

**HOUSE BILL (2419)**

**SENATE AMENDMENT**

	<p>storage of forfeited sugar in an amount that is not less than—</p> <p style="padding-left: 40px;">“(1) in the case of refined sugar, 15 cents per hundredweight of refined sugar per month; and</p> <p style="padding-left: 40px;">“(2) in the case of raw cane sugar, 10 cents per hundredweight of raw cane sugar per month.</p> <p>“(b) <b>SUBSEQUENT CROP YEARS.</b>—For each of the 2012 and subsequent crop years, the Commodity Credit Corporation shall establish rates for the storage of forfeited sugar in the same manner as was used on the day before the date of enactment of this section.”.</p>
	<p style="text-align: center;"><b>SEC. 1505. SENSE OF THE SENATE REGARDING NAFTA SUGAR COORDINATION.</b></p> <p>It is the sense of the Senate that in order to further strengthen the operations of the North American Free Trade Agreement—</p> <p style="padding-left: 40px;">(1) the United States Government and the Government of Mexico should coordinate the operation of their respective sugar policies, to the fullest extent consistent with the international obligations of the United States; and</p> <p style="padding-left: 40px;">(2) the United States Government should consult with the Government of Mexico on policies to avoid disruptions of the United States and Mexican sweetener markets in order to maximize the benefits of sugar policies for growers, processors, and consumers of sugar in the United States and Mexico, while supporting the interests of corn growers, corn refiners, and sweetener users in both markets.</p>
<p><b>Subtitle D—Dairy-Related Provisions</b></p>	<p><b>Subtitle D—Dairy</b></p>
<p style="text-align: center;"><b>SEC. 1401. DAIRY PRODUCT PRICE SUPPORT PROGRAM.</b></p> <p>(a) <b>SUPPORT ACTIVITIES.</b>—During the period beginning on January 1, 2008, through December 31, 2012, the Secretary of Agriculture shall support the price of cheddar cheese, butter, and nonfat dry milk through the purchase of such products made from milk produced in the United States.</p> <p>(b) <b>PURCHASE PRICE.</b>—To carry out subsection (a) during the period specified in such subsection, the Secretary shall purchase—</p> <p style="padding-left: 40px;">(1) cheddar cheese in blocks at not less than \$1.13 per pound;</p>	<p style="text-align: center;"><b>SEC. 1601. DAIRY PRODUCT PRICE SUPPORT PROGRAM.</b></p> <p>(a) <b>SUPPORT ACTIVITIES.</b>—During the period beginning on January 1, 2008, and ending on December 31, 2012, the Secretary shall support the price of cheddar cheese, butter, and nonfat dry milk through the purchase of such products made from milk produced in the United States.</p> <p>(b) <b>PURCHASE PRICE.</b>—To carry out subsection (a), the Secretary shall purchase cheddar cheese, butter, and nonfat dry milk at prices that are equivalent to—</p> <p style="padding-left: 40px;">(1) in the case of cheddar cheese--</p> <p style="padding-left: 80px;">(A) in blocks, not less than \$1.13 per pound;</p>

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- (2) cheddar cheese in barrels at not less than \$1.10 per pound;
- (3) butter at not less than \$1.05 per pound; and
- (4) nonfat dry milk at not less than \$0.80 per pound.

**(c) TEMPORARY PRICE ADJUSTMENT TO AVOID EXCESS INVENTORIES.—**

(1) **ADJUSTMENTS AUTHORIZED.**—The Secretary may adjust the minimum purchase prices established under subsection (b) only as permitted under this subsection.

(2) **CHEESE INVENTORIES IN EXCESS OF 200 MILLION POUNDS.**—If net removals for a period of 12 consecutive months exceed 200 million pounds of cheese, but do not exceed 400 million pounds, the Secretary may reduce the purchase prices under paragraphs (1) and (2) of subsection (b) during the immediately following month by not more than 10 cents per pound.

(3) **CHEESE INVENTORIES IN EXCESS OF 400 MILLION POUNDS.**—If net removals for a period of 12 consecutive months exceed 400 million pounds of cheese, the Secretary may reduce the purchase prices under paragraphs (1) and (2) of subsection (b) during the immediately following month by not more than 20 cents per pound.

(4) **BUTTER INVENTORIES IN EXCESS OF 450 MILLION POUNDS.**—If net removals for a period of 12 consecutive months exceed 450 million pounds of butter, but do not exceed 650 million pounds, the Secretary may reduce the purchase price under subsection (b)(3) during the immediately following month by not more than 10 cents per pound.

(5) **BUTTER INVENTORIES IN EXCESS OF 650 MILLION POUNDS.**—If net removals for a period of 12 consecutive months exceed 650 million pounds of butter, the Secretary may reduce the purchase price under subsection (b)(3) during the immediately following month by not more than 20 cents per pound.

(6) **NONFAT DRY MILK INVENTORIES IN EXCESS OF 600 MILLION POUNDS.**—If net removals for a period of 12 consecutive months exceed 600 million pounds of nonfat dry milk, but do not exceed 800 million pounds, the Secretary may reduce the purchase price under subsection (b)(4) during the immediately following month by not more than 5 cents per pound.

(7) **NONFAT DRY MILK INVENTORIES IN EXCESS OF 800 MILLION POUNDS.**—If net removals for a period of 12 consecutive months exceed 800 million pounds

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- (B) in barrels, not less than \$1.10 per pound;
- (2) in the case of butter, not less than \$1.05 per pound; and
- (3) in the case of nonfat dry milk, not less than \$0.80 per pound.

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of nonfat dry milk, the Secretary may reduce the purchase price under subsection (b)(4) during the immediately following month by not more than 10 cents per pound.

(d) **UNIFORM PURCHASE PRICE.**—The prices that the Secretary pays for cheese, butter, or nonfat dry milk, respectively, under subsection (a) shall be uniform for all regions of the United States.

(e) **SALES FROM INVENTORIES.**—In the case of each commodity specified in subsection (b) that is available for unrestricted use in inventories of the Commodity Credit Corporation, the Secretary may sell the commodity at the market prices prevailing for that commodity at the time of sale, except that the sale price may not be less than 110 percent of the minimum purchase price specified in subsection (b) for that commodity.

(f) **NET REMOVALS DEFINED.**—In this section, the term “net removals” means—

(1) the sum of the quantity of a product described in subsection (a) purchased by the Commodity Credit Corporation under this section and the quantity of such product exported under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14); less

(2) the amount of such product sold for unrestricted use by the Commodity Credit Corporation.

(g) **COMMODITY CREDIT CORPORATION.**—The Secretary shall use the funds of the Commodity Credit Corporation to carry out this section.

## SEC. 1402. DAIRY FORWARD PRICING PROGRAM.

(a) **PROGRAM REQUIRED.**—The Secretary of Agriculture shall establish a program

(c) **UNIFORM PURCHASE PRICE.**—The prices that the Secretary pays for cheese, butter, or nonfat dry milk under this section shall be uniform for all regions of the United States.

(d) **SALES FROM INVENTORIES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), in the case of each commodity specified in subsection (b) that is available for unrestricted use in inventories of the Commodity Credit Corporation, the Secretary may sell the commodity at the market prices prevailing for that commodity at the time of sale.

(2) **MINIMUM AMOUNT.**—The sale price described in paragraph (1) may not be less than 110 percent of the minimum purchase price specified in subsection (b) for that commodity.

## SEC. 1606. DAIRY FORWARD PRICING PROGRAM.

(a) **IN GENERAL.**—Section 23 of the Agricultural Adjustment Act (7 U.S.C. 627), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in the section heading, by striking “PILOT”;

(2) by striking subsection (a) and inserting the following:

“(a) **PROGRAM REQUIRED.**—The Secretary of Agriculture shall establish a program

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under which milk producers and cooperative associations of producers are authorized to voluntarily enter into forward price contracts with milk handlers.

(b) **MINIMUM MILK PRICE REQUIREMENTS.**—Payments made by milk handlers to milk producers and cooperative associations of producers, and prices received by milk producers and cooperative associations, in accordance with the terms of a forward price contract authorized by subsection (a), shall be deemed to satisfy—

(1) all uniform and minimum milk price requirements of paragraphs (B) and (F) of subsection (5) of section 8c of the Agricultural Adjustment Act (7 U.S.C. 627), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and

(2) the total payment requirement of paragraph (C) of such subsection.

(c) **MILK COVERED BY PROGRAM.**—

(1) **COVERED MILK.**—The program shall apply only with respect to the marketing of federally regulated milk that—

(A) is not classified as Class I milk or otherwise intended for fluid use; and

(B) is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce in federally regulated milk.

(2) **RELATION TO CLASS I MILK.**—To assist milk handlers in complying with the limitation in paragraph (1)(A) without having to segregate or otherwise individually track the source and disposition of milk, a milk handler may allocate milk receipts from producers, cooperatives, and other sources that are not subject to a forward contract to satisfy the handler’s obligations with regard to Class I milk usage.

(d) **VOLUNTARY PROGRAM.**—A milk handler may not require participation in a forward pricing contract as a condition of the handler receiving milk from a producer or cooperative association of producers, and such producer or cooperative association may continue to have their milk priced under the order’s minimum payment provisions. The Secretary shall investigate complaints made by producers or cooperative associations of coercion by handlers to enter into forward contracts, and if the Secretary finds evidence of such coercion, the Secretary shall take appropriate action.

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under which milk producers and cooperative associations of producers are authorized to voluntarily enter into forward price contracts with milk handlers.”;

(3) in subsection (c) —

(A) in the subsection heading, by striking “PILOT”; and

(B) in paragraph (1), by striking “pilot”;

(4) by striking subsections (d) and (e); and

(5) by adding at the end the following:

“(d) **VOLUNTARY PROGRAM.**—

“(1) **IN GENERAL.**—A milk handler may not require participation in a forward price contract as a condition of the handler receiving milk from a producer or cooperative association of producers.

“(2) **EFFECT OF PARTICIPATION.**—A producer or cooperative association that does not enter into a forward price contract may continue to have milk priced under the minimum payment provisions of the applicable milk marketing order.

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<p>(e) <b>DURATION.</b>—No forward price contract may be entered into under this program after September 30, 2012, and no forward contract entered into under the program may extend beyond September 30, 2015.</p>	<p>“(3) <b>COMPLAINTS.</b>—The Secretary shall—</p> <p>“(A) investigate complaints made by producers or cooperative associations of coercion by handlers to enter into forward price contracts; and</p> <p>“(B) if the Secretary finds evidence of coercion, take appropriate action.</p> <p>“(e) <b>DURATION.</b>—No forward price contract under this section may—</p> <p>“(1) be entered into after September 30, 2012; or</p> <p>“(2) may extend beyond September 30, 2015.”.</p> <p>(b) <b>CONFORMING AMENDMENTS.</b>—Section 23 of the Agricultural Adjustment Act (7 U.S.C. 627), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking “cooperatives” each place it appears in subsections (b) and (c)(2) and inserting “cooperative associations of producers”.</p>
<p><b>SEC. 1403. DAIRY EXPORT INCENTIVE PROGRAM.</b></p> <p>(a) <b>EXTENSION.</b>—Subsection (a) of section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14) is amended by striking “2007” and inserting “2012”.</p> <p>(b) <b>COMPLIANCE WITH TRADE AGREEMENTS.</b>—Section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14) is amended—</p> <p>(1) in subsection (c), by striking paragraph (3) and inserting the following new paragraph:</p> <p>“(3) the maximum volume of dairy product exports allowable consistent with the obligations of the United States under the Uruguay Round Agreements approved under section 101 of the Uruguay Round Agreements Act (19 U.S.C. 3511) is exported under the program each year (minus the volume sold under section 1163 of this Act (Public Law 99–198; 7 U.S.C. 1731 note) during that year), except to the extent that the export of such a volume under the program would, in the judgment of the Secretary, exceed the limitations on the value set forth in subsection (f); and”;</p> <p>(2) in subsection (f), by striking paragraph (1) and inserting the following new paragraph:</p> <p>“(1) <b>FUNDS AND COMMODITIES.</b>—Except as provided in paragraph (2), the Commodity Credit Corporation shall in each year use money and commodities</p>	<p><b>SEC. 1603. DAIRY EXPORT INCENTIVE AND DAIRY INDEMNITY PROGRAMS.</b></p> <p>(a) <b>DAIRY EXPORT INCENTIVE PROGRAM.</b>—Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a-14(a)) is amended by striking “2007” and inserting “2012”.</p>

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for the program under this section in the maximum amount consistent with the obligations of the United States under the Uruguay Round Agreements approved under section 101 of the Uruguay Round Agreements Act (19 U.S.C. 3511), minus the amount expended under section 1163 of this Act (Public Law 99–198; 7 U.S.C. 1731 note) during that year.”.

### **SEC. 1404. REVISION OF FEDERAL MARKETING ORDER AMENDMENT PROCEDURES.**

Subsection (17) of section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended to read as follows:

“(17) **PROVISIONS APPLICABLE TO AMENDMENTS.**—

“(A) **APPLICABILITY TO AMENDMENTS.**—The provisions of this section and section 8d, applicable to orders shall be applicable to amendments to orders.

“(B) **ADVANCE NOTICE OF HEARING.**—Notice of a hearing upon a proposed amendment to any order issued pursuant to this section shall be given not less than 3

### **SEC. 1605. REVISION OF FEDERAL MARKETING ORDER AMENDMENT PROCEDURES.**

Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking subsection (17) and inserting the following:

“(17) **PROVISIONS APPLICABLE TO AMENDMENTS.**—

“(A) **APPLICABILITY TO AMENDMENTS.**—The provisions of this section and section 8d applicable to orders shall be applicable to amendments to orders.

“(B) **SUPPLEMENTAL RULES OF PRACTICE.**—

“(i) **IN GENERAL.**—Not later than 60 days after the date of enactment of this subparagraph, the Secretary shall issue, using informal rulemaking, supplemental rules of practice to define guidelines and timeframes for the rulemaking process relating to amendments to orders.

“(ii) **ISSUES.**—At a minimum, the supplemental rules of practice shall establish—

“(I) proposal submission requirements;

“(II) pre-hearing information session specifications;

“(III) written testimony and data request requirements;

“(IV) public participation timeframes; and

“(V) electronic document submission standards.

“(iii) **EFFECTIVE DATE.**—The supplemental rules of practice shall take effect not later than 120 days after the date of enactment of this subparagraph, as determined by the Secretary.

“(C) **HEARING TIMEFRAMES.**—

“(i) **IN GENERAL.**— Not more than 30 days after the receipt of a proposal for

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days before the date fixed for the hearing, and such notice shall be deemed to be due notice of the hearing.

“(C) **PROMPT RESPONSE TO REQUESTS FOR AMENDMENT HEARINGS.**—Not more than 30 days after receipt of a written request for an amendment hearing regarding a milk marketing order, the Secretary shall—

“(i) issue a denial of the request; or

“(ii) issue notice of the hearing, which shall begin no more than 60 days, and conclude no more than 90 days, after receipt of the request.

“(D) **SUBMISSION AND USE OF EVIDENCE.**—The proponents of any amendment proposed to be made to a milk marketing order shall file with the Secretary all testimony and other evidence in support of the amendment, in written form, at least 7 business days before the date fixed for the hearing. The Secretary shall make such written testimony and other evidence available to interested members of the public. Subject to any evidentiary objections and cross examination of submitting witness, the written testimony and evidence shall be entered into evidence without being read at the hearing.

“(E) **ISSUANCE OF DECISION.**—The Secretary shall issue a recommended decision on a proposed amendment to a milk marketing order not later than 90 days after the date set by the Administrative Law Judge for the submission of post-hearing proposed findings and conclusions and written arguments or briefs. The final decision shall be issued not later than 60 days after the date on which the recommended decision was issued.

“(F) **AVOIDING DUPLICATION.**—The Secretary shall not be required to call a hearing on any amendment proposed to be made to a milk marketing order in response to an

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an amendment hearing regarding a milk marketing order, the Secretary shall—

“(I) issue a notice providing an action plan and expected timeframes for completion of the hearing not more than 180 days after the date of the issuance of the notice;

“(II)(aa) issue a request for additional information to be used by the Secretary in making a determination regarding the proposal; and

“(bb) if the additional information is not provided to the Secretary within the timeframe requested by the Secretary, issue a denial of the request; or

“(III) issue a denial of the request.

“(ii) **NOTICE.**— A notice issued under clause (i)(I) shall be individualized for each proceeding and take into consideration—

“(I) the number of orders affected;

“(II) the complexity of issues involved; and

“(III) the extent of the analyses required by applicable Executive orders (including Executive orders relating to civil rights, regulatory flexibility, and economic impact).

“(iii) **RECOMMENDED DECISIONS.**—A recommended decision on a proposed amendment to an order shall be issued not later than 90 days after the deadline established after the hearing for the submission of post-hearing briefs, unless otherwise provided in the initial notice issued under clause (i)(I).

“(iv) **FINAL DECISIONS.**—A final decision on a proposed amendment to an order shall be issued not later than 60 days after the deadline for submission of comments and exceptions to the recommended decision issued under clause (ii), unless otherwise provided in the initial notice issued under clause (i)(I).

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application for a hearing on such proposed amendment if the application requesting the hearing is received by the Secretary within 90 days after the date on which the Secretary has announced the decision on a previously proposed amendment to that order and the two proposed amendments are essentially the same.”.

“(D) **INDUSTRY ASSESSMENTS.**—If the Secretary determines it is necessary to improve or expedite rulemaking under this subsection, the Secretary may impose an assessment on the affected industry to supplement appropriated funds for the procurement of service providers, such as court reporters.

“(E) **USE OF INFORMAL RULEMAKING.**—The Secretary may use rulemaking under section 553 of title 5, United States Code, to amend orders, other than provisions of orders that directly affecting milk prices.

“(F) **MONTHLY FEED AND FUEL COSTS FOR MAKE ALLOWANCES.**—As part of any hearing to adjust make allowances under marketing orders, the Secretary shall—

“(i) determine the average monthly prices of feed and fuel incurred by dairy producers in the relevant marketing area;

“(ii) consider the most recent monthly feed and fuel price data available; and

“(iii) consider those prices in determining whether or not to adjust make allowances.”.

### **SEC. 1405. DAIRY INDEMNITY PROGRAM.**

Section 3 of Public Law 90–484 (7 U.S.C. 4501) is amended by striking “2007” and inserting “2012”.

### **SEC. 1603. DAIRY EXPORT INCENTIVE AND DAIRY INDEMNITY PROGRAMS.**

(b) **DAIRY INDEMNITY PROGRAM.**—Section 3 of Public Law 90-484 (7 U.S.C. 4501) is amended by striking “2007” and inserting “2012”.

### **SEC. 1406. EXTENSION OF MILK INCOME LOSS CONTRACT PROGRAM.**

Section 1502(c)(3)(B) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982(c)(3)(B)), as amended by section 9006(a) of the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28, 121 Stat. 217), is amended by striking “2007” and inserting “2012”.

### **SEC. 1602. NATIONAL DAIRY MARKET LOSS PAYMENTS.**

(a) **DEFINITIONS.**—In this section:

(1) **CLASS I MILK.**—The term “Class I milk” means milk (including milk components) classified as Class I milk under a Federal milk marketing order.

(2) **ELIGIBLE PRODUCTION.**—The term “eligible production” means milk produced by a producer in a participating State.

(3) **FEDERAL MILK MARKETING ORDER.**—The term “Federal milk marketing order” means an 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.

(4) **PARTICIPATING STATE.**—The term “participating State” means each State.

(5) **PRODUCER.**—The term “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 farming 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.

(b) **PAYMENTS.** —The Secretary shall offer to enter into contracts with producers on a dairy farm located in a participating State under which the producers receive payments on eligible production.

(c) **AMOUNT.**—Payments to a producer under this section shall be calculated by multiplying (as determined by the Secretary)--

(1) the payment quantity for the producer during the applicable month established under subsection (d);

(2) the amount equal to—

(A) \$16.94 per hundredweight; less

(B) the Class I milk price per hundredweight in Boston under the applicable Federal milk marketing order; by

(3)(A) for the period beginning October 1, 2007, and ending September 30, 2008, 34 percent;

(B) for the period beginning October 1, 2008, and ending August 31, 2012, 45 percent; and

(C) for the period beginning September 1, 2012, and thereafter, 34 percent.

(d) **PAYMENT QUANTITY.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the payment quantity for a producer during the applicable month under this section shall be equal to the quantity of eligible production marketed by the producer during the month.

**(2) LIMITATION.—**

**(A) IN GENERAL.—**The payment quantity for all producers on a single dairy operation for which the producers receive payments under subsection (b) shall not exceed—

(i) for the period beginning October 1, 2007, and ending September 30, 2008, 2,400,000 pounds;

(ii) for the period beginning October 1, 2008, and ending August 31, 2012, 4,150,000 pounds; and

(iii) effective beginning September 1, 2012, 2,400,000 pounds.

**(B) STANDARDS.—**For purposes of determining whether producers are producers on separate dairy operations or a single dairy operation, the Secretary shall apply the same standards as were applied in implementing the dairy program under section 805 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106-387; 114 Stat. 1549A-50).

**(3) RECONSTITUTION.—**The Secretary shall ensure that a producer does not reconstitute a dairy operation for the sole purpose of receiving additional payments under this section.

**(e) PAYMENTS.—**A payment under a contract under this section shall be made on a monthly basis not later than 60 days after the last day of the month for which the payment is made.

**(f) SIGNUP.—**The Secretary shall offer to enter into contracts under this section during the period beginning on the date that is 90 days after the date of enactment of this Act and ending on September 30, 2012.

**(g) DURATION OF CONTRACT.—**

**(1) IN GENERAL.—**Except as provided in paragraph (2), any contract entered into by producers on a dairy farm under this section shall cover eligible production marketed by the producers on the dairy farm during the period starting with the first day of month the producers on the dairy farm enter into the contract and ending on September 30, 2012.

**(2) VIOLATIONS.—**If a producer violates the contract, the Secretary may--

**(A)** terminate the contract and allow the producer to retain any payments received under the contract; or

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(B) allow the contract to remain in effect and require the producer to repay a portion of the payments received under the contract based on the severity of the violation.

## SEC. 1407. DAIRY PROMOTION AND RESEARCH PROGRAM.

(a) **EXTENSION OF PROMOTION AUTHORITY.**—Section 113(e)(2) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(e)(2)) is amended by striking “2007” and inserting “2012”.

(b) **DEFINITION OF UNITED STATES FOR PROMOTION PROGRAM.**—Section 111 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502) is amended—

(1) by striking subsection (l) and inserting the following new subsection:

“(l) the term ‘United States’, when used in a geographical sense, means all of the States, the District of Columbia, and the Commonwealth of Puerto Rico;” and

(2) in subsection (m), by striking “(as defined in subsection (l))”.

(c) **DEFINITION OF UNITED STATES FOR RESEARCH PROGRAM.**—Section 130 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4531) is amended by striking paragraph (12) and inserting the following new paragraph:

“(12) the term ‘United States’, when used in a geographical sense, means all of the States, the District of Columbia, and the Commonwealth of Puerto Rico.”.

(d) **REFUND OF ASSESSMENTS ON IMPORTED DAIRY PRODUCTS.**—Section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)) is amended by adding at the end the following:

“(7) **REFUND OF ASSESSMENTS ON CERTAIN IMPORTED PRODUCTS.**—

“(A) **IN GENERAL.**—An importer is entitled to a refund of any assessment paid under this subsection on imported dairy products imported under a contract entered into prior to July 26, 2007.

“(B) **EXPIRATION.**—Refunds under paragraph (A) shall expire one year after the date of the enactment of the Farm, Nutrition, and Bioenergy Act of 2007.”.

## SEC. 1604. FUNDING OF DAIRY PROMOTION AND RESEARCH PROGRAM.

Section 113(e)(2) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(e)(2)) is amended by striking “2007” and inserting “2012”.

## SEC. 1408. REPORT ON DEPARTMENT OF AGRICULTURE REPORTING PROCEDURES FOR

## SEC. 1607. REPORT ON DEPARTMENT OF AGRICULTURE REPORTING PROCEDURES FOR

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## NONFAT DRY MILK.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit to Congress a report regarding Department of Agriculture reporting procedures for nonfat dry milk and the impact of these procedures on Federal milk marketing order minimum prices during the period beginning on July 1, 2006, and ending on the date of the enactment of this Act.

## NONFAT DRY MILK.

Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report regarding Department of Agriculture reporting procedures for nonfat dry milk and the impact of the procedures on Federal milk marketing order minimum prices during the period beginning on July 1, 2006, and ending on the date of the enactment of this Act.

## SEC. 1409. FEDERAL MILK MARKETING ORDER REVIEW COMMISSION.

(a) **ESTABLISHMENT.**—Subject to the availability of appropriations to carry out this section, the Secretary of Agriculture shall establish a commission to be known as the “Federal Milk Marketing Order Review Commission”, in this section referred to as the “commission”, which shall conduct a comprehensive review and evaluation of—

- (1) the current Federal milk marketing order system; and
- (2) non-Federal milk marketing order systems.

(b) **ELEMENTS OF REVIEW AND EVALUATION.**—As part of the review and evaluation under subsection (a), the commission shall consider legislative and regulatory options for—

- (1) ensuring that the competitiveness of dairy products with other competing products in the marketplace is preserved and enhanced;

## SEC. 1608. FEDERAL MILK MARKETING ORDER REVIEW COMMISSION.

(a) **DEFINITION OF ASCARR INSTITUTION.** —In this section:

(1) **IN GENERAL.**—The term “ASCARR Institution” means a public college or university offering a baccalaureate or higher degree in the study of agriculture.

(2) **EXCLUSIONS.**—The term “ASCARR Institution” does not include an institution eligible to receive funds under—

(A) the Act of July 2, 1862 (commonly known as the “First Morrill Act”) (7 U.S.C. 301 et seq.);

(B) the Act of August 30, 1890 (commonly known as the “Second Morrill Act”) (7 U.S.C. 321 et seq.); or

(C) the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103-382; 7 U.S.C. 301 note).

(b) **ESTABLISHMENT.**—Subject to the availability of funds appropriated to carry out this section, the Secretary shall establish a commission to be known as the “Federal Milk Marketing Order Review Commission” (referred to in this section as the “Commission”), which shall conduct a comprehensive review and evaluation of—

- (1) the Federal milk marketing order system in effect on the date of enactment of this Act; and
- (2) non-Federal milk marketing order systems.

(c) **ELEMENTS OF REVIEW AND EVALUATION.**—As part of the review and evaluation under subsection (b), the Commission shall consider legislative and regulatory options for—

- (1) ensuring that the competitiveness of dairy products with other competing products in the marketplace is preserved and enhanced;

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(2) enhancing the competitiveness of American dairy producers in world markets;

(3) increasing the responsiveness of the Federal milk marketing order system to market forces;

(4) streamlining and expediting the process by which amendments to Federal milk market orders are adopted;

(5) simplifying the Federal milk marketing order system;

(6) evaluating whether the Federal milk marketing order system, established during the Great Depression, continues to serve the interests of the public, dairy processors, and dairy farmers;

(7) evaluating whether Federal milk marketing orders are operating in a manner to minimize costs to taxpayers and consumers; and

(8) evaluating the nutritional composition of milk, including the potential benefits and costs of adjusting the milk content standards.

### (c) MEMBERSHIP.—

(1) **COMPOSITION.**—The commission shall consist of 18 members.

(2) **MEMBERS.**—As soon as practicable after the date on which funds are first made available to carry out this section, commission members shall be appointed as follows:

(A) Two members appointed by the Chairman of the Committee on

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(2) ensuring that dairy producers receive fair and reasonable minimum prices;

(3) enhancing the competitiveness of United States dairy producers in world markets;

(4) preventing anticompetitive behavior and ensuring that dairy markets are not prone to manipulation;

(5) increasing the responsiveness of the Federal milk marketing order system to market forces;

(6) streamlining and expediting the process by which amendments to Federal milk market orders are adopted;

(7) simplifying the Federal milk marketing order system;

(8) evaluating whether the Federal milk marketing order system, established during the Great Depression, continues to serve the interests of the public, dairy processors, and dairy producers;

(9) evaluating whether Federal milk marketing orders are operating in a manner to minimize costs to taxpayers and consumers, while still maintaining a fair price for producers;

(10) evaluating the nutritional composition of milk, including the potential benefits and costs of adjusting the milk content standards;

(11) evaluating the economic benefits to milk producers of establishing a 2-class system of classifying milk consisting of a fluid milk class and a manufacturing grade milk class, with the price of both classes determined using the component prices of butterfat, protein, and other solids; and

(12) evaluating a change in advance pricing that is used to calculate the advance price of Class II skim milk under Federal milk marketing orders using the 4-week component prices that are used to calculate prices for Class III and Class IV milk.

### (d) MEMBERSHIP.—

(1) **COMPOSITION.**—The Commission shall consist of 18 members.

(2) **MEMBERS.**—As soon as practicable after the date on which funds are first made available to carry out this section—

(A) 2 members of the Commission shall be appointed by the Chairman of the

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Agriculture of the House of Representatives, in consultation with the ranking member of the Committee on Agriculture of the House of Representatives.

(B) Two members appointed by the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate, in consultation with the ranking member of the Committee on Agriculture, Nutrition and Forestry of the Senate.

(C) Fourteen members appointed by the Secretary of Agriculture.

(3) **SPECIAL APPOINTMENT REQUIREMENTS.**—In the case of the members to be appointed under paragraph (2)(C), the Secretary shall comply with the following requirements:

(A) At least one member shall represent a national consumer organization.

(B) At least four members shall represent land-grant universities or ASCARR institutions with accredited dairy economic programs, with two of these members being experts in the field of economics.

(C) At least one member shall represent the food and beverage retail sector.

(D) Four dairy producer and four dairy processors, appointed so as to balance geographical distribution of milk production and dairy processing, reflect all segments of dairy processing, and represent all regions of the United States equitably, including States that operate outside of a Federal milk marketing order.

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Committee on Agriculture of the House of Representatives, in consultation with the ranking member of that committee;

(B) 2 members of the Commission shall be appointed by the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate, in consultation with the ranking member of that committee;

(C) 10 members of the Commission shall be appointed by the Secretary;

(D) 2 members of the Commission shall be appointed by the Chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies of the House of Representatives, in consultation with the ranking member of that subcommittee; and

(E) 2 members of the Commission shall be appointed by the Chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies of the Senate, in consultation with the ranking member of that subcommittee.

(3) **S SPECIAL APPOINTMENT REQUIREMENTS.**—In the case of members of the Commission appointed under paragraph (2)(C), the Secretary shall ensure that—

(A) at least 1 member represents a national consumer organization;

(B) at least 4 members represent land-grant colleges or universities (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)) or ASCARR institutions with accredited dairy economic programs, with at least 2 of those members being experts in the field of economics;

(C) at least 1 member represents the food and beverage retail sector; and

(D) 4 dairy producers and 4 dairy processors are appointed in a manner that will—

(i) balance geographical distribution of milk production and dairy processing;

(ii) reflect all segments of dairy processing; and

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(4) **CHAIR.**—The commission shall elect one of its appointed members to serve as chairperson for the duration of the commission’s proceedings.

(5) **VACANCY.**—Any vacancy occurring before the termination of the commission shall be filled in the same manner as the original appointment.

(6) **COMPENSATION.**—Members of the commission shall serve without compensation, but shall be reimbursed by the Secretary of Agriculture from existing budget authority for necessary and reasonable expenses incurred in the performance of the duties of the commission.

(d) **REPORT.**—Not later than two years after the date of the first meeting of the commission, the commission shall submit to the Secretary of Agriculture and Congress a report setting forth the results of the review and evaluation conducted under this section, including such recommendations regarding the legislative and regulatory options considered under subsection (b) as the commission considers to be appropriate. The report findings shall reflect, to the extent practicable, a consensus opinion of the commission members, but the report may include majority and minority findings regarding those matters for which consensus was not reached.

(e) **ADVISORY NATURE.**—The commission is wholly advisory in nature, and the recommendations of the commission are non-binding.

(f) **NO EFFECT ON EXISTING PROGRAMS.**—The Secretary shall not allow the existence of the commission to impede, delay, or otherwise affect any decision making process of the Department of Agriculture, including any rulemaking procedures planned, proposed, or near completion.

(g) **ADMINISTRATIVE ASSISTANCE.**—The Secretary shall provide administrative support to the commission, and expend such funds as necessary from existing budget authority to carry out this responsibility.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section.

(i) **TERMINATION.**—The commission shall terminate immediately after submission of

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(iii) represent all regions of the United States equitably, including States that operate outside of a Federal milk marketing order.

(4) **CHAIR.**—The Commission shall elect 1 of the members of the Commission to serve as chairperson for the duration of the proceedings of the Commission.

(5) **VACANCY.**—Any vacancy occurring before the termination of the Commission shall be filled in the same manner as the original appointment.

(6) **COMPENSATION.**—A member of the Commission shall serve without compensation, but shall be reimbursed by the Secretary from existing budget authority for necessary and reasonable expenses incurred in the performance of the duties of the Commission.

(e) **REPORT.**—

(1) **IN GENERAL.**—Not later than 2 years after the date of the first meeting of the Commission, the Commission shall submit to Congress and the Secretary a report describing the results of the review and evaluation conducted under this section, including such recommendations regarding the legislative and regulatory options considered under subsection (c) as the Commission considers to be appropriate.

(2) **SUPPORT.**—The report findings shall reflect, to the maximum extent practicable, a consensus opinion of the Commission members, but the report may include majority and minority findings regarding those matters for which consensus was not reached.

(f) **ADVISORY NATURE.**—The Commission is wholly advisory in nature and the recommendations of the Commission are nonbinding.

(g) **NO EFFECT ON EXISTING PROGRAMS.**—The Secretary shall not allow the existence of the Commission to impede, delay, or otherwise affect any decisionmaking process of the Department of Agriculture, including any rulemaking procedures planned, proposed, or near completion.

(h) **ADMINISTRATIVE ASSISTANCE.**—The Secretary shall provide such administrative support to the Commission, and expend such funds as necessary from budget authority available to the Secretary, as is necessary to carry out this section.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section.

(j) **TERMINATION.**—The authority provided by this section terminates effective on the

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the report under subsection (d)	date of the submission of the report under subsection (e).
	<p style="text-align: center;"><b>SEC. 1609. MANDATORY REPORTING OF DAIRY COMMODITIES.</b></p> <p>Section 273 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637b) is amended by striking subsections (a) and (b) and inserting the following:</p> <p>“(a) <b>DAILY REPORTING.</b>—</p> <p>    “(1) <b>IN GENERAL.</b>—Not later than 180 days after the enactment of the Food and Energy Security Act of 2007, the Secretary shall—</p> <p>        “(A) establish a program for mandatory daily dairy product information reporting that—</p> <p>            “(i) provides timely, accurate, and reliable market information;</p> <p>            “(ii) facilitates more informed marketing decisions; and</p> <p>            “(iii) promotes competition in the dairy product manufacturing industry; and</p> <p>        “(B) require officers or officially designated representatives of each dairy processor to report daily pricing information for relevant sales transaction involving a dairy product, as determined by the Secretary.</p> <p>    “(2) <b>PUBLICATION.</b>—The Secretary shall make the information reported under paragraph (1) available to the public not less frequently than once each reporting day, categorized by appropriate product characteristics, as determined by the Secretary.</p> <p>“(b) <b>Requirements-</b></p> <p>    “(1) <b>PRICE REPORTING.</b>—</p> <p>        “(A) <b>IN GENERAL.</b>—Subject to the conditions described in paragraph (3), on each business day of the Department of Agriculture, each dairy manufacturer shall report to the Secretary on all sales of dairy products that the dairy manufacturer made on the immediately preceding day or since the last report by the dairy manufacturer.</p> <p>        “(B) <b>REQUIREMENTS.</b>—A dairy manufacturer shall report such price, quantity, and product characteristics as the Secretary determines appropriate.</p> <p>        “(C) <b>SUBMISSION.</b>—Reports under this paragraph shall be submitted by</p>

electronic means at such time as designated by the Secretary.

“(D) **AVAILABILITY.**—The Secretary shall compile the information reported under this paragraph and make the compiled information available to the public on the same day as the information is reported.

“(2) **STORAGE REPORTING.**—

“(A) **IN GENERAL.**—The Secretary shall require each dairy manufacturer or other person storing dairy products to report, at periodic intervals determined by the Secretary, information regarding the quantities of dairy products in storage.

“(B) **AVAILABILITY.**—The Secretary shall make information described under subparagraph (A) available to the public in a timely manner.

“(3) **CONDITIONS.**—The conditions referred to in paragraph (1) are that the information required under that paragraph is required only—

“(A) with respect to those package sizes actually used to establish minimum prices for Class III or Class IV milk under a Federal milk marketing order; and

“(B) to the extent that the information is actually used to establish minimum prices for Class III or Class IV milk under a Federal milk marketing order.

“(4) **EXEMPTIONS FOR SMALL PROCESSORS.**—The daily reporting requirements of this subsection shall not apply to a processor that processes not more than 1,000,000 pounds of dairy products a year.

“(5) **PERIODIC REVIEW.**—The Secretary shall—

“(A) periodically review the information reported for products under this subsection; and

“(B) propose changes for the information required to be reported under this subsection, through the public hearing process established under the applicable Federal milk marketing order.

“(6) **ELECTRONIC REPORTING.**—To the maximum extent practicable, the Secretary shall carry out the program established under this subsection using electronic reporting technology.”.

**SEC. 1610. ADDITIONAL MANDATORY DAIRY REPORTING.**

Subsection (b)(3) of section 273 of the Agricultural Marketing Act of 1946 (7 U.S.C.

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	<p>1637b) (as redesignated by section 1609(2)) is amended—</p> <ul style="list-style-type: none"><li>(1) by striking “shall take such actions” and inserting “shall— “(A) take such actions”;</li><li>(2) in subparagraph (A) (as designated by paragraph (1)), by striking the period at the end and inserting “; and”; and</li><li>(3) by adding at the end the following: “(B) include regular audits and comparisons with other related dairy market statistics on at least a quarterly basis.”.</li></ul>
<b>Subtitle E—Administration</b>	<b>Subtitle E—Administration</b>
<p style="text-align: center;"><b>SEC. 1501. ADMINISTRATION GENERALLY.</b></p> <p>(a) <b>USE OF COMMODITY CREDIT CORPORATION.</b>—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.</p> <p>(b) <b>DETERMINATIONS BY SECRETARY.</b>—A determination made by the Secretary under this title shall be final and conclusive.</p> <p>(c) <b>REGULATIONS.</b>—</p> <ul style="list-style-type: none"><li>(1) <b>IN GENERAL.</b>—Not later than 90 days after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this title.</li><li>(2) <b>PROCEDURE.</b>—The promulgation of the regulations and administration of this title shall be made without regard to—<ul style="list-style-type: none"><li>(A) <a href="#">chapter 35</a> of title 44, United States Code (commonly known as the “Paperwork Reduction Act”);</li><li>(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and</li><li>(C) the notice and comment provisions of <a href="#">section 553</a> of title 5, United States Code.</li></ul></li></ul>	<p style="text-align: center;"><b>SEC. 1701. ADMINISTRATION GENERALLY.</b></p> <p>(a) <b>USE OF COMMODITY CREDIT CORPORATION.</b>—Except as otherwise provided in subtitles A through D and this subtitle, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out subtitles A through D and this subtitle.</p> <p>(b) <b>DETERMINATIONS BY SECRETARY.</b>—A determination made by the Secretary under this title shall be final and conclusive.</p> <p>(c) <b>REGULATIONS.</b>—</p> <ul style="list-style-type: none"><li>(1) <b>IN GENERAL.</b>—Not later than 90 days after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this title and the amendments made by this title.</li><li>(2) <b>PROCEDURE.</b>—The promulgation of the regulations and administration of this title and the amendments made by this title shall be made without regard to—<ul style="list-style-type: none"><li>(A) <a href="#">chapter 35</a> of title 44, United States Code (commonly known as the “Paperwork Reduction Act”);</li><li>(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and</li><li>(C) the notice and comment provisions of <a href="#">section 553</a> of title 5, United States Code.</li></ul></li></ul>