

1 Senate BILL NO. 286
 2 INTRODUCED BY LYNCH
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
 5 27-407, R.C.M. 1947, TO REQUIRE THE MONTANA MILK CONTROL
 6 BOARD TO TAKE INTO ACCOUNT DIFFERING COSTS BETWEEN DIFFERENT
 7 METHODS OF DISTRIBUTION IN COMPUTING THE FORMULA FOR
 8 SEPARATE MINIMUM RETAIL PRICES FOR MILK IN CLASS I."
 9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 27-407, R.C.M. 1947, is amended to
 12 read as follows:

13 "27-407. Establishment of minimum prices. The board
 14 shall fix minimum producer, wholesale, jobber, and retail
 15 prices for class I milk, and minimum producer prices only
 16 for class II and class III milk in all areas of the state,
 17 by adopting rules in a manner prescribed by the Montana
 18 Administrative Procedure Act.

19 The board shall establish such prices by means of
 20 flexible formulas which shall be devised so that they bring
 21 about such automatic changes in all minimum prices as are
 22 justified on the basis of changes in production costs and
 23 supply, processing and distribution costs, and retailing
 24 costs.

25 The board shall consider the balance between production

1 and consumption of milk, the costs of production and
 2 distribution, and prices in adjacent and neighboring areas
 3 and states, so that minimum prices which are fair and
 4 equitable to producers, distributors, jobbers, retailers,
 5 and consumers may result.

6 The board shall, when publishing notice of proposed
 7 rule making under authority of this section, set forth the
 8 specific factors which shall be taken into consideration in
 9 establishing the formulas and in particular in determining
 10 costs of production and distribution and of the actual
 11 dollars and cents costs of production and distribution which
 12 preliminary studies and investigations of auditors or
 13 accountants in its employment indicate will or should be
 14 shown at the hearing, so that all interested parties will
 15 have opportunity to be heard and to question or rebut such
 16 considerations as a matter of record.

17 Such specific factors may include, but shall not be
 18 limited to, the following items:

19 (1) Current and prospective supplies of milk in
 20 relation to current and prospective demands for such milk
 21 for all purposes;

22 (2) The ability and willingness of consumers to
 23 purchase, which shall include among other things, per capita
 24 disposable income statistics, consumer price indices, and
 25 wholesale price indices;

1 (3) The cost factors in producing milk, which shall
 2 include among other things the prices paid by farmers
 3 generally (as used in parity calculations of the United
 4 States Department of Agriculture), prices paid by farmers
 5 for dairy feed in particular and farm wage rates in this
 6 state;

7 (4) The alternative opportunities, both farm and
 8 nonfarm, open to milk producers, which shall include among
 9 other things, prices received by farmers for all products
 10 other than milk, prices received by farmers for beef cattle,
 11 and the percentage of unemployment in the state and nation
 12 as determined by appropriate state and federal agencies;

13 (5) The prices of butter-nonfat dry milk, and cheese;

14 (6) The cost factors in distributing milk, which shall
 15 include among other things the prices paid by distributors
 16 for equipment of all types required to process and market
 17 milk and prevailing wage rates in this state;

18 (7) The cost factors in jobbing milk, which shall
 19 include among other things raw product and ingredient costs,
 20 carton or other packaging cost, processing cost and that
 21 part of general administrative costs of the supplying
 22 distributor which may properly be allocated to the handling
 23 of milk to the point at which such milk is at the supplying
 24 distributor's dock, equipment of all types required to
 25 market milk and prevailing wage rates in the state;

1 (8) The need, if any, for freight or transportation
 2 charges to be deducted by distributors from producer prices
 3 for bulk milk;

4 (9) A reasonable return on necessary investment to all
 5 ordinarily efficient and economical milk dealers.

6 If the board at any time proposes to base all or any
 7 part of any official order establishing or revising any milk
 8 pricing formulas upon facts within its own knowledge, as
 9 distinguished from evidence which may be presented to it by
 10 the consuming public or the milk industry, the board shall,
 11 when publishing notice of proposed rule making under
 12 authority of this section, cause notice to be given to ~~the~~
 13 consuming public and the milk industry of the specific facts
 14 within its own knowledge which it will consider, so that all
 15 interested parties will have opportunity to be heard and to
 16 question or rebut such facts as a matter of record.

17 The board, after consideration of the evidence
 18 produced, shall make written findings and conclusions and
 19 shall fix by official rule:

20 (a) The formula whereby minimum producer prices for
 21 milk in classes I, II, and III shall be computed.

22 (b) The formula whereby minimum wholesale prices for
 23 milk in class I shall be computed.

24 (c) The formula whereby minimum jobber prices for milk
 25 in class I shall be computed.

1 (d) The formula whereby separate minimum retail prices
 2 for each of the methods of distributing milk in class I
 3 shall be computed, which formula shall take into account the
 4 differing costs as established by evidence presented to the
 5 board or as secured by the board in the absence of evidence
 6 from other sources, between the differing methods of
 7 distribution.

8 This section shall not be construed as requiring the
 9 board to promulgate any specific number of formulas, but
 10 shall be construed liberally so that the board may adopt any
 11 reasonable method of expression to accomplish the objective
 12 set forth in (a), (b), (c), and (d) above. If the evidence
 13 presented to the board at any public hearing for the
 14 establishment or revision of milk pricing formulas is found
 15 by the board to require the establishment of separate and
 16 varying wholesale prices for any particular uses, the board
 17 shall designate the reasons therefor and establish such
 18 separate formulas.

19 Each rule establishing or revising any milk pricing
 20 formulas shall classify milk by forms, classes, grades or
 21 uses as the board may deem advisable and shall specify the
 22 minimum prices therefor.

23 The milk produced in one natural marketing area and
 24 sold in another natural marketing area shall be paid for by
 25 a distributor or dealer in accordance with the pricing order

1 of the area where produced at the price therein specified of
 2 the class or use in which it is ultimately used or sold.

3 No allowance for freight, other than freight for
 4 transportation of milk from the farm to plant, shall be
 5 charged to a producer by a distributor or dealer unless it
 6 is found and ordered by the board, after notice and hearing
 7 in the manner hereinbefore specified, that such an
 8 additional freight allowance is necessary to permit the
 9 movement of milk in the public interest.

10 All milk purchased within a natural marketing area by a
 11 distributor shall be purchased on a uniform basis. The basis
 12 to be used shall be established by the board after the
 13 producers and the distributors of the area have been
 14 consulted.

15 The board may amend any official rule in the same
 16 manner provided herein for the original establishment of
 17 milk pricing formulas; provided, further, the board may in
 18 its discretion, when it determines the need exists, notice
 19 and hold state-wide public hearings affecting establishment
 20 or revision of milk pricing formulas in all market areas of
 21 the state.

22 Upon petition of a distributor or a majority of his
 23 producers, the board shall hold a hearing to receive and
 24 consider evidence regarding the advisability and need for a
 25 base or quota plan as a method of payment by that

1 distributor of producer prices; and if the board finds that
2 the evidence adduced at such hearing warrants the
3 establishment of a base or quota plan, the board shall
4 proceed by official order to establish the same.

5 Upon petition by any producer, producer-distributor or
6 distributor in any marketing area, the board shall hold a
7 hearing to receive and consider evidence regarding the
8 advisability and need for an area-wide or state-wide pooling
9 arrangement as a method of payment of producer prices,
10 provided that at such hearing the board shall among other
11 things specifically receive and consider evidence concerning
12 production and marketing practices which have historically
13 prevailed in the area concerned or state-wide, as the case
14 may be; and if the board finds that the evidence adduced at
15 such hearing warrants the establishment of such an area-wide
16 or state-wide pooling arrangement, the board shall proceed
17 by official order to establish the same, but such official
18 order shall be of no force or effect until it is approved in
19 a referendum conducted by the board among affected
20 producers, producer-distributors, and distributors.

21 The requirements hereinabove set forth concerning
22 notices of hearings for the establishment of milk pricing
23 formulas shall apply to any hearings regarding base or quota
24 plans or area-wide or state-wide pooling arrangements, or
25 abandonment thereof." -End-