

SENATE, No. 2335

STATE OF NEW JERSEY

INTRODUCED DECEMBER 1, 1997

By Senators LITTELL, SINGER, Bark, Inverso, Schluter,
Cafiero, Kyrillos and LaRossa

1 AN ACT concerning dairy farming, and enacting and entering this State
2 into the Northeast Interstate Dairy Compact.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. This act shall be known and may be cited as "The Northeast
8 Interstate Dairy Compact Act."

9
10 2. The State of New Jersey enacts and enters into the Northeast
11 Interstate Dairy Compact with all jurisdictions legally joining therein,
12 which compact is substantially as follows:

13
14 ARTICLE I. STATEMENT OF PURPOSE, FINDINGS, AND
15 DECLARATION OF POLICY

16
17 1. The purpose of this compact is to recognize by constitutional
18 prerequisite the interstate character of the northeast dairy industry and
19 to form an interstate commission for the northeast region. The
20 mission of the commission is to take such steps as are necessary to
21 assure the continued viability of dairy farming in the northeast, and to
22 assure consumers of an adequate, local supply of pure and wholesome
23 milk.

24 The participating states find and declare that the dairy industry is
25 the paramount agricultural activity of the northeast. Dairy farms, and
26 associated suppliers, marketers, processors and retailers, are an
27 integral component of the region's economy and their ability to provide
28 a stable, local supply of pure, wholesome milk is a matter of great
29 importance to the health and welfare of the region.

30 The participating states further find that dairy farms are essential to
31 the region's rural communities and character. The farms preserve open
32 spaces, sculpt the landscape and provide the land base for a diversity
33 of recreational pursuits. In defining the rural character of our
34 communities and landscape, dairy farms also provide a major draw for
35 our tourist industries.

36 By entering into this compact, the participating states affirm that

1 their ability to regulate the price which northeast dairy farmers receive
2 for their product is essential to the public interest. Assurance of a fair
3 and equitable price for dairy farmers ensures their ability to provide
4 milk to the market and the vitality of the northeast dairy industry, with
5 all the associated benefits.

6 Recent, dramatic price fluctuations, with a pronounced downward
7 trend, threaten the viability and stability of the northeast dairy region.
8 Historically, individual state regulatory action has been an effective
9 emergency remedy available to farmers confronting a distressed
10 market. The federal order system, implemented by the Agricultural
11 Marketing Agreement Act of 1937, establishes only minimum prices
12 for dairy products, without preempting the power of states to regulate
13 milk prices above the minimum levels so established. Based on this
14 authority, each state in the region has individually attempted to
15 implement at least one regulatory program in response to the current
16 dairy industry crisis.

17 In today's regional dairy marketplace, cooperative, rather than
18 individual state action may address more effectively the market
19 disarray. Under our constitutional system, properly authorized, states
20 acting cooperatively may exercise more power to regulate interstate
21 commerce than they may assert individually without such authority.
22 For this reason, the participating states invoke their authority to act in
23 common agreement, with the consent of Congress, under the compact
24 clause of the Constitution.

25 In establishing their constitutional regulatory authority over the
26 region's fluid milk market by this compact, the participating states
27 declare their purpose that this compact neither displace the federal
28 order system nor encourage the merging of federal orders. Specific
29 provisions of the compact itself set forth this basic principle.

30 Designed as a flexible mechanism able to adjust to changes in a
31 regulated marketplace, the compact also contains a contingency
32 provision should the federal order system be discontinued. In that
33 event, the interstate commission is authorized to regulate the
34 marketplace in replacement of the order system. This contingent
35 authority does not anticipate such a change, however, and should not
36 be so construed. It is only provided should developments in the
37 market other than establishment of this compact result in
38 discontinuance of the order system.

39

40 ARTICLE II. DEFINITIONS AND RULES OF CONSTRUCTION

41

42 2. As used in this compact:

43 "Class I milk" means milk disposed of in fluid form or as a fluid
44 milk product, subject to further definition in accordance with the
45 principles expressed in subsection b. of section 3 of this compact.

46 "Commission" means the commission established by this compact.

1 "Commission marketing order" means regulations adopted by the
2 commission pursuant to sections 9 and 10 of this compact in place of
3 a terminated federal marketing order or state dairy regulation. Such
4 order may apply throughout the region or in any part or parts thereof
5 as defined in the regulations of the commission. Such order may
6 establish minimum prices for any or all classes of milk.

7 "Compact" means this interstate compact.

8 "Compact over-order price" means a minimum price required to be
9 paid to producers for Class I milk established by the commission in
10 regulations adopted pursuant to sections 9 and 10 of this compact,
11 which is above the price established in federal marketing orders or by
12 state farm price regulation in the regulated area. Such price may apply
13 throughout the region or in any part or parts thereof as defined in the
14 regulations of the commission.

15 "Milk" means the lacteal secretion of cows and includes all skim,
16 butterfat, or other constituents obtained from separation or any other
17 process. The term is used in its broadest sense and may be further
18 defined by the commission for regulatory purposes.

19 "Partially regulated plant" means a milk plant not located in a
20 regulated area but having Class I distribution within such area, or
21 receipts from producers located in such area. Commission regulations
22 may exempt plants having such distribution or receipts in amounts less
23 than the limits defined therein.

24 "Participating state" means a state which has become a party to this
25 compact by the enactment of concurring legislation.

26 "Pool plant" means any milk plant located in a regulated area.

27 "Region" means the territorial limits of the states which are or
28 become parties to this compact.

29 "Regulated area" means any area within the region governed by
30 and defined in regulations establishing a compact over-order price or
31 commission marketing order.

32 "State dairy regulation" means any state regulation of dairy prices
33 and associated assessments, whether by statute, marketing order or
34 otherwise.

35 3. a. This compact shall not be construed to displace existing
36 federal milk marketing orders nor state dairy regulation in the region
37 but to supplement them. In the event some or all federal orders in the
38 region are discontinued, the compact shall be construed to provide the
39 commission the option to replace them with one or more commission
40 marketing orders pursuant to this compact.

41 b. This compact shall be construed liberally in order to achieve the
42 purposes and intent enunciated in section 1 of this compact. It is the
43 intent of this compact to establish a basic structure by which the
44 commission may achieve those purposes through the application,
45 adaptation and development of the regulatory techniques historically
46 associated with milk marketing and to afford the commission broad

1 flexibility to devise regulatory mechanisms to achieve the purposes of
2 this compact. In accordance with this intent, the technical terms which
3 are associated with market order regulation and which have acquired
4 commonly understood general meanings are not defined herein, but the
5 commission may further define the terms used in this compact and
6 develop additional concepts and define additional terms as it may find
7 appropriate to achieve its purposes.

8
9 **ARTICLE III. COMMISSION ESTABLISHED**

10
11 4. There is hereby created a commission to administer the compact,
12 composed of delegations from each state in the region. A delegation
13 shall include not less than three nor more than five persons. Each
14 delegation shall include at least one dairy farmer who is engaged in the
15 production of milk at the time of appointment or reappointment, and
16 one consumer representative. Delegation members shall be residents
17 and voters of, and subject to such confirmation process as is provided
18 for in, the appointing state. Delegation members shall serve no more
19 than three consecutive terms with no single term of more than four
20 years, and be subject to removal for cause. In all other respects,
21 delegation members shall serve in accordance with the laws of the
22 state represented. The compensation, if any, of the members of a state
23 delegation shall be determined and paid by each state, but their
24 expenses shall be paid by the commission. Each state delegation shall
25 be entitled to one vote in the conduct of the affairs of the commission.

26 5. All actions taken by the commission, except for the
27 establishment or termination of an over-order price or commission
28 marketing order, and the adoption, amendment or rescission of
29 by-laws of the commission, shall be by majority vote of the delegations
30 present. Establishment or termination of an over-order price or
31 commission marketing order shall require at least a two-thirds vote of
32 the delegations present. The establishment of a regulated area which
33 covers all or part of a participating state shall require also the
34 affirmative vote of the delegation of that state. A majority of the
35 delegations from the participating states shall constitute a quorum for
36 the conduct of the business of the commission.

37 6. a. The commission shall elect annually from among the members
38 of the participating state delegations a chairperson, a vice-chairperson,
39 and a treasurer. The commission shall appoint an executive director
40 and fix his duties and compensation. The executive director shall
41 serve at the pleasure of the commission, and, together with the
42 treasurer, shall be bonded in an amount determined by the commission.
43 The commission may establish through its by-laws an executive
44 committee composed of one member elected by each delegation.

45 b. The commission shall adopt by-laws for the conduct of its
46 business by a two-thirds vote, and shall have the power by the same

1 vote to amend and rescind these by-laws. The commission shall
2 publish its by-laws in convenient form with the appropriate agency or
3 officer in each of the participating states. The by-laws shall provide
4 for appropriate notice to the delegations of all commission meetings
5 and hearings and of the business to be transacted at such meetings or
6 hearings. Notice also shall be given to other agencies or officers of
7 participating states as provided by the laws of those states.

8 c. The commission shall file an annual report with the Secretary of
9 Agriculture of the United States, and with each of the participating
10 states by submitting copies to the Governor, both Houses of the
11 Legislature, and the head of the state department having
12 responsibilities for agriculture.

13 d. In addition to the powers and duties prescribed elsewhere in
14 this compact, the commission shall have the power:

15 (1) To sue and be sued in any state or federal court;

16 (2) To have a seal and alter the same at pleasure;

17 (3) To acquire, hold, and dispose of real and personal property by
18 gift, purchase, lease, license, or other similar manner, for its corporate
19 purposes;

20 (4) To borrow money and to issue notes, to provide for the rights
21 of the holders thereof and to pledge the revenue of the commission as
22 security therefor, subject to the provisions of section 18 of this
23 compact;

24 (5) To appoint such officers, agents, and employees as it may deem
25 necessary, prescribe their powers, duties, and qualifications; and

26 (6) To create and abolish such offices, employments, and positions
27 as it deems necessary for the purposes of the compact and provide for
28 the removal, term, tenure, compensation, fringe benefits, pension, and
29 retirement rights of its officers and employees. The commission may
30 also retain personal services on a contract basis.

31 7. In addition to the power to promulgate a compact over-order
32 price or commission marketing orders as provided by this compact, the
33 commission is further empowered to make and enforce such additional
34 rules and regulations as it deems necessary to implement any
35 provisions of this compact, or to effectuate in any other respect the
36 purposes of this compact.

37 38 ARTICLE IV. POWERS OF THE COMMISSION

39
40 8. The commission is hereby empowered to:

41 a. Investigate or provide for investigations or research projects
42 designed to review the existing laws and regulations of the
43 participating states, to consider their administration and costs, to
44 measure their impact on the production and marketing of milk and
45 their effects on the shipment of milk and milk products within the
46 region;

- 1 b. Prepare and transmit to the participating states model dairy laws
2 and regulations dealing with the inspection of farms and plants,
3 sanitary codes, labels for dairy products and their imitations, standards
4 for dairy products, license standards, producer security programs, and
5 fair trade laws;
- 6 c. Study and recommend to the participating states joint or
7 cooperative programs for the administration of the dairy laws and
8 regulations and to prepare estimates of cost savings and benefits of
9 such programs;
- 10 d. Encourage the harmonious relationships between the various
11 elements in the industry for the solution of their material problems and
12 conduct symposiums or conferences designed to improve industry
13 relations, or a better understanding of problems;
- 14 e. Prepare and release periodic reports on activities and results of
15 the commission`s efforts to the participating states;
- 16 f. Review the existing marketing system for milk and milk products
17 and recommend changes in the existing structure for assembly and
18 distribution of milk which may assist, improve, or promote more
19 efficient assembly and distribution of milk;
- 20 g. Investigate costs and charges for producing, hauling, handling,
21 processing, distributing, selling and for all other services performed
22 with respect to milk; and
- 23 h. Examine current economic forces affecting producers, probable
24 trends in production and consumption, the level of dairy farm prices
25 in relation to costs, the financial conditions of dairy farmers, and the
26 need for an emergency order to relieve critical conditions on dairy
27 farms.
- 28 9. a. The powers granted in this section and section 10 of this
29 compact, shall apply only to the establishment of a compact
30 over-order price, so long as federal milk marketing orders remain in
31 effect in the region. In the event that any or all such orders are
32 terminated, this article shall authorize the commission to establish one
33 or more commission marketing orders, as herein provided, in the
34 region or parts thereof as defined in the order.
- 35 b. A compact over-order price established pursuant to this section
36 shall apply only to Class I milk. Such over-order price shall not
37 exceed \$1.50 per gallon. Beginning in 1990, and using that year as a
38 base, the foregoing \$1.50 per gallon maximum shall be adjusted
39 annually by the rate of change in the consumer price index as reported
40 by the Bureau of Labor Statistics of the United States Department of
41 Labor. For purposes of the pooling and equalization of an over-order
42 price, the value of milk used in other use classifications shall be
43 calculated at the appropriate class price established pursuant to the
44 applicable federal order or state dairy regulation and the value of
45 unregulated milk shall be calculated in relation to the nearest
46 prevailing class price in accordance with and subject to such

- 1 adjustments as the commission may prescribe in regulations.
- 2 c. A commission marketing order shall apply to all classes and
3 uses of milk.
- 4 d. The commission is hereby empowered to establish the minimum
5 price for milk to be paid by pool plants, partially regulated plants and
6 all other handlers receiving milk from producers located in a regulated
7 area. This price shall be established either as a compact over-order
8 price or by one or more commission marketing orders. Whenever such
9 a price has been established by either type of regulation, the legal
10 obligation to pay such price shall be determined solely by the terms
11 and purpose of the regulation without regard to the situs of the
12 transfer of title, possession or any other factors not related to the
13 purposes of the regulation and this compact. Producer-handlers as
14 defined in an applicable federal market order shall not be subject to a
15 compact over-order price. The commission shall provide for similar
16 treatment of producer-handlers under commission marketing orders.
- 17 e. In determining the price, the commission shall consider the
18 balance between production and consumption of milk and milk
19 products in the regulated area, the costs of production including, but
20 not limited to the price of feed, the cost of labor including the
21 reasonable value of the producer's own labor and management,
22 machinery expense, and interest expense, the prevailing price for milk
23 outside the regulated area, the purchasing power of the public and the
24 price necessary to yield a reasonable return to the producer and
25 distributor.
- 26 f. When establishing a compact over-order price, the commission
27 shall take such action as necessary and feasible to ensure that the
28 over-order price does not create an incentive for producers to generate
29 additional supplies of milk.
- 30 g. The commission shall whenever possible enter into agreements
31 with state or federal agencies for exchange of information or services
32 for the purpose of reducing regulatory burden and cost of
33 administering the compact. The commission may reimburse other
34 agencies for the reasonable cost of providing these services.
- 35 10. Regulations establishing a compact over-order price or a
36 commission marketing order may contain, but shall not be limited to,
37 any of the following:
- 38 a. Provisions classifying milk in accordance with the form in which
39 or purpose for which it is used, or creating a flat pricing program;
- 40 b. With respect to a commission marketing order only, provisions
41 establishing or providing a method for establishing separate minimum
42 prices for each use classification prescribed by the commission, or a
43 single minimum price for milk purchased from producers or
44 associations of producers;
- 45 c. With respect to an over-order minimum price, provisions
46 establishing or providing a method for establishing such minimum

- 1 price for class I milk;
- 2 d. Provisions for establishing either an over-order price or a
3 commission marketing order may make use of any reasonable method
4 for establishing such price or prices including flat pricing and formula
5 pricing. Provision may also be made for location adjustments, for
6 zone differentials and for competitive credits with respect to regulated
7 handlers who market outside the regulated area;
- 8 e. Provisions for the payment to all producers and associations of
9 producers delivering milk to all handlers of uniform prices for all milk
10 so delivered, irrespective of the uses made of such milk by the
11 individual handler to whom it is delivered, or for the payment of
12 producers delivering milk to the same handler of uniform prices for all
13 milk delivered by them;
- 14 (1) With respect to regulations establishing a compact over-order
15 price, the commission may establish one equalization pool within the
16 regulated area for the sole purpose of equalizing returns to producers
17 throughout the regulated area; and
- 18 (2) With respect to any commission marketing order, as defined
19 in section 2 of this compact, which replaces one or more terminated
20 federal orders or state dairy regulation, the marketing area of now
21 separate state or federal orders shall not be merged without the
22 affirmative consent of each state, voting through its delegation, which
23 is partly or wholly included within any such new marketing area.
- 24 f. Provisions requiring persons who bring Class I milk into the
25 regulated area to make compensatory payments with respect to all
26 such milk to the extent necessary to equalize the cost of milk
27 purchased by handlers subject to a compact over-order price or
28 commission marketing order. No such provisions shall discriminate
29 against milk producers outside the regulated area. The provisions for
30 compensatory payments may require payment of the difference
31 between the Class I price required to be paid for such milk in the state
32 of production by a federal milk marketing order or state dairy
33 regulation and the Class I price established by the compact over-order
34 price or commission marketing order;
- 35 g. Provisions specially governing the pricing and pooling of milk
36 handled by partially regulated plants;
- 37 h. Provisions requiring that the account of any person regulated
38 under a compact over-order price shall be adjusted for any payments
39 made to or received by such persons with respect to a producer
40 settlement fund of any federal or state milk marketing order or other
41 state producer price regulation within the regulated area;
- 42 i. Provisions requiring the payment by handlers of an assessment
43 to cover the costs of the administration and enforcement of such order
44 pursuant to subsection a. of section 18 of this compact;
- 45 j. Provisions for reimbursement to participants of the women,
46 infants and children special supplemental food program of the United

1 States Child Nutrition Act of 1966; and
2 k. Other provisions and requirements as the commission may find
3 are necessary or appropriate to effectuate the purposes of this compact
4 and to provide for the payment of fair and equitable minimum prices
5 to producers.

6

7

ARTICLE V. RULEMAKING PROCEDURE

8

9 11. Before promulgation of any regulations establishing a compact
10 over-order price or commission marketing order, including any
11 provision with respect to milk supply under subsection f. of section 9
12 of this compact, or amendment thereof, as provided in Article IV of
13 this compact, the commission shall conduct an informal rulemaking
14 proceeding to provide interested persons with an opportunity to
15 present data and views. Such rulemaking proceeding shall be
16 governed by section 4 of the federal Administrative Procedure Act, as
17 amended (5 U.S.C. s.553). In addition, the commission shall, to the
18 extent practicable, publish notice of rulemaking proceedings in the
19 official register of each affected state. Before the initial adoption of
20 regulations establishing a compact over-order price or a commission
21 marketing order and thereafter before any amendment with regard to
22 prices or assessments, the commission shall hold a public hearing. The
23 commission may commence a rulemaking proceeding on its own
24 initiative or may in its sole discretion act upon the petition of any
25 person including individual milk producers, any organizations,
26 consumer or public interest groups, and local, state, or federal
27 officials.

28 12. In addition to the concise general statement of basis and
29 purpose required by section 4(b) of the federal Administrative
30 Procedure Act, as amended (5 U.S.C. s. 553(c)), the commission shall
31 make findings of fact with respect to:

32 a. Whether the public interest will be served by the establishment
33 of minimum milk prices to dairy farmers under Article IV of this
34 compact;

35 b. What level of prices will assure that producers receive a price
36 sufficient to cover their costs of production and will elicit an adequate
37 supply of milk for the inhabitants of the regulated area and for
38 manufacturing purposes;

39 c. Whether the major provisions of the order, other than those
40 fixing minimum milk prices, are in the public interest and are
41 reasonably designed to achieve the purposes of the order; and

42 d. Whether the terms of the proposed regional order or amendment
43 are approved by producers as provided in section 13 of this compact.

44 13. a. For the purpose of ascertaining whether the issuance or
45 amendment of regulations establishing a compact over-order price or
46 a commission marketing order, including any provision with respect

1 to milk supply pursuant to subsection f. of section 9 of this compact,
2 is approved by producers, the commission shall conduct a referendum
3 among producers. The referendum shall be held in a timely manner,
4 as determined by regulation of the commission. The terms and
5 conditions of the proposed order or amendment shall be described by
6 the commission in the ballot used in the conduct of the referendum,
7 but the nature, content, or extent of such description shall not be a
8 basis for attacking the legality of the order or any action relating
9 thereto.

10 b. An order or amendment shall be deemed approved by producers
11 if the commission determines that it is approved by at least two-thirds
12 of the voting producers who, during a representative period
13 determined by the commission, have been engaged in the production
14 of milk the price of which would be regulated under the proposed
15 order or amendment.

16 c. For purposes of any referendum, the commission shall consider
17 the approval or disapproval by any cooperative association of
18 producers, qualified under the provisions of the Act of Congress of
19 February 26, 1922, as amended, known as the Capper-Volstead Act,
20 bona fide engaged in marketing milk, or in rendering services for or
21 advancing the interests of producers of such commodity, as the
22 approval or disapproval of the producers who are members or
23 stockholders in, or under contract with, such cooperative association
24 of producers, except as provided in paragraph (1) of this subsection
25 and subject to the provisions of paragraphs (2) through (5) of this
26 subdivision.

27 (1) No cooperative which has been formed to act as a common
28 marketing agency for both cooperatives and individual producers shall
29 be qualified to block vote for either.

30 (2) Any cooperative which is qualified to block vote shall, before
31 submitting its approval or disapproval in any referendum, give prior
32 written notice to each of its members as to whether and how it intends
33 to cast its vote. The notice shall be given in a timely manner as
34 established, and in the form prescribed, by the commission.

35 (3) Any producer may obtain a ballot from the commission in order
36 to register approval or disapproval of the proposed order.

37 (4) A producer who is a member of a cooperative which has
38 provided notice of its intent to approve or not to approve a proposed
39 order, and who obtains a ballot and with such ballot expresses his or
40 her approval or disapproval of the proposed order, shall notify the
41 commission as to the name of the cooperative of which he is a
42 member, and the commission shall remove the name of such producer
43 from the list certified by such cooperative with its corporate vote.

44 (5) In order to insure that all milk producers are informed
45 regarding a proposed order, the commission shall notify all milk
46 producers that an order is being considered and that each producer

1 may register his approval or disapproval with the commission either
2 directly or through his cooperative.

3 14. a. The commission shall terminate any regulations establishing
4 an over-order price or commission marketing order issued under this
5 article whenever it finds that such order or price obstructs or does not
6 tend to effectuate the declared policy of this compact.

7 b. The commission shall terminate any regulations establishing an
8 over-order price or a commission marketing order issued under this
9 article whenever it finds that such termination is favored by a majority
10 of the producers who, during a representative period determined by
11 the commission, have been engaged in the production of milk the
12 price of which is regulated by such order; but such termination shall be
13 effective only if announced on or before such date as may be specified
14 in such marketing agreement or order.

15 c. The termination or suspension of any order or provision thereof,
16 shall not be considered an order within the meaning of this article and
17 shall require no hearing, but shall comply with the requirements for
18 informal rulemaking prescribed by section 4 of the federal
19 Administrative Procedure Act, as amended (5 U.S.C. s.553).

20

21

ARTICLE VI. ENFORCEMENT

22

23 15. a. The commission may by rule and regulation prescribe
24 recordkeeping and reporting requirements for all regulated persons.
25 For purposes of the administration and enforcement of this compact,
26 the commission is authorized to examine the books and records of any
27 regulated person relating to his milk business and for that purpose, the
28 properly designated officers, employees, or agents of the commission
29 shall have full access during normal business hours to the premises and
30 records of all regulated persons.

31 b. Information furnished to or acquired by the commission
32 officers, employees, or its agents pursuant to this section shall be
33 confidential and not subject to disclosure except to the extent that the
34 commission deems disclosure to be necessary in any administrative or
35 judicial proceeding involving the administration or enforcement of this
36 compact, an over-order price, a compact marketing order, or other
37 regulations of the commission. The commission may promulgate
38 regulations further defining the confidentiality of information pursuant
39 to this section. Nothing in this section shall be deemed to prohibit (a)
40 the issuance of general statements based upon the reports of a number
41 of handlers, which do not identify the information furnished by any
42 person, or (b) the publication by direction of the commission of the
43 name of any person violating any regulation of the commission,
44 together with a statement of the particular provisions violated by such
45 person.

46 c. No officer, employee, or agent of the commission shall

1 intentionally disclose information, by inference or otherwise, which is
2 made confidential pursuant to this section. Any person violating the
3 provisions of this section shall upon conviction be subject to a fine of
4 not more than \$1,000 or to imprisonment for not more than one year,
5 or to both, and shall be removed from office. The commission shall
6 refer any, allegation of a violation of this section to the appropriate
7 state enforcement authority or United States attorney.

8 16. a. The commission is hereby authorized and empowered by its
9 members and its properly designated officers to administer oaths and
10 issue subpoenas throughout all signatory states to compel the
11 attendance of witnesses and the giving of testimony and the
12 production of other evidence.

13 b. Any handler subject to an order may file a written petition with
14 the commission stating that any such order or any provision of any
15 such order or any obligation imposed in connection therewith is not in
16 accordance with law and praying for a modification thereof or to be
17 exempted therefrom. The handler shall thereupon be given an
18 opportunity for a hearing upon such petition, in accordance with
19 regulations made by the commission. After such hearing, the
20 commission shall make a ruling upon the prayer of such petition which
21 shall be final, if in accordance with law.

22 c. The district courts of the United States in any district in which
23 such handler is an inhabitant, or where the handler has his principal
24 place of business, are hereby vested with jurisdiction in equity to
25 review such ruling, provided a bill in equity for that purpose is filed
26 within thirty days from the date of the entry of such ruling. Service of
27 process in such proceedings may be had upon the commission by
28 delivering to it a copy of the bill of complaint. If the court determines
29 that such ruling is not in accordance with law, it shall remand such
30 proceedings to the commission with directions either (a) to make such
31 ruling as the court shall determine to be in accordance with law, or (b)
32 to take such further proceedings as, in its opinion, the law requires.
33 The pendency of proceedings instituted pursuant to this subsection
34 shall not impede, hinder, or delay the commission from obtaining relief
35 pursuant to section 17 of this compact. Any proceedings brought
36 pursuant to section 17 of this compact (except where brought by way
37 of counterclaim in proceedings instituted pursuant to this section) shall
38 abate whenever a final decree has been rendered in proceedings
39 between the same parties, and covering the same subject matter,
40 instituted pursuant to this section.

41 17. a. Any violation by a handler of the provisions of regulations
42 establishing an over-order price or a commission marketing order, or
43 other regulations adopted pursuant to this compact shall:

44 (1) Constitute a violation of the laws of each of the signatory
45 states. Such violation shall render the violator subject to a civil
46 penalty in an amount as may be prescribed by the laws of each of the

1 participating states, recoverable in any state or federal court of
2 competent jurisdiction. Each day such violation continues shall
3 constitute a separate violation; and

4 (2) Constitute grounds for the revocation of license or permit to
5 engage in the milk business under the applicable laws of the
6 participating states.

7 b. With respect to handlers, the commission shall enforce the
8 provisions of this compact, regulations establishing an over-order
9 price, a commission marketing order or other regulations adopted
10 hereunder by:

11 (1) Commencing an action for legal or equitable relief brought in
12 the name of the commission in any state or federal court of competent
13 jurisdiction; or

14 (2) With the agreement of the appropriate state agency of a
15 participating state, by referral to the state agency for enforcement by
16 judicial or administrative remedy.

17 c. With respect to handlers, the commission may bring an action
18 for injunction to enforce the provisions of this compact or the order
19 or regulations adopted thereunder without being compelled to allege
20 or prove that an adequate remedy of law does not exist.

21

22

ARTICLE VII. FINANCE

23

24 18. a. To provide for its start-up costs, the commission may
25 borrow money pursuant to its general power under paragraph (4) of
26 subsection d. of section 6 of this compact. In order to finance the
27 costs of administration and enforcement of this compact, including
28 payback of start-up costs, the commission is hereby empowered to
29 collect an assessment from each handler who purchases milk from
30 producers within the region. If imposed, this assessment shall be
31 collected on a monthly basis for up to one year from the date the
32 commission convenes, in an amount not to exceed one-tenth of 1% of
33 the applicable federal market order blend price per hundred weight of
34 milk purchased from producers during the period of the assessment.
35 The initial assessment may apply to the projected purchases of
36 handlers for the two month period following the date the commission
37 convenes. In addition, if regulations establishing an over-order price
38 or a compact marketing order are adopted, they may include an
39 assessment for the specific purpose of their administration. These
40 regulations shall provide for establishment of a reserve for the ongoing
41 operating expenses of the commission.

42 b. The commission shall not pledge the credit of any participating
43 state or of the United States. Notes issued by the commission and all
44 other financial obligations incurred by it, shall be its sole responsibility
45 and no participating state or the United States shall be liable therefor.

46 19. a. The commission shall keep accurate accounts of all receipts

1 and disbursements, which shall be subject to the audit and accounting
2 procedures established under its rules. In addition, all receipts and
3 disbursements of funds handled by the commission shall be audited
4 yearly by a qualified public accountant and the report of the audit
5 shall be included in and become part of the annual report of the
6 commission.

7 b. The accounts of the commission shall be open at any reasonable
8 time for inspection by duly constituted officers of the participating
9 states and by any persons authorized by the commission.

10 c. Nothing contained in this article shall be construed to prevent
11 commission compliance with laws relating to audit or inspection of
12 accounts by or on behalf of any participating state or of the United
13 States.

14

15 ARTICLE VIII. ENTRY INTO FORCE; ADDITIONAL
16 MEMBERS AND WITHDRAWAL

17

18 20. This compact shall enter into force when enacted into law by
19 any three states of the group of states composed of Connecticut,
20 Delaware, Maine, Maryland, Massachusetts, New Hampshire, New
21 Jersey, New York, Pennsylvania, Rhode Island, Vermont and
22 Virginia, and when the consent of Congress has been obtained. This
23 compact shall also be open to states which are contiguous to any of
24 the named states and open to states which are contiguous to
25 participating states.

26 21. Any participating state may withdraw from this compact by
27 enacting a statute repealing the same, but no such withdrawal shall
28 take effect until one year after notice in writing of the withdrawal is
29 given to the commission and the governors of all other participating
30 states. No withdrawal shall affect any liability already incurred by or
31 chargeable to a party state prior to the time of such withdrawal.

32 22. If any part or provision of this compact is adjudged invalid by
33 any court, such judgment shall be confined in its operation to the part
34 or provision directly involved in the controversy in which such
35 judgment shall have been rendered and shall not affect or impair the
36 validity of the remainder of this compact. Congress reserves the right
37 to amend or rescind this interstate compact at any time.

38 23. a. The right to alter, amend or repeal this compact is expressly
39 reserved by Congress.

40 b. When an over-order price is in effect, the commission
41 established in this compact shall compensate the commodity credit
42 corporation before the end of the fiscal year for the cost of any
43 increased commodity credit corporation dairy purchases that result
44 from projected increased fluid milk production for that fiscal year
45 within the compact region in excess of the national average rate of
46 increase.

1 3. a. The New Jersey delegation to the Northeast Interstate
2 Compact Commission shall consist of five persons, at least one of
3 whom shall be a dairy farmer who is engaged in the production of milk
4 at the time of appointment or reappointment and one of whom shall
5 be representative of interests of consumers. One member shall be
6 appointed by the Governor; one by the President of the Senate; one by
7 the minority leader of the Senate; one by the Speaker of the General
8 Assembly; and one by the minority leader of the General Assembly.
9 Members shall serve for a term of three years, except that the members
10 first appointed by the President of the Senate and the Speaker of the
11 Assembly shall serve for a term of two years and the members first
12 appointed by the minority leader of the Senate and the minority leader
13 of the General Assembly shall serve for a term of one year.

14 b. The members of the delegation shall receive compensation for
15 their services of three hundred dollars per diem.

16 c. The department and any other agency of the state shall, when
17 called upon, provide the members with cooperation, information and
18 staff support.

19

20 4. Any violation of the provisions of regulations adopted pursuant
21 to the Northeast Interstate Dairy Compact establishing an over-order
22 price, a commission marketing order, or any other regulations, shall
23 constitute a violation of this act. Any such violation shall be subject
24 to a civil penalty of \$5,000 per occurrence.

25

26 5. This act shall take effect immediately, but shall remain
27 inoperative until the Northeast Interstate Dairy Compact is enacted
28 and entered into by the State of New York.

29

30

31

STATEMENT

32

33 This bill would enact the Northeast Interstate Dairy Compact, and
34 enter New Jersey as a party state therein contingent upon the entry of
35 the State of New York into the compact. The purpose of the compact
36 is to strengthen the dairy industry in the northeast.

37 The Federal Agriculture Improvement and Reform (FAIR) Act of
38 1996 included a provision allowing the New England states to
39 establish a dairy compact if the Secretary of Agriculture found a
40 "compelling public interest" in the northeast region. The secretary
41 determined such an interest existed August 9, 1996, and the compact
42 was then formed. The law allows six other states to join the compact -
43 Delaware, Maryland, New Jersey, New York, Pennsylvania, and
44 Virginia. In order for any of these states to join, congressional
45 approval is necessary and the state must be contiguous to a
46 participating state.

1 The Northeast Interstate Dairy Compact establishes an interstate
2 commission with the authority to set a minimum price paid by dairy
3 processors to dairy farmers in the region, at a level above the minimum
4 price mandated by federal milk marketing orders. The compact will
5 regulate the farm price of milk used only for fluid consumption in the
6 compact region, regardless of where the milk originates.

7

8

9

10

11 The "Northeast Interstate Dairy Compact Act."