

SENATE BILL NO. 277

INTRODUCED BY HOFMAN, LYBECK, YELLOWTAIL, NEUMAN,  
ANDERSON, SWYSGOOD, FARRELL, BOYLAN, KEATING, STORY,  
GALT, B. BROWN, GRADY, HOLLIDAY, MANUEL

IN THE SENATE

FEBRUARY 3, 1987           INTRODUCED AND REFERRED TO COMMITTEE  
ON AGRICULTURE, LIVESTOCK & IRRIGATION.

FEBRUARY 18, 1987         COMMITTEE RECOMMEND BILL  
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 19, 1987         PRINTING REPORT.

FEBRUARY 20, 1987         SECOND READING, DO PASS.

FEBRUARY 21, 1987         ENGROSSING REPORT.

FEBRUARY 23, 1987         THIRD READING, PASSED.  
AYES, 49; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 24, 1987         INTRODUCED AND REFERRED TO COMMITTEE  
ON AGRICULTURE, LIVESTOCK & IRRIGATION.

MARCH 7, 1987             COMMITTEE RECOMMEND BILL BE  
CONCURRED IN. REPORT ADOPTED.

MARCH 10, 1987           ON MOTION, CONSIDERATION PASSED  
FOR THE DAY.

MARCH 11, 1987           ON MOTION, CONSIDERATION PASSED  
FOR THE DAY.

MARCH 13, 1987           SECOND READING, CONCURRED IN AS  
AMENDED.

MARCH 16, 1987           THIRD READING, CONCURRED IN.  
AYES, 92; NOES, 5.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 19, 1987

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

MARCH 20, 1987

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

1 *Senate* BILL NO. *277*  
 2 INTRODUCED BY *Wesley Lybeck Yellowstone*  
 3 *J. Brantley* *Senygeval Farnell* *Boyle* *Hutton*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
 5 LAWS RELATING TO THE ESTABLISHMENT AND OPERATION OF A  
 6 STATEWIDE POOLING ARRANGEMENT AS A METHOD OF PAYMENT OF  
 7 PRODUCER MILK PRICES; AMENDING SECTION 81-23-302, MCA; AND  
 8 PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
*Shirley*  
*Boyle*  
*Boyle*  
*Boyle*  
*Boyle*  
*Boyle*

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

10 Section 1. Section 81-23-302, MCA, is amended to read:

11 "81-23-302. Establishment of minimum prices. (1) The  
 12 board shall fix minimum producer, wholesale, jobber, and  
 13 retail prices for class I milk and minimum producer prices  
 14 only for class II and class III milk by adopting rules in a  
 15 manner prescribed by the Montana Administrative Procedure  
 16 Act.  
 17

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

23 (3) The board shall consider the balance between  
 24 production and consumption of milk, the costs of production  
 25 and distribution, and prices in adjacent and neighboring

1 areas and states so that minimum prices which are fair and  
 2 equitable to producers, distributors, jobbers, retailers,  
 3 and consumers may result.

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

15 (5) Such specific factors may include but shall not be  
 16 limited to the following items:

17 (a) current and prospective supplies of milk in  
 18 relation to current and prospective demands for such milk  
 19 for all purposes;

20 (b) the ability and willingness of consumers to  
 21 purchase, which shall include among other things per capita  
 22 disposable income statistics, consumer price indexes, and  
 23 wholesale price indexes;

24 (c) the cost factors in producing milk, which shall  
 25 include among other things the prices paid by farmers

1 generally (as used in parity calculations of the United  
2 States department of agriculture), prices paid by farmers  
3 for dairy feed in particular, and farm wage rates in this  
4 state;

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

11 (e) the prices of butter, nonfat dry milk, and cheese;

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

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

24 (h) the need, if any, for freight or transportation  
25 charges to be deducted by distributors from producer prices

1 for bulk milk.

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

13 (7) The board, after consideration of the evidence  
14 produced, shall make written findings and conclusions and  
15 shall fix by official rule the formula whereby minimum:

16 (a) producer prices for milk in classes I, II, and III  
17 shall be computed;

18 (b) wholesale prices for milk in class I shall be  
19 computed;

20 (c) jobber prices for milk in class I shall be  
21 computed;

22 (d) retail prices for milk in class I shall be  
23 computed.

24 (8) This section shall not be construed as requiring  
25 the board to promulgate any specific number of formulas, but

1 shall be construed liberally so that the board may adopt any  
 2 reasonable method of expression to accomplish the objective  
 3 set forth in subsection (7). If the evidence presented to  
 4 the board at any public hearing for the establishment or  
 5 revision of milk pricing formulas is found by the board to  
 6 require the establishment of separate and varying wholesale  
 7 prices for any particular uses, the board shall designate  
 8 the reasons therefor and establish such separate formulas.

9 (9) Each rule establishing or revising any milk  
 10 pricing formulas shall classify milk by forms, classes,  
 11 grades, or uses as the board may deem advisable and shall  
 12 specify the minimum prices therefor.

13 (10) The board shall adopt rules after notice and  
 14 hearing in the manner prescribed by the Montana  
 15 Administrative Procedure Act to regulate transportation  
 16 rates which distributors, contract haulers, and others  
 17 charge producers for both farm-to-plant and interplant  
 18 transportation of milk. No allowance for transportation of  
 19 milk between plants may be permitted unless it is found by  
 20 the board to be necessary to permit the movement of milk in  
 21 the public interest.

22 (11) All milk purchased by a distributor shall be  
 23 purchased on a uniform basis. The basis to be used shall be  
 24 established by the board after the producers and the  
 25 distributors have been consulted.

1 (12) The board may amend any official rule in the same  
 2 manner provided herein for the original establishment of  
 3 milk pricing formulas. The board may in its discretion,  
 4 when it determines the need exists, give notice of and hold  
 5 statewide public hearings affecting establishment or  
 6 revision of milk pricing formulas.

7 (13) Upon petition of a distributor or a majority of  
 8 his producers, the board shall hold a hearing to receive and  
 9 consider evidence regarding the advisability and need for a  
 10 base or quota plan as a method of payment by that  
 11 distributor of producer prices; and if the board finds that  
 12 the evidence adduced at such hearing warrants the  
 13 establishment of a base or quota plan, the board shall  
 14 proceed by official order to establish the same.

15 (14) (a) Upon petition by any-producer, 10% or 20 of  
 16 the licensed producers in Montana, whichever is less, or  
 17 upon petition by any licensed producer-distributor, or  
 18 distributor, the board shall hold a hearing to receive and  
 19 consider evidence regarding the advisability and need for a  
 20 statewide pooling arrangement as a method of payment of  
 21 producer prices, provided that at such hearing the board  
 22 shall among other things specifically receive and consider  
 23 evidence concerning production and marketing practices which  
 24 have historically prevailed statewide. If the board finds  
 25 that the evidence adduced at such hearing warrants the

1 establishment of a statewide pooling arrangement, the board  
 2 shall proceed by official order to establish the same; but  
 3 such official order shall be of no force or effect until it  
 4 is approved in a referendum conducted by the board by mail  
 5 and by secret ballot among affected producers,  
 6 producer-distributors, and distributors. The referendum is  
 7 not valid unless at least 75% of the total number of  
 8 affected producers, producer-distributors, and distributors  
 9 vote in the referendum, and the official order must be  
 10 approved by a majority of those voting representing more  
 11 than 50% of the milk produced in Montana that is to be  
 12 included in the proposed pool, based on each producer's  
 13 average monthly production for the 12 months immediately  
 14 preceding the referendum. If the board finds it necessary,  
 15 the board may conduct more than one referendum on any order.

16 (b) The order of the board establishing the statewide  
 17 pooling arrangement may include other provisions as the  
 18 board considers necessary for the proper and efficient  
 19 operation of the pool. These provisions may include but are  
 20 not limited to:

21 (i) a statewide base or quota plan contemplated in  
 22 subsection (13);

23 (ii) the establishment of a pool settlement fund to be  
 24 administered by the department for the purpose of receiving  
 25 payments from pool distributors or making payments to them

1 as necessary in order to operate and administer the  
 2 statewide pool; and

3 (iii) the establishment of a pool expense fund for the  
 4 purpose of offsetting the costs to the department of  
 5 administering the pool, funded by a special levy assessed  
 6 against each pool producer.

7 (c) During the initial startup of a statewide pool,  
 8 the department may draw from existing cash reserves to fund  
 9 a pool settlement fund and a pool expense fund, but any  
 10 withdrawals from the cash reserve must be reimbursed.

11 (15) The requirements hereinabove set forth concerning  
 12 notices of hearings for the establishment of milk pricing  
 13 formulas shall apply to any hearings regarding base or quota  
 14 plans or statewide pooling arrangements or abandonment  
 15 thereof.

16 (16) Rules adopted pursuant to this section shall be  
 17 enforced and audited for compliance by the milk control  
 18 bureau of the department of commerce."

19 NEW SECTION. Section 2. Extension of authority. Any  
 20 existing authority of the department of commerce to make  
 21 rules on the subject of the provisions of this act is  
 22 extended to the provisions of this act.

23 NEW SECTION. Section 3. Effective date. This act is  
 24 effective on passage and approval.

-End-

APPROVED BY COMMITTEE  
ON AGRICULTURE LIVESTOCK  
& IRRIGATION

SENATE BILL NO. 277

INTRODUCED BY HOFMAN, LYBECK, YELLOWTAIL, NEUMAN,  
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A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
LAWS RELATING TO THE ESTABLISHMENT AND OPERATION OF A  
STATEWIDE POOLING ARRANGEMENT AS A METHOD OF PAYMENT OF  
PRODUCER MILK PRICES; AMENDING SECTION 81-23-302, MCA; AND  
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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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board shall fix minimum producer, wholesale, jobber, and  
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only for class II and class III milk by adopting rules in a  
manner prescribed by the Montana Administrative Procedure  
Act.

(2) The board shall establish such prices by means of  
flexible formulas which shall be devised so that they bring  
about such automatic changes in all minimum prices as are  
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(3) The board shall consider the balance between

production and consumption of milk, the costs of production  
and distribution, and prices in adjacent and neighboring  
areas and states so that minimum prices which are fair and  
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for all purposes;

(b) the ability and willingness of consumers to  
purchase, which shall include among other things per capita  
disposable income statistics, consumer price indexes, and  
wholesale price indexes;



1 (c) 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 (d) the alternative opportunities, both farm and  
8 nonfarm, open to milk producers, which shall include among  
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10 other than milk, prices received by farmers for beef cattle,  
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4 (6) If the board at any time proposes to base all or  
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 25 purchased on a uniform basis. The basis to be used shall be

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 5 such official order shall be of no force or effect until it  
 6 is approved in a referendum conducted by the board by mail  
 7 and by secret ballot among affected producers,  
 8 producer-distributors, and distributors. ~~The referendum is~~  
 9 ~~not valid unless at least 75% of the total number of~~  
 10 ~~affected producers, producer-distributors, and distributors~~  
 11 ~~vote in the referendum, and the~~ official order must be  
 12 approved by a majority of those THE PRODUCERS,  
 13 PRODUCER-DISTRIBUTORS, AND DISTRIBUTORS voting representing  
 14 more than 50% of the milk produced in Montana that is to be  
 15 included in the proposed pool, based on each producer's  
 16 average monthly production for the 12 months immediately  
 17 preceding the referendum. If the board finds it necessary,  
 18 the board may conduct more than one referendum on any order.

19 (b) The order of the board establishing the statewide  
 20 pooling arrangement may include other provisions as the  
 21 board considers necessary for the proper and efficient  
 22 operation of the pool. These provisions may include but are  
 23 not limited to:

24 (i) a statewide base or quota plan contemplated in  
 25 subsection (13);

1 (ii) the establishment of a pool settlement fund to be  
 2 administered by the department for the purpose of receiving  
 3 payments from pool distributors or making payments to them  
 4 as necessary in order to operate and administer the  
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 7 purpose of offsetting the costs to the department of  
 8 administering the pool, funded by a special levy assessed  
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 11 the department may draw from existing cash reserves to fund  
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19 (16) Rules adopted pursuant to this section shall be  
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22 NEW SECTION. Section 2. Extension of authority. Any  
 23 existing authority of the department of commerce to make  
 24 rules on the subject of the provisions of this act is  
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SB 0277/02

1        NEW SECTION. Section 3. Effective date. This act is  
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-End-

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 14 the evidence adduced at such hearing warrants the  
 15 establishment of a base or quota plan, the board shall  
 16 proceed by official order to establish the same.

17 (14) (a) Upon petition by any-producer, 10% or 20 of  
 18 the licensed producers in Montana, whichever is less, or  
 19 upon petition by any licensed producer-distributor, or  
 20 distributor, the board shall hold a hearing to receive and  
 21 consider evidence regarding the advisability and need for a  
 22 statewide pooling arrangement as a method of payment of  
 23 producer prices, provided that at such hearing the board  
 24 shall among other things specifically receive and consider  
 25 evidence concerning production and marketing practices which

1 have historically prevailed statewide. If the board finds  
 2 that the evidence adduced at such hearing warrants the  
 3 establishment of a statewide pooling arrangement, the board  
 4 shall proceed by official order to establish the same; but  
 5 such official order shall be of no force or effect until it  
 6 is approved in a referendum conducted by the board by mail  
 7 and by secret ballot among affected producers,  
 8 producer-distributors, and distributors. The referendum is  
 9 not valid unless at least 75% of the total number of  
 10 affected producers, producer-distributors, and distributors  
 11 vote in the referendum, and the official order must be  
 12 approved by a majority of those THE PRODUCERS,  
 13 PRODUCER-DISTRIBUTORS, AND DISTRIBUTORS voting representing  
 14 more than 50% of the milk produced in Montana that is to be  
 15 included in the proposed pool, based on each producer's  
 16 average monthly production for the 12 months immediately  
 17 preceding the referendum. If the board finds it necessary,  
 18 the board may conduct more than one referendum on any order.

19 (b) The order of the board establishing the statewide  
 20 pooling arrangement may include other provisions as the  
 21 board considers necessary for the proper and efficient  
 22 operation of the pool. These provisions may include but are  
 23 not limited to:

24 (i) a statewide base or quota plan contemplated in  
 25 subsection (13);

1 (ii) the establishment of a pool settlement fund to be  
 2 administered by the department for the purpose of receiving  
 3 payments from pool distributors or making payments to them  
 4 as necessary in order to operate and administer the  
 5 statewide pool; and

6 (iii) the establishment of a pool expense fund for the  
 7 purpose of offsetting the costs to the department of  
 8 administering the pool, funded by a special levy assessed  
 9 against each pool producer.

10 (c) During the initial startup of a statewide pool,  
 11 the department may draw from existing cash reserves to fund  
 12 a pool settlement fund and a pool expense fund, but any  
 13 withdrawals from the cash reserve must be reimbursed.

14 (15) The requirements hereinabove set forth concerning  
 15 notices of hearings for the establishment of milk pricing  
 16 formulas shall apply to any hearings regarding base or quota  
 17 plans or statewide pooling arrangements or abandonment  
 18 thereof.

19 (16) Rules adopted pursuant to this section shall be  
 20 enforced and audited for compliance by the milk control  
 21 bureau of the department of commerce."

22 NEW SECTION. Section 2. Extension of authority. Any  
 23 existing authority of the department of commerce to make  
 24 rules on the subject of the provisions of this act is  
 25 extended to the provisions of this act.

SB 0277/02

1        NEW SECTION. Section 3. Effective date. This act is  
2 effective on passage and approval.

-End-



SENATE BILL NO. 277

INTRODUCED BY HOFMAN, LYBECK, YELLOWTAIL, NEUMAN,  
ANDERSON, SWYSGOOD, FARRELL, BOYLAN, KEATING, STORY,  
GALT, B. BROWN, GRADY, HOLLIDAY, MANUEL

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
LAWS RELATING TO THE ESTABLISHMENT AND OPERATION OF A  
STATEWIDE POOLING ARRANGEMENT AS A METHOD OF PAYMENT OF  
PRODUCER MILK PRICES; AMENDING SECTION 81-23-302, MCA; AND  
PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 81-23-302, MCA, is amended to read:

"81-23-302. Establishment of minimum prices. (1) The  
board shall fix minimum producer, wholesale, jobber, and  
retail prices for class I milk and minimum producer prices  
only for class II and class III milk by adopting rules in a  
manner prescribed by the Montana Administrative Procedure  
Act.

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

(3) The board shall consider the balance between

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

(4) The board shall, when publishing notice of  
proposed rulemaking under authority of this section, set  
forth the specific factors which shall be taken into  
consideration in establishing the formulas and in particular  
in determining costs of production and distribution and of  
the actual dollars and cents costs of production and  
distribution which preliminary studies and investigations of  
auditors or accountants in its employment indicate will or  
should be shown at the hearing so that all interested  
parties will have opportunity to be heard and to question or  
rebut such considerations as a matter of record.

(5) Such specific factors may include but shall not be  
limited to the following items:

(a) current and prospective supplies of milk in  
relation to current and prospective demands for such milk  
for all purposes;

(b) the ability and willingness of consumers to  
purchase, which shall include among other things per capita  
disposable income statistics, consumer price indexes, and  
wholesale price indexes;



1 (c) 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 (d) 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 (e) the prices of butter, nonfat dry milk, and cheese;

14 (f) 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 (g) 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 (h) the need, if any, for freight or transportation  
 2 charges to be deducted by distributors from producer prices  
 3 for bulk milk.

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

15 (7) The board, after consideration of the evidence  
 16 produced, shall make written findings and conclusions and  
 17 shall fix by official rule the formula whereby minimum:

18 (a) producer prices for milk in classes I, II, and III  
 19 shall be computed;

20 (b) wholesale prices for milk in class I shall be  
 21 computed;

22 (c) jobber prices for milk in class I shall be  
 23 computed;

24 (d) retail prices for milk in class I shall be  
 25 computed.

1 (8) This section shall not be construed as requiring  
 2 the board to promulgate any specific number of formulas, but  
 3 shall be construed liberally so that the board may adopt any  
 4 reasonable method of expression to accomplish the objective  
 5 set forth in subsection (7). If the evidence presented to  
 6 the board at any public hearing for the establishment or  
 7 revision of milk pricing formulas is found by the board to  
 8 require the establishment of separate and varying wholesale  
 9 prices for any particular uses, the board shall designate  
 10 the reasons therefor and establish such separate formulas.

11 (9) Each rule establishing or revising any milk  
 12 pricing formulas shall classify milk by forms, classes,  
 13 grades, or uses as the board may deem advisable and shall  
 14 specify the minimum prices therefor.

15 (10) The board shall adopt rules after notice and  
 16 hearing in the manner prescribed by the Montana  
 17 Administrative Procedure Act to regulate transportation  
 18 rates which distributors, contract haulers, and others  
 19 charge producers for both farm-to-plant and interplant  
 20 transportation of milk. No allowance for transportation of  
 21 milk between plants may be permitted unless it is found by  
 22 the board to be necessary to permit the movement of milk in  
 23 the public interest.

24 (11) All milk purchased by a distributor shall be  
 25 purchased on a uniform basis. The basis to be used shall be

1 established by the board after the producers and the  
 2 distributors have been consulted.

3 (12) The board may amend any official rule in the same  
 4 manner provided herein for the original establishment of  
 5 milk pricing formulas. The board may in its discretion,  
 6 when it determines the need exists, give notice of and hold  
 7 statewide public hearings affecting establishment or  
 8 revision of milk pricing formulas.

9 (13) Upon petition of a distributor or a majority of  
 10 his producers, the board shall hold a hearing to receive and  
 11 consider evidence regarding the advisability and need for a  
 12 base or quota plan as a method of payment by that  
 13 distributor of producer prices; and if the board finds that  
 14 the evidence adduced at such hearing warrants the  
 15 establishment of a base or quota plan, the board shall  
 16 proceed by official order to establish the same.

17 (14) (a) Upon petition by any-producer, 10% or 20 of  
 18 the licensed producers in Montana, whichever is less, or  
 19 upon petition by any licensed producer-distributor, or  
 20 distributor, the board shall hold a hearing to receive and  
 21 consider evidence regarding the advisability and need for a  
 22 statewide pooling arrangement as a method of payment of  
 23 producer prices, provided that at such hearing the board  
 24 shall among other things specifically receive and consider  
 25 evidence concerning production and marketing practices which

1 have historically prevailed statewide. If the board finds  
 2 that the evidence adduced at such hearing warrants the  
 3 establishment of a statewide pooling arrangement, the board  
 4 shall proceed by official order to establish the same; but  
 5 such official order shall be of no force or effect until it  
 6 is approved in a referendum conducted by the board by mail  
 7 and by secret ballot among affected producers,  
 8 producer-distributors, and distributors. THE BOARD SHALL  
 9 KEEP CONFIDENTIAL THE VOTE OF EACH PRODUCER,  
 10 PRODUCER-DISTRIBUTOR, AND DISTRIBUTOR VOTING IN THE  
 11 REFERENDUM. ~~The referendum is not valid unless at least 75%~~  
 12 ~~of the total number of affected producers,~~  
 13 ~~producer-distributors, and distributors vote in the~~  
 14 ~~referendum, and the~~ official order must be approved by a  
 15 majority of those THE PRODUCERS, PRODUCER-DISTRIBUTORS, AND  
 16 DISTRIBUTORS voting representing more than 50% of the milk  
 17 produced in Montana that is to be included in the proposed  
 18 pool, based on each producer's average monthly production  
 19 for the 12 months immediately preceding the referendum. If  
 20 the board finds it necessary, the board may conduct more  
 21 than one referendum on any order.

22 (b) The order of the board establishing the statewide  
 23 pooling arrangement may include other provisions as the  
 24 board considers necessary for the proper and efficient  
 25 operation of the pool. These provisions may include but are

1 not limited to:

2 (i) a statewide base or quota plan contemplated in  
 3 subsection (13);

4 (ii) the establishment of a pool settlement fund to be  
 5 administered by the department for the purpose of receiving  
 6 payments from pool distributors or making payments to them  
 7 as necessary in order to operate and administer the  
 8 statewide pool; and

9 (iii) the establishment of a pool expense fund for the  
 10 purpose of offsetting the costs to the department of  
 11 administering the pool, funded by a special levy assessed  
 12 against each pool producer.

13 (c) During the initial startup of a statewide pool,  
 14 the department may draw from existing cash reserves to fund  
 15 a pool settlement fund and a pool expense fund, but any  
 16 withdrawals from the cash reserve must be reimbursed.

17 (D) AN ORDER OF THE BOARD ESTABLISHING A STATEWIDE  
 18 POOLING ARRANGEMENT THAT HAS BEEN APPROVED IN A REFERENDUM  
 19 MAY BE RESCINDED IN THE SAME MANNER AS PROVIDED FOR APPROVAL  
 20 OF THE ORDER UNDER SUBSECTION (14)(A). SUCH ORDER MAY BE  
 21 AMENDED WITHOUT A REFERENDUM IF, PRIOR TO AMENDING THE  
 22 ORDER, THE BOARD GIVES WRITTEN NOTICE OF ITS INTENDED ACTION  
 23 AND HOLDS A PUBLIC HEARING AS REQUIRED UNDER THE MONTANA  
 24 ADMINISTRATIVE PROCEDURE ACT.

25 (15) The requirements hereinabove set forth concerning

1 notices of hearings for the establishment of milk pricing  
2 formulas shall apply to any hearings regarding base or quota  
3 plans or statewide pooling arrangements or abandonment  
4 thereof.

5 (16) Rules adopted pursuant to this section shall be  
6 enforced and audited for compliance by the milk control  
7 bureau of the department of commerce."

8 NEW SECTION. Section 2. Extension of authority. Any  
9 existing authority of the department of commerce to make  
10 rules on the subject of the provisions of this act is  
11 extended to the provisions of this act.

12 NEW SECTION. Section 3. Effective date. This act is  
13 effective on passage and approval.

-End-

# COMMITTEE OF THE WHOLE AMENDMENT

HOUSE

3-13-87

DATE

16:40

TIME

MR. CHAIRMAN: I MOVE TO AMEND

SB 277

3rd

reading copy (

blue

Color

) as follows:

1. Page 7, line 8.

Following: "."

Insert: "The board shall keep confidential the vote of each producer, producer-distributor, and distributor voting in the referendum."

2. Page 8, line 14.

Following: line 13

Insert: "(d) An order of the board establishing a statewide pooling arrangement that has been approved in a referendum may be rescinded in the same manner as provided for approval of the order under subsection (14)(a). Such order may be amended without a referendum if, prior to amending the order, the board gives written notice of its intended action and holds a public hearing as required under the Montana Administrative Procedure Act."

ADOPT

REJECT

3121641S.CW

*Rep. Ellison*  
Rep. Ellison