

111TH CONGRESS
2^D SESSION

H. R. _____

To amend the Dairy Production Stabilization Act of 1983 to establish a dairy price stabilization program.

IN THE HOUSE OF REPRESENTATIVES

Mr. COSTA introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Dairy Production Stabilization Act of 1983 to establish a dairy price stabilization program.

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 Price Stabiliza-
5 tion Program Act of 2010”.

6 **SEC. 2. DAIRY PRICE STABILIZATION PROGRAM.**

7 The Dairy Production Stabilization Act of 1983 (7
8 U.S.C. 1421 note; title I of Public Law 98–189) is amend-
9 ed by adding at the end the following new subtitle:

1 **“Subtitle D—Dairy Price**
2 **Stabilization Program**

3 **“SEC. 141. DEFINITIONS.**

4 “In this subtitle:

5 “(1) ALLOWABLE MILK MARKETING.—The term
6 ‘allowable milk marketing’ means the quantity of
7 milk production that a dairy facility may produce
8 during a quarter without incurring a market access
9 fee, as determined under section 143(b)(1).

10 “(2) ALLOWABLE MILK MARKETING GROWTH
11 RATE.—The term ‘allowable milk marketing growth
12 rate’ means the allowable milk marketing growth
13 rate established by the Secretary for the applicable
14 quarter under section 143(b)(1).

15 “(3) ALTERNATIVE MARKET ACCESS FEE.—The
16 term ‘alternative market access fee’ means a fee de-
17 scribed in section 143(b)(2) that is assessed on all
18 milk produced in excess of the allowable milk mar-
19 ketings of a dairy facility.

20 “(4) APPEALS COMMITTEE.—The term ‘Appeals
21 Committee’ means the producer appeals committee
22 established under section 142(c).

23 “(5) DAIRY FACILITY.—The term ‘dairy facil-
24 ity’ means an operation on a property, or set of
25 properties that are contiguous or separated only by

1 a public right-of-way, that is directly related to rais-
2 ing cows or producing milk from cows for the pur-
3 pose of making a profit or for a livelihood.

4 “(6) MARKET ACCESS FEE DIVIDEND.—The
5 term ‘market access fee dividend’ means the market
6 access fees collected during an applicable quarter
7 that are redistributed to dairy facilities with allow-
8 able milk marketings under section 143(e).

9 “(7) MILK HANDLER.—The term ‘milk handler’
10 means a person that makes payments to a dairy fa-
11 cility for milk produced in the United States and
12 purchased from the dairy facility for commercial use.

13 “(8) ORDER.—The term ‘order’ means an order
14 issued by the Secretary under section 142(a).

15 “(9) PRODUCER.—The term ‘producer’ means
16 any person engaged in the production of milk for
17 commercial use.

18 “(10) PRODUCER BOARD.—The term ‘Producer
19 Board’ means the Producer Board established under
20 section 142(b).

21 “(11) PROGRAM.—The term ‘Program’ means
22 the Dairy Price Stabilization Program established
23 under section 142(a).

24 “(12) QUARTER.—The term ‘quarter’ means
25 each of the following 4 quarters of a calendar year:

1 “(A) January 1 through March 31.

2 “(B) April 1 through June 30.

3 “(C) July 1 through September 30.

4 “(D) October 1 through December 31.

5 “(13) REGION.—The term ‘region’ means each
6 of—

7 “(A) the West region, consisting of the
8 States of Arizona, California, Colorado, Idaho,
9 Montana, Nevada, Oregon, Utah, Washington,
10 and Wyoming;

11 “(B) the Midwest region, consisting of the
12 States of Iowa, Kansas, Minnesota, Nebraska,
13 North Dakota, South Dakota, and Wisconsin;

14 “(C) the South region, consisting of the
15 States of Arkansas, Louisiana, Mississippi, New
16 Mexico, Oklahoma, and Texas;

17 “(D) the Central region, consisting of the
18 States of Illinois, Indiana, Kentucky, Michigan,
19 Missouri, Ohio, and West Virginia;

20 “(E) the Northeast region, consisting of
21 the States of Connecticut, Delaware, Maine,
22 Maryland, Massachusetts, New Hampshire,
23 New Jersey, New York, Pennsylvania, Rhode
24 Island, Vermont, and Virginia; and

1 “(F) the Southeast region, consisting of
2 the States of Alabama, Florida, Georgia, North
3 Carolina, South Carolina, and Tennessee.

4 “(14) SECRETARY.—The term ‘Secretary’
5 means the Secretary of Agriculture, acting in con-
6 sultation with the Appeals Committee or Producer
7 Board (as appropriate).

8 “(15) STANDARD MARKET ACCESS FEE.—The
9 term ‘standard market access fee’ means a fee as-
10 sessed under section 143(d) on all milk produced by
11 a dairy facility.

12 **“SEC. 142. ESTABLISHMENT.**

13 “(a) ISSUANCE OF ORDERS.—

14 “(1) PROPOSED ORDER.—Not later than 60
15 days after the date of the enactment of this subtitle,
16 the Secretary shall publish in the Federal Register
17 a proposed order to establish a program to be known
18 as the ‘Dairy Price Stabilization Program’ that shall
19 apply to all dairy facilities within the contiguous
20 United States that produce milk for sale commer-
21 cially.

22 “(2) REFERENDUM ON PROPOSED ORDER.—
23 Not later than 90 days after the date of the enact-
24 ment of this subtitle, the Secretary shall conduct a
25 referendum among producers who, during a rep-

1 representative period (as determined by the Secretary),
2 have been engaged in the production of milk for
3 commercial use for the purpose of ascertaining
4 whether the proposed order shall take effect. The
5 Program shall be implemented only if the Secretary
6 determines that it has been approved by not less
7 than a majority of the eligible producers voting in
8 the referendum. If implementation of the Program is
9 not approved by a majority of the eligible producers
10 voting in the referendum, the Secretary may not
11 issue a final order to establish the Program. To de-
12 termine the approval or disapproval of producers,
13 the Secretary shall consider the approval or dis-
14 approval by any cooperative association of producers,
15 engaged in a bona fide manner in marketing milk or
16 the products thereof, as the approval or disapproval
17 of the producers who are members of or under con-
18 tract with such cooperative association of producers.
19 If a cooperative association of producers elects to
20 vote on behalf of its members, such cooperative asso-
21 ciation shall provide each producer, on whose behalf
22 the cooperative association is expressing approval or
23 disapproval, a description of the question presented
24 in the referendum together with a statement of the
25 manner in which the cooperative association intends

1 to cast its vote on behalf of the membership. Such
2 information shall inform the producer of procedures
3 to follow to cast an individual ballot should the pro-
4 ducer so choose within the period of time established
5 by the Secretary for casting ballots. Such notifica-
6 tion shall be made at least 30 days before the ref-
7 erendum and shall include an official ballot. The bal-
8 lots shall be tabulated by the Secretary and the vote
9 of the cooperative association shall be adjusted to re-
10 flect the individual votes.

11 “(3) FINAL ORDER.—If the Secretary deter-
12 mines that the proposed order has been approved by
13 not less than a majority of the eligible producers
14 voting in the referendum required by paragraph (2),
15 the Secretary shall issue, not later than 30 days
16 after such determination, a final order to establish
17 the Program.

18 “(4) REFERENDUM ON CONTINUATION OF PRO-
19 GRAM.—Not later than 3 years after the date of the
20 enactment of this subtitle, the Secretary shall con-
21 duct a referendum among producers who, during a
22 representative period (as determined by the Sec-
23 retary), have been engaged in the production of milk
24 for commercial use, for the purpose of ascertaining
25 whether the Program then in effect shall be contin-

1 ued. The program shall be continued only if the Sec-
2 retary determines that it has been approved by not
3 less than a majority of the eligible producers voting
4 in the referendum. If continuation of the Program is
5 not approved by a majority of the eligible producers
6 voting in the referendum, the Secretary shall termi-
7 nate collection of fees under the Program within six
8 months after the Secretary determines that such ac-
9 tion is favored by a majority of the eligible pro-
10 ducers voting in the referendum and shall terminate
11 the program in an orderly manner as soon as prac-
12 ticable after such determination.

13 “(b) PRODUCER BOARD.—

14 “(1) IN GENERAL.—The order shall provide for
15 the establishment of a board of directors to be
16 known as the ‘Producer Board’ to advise the Sec-
17 retary on administration of the Program.

18 “(2) COMPOSITION.—The Producer Board shall
19 be composed of 30 members, of whom—

20 “(A) 24 shall be producers, of whom—

21 “(i) 12 producers shall be appointed
22 based upon region, with 2 members from
23 each of the 6 dairy producing regions in
24 the United States; and

1 “(ii) 12 producers shall be appointed
2 based upon the geographical distribution of
3 milk production volume throughout the
4 United States;

5 “(B) 2 shall represent dairy consumers;

6 “(C) 2 shall represent fluid milk bottlers;

7 and

8 “(D) 2 shall represent dairy product pro-
9 cessors.

10 “(3) APPOINTMENT.—The Secretary shall ap-
11 point the members of the Producer Board after con-
12 sidering any nominations submitted by interested
13 parties.

14 “(4) ADVISOR.—

15 “(A) IN GENERAL.—The Secretary shall
16 appoint a dairy economist to advise the Pro-
17 ducer Board.

18 “(B) NONVOTING MEMBER.—The indi-
19 vidual appointed under subparagraph (A) shall
20 be a nonvoting member of the Producer Board.

21 “(c) PRODUCER APPEALS COMMITTEE.—The order
22 shall require the Producer Board to establish a committee
23 to be known as the ‘Producer Appeals Committee’ to ad-
24 vise the Secretary on appeals of decisions made during the
25 first year of operation of the Program.

1 **“SEC. 143. OPERATION OF THE PROGRAM.**

2 “(a) ESTABLISHMENT OF RATES, FEES, DIVIDENDS,
3 AND INITIAL ALLOWABLE MILK MARKETINGS.—

4 “(1) IN GENERAL.—The order shall provide for
5 the establishment of rates and fees and the payment
6 of dividends in accordance with this section.

7 “(2) INITIAL ESTABLISHMENT OF ALLOWABLE
8 MILK MARKETINGS.—The initial establishment of al-
9 lowable milk marketings for a dairy facility under
10 this subtitle shall be based on the highest of the annual
11 milk marketings of the dairy facility from the cal-
12 endar year ending—

13 “(A) December 31, 2007;

14 “(B) December 31, 2008; or

15 “(C) December 31, 2009.

16 “(b) ESTABLISHMENT OF RATES AND FEES.—

17 “(1) ALLOWABLE MILK MARKETING GROWTH
18 RATE.—

19 “(A) CALCULATION OF ALLOWABLE MILK
20 MARKETING.—The allowable milk marketings of
21 a dairy facility for a quarter shall be equal to
22 the quantity of milk commercially produced by
23 the dairy facility during the corresponding
24 quarter during the previous calendar year, as
25 adjusted to reflect the allowable milk marketing
26 growth rate for the quarter.

1 “(B) CALCULATION OF ALLOWABLE MILK
2 MARKETING GROWTH RATE.—At least 30 days
3 before the first day of each quarter, the Sec-
4 retary, after considering any recommendations
5 made by the Producer Board, shall establish the
6 allowable milk marketing growth rate for the
7 upcoming quarter based on the following table:

“Milk Feed Ratio	Allowable milk marketing growth rate (in percent)
Milk Feed Ratio greater than/equal to 2.00	3.00
Milk Feed Ratio 1.75 - 1.99	0.00
Milk Feed Ratio less than/equal to 1.74	-3.00

8 “(C) MILK FEED RATION.—For purposes
9 of this paragraph and paragraph (2)(A), the
10 Secretary shall calculate a milk feed ratio for a
11 month using the same procedures used to cal-
12 culate the milk feed ratio on page 64 of the
13 USDA January 2010 Agricultural Prices publi-
14 cation (including the data and factors noted in
15 footnote 4).

16 “(D) QUARTERLY ANNOUNCEMENT OF
17 THE ALLOWABLE MILK MARKETING GROWTH
18 RATE.—For the purpose of announcing the
19 quarterly allowable milk marketing growth rate,
20 the Secretary shall use the simple average of
21 the three most recently available monthly fig-
22 ures for the milk feed ratio.

1 “(2) STANDARD AND ALTERNATIVE MARKET
2 ACCESS FEES.—

3 “(A) STANDARD MARKET ACCESS FEE.—

4 “(i) IN GENERAL.—At least 30 days
5 before the first day of each quarter, the
6 Secretary shall establish the standard mar-
7 ket access fee to be assessed on all com-
8 mercial milk production of a dairy facility
9 for that quarter.

10 “(ii) REQUIREMENT.—The standard
11 market access fee shall be based on the
12 number of hundredweights of raw milk
13 produced for commercial use, as deter-
14 mined by the Secretary.

15 “(iii) CALCULATION OF STANDARD
16 MARKET ACCESS FEE.—The standard mar-
17 ket access fee shall be determined using
18 the following table:

“Milk Feed Ratio	Market Access Fee
Milk Feed Ratio greater than/equal to 3.00	\$0.03
Milk Feed Ratio 2.50 - 2.99	\$0.13
Milk Feed Ratio 2.00 - 2.49	\$0.25
Milk Feed Ratio less than/equal to 1.99	\$0.50

19 “(iv) QUARTERLY ANNOUNCEMENT OF
20 THE MARKET ACCESS FEE.—For the pur-
21 pose of announcing the quarterly standard
22 market access fee, the Secretary shall use

1 the simple average of the three most re-
2 cently available monthly figures for the
3 milk feed ratio.

4 “(B) ALTERNATIVE ACCESS FEE.—The
5 amount of the alternative market access fee to
6 be assessed on all commercial milk production
7 of a dairy facility that exceeds the allowable
8 milk marketings of the dairy facility for a quar-
9 ter shall be equal to the product obtained by
10 multiplying—

11 “(i) 5; by

12 “(ii) the standard market access fee
13 amount per hundredweight of milk.

14 “(3) REVISIONS.—The Secretary may make re-
15 visions to the calculations of the market access fee
16 and allowable milk marketing growth rate, but only
17 if at least two-thirds of the members of the Producer
18 Board support the revisions. For any revisions, the
19 Secretary shall consider—

20 “(A) the economic conditions of the dairy
21 industry in the United States;

22 “(B) the economic conditions of the world
23 dairy market;

24 “(C) the commercial disappearance of fluid
25 and manufactured milk products;

1 “(D) the domestic on-farm cost of pro-
2 ducing raw milk;

3 “(E) the domestic farm-gate milk price
4 paid to dairy farmers in the United States;

5 “(F) the international value of manufac-
6 tured dairy products;

7 “(G) the current United States import/ex-
8 port balance in dairy products;

9 “(H) any foreseen purchases by the Fed-
10 eral Government for nutrition programs; and

11 “(I) any other economic indicator that the
12 Secretary determines to be appropriate.

13 “(c) ALLOWABLE MILK MARKETINGS.—

14 “(1) IN GENERAL.—At least 30 days before the
15 first day of each quarter, the Secretary shall—

16 “(A) establish the quantity of allowable
17 milk marketings for each dairy facility; and

18 “(B) notify each dairy facility of the quan-
19 tity.

20 “(2) APPEAL.—A dairy facility may appeal to
21 the Secretary any discrepancy in the quantity of al-
22 lowable milk marketings established for the dairy fa-
23 cility.

24 “(3) TRANSFERS OF ALLOWABLE MILK MAR-
25 KETINGS.—The 1 or more owners of the milk-pro-

1 ducing cows at a dairy facility may transfer, in full,
2 the allowable milk marketings associated with the
3 dairy facility to—

4 “(A) an individual or entity that purchases
5 the dairy facility; or

6 “(B) another dairy facility under the same
7 ownership.

8 “(d) COLLECTION OF MARKET ACCESS FEES.—

9 “(1) IN GENERAL.—During any quarter, a
10 dairy facility that produces and markets milk in a
11 quantity that is greater than the allowable milk mar-
12 ketings of the dairy facility for that quarter shall be
13 assessed the standard market access fee in the fol-
14 lowing quarter unless, not later than 7 days after
15 the end of the quarter, the dairy facility notifies in
16 writing the appropriate local office of the Farm
17 Services Agency of the intent of the dairy facility to
18 pay the alternative market access fee in lieu of the
19 standard market access fee.

20 “(2) NOTICE.—Not later than 25 days after the
21 end of a quarter during which a dairy facility ex-
22 ceeded the allowable milk marketings of the dairy fa-
23 cility, the Secretary shall send to the dairy facility
24 and to each of the milk handlers of the dairy facility
25 a notice that describes the market access fee to be

1 assessed against the dairy facility during the fol-
2 lowing quarter.

3 “(3) MILK HANDLERS.—

4 “(A) IN GENERAL.—Each milk handler of
5 a dairy facility notified under paragraph (2)
6 shall—

7 “(i) during the quarter in which the
8 milk handler receives the notice, collect an
9 assessment per hundredweight of milk
10 from the dairy facility in the amount of the
11 market access fee described in the notice;
12 and

13 “(ii) deposit the assessment amounts
14 into the protected account described in
15 subsection (f).

16 “(B) ALTERNATIVE MARKET ACCESS
17 FEE.—If a dairy facility notifies the appropriate
18 local office of the Farm Services Agency under
19 paragraph (1) of an intent to pay the alter-
20 native market access fee, the amount of the as-
21 sessment described in the notice under para-
22 graph (2) shall be—

23 “(i) deducted from the revenues of the
24 dairy facility in 3 equal monthly install-
25 ments; and

1 “(ii) deposited into the protected ac-
2 count described in subsection (f).

3 “(4) SUBSEQUENT OVERAGES.—If a dairy facil-
4 ity exceeds the allowable milk marketings of the
5 dairy facility in a quarter and any of the 4 subse-
6 quent quarters, the dairy facility shall be assessed a
7 market access fee in an amount that is equal to the
8 lesser of—

9 “(A) the market access fee announced
10 after the first quarter in which the dairy facility
11 exceeded the allowable milk marketings; or

12 “(B) the market access fee announced for
13 the 4 quarters in which the dairy facility subse-
14 quently exceeds the allowable milk marketings
15 of the dairy facility.

16 “(5) RESPONSIBILITY.—The milk handler for
17 the 1 or more owners of the milk-producing cows at
18 a dairy facility that receives a notice under para-
19 graph (2) shall give notice to the owners that the
20 market access fees shall be—

21 “(A) deducted from the proceeds of the
22 dairy facility; and

23 “(B) submitted to the local office of the
24 Farm Services Agency with which the owners
25 have registered.

1 “(e) PAYMENT OF MARKET ACCESS FEE DIVI-
2 DENDS.—

3 “(1) IN GENERAL.—During any quarter, a
4 dairy facility that produces and markets a quantity
5 of milk that is less than or equal to the allowable
6 milk marketings of the dairy facility for that quarter
7 shall be entitled to receive a market access fee divi-
8 dend in an amount based on the ratio that—

9 “(A) each hundredweight of allowable milk
10 marketings produced during that quarter at the
11 dairy facility; bears to

12 “(B) total hundredweights produced by all
13 facilities that did not exceed their allowable
14 milk marketings during that quarter.

15 “(2) TOTAL AMOUNT.—The total amount of
16 market access fee dividends available during a quar-
17 ter shall be equal to the cumulative market access
18 fees collected under this subtitle for a quarter.

19 “(3) DISTRIBUTION.—

20 “(A) IN GENERAL.—The market access fee
21 dividends for a quarter shall be distributed to
22 each qualifying dairy facility not later than 30
23 days after the last day of the following quarter.

24 “(B) ELIGIBILITY.—The 1 or more owners
25 of the milk-producing cows at a dairy facility

1 described in paragraph (1) shall be eligible to
2 receive any market access fee dividends paid to
3 the dairy facility under this subsection.

4 “(C) PAYMENT.—Payment of market ac-
5 cess fee dividends shall be by check or direct
6 deposit.

7 “(f) ADMINISTRATION.—Amounts collected by milk
8 handlers under subsection (d) shall be deposited into a
9 protected account established by the Secretary from which
10 amounts may not be withdrawn other than for distribution
11 as market access fee dividends.”.