrative costs incurred by the Board to carry
 3 out its duties under this chapter. The assessment
 4 amount may not exceed \$0.03 per hundredweight.

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

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

9 “(B) any administrative costs incurred by
 10 the Boards not covered by the assessments im-
 11 posed under paragraph (1).

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

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

19 “(2) nutrition services provided through
 20 projects carried out under part C of title IV of the
 21 Older Americans Act of 1965 (42 U.S.C. 3030e et
 22 seq.).

23 “(c) INCREASED STATE FOOD ASSISTANCE COSTS.—
 24 The Secretary shall use amounts in the Fund to make
 25 payments to each participating State for the increased

1 costs incurred by the participating State of any milk or
 2 milk products provided under the special supplemental nu-
 3 trition program for women, infants, and children estab-
 4 lished by section 17 of the Child Nutrition Act of 1966
 5 (42 U.S.C. 1786) that results from carrying out this chap-
 6 ter.

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

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

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

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

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

5 “(2) the amount obtained by multiplying—

6 “(A) a payment quantity equal to the total
 7 quantity of all milk produced in the regulated
 8 area of the Region during the month;

9 “(B) a payment rate equal to the over-
 10 order premium in effect for the regulated area
 11 for the month; and

12 “(C) 50 percent.

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

17 **“SEC. 1521. PRODUCER REFERENDUM.**

18 “(a) REFERENDUM REQUIRED.—For the purpose of
 19 ascertaining whether the issuance, amendment, or termi-
 20 nation of regulations establishing an over-order price is
 21 approved by eligible producers in the regulated area of a
 22 Region, the Board for the Region shall conduct a ref-
 23 erendum among such eligible producers.

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

1 “(c) BALLOT CONTENT.—

2 “(1) IN GENERAL.—The terms and conditions
3 of the proposed order or amendment shall be de-
4 scribed by the Board in the ballot used in the ref-
5 erendum.

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

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

17 “(e) COOPERATIVES.—

18 “(1) IN GENERAL.—Subject to paragraphs (2)
19 through (6), for the purpose of a referendum, the
20 Board shall consider the approval or disapproval by
21 any cooperative association of eligible producers
22 qualified under the Act entitled ‘An Act to authorize
23 association of producers of agricultural products’
24 (commonly known as the ‘Capper-Volstead Act’) (7
25 U.S.C. 291 et seq.) and engaged in marketing milk,

1 or in rendering services for or advancing the inter-
 2 ests of eligible producers, as the approval or dis-
 3 approval of the eligible producers who are members
 4 or stockholders in, or under contract with, the coop-
 5 erative association of eligible producers.

6 “(2) COMMON MARKETING AGENCY.—No coop-
 7 erative that has been formed to act as a common
 8 marketing agency for both the cooperative and indi-
 9 vidual eligible producers shall be qualified to block
 10 vote for the cooperative or individual eligible pro-
 11 ducers.

12 “(3) NOTIFICATION BY COOPERATIVE.—

13 “(A) IN GENERAL.—Any cooperative that
 14 is qualified to block vote shall, before submit-
 15 ting the approval or disapproval of the coopera-
 16 tive in any referendum, give prior written notice
 17 to each of the members of the cooperative as to
 18 whether and how the cooperative intends to cast
 19 the vote of the cooperative.

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

23 “(4) PRODUCER BALLOTS.—

24 “(A) IN GENERAL.—Any eligible producer
 25 may obtain a ballot from the Board in order to

1 register approval or disapproval of the proposed
2 order.

3 “(B) BALLOTS.—If a cooperative provides
4 notice to an eligible producer of the intent of
5 the cooperative to approve or not approve a pro-
6 posed order and the eligible producer casts a
7 ballot that is contrary to the intent of the coop-
8 erative—

9 “(i) the eligible producer shall notify
10 the Board as to the name of the coopera-
11 tive of which the eligible producer is a
12 member; and

13 “(ii) the Board shall—

14 “(I) remove the name of the eli-
15 gible producer from the list certified
16 by the cooperative of corporate vote of
17 the cooperative; and

18 “(II) provide the eligible pro-
19 ducer with an independent ballot that
20 may be cast in the referendum.

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

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

1 “(B) each eligible producer may register
 2 the approval or disapproval of the eligible pro-
 3 ducer with the Board directly or through the
 4 cooperative of the eligible producer.

5 **“SEC. 1522. ENFORCEMENT WITH RESPECT TO COVERED**
 6 **PROCESSORS.**

7 “In the case of covered processors, the Board may
 8 enforce this chapter (including regulations establishing an
 9 over-order price and other regulations issued under this
 10 chapter) by—

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

14 “(2) referral to the State agency for enforce-
 15 ment by judicial or administrative remedy with the
 16 agreement of the appropriate State agency of a par-
 17 ticipating State; or

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

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

23 Section 1502 of the Farm Security and Rural Invest-
 24 ment Act of 2002 (7 U.S.C. 7982) is amended by striking

- 1 “2005” each place it appears in subsections (f) and (g)(1)
- 2 and inserting “2007”.

