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## **An Act To Implement the Recommendations of the Task Force on the Sustainability of the Dairy Industry in Maine**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** milk producers are receiving milk payments that are below the cost of production; and

**Whereas,** all sectors of the dairy industry and rural economies are in jeopardy; and

**Whereas,** it is in the State's economic interest to maintain a viable dairy industry and in the public interest to have a secure food supply; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 7 MRSA §2952-A, sub-§3, ¶A,** as enacted by PL 2005, c. 382, Pt. F, §4, is amended to read:

A. Not less than once every 3 years, conduct independent studies of the economics and practices of the milk industry in order to assist the commission in establishing minimum prices. The studies must include the compilation of cost data for farms at 34 different levels of production; and

**Sec. 2. 7 MRSA §3153-B, sub-§1, ¶D,** as enacted by PL 2003, c. 648, §2, is amended to read:

D. "Target price" means the short-run break-even point for each of 34 categories of annual production. Target prices are determined in accordance with subsection 3.

**Sec. 3. 7 MRSA §3153-B, sub-§3,** as amended by PL 2007, c. 240, Pt. OOO, §1 and c. 262, §1, is further amended to read:

**3. Determination of target prices.** The Maine Milk Commission shall establish 34 tiers of production, each representing a range of annual production. The commission shall use the most recent studies conducted in accordance with section 2952-A, subsection 3, paragraph A to estimate the short-run break-even point within each tier.

The Maine Milk Commission may establish and amend ranges of production for each tier and target prices through rulemaking. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 4. 7 MRSA §3153-C,** as amended by PL 2005, c. 230, §1, is repealed.

**Sec. 5. 7 MRSA §3153-D,** as enacted by PL 2005, c. 418, §1, is amended to read:

## § 3153-D. Transfer of revenues

On or before the ~~15th~~<sup>18th</sup> day of each month, the administrator of the Maine Milk Pool shall certify the amounts to be distributed for the previous month pursuant to ~~sections~~<sup>section</sup> 3153-B and 3153-C to the State Controller, who shall transfer the certified monthly amount when certified from General Fund undedicated revenue to the Maine Milk Pool Other Special Revenue Funds account.

**Sec. 6. PL 2007, c. 240, Pt. OOO, §2** is repealed.

**Sec. 7. PL 2007, c. 262, §2** is repealed.

**Sec. 8. PL 2009, c. 213, Pt. TTT, §2** is amended to read:

**Sec. TTT-2. Cap on transfers for the dairy stabilization program in fiscal years 2009-10 and 2010-11.** Notwithstanding the Maine Revised Statutes, Title 7, section 3153-D, in fiscal years 2009-10 and 2010-11, the administrator of the Maine Milk Pool may not certify any amount to be transferred from the General Fund for distributions under Title 7, section 3153-B that would bring the total amount transferred in fiscal years 2009-10 and 2010-11 above ~~\$13,349,600~~<sup>\$17,361,291</sup>.

Notwithstanding Title 7, section 3153-B, in fiscal years 2009-10 and 2010-11, the administrator of the Maine Milk Pool may not distribute payments for dairy stabilization support that in the aggregate exceed ~~\$13,349,600~~<sup>\$17,361,291</sup>.

**Sec. 9. Interim target prices.** Beginning July 1, 2010 and until the Maine Milk Commission updates the Maine producer cost-of-production data and adopts new tiers of production and target prices in accordance with the Maine Revised Statutes, Title 7, section 3153-B, subsection 3, the production levels for each tier and the target prices for milk producers in the State are as follows:

1. For the first 16,790 hundredweight produced per year by each producer, the target price is \$20.70 per hundredweight;
2. For production from 16,791 hundredweight to 49,079 hundredweight per year, the target price is \$18.07 per hundredweight;
3. For production from 49,080 hundredweight to 76,803 hundredweight per year, the target price is \$17.29 per hundredweight; and
4. For production in excess of 76,803 hundredweight per year, the target price is \$16.51 per hundredweight.

**Sec. 10. Administrator authorized to make monthly adjustments during the period from July 1, 2010 to June 30, 2011.** During the period from July 1, 2010 to June 30, 2011, the administrator of the Maine Milk Pool shall monitor milk price projections and each month calculate the amounts to be paid out under the dairy stabilization program for fiscal year 2010-11 based on these projections. The administrator may adjust the amount requested and the amount distributed in any month during this period based on the most recent projections and calculations. The administrator may reduce payments only if projections indicate that the total distributions under the stabilization program will exceed \$17,361,291 in the biennium consisting of fiscal years 2009-10 and 2010-11.

If projections indicate that total distributions will exceed \$17,361,291, the administrator shall adjust payments distributed in October 2010 to June 2011 on milk produced in the months of September 2010 to May 2011 by multiplying the target price for each tier by the same percent. The administrator shall adjust payments distributed in July, August and September 2010 on milk produced in June, July and August 2010, respectively, in accordance with sections 11 and 12.

**Sec. 11. Calculation of payments for milk produced June 1, 2010 to August 31, 2010.** Notwithstanding the Maine Revised Statutes, Title 7, section 3153-B, the administrator of the Maine Milk Pool shall calculate and make payments to Maine milk producers in accordance with this section for milk produced from June 1, 2010 to August 31, 2010.

1. No later than June 15, 2010, the administrator of the Maine Milk Pool shall assign each producer to one of 4 tiers based on that producer's total production during the 12-month period beginning June 1, 2009 and ending May 31, 2010.

2. Upon receiving the production data for June 2010, the administrator shall:

A. Calculate the amount of money due each producer in accordance with Title 7, section 3153-B, subsection 4;

B. Reduce each producer's payment by a percentage established in section 12; and

C. Certify to the State Controller the amounts to be transferred and distributed.

3. The administrator shall calculate payments for milk produced in July 2010 and milk produced in August 2010 in the manner prescribed in subsection 2, paragraphs A, B and C.

**Sec. 12. Reductions in payments for milk produced in June, July and August 2010.** The administrator of the Maine Milk Pool shall determine the percentage reduction in payments required under section 11, subsection 2, paragraph B in a manner that results in:

1. Each producer within a tier receiving the same percentage reduction in payment for a month as other producers in that tier receive for that month; and

2. Percentage reductions between adjacent tiers in a ratio of 1 to 2, progressing from tier 1 to tier 4.

**Sec. 13. Calculation and distribution of dairy stabilization payments beginning July 1, 2011.** Beginning July 1, 2011 and until further legislative action is taken, the administrator of the Maine Milk Pool shall calculate and distribute payments in accordance with the Maine Revised Statutes, Title 7, section 3153-B using the production levels and target prices established in section 9. The administrator may not use authority under section 10 or 11 to reduce payments after June 30, 2011.

**Sec. 14. Improvements to cost-of-production study.** The Maine Milk Commission shall develop a method for comprehensive data collection to improve the reliability and verification of the cost-of-production studies used to determine target prices under the Maine Revised Statutes, Title 7, section 3153-B, subsection 3. With improved information, the commission shall establish tiers that are more representative of Maine dairy farms and target prices that more closely approximate the short-run break-even point for each tier.

**Sec. 15. Report to joint standing committee.** No later than January 15, 2011, the Maine Milk Commission shall report to the joint standing committee of the Legislature having jurisdiction over agriculture matters on the improved data collection method developed under section 14. The report must contain a timetable for implementing the method and for revising the tiers of production and target prices in accordance with the Maine Revised Statutes, Title 7, section 3153-B, subsection 3.

**Sec. 16. Legislation authorized.** The joint standing committee of the Legislature having jurisdiction over agriculture matters may submit legislation to the 125th Legislature to revise the tiers and target prices used to calculate dairy stabilization payments to Maine milk producers under the Maine Revised Statutes, Title 7, section 3153-B.

**Sec. 17. Appropriations and allocations.** The following appropriations and allocations are made.

**AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF**

**Milk Commission 0188**

Initiative: Provides allocation to the Maine Milk Pool for fiscal year 2010-11 based on an increase in the cap on the milk subsidy to \$17,361,291 for fiscal year 2010-11.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2009-10</b>	<b>2010-11</b>
All Other	\$0	\$4,011,691
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$4,011,691</b>

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

**SUMMARY**

This bill amends current law to require the Maine Milk Commission to establish 4 tiers of production within the dairy stabilization program rather than 3. It also clarifies that the commission may revise production levels for each tier as well as target prices through major substantive rulemaking.

It repeals provisions related to the federal Milk Income Loss Contract. Public Law 2009, chapter 213, Part TTT, section 6 suspends payments under the Maine milk income loss contract in fiscal years 2009-10 and 2010-11.

It repeals the 2 sections of unallocated law passed in 2007 that established identical production levels and target prices for the tier program.

It raises the cap on transfers from the dairy stabilization program in fiscal years 2009-10 and 2010-11 to \$17,361,291.

It establishes the production levels and target prices for each of the 4 tiers to be in effect until the next cost-of-production study and adoption through rulemaking of the tiers and prices are completed.

It authorizes the administrator of the Maine Milk Pool to make monthly adjustments in payments as needed in fiscal year 2010-11.

It establishes the method for calculating payments for milk produced from June 1, 2010 to August 31, 2010.

It specifies that reductions in payments received in July, August and September of 2010 on milk produced in June, July and August of 2010 are to be established at a 1:2 ratio between adjacent tiers.

It clarifies that the reduction authorized in this bill for fiscal year 2010-11 does not continue after June 30, 2011. Without further legislative action, the administrator of the Maine Milk Pool may not reduce payments distributed in July 2011 and thereafter for milk produced in June 2011 and thereafter.

It requires the Maine Milk Commission to improve data collection for the cost-of-production study and report its results to the joint standing committee of the Legislature having jurisdiction over agriculture matters by January 15, 2011.

It authorizes the joint standing committee of the Legislature having jurisdiction over agriculture matters to submit legislation to the 125th Legislature.

**FISCAL NOTE REQUIRED**  
**(See attached)**