

108TH CONGRESS  
1ST SESSION

# H. R. 1990

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

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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

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## 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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