

112TH CONGRESS  
1ST SESSION

# S. 1715

To replace current dairy product price support and milk income loss contract programs with a program to protect dairy producer income when the difference between milk prices and feed costs is less than a specified amount, to establish a dairy market stabilization program, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

OCTOBER 17, 2011

Mrs. GILLIBRAND introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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## A BILL

To replace current dairy product price support and milk income loss contract programs with a program to protect dairy producer income when the difference between milk prices and feed costs is less than a specified amount, to establish a dairy market stabilization program, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Dairy Pricing Reform and Farmer Protection Act of  
6       2011”.

1 (b) TABLE OF CONTENTS.—The table of contents of  
2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FEDERAL MILK MARKETING REFORM

Sec. 101. Federal milk marketing reform.

TITLE II—DAIRY PRODUCER MARGIN PROTECTION PROGRAM

- Sec. 201. Definitions.
- Sec. 202. Dairy producer margin protection program.
- Sec. 203. Eligibility and registration of dairy producers for program.
- Sec. 204. Establishment of production history of registered dairy producers.
- Sec. 205. Basic margin protection.
- Sec. 206. Supplemental margin protection.
- Sec. 207. No payment limitations.
- Sec. 208. Use of Commodity Credit Corporation.
- Sec. 209. Duration.

TITLE III—DAIRY MARKET STABILIZATION PROGRAM

- Sec. 301. Definitions.
- Sec. 302. Dairy market stabilization program.
- Sec. 303. Program threshold for implementation and reduction in dairy producer payments.
- Sec. 304. Collection of producer milk marketings information.
- Sec. 305. Calculation of reduced dairy producer payments.
- Sec. 306. Limited availability of amounts remitted to Secretary.
- Sec. 307. Suspension of reduced payment requirement.
- Sec. 308. Audit of producer and handler compliance.
- Sec. 309. Program board.
- Sec. 310. Duration.

TITLE IV—MISCELLANEOUS

- Sec. 401. Repeals.
- Sec. 402. Regulations.
- Sec. 403. Budgetary effects.

3 **TITLE I—FEDERAL MILK**  
4 **MARKETING REFORM**

5 **SEC. 101. FEDERAL MILK MARKETING REFORM.**

6 (a) IN GENERAL.—Not later than 180 days after the  
7 date of enactment of this Act, the Secretary of Agriculture  
8 shall conduct hearings to assess the implications of

1 transitioning Federal milk marketing orders from end-  
2 product pricing to a competitive pay pricing system.

3 (b) REQUIREMENTS.—In conducting hearings under  
4 this section, the Secretary shall—

5 (1) ensure that market administrators conduct  
6 a thorough analysis of—

7 (A) the reforms to the Federal milk mar-  
8 keting orders proposed by the Maine Dairy In-  
9 dustry Advisory Council; and

10 (B) the reforms included in H.R. 3062,  
11 112th Congress, as introduced on September  
12 23, 2011;

13 (2) analyze the implications of transitioning  
14 from a 4-class system for milk products to a 2-class  
15 system;

16 (3) explore methods to improve signals for price  
17 discovery in the short- and long-term to allow dairy  
18 producers to better use risk management tools;

19 (4) assess whether a 2-class competitive pay  
20 pricing system for milk products would be more or  
21 less transparent than the system in effect as of the  
22 day before the date of enactment of this Act; and

23 (5) analyze the impact of eliminating a min-  
24 imum regulated price on price volatility in dairy  
25 markets.

1       **TITLE II—DAIRY PRODUCER**  
2       **MARGIN PROTECTION PROGRAM**

3       **SEC. 201. DEFINITIONS.**

4       In this title:

5               (1) **ACTUAL DAIRY PRODUCER MARGIN.**—The  
6       term “actual dairy producer margin” means the dif-  
7       ference between the all-milk price and the average  
8       feed cost, as calculated under section 202(d).

9               (2) **ALL-MILK PRICE.**—The term “all-milk  
10      price” means the average price received, per hun-  
11     dredweight of milk, by dairy producers for all milk  
12     sold to plants and dealers in the United States, as  
13     reported by the National Agricultural Statistics  
14     Service.

15              (3) **AVERAGE FEED COST.**—The term “average  
16     feed cost” means the average cost of feed used by  
17     a dairy operation to produce a hundredweight of  
18     milk, determined under section 202(c) using the sum  
19     obtained by adding—

20                      (A) the product obtained by multiplying—

21                              (i) 1.192; by

22                              (ii) the price of corn per bushel;

23                      (B) the product obtained by multiplying—

24                              (i) 0.00817; by

1 (ii) the price of soybean meal per ton;

2 and

3 (C) the product obtained by multiplying—

4 (i) 0.0152; by

5 (ii) the price of alfalfa hay per ton.

6 (4) CONSECUTIVE 2-MONTH PERIOD.—The term  
7 “consecutive 2-month period” refers to the 2-month  
8 period consisting of the months of January and Feb-  
9 ruary, March and April, May and June, July and  
10 August, September and October, or November and  
11 December, respectively.

12 (5) DAIRY PRODUCER.—The term “dairy pro-  
13 ducer” means an individual or entity that directly or  
14 indirectly (as determined by the Secretary)—

15 (A) shares in the risk of producing milk;

16 and

17 (B) makes contributions (including land,  
18 labor, management, equipment, or capital) to  
19 the dairy operation of the individual or entity  
20 that are at least commensurate with the share  
21 of the individual or entity of the proceeds of the  
22 operation.

23 (6) PRODUCTION HISTORY.—

24 (A) IN GENERAL.—Except as provided in  
25 subparagraph (B), the term “production his-

1 tory”, with respect to a dairy producer, means  
2 the highest annual milk production of the dairy  
3 producer during any 1 of the 3 calendar years  
4 immediately preceding the registration of the  
5 dairy producer with the Secretary for participa-  
6 tion in the program.

7 (B) NEW PRODUCERS.—If a dairy pro-  
8 ducer has been in operation for less than a  
9 year, the Secretary shall determine the produc-  
10 tion history of the dairy producer by extrapo-  
11 lating the actual milk production for the  
12 months the dairy producer has been in oper-  
13 ation to a yearly production amount.

14 (7) PROGRAM.—The term “program” means  
15 the dairy producer margin protection program re-  
16 quired by this title.

17 (8) PROJECTED DAIRY PRODUCER MARGIN.—  
18 The term “projected dairy producer margin” means  
19 the estimate prepared by the Secretary pursuant to  
20 section 202(b).

21 (9) SECRETARY.—The term “Secretary” means  
22 the Secretary of Agriculture.

23 (10) UNITED STATES.—The term “United  
24 States”, in a geographical sense, means the 50  
25 States.

1 **SEC. 202. DAIRY PRODUCER MARGIN PROTECTION PRO-**  
2 **GRAM.**

3 (a) **IN GENERAL.**—The Secretary shall establish and  
4 administer a dairy producer margin protection program  
5 for the purpose of protecting dairy producer income  
6 through the provision of basic margin protection payments  
7 and, if purchased by a dairy producer, supplemental mar-  
8 gin protection payments when actual dairy producer mar-  
9 gins are less than the threshold levels for the payments.

10 (b) **ESTIMATION OF PROJECTED DAIRY PRODUCER**  
11 **MARGIN.**—

12 (1) **IN GENERAL.**—The Secretary shall prepare  
13 an estimate of the projected dairy producer margin  
14 for the 5-year period beginning on January 1, 2012,  
15 consisting of the difference between—

16 (A) an estimate of the average all-milk  
17 price, per hundredweight of milk, for that pe-  
18 riod; and

19 (B) an estimate of average feed cost for  
20 that period.

21 (2) **PUBLICATION.**—The Secretary shall publish  
22 the estimate of the projected dairy producer margin  
23 in the Federal Register as soon as practicable after  
24 the date of enactment of this Act, but in no case  
25 later than 90 days after that date.

1 (c) CALCULATION OF AVERAGE FEED COST.—Not  
2 later than the fifth day after the end of each consecutive  
3 2-month period, the Secretary shall calculate the national  
4 average feed cost for that consecutive 2-month period  
5 using the following data:

6 (1) The price of corn for each month of that  
7 consecutive 2-month period shall be the price re-  
8 ceived during that month by agricultural producers  
9 in the United States for corn, as reported by the  
10 National Agricultural Statistics Service.

11 (2) The price of soybean meal for each month  
12 of that consecutive 2-month period shall be the price  
13 received during that month by agricultural producers  
14 in the United States for soybean meal, as reported  
15 by the Agricultural Marketing Service.

16 (3) The price of alfalfa hay for each month of  
17 that consecutive 2-month period shall be the price  
18 received during that month by agricultural producers  
19 in the United States for alfalfa hay, as reported by  
20 the National Agricultural Statistics Service.

21 (d) CALCULATION OF ACTUAL DAIRY PRODUCER  
22 MARGIN.—The Secretary shall calculate the actual dairy  
23 producer margin for each consecutive 2-month period by  
24 subtracting—



1           (1) the average feed cost for that consecutive 2-  
2           month period, determined in accordance with sub-  
3           section (c); from

4           (2) the all-milk price for that consecutive 2-  
5           month period.

6 **SEC. 203. ELIGIBILITY AND REGISTRATION OF DAIRY PRO-**  
7 **DUCERS FOR PROGRAM.**

8           (a) ELIGIBILITY.—

9           (1) IN GENERAL.—Subject to paragraph (2), all  
10          dairy producers in the United States shall be eligible  
11          to participate in the program.

12          (2) REQUIREMENT.—A dairy producer shall be  
13          required to be registered with the Secretary before  
14          the producer may—

15                (A) receive basic margin protection pay-  
16                ments under section 205; and

17                (B) if purchased by the dairy producer,  
18                supplemental margin protection payments  
19                under section 206.

20          (b) REGISTRATION.—

21          (1) IN GENERAL.—The Secretary shall—

22                (A) register all interested dairy producers  
23                in the program; and

24                (B) specify the manner and form by which  
25                a dairy producer may register.

1           (2) EXISTING DAIRY PRODUCERS.—During the  
2 1-year period beginning on the date of enactment of  
3 this Act, a dairy producer who is actively engaged in  
4 a dairy operation as of that date may register with  
5 the Secretary—

6                   (A) to receive basic margin protection; and

7                   (B) if the dairy producer chooses, to pur-  
8 chase supplemental margin protection.

9           (3) NEW ENTRANTS.—A dairy producer who  
10 has no existing interest in a dairy operation as of  
11 the date of enactment of this Act, but who, after  
12 that date, establishes a new dairy operation, may  
13 register with the Secretary during the 180-day pe-  
14 riod beginning on the date on which the dairy oper-  
15 ation first markets milk commercially—

16                   (A) to receive basic margin protection; and

17                   (B) if the dairy producer chooses, to pur-  
18 chase supplemental margin protection.

19           (4) TREATMENT OF MULTI-PRODUCER OPER-  
20 ATIONS.—If a dairy operation consists of more than  
21 1 dairy producer, all of the dairy producers of the  
22 operation shall be treated as a single dairy producer  
23 for purposes of registration—

24                   (A) to receive basic margin protection; and

1 (B) at the election of the producers, to  
2 purchase supplemental margin protection.

3 (5) TREATMENT OF PRODUCERS WITH MUL-  
4 TIPLE DAIRY OPERATIONS.—If a dairy producer op-  
5 erates 2 or more dairy operations, each dairy oper-  
6 ation of the producer shall require a separate reg-  
7 istration—

8 (A) to receive basic margin protection; and

9 (B) at the election of the producer, to pur-  
10 chase supplemental margin protection.

11 (c) RECONSTITUTION.—The Secretary shall ensure  
12 that a dairy producer does not reconstitute a dairy oper-  
13 ation for the sole purpose of receiving basic margin protec-  
14 tion or supplemental margin protection.

15 **SEC. 204. ESTABLISHMENT OF PRODUCTION HISTORY OF**  
16 **REGISTERED DAIRY PRODUCERS.**

17 (a) ESTABLISHMENT OF PRODUCTION HISTORY.—

18 (1) ESTABLISHMENT.—When a dairy producer  
19 registers with the Secretary for participation in the  
20 program, the dairy producer shall provide all infor-  
21 mation required by the Secretary to establish the  
22 production history of the dairy operation of the pro-  
23 ducer.

24 (2) DURATION.—Once the production history is  
25 established for a dairy producer upon registration,

1 the production history shall not be changed for the  
2 duration of the participation by the dairy producer  
3 in the program.

4 (b) TRANSFER OF PRODUCTION HISTORY OF EXIST-  
5 ING DAIRY PRODUCERS.—

6 (1) TRANSFER BY SALE.—

7 (A) REQUEST FOR TRANSFER.—If an ex-  
8 isting dairy producer, as described in section  
9 203(b)(2), sells an entire dairy operation to an-  
10 other party, the seller and purchaser may joint-  
11 ly request that the Secretary transfer the pro-  
12 duction history of the seller to the purchaser.

13 (B) TRANSFER.—If the Secretary deter-  
14 mines that the seller has sold the entire dairy  
15 operation to the purchaser—

16 (i) the Secretary shall approve the  
17 transfer; and

18 (ii) after the approval of the transfer,  
19 the seller shall have no interest in that  
20 production history.

21 (2) TRANSFER BY LEASE.—

22 (A) REQUEST FOR TRANSFER.—If an ex-  
23 isting dairy producer, as described in section  
24 203(b)(2), leases an entire dairy operation to  
25 another party, the lessor and lessee may jointly

1 request that the Secretary transfer the produc-  
2 tion history of the lessor to the lessee for the  
3 duration of the term of the lease.

4 (B) TRANSFER.—If the Secretary deter-  
5 mines that the lessor has leased the entire dairy  
6 operation to the lessee—

7 (i) the Secretary shall approve the  
8 transfer; and

9 (ii) after the approval of the transfer,  
10 the lessor shall have no interest in that  
11 production history for the duration of the  
12 term of the lease.

13 (3) COVERAGE LEVEL.—A purchaser or lessee  
14 to whom the Secretary transfers a production his-  
15 tory under this subsection may not obtain a different  
16 level of basic margin protection or supplemental  
17 margin protection coverage than the basic margin  
18 protection or supplemental margin protection cov-  
19 erage held by the seller or lessor from whom the  
20 purchaser or lessee obtained the production history.

21 (c) TRANSFER OF PRODUCTION HISTORY OF NEW  
22 ENTRANTS.—The Secretary may not transfer the produc-  
23 tion history of a dairy producer described in section  
24 203(b)(3) to another person.

1 (d) MOVEMENT AND TRANSFER OF PRODUCTION  
2 HISTORY.—

3 (1) MOVEMENT AND TRANSFER AUTHOR-  
4 IZED.—Subject to paragraph (2), if a dairy producer  
5 moves from 1 location to another location, the dairy  
6 producer may maintain the production history asso-  
7 ciated with the operation.

8 (2) NOTIFICATION REQUIREMENT.—A dairy  
9 producer shall notify the Secretary of any move of  
10 a dairy operation under paragraph (1).

11 (3) SUBSEQUENT OCCUPATION OF VACATED LO-  
12 CATION.—A party subsequently occupying a dairy  
13 operation location vacated as described in paragraph  
14 (1) shall have no interest in the production history  
15 previously associated with the operation at the loca-  
16 tion.

17 **SEC. 205. BASIC MARGIN PROTECTION.**

18 (a) ELIGIBILITY.—Each dairy producer registered to  
19 participate in the program shall be eligible to receive basic  
20 margin protection under the program through a 2-tier sys-  
21 tem described in subsection (c).

22 (b) NO COST TO DAIRY PRODUCER.—Basic margin  
23 protection shall be provided to a registered dairy producer  
24 at no cost to the dairy producer.

25 (c) PAYMENT THRESHOLD.—

1           (1) FIRST TIER.—All registered dairy producers  
2 shall receive a basic margin protection payment for  
3 the first 2,985,000 pounds of actual milk production  
4 of the dairy producer for the calendar year whenever  
5 the average actual dairy producer margin for a con-  
6 secutive 2-month period is less than \$6.00 per hun-  
7 dredweight of milk (referred to in this section as the  
8 “first tier payment threshold”).

9           (2) SECOND TIER.—All registered dairy pro-  
10 ducers shall receive a basic margin protection pay-  
11 ment for all pounds of actual milk production of the  
12 dairy producer for the calendar year that is in excess  
13 of 2,985,000 pounds whenever the average actual  
14 dairy producer margin for a consecutive 2-month pe-  
15 riod is less than \$4.00 per hundredweight of milk  
16 (referred to in this section as the “second tier pay-  
17 ment threshold”).

18 (d) BASIC MARGIN PROTECTION PAYMENT.—

19           (1) PAYMENT REQUIRED.—The Secretary shall  
20 make a basic margin protection payment to each  
21 registered dairy producer for a consecutive 2-month  
22 period whenever the payment is required by sub-  
23 section (c) for that period.

24           (2) AMOUNT OF PAYMENT.—The basic margin  
25 protection payment for the dairy operation of a

1 dairy producer for a consecutive 2-month period  
2 shall be equal to (as determined by the Secretary)  
3 the product obtained by multiplying—

4 (A) the difference between—

5 (i) the average actual dairy producer  
6 margin for the consecutive 2-month period;  
7 and

8 (ii)(I) in the case of milk under the  
9 first tier payment threshold, \$6.00; and

10 (II) in the case of milk under the sec-  
11 ond tier payment threshold, \$4.00; and

12 (B) the lesser of—

13 (i) the quotient obtained by dividing—

14 (I)(aa) in the case of milk under  
15 the first tier payment threshold, 90  
16 percent of the production history of  
17 the dairy producer; and

18 (bb) in the case of milk under the  
19 second tier payment threshold, 70  
20 percent of the production history of  
21 the dairy producer; by

22 (II) 6; and

23 (ii) the actual amount of milk pro-  
24 duced by the dairy operation of the dairy



1 producer during the consecutive 2-month  
2 period.

3 **SEC. 206. SUPPLEMENTAL MARGIN PROTECTION.**

4 (a) ELECTION OF SUPPLEMENTAL MARGIN PROTEC-  
5 TION.—At the time of program registration of a dairy pro-  
6 ducer, the dairy producer may purchase supplemental  
7 margin protection under the program.

8 (b) PAYMENT THRESHOLD AND PERCENTAGE OF  
9 PRODUCTION HISTORY COVERED.—

10 (1) ELECTION OF PAYMENT THRESHOLD.—A  
11 dairy producer purchasing supplemental margin pro-  
12 tection may elect a coverage level that is higher, in  
13 any increment of \$0.50, than the payment threshold  
14 for basic margin protection specified in section  
15 205(c), but not to exceed the lesser of—

16 (A) the projected dairy producer margin;

17 or

18 (B) \$8.00.

19 (2) ELECTION OF PRODUCTION HISTORY PER-  
20 CENTAGE.—A dairy producer purchasing supple-  
21 mental margin protection shall elect a percentage,  
22 equal to not more than 90 percent nor less than 25  
23 percent, of the production history of the producer to  
24 be covered by supplemental margin protection.

1 (c) PRODUCER PREMIUMS.—Not later than January  
 2 15 of each year for which supplemental margin protection  
 3 is available, a dairy producer purchasing supplemental  
 4 margin protection shall pay a premium equal to the prod-  
 5 uct obtained by multiplying—

6 (1) the percentage of production history elected  
 7 by the producer under subsection (b)(3);

8 (2) the production history of the producer for  
 9 the calendar year; and

10 (3) the premium per hundredweight of milk, as  
 11 follows:

Coverage Level	Premium per Cwt.
\$4.50	\$0.015
\$5.00	\$0.036
\$5.50	\$0.081
\$6.00	\$0.155
\$6.50	\$0.230
\$7.00	\$0.434
\$7.50	\$0.590
\$8.00	\$0.922.

12 (d) PREMIUM OBLIGATIONS OF PRODUCER.—

13 (1) PRO-RATION OF FIRST YEAR PREMIUM.—A  
 14 dairy producer who purchases supplemental margin  
 15 protection after initial program registration shall  
 16 pay a prorated premium for the first year based on  
 17 the date on which the producer purchases the cov-  
 18 erage.

19 (2) SUBSEQUENT PREMIUMS.—Except as other-  
 20 wise provided in paragraph (1), the annual premium

1 for a dairy producer shall be fixed at the level deter-  
2 mined under subsection (c) for each year of the pro-  
3 gram.

4 (3) LEGAL OBLIGATION.—

5 (A) IN GENERAL.—Except as provided in  
6 subparagraphs (B) and (C), a dairy producer  
7 who elects to purchase supplemental margin  
8 protection shall be legally obligated to pay the  
9 applicable premiums for the entire period of the  
10 program, and may not opt out of the program.

11 (B) DEATH OF DAIRY PRODUCER.—If a  
12 dairy producer dies, the estate of the deceased  
13 may cancel the supplemental margin protection  
14 and shall not be responsible for any further pre-  
15 mium payments.

16 (C) RETIREMENT OF DAIRY PRODUCER.—  
17 If a dairy producer retires, the producer may  
18 request that the Secretary cancel the supple-  
19 mental margin protection if the producer has  
20 terminated the dairy operation entirely and cer-  
21 tifies under oath that the producer will not be  
22 actively engaged in any dairy operation for at  
23 least the subsequent 7 years.

24 (4) LOSS OF BENEFITS; REPAYMENT.—A dairy  
25 producer who is in arrears on premium payments for

1 supplemental margin protection for more than 90  
2 days shall—

3 (A) remain legally obligated to pay the pre-  
4 miums;

5 (B) repay supplemental margin protection  
6 payments previously paid to the producer; and

7 (C) lose the right to receive any further  
8 supplemental margin protection payments.

9 (e) SUPPLEMENTAL PAYMENT THRESHOLD.—A  
10 dairy producer who has purchased supplemental margin  
11 protection shall receive a payment whenever the average  
12 actual dairy producer margin for a consecutive 2-month  
13 period is less than the coverage level elected by the dairy  
14 producer under subsection (b)(2).

15 (f) SUPPLEMENTAL MARGIN PROTECTION PAY-  
16 MENTS.—

17 (1) IN GENERAL.—The supplemental margin  
18 protection payment for a dairy producer shall be—

19 (A) made on the actual milk production of  
20 the dairy producer for the calendar year; and

21 (B) in addition to the basic margin protec-  
22 tion payment that is made on the actual milk  
23 production of the dairy producer for the cal-  
24 endar year.

1           (2) AMOUNT OF PAYMENT.—The supplemental  
2 margin protection payment for the dairy operation  
3 of a dairy producer shall be equal to (as determined  
4 by the Secretary) the product obtained by multi-  
5 plying—

6           (A) the difference between the elected cov-  
7 erage level under subsection (b)(2) and the  
8 greater of—

9           (i) the average actual dairy producer  
10 margin for the consecutive 2-month period;

11           or

12           (ii) \$6.00;

13           (B) the percentage of production history  
14 elected by the dairy producer under subsection  
15 (b)(3); and

16           (C) the lesser of—

17           (i) the quotient obtained by dividing—

18           (I) the production history of the  
19 dairy producer for the calendar year;  
20 by

21           (II) 6; and

22           (ii) the actual amount of milk pro-  
23 duced by the dairy operation of the dairy  
24 producer during the consecutive 2-month  
25 period.

1 **SEC. 207. NO PAYMENT LIMITATIONS.**

2 Notwithstanding any other provision of law, basic  
3 margin protection payments and supplemental margin  
4 protection payments received by a dairy producer under  
5 the program shall not be subject to limitations for any  
6 reason.

7 **SEC. 208. USE OF COMMODITY CREDIT CORPORATION.**

8 The Secretary shall use the funds, facilities, and the  
9 authorities of the Commodity Credit Corporation to carry  
10 out this title.

11 **SEC. 209. DURATION.**

12 The Secretary shall conduct the program during the  
13 period beginning on January 1, 2012, and ending on De-  
14 cember 31, 2017.

15 **TITLE III—DAIRY MARKET**  
16 **STABILIZATION PROGRAM**

17 **SEC. 301. DEFINITIONS.**

18 In this title:

19 (1) DAIRY PRODUCER.—The term “dairy pro-  
20 ducer” means an individual or entity that directly or  
21 indirectly (as determined by the Secretary)—

22 (A) shares in the risk of producing milk;

23 and

24 (B) makes contributions (including land,  
25 labor, management, equipment, or capital) to  
26 the dairy farming operation of the individual or

1           entity that are at least commensurate with the  
2           share of the individual or entity of the proceeds  
3           of the operation.

4           (2) HANDLER.—

5                 (A) IN GENERAL.—The term “handler”  
6           means a person making payment to a dairy pro-  
7           ducer for milk produced in the United States  
8           and marketed for commercial use.

9                 (B) PRODUCER-HANDLER.—The term in-  
10          cludes a producer-handler.

11           (3) PROGRAM.—The term “program” means  
12          the dairy market stabilization program established  
13          under this title.

14           (4) PROGRAM BASE.—The term “program  
15          base”, with respect to a dairy producer, means the  
16          program base calculated for the producer under sec-  
17          tion 302(b).

18           (5) PROGRAM BOARD.—The term “program  
19          board” means the board of directors appointed by  
20          the Secretary under section 309.

21           (6) SECRETARY.—The term “Secretary” means  
22          the Secretary of Agriculture.

23           (7) UNITED STATES.—The term “United  
24          States”, in a geographical sense, means the 50  
25          States.

1 **SEC. 302. DAIRY MARKET STABILIZATION PROGRAM.**

2 (a) IN GENERAL.—The Secretary shall establish and  
3 administer a dairy market stabilization program applicable  
4 to all dairy producers in the United States for the purpose  
5 of balancing the supply of milk with demand when the  
6 total percent production growth in milk products in a Fed-  
7 eral milk marketing order exceeds the combined percent  
8 growth in Class I, II, and III milk products.

9 (b) ELECTION OF PROGRAM BASE CALCULATION  
10 METHOD.—

11 (1) DEADLINE FOR ELECTION.—Not later than  
12 January 15, 2012, each dairy producer shall inform  
13 the Secretary of the method by which the program  
14 base for the producer for 2012 will be calculated  
15 under paragraph (5).

16 (2) CHANGE IN CALCULATION METHOD.—For  
17 each year after 2012, a dairy producer may change  
18 the program base calculation method to be used for  
19 a calendar year by notifying the Secretary of the  
20 change not later than January 15 of that year.

21 (3) TREATMENT OF MULTI-PRODUCER OPER-  
22 ATIONS.—If a dairy operation consists of more than  
23 1 dairy producer, all of the dairy producers of the  
24 operation shall jointly make the election under para-  
25 graph (1) with respect to the operation and jointly



1 make any change to that election under paragraph  
2 (2).

3 (4) TREATMENT OF PRODUCERS WITH MUL-  
4 TIPLE DAIRY OPERATIONS.—If a dairy producer op-  
5 erates 2 or more dairy operations, each dairy oper-  
6 ation of the producer shall require a separate elec-  
7 tion under paragraph (1).

8 (5) CALCULATION METHODS.—A dairy pro-  
9 ducer may elect either of the following methods for  
10 calculation of the program base for the producer:

11 (A) The volume of the average monthly  
12 milk marketings of the dairy producer for the  
13 3 months immediately preceding the announce-  
14 ment by the Secretary that the program will be-  
15 come effective.

16 (B) The volume of the monthly milk mar-  
17 ketings of the dairy producer for the same  
18 month in the preceding year as the month for  
19 which the Secretary has announced the pro-  
20 gram will become effective.

21 **SEC. 303. PROGRAM THRESHOLD FOR IMPLEMENTATION**  
22 **AND REDUCTION IN DAIRY PRODUCER PAY-**  
23 **MENTS.**

24 (a) IN GENERAL.—The Secretary shall announce  
25 that the program is in effect and order reduced payments

1 to any dairy producer who exceeds the applicable percent-  
2 age of the program base of the producer whenever the  
3 total percent production growth in milk products in a Fed-  
4 eral milk marketing order exceeds the combined percent  
5 growth in Class I, II, and III milk products for the imme-  
6 diately preceding 2 months.

7 (b) EFFECTIVE DATE FOR IMPLEMENTATION OF  
8 PAYMENT REDUCTIONS.—Reductions in dairy producer  
9 payments shall commence beginning on the first day of  
10 the month immediately following the announcement by the  
11 Secretary under subsection (a).

12 **SEC. 304. COLLECTION OF PRODUCER MILK MARKETINGS**  
13 **INFORMATION.**

14 (a) COLLECTION BY HANDLERS.—For each month  
15 during which the program is in effect, each handler shall  
16 calculate the following:

17 (1) The volume of milk marketings the handler  
18 has received from each dairy producer during that  
19 month.

20 (2) The volume of milk marketings the handler  
21 has received from each dairy producer during the  
22 same month of the preceding year.

23 (3) The volume of milk marketings the handler  
24 has received from each dairy producer during each  
25 of the 3 months preceding the month in which the

1 Secretary makes the announcement that the pro-  
2 gram will be in effect.

3 (b) EFFECT OF CHANGING HANDLERS.—If a dairy  
4 producer changes handlers, the producer shall ensure that  
5 milk marketings data required to make the calculations  
6 under subsection (a) is provided to the new handler.

7 **SEC. 305. CALCULATION OF REDUCED DAIRY PRODUCER**  
8 **PAYMENTS.**

9 (a) REDUCED PRODUCER PAYMENTS REQUIRED.—  
10 During any month in which payment reductions are in ef-  
11 fect under the program, each handler shall—

12 (1) reduce payments to each dairy producer  
13 from whom the handler receives milk, if payment re-  
14 ductions are required by this section; and

15 (2) remit to the Secretary the amount by which  
16 payments are reduced.

17 (b) RECONSTITUTION.—The Secretary shall ensure  
18 that a dairy producer does not reconstitute a dairy oper-  
19 ation for the sole purpose of altering the level of payment  
20 reductions required by this section.

21 **SEC. 306. LIMITED AVAILABILITY OF AMOUNTS REMITTED**  
22 **TO SECRETARY.**

23 (a) AVAILABILITY FOR PROGRAM BOARD ACTIVI-  
24 TIES.—As soon as practicable after the end of each month  
25 during which payment reductions are in effect under the

1 program, the Secretary shall make available to the pro-  
2 gram board 50 percent of the amounts remitted to the  
3 Secretary under section 305 during that month.

4 (b) USE OF REMAINING AMOUNTS.—The Secretary  
5 shall deposit all amounts remitted to the Secretary under  
6 section 305 that are not made available to the program  
7 board under subsection (a) into the general fund of the  
8 Treasury.

9 **SEC. 307. SUSPENSION OF REDUCED PAYMENT REQUIRE-**  
10 **MENT.**

11 (a) SUSPENSION THRESHOLDS.—The Secretary shall  
12 suspend the program whenever the Secretary determines  
13 that the price in the United States for either cheddar  
14 cheese or skim milk powder (non-fat dry milk) is more  
15 than 20 percent above the world price for that same com-  
16 modity for 2 consecutive months.

17 (b) IMPLEMENTATION BY HANDLERS.—Handlers  
18 shall cease reducing payments to dairy producers under  
19 the program upon receiving notice of the suspension of  
20 the program from the Secretary.

21 **SEC. 308. AUDIT OF PRODUCER AND HANDLER COMPLI-**  
22 **ANCE.**

23 (a) IN GENERAL.—If determined by the Secretary to  
24 be necessary to ensure dairy producer and handler compli-

1   ance with the program, the Secretary may conduct peri-  
2   odic audits of participating dairy operations and handlers.

3       (b) **SAMPLE OF DAIRY PRODUCERS.**—Any audit con-  
4   ducted under subsection (a) shall include, at a minimum,  
5   investigation of a statistically valid and random sample of  
6   dairy producers.

7   **SEC. 309. PROGRAM BOARD.**

8       (a) **IN GENERAL.**—The Secretary shall establish a  
9   board of directors for the program for the purpose of—

10           (1) administering the amounts remitted to the  
11   Secretary under section 305 that are made available  
12   to the program board under section 306; and

13           (2) determining the most effective use of such  
14   funds.

15       (b) **APPOINTMENT OF DIRECTORS.**—

16           (1) **NUMBER AND QUALIFICATIONS.**—The Sec-  
17   retary shall appoint 24 members to serve on the pro-  
18   gram board, who shall be representative of the  
19   United States dairy producer community, taking  
20   into account geographical diversity, cooperative  
21   membership, and volumes of milk produced in var-  
22   ious States and regions.

23           (2) **REIMBURSEMENT OF EXPENSES.**—From  
24   the amounts made available to the program board  
25   under section 306, the Secretary shall reimburse

1 members of the program board for those costs of  
2 service on the program board that the Secretary de-  
3 termines reasonable and appropriate.

4 (c) DECISIONMAKING.—The program board shall  
5 reach decisions by an affirmative vote of  $\frac{2}{3}$  of the mem-  
6 bers of the program board.

7 (d) REMOVAL OF DAIRY PRODUCTS AND EXPANSION  
8 OF DEMAND.—

9 (1) SPENDING AUTHORITY.—The program  
10 board may use amounts made available to the pro-  
11 gram board under section 306—

12 (A) to purchase dairy products through  
13 commercial sources for donation to food banks  
14 and other food programs that the Board deter-  
15 mines appropriate, not later than 3 months  
16 after the date on which the Secretary collected  
17 the funds; and

18 (B) to expand consumption and build de-  
19 mand for dairy products.

20 (2) NO DUPLICATION OF EFFORT.—The pro-  
21 gram board shall ensure that projects supported  
22 under paragraph (1) are compatible with, and do not  
23 duplicate, programs supported by the dairy research  
24 and promotion activities conducted under the Dairy

1 Production Stabilization Act of 1983 (7 U.S.C. 4501  
2 et seq.).

3 (3) MANAGEMENT CONTRACT.—The program  
4 board may enter into a contract with a managing  
5 entity to carry out this subsection.

6 (e) PROGRAM EVALUATION.—

7 (1) CONTRACT AUTHORITY.—

8 (A) IN GENERAL.—Using amounts made  
9 available to the program board under section  
10 306, the program board shall enter into a con-  
11 tract for an evaluation of the program after the  
12 program has been in operation for 2 years.

13 (B) REQUIREMENTS.—The evaluation shall  
14 include the use of established dairy economic  
15 models to ascertain the effectiveness and oper-  
16 ation of the program.

17 (2) SUBMISSION OF RESULTS.—

18 (A) IN GENERAL.—The program board  
19 shall submit to the Secretary the results of eval-  
20 uations conducted under paragraph (1).

21 (B) RECOMMENDATIONS.—The Secretary  
22 shall review the evaluations under paragraph  
23 (1) and submit to Congress such recommenda-  
24 tions as the Secretary considers appropriate re-  
25 garding the program.

1 **SEC. 310. DURATION.**

2 The Secretary shall conduct the program during the  
3 period beginning on January 1, 2012, and ending on De-  
4 cember 31, 2017.

5 **TITLE IV—MISCELLANEOUS**

6 **SEC. 401. REPEALS.**

7 (a) DAIRY PRODUCT PRICE SUPPORT PROGRAM,  
8 DAIRY FORWARD PRICING PROGRAM, AND MILK INCOME  
9 LOSS CONTRACT PROGRAM.—Sections 1501, 1502, and  
10 1506 of the Food, Conservation, and Energy Act of 2008  
11 (7 U.S.C. 8771, 8772, 8773) are repealed.

12 (b) DAIRY EXPORT INCENTIVE PROGRAM.—

13 (1) IN GENERAL.—Section 153 of the Food Se-  
14 curity Act of 1985 (15 U.S.C. 713a–14) is repealed.

15 (2) CONFORMING AMENDMENTS.—Section  
16 902(2) of the Trade Sanctions Reform and Export  
17 Enhancement Act of 2000 (22 U.S.C. 7201(2)) is  
18 amended—

19 (A) by striking subparagraph (D); and

20 (B) by redesignating subparagraphs (E)  
21 and (F) as subparagraphs (D) and (E), respec-  
22 tively.

23 (c) APPLICATION.—The amendments made by this  
24 section apply beginning on the date on which the regula-  
25 tions required under section 402 take effect.



1 **SEC. 402. REGULATIONS.**

2 Not later than 270 days after the date of enactment  
3 of this Act, the Secretary of Agriculture shall promulgate  
4 such regulations as are necessary to carry out this Act  
5 and the amendments made by this Act.

6 **SEC. 403. BUDGETARY EFFECTS.**

7 The budgetary effects of this Act, for the purpose of  
8 complying with the Statutory Pay-As-You-Go Act of 2010,  
9 shall be determined by reference to the latest statement  
10 titled “Budgetary Effects of PAYGO Legislation” for this  
11 Act, submitted for printing in the Congressional Record  
12 by the Chairman of the Senate Budget Committee, pro-  
13 vided that such statement has been submitted prior to the  
14 vote on passage.

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