

104TH CONGRESS
1ST SESSION

H. R. 2597

To modify the price support program for milk; to establish a class IV account applicable to the products of milk; to modify the dairy export incentive program; and to consolidate and reform Federal milk marketing orders.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 8, 1995

Mr. SOLOMON (for himself, Mr. LIVINGSTON, Mr. PAXON, Mr. BOEHLERT, Mr. CHAMBLISS, Mr. CLINGER, Mr. DEAL of Georgia, Mr. ENGLISH of Pennsylvania, Mr. EVERETT, Mr. HOUGHTON, Mr. MCHUGH, Mr. QUILLEN, Mr. QUINN, Mr. TAYLOR of North Carolina, and Mr. WALSH) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To modify the price support program for milk; to establish a class IV account applicable to the products of milk; to modify the dairy export incentive program; and to consolidate and reform Federal milk marketing orders.

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. PRICE SUPPORT PROGRAM FOR MILK.**

4 (a) IN GENERAL.—Effective January 1, 1996, sec-
5 tion 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e)
6 is amended to read as follows:

1 **“SEC. 204. MILK PRICE SUPPORT PROGRAM FOR CALENDAR**
2 **YEARS 1996 THROUGH 2002.**

3 “(a) IN GENERAL.—During the period beginning
4 January 1, 1996, and ending December 31, 2002, the
5 price of milk produced in the 48 contiguous States shall
6 be supported as provided in this section.

7 “(b) SUPPORT PRICE.—

8 “(1) IN GENERAL.—During each of the cal-
9 endar years 1996 through 2002, the price of milk
10 used for cheese shall be supported at the rate pro-
11 vided in paragraph (2). Milk used for nonfat dry
12 milk or butter shall not be supported under this sec-
13 tion.

14 “(2) ANNUAL RATE.—For calendar year 1996,
15 the rate of price support for milk used for cheese
16 shall be equal to \$10.00 per hundredweight. For
17 each of the calendar years 1997 through 2002, the
18 rate of price support for milk used for cheese shall
19 be reduced by 10 cents per hundredweight from the
20 rate in effect for the preceding calendar year.

21 “(c) PURCHASES.—

22 “(1) IN GENERAL.—The price of milk used for
23 cheese shall be supported through the purchase of
24 cheese. Such purchases shall be based on the sup-
25 port price in effect during the applicable calendar
26 year.

1 “(2) SALES THROUGH DEIP.—Sales for export
2 under the dairy export incentive program established
3 under section 153 of the Food Security Act of 1985
4 (15 U.S.C. 713a–14) shall not be considered as
5 Commodity Credit Corporation purchases under sub-
6 section (d).

7 “(d) SUPPORT RATE ADJUSTMENTS.—Effective Jan-
8 uary 1 of each of the calendar years 1996 through 2002,
9 if the level of purchases of milk and the products of milk
10 by the Commodity Credit Corporation under this section
11 (less sales under section 407 for unrestricted use), as esti-
12 mated by the Secretary by November 20 of the preceding
13 calendar year, will exceed 1,500,000,000 pounds (milk
14 equivalent, total milk solids basis), the Secretary shall de-
15 crease by 25 cents per hundredweight, in addition to the
16 annual reduction under subsection (b)(2), the rate of price
17 support for milk used for cheese in effect for the calendar
18 year. The support rate adjustment provided under this
19 subsection shall be effective only for the calendar year ap-
20 plicable to the estimate of the Secretary. After the support
21 rate adjustment terminates, the support price shall be the
22 level provided under subsection (b)(2).

23 “(e) RESIDUAL AUTHORITY FOR REFUND AND COM-
24 PENSATORY BUDGET DEFICIT ASSESSMENT.—

1 “(1) REFUNDS OF 1995 ASSESSMENTS.—The
2 Secretary shall provide for a refund of the entire re-
3 duction under subsection (h)(2) of this section, as in
4 effect on December 31, 1995, in the price of milk
5 received by a producer during calendar year 1995, if
6 the producer provides evidence that the producer did
7 not increase marketings in calendar year 1995 when
8 compared to calendar year 1994. A refund under
9 this subsection shall not be considered as any type
10 of price support or payment for purposes of sections
11 1211 and 1221 of the Food Security Act of 1985.

12 “(2) RESIDUAL ASSESSMENT IN CALENDAR
13 YEAR 1996.—

14 “(A) IN GENERAL.—During the period be-
15 ginning on May 1, 1996, and ending on Decem-
16 ber 31, 1996, the Secretary shall provide for a
17 reduction in the price received by producers for
18 all milk produced in the 48 contiguous States
19 and marketed by producers for commercial use.

20 “(B) AMOUNT.—The amount of the reduc-
21 tion under subparagraph (A) shall be an
22 amount determined by the Secretary sufficient
23 to equal, when applied to reductions made on
24 milk marketed, the amount that compensates
25 for refunds made under paragraph (1).

1 “(3) ENFORCEMENT.—

2 “(A) COLLECTION.—Reductions in price
3 required under paragraph (2) shall be collected
4 and remitted to the Commodity Credit Corpora-
5 tion in the manner prescribed by the Secretary.

6 “(B) PENALTIES.—If any person fails to
7 collect or remit the reduction required by para-
8 graph (2) or fails to comply with such require-
9 ments for recordkeeping or as otherwise are re-
10 quired by the Secretary to carry out this sub-
11 section, the person shall be liable to the Sec-
12 retary for a civil penalty up to an amount de-
13 termined by multiplying—

14 “(i) the quantity of milk involved in
15 the violation expressed in hundredweights;
16 by

17 “(ii) the support rate for milk in ef-
18 fect under this section at the time of the
19 violation.

20 “(C) ENFORCEMENT IN COURTS.—The
21 Secretary may enforce this subsection in the
22 courts of the United States.

23 “(f) COMMODITY CREDIT CORPORATION.—The Sec-
24 retary shall carry out the program authorized by this sec-
25 tion through the Commodity Credit Corporation.

1 “(g) PERIOD.—This section shall be effective only
2 during the period beginning January 1, 1996, and ending
3 December 31, 2002.”.

4 (b) MILK MANUFACTURING MARKETING ADJUST-
5 MENT.—Section 102 of the Food, Agriculture, Conserva-
6 tion, and Trade Act of 1990 (7 U.S.C. 1446e–1) is re-
7 pealed.

8 **SEC. 2. ESTABLISHMENT OF A CLASS IV ACCOUNT.**

9 (a) ESTABLISHMENT OF CLASS IV ACCOUNT.—Not-
10 withstanding any other provision of law, effective January
11 1, 1996, the Secretary of Agriculture shall establish a spe-
12 cial milk marketing order to equalize returns on all milk
13 used in the 48 contiguous States of the United States to
14 produce Class IV final products (butter, nonfat dry milk,
15 and dry whole milk) among all milk marketed by produc-
16 ers for commercial use in the 48 contiguous States.

17 (b) CLASS IV PRICE AND DIFFERENTIAL; PRORA-
18 TION.—

19 (1) PRICE.—The Secretary shall determine a
20 milk equivalent value per hundredweight for Class
21 IV final products each month based on the average
22 wholesale market prices during the month for Class
23 IV final products. Such milk equivalent value at
24 3.67 percent milkfat shall be the per hundredweight

1 Class IV price under the special Class IV account
2 established under subsection (a).

3 (2) DIFFERENTIAL.—The Administrator of the
4 special Class IV account shall announce, on the first
5 business day of each month, the per hundredweight
6 Class IV differential applicable under the order to
7 the preceding month. Such monthly Class IV dif-
8 ferential shall be the amount, if any, by which the
9 support rate for milk in effect under section 204 of
10 the Agricultural Act of 1949 exceeds the Class IV
11 price established pursuant to paragraph (1).

12 (3) PRORATION.—On or before the twentieth
13 day after the end of each month, the Administrator
14 of the special Class IV account shall—

15 (A) determine the amount of milk pro-
16 duced in the 48 contiguous States of the United
17 States and marketed for commercial use in
18 making Class IV final products during the pre-
19 ceding month;

20 (B) calculate the amount equal to the
21 number of hundredweights of milk used for
22 Class IV final products during the preceding
23 month (as determined under subparagraph (A))
24 multiplied by the Class IV differential for the
25 month established under paragraph (2), and

1 add to that amount the cost of administering
2 the special Class IV account during the current
3 month; and

4 (C) prorate the amount established under
5 subparagraph (B) among the total amount, in
6 hundredweights, of milk produced in the 48
7 contiguous States and marketed for commercial
8 use during such preceding month.

9 (c) ACCOUNT OBLIGATIONS.—On or before the twen-
10 ty-fifth day after the end of each month—

11 (1) each person making payment to a producer
12 for milk produced in any of the 48 contiguous States
13 of the United States and marketed for commercial
14 use shall collect from each producer the amount de-
15 termined by multiplying the quantity of milk han-
16 dled for the account of such producer during the
17 preceding month by the Class IV differential prora-
18 tion established pursuant to subsection (b)(3)(C).
19 Such amount shall be remitted to the Administrator
20 of the special Class IV account; and

21 (2) any producer marketing milk of that pro-
22 ducer's own production in the form of milk or dairy
23 products to consumers, either directly or through re-
24 tail or wholesale outlets, shall remit to the Adminis-
25 trator of the special Class IV account the amount

1 determined by multiplying the quantity of such milk
2 marketed by such producer by the Class IV differen-
3 tial proration established under subsection (b)(3)(C).

4 (d) DISTRIBUTION OF ACCOUNT PROCEEDS.—On or
5 before the thirtieth day after the end of each month, the
6 Administrator of the special Class IV account shall pay
7 to each person that used skim milk and butterfat to
8 produce Class IV final products during the preceding
9 month a proportionate share of the total special Class IV
10 account proceeds for such month. The proportion of the
11 total proceeds payable to each person shall be the same
12 proportion that the skim milk and butterfat used by such
13 person to product Class IV final products during the pre-
14 ceding month is of the total skim milk and butterfat used
15 by all persons during the preceding month to product
16 Class IV final products.

17 (e) EFFECT ON BLEND PRICES.—Producer blend
18 prices under a milk marketing order shall be adjusted to
19 account for revenue distributions required under sub-
20 sections (c) and (d).

21 (f) ADMINISTRATION OF CLASS IV ACCOUNT.—The
22 Secretary of Agriculture shall appoint a person to serve
23 as Administrator of the Class IV account and shall dele-
24 gate to that person such powers as are needed to fulfill
25 the duties of Administrator.

1 (g) ENFORCEMENT.—

2 (1) COLLECTION.—The amounts specified in
3 subsection (c) shall be collected and remitted to the
4 Administrator in the manner prescribed by the Sec-
5 retary of Agriculture.

6 (2) PENALTIES.—If any person fails to remit
7 the amounts required in subsection (c) or fails to
8 comply with such requirements for recordkeeping or
9 otherwise as are required by the Secretary to carry
10 out this section, the person shall be liable to the Sec-
11 retary for a civil penalty up to an amount deter-
12 mined by multiplying—

13 (A) the quantity of milk involved in the
14 violation; by

15 (B) the support rate for milk in effect
16 under section 204 of the Agricultural Act of
17 1949 for the applicable calendar year.

18 (3) ENFORCEMENT.—The Secretary may en-
19 force this section in the courts of the United States.

20 (h) ISSUANCE OF CLASS IV ACCOUNT.—The Sec-
21 retary shall issue regulations to effectuate the Class IV
22 account without regard to the notice and comment re-
23 quirements in section 553 of title 5, United States Code.

24 (i) DEFINITION OF MILK MARKETING ORDER.—For
25 purposes of this section, the term “milk marketing order”

1 means a milk marketing order issued pursuant to section
2 8c of the Agricultural Adjustment Act, as reenacted with
3 amendments by the Agricultural Marketing Agreement
4 Act of 1937 (7 U.S.C. 608c), and any comparable State
5 milk marketing order or system.

6 (j) CLASS IV DESIGNATION.—Effective January 1,
7 1996, section 8c(5)(A) of the Agricultural Adjustment
8 Act, as reenacted with amendments by the Agricultural
9 Marketing Agreement Act of 1937 (7 U.S.C. 608c(5)(A)),
10 is amended by adding at the end the following new sen-
11 tence: “Each marketing order issued pursuant to this sec-
12 tion for milk and its products shall include all skim milk
13 and butterfat used to produce butter, nonfat dry milk, and
14 dry whole milk as a Class IV classification.”.

15 **SEC. 3. DAIRY EXPORT INCENTIVE PROGRAM.**

16 (a) IN GENERAL.—Section 153 of the Food Security
17 Act of 1985 (15 U.S.C. 713a–14) is amended—

18 (1) in subsection (a), by—

19 (A) striking “2001” and inserting “2002”;

20 and

21 (B) striking “an export incentive program”

22 and inserting “export incentive programs (the

23 export bid program and the price equalization

24 program)”;

25 (2) in subsection (b), by—

1 (A) inserting “exporter bid” before “pro-
2 gram”; and

3 (B) inserting “of Agriculture” after “Sec-
4 retary” the first time it appears in the sub-
5 section;

6 (3) in subsection (c), by inserting “exporter
7 bid” before “program” the first time it appears in
8 the subsection;

9 (4) in subsection (d), by inserting “exporter
10 bid” before “program” the first time it appears in
11 the subsection;

12 (5) in subsection (e), by inserting “exporter
13 bid” before “program”; and

14 (6) by adding at the end the following new sub-
15 section:

16 “(f)(1) The price equalization program established
17 under this section shall provide for the Corporation to
18 make payments to the Administrator of the Class IV ac-
19 count established under section 1202 of the Agricultural
20 Reconciliation Act of 1995, at the request of the Adminis-
21 trator, as provided in this subsection. The Secretary shall
22 have the right to accept or reject any per-unit amount re-
23 quested by the Administrator under such criteria as the
24 Secretary deems appropriate.

1 “(2) Under the price equalization program, the Ad-
2 ministrator may request, on a quarterly basis, price
3 equalization payments on the milk equivalent, total milk
4 solids basis, of amounts of solids not fat and butterfat ex-
5 ported from the United States during the preceding quar-
6 ter. The rate of payment per unit of milk equivalent ex-
7 ported shall be an amount equal to the difference between
8 the support rate for milk in effect under section 204 of
9 the Agricultural Act of 1949 for the applicable quarter
10 and the average Class IV price during such quarter, as
11 determined under criteria established by the Secretary.

12 “(3) The Corporation may not make any payments
13 under the price equalization program during the 12-month
14 period beginning on July 1 of each year that will be incon-
15 sistent with the obligations of the United States under any
16 trade agreement to which it is a party. For purposes of
17 this paragraph, any unit of milk equivalent on which a
18 payment is made under the export bid program authorized
19 by this section shall only be counted one time to determine
20 consistency with any quantitative trade obligation of the
21 United States.

22 “(4) The price equalization program shall be operated
23 under such rules and regulations issued by the Secretary
24 as the Secretary deems necessary to ensure that—

1 “(A) first priority in funds and tonnage alloca-
2 tions available for the operations of the programs
3 under this section is given to the export bid pro-
4 gram; and

5 “(B) sufficient documentation is provided of the
6 export of the amounts of milk equivalent on which
7 payments are made.”.

8 (b) EFFECTIVE DATE.—The amendments made by
9 subsection (a) shall become effective January 1, 1996.

10 **SEC. 4. CONSOLIDATION AND REFORM OF FEDERAL MILK**
11 **MARKETING ORDERS.**

12 (a) HEARING BY THE SECRETARY AND FOLLOW-UP
13 ACTION.—As soon as practicable after the enactment of
14 this Act, the Secretary of Agriculture shall invite proposals
15 to consolidate and reform Federal milk marketing orders
16 issued under section 8c of the Agricultural Adjustment
17 Act, reenacted with amendments by the Agricultural Mar-
18 keting Agreement Act of 1937 (7 U.S.C. 608c), and con-
19 duct one or more hearings to consider such proposals. Any
20 such hearing also shall consider how all milk, including
21 manufacturing grade milk, shall be regulated under either
22 a Federal or State order (with manufacturing grade pro-
23 ducers receiving pool proceeds from Class III and Class
24 IV sales only).

1 (b) EXPEDITED PROCESS.—The hearing provided for
2 in subsection (a) shall be conducted under administrative
3 hearing procedures, except that the Secretary shall have
4 90 days after the public hearing to determine, based on
5 the hearing record, whether the consolidation of the orders
6 will tend to accomplish the purposes of the Agricultural
7 Adjustment Act, reenacted with amendments by the Agri-
8 cultural Marketing Agreement Act of 1937, and shall an-
9 nounce the determination through publication in the Fed-
10 eral Register by the end of such 90-day period. Such con-
11 solidation of orders provided for under the Secretary’s de-
12 termination shall be implemented within 2 years after the
13 date of the enactment of this Act.

14 (c) SENSE OF CONGRESS REGARDING CONSOLIDA-
15 TION OF FEDERAL ORDERS.—It is the sense of Congress
16 that Federal milk marketing orders in operation under the
17 Agricultural Adjustment Act, reenacted with amendments
18 by the Agricultural Marketing Agreement Act of 1937
19 should be consolidated to between 8 and 14 orders.

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