

TO REAUTHORIZE THE DAIRY INDEMNITY PROGRAM

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OCTOBER 2, 1997.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. SMITH of Oregon, from the Committee on Agriculture,  
submitted the following

R E P O R T

[To accompany H.R. 1789]

[Including cost estimate of the Congressional Budget Office]

The Committee on Agriculture, to whom was referred the bill (H.R. 1789) to reauthorize the dairy indemnity program, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

BRIEF EXPLANATION

H.R. 1789 reauthorizes the dairy indemnity program for the period fiscal year 1998 through fiscal year 2002, and allows the use of funds appropriated for fiscal year 1998 to be used to pay valid claims arising during fiscal year 1997.

PURPOSE AND NEED

The dairy indemnity program allows the Secretary of Agriculture to make indemnity payments for milk, or for the cows producing such milk, to dairy farmers and manufacturers of dairy products who have been directed to remove their products from commercial markets because of the presence of certain chemical or toxic residue in the products. H.R. 1789 would provide authority to the Secretary to continue such indemnity payments, as well as reauthorize the Secretary to make indemnity payments to dairy farmers who have been directed to remove their products from commercial markets because of the presence of nuclear radiation or fallout.

In 1997 the primary reason for milk to be ordered withdrawn from the market was the result of Aflatoxin in feed, which can result in the presence of Aflatoxin residue in milk. The dairy indemnity program allows payments to be made only to those dairy farm-

ers and manufacturers who suffer losses through no fault of their own; payments cannot be made to those who suffer losses due to their own negligence or willful failure to follow procedures prescribed by the Department.

H.R. 1789 will allow the Secretary to use funds appropriated in fiscal year 1998 to satisfy claims arising during fiscal year 1997 to the extent such claims cannot be fully paid using fiscal year 1997 funds. H.R. 1789 also requires the Secretary to submit to Congress a report identifying and evaluating alternative methods for financing the dairy indemnity program within 180 days of enactment of the bill.

The fiscal year 1998 agriculture appropriations conference report (H. Rept. 105-252, not yet acted on by the House) would appear to provide the necessary funding for the dairy indemnity program authorized in the bill. The Department of Agriculture supports H.R. 1789. This Committee has determined that reauthorization of the dairy indemnity program is in the best interest of America's dairy producers and processors.

#### SECTION-BY-SECTION ANALYSIS

##### SECTION 1. EXTENSION OF DAIRY INDEMNITY PROGRAM

Subsection (a). Extension—Reauthorizes the Dairy Indemnity Program through fiscal year “2002”. (7 U.S.C. 450l).

Subsection (b). Treatment of Existing Claims—Amends section 2 of Public Law 90-484 (7 U.S.C. 450k) by adding language to the effect that funds appropriated as provided in this section for fiscal year 1998 may also be used to pay valid claims that arose in fiscal year 1997 to the extent that such claims are not fully paid with fiscal year 1997 funds.

Subsection (c). Alternative Financing Options—This subsection provides that not later than 180 days after the enactment of this Act the Secretary shall submit to Congress a report identifying and evaluating alternative methods to finance the dairy indemnity program provided in Public Law 90-484 (7 U.S.C. 450j).

#### COMMITTEE CONSIDERATION

##### I—SUBCOMMITTEE

On June 26, 1997, the Subcommittee on Livestock, Dairy, and Poultry held a hearing regarding H.R. 1789. Testimony was taken from a representative of the U.S. Department of Agriculture and from a representative of Associated Milk Producers, Inc. Both witnesses testified in favor of the legislation.

Subsequently on June 26, 1997, the Subcommittee held a business meeting and, by voice vote, ordered that H.R. 1789 be forwarded to the full Committee on Agriculture without amendment.

##### II—FULL COMMITTEE

The Committee on Agriculture met, pursuant to notice and with a quorum present, on September 24, 1997 to consider H.R. 1789 and other pending business. Chairman Smith recognized Mr. Stenholm, Ranking Minority Member, to provide a brief explanation of the bill.

The Chairman opened the consideration of the bill, as favorably reported to the full Committee by the Subcommittee on Livestock, Dairy, and Poultry, for discussion and amendments. The Chairman recognized Mr. Barrett, who made a motion that the bill be favorably reported to the House. The motion was carried by a voice vote of the Committee in the presence of a majority quorum. The Committee then proceeded to other items of business.

#### REPORTING THE BILL—ROLLCALL VOTES

In compliance with clause 2(1)(2) of rule XI of the House of Representatives, H.R. 1789 was reported by voice vote with a majority quorum present. There was no request for a recorded vote.

#### ADMINISTRATION POSITION

The views of the Administration on H.R. 1789, a bill to reauthorize the dairy indemnity program, are set forth in the following letter to the Chairman of the Committee on Agriculture:

DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY,  
*Washington, DC, June 25, 1997.*

Hon. ROBERT F. SMITH,  
*Chairman, Committee on Agriculture, House of Representatives,  
Longworth House Office Building, Washington, DC.*

DEAR BOB: This is in response to the request from your office for the Department of Agriculture's (USDA) views on H.R. 1789, a bill "To reauthorize the dairy indemnity program".

USDA supports the enactment of H.R. 1789.

H.R. 1789 would reauthorize the Secretary of Agriculture to make indemnity payments for milk or cows producing such milk to dairy farmers who have been directed to remove their milk, and to make indemnity payments to manufacturers of dairy products who have been directed to remove their dairy products from commercial markets because of residues of certain chemicals. The bill also would reauthorize the Secretary to make indemnity payments for milk or cows producing such milk to dairy farmers who have been directed to remove their milk from commercial markets because of the presence of nuclear radiation or fallout, or residues of certain other chemicals or toxic substances.

H.R. 1789 would provide authority to the Secretary to use fiscal year 1998 funds to pay claims arising during fiscal year 1997 which were not fully paid using fiscal year 1997 funds. Also, H.R. 1789 would require the Secretary to submit to Congress a report identifying and evaluating alternative methods for financing the program within 180 days of enactment of this legislation.

A 10 year outlay history shows average payments for the Dairy Indemnity Program of about \$200,000 per year. The program level varies from 1 year to the next because this is an emergency program and makes any estimate of funds needed for a fiscal year imprecise.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DAN GLICKMAN, *Secretary*.

BUDGET ACT COMPLIANCE (SECTIONS 308, 403, AND 424)

The provisions of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a)(1) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority, new spending authority, new credit authority, or increased or decreased revenues or tax expenditures) are not considered applicable. The estimate and comparison required to be prepared by the Director of the Congressional Budget Office under clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and sections 403 and 424 of the Congressional Budget Act of 1974 submitted to the Committee prior to the filing of this report are as follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, October 1, 1997.*

Hon. ROBERT F. SMITH,  
*Chairman, Committee on Agriculture, House of Representatives,*  
*Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1789, a bill to reauthorize the dairy indemnity program.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jim Langley.

Sincerely,

JUNE E. O'NEILL, *Director*.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*H.R. 1789—A bill to reauthorize the dairy indemnity program*

Summary: H.R. 1789 would reauthorize the Dairy Indemnity Program (DIP) through September 30, 2002, and would require the Secretary of Agriculture to report to the Congress within 180 days on alternative methods of financing the program. The program authorizes the Secretary to make indemnity payments to dairy farmers and manufacturers of dairy products who, through no fault of their own, were directed to remove their milk or dairy products from commercial markets because of toxic residues or the presence of nuclear radiation or fallout.

Based on historical expenditures for dairy indemnity payments, CBO estimates that enacting H.R. 1789 would result in additional discretionary spending of about \$2 million over the 1998–2002 period, assuming appropriation of the necessary amounts. H.R. 1789 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. The legislation contains no inter-governmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA) and would have no

significant impact on the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: For the purposes of this estimate, CBO assumes (1) that the authorization to make indemnity payments will require funding at roughly the same level as the average annual payments over the past 10 years, and (2) that all amounts estimated to be authorized will be appropriated by (or near) the start of each fiscal year. The estimated budgetary impact of H.R. 1789 is shown in the following table.

[By fiscal year, in millions of dollars]

	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATION						
Spending under current law:						
Budget authority <sup>1</sup> .....	0.1					
Estimated outlays <sup>2</sup> .....	0.3					
Proposed changes:						
Estimated authorization level <sup>3</sup> .....		0.6	0.3	0.3	0.3	0.3
Estimated outlays .....		0.6	0.3	0.3	0.3	0.3
Spending under H.R. 1789:						
Estimated authorization level <sup>1,3</sup> .....	0.1	0.6	0.3	0.3	0.3	0.3
Estimated outlays .....	0.3	0.6	0.3	0.3	0.3	0.3

<sup>1</sup>The 1997 level is the amount appropriated for that year.

<sup>2</sup>Outlays reflect prior appropriations still available. Total funds available were insufficient to cover all valid claims.

<sup>3</sup>The 1998 level includes additional funds for valid, unpaid 1997 claims, as would be authorized by H.R. 1789.

The costs of this legislation fall within budget function 350 (agriculture).

Basis of estimate: The Dairy Indemnity Program (DIP) was originally authorized by the Economic Opportunity Act of 1964, and its most recent authorization expired on September 30, 1995. Funding for a DIP is provided through discretionary appropriations. Payments under DIP are issued after a documented loss has occurred. Annual payments do not follow any particular pattern, ranging from no payments in 1986 to \$8.2 million in 1987 (because of a major heptachlor contamination incident). The majority of DIP claims in 1996 and 1997 have been because of aflatoxin contamination. Milk produced by dairy cows with feed containing aflatoxin could contain more than the permitted amount of aflatoxin and be removed from the market by a government agency. Because aflatoxin contamination may only occur under certain weather conditions, it is difficult to estimate the amount of money needed to indemnify dairy producers each year.

Payments under DIP over the past 10 years have averaged about \$200,000 per year. However, payments for 1997 claims were restricted because of a lack of funds. All of the \$257,305 available for 1997 was expended by February 12, 1997. As a result, the conference report for fiscal year 1998 appropriations would provide \$550,000 for DIP in 1998; that level is intended to cover both expected 1998 payments and valid claims made in 1997 but not yet paid because of lack of funds. CBO expects that the entire \$550,000 estimated for 1998 will be expended in 1998 to cover new claims and pending 1997 claims. Adjusting the historical average for the unfunded 1997 claims and assuming appropriation of the necessary sums, CBO estimates that annual DIP payments over the 1999–2002 period will average \$250,000.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 1789 contains no private-sector or intergovernmental mandates as defined in UMRA and would have no significant impact on the budgets of state, local, or tribal governments.

Estimate prepared by: Jim Langley.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee finds the Constitutional authority for this legislation in Article I, clause 8, section 18, that grants Congress the power to make all laws necessary and proper for carrying out the powers vested by Congress in the Government of the United States or in any department or officer thereof.

#### OVERSIGHT STATEMENT

No summary of oversight findings and recommendations made by the Committee on Government Reform and Oversight, as provided for in clause 2(1)(3)(D) of rule XI, and under clause 4(c)(2) of rule X of the Rules of the House of Representatives, was available to the Committee with reference to the subject matter specifically addressed by H.R. 1789.

#### COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(1)(3)(A) of rule XI, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Agriculture's oversight findings and recommendations are reflected in the body of this report.

#### COMMITTEE COST ESTIMATE

Pursuant to clause 7(a) of rule XIII of the Rules of the House of Representatives, the Committee report incorporates the cost estimate prepared by the Director of the Congressional Budget Office pursuant to sections 403 and 424 of the Congressional Budget Act of 1974.

#### ADVISORY COMMITTEE STATEMENT

No advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act was created by this legislation.

#### APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office (CBO), contained in the CBO cost estimate for this bill appearing

in this Committee report, pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104-4).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**ACT OF AUGUST 13, 1968**

AN ACT To provide indemnity payments to dairy farmers.

\* \* \* \* \*

SEC. 2. There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act. *Funds appropriated pursuant to this section for fiscal year 1998 to carry out this Act may also be used to pay valid claims arising under this Act during fiscal year 1997 to the extent that such claims are not fully paid using fiscal year 1997 funds.*

SEC. 3. The authority granted under this Act shall expire on September 30, **[1995]** 2002.