

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**  
4 **By: Representative Hawkins**

# **A Bill**

**HOUSE BILL 1547**

## **For An Act To Be Entitled**

"THE DAIRY INDUSTRY PROMOTION ACT."

### **Subtitle**

"THE DAIRY INDUSTRY PROMOTION ACT."

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

15 SECTION 1. This act may be cited as the "Dairy Industry Promotion Act."

17 SECTION 2. The Ninety-eighth Congress of the United States enacted  
18 the Dairy Production Stabilization Act of 1983 and established the National  
19 Dairy Board (7 U.S.C. 4501, et seq.) authorizing the establishment of orderly  
20 procedures for financing promotional and educational programs for milk and  
21 dairy products through a mandatory fifteen cents (\$.15) per hundredweight  
22 assessment on all milk produced in the United States for commercial use, and  
23 the carrying out of a coordinated program of promotion designed to strengthen  
24 the dairy industry\_s position in the marketplace, and authorizing such orderly  
25 procedures to permit a milk producer or a producer\_s cooperative to establish  
26 that the producer is participating in active, ongoing qualified state or  
27 regional dairy product promotion or nutrition education programs intended to  
28 increase consumption of milk and dairy products generally, to receive credit  
29 in determining assessment due from such producer for contributions to such  
30 state programs in an amount not in excess of ten cents (\$.10) per  
31 hundredweight of milk marketed. The General Assembly finds that the dairy  
32 industry is a paramount agricultural industry affecting the health and welfare  
33 of the citizens of this state. In order to insure the continuing availability  
34 of a sufficient quantity of pure and wholesome milk and other dairy products  
35 to the consumers of this state, it is essential that appropriate action be

1 taken by the state to promote knowledge of the health giving qualities and  
2 dietary values of milk and other dairy products in order to encourage consumer  
3 attention to and demand for milk and other dairy products consistent with  
4 their importance and value. It is therefore declared to be the legislative  
5 intent and the policy of this state to assist dairy producers and others in  
6 the dairy industry to more effectively promote the consumption of Arkansas  
7 milk and other Arkansas dairy products in order to assure a sufficient  
8 quantity of such products for Arkansas consumers.

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10 SECTION 3. As used in this act:

11 (1) "Administrative Procedures Act" means Arkansas Code § 25-15-201, et  
12 seq.

13 (2) "Board" means the Dairy Industry Promotion Board established in  
14 this act.

15 (3) "Dairy cooperative" means an association of producers organized for  
16 the mutual benefit of those producers under Arkansas Code 2-2-101, et seq.

17 (4) "Dairy producer" or "producer" means any person who produces bulk  
18 milk for sale to a dairy cooperative, processor, or distributor located within  
19 the state.

20 (5) "Distributor" means a person, other than a processor, who sells  
21 dairy products to one (1) or more retail establishments or home delivery  
22 routes location in Arkansas. The term "distributor" includes wholesale  
23 grocers and cooperative grocery associations.

24 (6) "Processor" means a person who purchases milk solids, milk fats, or  
25 fluid milk components from a dairy producer or cooperative association,  
26 whether such producer or cooperative association is located within or outside  
27 of the state, for processing, or a person who purchases bulk milk for resale  
28 to a person who processes milk and other dairy products.

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30 SECTION 4. (a) The Dairy Industry Promotion Board is hereby created and  
31 shall consist of twelve (12) members who shall be appointed by the Governor as  
32 follows:

33 (1) Two (2) dairymen appointed from a list of three (3) nominees  
34 submitted by the executive board of the Arkansas Dairy Cooperative  
35 Association.

1           (2) Two (2) dairymen appointed from a list of three (3) nominees  
2 submitted by the executive board of Associated Milk Producers, Inc.

3           (3) Two (2) dairymen appointed from a list of three (3) nominees  
4 submitted by the executive board of Mid-America Dairymen.

5           (4) Two (2) dairymen appointed from a list of three (3) nominees  
6 submitted by the executive board of Kraft General Foods.

7           (5) Two (2) dairymen appointed from a list of three (3) nominees  
8 submitted by the executive board of Hills Valley Foods.

9           (6) Two (2) independent producers who are not members of any  
10 dairy cooperative, appointed from a list of three (3) nominees submitted by  
11 the executive board of the Arkansas Farm Bureau Federation. If either  
12 appointee representing the Arkansas Farm Bureau Federation later becomes a  
13 member of a dairy cooperative, the appointee shall not be eligible to continue  
14 membership on the board as a representative of the Arkansas Farm Bureau  
15 Federation and the position allotted the Arkansas Farm Bureau Federation shall  
16 be vacated.

17           (b) Whenever a member appointed by the Governor is unable to attend any  
18 meeting of the board, the remaining nominee submitted by the organization  
19 which he represents shall serve as his alternate at that meeting. In that  
20 capacity, the alternate shall be entitled to vote and to enjoy all of the  
21 rights and privileges of members appointed by the Governor.

22           (c) In the event that any producer member of the board ceases to be a  
23 dairy producer that member shall not be eligible to continue membership on the  
24 board, his position shall be vacated, and the vacancy shall be filled as  
25 provided in this act.

26           (d) In the event, that any additional dairy cooperative is established  
27 after the effective date of this act, that dairy cooperative when legally  
28 constituted under laws applicable to agricultural cooperatives shall be  
29 entitled to the same representation under the same procedures as dairy  
30 cooperatives listed in this act, and the membership of the board shall be  
31 increased accordingly. In the event that any of the dairy cooperatives listed  
32 in this act should merge with any other dairy cooperative, the resulting  
33 cooperative shall be entitled to two (2) members only, appointed as provided  
34 above for the listed dairy cooperatives.

35           (e) The Governor shall make all appointments no later than thirty (30)

1 days following the last day for submission of lists of nominees. Whenever any  
2 dairy cooperative authorized to make nominations for appointment to the board  
3 fails to submit a list of nominees within the time prescribed in this act, the  
4 Governor may make direct appointments to the board. Each person appointed  
5 under the provisions of this act must be an active dairy producer.

6 (f) Whenever a vacancy occurs, the organization authorized to make  
7 nominations for appointment to the vacant position shall submit a list of the  
8 appropriate number of nominees to the Governor within thirty (30) days after  
9 the vacancy occurs, and the Governor shall appoint a nominee from the list to  
10 fill the vacancy.

11 (g) Each appointee of the Governor must be a member of the association  
12 which he represents.

13 (h) *Unless the members of organizations represented on the board*  
14 *contribute to the Dairy Industry Promotion Fund, the appointee of the Governor*  
15 *who represents that organization shall not be entitled to vote in elections*  
16 *which determine how monies from the fund will be spent.*

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18 SECTION 5. (a) The members of the board shall meet and organize  
19 immediately after their appointment and shall elect from their membership a  
20 chairman, vice chairman, and a secretary-treasurer, whose duties shall be  
21 those customarily exercised by those officers or specifically designated by  
22 the board. All officers shall serve for a period of one (1) year and until  
23 their successors are elected.

24 (b)(1) The first members of the board shall draw lots to determine  
25 their respective terms as follows:

26 (A) Three (3) shall serve a term of four (4)  
27 years;

28 (B) Three (3) shall serve a term of three (3) years;

29 (C) Three (3) shall serve a term of two (2) years; and

30 (D) Three (3) shall serve a term of one (1) year.

31 (2) All successor members shall be appointed for terms of four  
32 (4) years.

33 (c) The board shall meet at least once during each quarter, but may  
34 meet more frequently upon the call of the chairman.

35 (d) The board may establish rules and regulations for its own

1 government and for the administration of affairs of the board.

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3 SECTION 6. The board may:

4 (1) Adopt rules and regulations for the administration of this Act.

5 All rules shall be adopted in accordance with the Administrative Procedures  
6 Act.

7 (2) Collect assessments on the sale of milk solids, milk fats, and  
8 fluid milk components.

9 (3) Appoint advisory groups composed of representatives from  
10 organizations, institutions, government, or businesses related to or  
11 interested in the welfare of the dairy industry.

12 (4) Keep minutes, books, and records which accurately reflect all of  
13 its acts and transactions.

14 (5) Accept grants, donations, contributions, or gifts from any source,  
15 but only if the use of such resources is not restricted in any manner which is  
16 deemed inconsistent with the purposes of this act.

17 (6) Prescribe forms and procedures for the reporting of purchases of  
18 milk solids, milk fats, and fluid milk components and the collection of  
19 assessments thereon.

20 (7) Develop and implement advertising, promotional, or educational  
21 programs for the promotion of milk and other dairy products; however no  
22 advertising, promotional, or educational program shall be directed toward  
23 increasing the sale of milk or other dairy products with reference to any  
24 private brand or trade name used by any processor of milk or dairy products.

25 (8) Enter into and execute advertising and other agreements which are  
26 necessary to promote the sale of Arkansas milk and other Arkansas dairy  
27 products on a state, regional, national, or foreign basis.

28 (9) Confer and cooperate with and enter into agreements with any other  
29 state or federal agency or other organization whose activities may be deemed  
30 beneficial to the purposes of this act.

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32 SECTION 7. Each dairy producer in the state who sells milk solids, milk  
33 fats, or fluid milk components to dairy cooperative associations, processors,  
34 or distributors may elect to send up to ten cents (\$.10) of the fifteen cent  
35 (\$.15) federal assessment on milk products to the board in accordance with the

1 Federal Dairy Promotion Program in 7 U.S.C. 4501, et seq..

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3 SECTION 8. (a) There is hereby created on the books of the State  
4 Treasurer, State Auditor and Chief Fiscal Officer of the State a fund to be  
5 known as the Dairy Industry Promotion Fund.

6 (b) All assessments collected under this act shall be deposited as  
7 special revenues into the Dairy Industry Promotion Fund there to be used for  
8 the administrative and promotional expenses of the board as appropriated by  
9 law.

10 (c) Administrative expenses shall not exceed five percent (5%) of the  
11 assessments collected.

12 (d) The board shall annually make a complete report of all of its  
13 expenditures during the preceding fiscal year to all dairy cooperative  
14 associations and the Arkansas Farm Bureau Federation.

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16 SECTION 9. All provisions of this act of a general and permanent nature  
17 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
18 Revision Commission shall incorporate the same in the Code.

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20 SECTION 10. If any provision of this act or the application thereof to  
21 any person or circumstance is held invalid, such invalidity shall not affect  
22 other provisions or applications of the act which can be given effect without  
23 the invalid provision or application, and to this end the provisions of this  
24 act are declared to be severable.

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26 SECTION 11. All laws and parts of laws in conflict with this act are  
27 hereby repealed.

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*/s/Bruce Hawkins*

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