

HOUSE BILL NO. 1527

Introduced by

Representatives Marschall, Becker, B. Koppelman, Magrum, M. Ruby, Simons

Senator Clemens

1 A BILL for an Act to create and enact two new sections to chapter 4.1-26 of the North Dakota
2 Century Code, relating to oversight of the milk marketing board by the agriculture commissioner
3 and milk retail prices; and to amend and reenact sections 4.1-26-10, 4.1-26-11, and 4.1-26-12
4 of the North Dakota Century Code, relating to milk retail prices.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 4.1-26-10 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **4.1-26-10. Milk stabilization plans - Required provisions.**

9 The milk marketing board shall establish a milk stabilization plan for each milk marketing
10 area.

- 11 1. a. Each milk stabilization plan must include the minimum price that processors
12 located within the particular milk marketing area must pay to dairy farmers for raw
13 milk.
- 14 b. In establishing the minimum price, as required by this subsection, the board shall
15 consider various factors pertinent to the milk marketing area, including:
- 16 (1) Supplies of raw milk;
17 (2) Reserve supplies of raw milk;
18 (3) Production and retail sales data;
19 (4) Feed prices; and
20 (5) Wage rates.
- 21 2. a. Each milk stabilization plan must include the minimum price that a processor
22 must charge a retailer for milk products, provided the minimum price for each
23 item is applicable, regardless of the location at which the retailer accepts delivery.

- 1 b. Each milk stabilization plan must include the minimum price that a distributor
2 must charge a retailer for milk products, provided the minimum price for each
3 item is applicable, regardless of the location at which the retailer accepts delivery.
- 4 c. ~~Each milk stabilization plan must include the minimum price that any person must~~
5 ~~charge a consumer for milk products.~~
- 6 d. In establishing the minimum price, as required by this subsection, the board shall
7 consider various factors pertinent to the milk marketing area, including:
- 8 (1) Raw milk prices;
- 9 (2) Processing and distribution costs;
- 10 (3) Returns upon investment; and
- 11 (4) Retail sales volumes.

12 **SECTION 2. AMENDMENT.** Section 4.1-26-11 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **4.1-26-11. Milk stabilization plans - Optional provisions.**

- 15 1. a. A milk stabilization plan established in accordance with section 4.1-26-10 may
16 include the minimum price that must be charged for milk products and frozen
17 dairy products by any person other than those referenced in subsection 2 of
18 section 4.1-26-10, except retailers.
- 19 b. (1) Nothing in this subsection requires the establishment of minimum prices for
20 all items in a category.
- 21 (2) Nothing in this subsection requires the establishment of both minimum
22 wholesale and retail prices for a particular item.
- 23 2. A milk stabilization plan established in accordance with section 4.1-26-10 may provide
24 for a classified pricing system predicated upon utilization and may provide for a
25 marketwide pooling arrangement or a handler pooling arrangement, as defined in the
26 Agricultural Marketing Agreement Act of 1937 [7 U.S.C. 601 et seq.], as amended.
- 27 3. If some portion of a milk marketing area falls under the jurisdiction of a federal milk
28 marketing order, a milk stabilization plan established in accordance with section
29 4.1-26-10 for the marketing area may require that licensed processors subject to both
30 the milk stabilization plan and the federal milk marketing order:

- 1 a. Pay minimum raw milk class prices that exceed the minimum raw milk class
- 2 prices established by the federal milk marketing order; and
- 3 b. Pay the difference between the federal and state minimums directly to dairy
- 4 farmers, on a handler pool basis.
- 5 4. A milk stabilization plan established in accordance with section 4.1-26-10 may contain
- 6 a formula that automatically changes the minimum price payable to dairy farmers,
- 7 provided the formula is based on changes in the factors set forth in subdivision b of
- 8 subsection 1 of section 4.1-26-10.
- 9 5. A milk stabilization plan established in accordance with section 4.1-26-10 may:
- 10 a. Establish the prices payable by a processor for raw milk purchased from sources
- 11 other than dairy farmers; and
- 12 b. Contain provisions necessary to ensure that the prices paid for butterfat and milk
- 13 solids not fat, whether in the form of raw milk or otherwise, are uniform for all
- 14 processors whose raw milk purchases are regulated under the plan.
- 15 6. If a milk stabilization plan established in accordance with section 4.1-26-10 contains a
- 16 marketwide pooling arrangement, the plan may require that raw milk produced by
- 17 dairy farmer-processors be included in the pooling arrangement.
- 18 7. A milk stabilization plan established in accordance with section 4.1-26-10 may provide
- 19 for price adjustments based upon:
- 20 a. The butterfat content of the raw milk;
- 21 b. The location at which the raw milk is received;
- 22 c. The location of a plant receiving raw milk that the processor purchased and
- 23 thereafter transferred or diverted from the plant at which such raw milk is
- 24 normally utilized; and
- 25 d. Any other factors for which price adjustments are permitted in the Agricultural
- 26 Marketing Agreement Act of 1937 [7 U.S.C. 601 et seq.], as amended.

27 **SECTION 3. AMENDMENT.** Section 4.1-26-12 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **4.1-26-12. Milk stabilization plans - Optional provisions - Maximum prices.**

- 30 1. A milk stabilization plan established in accordance with section 4.1-26-10 may include
- 31 maximum prices for sales of milk products by a:

- 1 a. Processor; or
- 2 b. Distributor; ~~or~~
- 3 c. Retailer.
- 4 2. In establishing the maximum prices as permitted by this section, the board must
- 5 consider various factors pertinent to the milk marketing area, including:
- 6 a. Supplies of raw milk;
- 7 b. Reserve supplies of raw milk;
- 8 c. Production and retail sales data;
- 9 d. Feed prices; and
- 10 e. Wage rates.

11 **SECTION 4.** A new section to chapter 4.1-26 of the North Dakota Century Code is created
12 and enacted as follows:

13 **Milk marketing board - Setting maximum and minimum retail prices - Prohibition.**

14 Notwithstanding any other provision of law, the milk marketing board may not establish a
15 maximum or minimum retail price a retailer may charge a consumer for milk or milk products.

16 **SECTION 5.** A new section to chapter 4.1-26 of the North Dakota Century Code is created
17 and enacted as follows:

18 **Milk marketing board - Agriculture commissioner - Oversight.**

19 The commissioner shall adopt rules to administer this chapter and provide for oversight of
20 the milk marketing board.