

112TH CONGRESS
1ST SESSION

S. _____

To amend the Food, Conservation, and Energy Act of 2008 to promote growth and opportunity for the dairy industry in the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. CASEY introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Food, Conservation, and Energy Act of 2008 to promote growth and opportunity for the dairy industry in the United States, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Dairy Advancement
5 Act of 2011”.

6 **SEC. 2. REPEAL OF DAIRY PRODUCT PRICE SUPPORT PRO-**
7 **GRAM.**

8 Section 1501 of the Food, Conservation, and Energy
9 Act of 2008 (7 U.S.C. 8771) is repealed.

1 **SEC. 3. LIVESTOCK GROSS MARGIN INSURANCE FOR DAIRY.**

2 Subtitle E of title I of the Food, Conservation, and
3 Energy Act of 2008 (7 U.S.C. 8771 et seq.) is amended
4 by adding at the end the following:

5 **“SEC. 1511. LIVESTOCK GROSS MARGIN INSURANCE FOR**
6 **DAIRY.**

7 “(a) IN GENERAL.—As an alternative to receiving
8 milk income loss contract program payments under section
9 1506, the Secretary shall give the producers on a dairy
10 farm an opportunity to make an irrevocable election to in-
11 stead receive livestock gross margin insurance for dairy
12 and receive a subsidy from the Secretary for an insurance
13 policy that provides the producers on the dairy farm pro-
14 tection against the loss of gross margin (the market value
15 of milk minus feed costs) for specified portions of milk
16 produced by dairy cows of the producers, for the initial
17 month for which the election is made through September
18 30, 2012.

19 “(b) SUBSIDY.—

20 “(1) IN GENERAL.—Except as provided in para-
21 graph (2), the Secretary shall provide to the dairy
22 producers on a farm under this section a subsidy at
23 the \$1.50-deductible level for not more than
24 3,000,000 pounds of milk for each year.

25 “(2) PRODUCER OPTIONS.—The producers on a
26 dairy farm may, at the expense of the producers, re-

1 duce the deductible level or increase the quantity of
2 covered pounds for a subsidy provided under this
3 section.”.

4 **SEC. 4. FEDERAL MILK MARKETING ORDERS.**

5 (a) 2-CLASS SYSTEM FOR CLASSIFYING MILK.—

6 (1) IN GENERAL.—Not later than September
7 30, 2014, the Secretary of Agriculture shall estab-
8 lish a 2-class system for classifying milk under Fed-
9 eral milk marketing orders issued under section
10 8c(5) of the Agricultural Adjustment Act (7 U.S.C.
11 608c(5)), reenacted with amendments by the Agri-
12 cultural Marketing Agreement Act of 1937, con-
13 sisting of a fluid milk class and a manufacturing
14 grade milk class (with the price for both classes de-
15 termined using the component prices of butterfat,
16 protein, and other solids).

17 (2) AMENDMENT TO ORDERS.—

18 (A) IN GENERAL.—The Secretary shall
19 submit a report to the Committee on Agri-
20 culture of the House of Representatives and the
21 Committee on Agriculture, Nutrition, and For-
22 estry of the Senate that includes the text of
23 proposed amendments to the Federal milk mar-
24 keting orders to implement the 2-class system
25 for classifying milk.

1 (B) EFFECTIVE DATE.—The proposed
2 amendments described in subparagraph (A)
3 shall take effect not earlier than the date that
4 is 180 days after the date on which the report
5 is submitted under that subparagraph.

6 (b) DEADLINE FOR ISSUANCE OF ORDERS.—Section
7 8c(4) of the Agricultural Adjustment Act (7 U.S.C.
8 608c(4)), reenacted with amendments by the Agricultural
9 Marketing Agreement Act of 1937, is amended by striking
10 “After” and inserting “Not later than 30 days after”.

11 (c) ECONOMIC IMPACT ASSESSMENT.—The Secretary
12 of Agriculture shall—

13 (1) carry out a review of the milk–feed margin
14 during the 1–year period ending on the date of en-
15 actment of this Act; and

16 (2) not later than September 30, 2013, and
17 each time a proposed change in the Federal milk
18 marketing order formulas is considered by the Sec-
19 retary—

20 (A) assess the economic impact, over a 1–
21 and 2–year period, of proposed changes in Fed-
22 eral milk marketing order formulas on—

23 (i) milk supply;

24 (ii) farm profitability;

25 (iii) consumer demand; and

1 (iv) market prices;

2 (B) submit to the Committee on Agri-
3 culture of the House of Representatives and the
4 Committee on Agriculture, Nutrition, and For-
5 estry of the Senate a report that describes the
6 results of the assessment; and

7 (C) consider, and include in the record, the
8 results of the assessment before making a deci-
9 sion on any proposed change to the Federal
10 milk marketing order formulas.

11 **SEC. 5. DAIRY PROCESSING EQUIPMENT LOAN GUARANTEE**
12 **FUND.**

13 (a) LOANS.—Section 310B(a) of the Consolidated
14 Farm and Rural Development Act (7 U.S.C. 1932(a)) is
15 amended—

16 (1) by striking the section heading and insert-
17 ing the following:

18 **“SEC. 310B. RURAL INDUSTRIALIZATION ASSISTANCE.”;**

19 and

20 (2) in paragraph (2)—

21 (A) in subparagraph (C), by striking
22 “and” after the semicolon;

23 (B) in subparagraph (D)—

24 (i) by striking “to facilitate” and in-
25 serting “facilitating”; and

1 (ii) by striking the period at the end
2 and inserting “; and”; and

3 (C) by adding at the end the following:

4 “(E) providing processors of dairy prod-
5 ucts with incentives for investing in new equip-
6 ment and technologies by using not more than
7 \$15,000,000 each fiscal year to—

8 “(i) make loans to dairy processors
9 and cooperatives to cover not more than 50
10 percent of the cost of acquisition and adop-
11 tion of new equipment, equipment up-
12 grades, and new technologies—

13 “(I) at a fixed rate of interest
14 not to exceed the prime lending rate
15 plus 1 percent; and

16 “(II) with a term of not to ex-
17 ceed 15 years; and

18 “(ii) guarantee loans made to dairy
19 processors and cooperatives for the acqui-
20 sition and adoption of new dairy equipment,
21 equipment upgrades, and new technologies,
22 at a guarantee rate of not more than 90
23 percent.”.

24 (b) LENDING POWER FOR DAIRY PROCESSING CO-
25 OPERATIVES.—Section 3.7 of the Farm Credit Act of

1 1971 (12 U.S.C. 2128) is amended by adding at the end
2 the following:

3 “(g) DAIRY PROCESSING COOPERATIVES.—

4 “(1) IN GENERAL.—A bank for cooperatives
5 may use not more than \$15,000,000 each fiscal year
6 to provide dairy processing cooperatives with work-
7 ing capital lines of credit and accounts receivable fi-
8 nancing for the purpose of accessing export mar-
9 keting opportunities for milk and milk products.

10 “(2) LIMITATIONS.—Financing provided by a
11 bank for cooperatives for a project under paragraph
12 (1) may not exceed the lesser of—

13 “(A) \$1,000,000; or

14 “(B) 75 percent of the costs of carrying
15 out the project.

16 “(3) TERM.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (B), the term of a line of credit
19 described in paragraph (1) shall not exceed 2
20 years.

21 “(B) REVOLVING LINES OF CREDIT.—A
22 revolving line of credit may be used for multiple
23 transactions.

1 “(4) DUE DATE.—An accounts receivable fi-
2 nancing loan under this subsection shall be due on
3 the earlier of—

4 “(A) the date on which the receivable is
5 paid; or

6 “(B) 180 days after the date of disburse-
7 ment.

8 “(5) USE OF FINANCING.—

9 “(A) WORKING CAPITAL LINE OF CREDIT
10 FINANCING.—Working capital line of credit fi-
11 nancing under this subsection may be used—

12 “(i) to acquire inventory for the pro-
13 duction of milk products;

14 “(ii) to pay direct and indirect costs
15 (such as design, engineering, labor, and
16 overhead costs) used for—

17 “(I) the manufacture or purchase
18 of goods, including work-in-process,
19 for the production of milk products;
20 or

21 “(II) the provision of services for
22 the production of milk products; or

23 “(iii) to support standby letters of
24 credit used as bid bonds, performance
25 bonds, or payment guarantees.

1 “(B) ACCOUNTS RECEIVABLE FINANC-
2 ING.—Accounts receivable financing under this
3 subsection may be used to finance export ac-
4 counts receivables for milk and milk products
5 sold on payment terms of not more than 180
6 days after the date of arrival at the port of im-
7 portation, if the finance export accounts receiv-
8 able have been insured by the Commodity Cred-
9 it Corporation or other guarantor approved by
10 the Secretary.”.

11 **SEC. 6. MANDATORY REPORTING OF DAIRY COMMODITIES.**

12 (a) DEFINITIONS.—Section 272 of the Agricultural
13 Marketing Act of 1946 (7 U.S.C. 1637a) is amended to
14 read as follows:

15 **“SEC. 272. DEFINITIONS.**

16 “In this subtitle:

17 “(1) DAIRY COMMODITY.—

18 “(A) IN GENERAL.—The term ‘dairy com-
19 modity’ means a product manufactured from
20 milk or a milk-derived ingredient.

21 “(B) INCLUSIONS.—The term ‘dairy com-
22 modity’ includes—

23 “(i) fluid milk;

24 “(ii) cheese;

25 “(iii) butter;

1 “(iv) nonfat dry milk;

2 “(v) skim milk;

3 “(vi) whey products;

4 “(vii) dry proteins (such as a milk
5 protein concentrate, casein, and a casein-
6 ate);

7 “(viii) a lactose product; and

8 “(ix) a fresh dairy product (such as
9 yogurt and ice cream).

10 “(2) DAIRY PROCESSOR.—The term ‘dairy proc-
11 essor’ means a person or legal entity that commer-
12 cially processes a monthly average of at least
13 250,000 pounds of milk into cheese, butter, fresh
14 dairy products, nonfat dry milk, or other dairy sol-
15 ids.

16 “(3) SECRETARY.—The term ‘Secretary’ means
17 the Secretary of Agriculture.”.

18 (b) MANDATORY REPORTING.—Section 273 of the
19 Agricultural Marketing Act of 1946 (7 U.S.C. 1637b) is
20 amended—

21 (1) by redesignating subsections (c) through (e)
22 as subsections (d) through (f), respectively;

23 (2) by striking subsections (a) and (b) and in-
24 serting the following:

25 “(a) DAILY REPORTING.—

1 “(1) IN GENERAL.—The corporate officers or
2 officially–designated representatives of each dairy
3 processor shall report to the Secretary at least once
4 each reporting day, not later than 10:00 a.m. Cen-
5 tral Time, for each sales transaction involving a
6 dairy commodity, information concerning—

7 “(A) the sales price;

8 “(B) the quantity sold;

9 “(C) the location of the sales transaction;

10 and

11 “(D) product characteristics, including—

12 “(i) moisture level;

13 “(ii) packaging size;

14 “(iii) grade;

15 “(iv) if appropriate, fat or protein
16 level;

17 “(v) heat level for dried products; and

18 “(vi) other defining product character-
19 istics.

20 “(2) PUBLICATION.—The Secretary shall make
21 the information reported under paragraph (1) avail-
22 able to the public not less frequently than once each
23 reporting day, categorized by location and product
24 characteristics.

25 “(b) WEEKLY REPORTING.—

1 “(1) IN GENERAL.—The corporate officers or
2 officially–designated representatives of each dairy
3 processor shall report to the Secretary, on the first
4 reporting day of each week, not later than 9:00 a.m.
5 Central Time, for the prior week information con-
6 cerning—

7 “(A) the sales prices for sales transactions
8 involving dairy commodities, categorized by
9 product characteristics; and

10 “(B) the quantities of dairy commodities
11 sold.

12 “(2) PUBLICATION.—The Secretary shall make
13 the information reported under paragraph (1) avail-
14 able to the public on the first reporting day of the
15 each week, not later than 10:00 a.m. Central Time,
16 categorized by location and product characteristics.

17 “(3) FEDERAL ORDER PRICES.—The Secretary
18 shall use weekly prices published under paragraph
19 (2) to calculate Federal milk marketing order prices.

20 “(c) MONTHLY REPORTING.—

21 “(1) IN GENERAL.—The corporate officers or
22 officially–designated representatives of each dairy
23 processor shall report to the Secretary, on the first
24 reporting day of each month, not later than 9:00
25 a.m. Central Time, the quantity of all dairy com-

1 modities processed by the dairy processor during the
2 prior month.

3 “(2) PUBLICATION.—The Secretary shall make
4 the information reported under paragraph (1) avail-
5 able to the public on the first reporting day of the
6 each month, not later than 10:00 a.m. Central Time,
7 categorized by location and product characteristics.”;
8 and

9 (3) in subsection (d) (as redesignated by para-
10 graph (2))—

11 (A) in paragraph (3), by adding at the end
12 the following:

13 “(C) COLD STORAGE SURVEY.—

14 “(i) IN GENERAL.—For purposes of
15 the cold storage survey of the National Ag-
16 ricultural Statistics Service, each facility
17 storing dairy products shall report to the
18 Secretary each month information on the
19 quantity of dairy products stored.

20 “(ii) AUDIT.—Subject to the avail-
21 ability of appropriations, the Secretary
22 shall take such measures as are necessary
23 to audit the survey described in clause (i)
24 and ensure compliance with the reporting
25 requirement.

1 “(D) DAIRY PRODUCTS SURVEY.—

2 “(i) IN GENERAL.—For purposes of
3 the dairy products survey of the National
4 Agricultural Statistics Service, each manu-
5 facturer storing dairy products shall report
6 to the Secretary each month information
7 on the quantity of dairy products stored.

8 “(ii) AUDIT.—The Secretary shall
9 take such measures as are necessary to
10 audit the survey described in clause (i) and
11 ensure compliance with the reporting re-
12 quirement.”; and

13 (B) by adding at the end the following

14 “(7) SURVEY PRODUCTS.—In carrying out this
15 section, the Secretary shall require each manufac-
16 turer and other appropriate person to report to the
17 Secretary, at a periodic interval determined by the
18 Secretary, information on the products in the cold
19 storage survey and the dairy products survey of the
20 National Agricultural Statistics Service.

21 “(8) EXEMPTION.—The Secretary may exempt
22 from all reporting requirements under this section
23 any manufacturer or facility that stores less than an
24 average of 10,000 pounds monthly on an annual
25 basis.

1 “(9) COLLECTION AND PUBLICATION OF
2 DATA.—The Secretary shall collect and publish data
3 on actual milk prices paid by dairy processors.”.

4 **SEC. 7. BUDGETARY EFFECTS.**

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