

112TH CONGRESS
1ST SESSION

H. R. 3062

To establish a program for dairy producers under which producers can offset reductions in producer income when the margin between milk prices and feed costs is less than a specified amount, to establish a dairy market stabilization program for producers participating in the margin protection program, to provide for the amendment of Federal milk marketing orders, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 23, 2011

Mr. PETERSON (for himself, Mr. SIMPSON, Mr. WELCH, Mr. COSTA, Mr. COURTNEY, Mr. SCHRADER, Mr. LARSEN of Washington, and Mr. LONG) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To establish a program for dairy producers under which producers can offset reductions in producer income when the margin between milk prices and feed costs is less than a specified amount, to establish a dairy market stabilization program for producers participating in the margin protection program, to provide for the amendment of Federal milk marketing orders, 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,*

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

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Dairy Security Act of 2011”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—DAIRY PRODUCER MARGIN PROTECTION AND DAIRY
MARKET STABILIZATION PROGRAMS

Sec. 101. Definitions.

Sec. 102. Calculation of average feed cost and actual dairy producer margins.

Subtitle A—Dairy Producer Margin Protection Program

Sec. 111. Establishment of dairy producer margin protection program.

Sec. 112. Eligibility and registration of dairy producers for margin protection
program.

Sec. 113. Production history and annual production quantity of participating
dairy producers.

Sec. 114. Basic margin protection.

Sec. 115. Supplemental margin protection.

Sec. 116. Effect of failure to pay administrative fees or premiums.

Sec. 117. No payment limitations.

Subtitle B—Dairy Market Stabilization Program

Sec. 131. Establishment of dairy market stabilization program.

Sec. 132. Threshold for implementation and reduction in dairy producer pay-
ments.

Sec. 133. Producer milk marketings information.

Sec. 134. Calculation and collection of reduced dairy producer payments.

Sec. 135. Remitting monies to Commodity Credit Corporation.

Sec. 136. Suspension of reduced payment requirement.

Sec. 137. Audit requirements.

Sec. 138. Board of directors.

Subtitle C—Commodity Credit Corporation

Sec. 151. Use of Commodity Credit Corporation.

Subtitle D—Duration

Sec. 161. Duration.

TITLE II—FEDERAL MILK MARKETING ORDER REFORM

Sec. 201. Required amendments to Federal milk marketing orders.

Sec. 202. Amendment process.

Sec. 203. Development of effective balancing programs for milk markets.

TITLE III—REPEAL OF SUPERSEDED PROVISIONS

Sec. 301. Repeal of dairy product price support and milk income loss contract programs.

Sec. 302. Repeal of permanent price support authority for milk.

Sec. 303. Repeal of dairy export incentive program.

Sec. 304. Effective date.

1 **TITLE I—DAIRY PRODUCER**
 2 **MARGIN PROTECTION AND**
 3 **DAIRY MARKET STABILIZA-**
 4 **TION PROGRAMS**

5 **SEC. 101. DEFINITIONS.**

6 In this title:

7 (1) **ACTUAL DAIRY PRODUCER MARGIN.**—The
 8 term “actual dairy producer margin” means the dif-
 9 ference between the all-milk price and the average
 10 feed cost, as calculated under section 102.

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

17 (3) **ANNUAL PRODUCTION QUANTITY.**—The
 18 term “annual production quantity” means the quan-
 19 tity of annual milk marketings determined for a
 20 dairy producer under section 113(b) for each year in
 21 which the dairy producer participates in the margin
 22 protection program.

1 (4) AVERAGE FEED COST.—The term “average
2 feed cost” means the average cost of feed used by
3 a dairy operation to produce a hundredweight of
4 milk, determined under section 102 using the sum of
5 the following:

6 (A) The product determined by multiplying
7 1.192 by the price of corn per bushel.

8 (B) The product determined by multiplying
9 0.00817 by the price of soybean meal per ton.

10 (C) The product determined by multiplying
11 0.0152 by the price of alfalfa hay per ton.

12 (5) BOARD OF DIRECTORS.—The term “board
13 of directors” means the board of directors appointed
14 by the Secretary under section 138.

15 (6) CONSECUTIVE TWO-MONTH PERIOD.—The
16 term “consecutive two-month period” refers to the
17 two-month period consisting of the months of Janu-
18 ary and February, March and April, May and June,
19 July and August, September and October, or No-
20 vember and December, respectively.

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

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

25 and

1 (B) makes contributions (including land,
2 labor, management, equipment, or capital) to
3 the dairy operation of the individual or entity
4 that are at least commensurate with the share
5 of the individual or entity of the proceeds of the
6 operation.

7 (8) HANDLER.—

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

12 (B) PRODUCER-HANDLER.—The term in-
13 cludes a producer-handler.

14 (9) MARGIN PROTECTION PROGRAM.—The term
15 “margin protection program” means the dairy pro-
16 ducer margin protection program required by sub-
17 title A.

18 (10) PARTICIPATING DAIRY PRODUCER.—The
19 term “participating dairy producer” means a dairy
20 producer that—

21 (A) registers under section 112(b) to par-
22 ticipate in the margin protection program under
23 subtitle A; and

1 (B) as a result of such registration, also
2 participates in the stabilization program under
3 subtitle B.

4 (11) PRODUCTION HISTORY.—The term “pro-
5 duction history” means the quantity of annual milk
6 marketings determined for a dairy producer under
7 section 113(a).

8 (12) SECRETARY.—The term “Secretary”
9 means the Secretary of Agriculture.

10 (13) STABILIZATION PROGRAM.—The term
11 “stabilization program” means the dairy market sta-
12 bilization program required by subtitle B for all par-
13 ticipating dairy producers.

14 (14) STABILIZATION PROGRAM BASE.—The
15 term “stabilization program base”, with respect to a
16 participating dairy producer, means the stabilization
17 program base calculated for the producer under sec-
18 tion 131(b).

19 (15) UNITED STATES.—The term “United
20 States”, in a geographical sense, means the 50
21 States.

1 **SEC. 102. CALCULATION OF AVERAGE FEED COST AND AC-**
2 **TUAL DAIRY PRODUCER MARGINS.**

3 (a) **CALCULATION OF AVERAGE FEED COST.**—The
4 Secretary shall calculate the national average feed cost for
5 each month using the following data:

6 (1) The price of corn for a month shall be the
7 price received during that month by farmers in the
8 United States for corn, as reported by the National
9 Agricultural Statistics Service.

10 (2) The price of soybean meal for a month shall
11 be the central Illinois price for soybean meal, as re-
12 ported by the Agricultural Marketing Service.

13 (3) The price of alfalfa hay for a month shall
14 be the price received during that month by farmers
15 in the United States for alfalfa hay, as reported by
16 the National Agricultural Statistics Service.

17 (b) **CALCULATION OF ACTUAL DAIRY PRODUCER**
18 **MARGINS.**—

19 (1) **MARGIN PROTECTION PROGRAM.**—For use
20 in the margin protection program under subtitle A,
21 the Secretary shall calculate the actual dairy pro-
22 ducer margin for each consecutive two-month period
23 by subtracting—

24 (A) the average feed cost for that consecu-
25 tive two-month period, determined in accord-
26 ance with subsection (a); from

1 (B) the all-milk price for that consecutive
2 two-month period.

3 (2) STABILIZATION PROGRAM.—For use in the
4 stabilization program under subtitle B, the Secretary
5 shall calculate (not later than 20th of each month)
6 the actual dairy producer margin for the preceding
7 month by subtracting—

8 (A) the average feed cost for that pre-
9 ceding month, determined in accordance with
10 subsection (a); from

11 (B) the all-milk price for that preceding
12 month.

13 **Subtitle A—Dairy Producer Margin** 14 **Protection Program**

15 **SEC. 111. ESTABLISHMENT OF DAIRY PRODUCER MARGIN** 16 **PROTECTION PROGRAM.**

17 The Secretary shall establish and administer a dairy
18 producer margin protection program for the purpose of
19 protecting dairy producer income by paying participating
20 dairy producers—

21 (1) basic margin protection payments when ac-
22 tual dairy producer margins are less than the
23 threshold levels for such payments; and

24 (2) supplemental margin protection payments if
25 purchased by a participating dairy producer.

1 **SEC. 112. ELIGIBILITY AND REGISTRATION OF DAIRY PRO-**
2 **DUCERS FOR MARGIN PROTECTION PRO-**
3 **GRAM.**

4 (a) **ELIGIBILITY.**—All dairy producers in the United
5 States are eligible to participate in the margin protection
6 program, except that a dairy producer must be registered
7 with the Secretary before the producer may receive—

8 (1) basic margin protection payments under
9 section 114; and

10 (2) if the dairy producer purchases supple-
11 mental margin protection under section 115, supple-
12 mental margin protection payments under such sec-
13 tion.

14 (b) **REGISTRATION PROCESS.**—

15 (1) **IN GENERAL.**—The Secretary shall register
16 all interested dairy producers in the margin protec-
17 tion program. The Secretary shall specify the man-
18 ner and form by which a dairy producer must reg-
19 ister.

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

1 (A) registration to receive basic margin
2 protection and purchase supplemental margin
3 protection;

4 (B) payment of the administrative fee
5 under subsection (d) and producer premiums
6 under section 115; and

7 (C) participation in the stabilization pro-
8 gram under subtitle B.

9 (3) TREATMENT OF PRODUCERS WITH MUL-
10 TIPLE DAIRY OPERATIONS.—If a dairy producer op-
11 erates two or more dairy operations, each dairy op-
12 eration of the producer shall require a separate reg-
13 istration to receive basic margin protection and pur-
14 chase supplemental margin protection. Only those
15 dairy operations so registered shall be subject to the
16 stabilization program.

17 (c) TIME FOR REGISTRATION.—

18 (1) EXISTING DAIRY PRODUCERS.—During the
19 one-year period beginning on the date of the enact-
20 ment of this Act, a dairy producer that is actively
21 engaged in a dairy operation as of such date may
22 register with the Secretary—

23 (A) to receive basic margin protection; and

24 (B) if the producer elects, to purchase sup-
25 plemental margin protection.

1 (2) NEW ENTRANTS.—A dairy producer that
2 has no existing interest in a dairy operation as of
3 the date of the enactment of this Act, but that, after
4 such date, establishes a new dairy operation, may
5 register with the Secretary during the 180-day pe-
6 riod beginning on the date on which the dairy oper-
7 ation first markets milk commercially—

8 (A) to receive basic margin protection; and

9 (B) if the producer elects, to purchase sup-
10 plemental margin protection.

11 (d) ADMINISTRATIVE FEE FOR REGISTRATION.—

12 (1) ADMINISTRATIVE FEE REQUIRED.—A dairy
13 producer shall pay an administrative fee under this
14 subsection to register for the margin protection pro-
15 gram. The participating dairy producer shall pay the
16 administrative fee annually thereafter to remain reg-
17 istered for the margin protection program.

18 (2) FEE AMOUNT.—The administrative fee for
19 a dairy producer shall be as follows:

20 (A) If the dairy producer marketed less
21 than 10 million pounds of milk in the previous
22 calendar year, the administrative fee shall be
23 equal to \$100.

24 (B) If the dairy producer marketed be-
25 tween 10 million and 40 million pounds of milk

1 in the previous calendar year, the administra-
2 tive fee shall be equal to \$400.

3 (C) If the dairy producer marketed more
4 than 40 million pounds of milk in the previous
5 calendar year, the administrative fee shall be
6 equal to \$1,000.

7 (e) RECONSTITUTION.—The Secretary shall ensure
8 that a dairy producer does not reconstitute a dairy oper-
9 ation for the sole purpose of receiving basic margin protec-
10 tion, purchasing supplemental margin protection, or avoid-
11 ing participation in the stabilization program.

12 **SEC. 113. PRODUCTION HISTORY AND ANNUAL PRODUC-**
13 **TION QUANTITY OF PARTICIPATING DAIRY**
14 **PRODUCERS.**

15 (a) DETERMINATION OF PRODUCTION HISTORY.—

16 (1) DETERMINATION REQUIRED.—The Sec-
17 retary shall determine the production history of the
18 dairy operation of each participating dairy producer
19 in the margin protection program.

20 (2) CALCULATION.—Except as provided in
21 paragraph (3), the production history of a partici-
22 pating dairy producer is equal to the highest annual
23 milk marketings of the dairy producer during any
24 one of the three calendar years immediately pre-

1 ceding the dairy producer's registration for partici-
2 pation in the margin protection program.

3 (3) NEW PRODUCERS.—If a dairy producer has
4 been in operation for less than a year, the Secretary
5 shall determine the production history of the dairy
6 producer by extrapolating the actual milk mar-
7 ketings for the months the dairy producer has been
8 in operation to a yearly amount.

9 (4) NO CHANGE IN PRODUCTION HISTORY FOR
10 BASIC MARGIN PROTECTION.—Once the production
11 history of a participating dairy producer is deter-
12 mined under paragraph (2) or (3), the production
13 history shall not be subsequently changed for pur-
14 poses of determining the amount of any basic mar-
15 gin protection payments for the dairy producer made
16 under section 114.

17 (b) DETERMINATION OF ANNUAL PRODUCTION
18 QUANTITY FOR SUPPLEMENTAL MARGIN PROTECTION.—

19 (1) DETERMINATION REQUIRED.—If a dairy
20 producer selects the growth option when purchasing
21 supplemental margin protection under section 115,
22 the Secretary shall determine the annual production
23 quantity of the dairy operation of the dairy producer
24 under paragraph (2).

1 (2) CALCULATION.—The annual production
2 quantity of a participating dairy producer is equal to
3 the actual milk marketings of the dairy producer
4 during each calendar year in which the dairy pro-
5 ducer purchases supplemental margin protection, in-
6 cluding the calendar year during which the dairy
7 producer first purchases such supplemental margin
8 protection.

9 (c) REQUIRED INFORMATION.—A participating dairy
10 producer shall provide all information that the Secretary
11 may require in order to establish—

12 (1) the production history of the dairy oper-
13 ation of the dairy producer; and

14 (2) the annual production quantity of the dairy
15 operation of the dairy producer if the dairy producer
16 selects the growth option when purchasing supple-
17 mental margin protection under section 115.

18 (d) TRANSFER OF PRODUCTION HISTORY OR AN-
19 NUAL PRODUCTION QUANTITY.—

20 (1) TRANSFER BY SALE.—

21 (A) REQUEST FOR TRANSFER.—If an ex-
22 isting dairy producer, as described in section
23 112(c)(1), sells an entire dairy operation to an-
24 other party, the seller and purchaser may joint-

1 ly request that the Secretary transfer to the
2 purchaser the seller's interest in—

3 (i) production history of the dairy op-
4 eration; and

5 (ii) if applicable, the annual produc-
6 tion quantity of the dairy operation for
7 each year in which the margin protection
8 program has been in effect.

9 (B) TRANSFER.—If the Secretary deter-
10 mines that the seller has sold the entire dairy
11 operation to the purchaser, the Secretary shall
12 approve the transfer described in subparagraph
13 (A), and, thereafter, the seller shall have no in-
14 terest in—

15 (i) the production history of the sold
16 dairy operation; or

17 (ii) if applicable, the annual produc-
18 tion quantity of the dairy operation.

19 (2) TRANSFER BY LEASE.—

20 (A) REQUEST FOR TRANSFER.—If an ex-
21 isting dairy producer, as described in section
22 112(c)(1), leases an entire dairy operation to
23 another party, the lessor and lessee may jointly
24 request that the Secretary transfer to the lessee

1 for the duration of the term of the lease the lessor's interest in—

2 (i) production history of the dairy operation; and

3 (ii) if applicable, the annual production quantity of the dairy operation for each year in which the margin protection program has been in effect.

4 (B) TRANSFER.—If the Secretary determines that the lessor has leased the entire dairy operation to the lessee, the Secretary shall approve the transfer described in subparagraph (A), and, thereafter, the lessor shall have no interest for the duration of the term of the lease in—

5 (i) the production history of the leased dairy operation; or

6 (ii) if applicable, the annual production quantity of the dairy operation.

7 (3) COVERAGE LEVEL.—

8 (A) BASIC MARGIN PROTECTION.—A purchaser or lessee to whom the Secretary transfers a production history or annual production quantity under this subsection may not obtain a different level of basic margin protection than

1 the basic margin protection coverage held by
2 the seller or lessor from whom the transfer was
3 obtained.

4 (B) SUPPLEMENTAL MARGIN PROTEC-
5 TION.—A purchaser or lessee to whom the Sec-
6 retary transfers a production history or annual
7 production quantity under this subsection may
8 not obtain a different level of supplemental
9 margin protection coverage than the supple-
10 mental margin protection coverage held by the
11 seller or lessor from whom the transfer was ob-
12 tained.

13 (4) NEW ENTRANTS.—The Secretary may not
14 transfer the production history or annual production
15 quantity determined for a dairy producer described
16 in section 112(c)(2) to another person.

17 (e) MOVEMENT AND TRANSFER OF PRODUCTION
18 HISTORY OR ANNUAL PRODUCTION QUANTITY.—

19 (1) MOVEMENT AND TRANSFER AUTHOR-
20 IZED.—Subject to paragraph (2), if a dairy producer
21 moves from one location to another location, the
22 dairy producer may maintain the production history
23 and annual production quantity associated with the
24 operation.

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

4 (3) SUBSEQUENT OCCUPATION OF VACATED LO-
5 CATION.—A party subsequently occupying a dairy
6 operation location vacated as described in paragraph
7 (1) shall have no interest in the production history
8 or annual production quantity previously associated
9 with the operation at such location.

10 **SEC. 114. BASIC MARGIN PROTECTION.**

11 (a) ELIGIBILITY.—All participating dairy producers
12 are eligible to receive basic margin protection under the
13 margin protection program.

14 (b) PAYMENT THRESHOLD.—Participating dairy pro-
15 ducers shall receive a basic margin protection payment
16 whenever the average actual dairy producer margin for a
17 consecutive two-month period is less than \$4.00 per hun-
18 dredweight of milk.

19 (c) BASIC MARGIN PROTECTION PAYMENT.—

20 (1) PAYMENT REQUIRED.—The Secretary shall
21 make a basic margin protection payment to each
22 participating dairy producer for a consecutive two-
23 month period whenever such a payment is required
24 by subsection (b) for that period.

1 (2) AMOUNT OF PAYMENT.—The basic margin
2 protection payment for the dairy operation of a par-
3 ticipating dairy producer for a consecutive two-
4 month period shall be determined as follows:

5 (A) The Secretary shall calculate the dif-
6 ference between the average actual dairy pro-
7 ducer margin for the consecutive two-month pe-
8 riod and \$4.00, except that, if the difference is
9 more than \$4.00, the Secretary shall use \$4.00.

10 (B) The Secretary shall multiply the
11 amount under subparagraph (A) by of the less-
12 er of the following:

13 (i) Eighty percent of the production
14 history of the dairy producer, divided by
15 six.

16 (ii) The actual amount of milk mar-
17 keted by the dairy operation of the dairy
18 producer during the consecutive two-month
19 period.

20 **SEC. 115. SUPPLEMENTAL MARGIN PROTECTION.**

21 (a) ELECTION OF SUPPLEMENTAL MARGIN PROTEC-
22 TION.—At the time of the registration of a dairy producer
23 in the margin protection program under section 112, the
24 dairy producer may purchase supplemental margin protec-
25 tion to protect a higher level of the income of a partici-

1 participating dairy producer than the income level guaranteed
2 by basic margin protection under section 114.

3 (b) SELECTION OF PAYMENT THRESHOLD.—A par-
4 ticipating dairy producer purchasing supplemental margin
5 protection shall elect a coverage level that is higher, in
6 any increment of \$0.50, than the payment threshold for
7 basic margin protection specified in section 114(b), but
8 not to exceed \$8.00.

9 (c) SELECTION OF COVERAGE PERCENTAGE.—A par-
10 ticipating dairy producer purchasing supplemental margin
11 protection shall elect a percentage of coverage, equal to
12 not more than 90 percent nor less than 25 percent, of—

13 (1) the production history of the dairy oper-
14 ation of the participating dairy producer; or

15 (2) if the participating dairy producer elects the
16 growth option under subsection (d)—

17 (A) the production history of the dairy op-
18 eration of the dairy producer, to be used for the
19 calendar year during which the dairy producer
20 registers for participation in the margin protec-
21 tion program; and

22 (B) for subsequent calendar years in which
23 the margin protection program is in effect, the
24 greater of—

1 (i) the production history of the dairy
2 operation of the dairy producer; or

3 (ii) the highest annual production
4 quantity of the dairy operation of the dairy
5 producer during any previous calendar
6 year in which the margin protection pro-
7 gram was in effect.

8 (d) AVAILABILITY OF GROWTH OPTION.—When a
9 dairy producer purchases supplemental margin protection,
10 the dairy producer may elect a growth option that author-
11 izes the use of the annual production quantity of the dairy
12 operation of the dairy producer, in lieu of production his-
13 tory, as provided in subsection (c)(2) to determine supple-
14 mental margin protection payments for the dairy producer
15 under subsection (h).

16 (e) PRODUCER PREMIUMS.—

17 (1) PREMIUMS REQUIRED.—A participating
18 dairy producer that purchases supplemental margin
19 protection shall pay an annual premium equal to the
20 product obtained by multiplying—

21 (A) the percentage selected by the dairy
22 producer under subsection (c);

23 (B) the production history or annual pro-
24 duction quantity applicable to the dairy pro-
25 ducer under such subsection; and

1 (C) the premium per hundredweight of
2 milk, as 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. |

3 (2) TIME FOR PAYMENT.—

4 (A) FIRST YEAR.—As soon as practicable
5 after a dairy producer registers to participate in
6 the margin protection program and purchases
7 supplemental margin protection, the dairy pro-
8 ducer shall pay the premium determined under
9 paragraph (1) for the dairy producer for the
10 first calendar year of such supplemental margin
11 protection.

12 (B) SUBSEQUENT YEARS.—When the dairy
13 producer first purchases supplemental margin
14 protection, the dairy producer shall also elect
15 the method by which the dairy producer will
16 pay premiums under this subsection for subse-
17 quent years in accordance with one of the fol-
18 lowing schedules:

19 (i) SINGLE ANNUAL PAYMENT.—The
20 participating dairy producer may elect to

1 pay 100 percent of the annual premium
2 determined under paragraph (1) for the
3 dairy producer for a calendar year not
4 later than January 15 of the calendar
5 year.

6 (ii) SEMI-ANNUAL PAYMENT.—The
7 participating dairy producer may elect to
8 pay 50 percent of the annual premium de-
9 termined under paragraph (1) for the
10 dairy producer for a calendar year not
11 later than January 15 of the calendar year
12 and the remaining 50 percent of the pre-
13 mium not later than June 15 of the cal-
14 endar year.

15 (f) PRODUCER'S PREMIUM OBLIGATIONS.—

16 (1) PRO-RATION OF FIRST YEAR PREMIUM.—A
17 participating dairy producer that purchases supple-
18 mental margin protection after initial registration in
19 the margin protection program shall pay a pro-rated
20 premium for the first calendar year based on the
21 date on which the producer purchases the coverage.

22 (2) SUBSEQUENT PREMIUMS.—Other than as
23 provided in paragraph (1), the annual premium for
24 a participating dairy producer shall be determined

1 under subsection (e) for each year in which the mar-
2 gin protection program is in effect.

3 (3) LEGAL OBLIGATION.—A participating dairy
4 producer that purchases supplemental margin pro-
5 tection shall be legally obligated to pay the applica-
6 ble premiums for the entire period of the margin
7 protection program (as provided in the payment
8 schedule elected under subsection (e)(2)), and may
9 not opt out of the margin protection program, ex-
10 cept—

11 (A) if the dairy producer dies, the estate of
12 the deceased may cancel the supplemental mar-
13 gin protection and shall not be responsible for
14 any further premium payments; or

15 (B) if the dairy producer retires, the pro-
16 ducer may request that Secretary cancel the
17 supplemental margin protection if the producer
18 has terminated the dairy operation entirely and
19 certifies under oath that the producer will not
20 be actively engaged in any dairy operation for
21 at least the next seven years.

22 (g) SUPPLEMENTAL PAYMENT THRESHOLD.—A par-
23 ticipating dairy producer with supplemental margin pro-
24 tection shall receive a supplemental margin protection
25 payment whenever the average actual dairy producer mar-

1 gin for a consecutive two-month period is less than the
2 coverage level threshold selected by the dairy producer
3 under subsection (b).

4 (h) SUPPLEMENTAL MARGIN PROTECTION PAY-
5 MENTS.—

6 (1) IN GENERAL.—The supplemental margin
7 protection payment for a participating dairy pro-
8 ducer is in addition to the basic margin protection
9 payment.

10 (2) AMOUNT OF PAYMENT.—The supplemental
11 margin protection payment for the dairy operation
12 of a participating dairy producer shall be determined
13 as follows:

14 (A) The Secretary shall calculate the dif-
15 ference between the coverage level threshold se-
16 lected by the dairy producer under subsection
17 (b) and the greater of—

18 (i) the average actual dairy producer
19 margin for the consecutive two-month pe-
20 riod; or

21 (ii) \$4.00.

22 (B) The amount determined under sub-
23 paragraph (A) shall be multiplied by the per-
24 centage selected by the dairy producer under
25 subsection (c) and by the lesser of the following:

1 (i) The production history or annual
2 production quantity applicable to the pro-
3 ducer under subsection (c), divided by six.

4 (ii) The actual amount of milk mar-
5 keted by the dairy operation of the dairy
6 producer during the consecutive two-month
7 period.

8 **SEC. 116. EFFECT OF FAILURE TO PAY ADMINISTRATIVE**
9 **FEES OR PREMIUMS.**

10 (a) LOSS OF BENEFITS.—A participating dairy pro-
11 ducer that fails to pay the required administrative fee
12 under section 112 or is in arrears on premium payments
13 for supplemental margin protection under section 115—

14 (1) remains legally obligated to pay the admin-
15 istrative fee or premiums, as the case may be; and

16 (2) may not receive basic margin protection
17 payments or supplemental margin protection pay-
18 ments until the fees or premiums are fully paid.

19 (b) ENFORCEMENT.—The Secretary may take such
20 action as necessary to collect administrative fees and pre-
21 mium payments for supplemental margin protection.

22 **SEC. 117. NO PAYMENT LIMITATIONS.**

23 Notwithstanding any other provision of law (except
24 section 116), basic margin protection payments and sup-
25 plemental margin protection payments received by a par-

1 participating dairy producer shall not be subject to limitations
2 for any reason.

3 **Subtitle B—Dairy Market** 4 **Stabilization Program**

5 **SEC. 131. ESTABLISHMENT OF DAIRY MARKET STABILIZA-** 6 **TION PROGRAM.**

7 (a) PROGRAM REQUIRED; PURPOSE.—The Secretary
8 shall establish and administer a dairy market stabilization
9 program applicable to participating dairy producers for
10 the purpose of assisting in balancing the supply of milk
11 with demand when dairy producers are experiencing low
12 or negative operating margins.

13 (b) ELECTION OF STABILIZATION PROGRAM BASE
14 CALCULATION METHOD.—

15 (1) DEADLINE FOR ELECTION.—Not later than
16 January 15, 2012, each participating dairy producer
17 shall inform the Secretary of the method by which
18 the stabilization program base for the dairy producer
19 for 2012 will be calculated under paragraph (3).

20 (2) CHANGE IN CALCULATION METHOD.—A
21 participating dairy producer may change the sta-
22 bilization program base calculation method to be
23 used for a calendar year by notifying the Secretary
24 of the change not later than January 15 of that
25 year.

1 (3) CALCULATION METHODS.—A participating
2 dairy producer may elect either of the following
3 methods for calculation of the stabilization program
4 base for the producer:

5 (A) The volume of the average monthly
6 milk marketings of the dairy producer for the
7 three months immediately preceding the an-
8 nouncement by the Secretary that the stabiliza-
9 tion program will become effective.

10 (B) The volume of the monthly milk mar-
11 ketings of the dairy producer for the same
12 month in the preceding year as the month for
13 which the Secretary has announced the sta-
14 bilization program will become effective.

15 (c) TREATMENT OF MULTI-PRODUCER OPER-
16 ATIONS.—As provided in section 112(b)(2), if a dairy op-
17 eration consists of more than one dairy producer, all of
18 the dairy producers of the operation shall be treated as
19 a single participating dairy producer for purposes of oper-
20 ation of the stabilization program with respect to the pro-
21 ducers.

22 (d) TREATMENT OF PRODUCERS WITH MULTIPLE
23 DAIRY OPERATIONS.—As provided in section 112(b)(3),
24 if a participating dairy producer operates two or more
25 dairy operations, only those dairy operations of the dairy

1 producer registered under section 112 shall be subject to
2 the stabilization program.

3 **SEC. 132. THRESHOLD FOR IMPLEMENTATION AND REDUC-**
4 **TION IN DAIRY PRODUCER PAYMENTS.**

5 (a) WHEN STABILIZATION PROGRAM REQUIRED.—

6 The Secretary shall announce that the stabilization pro-
7 gram is in effect and order reduced payments for any par-
8 ticipating dairy producer that exceeds the applicable per-
9 centage of the producer's stabilization program base when-
10 ever—

11 (1) the actual dairy producer margin has been
12 \$6.00 or less per hundredweight of milk for the im-
13 mediately preceding two months; or

14 (2) the actual dairy producer margin has been
15 \$4.00 or less per hundredweight of milk for the im-
16 mediately preceding month.

17 (b) EFFECTIVE DATE FOR IMPLEMENTATION OF
18 PAYMENT REDUCTIONS.—Reductions in dairy producer
19 payments shall commence beginning on the first day of
20 the month immediately following the announcement by the
21 Secretary under subsection (a).

22 **SEC. 133. PRODUCER MILK MARKETINGS INFORMATION.**

23 (a) COLLECTION OF MILK MARKETING DATA.—For
24 each month during which the stabilization program is in
25 effect, each handler shall calculate the following:

1 (1) REDUCTION REQUIREMENT 1.—Unless the
2 reduction required by paragraph (2) or (3) applies,
3 when the actual dairy producer margin has been
4 \$6.00 or less per hundredweight of milk for two con-
5 secutive months, the handler shall make payments to
6 a participating dairy producer for a month based on
7 the greater of the following:

8 (A) Ninety-eight percent of the stabiliza-
9 tion program base of the dairy producer.

10 (B) Ninety-four percent of the marketings
11 of milk for the month by the producer.

12 (2) REDUCTION REQUIREMENT 2.—Unless the
13 reduction required by paragraph (3) applies, when
14 the actual dairy producer margin has been \$5.00 or
15 less per hundredweight of milk for two consecutive
16 months, the handler shall make payments to a par-
17 ticipating dairy producer for a month based on the
18 greater of the following:

19 (A) Ninety-seven percent of the stabiliza-
20 tion program base of the dairy producer.

21 (B) Ninety-three percent of the marketings
22 of milk for the month by the producer.

23 (3) REDUCTION REQUIREMENT 3.—When the
24 actual dairy producer margin has been \$4.00 or less
25 for any one month, the handler shall make payments

1 to a participating dairy producer for a month based
2 on the greater of the following:

3 (A) Ninety-six percent of the stabilization
4 program base of the dairy producer.

5 (B) Ninety-two percent of the marketings
6 of milk for the month by the producer.

7 (c) CONTINUATION OF REDUCTIONS.—The largest
8 level of payment reduction required under paragraph (1),
9 (2), or (3) of subsection (b) shall be continued for each
10 month until the Secretary suspends the stabilization pro-
11 gram and terminates payment reductions in accordance
12 with section 136.

13 (d) PAYMENT REDUCTION EXCEPTION.—Notwith-
14 standing any preceding subsection of this section, a han-
15 dler shall make no payment reductions for a dairy pro-
16 ducer for a month if the producer's milk marketings for
17 the month are equal to or less than the percentage of the
18 stabilization program base applicable to the producer
19 under paragraph (1), (2), or (3) of subsection (b).

20 **SEC. 135. REMITTING MONIES TO COMMODITY CREDIT**
21 **CORPORATION.**

22 (a) REMITTING MONIES.—As soon as practicable
23 after the end of each month during which payment reduc-
24 tions are in effect under the stabilization program, each
25 handler shall remit to the Commodity Credit Corporation

1 an amount equal to the amount by which payments to par-
2 ticipating dairy producers are reduced by the handler
3 under section 134.

4 (b) AVAILABILITY OF MONIES.—As soon as prac-
5 ticable after receipt of monies under subsection (a), the
6 Commodity Credit Corporation shall make the monies
7 available to the board of directors under section 138.

8 **SEC. 136. SUSPENSION OF REDUCED PAYMENT REQUIRE-**
9 **MENT.**

10 (a) SUSPENSION THRESHOLDS.—The Secretary shall
11 suspend the stabilization program whenever the Secretary
12 determines that—

13 (1) the actual dairy producer margin is greater
14 than \$6.00 per hundredweight of milk for two con-
15 secutive months; or

16 (2) the price in the United States for either
17 cheddar cheese or skim milk powder (non-fat dry
18 milk) is more than 20 percent above the world price
19 for that same commodity for two consecutive
20 months.

21 (b) IMPLEMENTATION BY HANDLERS.—Handlers
22 shall cease reducing payments to participating dairy pro-
23 ducers under the stabilization program upon receiving no-
24 tice of the suspension of the stabilization program from
25 the Secretary.

1 **SEC. 137. AUDIT REQUIREMENTS.**

2 (a) AUDITS OF PRODUCER AND HANDLER COMPLI-
3 ANCE.—

4 (1) AUDITS AUTHORIZED.—If determined by
5 the Secretary to be necessary to ensure compliance
6 by participating dairy producers and handlers with
7 the stabilization program, the Secretary may con-
8 duct periodic audits of participating dairy producers
9 and handlers.

10 (2) SAMPLE OF DAIRY PRODUCERS.—Any audit
11 conducted under this subsection shall include, at a
12 minimum, investigation of a statistically valid and
13 random sample of participating dairy producers.

14 (b) AUDIT BY INSPECTOR GENERAL.—

15 (1) AUDIT REQUIRED.—At the end of the sec-
16 ond year of operation of the stabilization program,
17 the Inspector General of the Department of Agri-
18 culture shall audit and evaluate the effectiveness of
19 the stabilization program. In conducting the audit
20 and evaluation, the Inspector General shall include
21 the use of established dairy economic models to as-
22 certain the effectiveness, operation, and administra-
23 tion of the program.

24 (2) SUBMISSION OF RESULTS.—The Inspector
25 General shall submit the results of the audit and
26 evaluation conducted under paragraph (1) to the

1 Secretary, who shall make such recommendations to
2 Congress as the Secretary considers appropriate re-
3 garding the stabilization program.

4 **SEC. 138. BOARD OF DIRECTORS.**

5 (a) ESTABLISHMENT; PURPOSE.—The Secretary
6 shall establish a board of directors for the stabilization
7 program for the purpose of—

8 (1) administering the monies made available to
9 the board of directors under section 135; and

10 (2) determining the most effective use of such
11 monies.

12 (b) APPOINTMENT OF DIRECTORS.—

13 (1) NUMBER AND QUALIFICATIONS.—The Sec-
14 retary shall appoint 15 members to serve on the
15 board of directors, who shall be representative of the
16 United States dairy producer community, taking
17 into account geographical diversity, cooperative
18 membership, and volumes of milk produced in var-
19 ious States and regions.

20 (2) REIMBURSEMENT OF EXPENSES.—Monies
21 made available to the board of directors under sec-
22 tion 135 may be used to reimburse a member of the
23 board of directors for reasonable and appropriate
24 costs incurred by the member to serve on the board
25 of directors.

1 (c) DECISIONMAKING.—The board of directors shall
2 reach decisions by an affirmative vote of $\frac{2}{3}$ of its mem-
3 bers.

4 (d) REMOVAL OF DAIRY PRODUCTS AND EXPANSION
5 OF DEMAND.—

6 (1) SPENDING AUTHORITY.—The board of di-
7 rectors shall have the authority to use monies made
8 available to the board of directors under section
9 135—

10 (A) to purchase dairy products through
11 commercial sources for donation to food banks
12 and other food programs that the Board deter-
13 mines appropriate, within three months of col-
14 lecting the funds; and

15 (B) to expand consumption and build de-
16 mand for dairy products.

17 (2) NO DUPLICATION OF EFFORT.—The board
18 of directors shall ensure that projects supported
19 under paragraph (1) are compatible with, and do not
20 duplicate, programs supported by the dairy research
21 and promotion activities conducted under the Dairy
22 Production Stabilization Act of 1983 (7 U.S.C. 4501
23 et seq.).

1 (3) MANAGEMENT CONTRACT.—The board of
2 directors may enter into a contract with a managing
3 entity to carry out this subsection.

4 (e) ACCOUNTING AND REPORTING REQUIREMENT.—

5 (1) ACCOUNTING.—The board of directors shall
6 keep an accurate account of all monies made avail-
7 able to the board of directors under section 135.

8 (2) REPORTING.—Not later than December 31
9 of each year that the stabilization program is in ef-
10 fect, the board of directors shall provide to the Com-
11 mittee on Agriculture of the House of Representa-
12 tives and the Committee on Agriculture, Nutrition,
13 and Forestry of the Senate a report that provides an
14 accurate accounting of the monies received by the
15 board of directors during that year and all expendi-
16 tures made by the board of directors during that
17 year.

18 **Subtitle C—Commodity Credit**
19 **Corporation**

20 **SEC. 151. USE OF COMMODITY CREDIT CORPORATION.**

21 The Secretary shall use the funds, facilities, and the
22 authorities of the Commodity Credit Corporation to carry
23 out this title.

1 **Subtitle D—Duration**

2 **SEC. 161. DURATION.**

3 The Secretary shall conduct the margin protection
4 program and the stabilization program during the period
5 beginning on January 1, 2012, and ending on December
6 31, 2017.

7 **TITLE II—FEDERAL MILK**
8 **MARKETING ORDER REFORM**

9 **SEC. 201. REQUIRED AMENDMENTS TO FEDERAL MILK**
10 **MARKETING ORDERS.**

11 (a) AMENDMENTS REQUIRED.—

12 (1) IN GENERAL.—The Secretary of Agriculture
13 shall amend each Federal milk marketing order
14 issued under section 8c of the Agricultural Adjust-
15 ment Act (7 U.S.C. 608c), reenacted with amend-
16 ments by the Agricultural Marketing Agreement Act
17 of 1937 (in this title referred to as a “milk mar-
18 keting order”), as required by this section.

19 (2) RELATION TO OTHER LAWS.—Except as
20 provided in section 202, the Secretary shall execute
21 the amendments required by this section without re-
22 gard to any provision of section 8c of the Agricul-
23 tural Adjustment Act (7 U.S.C. 608c), reenacted
24 with amendments by the Agricultural Marketing

1 Agreement Act of 1937, as in effect on the day be-
2 fore the date of the enactment of this Act.

3 (b) USE OF END-PRODUCT PRICE FORMULAS.—The
4 Secretary shall eliminate the use of end-product price for-
5 mulas for setting prices for Class III milk, and instead
6 use a competitive price for setting prices for Class III
7 milk.

8 (c) ADMINISTRATIVE AUTHORITY.—In addition to
9 and notwithstanding the authority provided under section
10 8d of the Agricultural Adjustment Act (7 U.S.C. 608d),
11 reenacted with amendments by the Agricultural Marketing
12 Agreement Act of 1937, the Secretary may—

13 (1) require handlers to report, maintain, and
14 make available all information and records as the
15 Secretary considers necessary for the administration
16 of any milk marketing order; and

17 (2) adopt only such conforming amendments to
18 milk marketing orders as the Secretary determines
19 to be necessary to implement the amendments re-
20 quired by this section.

21 **SEC. 202. AMENDMENT PROCESS.**

22 (a) IN GENERAL.—The amendments to milk mar-
23 keting orders required to be made by section 201 shall
24 be subject to the provisions of sections 8c(17) and 8c(19)
25 of the Agricultural Adjustment Act (7 U.S.C. 608c(17))

1 and (19)), reenacted with amendments by the Agricultural
2 Marketing Agreement Act of 1937, except as follows:

3 (1) NOTICE OF FINAL DECISION ON PROPOSED
4 AMENDMENTS.—Not later than 270 days after the
5 date of the enactment of this Act, the Secretary of
6 Agriculture shall publish in the Federal Register no-
7 tice of a final decision on the proposed amendments
8 to be made to milk marketing orders in order to
9 comply with the requirements of section 201.

10 (2) PRODUCER REFERENDUM.—

11 (A) REFERENDUM REQUIRED.—As soon as
12 practicable after publication of the final deci-
13 sion on the proposed amendments under para-
14 graph (1), the Secretary shall conduct a pro-
15 ducer referendum regarding the final decision
16 on the proposed amendments.

17 (B) TERMS OF REFERENDUM; EXCEP-
18 TIONS.—The producer referendum shall be con-
19 ducted in the manner provided by section
20 8c(19) of the Agricultural Adjustment Act (7
21 U.S.C. 608c(19)), reenacted with amendments
22 by the Agricultural Marketing Agreement Act
23 of 1937, except that—

24 (i) the referendum shall be a single
25 referendum upon which approval or failure

1 of the proposed amendments to all milk
2 marketing orders shall depend; and

3 (ii) the proposed amendments shall re-
4 quire approval by one-half of participating
5 producers or by volume of production
6 (rather than two-thirds) in order for the
7 referendum to pass and the proposed
8 amendments to take effect.

9 (C) EFFECT OF FAILURE.—If the ref-
10 erendum fails, the milk marketing orders shall
11 remain in force as in effect before the proposed
12 amendments were published.

13 (b) EFFECT OF COURT ORDER.—In the event that
14 the Secretary is enjoined or otherwise restrained by a
15 court order from executing the amendments to milk mar-
16 keting orders required by section 201, the length of time
17 for which that injunction or other restraining order is ef-
18 fective shall be added to any time limitation in effect under
19 paragraph (1) or (2) of subsection (a), thereby extending
20 those time limitations by a period of time equal to the
21 period of time for which the injunction or other restraining
22 order is in effect.

23 (c) RELATION TO OTHER AMENDMENT AUTHOR-
24 ITY.—Nothing in this title affects the authority of the Sec-
25 retary to subsequently amend milk marketing orders, or

1 the ability of producers or other persons to seek such
2 amendments, in accordance with the rulemaking process
3 provided by section 8c(17) of the Agricultural Adjustment
4 Act (7 U.S.C. 608c(17)), reenacted with amendments by
5 the Agricultural Marketing Agreement Act of 1937.

6 **SEC. 203. DEVELOPMENT OF EFFECTIVE BALANCING PRO-**
7 **GRAMS FOR MILK MARKETS.**

8 (a) **ADVANCED NOTICE OF PROPOSED RULE-**
9 **MAKING.**—Not later than 90 days after the enactment of
10 this Act, the Secretary of Agriculture shall publish in the
11 Federal Register an Advanced Notice of Proposed Rule-
12 making seeking public comment on, and proposals recom-
13 mending, effective programs that address the issues of the
14 costs of balancing milk markets, including the use of inter-
15 and intra-marketing transportation credits. The Secretary
16 shall solicit comments and proposals that—

- 17 (1) address the market’s balancing needs;
- 18 (2) target support to those producers and han-
19 dlers who provide balancing services; and
- 20 (3) provide compensation that is in line with
21 the costs of providing the services and with the bene-
22 fits to the market of the services.

23 (b) **TIMELINESS OF RULEMAKING.**—Not later than
24 one year after the date of the enactment of this Act, the
25 Secretary shall—

1 (1) initiate formal rulemaking (by publishing in
2 the Federal Register a hearing notice) in response to
3 the public comments received under subsection (a);
4 or

5 (2) publish notice of the reasons that such a
6 rulemaking is not to be initiated.

7 **TITLE III—REPEAL OF** 8 **SUPERSEDED PROVISIONS**

9 **SEC. 301. REPEAL OF DAIRY PRODUCT PRICE SUPPORT** 10 **AND MILK INCOME LOSS CONTRACT PRO-** 11 **GRAMS.**

12 (a) REPEAL OF DAIRY PRODUCT PRICE SUPPORT
13 PROGRAM.—Section 1501 of the Food, Conservation, and
14 Energy Act of 2008 (7 U.S.C. 8771) is repealed.

15 (b) REPEAL OF MILK INCOME LOSS CONTRACT PRO-
16 GRAM.—Section 1506 of the Food, Conservation, and En-
17 ergy Act of 2008 (7 U.S.C. 8773) is repealed.

18 **SEC. 302. REPEAL OF PERMANENT PRICE SUPPORT AU-** 19 **THORITY FOR MILK.**

20 (a) REPEAL.—Section 201 of the Agricultural Act of
21 1949 (7 U.S.C. 1446) is amended—

22 (1) in subsection (a), by striking “milk,”; and

23 (2) by striking subsections (c) and (d).

24 (b) EXCLUSION FROM PRICE SUPPORT FOR OTHER
25 NONBASIC AGRICULTURAL COMMODITIES.—Section 301

1 of the Agricultural Act of 1949 (7 U.S.C. 1447) is amend-
2 ed by inserting “(other than milk)” after “agricultural
3 commodity”.

4 **SEC. 303. REPEAL OF DAIRY EXPORT INCENTIVE PROGRAM.**

5 Section 153 of the Food Security Act of 1985 (15
6 U.S.C. 713a–14) is repealed.

7 **SEC. 304. EFFECTIVE DATE.**

8 The amendments made by this title shall take effect
9 on January 1, 2012.

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