112TH CONGRESS
1ST SESSION
H. R. ______

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

Mr. Peterson (for himself and Mr. Simpson) introduced the following bill; which was referred to the Committee on ______

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 Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

(b) **TABLE OF CONTENTS.**—The table of contents for 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 payments.
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.

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

SEC. 101. DEFINITIONS.

In this title:

(1) Actual dairy producer margin.—The term “actual dairy producer margin” means the difference between the all-milk price and the average feed cost, as calculated under section 102.

(2) All-milk price.—The term “all-milk price” means the average price received, per hundredweight of milk, by dairy producers for all milk sold to plants and dealers in the United States, as reported by the National Agricultural Statistics Service.

(3) Annual production quantity.—The term “annual production quantity” means the quantity of annual milk marketings determined for a dairy producer under section 113(b) for each year in which the dairy producer participates in the margin protection program.
(4) Average feed cost.—The term “average feed cost” means the average cost of feed used by a dairy operation to produce a hundredweight of milk, determined under section 102 using the sum of the following:

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

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

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

(5) Board of directors.—The term “board of directors” means the board of directors appointed by the Secretary under section 138.

(6) Consecutive two-month period.—The term “consecutive two-month period” refers to the two-month period consisting of the months of January and February, March and April, May and June, July and August, September and October, or November and December, respectively.

(7) Dairy producer.—The term “dairy producer” means an individual or entity that directly or indirectly (as determined by the Secretary)—

(A) shares in the risk of producing milk; and
(B) makes contributions (including land, labor, management, equipment, or capital) to the dairy operation of the individual or entity that are at least commensurate with the share of the individual or entity of the proceeds of the operation.

(8) HANDLER.—

(A) IN GENERAL.—The term “handler” means a person making payment to a dairy producer for milk produced in the United States and marketed for commercial use.

(B) PRODUCER-HANDLER.—The term includes a producer-handler.

(9) MARGIN PROTECTION PROGRAM.—The term “margin protection program” means the dairy producer margin protection program required by subtitle A.

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

(A) registers under section 112(b) to participate in the margin protection program under subtitle A; and
(B) as a result of such registration, also participates in the stabilization program under subtitle B.

(11) **Production history.**—The term “production history” means the quantity of annual milk marketings determined for a dairy producer under section 113(a).

(12) **Secretary.**—The term “Secretary” means the Secretary of Agriculture.

(13) **Stabilization program.**—The term “stabilization program” means the dairy market stabilization program required by subtitle B for all participating dairy producers.

(14) **Stabilization program base.**—The term “stabilization program base”, with respect to a participating dairy producer, means the stabilization program base calculated for the producer under section 131(b).

(15) **United States.**—The term “United States”, in a geographical sense, means the 50 States.
SEC. 102. CALCULATION OF AVERAGE FEED COST AND ACTUAL DAIRY PRODUCER MARGINS.

(a) Calculation of Average Feed Cost.—The Secretary shall calculate the national average feed cost for each month using the following data:

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

(2) The price of soybean meal for a month shall be the central Illinois price for soybean meal, as reported by the Agricultural Marketing Service.

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

(b) Calculation of Actual Dairy Producer Margins.—

(1) Margin Protection Program.—For use in the margin protection program under subtitle A, the Secretary shall calculate the actual dairy producer margin for each consecutive two-month period by subtracting—

(A) the average feed cost for that consecutive two-month period, determined in accordance with subsection (a); from
(B) the all-milk price for that consecutive two-month period.

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

(A) the average feed cost for that preceding month, determined in accordance with subsection (a); from

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

Subtitle A—Dairy Producer Margin Protection Program

SEC. 111. ESTABLISHMENT OF DAIRY PRODUCER MARGIN PROTECTION PROGRAM.

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

(1) basic margin protection payments when actual dairy producer margins are less than the threshold levels for such payments; and

(2) supplemental margin protection payments if purchased by a participating dairy producer.
SEC. 112. ELIGIBILITY AND REGISTRATION OF DAIRY PRO-
DUCERS FOR MARGIN PROTECTION PRO-
GRAM.
(a) ELIGIBILITY.—All dairy producers in the United
States are eligible to participate in the margin protection
program, except that a dairy producer must be registered
with the Secretary before the producer may receive—
(1) basic margin protection payments under
section 114; and
(2) if the dairy producer purchases supple-
mental margin protection under section 115, supple-
mental margin protection payments under such sec-
tion.
(b) REGISTRATION PROCESS.—
(1) IN GENERAL.—The Secretary shall register
all interested dairy producers in the margin protec-
tion program. The Secretary shall specify the man-
ner and form by which a dairy producer must reg-
ister.
(2) TREATMENT OF MULTI-PRODUCER OPER-
ATIONS.—If a dairy operation consists of more than
one dairy producer, all of the dairy producers of the
operation shall be treated as a single dairy producer
for purposes of—
(A) registration to receive basic margin protection and purchase supplemental margin protection;

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

(C) participation in the stabilization program under subtitle B.

(3) TREATMENT OF PRODUCERS WITH MULTIPLE DAIRY OPERATIONS.—If a dairy producer operates two or more dairy operations, each dairy operation of the producer shall require a separate registration to receive basic margin protection and purchase supplemental margin protection. Only those dairy operations so registered shall be subject to the stabilization program.

(c) TIME FOR REGISTRATION.—

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

(A) to receive basic margin protection; and

(B) if the producer elects, to purchase supplemental margin protection.
(2) NEW ENTRANTS.—A dairy producer that
has no existing interest in a dairy operation as of
the date of the enactment of this Act, but that, after
such date, establishes a new dairy operation, may
register with the Secretary during the 180-day pe-
period beginning on the date on which the dairy oper-
ation first markets milk commercially—

(A) to receive basic margin protection; and
(B) if the producer elects, to purchase sup-
plemental margin protection.

(d) ADMINISTRATIVE FEE FOR REGISTRATION.—

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

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

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

(B) If the dairy producer marketed be-
tween 10 million and 40 million pounds of milk
in the previous calendar year, the administrative fee shall be equal to $400.

(C) If the dairy producer marketed more than 40 million pounds of milk in the previous calendar year, the administrative fee shall be equal to $1000.

(e) RECONSTITUTION.—The Secretary shall ensure that a dairy producer does not reconstitute a dairy operation for the sole purpose of receiving basic margin protection, purchasing supplemental margin protection, or avoiding participation in the stabilization program.

SEC. 113. PRODUCTION HISTORY AND ANNUAL PRODUCTION QUANTITY OF PARTICIPATING DAIRY PRODUCERS.

(a) DETERMINATION OF PRODUCTION HISTORY.—

(1) DETERMINATION REQUIRED.—The Secretary shall determine the production history of the dairy operation of each participating dairy producer in the margin protection program.

(2) CALCULATION.—Except as provided in paragraph (3), the production history of a participating dairy producer is equal to the highest annual milk marketings of the dairy producer during any one of the three calendar years immediately pre-
ceding the dairy producer’s registration for participation in the margin protection program.

(3) NEW PRODUCERS.—If a dairy producer has been in operation for less than a year, the Secretary shall determine the production history of the dairy producer by extrapolating the actual milk marketings for the months the dairy producer has been in operation to a yearly amount.

(4) NO CHANGE IN PRODUCTION HISTORY FOR BASIC MARGIN PROTECTION.—Once the production history of a participating dairy producer is determined under paragraph (2) or (3), the production history shall not be subsequently changed for purposes of determining the amount of any basic margin protection payments for the dairy producer made under section 114.

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

(1) DETERMINATION REQUIRED.—If a dairy producer selects the growth option when purchasing supplemental margin protection under section 115, the Secretary shall determine the annual production quantity of the dairy operation of the dairy producer under paragraph (2).
(2) **Calculation.**—The annual production quantity of a participating dairy producer is equal to the actual milk marketings of the dairy producer during each calendar year in which the dairy producer purchases supplemental margin protection, including the calendar year during which the dairy producer first purchases such supplemental margin protection.

(e) **Required Information.**—A participating dairy producer shall provide all information that the Secretary may require in order to establish—

(1) the production history of the dairy operation of the dairy producer; and

(2) the annual production quantity of the dairy operation of the dairy producer if the dairy producer selects the growth option when purchasing supplemental margin protection under section 115.

(d) **Transfer of Production History or Annual Production Quantity.**—

(1) **Transfer by Sale.**—

(A) **Request for Transfer.**—If an existing dairy producer, as described in section 112(c)(1), sells an entire dairy operation to another party, the seller and purchaser may joint-
ly request that the Secretary transfer to the purchaser the seller’s interest in—

(i) production history of the dairy operation; and

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

(B) TRANSFER.—If the Secretary determines that the seller has sold the entire dairy operation to the purchaser, the Secretary shall approve the transfer described in subparagraph (A), and, thereafter, the seller shall have no interest in—

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

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

(2) TRANSFER BY LEASE.—

(A) REQUEST FOR TRANSFER.—If an existing dairy producer, as described in section 112(c)(1), leases an entire dairy operation to another party, the lessor and lessee may jointly request that the Secretary transfer to the lessee
for the duration of the term of the lease the lessor’s interest in—

(i) production history of the dairy operation; and

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

(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—

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

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

(3) Coverage level.—

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

(B) **Supplemental margin protection.**—A purchaser or lessee to whom the Sec-
retary transfers a production history or annual
production quantity under this subsection may
not obtain a different level of supplemental
margin protection coverage than the supple-
mental margin protection coverage held by the
seller or lessor from whom the transfer was ob-
tained.

(4) **New entrants.**—The Secretary may not
transfer the production history or annual production
quantity determined for a dairy producer described
in section 112(c)(2) to another person.

(e) **Movement and transfer of production
history or annual production quantity.**—

(1) **Movement and transfer authorized.**—Subject to paragraph (2), if a dairy producer
moves from one location to another location, the
dairy producer may maintain the production history
and annual production quantity associated with the
operation.
(2) Notification Requirement.—A dairy producer shall notify the Secretary of any move of a dairy operation under paragraph (1).

(3) Subsequent Occupation of Vacated Location.—A party subsequently occupying a dairy operation location vacated as described in paragraph (1) shall have no interest in the production history or annual production quantity previously associated with the operation at such location.

SEC. 114. BASIC MARGIN PROTECTION.

(a) Eligibility.—All participating dairy producers are eligible to receive basic margin protection under the margin protection program.

(b) Payment Threshold.—Participating dairy producers shall receive a basic margin protection payment whenever the average actual dairy producer margin for a consecutive two-month period is less than $4.00 per hundredweight of milk.

(c) Basic Margin Protection Payment.—

(1) Payment Required.—The Secretary shall make a basic margin protection payment to each participating dairy producer for a consecutive two-month period whenever such a payment is required by subsection (b) for that period.
(2) AMOUNT OF PAYMENT.—The basic margin protection payment for the dairy operation of a participating dairy producer for a consecutive two-month period shall be determined as follows:

(A) The Secretary shall calculate the difference between the average actual dairy producer margin for the consecutive two-month period and $4.00, except that, if the difference is more than $4.00, the Secretary shall use $4.00.

(B) The Secretary shall multiply the amount under subparagraph (A) by the lesser of the following:

(i) 80 percent of the production history of the dairy producer, divided by six.

(ii) The actual amount of milk marketed by the dairy operation of the dairy producer during the consecutive two-month period.

SEC. 115. SUPPLEMENTAL MARGIN PROTECTION.

(a) ELECTION OF SUPPLEMENTAL MARGIN PROTECTION.—At the time of the registration of a dairy producer in the margin protection program under section 112, the dairy producer may purchase supplemental margin protection to protect a higher level of the income of a partici-
pating dairy producer than the income level guaranteed by basic margin protection under section 114.

(b) Selection of Payment Threshold.—A participating dairy producer purchasing supplemental margin protection shall elect a coverage level that is higher, in any increment of $0.50, than the payment threshold for basic margin protection specified in section 114(b), but not to exceed $8.00.

(c) Selection of Coverage Percentage.—A participating dairy producer purchasing supplemental margin protection shall elect a percentage of coverage, equal to not more than 90 percent nor less than 25 percent, of—

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

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

(A) the production history of the dairy operation of the dairy producer, to be used for the calendar year during which the dairy producer registers for participation in the margin protection program; and

(B) for subsequent calendar years in which the margin protection program is in effect, the greater of—
(i) the production history of the dairy operation of the dairy producer; or

(ii) the highest annual production quantity of the dairy operation of the dairy producer during any previous calendar year in which the margin protection program was in effect.

(d) **Availability of Growth Option.**—When a dairy producer purchases supplemental margin protection, the dairy producer may elect a growth option that authorizes the use of the annual production quantity of the dairy operation of the dairy producer, in lieu of production history, as provided in subsection (e)(2) to determine supplemental margin protection payments for the dairy producer under subsection (h).

(e) **Producer Premiums.**—

(1) **Premiums Required.**—A participating dairy producer that purchases supplemental margin protection shall pay an annual premium equal to the product obtained by multiplying—

(A) the percentage selected by the dairy producer under subsection (e); and

(B) the production history or annual production quantity applicable to the dairy producer under such subsection; and
(C) the premium per hundredweight of milk, as follows:

<table>
<thead>
<tr>
<th>Coverage Level</th>
<th>Premium per Cwt.</th>
</tr>
</thead>
<tbody>
<tr>
<td>$4.50</td>
<td>$0.015</td>
</tr>
<tr>
<td>$5.00</td>
<td>$0.036</td>
</tr>
<tr>
<td>$5.50</td>
<td>$0.081</td>
</tr>
<tr>
<td>$6.00</td>
<td>$0.155</td>
</tr>
<tr>
<td>$6.50</td>
<td>$0.230</td>
</tr>
<tr>
<td>$7.00</td>
<td>$0.434</td>
</tr>
<tr>
<td>$7.50</td>
<td>$0.590</td>
</tr>
<tr>
<td>$8.00</td>
<td>$0.922</td>
</tr>
</tbody>
</table>

(2) **Time for Payment.**—

(A) **First Year.**—As soon as practicable after a dairy producer registers to participate in the margin protection program and purchases supplemental margin protection, the dairy producer shall pay the premium determined under paragraph (1) for the dairy producer for the first calendar year of such supplemental margin protection.

(B) **Subsequent Years.**—When the dairy producer first purchases supplemental margin protection, the dairy producer shall also elect the method by which the dairy producer will pay premiums under this subsection for subsequent years in accordance with one of the following schedules:

(i) **Single Annual Payment.**—The participating dairy producer may elect to
pay 100 percent of the annual premium determined under paragraph (1) for the dairy producer for a calendar year not later than January 15 of the calendar year.

(ii) SEMI-ANNUAL PAYMENT.—The participating dairy producer may elect to pay 50 percent of the annual premium determined under paragraph (1) for the dairy producer for a calendar year not later than January 15 of the calendar year and the remaining 50 percent of the premium not later than June 15 of the calendar year.

(f) PRODUCER’S PREMIUM OBLIGATIONS.—

(1) Pro-ration of first year premium.—A participating dairy producer that purchases supplemental margin protection after initial registration in the margin protection program shall pay a pro-rated premium for the first calendar year based on the date on which the producer purchases the coverage.

(2) Subsequent premiums.—Other than as provided in paragraph (1), the annual premium for a participating dairy producer shall be determined
under subsection (e) for each year in which the margin protection program is in effect.

(3) **LEGAL OBLIGATION.**—A participating dairy producer that purchases supplemental margin protection shall be legally obligated to pay the applicable premiums for the entire period of the margin protection program (as provided in the payment schedule elected under subsection (e)(2)), and may not opt out of the margin protection program, except—

(A) if the dairy producer dies, the estate of the deceased may cancel the supplemental margin protection and shall not be responsible for any further premium payments; or

(B) if the dairy producer retires, the producer may request that Secretary cancel the supplemental margin protection if the producer has terminated the dairy operation entirely and certifies under oath that the producer will not be actively engaged in any dairy operation for at least the next seven years.

(g) **SUPPLEMENTAL PAYMENT THRESHOLD.**—A participating dairy producer with supplemental margin protection shall receive a supplemental margin protection payment whenever the average actual dairy producer mar-
gin for a consecutive two-month period is less than the coverage level threshold selected by the dairy producer under subsection (b).

(h) **Supplemental Margin Protection Payments.**—

(1) **In General.**—The supplemental margin protection payment for a participating dairy producer is in addition to the basic margin protection payment.

(2) **Amount of Payment.**—The supplemental margin protection payment for the dairy operation of a participating dairy producer shall be determined as follows:

(A) The Secretary shall calculate the difference between the coverage level threshold selected by the dairy producer under subsection (b) and the greater of—

(i) the average actual dairy producer margin for the consecutive two-month period; or

(ii) $4.00.

(B) The amount determined under subparagraph (A) shall be multiplied by the percentage selected by the dairy producer under subsection (c) and by the lesser of the following:
(i) The production history or annual production quantity applicable to the producer under subsection (c), divided by six.

(ii) The actual amount of milk marketed by the dairy operation of the dairy producer during the consecutive two-month period.

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

(a) Loss of Benefits.—A participating dairy producer that fails to pay the required administrative fee under section 112 or is in arrears on premium payments for supplemental margin protection under section 115—

(1) remains legally obligated to pay the administrative fee or premiums, as the case may be; and

(2) may not receive basic margin protection payments or supplemental margin protection payments until the fees or premiums are fully paid.

(b) Enforcement.—The Secretary may take such action as necessary to collect administrative fees and premium payments for supplemental margin protection.

SEC. 117. NO PAYMENT LIMITATIONS.

Notwithstanding any other provision of law (except section 116), basic margin protection payments and supplemental margin protection payments received by a par-
Subpart B—Dairy Market Stabilization Program

SEC. 131. ESTABLISHMENT OF DAIRY MARKET STABILIZATION PROGRAM.

(a) Program Required; Purpose.—The Secretary shall establish and administer a dairy market stabilization program applicable to participating dairy producers for the purpose of assisting in balancing the supply of milk with demand when dairy producers are experiencing low or negative operating margins.

(b) Election of Stabilization Program Base Calculation Method.—

(1) Deadline for Election.—Not later than January 15, 2012, each participating dairy producer shall inform the Secretary of the method by which the stabilization program base for the dairy producer for 2012 will be calculated under paragraph (3).

(2) Change in Calculation Method.—A participating dairy producer may change the stabilization program base calculation method to be used for a calendar year by notifying the Secretary of the change not later than January 15 of that year.
(3) Calculation methods.—A participating dairy producer may elect either of the following methods for calculation of the stabilization program base for the producer:

(A) The volume of the average monthly milk marketings of the dairy producer for the three months immediately preceding the announcement by the Secretary that the stabilization program will become effective.

(B) The volume of the monthly milk marketings of the dairy producer for the same month in the preceding year as the month for which the Secretary has announced the stabilization program will become effective.

(c) Treatment of multi-producer operations.—As provided in section 112(b)(2), if a dairy operation consists of more than one dairy producer, all of the dairy producers of the operation shall be treated as a single participating dairy producer for purposes of operation of the stabilization program with respect to the producers.

(d) Treatment of producers with multiple dairy operations.—As provided in section 112(b)(3), if a participating dairy producer operates two or more dairy operations, only those dairy operations of the dairy
producer registered under section 112 shall be subject to
the stabilization program.

SEC. 132. THRESHOLD FOR IMPLEMENTATION AND REDUCTION IN DAIRY PRODUCER PAYMENTS.

(a) WHEN STABILIZATION PROGRAM REQUIRED.—
The Secretary shall announce that the stabilization pro-
gram is in effect and order reduced payments for any par-
ticipating dairy producer that exceeds the applicable per-
centage of the producer’s stabilization program base when-
ever—

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

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

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

SEC. 133. PRODUCER MILK MARKETINGS INFORMATION.

(a) COLLECTION OF MILK MARKETING DATA.—For
each month during which the stabilization program is in
effect, each handler shall calculate the following:
(1) The volume of milk marketings the handler has received from each participating dairy producer during that month.

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

(3) The volume of milk marketings the handler has received from each participating dairy producer during each of the three months preceding the month in which the Secretary makes the announcement that the stabilization program will be in effect.

(b) Effect of Changing Handlers.— If a participating dairy producer changes handlers, the producer shall ensure that milk marketings data required to make the calculations under subsection (a) is provided to the new handler.

SEC. 134. CALCULATION AND COLLECTION OF REDUCED DAIRY PRODUCER PAYMENTS.

(a) Reduced Producer Payments Required.— During any month in which payment reductions are in effect under the stabilization program, each handler shall reduce payments to each participating dairy producer from whom the handler receives milk.

(b) Reductions Based on Actual Dairy Producer Margin.—
(1) Reduction Requirement 1.—Unless the reduction required by paragraph (2) or (3) applies, when the actual dairy producer margin has been $6.00 or less per hundredweight of milk for two consecutive months, the handler shall make payments to a participating dairy producer for a month based on the greater of the following:

   (A) 98 percent of the stabilization program base of the dairy producer.

   (B) 94 percent of the marketings of milk for the month by the producer.

(2) Reduction Requirement 2.—Unless the reduction required by paragraph (3) applies, when the actual dairy producer margin has been $5.00 or less per hundredweight of milk for two consecutive months, the handler shall make payments to a participating dairy producer for a month based on the greater of the following:

   (A) 97 percent of the stabilization program base of the dairy producer.

   (B) 93 percent of the marketings of milk for the month by the producer.

(3) Reduction Requirement 3.—When the actual dairy producer margin has been $4.00 or less for any one month, the handler shall make payments
to a participating dairy producer for a month based
on the greater of the following:

(A) 96 percent of the stabilization program
base of the dairy producer.

(B) 92 percent of the marketings of milk
for the month by the producer.

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

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

SEC. 135. REMITTING MONIES TO COMMODITY CREDIT
CORPORATION.

(a) REMITTING MONIES.—As soon as practicable
after the end of each month during which payment reduc-
tions are in effect under the stabilization program, each
handler shall remit to the Commodity Credit Corporation
an amount equal to the amount by which payments to par-
ticipating dairy producers are reduced by the handler
under section 134.

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

SEC. 136. SUSPENSION OF REDUCED PAYMENT REQUIRE-
MENT.

(a) SUSPENSION_THRESHOLDS.—The Secretary shall
suspend the stabilization program whenever the Secretary
determines that—

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

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

(b) IMPLEMENTATION BY HANDLERS.—Handlers
shall cease reducing payments to participating dairy pro-
ducers under the stabilization program upon receiving no-
tice of the suspension of the stabilization program from
the Secretary.
SEC. 137. AUDIT REQUIREMENTS.

(a) Audits of Producer and Handler Compliance.—

(1) Audits Authorized.—If determined by the Secretary to be necessary to ensure compliance by participating dairy producers and handlers with the stabilization program, the Secretary may conduct periodic audits of participating dairy producers and handlers.

(2) Sample of Dairy Producers.—Any audit conducted under this subsection shall include, at a minimum, investigation of a statistically valid and random sample of participating dairy producers.

(b) Audit by Inspector General.—

(1) Audit Required.—At the end of the second year of operation of the stabilization program, the Inspector General of the Department of Agriculture shall audit and evaluate the effectiveness of the stabilization program. In conducting the audit and evaluation, the Inspector General shall include the use of established dairy economic models to ascertain the effectiveness, operation, and administration of the program.

(2) Submission of Results.—The Inspector General shall submit the results of the audit and evaluation conducted under paragraph (1) to the
Secretary, who shall make such recommendations to
Congress as the Secretary considers appropriate re-
garding the stabilization program.

SEC. 138. BOARD OF DIRECTORS.

(a) Establishment; Purpose.—The Secretary
shall establish a board of directors for the stabilization
program for the purpose of—

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

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

(b) Appointment of Directors.—

(1) Number and Qualifications.—The Sec-
etary shall appoint 15 members to serve on the
board of directors, who shall be representative of the
United States dairy producer community, taking
into account geographical diversity, cooperative
membership, and volumes of milk produced in var-
ious States and regions.

(2) Reimbursement of Expenses.—Monies
made available to the board of directors under sec-
tion 135 may be used to reimburse a member of the
board of directors for reasonable and appropriate
costs incurred by the member to serve on the board
of directors.
(c) DECISIONMAKING.—The board of directors shall reach decisions by an affirmative vote of 2/3 of its members.

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

   (1) SPENDING AUTHORITY.—The board of directors shall have the authority to use monies made available to the board of directors under section 135—

   (A) to purchase dairy products through commercial sources for donation to food banks and other food programs that the Board determines appropriate, within three months of collecting the funds; and

   (B) to expand consumption and build demand for dairy products.

   (2) NO DUPLICATION OF EFFORT.—The board of directors shall ensure that projects supported under paragraph (1) are compatible with, and do not duplicate, programs supported by the dairy research and promotion activities conducted under the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501 et seq.).
(3) MANAGEMENT CONTRACT.—The board of directors may enter into a contract with a managing entity to carry out this subsection.

(e) ACCOUNTING AND REPORTING REQUIREMENT.—

(1) ACCOUNTING.—The board of directors shall keep an accurate account of all monies made available to the board of directors under section 135.

(2) REPORTING.—Not later than December 31 of each year that the stabilization program is in effect, the board of directors shall provide to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that provides an accurate accounting of the monies received by the board of directors during that year and all expenditures made by the board of directors during that year.

Subtitle C—Commodity Credit Corporation

SEC. 151. USE OF COMMODITY CREDIT CORPORATION.

The Secretary shall use the funds, facilities, and the authorities of the Commodity Credit Corporation to carry out this title.
Subtitle D—Duration

SEC. 161. DURATION.

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

TITLE II—FEDERAL MILK MARKETING ORDER REFORM

SEC. 201. REQUIRED AMENDMENTS TO FEDERAL MILK MARKETING ORDERS.

(a) Amendments Required.—

(1) In general.—The Secretary of Agriculture shall amend each Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937 (in this title referred to as a “milk marketing order”), as required by this section.

(2) Relation to other laws.—Except as provided in section 202, the Secretary shall execute the amendments required by this section without regard to any provision of section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing
Agreement Act of 1937, as in effect on the day before the date of the enactment of this Act.

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

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

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

(2) adopt only such conforming amendments to milk marketing orders as the Secretary determines to be necessary to implement the amendments required by this section.

SEC. 202. AMENDMENT PROCESS.

(a) IN GENERAL.—The amendments to milk marketing orders required to be made by section 201 shall be subject to the provisions of sections 8c(17) and 8c(19) of the Agricultural Adjustment Act (7 U.S.C. 608c(17)
and (19)), reenacted with amendments by the Agricultural
Marketing Agreement Act of 1937, except as follows:

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

(2) **PRODUCER REFERENDUM.**—

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

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

(i) the referendum shall be a single
referendum upon which approval or failure
of the proposed amendments to all milk
marketing orders shall depend; and

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

(C) Effect of Failure.—If the ref-
erendum fails, the milk marketing orders shall
remain in force as in effect before the proposed
amendments were published.

(b) Effect of Court Order.—In the event that
the Secretary is enjoined or otherwise restrained by a
court order from executing the amendments to milk mar-
keting orders required by section 201, the length of time
for which that injunction or other restraining order is ef-
fective shall be added to any time limitation in effect under
paragraph (1) or (2) of subsection (a), thereby extending
those time limitations by a period of time equal to the
period of time for which the injunction or other restraining
order is in effect.

(e) Relation to Other Amendment Author-
ity.—Nothing in this title affects the authority of the Sec-
retary to subsequently amend milk marketing orders, or
the ability of producers or other persons to seek such amendments, in accordance with the rulemaking process provided by section 8c(17) of the Agricultural Adjustment Act (7 U.S.C. 608c(17)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

SEC. 203. DEVELOPMENT OF EFFECTIVE BALANCING PROGRAMS FOR MILK MARKETS.

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

(1) address the market’s balancing needs;

(2) target support to those producers and handlers who provide balancing services; and

(3) provide compensation that is in line with the costs of providing the services and with the benefits to the market of the services.

(b) TIMELINESS OF RULEMAKING.—Not later than one year after the date of the enactment of this Act, the Secretary shall—
(1) initiate formal rulemaking (by publishing in
the Federal Register a hearing notice) in response to
the public comments received under subsection (a);
or
(2) publish notice of the reasons that such a
rulemaking is not to be initiated.

TITLE III—REPEAL OF
SUPERSEDED PROVISIONS

SEC. 301. REPEAL OF DAIRY PRODUCT PRICE SUPPORT
AND MILK INCOME LOSS CONTRACT PROGRAMS.

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

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

SEC. 302. REPEAL OF PERMANENT PRICE SUPPORT AUTHORITY FOR MILK.

(a) REPEAL.—Section 201 of the Agricultural Act of
1949 (7 U.S.C. 1446) is amended—
(1) in subsection (a), by striking “milk,”; and
(2) by striking subsections (e) and (d).

(b) EXCLUSION FROM PRICE SUPPORT FOR OTHER
NONBASIC AGRICULTURAL COMMODITIES.—Section 301
of the Agricultural Act of 1949 (7 U.S.C. 1447) is amended by inserting “(other than milk)” after “agricultural commodity”.

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


**SEC. 304. EFFECTIVE DATE.**

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